

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 2022-_____

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF CORAL GABLES, FLORIDA, AUTHORIZING EXECUTION OF THE SECOND AMENDMENT (“SECOND AMENDMENT”) TO 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”) AND AMENDED ON JANUARY 2, 2001 (THE “FIRST AMENDMENT”) AMENDING SECTION 15 OF THE LEASE BY REVISING THE PROPERTY INSURANCE REQUIREMENTS AND INCLUDING A SOVEREIGN IMMUNITY PROVISION

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”) (the Original Lease and the First Amendment being collectively referred to as the “Lease”); and

WHEREAS, the Lease requires that the Developer secure and maintain, among other insurance requirements, property insurance coverage for all perils equal to full actual replacement cost of buildings, contents, improvement and betterments; and

WHEREAS, requiring the Developer to obtain property insurance coverage for all perils equal to full actual replacement cost (\$215,000,000) is unreasonable considering the cost and limitations on the amount of windstorm insurance that can be purchased by any single buyer; and

WHEREAS, in addition, the 2021 catastrophe modeling developed by RMS for the Developer’s properties, which is used to determine an adequate windstorm limit to purchase for properties that are in areas with difficult markets for such coverage, concluded that there is a 0.4% annual chance of one hurricane (named storm) event causing \$17,582,922, or more in loss

net of the deductible structure and within the coverage layers being analyzed (this corresponds to a 250-year return period, which is the storm that would generate the highest magnitude loss over a period of 250 years at the subject location or across a subject portfolio of properties and is a commonly used and accepted benchmark for risk management-related decision making); and

WHEREAS, given these considerations, amending the Developer's requirement to maintain property insurance coverage from full actual replacement cost to \$100,000,000 with a priority of payment endorsement is reasonable and in line with the amount of property insurance limits purchased by the largest purchasers of property insurance in Miami-Dade County and Broward County; and

WHEREAS, the Second Amendment to the Lease amends Section 15 of the Lease to incorporate the aforementioned changes to the property insurance requirements, updates other insurance requirements, and adds a sovereign immunity provision; and

WHEREAS, pursuant to Section 2-1097 of the City Code, because the Lease term exceeds ten (10) years, the Second Amendment to the Lease must be approved by an Ordinance passed by a recorded affirmative vote of four-fifth (4/5) of all members of the City Commission.

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 is hereby authorized on behalf of the City of Coral Gables to execute the attached Second Amendment ("Second Amendment") to 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 (the "Original Lease") and Amended on January 2, 2001 (the "First Amendment") with such modifications as may be approved by the City Manager and City Attorney that are necessary to implement the intent of this ordinance.

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

PASSED AND ADOPTED THIS _____ DAY OF MARCH A.D., 2022.

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

APPROVED:

VINCE LAGO
MAYOR

ATTEST:

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BILLY Y. URQUIA
CITY CLERK

MIRIAM SOLER RAMOS
CITY ATTORNEY