

SECTION 00500 - CONSTRUCTION CONTRACT

This Contract (the "Contract") is dated as of the 23 day of October 2015 by and between the City of Doral (hereinafter called the "CITY") and H&R Paving, Inc. (hereinafter called "CONTRACTOR") located at: 1955 NW 110 Avenue, Miami, FL 33172.

CITY and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 – WORK

1.1 Project/Work: CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as the following: The Project consists of **NW 52 Street & NW 102 Avenue Roadway Improvements**, all in accordance with the construction drawings.

ARTICLE 2 – CITY’S REPRESENTATIVE, ARCHITECT AND ENGINEER

2.1 It is understood that the CITY will designate a representative for the Work. The CITY’S REPRESENTATIVE referred to in any of the Contract Documents designated herein is **Jose Olivo P.E., Public Works Director**, at City of Doral Government Center, 8401 NW 53rd Terrace Doral, Florida 33166.

2.2 The CITY’s ARCHITECT referred to in any of the Contract Documents designated herein is _____ N/A _____, _____ N/A _____.

2.3 The CITY’s ENGINEER referred to in any of the Contract Documents designated herein is **Victor Lee, P.E., David Plummer & Associates**, 1750 Ponce de Leon Boulevard, Coral Gables, Florida, 33134.

ARTICLE 3 – TERM

3.1 Contract Times. The Work shall be substantially completed within ***one hundred and eighty (180) calendar days*** after the date specified in the Notice to Proceed ("Substantial Completion"), and completed and ready for final payment in accordance with the Contract Documents within ***two hundred and ten (210) calendar days*** after the date specified in the Notice to Proceed ("Final Completion").

3.2 Term. This Contract shall not be effective until it is fully executed between the CITY and the CONTRACTOR. The term of the Contract shall be through the date of final payment unless terminated earlier pursuant to Section 00710 – General Conditions, Article 12, Suspension of Work and Termination.

3.3 Survival of Obligations. Any obligations by the CONTRACTOR, including but not limited to those set forth in Section 00710 – General Conditions, Article 13, Contractor’s General Warranty and Guarantee, that would or could occur after the date of expiration or termination of the Contract shall survive the termination or expiration of the Contract.

3.4 Liquidated Damages. CITY and CONTRACTOR recognize that time is of the essence in this Contract and that the CITY will suffer financial loss if the Work is not completed within the contract times specified in Section 3.1 for the Work above, plus any approved extensions thereof allowed in accordance with the General Conditions. The CONTRACTOR also recognizes the delays, expense and difficulties involved in proving the actual loss suffered by CITY if the Work is not completed on time. Accordingly, instead of requiring any such proof, CITY and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay CITY \$1,742.00 for each calendar day that expires after the time specified in Section 3.1 for Substantial Completion of the Work. After Final Completion, if CONTRACTOR shall neglect, refuse or fail to complete the remaining Work within the time specified in Section 3.1 for completion and readiness for final payment or any proper extension thereof granted by CITY, CONTRACTOR shall pay CITY \$1,742.00 for each calendar day that expires after the time specified in Section 3.1 for completion and readiness for final payment.

3.5 Should the Final Completion and acceptance of Work, together with any modification or additions, be delayed beyond the time for performance set in Section 3.1 above because of lack of performance by the CONTRACTOR, it is understood and agreed that aside from any other liquidated damages, all actual additional costs or losses incurred by the CITY including, but not limited to, completion contractor services, financing, professional services, unrealized revenue, will be the responsibility of the CONTRACTOR.

3.6 Monies due to the CITY under Sections 3.4 and 3.5 shall be deducted from any monies due the CONTRACTOR, or if no money is due or the amount due is insufficient to cover the amount charged the CONTRACTOR shall be liable for said amount.

ARTICLE 4 – CONTRACT PRICE

4.1 CITY shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to this Article.

4.1.1 For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated on the Unit Price Bid Form Section 00410. Estimated quantities are not guaranteed, and determination of actual quantities and classification are to be made by ENGINEER as provided in the Contract Documents.

4.2 The CONTRACTOR agrees that all specific cash allowances are included in the above Contract Price and have been computed in accordance with the Contract Documents.

ARTICLE 5 – PAYMENT PROCEDURES

5.1 CONTRACTOR shall submit Applications for Payment in accordance with the Section 00710 - General Conditions, Article 11, Payments to Contractor and Completion. Applications for Payment will be processed by CITY as provided in the General Conditions.

5.2 Progress Payments, Retainage. CITY shall make progress payments, deducting the amount from the Contract Price above, on the basis of CONTRACTOR'S Applications for Payment as

recommended by the CITY'S REPRESENTATIVE, on or about the last day of each month during construction as provided herein. All such payments will be made in accordance with the schedule of values established in the General Conditions or, in the event there is no schedule of values, as provided in the General Conditions.

5.2.1 No progress payment shall be made until CONTRACTOR delivers to the CITY complete original partial releases of all liens and claims signed by all Subcontractors, materialmen, suppliers, and vendors, indicating amount of partial payment, on a form approved by the CITY, and an affidavit that so far as the CONTRACTOR has knowledge or information, the releases include and cover all Materials and Work for which a lien or claim could be filed for work completed to date.

5.3 The CONTRACTOR agrees that ten percent (10%) of the amount due for Work as set forth in each Application for Payment shall be retained by CITY for each Progress Payment until Final Payment, as defined in Section 00710 - General Conditions, Article 11, Payments to Contractor and Completion.

5.3.1 Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated above, but, in each case, less the aggregate of payments previously made and less such amounts as CITY'S REPRESENTATIVE shall determine, or CITY may withhold, in accordance with the General Conditions.

5.4 The payment of any Application for Payment by CITY, including the Final Request, does not constitute approval or acceptance by CITY of any item of the Work in such Request for Payment, nor shall it be construed as a waiver of any of CITY's rights hereunder or at law or in equity.

5.5 The Final Application for Payment by CONTRACTOR shall not be made until the CONTRACTOR delivers to the CITY complete original releases of all liens and claims signed by all Subcontractors, materialmen, suppliers, and vendors on a form approved by the CITY, and an affidavit that so far as the CONTRACTOR has knowledge or information, the releases include and cover all Materials and Work for which a lien or claim could be filed. The CONTRACTOR may, if any Subcontractor, materialmen, supplier or vendor refuses to furnish the required Final Waiver of Lien, furnish a bond satisfactory to CITY to defend and indemnify CITY and any other property owner, person or entity CITY may be required to indemnify against any lien or claim.

5.6 Final Payment. Upon final completion and acceptance of the Work in accordance with the General Conditions, CITY shall pay the remainder of the Contract Price and any retainage as recommended by the CITY'S REPRESENTATIVE.

ARTICLE 6 – INSURANCE/INDEMNIFICATION.

Insurance. The CONTRACTOR shall secure, maintain, and provide throughout the duration of this Contract, insurance certificates in accordance to Exhibit A. The City reserves the right to amend insurance requirements in connection with this project. Indemnification. The CONTRACTOR shall indemnify, defend and hold harmless the CITY, it's elected officials, agents, employees, and volunteers as set forth in General Conditions of the Contract Documents, or applicable sections in the agreement

6.1 CONTRACTOR'S REPRESENTATIONS.

In order to induce CITY to enter into this Contract, CONTRACTOR makes the following representations:

6.2 CONTRACTOR has examined and carefully studied the Contract Documents (including the Addenda) and the other related data identified in the Bidding Documents including “technical data.”

6.3 CONTRACTOR has visited the site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the Work.

6.4 CONTRACTOR is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress, performance and furnishing of the Work.

6.5 CONTRACTOR has made, or caused to be made, examinations, investigations, tests, or studies as necessary to determine surface and subsurface conditions at or on the site. CONTRACTOR acknowledges that CITY does not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to underground facilities at or contiguous to the site. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by CONTRACTOR and safety precautions and programs incident thereto. CONTRACTOR does not consider that any additional examinations, investigations, explorations, tests, studies or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times and in accordance with the other terms and conditions of the Contract Documents.

6.6 The CONTRACTOR is aware of the general nature of Work to be performed by CITY and others at the site that relates to the Work as indicated in the Contract Documents.

6.7 The CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.

6.8 The CONTRACTOR has given the CITY’S REPRESENTATIVE written notice of all conflicts, errors, ambiguities or discrepancies that CONTRACTOR has discovered in the Contract Documents and the written resolution thereof by the CITY’S REPRESENTATIVE is acceptable to CONTRACTOR, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

6.9 The CONTRACTOR warrants the following:

6.9.1 Anti-Discrimination: The CONTRACTOR agrees that it will not discriminate against any employees or applicants for employment or against persons for any other benefit or service under this Contract because of race, color, religion, sex, national origin, or physical or mental

handicap where the handicap does not affect the ability of an individual to perform in a position of employment, and to abide by all federal and state laws regarding non-discrimination.

6.9.2 Anti-Kickback: The CONTRACTOR warrants that no person has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, and that no employee or officer of the CITY or any other applicable federal or state agency, has any interest, financially or otherwise, in the Project. For breach or violation of this warranty, the CITY shall have the right to annul this Contract without liability or, in its discretion, to deduct from the Contract Price or consideration, the full amount of such commission, percentage, brokerage or contingent fee.

6.9.3 Licensing and Permits: The CONTRACTOR warrants that it shall have, prior to commencement of work under this Contract and at all times during said work, all required licenses and permits whether federal, state, County or City.

6.9.4 Public Entity Crime Statement: The CONTRACTOR warrants that it has not been placed on the convicted vendor list following a conviction for public entity crime, as specified in Section 00456, of the Instructions to Bidders.

ARTICLE 7 – CONTRACT DOCUMENTS.

7.1 The Contract Documents listed below, which are listed in their order of precedence for the purpose of resolving conflicts, errors and discrepancies, by this reference shall become a part of the Contract as though physically attached as a part thereof:

7.1.1 Change Orders.

7.1.2 Field Orders.

7.1.3 Contract for Construction.

7.1.4 Exhibits to this Contract.

7.1.5 Supplementary Conditions.

7.1.6 General Conditions.

7.1.7 Any federal, state, county or city permits for the Project

7.1.8 Specifications bearing the title: *Project Manual*.

7.1.9 Drawings consisting of a cover sheet and inclusive of all sheets bearing the following general titles: *NW 52 Street from NW 107 Avenue to NW 97 Avenue and NW 102 Avenue from NW 41 Street to NW 58 Street Roadway Improvements*.

7.1.10 Bid Documents, including but not limited to: Addendum, Invitation to Bid, Instructions to Bidders, Bid Form provided by CONTRACTOR, Notice of Award and Notice to Proceed.

- 7.1.11** Addenda subject matter takes the same precedence of the respective subject matter that it is modifying. Furthermore, each subsequent addendum takes precedence over previous addenda.
- 7.1.12** The documents listed above shall be incorporated into this Contract (except as expressly noted otherwise above).
- 7.1.13** There are no Contract Documents other than those listed above in this Article. The Contract Documents may only be amended, modified or supplemented as provided in the General Conditions.
- 7.1.14** The Contract Documents shall remain the property of the CITY. The CONTRACTOR shall have the right to keep one record set of the Contract Documents upon completion of the Project; provided; however, that in no event shall the CONTRACTOR use, or permit to be used, any or all of such Contract Documents on other projects without the City's prior written authorization.
- 7.1.15** The General Conditions discuss the bond and surety requirements of the CITY. This Contract does [x], does not [] require bonds. If the Contract does not require bonds, the references to bonds in the General Conditions do not apply to this Contract.

ARTICLE 8 – MISCELLANEOUS.

8.1 Terms used in this Contract which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions. Terms used in Article 1 of the Instructions to Bidders also apply to this Contract.

8.2 Except as otherwise provided in the Contract Documents with respect to subcontractors, no assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party thereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

8.3 CITY and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

8.4 Severability. Should any provision, paragraph, sentence, word, or phrase contained in this Contract be determined by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable under the laws of the State of Florida, such provision, paragraph, sentence, word, or phrase shall be deemed modified to the extent necessary in order to conform with such laws, then shall be deemed severable, and in this Contract, shall remain unmodified and in full force and effect.

8.5 Remedies. If and when any default of this Contract occurs, the CITY may avail itself of any legal or equitable remedies that may apply, including, but not limited to, actual damages and specific performance. Such remedies may be exercised in the sole discretion of the CITY. Nothing contained in this Contract shall limit the CITY from pursuing any legal or equitable remedies that may apply.

8.6 Access to Public Records. The CONTRACTOR shall comply with the applicable provisions of Chapter 119, Florida Statutes. The CITY shall have the right to immediately terminate this contract for the refusal by the Contractor to comply with Chapter 119, Florida Statutes. The Contractor shall retain all records associated with this Contract for a period of five (5) years from the date of Final Payment or Termination of this Contract.

8.7 Inspection and Audit. During the term of this Contract and for five (5) years from the date of Termination, the CONTRACTOR shall allow CITY representatives access during reasonable business hours to CONTRACTOR'S records related to this Contract for the purposes of inspection or audit of such records. If upon an audit of such records, the CITY determines the CONTRACTOR was paid for services not performed, upon receipt of written demand by the CITY, the CONTRACTOR shall remit such payments to the CITY.

8.8 Counterparts. This contract may be signed in one or more counterparts, each of which when executed shall be deemed an original and together shall constitute one and the same instrument.

8.9 Notices. Whenever any party is required to give or deliver any notice to any other party, or desires to do so, such notices shall be sent via certified mail or hand delivery to:

FOR CITY:

Edward Rojas, City Manager
City of Doral
8401 NW 53rd Terrace
Doral, Florida 33166

WITH COPY TO:

WEISS, SEROTA, HELFMAN, PASTORIZA
COLE AND BONISKE
City Attorney

FOR CONTRACTOR:

Raul Gonzalez
H&R Paving, Inc.
1955 NW 110 Avenue
Miami, FL 33172

8.10 WAIVER OF JURY TRIAL AND VENUE. The CITY and CONTRACTOR knowingly, irrevocably, voluntarily and intentionally waive any right either may have to a trial by jury in State and or Federal court proceedings in respect to any action, proceeding, lawsuit or counterclaim based upon the Contract, arising out of, under, or in connection with the Work, or any course of conduct, course of dealing, statements or actions or inactions of any party. The venue for any lawsuit arising out of this Contract shall be in Miami-Dade County, Florida.

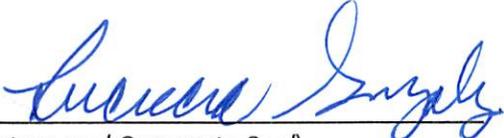
8.11 Attorneys' Fees. If either the CITY or CONTRACTOR is required to enforce the terms of the Contract by court proceedings or otherwise, whether or not formal legal action is required, the prevailing party shall be entitled to recover from the other party all such costs and expenses, including, but not limited to, court costs, and reasonable attorneys' fees at the trial and appellate level.

8.12 Amendments. This Contract may only be amended by the prior written approval of the parties or by execution of a Change Order in the form attached hereto as Exhibit "B".

IN WITNESS WHEREOF, the parties hereto have made and executed this Contract on the respective dates under each signature: THE CITY OF DORAL, FLORIDA, signing by and through its City Manager, authorized to execute same by Council action on the _____ day of _____, 20____, and by _____ (Contractor), signing by and through its _____, duly authorized to execute same.

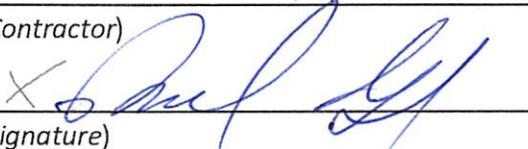
WITNESS

CONTRACTOR

By: 
(Signature and Corporate Seal)

Lucrécia Gonzalez, Secretary
(Print Name and Title)

H&R PAVING, INC.
(Contractor)

X 
(Signature)

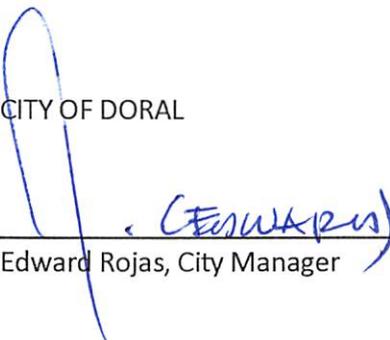
RAUL GONZALEZ, PRESIDENT
(Print Name and Title)

23 day of October, 2015.

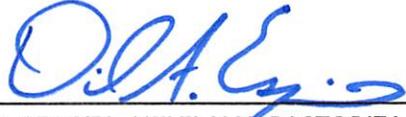
ATTEST


Connie Diaz, City Clerk

CITY OF DORAL


Edward Rojas, City Manager

APPROVED AS TO FORM AND LEGALITY FOR THE USE AND BENEFIT OF THE CITY OF DORAL ONLY:


WEISS, SEROTA, HELFMAN, PASTORIZA
COLE AND BONISKE
City Attorney

(*) In the event that the Contractor is a corporation, there shall be attached to each counterpart a certified copy of a resolution of the board of the corporation, authorizing the officer who signs the contract to do so in its behalf.

SECTION 00510 – NOTICE OF AWARD

To: H&R Paving, Inc.
1955 NW 110 Avenue
Miami, FL 33172

PROJECT DESCRIPTION: City of Doral *NW 52 Street & NW 102 Avenue Roadway Improvements, ITB #2015-26* in accordance with Contract Documents as prepared by the City

and

The City has considered the Bid submitted by you for the above described WORK in response to its Advertisement for Bid and Instruction to BIDDERS.

You are hereby notified that your Bid has been accepted for the City of Doral *NW 52 Street & NW 102 Avenue Roadway Improvements, ITB #2015-26* in a not to exceed amount of

Two Million Seven Hundred Forty Eight Thousand Five Hundred Thirty Nine Dollars and Seventy
\$Five Cents Dollars.

You are required by the instruction to BIDDER's to execute the Agreement and furnish the required CONTRACTOR's Performance Bond, Payment Bond and Certificated of Insurance within ten (10) days from the date of this Notice to you.

If you fail to execute said Agreement and to furnish said Bonds and Insurance within ten (10) days from the date of this Notice, said City will be entitled to, revoke the award and retain the Bid Security.

By:  - Gerwain)

Title: City Manager

DAE

Dated this 25 day of SEPTEMBER, 2015.

ACCEPTANCE OF NOTICE OF AWARD

Receipt of the above Notice of Award is hereby acknowledge by

RAUL GONZALEZ, H & R PAVING, INC.

this the 1st day of OCTOBER, 2011

By: X 

Title: PRESIDENT

You are required to return an acknowledged copy of this Notice of Award to the City.

END OF SECTION

RESOLUTION No. 15-185

A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, ACCEPTING THE LOW BID AND APPROVING A CONTRACT BETWEEN THE CITY AND H&R PAVING, INC., IN AN AMOUNT NOT TO EXCEED \$3,023,393.73, FOR THE ROADWAY AND BICYCLE LANE IMPROVEMENTS ON NW 52 STREET BETWEEN NW 107 AVENUE AND NW 97 AVENUE AND ON NW 102 AVENUE BETWEEN NW 41 STREET AND NW 58 STREET; AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT AND EXPEND BUDGETED FUNDS ON BEHALF OF THE CITY IN FURTHERANCE THEREOF; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Doral (the "City") Public Works Department applied for, and was awarded, a Transportation Enhancement Grant in 2012 from the Florida Department of Transportation and Miami-Dade County Metropolitan Planning Organization in the amount of \$1,021,654.00 for the NW 52 St (107-97 Ave) & NW 102 Ave (41-58 St) Resurfacing & Bicycle Lanes project (the "Project"); and

WHEREAS, in response to Invitation to Bid #2015-26 for "Roadway Improvements on NW 52 Street (107-97 Ave.) & NW 102 Avenue (41-58 St.) Resurfacing & Bicycle Lanes" (the "ITB"), the City received six (6) bids by the August 13, 2015 deadline, with all six (6) companies meeting the required criteria; and

WHEREAS, upon review of bids received, Staff determined that H&R Paving, Inc. was the lowest most responsive and responsible bidder (the "Contractor"); and

WHEREAS, a copy of Contractor's Bid Submittal, ITB #2015-26 Inventory, and Bid Tabulation, are attached hereto as Exhibit "A"; and

WHEREAS, Staff respectfully requests that the City Council authorize the City Manager to enter into a Contract with H&R Paving, Inc., in substantially the form attached

hereto as Exhibit "B", for the construction of the Project in an amount not to exceed \$3,023,393.73, which includes a 10% contingency amount for unforeseen conditions.

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

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

Section 2. Approval. Award of the ITB to H&R Paving, Inc., as the lowest, most responsive, and most responsible bidder, is hereby approved. The City Manager is authorized to enter into an agreement with H&R Paving, Inc., subject to approval by the City Attorney as to form and legal sufficiency, and to expend budgeted items in furtherance thereof.

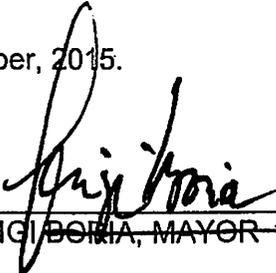
Section 3. Implementation. The City Manager and the City Attorney are hereby authorized to take such further action as may be necessary to implement the purpose and the provisions of this Resolution.

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

The foregoing resolution was offered by Vice Mayor Ruiz who moved its adoption. The motion was seconded by Councilmember Cabrera and upon being put to a vote, the vote was as follows:

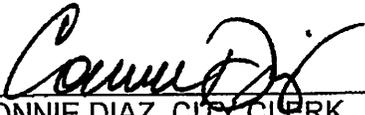
Mayor Luigi Boria	Yes
Vice Mayor Sandra Ruiz	Yes
Councilman Pete Cabrera	Yes
Councilwoman Christi Fraga	Yes
Councilwoman Ana Maria Rodriguez	Absent/Excused

PASSED AND ADOPTED this 16 day of September, 2015.



LUIGI BORIA, MAYOR

ATTEST:



CONNIE DIAZ, CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE SOLE USE
OF THE CITY OF DORAL.



WEISS, SEROTA, HELEMAN, COLE, & BIERMANN, PL
CITY ATTORNEY