

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 2023-_____

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF CORAL GABLES, FLORIDA, AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO AMEND THE PROPERTY INSURANCE REQUIREMENTS OF THE AMENDED AND RESTATED LEASE (“LEASE”) BETWEEN THE BILTMORE HOTEL LIMITED PARTNERSHIP, A FLORIDA LIMITED PARTNERSHIP (“DEVELOPER”) AND THE CITY OF CORAL GABLES, A FLORIDA MUNICIPAL CORPORATION (“CITY”) EXECUTED FEBRUARY 10, 1986 AND AMENDED AND RESTATED JULY 29, 1999 (“ORIGINAL LEASE”), AMENDED ON JANUARY 2, 2001 (THE “FIRST AMENDMENT”) AND ON MARCH 29, 2022 (THE “SECOND AMENDMENT”)

WHEREAS, the lease of the redeveloped Biltmore Hotel was originally executed on February 10, 1986, between the City of Coral Gables (the “City”) and the Biltmore Hotel Limited Partnership (the “Developer”); and

WHEREAS, on July 29, 1999, an Amended and Restated Lease was executed combining into one agreement between the City and the Developer the terms and conditions pertaining to the Biltmore Hotel Lease Agreement and the Management Agreement for Operation of the Biltmore Hotel Country Club Property (the “Original Lease”); and

WHEREAS, on January 2, 2001, the City and Developer entered into a first amendment to the Original Lease for the purpose of adjusting the Fixed Rent Amortization Schedule (“First Amendment”); and

WHEREAS, on March 29, 2022, the City and Developer entered into a second amendment to the Original Lease for the purpose of amending the insurance requirements of Section 15 of the Original Lease (“Second Amendment”) (the Original Lease, the First Amendment and the Second Amendment being collectively referred to as the “Lease”); and

WHEREAS, the Lease requires the Developer to secure and maintain, among other insurance requirements, property insurance coverage for all perils in an amount equal to the lesser of (i) the full actual replacement cost of the buildings and structures, including improvements and betterments or (ii) \$100,000,000; and

WHEREAS, the Lease also requires that the property insurance coverage have commercially reasonable deductible limits; and

WHEREAS, as of March 27, 2023, the Developer advised that it obtained windstorm coverage in the amount of \$50,000,000 (the “Reduced Windstorm Limit”), with a self-insured

retention of 20% of the loss and a deductible of 5% of the actual value of the unit of insurance (capped at \$2,500,000) (collectively, "Deductible"), which is not in compliance with the terms of the Lease; and

WHEREAS, the Developer has requested that Developer's requirement to maintain windstorm coverage for the insurance policy term of March 27, 2023 to March 27, 2024 in an amount equal to the lesser of (i) the full actual replacement cost of the buildings and structures, including improvements and betterments or (ii) \$100,000,000 be amended to allow for the Reduced Windstorm Limit and Deductible for the foregoing insurance policy term; and

WHEREAS, the Developer's request requires an amendment to the Lease via an ordinance passed by a recorded affirmative vote of 4/5 of all members of the City Commission pursuant to Section 2-1097 of City Code; and

WHEREAS, this Ordinance would authorize the City Manager and City Attorney to amend the Lease to allow the Developer to maintain the Reduced Windstorm Limit during the insurance policy period from March 27, 2023 to March 27, 2024, provided the Developer meets certain terms and conditions imposed by the City, which may include without limitation, that the Developer establish an escrow account with funds sufficient to pay the Deductible in an amount determined by the City, with an escrow agent and escrow agreement acceptable to the City, that the Developer reduce or eliminate the foregoing self-insured retention, and/or that the Developer increase its current windstorm coverage.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF CORAL GABLES:

SECTION 1. That the foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

SECTION 2. That the City Manager and City Attorney are hereby authorized on behalf of the City of Coral Gables to enter into an amendment to the Lease that would allow the Developer to maintain the Reduced Windstorm Limit during the period from March 27, 2023 to March 27, 2024, provided the Developer meets certain terms and conditions imposed by the City, which may include without limitation, that the Developer establish an escrow account with funds sufficient to pay the Deductible in an amount determined by the City, with an escrow agent and escrow agreement acceptable to the City, that the Developer reduce or eliminate the foregoing self-insured retention, and/or that the Developer increase its current windstorm coverage.

SECTION 3. That this Ordinance shall become effective immediately upon the date of its passage and adoption herein.

PASSED AND ADOPTED THIS _____ DAY OF JUNE A.D., 2023.

(Moved: / Seconded:)
(Yeas: / Nays:)
(Vote:)
(Agenda Item:)

APPROVED:

VINCE LAGO
MAYOR

ATTEST:

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BILLY Y. URQUIA

CITY CLERK

CRISTINA SUAREZ

CITY ATTORNEY