

# County Form Executed

**RELEASE, INDEMNITY, AND HOLD HARMLESS AGREEMENT**

This Release, Indemnity, and Hold Harmless Agreement (the “Agreement”) is entered into by and between Miami-Dade County (the “County”), whose address is 111 N.W. 1<sup>st</sup> Street, Miami, Florida, 33128, and Kaufman Lynn Construction, Inc. (“KL”), whose address is 3185 S. Congress Avenue, Delray Beach, Florida, 33445 (all of whom shall collectively be referred to herein as the “Parties” or a “Party” if referring to only one of them).

**RECITALS**

WHEREAS, the City of Doral (the “City”) is the owner of real property located at or near 3000 N.W. 87<sup>th</sup> Avenue, Doral, Florida, 33172; and

WHEREAS, KL is the construction manager hired by the City to perform improvements on real property known as Doral Central Park (the “Project”); and

WHEREAS, the City and KL entered into a Standard Form of Agreement Between Owner and Construction Manager as Constructor, AIA Document A133, on or about June 25, 2019, for the construction of the Project (the “Construction Contract”); and

WHEREAS, as of the effective date of this Agreement, KL has commenced construction on certain portions of the Project; and

WHEREAS, the County—with the City’s consent—wishes to utilize a southeastern portion of the Project site for City and County employee overflow parking and/or public overflow parking (the “Parking Area” shown highlighted in red and blue in the attached **Exhibit “A”**) for uses related to the 2023 Miami-Dade County elections; and

WHEREAS, at the time the County wishes to use the Parking Area, the construction of the Project will be in process and will remain ongoing, including mobilization and demobilization; and

WHEREAS, pursuant to the terms of the Construction Contract, KL is responsible for the Project site, including the safety surrounding access and use of the Project site; and

WHEREAS, the Parties can reasonably foresee that the conditions of the Project site will be incomplete and not necessarily suitable for the presence of non-construction personnel, which could pose a risk of damage or injury to person or property; and

WHEREAS, such “non-construction personnel” is expected to include, but is not necessarily be limited to, the City’s employees, the County’s employees, staff members of the City’s/County’s vendors related to the elections, and members of the public; and

WHEREAS, in order to address the risks posed by the County’s use of the Project site for the Parking Area, the Parties agree to enter into this Agreement; and

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WHEREAS, contemporaneous with the execution of this Agreement, KL and the City have agreed to execute a change order related to KL's additional expenses incurred, and estimated Project schedule time expended, as a result of the County's use of the Parking Area, which shall include an adjustment to the Construction Contract Price and Contract Time for performance (the "Change Order"), the execution of which is a condition precedent to the County's permitted use of the Parking Area pursuant to this Agreement; and

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

**AGREEMENT**

1. The foregoing Recitals are true and correct and are incorporated by reference into this Agreement as if fully set forth herein.

2. The County is fully aware, or has been provided a reasonable opportunity to become fully aware, of the risks of damage or injury to person or property potentially posed by utilizing the Project site for the Parking Area. The County enters into this Agreement with such awareness.

3. No warranty, either express or implied, is given by KL as to the condition of the Project site and whether it is, or will be, suitable for use as the Parking Area and/or suitable for non-construction personnel to be present at the portion of the Project site being used as the Parking Area.

4. The County, as consideration for KL cooperating with the County to use a portion of the Project site as the Parking Area, hereby voluntarily waives and releases KL and its officers, directors, board members, shareholders, principals, heirs, employees, parent entities, subsidiaries, related entities, executors, administrators, subrogees, assignors, assignees, sureties, and insurers (the "Released Parties") from any and all claims, rights, counts, causes of action, obligations, damages, expenses, debts, demands, notices of claim, attorneys' fees, costs, and liabilities of every kind and nature, whether direct or consequential, that may be asserted by the County against the Released Parties in any way pertaining to, arising out of, or relating to the Parking Area, whether based in tort, contract, statute, common law, and/or any other legal or equitable theory of recovery. Notwithstanding anything to the contrary in this section, the County does not release the Released Parties for any claims arising from KL's intentional acts or gross negligence.

5. To the fullest extent permitted by law, the County shall indemnify and hold harmless KL, its officers, and its employees from and against any and all liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the County and/or its employees.

6. The indemnification obligations of this Agreement are provided to the extent of, and within, the sovereign immunity limitations of Section 768.28, Florida Statutes. Nothing in this section shall be construed to constitute an agreement by the County to indemnify KL for the negligent acts or omissions of KL, its officers, or its employees related to the Parking Area.

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Additionally, nothing in this section shall be construed to constitute an agreement by the County to indemnify KL for the negligent acts or omissions of third parties related to the Parking Area, other than those employed or utilized by the County. The indemnification obligations of this section shall survive the termination or conclusion of this Agreement and/or the Construction Contract.

7. This Agreement may be amended only in writing, signed by or on behalf of all Parties.


8. In the event that any provision of this Agreement is determined to be unenforceable, said determination shall not affect the remaining provisions hereof which shall remain in full force and effect. Any section or portion of a section so declared to be unenforceable shall, if possible, be construed in a manner which will give effect to the terms of such section or portion of a section to the fullest extent possible while remaining enforceable.

9. It is acknowledged that all Parties participated in the drafting of this Agreement and this language shall not be presumptively construed either in favor or against any of the Parties. This Agreement shall be construed in accordance with the laws of the State of Florida.

10. The Parties to this Agreement may execute the Agreement by facsimile and/or in counterparts, all of which shall constitute one agreement and be deemed an original.

11. The Parties further warrant and represent that: (1) they have full authority to enter into this Agreement; (2) no promise, inducement or agreement not expressed in this Agreement has been made; (3) this Agreement has been carefully read and they know the contents thereof; (4) they have either consulted with legal counsel or have chosen not to do so; (5) they (or their representative executing this Agreement) are of legal age and competent to execute the Agreement; and (6) in executing this Agreement, they have not been influenced by any misrepresentation of any of the Parties being released.

This Agreement shall be considered fully executed on the date the last Party below provides its execution.

Miami-Dade County  
By:   
Name: Christina White  
Title: Supervisor of Elections  
Date: 9/22/23

Ka DocuSigned by: \_\_\_\_\_ ion, Inc.  
By: Garret Southern  
B2942BE747A4450...  
Name: Garret Southern  
Title: Senior Vice President  
Date: 10/2/2023 | 12:44 PM EDT







# City Form Executed

## **RELEASE, INDEMNITY, AND HOLD HARMLESS AGREEMENT**

This Release, Indemnity, and Hold Harmless Agreement (the “Agreement”) is entered into by and between the City of Doral (the “City”), whose address is 8401 N.W. 53<sup>rd</sup> Terrace, Doral, Florida, 33166, and Kaufman Lynn Construction, Inc. (“KL”), whose address is 3185 S. Congress Avenue, Delray Beach, Florida, 33445 (all of whom shall collectively be referred to herein as the “Parties” or a “Party” if referring to only one of them).

### **RECITALS**

WHEREAS, the City is the owner of real property located at or near 3005 N.W. 92<sup>nd</sup> Avenue, Doral, Florida, 33172; and

WHEREAS, KL is the construction manager hired by the City to perform improvements on real property known as Doral Central Park (the “Project”); and

WHEREAS, the City and KL entered into a Standard Form of Agreement Between Owner and Construction Manager as Constructor, AIA Document A133, on or about June 25, 2019, for the construction of the Project (the “Construction Contract”); and

WHEREAS, KL has commenced construction on certain portions of the Project; and

WHEREAS, Miami-Dade County (the “County”)—with the City’s consent—wishes to utilize a southeastern portion of the Project for County employee overflow parking (the “Parking Area” shown highlighted in red and blue in the attached **Exhibit “A”**) for uses related to the 2023 Miami-Dade County elections; and

WHEREAS, the County requires use of the portion of the Parking Area shown in red in **Exhibit “A”** from and including October 1, 2023, through and including December 1, 2023 (the “Use Dates”); and

WHEREAS, the City represents that it is the titleholder of the portion of the Project to be used as the Parking Area; and

WHEREAS, during the Use Dates, the construction of the Project will be in process and will remain ongoing, including mobilization and demobilization; and

WHEREAS, pursuant to the terms of the Construction Contract, KL is responsible for the Project, including the safety surrounding access and use of the Project; and

WHEREAS, the County’s temporary use of the Parking Area will result in the presence of non-construction personnel at or near the Project prior to the Project’s completion; and

WHEREAS, such “non-construction personnel” is expected to include, but is not necessarily be limited to the County’s employees and staff members of the County’s vendors related to the elections; and



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WHEREAS, to address the County's use of the Project for the Parking Area, the Parties agree to enter into this Agreement; and

WHEREAS, contemporaneous with the execution of this Agreement, KL and the City have agreed to execute a change order related to KL's additional expenses incurred, and estimated Project schedule time expended, as a result of the County's use of the Parking Area, which shall include an adjustment to the Construction Contract price and Contract Time for performance (the "Change Order"), the execution of which is a condition precedent to KL permitting the County to use the Parking Area during the Use Dates pursuant to this Agreement; and

WHEREAS, this Agreement is intended only to supplement the Construction Contract and in no way whatsoever is this Agreement understood to supersede or alter the Construction Contract's terms, and to the extent that this Agreement may conflict with the Construction Contract's terms this Agreement shall control with respect to the portion of the Project being used for the Parking Area during the Use Dates only; and

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

**AGREEMENT**

1. The foregoing Recitals are true and correct and are incorporated by reference into this Agreement as if fully set forth herein.

The City is fully aware or has been provided a reasonable opportunity to become fully aware of the existing condition of the Parking Area. The City enters into this Agreement with such awareness.

2. No warranty, either express or implied, is given by KL as to the condition of the Project and whether it is, or will be, suitable for use as the Parking Area and/or suitable for non-construction personnel to be present at the portion of the Project being used as the Parking Area.

3. The City, as consideration for KL permitting the County to use a portion of the Project as the Parking Area during the Use Dates, hereby voluntarily waives and releases KL and its officers, directors, board members, shareholders, principals, heirs, employees, parent entities, subsidiaries, related entities, executors, administrators, subrogees, assignors, assignees, sureties, and insurers (the "Released Parties") from any and all claims, rights, counts, causes of action, obligations, damages, expenses, debts, demands, notices of claim, attorneys' fees, costs, and liabilities of every kind and nature, whether direct or consequential, that may be asserted by the City against the Released Parties in any way pertaining to, arising out of, or relating to the Parking Area, whether based in tort, contract, statute, common law, and/or any other legal or equitable theory of recovery.

4. Consistent with the requirements of Section 725.06(2), Florida Statutes, the City shall indemnify and hold harmless KL, its officers, and its employees from and against any and all liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the



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extent caused by the negligence, recklessness, or intentional wrongful misconduct of the City, as well as of persons employed or utilized by the City in the performance of the Construction Contract. The City’s indemnity obligations under this Agreement are limited to the dollar amounts set forth in Section 768.28(5)(a), Florida Statutes. The indemnity obligations of this Agreement shall terminate at 12:00 a.m. on December 2, 2023, and at that time the indemnity obligations between the Parties shall revert back to those as stated in the Construction Contract.

5. Notwithstanding any other term in this Agreement, nothing herein shall be deemed a waiver of the City’s immunity, or sovereign rights, or limitations of liability as provided by Section 768.28, Florida Statutes, as may be amended from time to time.

6. This Agreement may be amended only in writing, signed by or on behalf of all Parties.

7. In the event that any provision of this Agreement is determined to be unenforceable, said determination shall not affect the remaining provisions hereof which shall remain in full force and effect. Any section or portion of a section so declared to be unenforceable shall, if possible, be construed in a manner which will give effect to the terms of such section or portion of a section to the fullest extent possible while remaining enforceable.

8. It is acknowledged that all Parties participated in the drafting of this Agreement and this language shall not be presumptively construed either in favor or against any of the Parties. This Agreement shall be construed in accordance with the laws of the State of Florida.

9. The Parties to this Agreement may execute the Agreement by facsimile and/or in counterparts, all of which shall constitute one agreement and be deemed an original.

10. The Parties further warrant and represent that: (1) they have full authority to enter into this Agreement; (2) no promise, inducement or agreement not expressed in this Agreement has been made; (3) this Agreement has been carefully read and they know the contents thereof; (4) they have either consulted with legal counsel or have chosen not to do so; (5) they (or their representative executing this Agreement) are of legal age and competent to execute the Agreement; and (6) in executing this Agreement, they have not been influenced by any misrepresentation of any of the Parties being released.

This Agreement shall be considered fully executed on the date the last Party below provides its execution.

City of Doral  
By: BAH  
Name: Barbara Hernandez  
Title: City Manager

Kaufman Lynn Construction, Inc.  
By: Garret Southern  
Name: Garret Southern  
Title: Senior Vice President

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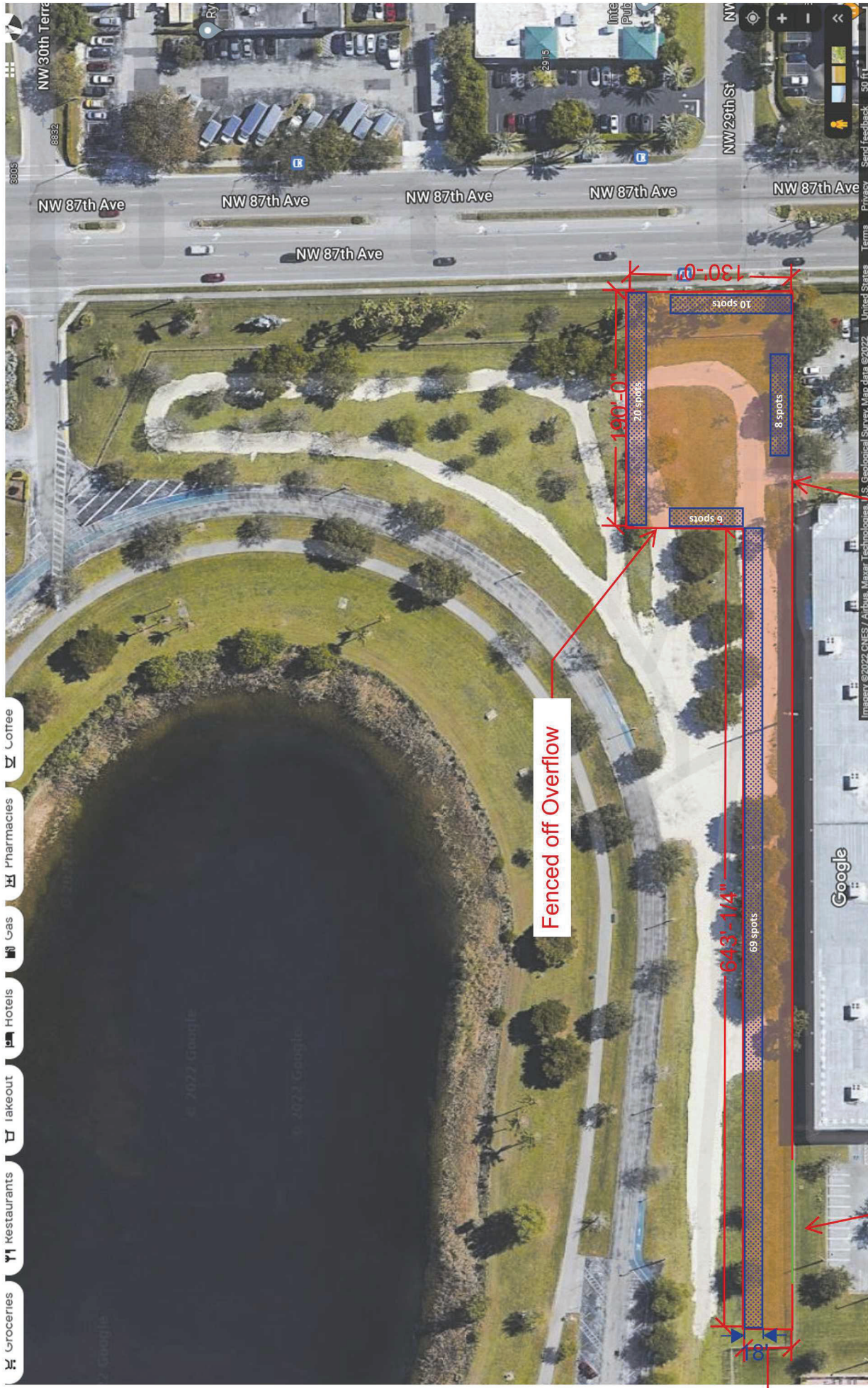
Date: 9/28/2023 \_\_\_\_\_

Date: \_\_\_\_\_



Exhibit A

DocuSign Envelope ID: F6C51FE2-1EF3-43A0-8BEF-F8D986D149C5



Fenced off overflow

Pedestrian Access  
(Currently in place)

~113 parking spaces (Parking areas in blue, 20' drive lane)

Vehicle Access

38'-0"

643'-11/4"

130'-0"

150'-0"

10 spots

20 spots

8 spots

6 spots

69 spots

- Groceries
- Restaurants
- Takeout
- Hotels
- Gas
- Pharmacies
- Coffee

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**RESOLUTION No. 23-166**

**A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A HOLD HARMLESS AGREEMENT WITH KAUFMAN LYNN CONSTRUCTION FOR TEMPORARY PARKING ACCESS AT DORAL CENTRAL PARK; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, at or around the time Miami Dade County (“County”) deeded Doral Central Park (then named Miami West Park) to the City of Doral (“City”), the County and the City entered into an Interlocal Agreement whereby the City agreed to make parking available to the County at Doral Central Park during elections and for election related activities; and

**WHEREAS**, pursuant to the above agreement, the County is requiring parking or elections and election related activities beginning October 1, 2023, through December 1, 2023; and

**WHEREAS**, during the aforementioned dates, the construction of Doral Central Park will be in process and will remain ongoing; and

**WHEREAS**, Kaufman Lynn, the Construction Manager hired by the City to perform the improvements at Doral Central Park, will need to prepare a portion of the site and fence off an area closest to the Miami Dade County Elections Department building for the site’s use as temporary parking; and

**WHEREAS**, Kaufman Lynn has requested a release, indemnity, and hold harmless agreement from the City, which the City has previously provided to facilitate the temporary parking during the 2021 and 2022 election cycles pursuant to Resolution No. 21-214 and Resolution No. 22-111; and



**WHEREAS**, the City Manager's Office respectfully requests that the Mayor and City Councilmembers authorize the City Manager to execute a hold harmless agreement between the City and Kaufman Lynn Construction for temporary parking access at Doral Central Park for the use by Miami Dade County Elections, attached hereto as Exhibit "A," and incorporated herein by reference.

**NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals.** The above recitals are confirmed, adopted, and incorporated herein and made a part hereof by this reference.

**Section 2. Approval & Authorization.** The Mayor and City Councilmembers hereby approve and authorize the City Manager to execute the hold harmless agreement with Kaufman Lynn Construction for the use of the Parking Area by Miami Dade County Elections Department for election and election related activities for the requested period, which is attached hereto as Exhibit "A," and incorporated herein by reference.

**Section 3. Implementation.** The City Manager and the City Attorney are hereby authorized to take such action as may be necessary to implement the provisions of this Resolution.

**Section 4. Effective Date.** This resolution shall take effect immediately upon adoption.

The foregoing Resolution was offered by Vice Mayor Pineyro who moved its adoption.

The motion was seconded by Councilmember Puig-Corve and upon being put to a vote,

the vote was as follows:

Mayor Christi Fraga	Yes
Vice Mayor Rafael Pineyro	Yes
Councilwoman Digna Cabral	Yes
Councilwoman Maureen Porras	Absent/Excused
Councilman Oscar Puig-Corve	Yes

PASSED AND ADOPTED this 27 day of September, 2023.



CHRISTI FRAGA, MAYOR

ATTEST:



CONNIE DIAZ, MMC  
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY  
FOR THE USE AND RELIANCE OF THE CITY OF DORAL ONLY:



VALERIE VICENTE, ESQ. for  
NABORS, GIBLIN & NICKERSON, P.A.  
CITY ATTORNEY