

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release (“Agreement”) is entered into as of this ____ day of July 2026 (“Effective Date”), by and among:

CITY OF DORAL, a Florida municipal corporation, with its principal address at 8401 NW 53rd Terrace, Doral, Florida 33166 (the “City”);

WANNEMACHER JENSEN ARCHITECTS, INC., a Florida corporation, with its principal place of business at 132 Mirror Lake Drive, Unit 301, Saint Petersburg, Florida 33701 (“WJA”); and

KIMLEY-HORN AND ASSOCIATES, INC., a North Carolina corporation doing business in Florida, with its principal place of business at 421 Fayetteville Street, Suite 600, Raleigh, North Carolina 27601 (“Kimley-Horn”).

WJA and Kimley-Horn are collectively referred to herein as the “Design Team.” The City and the Design Team are individually referred to as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, on or about June 13, 2018, Acosta Tractors, Inc. (“Acosta”) filed a complaint in the Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County, Florida, styled *Acosta Tractors, Inc. v. Biltmore Construction Co., Inc., et al.*, Case No. 2018-020135 CA-25 (the “Litigation”);

WHEREAS, Biltmore Construction Co., Inc. (“Biltmore”) filed a third-party complaint against the City in the Litigation;

WHEREAS, the City filed a counterclaim against Biltmore and asserted claims against WJA and Kimley-Horn as fourth-party defendants in the Litigation, alleging breach of contract, negligence, and seeking declaratory relief relating to the design and construction of a recreational park facility located at 11400 NW 82nd Street, Doral, Florida 33178 (the “Project”);

WHEREAS, the City’s claims against the Design Team relate to the architectural, engineering, and design services provided by the Design Team in connection with the Project, including without limitation the baseball field component thereof;

WHEREAS, the Design Team denies all liability and wrongdoing alleged by the City and maintains that its services were performed in accordance with applicable standards of care and the terms of the relevant professional services agreements;

WHEREAS, the Design Team has asserted that the City’s Claims against the Design Team are precluded by the applicable statute of limitations;

WHEREAS, the Parties have engaged in arm's-length negotiations and now desire to resolve fully and finally all claims, disputes, and controversies between them arising out of or related to the Project, the Litigation, and the professional services rendered by the Design Team;

WHEREAS, the Parties acknowledge that this Agreement represents a compromise and settlement of disputed claims and is not an admission of liability or wrongdoing by any Party;

WHEREAS, the Parties intend that this Agreement shall provide complete finality for the Design Team with respect to all claims involving or related to the Design Team's services on the Project;

WHEREAS, this Agreement is subject to final approval and execution by all Parties and, upon execution, shall constitute the full and final resolution of all claims between the City and the Design Team as set forth herein;

WHEREAS, the Parties intend that this Agreement, and the releases and covenants set forth herein, constitute a good-faith settlement within the meaning of Section 768.31(5), Florida Statutes, such that the Design Team Released Parties are discharged from all liability for contribution to any other person or party; and

WHEREAS, in consideration for the releases and dismissals granted by the City, the Design Team has agreed to provide reasonable cooperation to the City in its continued prosecution and defense of the claims remaining in the Litigation, as set forth in Article 16 of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, releases, and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

Article 1 — Definitions

1. **"Claims" or "Claim"** means any and all claims, demands, causes of action, suits, proceedings, liabilities, obligations, damages, losses, costs, expenses, debts, judgments, liens, defenses, counterclaims, cross-claims, third-party claims, and rights of action of any nature whatsoever, whether known or unknown, suspected or unsuspected, asserted or unasserted, contingent or fixed, matured or unmatured, direct or indirect, liquidated or unliquidated, at law or in equity, now existing or hereafter acquired, based on any theory of law or equity, including without limitation claims for indemnity, common-law indemnity, contribution, subrogation, negligence, professional negligence, declaratory relief, injunctive relief, damages, costs, expenses, and attorneys' fees.
2. **"Project-Related Claims"** means all Claims arising out of, relating to, or in any way connected with (a) the Project, (b) the architectural, engineering, and design services provided by the Design Team for the Project, (c) the Prime Agreement, the Design Agreement, the Consulting Agreement, or the Closeout Agreement (each as referenced in the Litigation), (d) the design, construction, repair, or remediation of any component of the Project, including without limitation the baseball field, and (e) the Litigation.

3. **“Released Parties”** means, with respect to each Party, that Party and its past, present, and future parents, subsidiaries, affiliates, divisions, predecessors, successors, assigns, officers, directors, members, managers, partners, shareholders, employees, agents, representatives, attorneys, insurers¹, reinsurers, third-party adjusters, and all persons acting by, through, under, or in concert with any of them.
4. **“Settlement Payment”** means the sum of One Hundred Eighty Thousand Dollars (\$180,000.00). The Settlement Payment is apportioned as follows: \$90,000 paid on behalf of WJA and \$90,000 paid on behalf of Kimley-Horn. The payment obligations of WJA and Kimley-Horn are several and not joint.
5. **“Non-Settling Parties”** means Biltmore, Acosta, and Federal Insurance Company, together with each of their respective predecessors, successors, assigns, insurers, sureties, and Released Parties.

Article 2 — Settlement Payment

1. **Payment Obligation.** In consideration for the releases, dismissals, and other covenants set forth in this Agreement, the Design Team shall pay to the City the Settlement Payment.
2. **Payment Terms.** The Settlement Payment shall be paid as follows:
 - a. **Amount and Method.** The Design Team shall pay the Settlement Payment by wire transfer or certified check made payable to the “City of Doral” within thirty (30) days following the later of (i) the Effective Date and (ii) the Design Team’s receipt of complete wire instructions from the City. In the event the Settlement Payment, or any allocated portion thereof, is not received when due, the City shall provide written notice to the non-paying member of the Design Team, which shall have ten (10) business days from receipt of such notice to cure, and interest shall accrue on the unpaid balance at the statutory rate under Section 55.03, Florida Statutes, from the due date until paid. WJA and Kimley-Horn shall be severally, and not jointly, liable for the Settlement Payment, each solely for its own allocated share, and neither shall be liable for the failure of the other to pay its allocated share.
 - b. **Wire Instructions.** If payment is made by wire transfer, the Design Team shall transmit the Settlement Payment to the following account: [BANK NAME] [ACCOUNT NUMBER] [ROUTING NUMBER] [ADDITIONAL WIRE INSTRUCTIONS]
 - c. **Allocation.** The Parties agree that the Settlement Payment represents a negotiated compromise of disputed claims and shall be allocated between WJA and Kimley-Horn as they may agree between themselves. The City makes no representation regarding the allocation of the Settlement Payment among the Design Team members.

¹ For the avoidance of doubt, this shall include, but not be limited to, Certain Underwriters at Lloyd’s, London subscribing to Policy No. 0000-00286505C, Business Risk Partners, and TransEleven Claims Managers, Inc.

3. **Proof of Payment.** Within two (2) business days of making the Settlement Payment, the Design Team shall provide written confirmation and proof of payment to the City's counsel at the address set forth in Article 10, Section II of this Agreement.

Article 3 — Mutual Release by the City

1. **Release of the Design Team.** Upon receipt of the Settlement Payment, the City, on behalf of itself and all other City Released Parties, hereby irrevocably and unconditionally releases, acquits, and forever discharges the Design Team and all Design Team Released Parties from any and all Project-Related Claims that the City or any City Released Parties now have, have ever had, or may hereafter claim to have against the Design Team or any Design Team Released Parties.
2. **Scope of Release.** The release set forth in this Section includes, without limitation:
 - a. All Claims asserted or that could have been asserted by the City against the Design Team in the Litigation, including all claims for breach of contract, negligence, professional malpractice, breach of warranty, indemnity, contribution, and declaratory relief;
 - b. All Claims arising from or related to the Design Agreement between the City and WJA;
 - c. All Claims arising from or related to the Consulting Agreement between WJA and Kimley-Horn;
 - d. All Claims relating to the design, adequacy, or sufficiency of the architectural, engineering, and design services provided by the Design Team for the Project;
 - e. All Claims relating to the design, grading, drainage, or any other aspect of the baseball field or any other component of the Project;
 - f. All Claims for costs, expenses, damages, losses, or attorneys' fees incurred by the City in connection with the Project or the Litigation as they relate to the Design Team; and
 - g. All Claims that arise out of the same facts, transactions, occurrences, or subject matter as the Claims released herein.
 - h. All claims for attorneys' fees and costs related to the Claims asserted herein.
3. **Exclusions from Release.** Notwithstanding the foregoing, this release does not release or affect:
 - a. The obligations of the Parties under this Agreement;
 - b. Any Claims the City may have against parties other than the Design Team and the Design Team Released Parties, including without limitation Biltmore, Acosta, and their respective Released Parties; or

- c. any Claims arising from the Design Team's services on any other project or engagement for the City wholly unrelated to the Project.

Article 4 — Mutual Release by the Design Team

1. **Release of the City.** Upon execution of this Agreement, the Design Team, on behalf of themselves and all other Design Team Released Parties, hereby irrevocably and unconditionally releases, acquits, and forever discharges the City and all City Released Parties from any and all Project-Related Claims that the Design Team or any Design Team Released Parties now have, have ever had, or may hereafter claim to have against the City or any City Released Parties.
2. **Scope of Release.** The release set forth in this Section includes, without limitation:
 - a. All Claims for indemnity, contribution, or reimbursement against the City relating to the Project or the Litigation;
 - b. All Claims for attorneys' fees, costs, or expenses incurred by the Design Team in connection with the Litigation or the defense of the City's claims;
 - c. All Claims arising from or related to the Design Agreement, the Consulting Agreement, or any other agreement between the City and the Design Team relating to the Project;
 - d. All Claims relating to delays, changes, or disputes regarding the Project;
 - e. All counterclaims, cross-claims, or defenses that the Design Team has or could have asserted against the City in the Litigation; and
 - f. All Claims that arise out of the same facts, transactions, occurrences, or subject matter as the Claims released herein.
3. **Exclusions from Release.** Notwithstanding the foregoing, this release does not release or affect:
 - a. The obligations of the Parties under this Agreement;
 - b. Any Claims the Design Team may have against parties other than the City and the City Released Parties, including without limitation any subcontractors, subconsultants, insurers, or other third parties; or

Article 5 — Dismissal of Litigation Claims

1. **Dismissal with Prejudice.** Within ten (10) days following the receipt of the Settlement Payment by the City, the Parties shall execute and file with the Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County, Florida, a Joint Stipulation of Dismissal with Prejudice in substantially the form attached hereto as Exhibit A, dismissing with prejudice all claims asserted by the City against WJA and Kimley-Horn in the Litigation. Within ten (10) days from

the filing of this Joint Stipulation of Dismissal with Prejudice, WJA shall file a Notice of Voluntary Dismissal with Prejudice of its Cross-claim against Kimley-Horn in the Litigation.

2. **Retention of Jurisdiction.** The Parties acknowledge and agree that the Circuit Court shall retain full jurisdiction to proceed with all claims by and among the City, Biltmore, Acosta, and any other parties to the Litigation, and that the dismissal of the City's claims against the Design Team shall not affect the Court's jurisdiction over such other claims or the Parties' rights with respect thereto.
3. **Good-Faith Settlement Determination.** In connection with the Joint Stipulation of Dismissal, the City and the Design Team shall jointly move the Court for an order determining that this Agreement constitutes a good-faith settlement under Section 768.31(5), Florida Statutes, and that the Design Team Released Parties are discharged from all liability for contribution to the Non-Settling Parties or any other person or party. The City shall not oppose entry of such an order.
4. **Cooperation.** Each Party agrees to cooperate fully and execute any and all supplementary documents and to take all additional actions that may be necessary or appropriate to give full force and effect to the dismissal contemplated by this Article.
5. **Each Party Bears Own Costs.** Each Party shall bear its own costs, expenses, and attorneys' fees incurred in connection with the Litigation and this settlement, except as otherwise expressly provided in this Agreement.

Article 6 — Representations and Warranties

1. **By the City.** The City represents and warrants to the Design Team as follows:

- a. **Authority.** The City has full power and authority to enter into this Agreement and to perform its obligations hereunder. This Agreement has been duly authorized by all necessary municipal action and constitutes a valid and binding obligation of the City, enforceable in accordance with its terms.

- b. **No Assignment.** The City has not assigned, transferred, or conveyed to any person or entity any Claim or right released under Article 3 of this Agreement.

- c. **No Adverse Arrangement.** The City represents and covenants that it has not entered, and will not enter, any agreement or understanding with any Non-Settling Party that assigns, confers, or purports to confer any right to seek contribution, indemnity, or other recovery from any Design Team Released Party.

2. **By WJA.** WJA represents and warrants to the City as follows:

- a. **Authority.** WJA has full power and authority to enter into this Agreement and to perform its obligations hereunder. This Agreement has been duly authorized by all necessary corporate action and constitutes a valid and binding obligation of WJA, enforceable in accordance with its terms.

- b. **No Assignment.** WJA has not assigned, transferred, or conveyed to any person or entity any Claim or right released under Article 4 of this Agreement.
 - c. **Solvency.** WJA is solvent and able to satisfy its obligations under this Agreement.
3. **By Kimley-Horn.** Kimley-Horn represents and warrants to the City as follows:
- a. **Authority.** Kimley-Horn has full power and authority to enter into this Agreement and to perform its obligations hereunder. This Agreement has been duly authorized by all necessary corporate action and constitutes a valid and binding obligation of Kimley-Horn, enforceable in accordance with its terms.
 - b. **No Assignment.** Kimley-Horn has not assigned, transferred, or conveyed to any person or entity any Claim or right released under Article 4 of this Agreement.
 - c. **Solvency.** Kimley-Horn is solvent and able to satisfy its obligations under this Agreement.

Article 7 — Finality and No Further Claims

1. **Complete Resolution for Design Team.** The Parties acknowledge and agree that this Agreement provides complete and final resolution for WJA and Kimley-Horn with respect to all Project-Related Claims. Upon execution of this Agreement and receipt of the Settlement Payment by the City, neither the City nor any City Released Party shall bring, assert, prosecute, or maintain any Claim against the Design Team or any Design Team Released Parties arising out of or related to the Project, the services provided by the Design Team, or the Litigation.
2. **No Re-Assertion of Claims.** The City covenants and agrees that it shall not, directly or indirectly, re-assert, re-file, or otherwise pursue any of the Claims released in Article 3 of this Agreement, nor shall the City seek to hold the Design Team liable for contribution, indemnity, or any other form of recovery relating to Project-Related Claims in any future action or proceeding.
3. **Warranty of Finality.** The City acknowledges that, upon satisfaction of the terms of this Agreement, the Design Team shall have no further liability, obligation, or exposure to the City or any City Released Party with respect to the Project, the Design Agreement, the Consulting Agreement, or any matter related thereto, except as expressly set forth in this Agreement.
4. **Protection from Third-Party Claims; Good-Faith Settlement.**
 - a. **Good-Faith Settlement.** The Parties acknowledge and agree that this Agreement is a good-faith settlement within the meaning of Section 768.31(5), Florida Statutes, and that, upon receipt of the Settlement Payment, the Design Team Released Parties are discharged from all liability for contribution to any other person or party, including the Non-Settling Parties, arising out of or relating to the Project or the Litigation.
 - b. **No Recovery of the Design Team's Share.** The Parties acknowledge that, under Sections 768.81 and 768.31, Florida Statutes, any judgment the City obtains against the Non-Settling

Parties will be entered on the basis of each such party's own percentage of fault, and that the Non-Settling Parties may seek to apportion fault to the Design Team as nonparties. The City shall not assert that any Design Team Released Party is jointly and severally liable with the Non-Settling Parties, and shall not oppose the fact that the trier of fact may enter a judgment that includes an apportionment of fault to the Design Team as a nonparty, although the City shall at all times be entitled to seek to oppose an apportionment of fault to the Design Team and otherwise contend that the Design Team is not at fault. The City shall not affirmatively assert or contend in any proceeding that any Design Team Released Party is liable to the City for the Project-Related Claims released herein.

- c. **Cooperation in the Design Team's Defense.** If any Non-Settling Party or other third party asserts a claim against any Design Team Released Party arising out of or relating to the Project or the Litigation, the City shall, upon request and without charge, (i) provide reasonably prompt written notice to the Design Team of any related development of which the City becomes aware, (ii) reasonably cooperate in the defense of such claim, including by providing a declaration or testimony confirming the scope and good faith of this settlement, and (iii) not take any position inconsistent with the discharge and releases set forth in this Agreement. This subsection imposes no obligation on the City to pay money, defend, or indemnify any Design Team Released Party.
- d. **No Limitation on Litigation Conduct.** Subject to subsection (b), nothing in this Section shall limit the City's right or obligation to respond to discovery, comply with subpoenas, provide truthful testimony, produce public records, or otherwise prosecute or defend its claims and defenses against the Non-Settling Parties in the Litigation.

Article 8 — No Admission of Liability

- 1. **Compromise of Disputed Claims.** This Agreement is entered into solely for the purpose of compromising and settling disputed claims. Neither this Agreement nor any act performed in connection with this Agreement shall be construed as, or deemed to be evidence of, an admission or concession of liability or wrongdoing by any Party.
- 2. **Inadmissibility.** No Party shall offer or attempt to introduce this Agreement, or any of its terms, as evidence in any litigation, arbitration, or other proceeding, except in an action to enforce the terms of this Agreement or as may be required by law.
- 3. **Denial of Liability.** Each Party expressly denies any and all liability with respect to the Claims asserted against it in the Litigation and enters into this Agreement solely to avoid the further expense, inconvenience, and uncertainty of continued litigation.

Article 9 — General Provisions

- 1. **Entire Agreement.** This Agreement, together with any exhibits attached hereto, constitutes the entire agreement and understanding among the Parties with respect to the subject matter hereof and supersedes all prior negotiations, understandings, representations, and agreements, whether written or oral, among the Parties relating to such subject matter. No Party has relied upon any representation, warranty, or statement not expressly set forth in this Agreement.

2. **Amendment and Waiver.** This Agreement may not be amended, modified, or supplemented except by a written instrument executed by all Parties. No waiver of any provision of this Agreement shall be effective unless in writing and signed by the Party against whom such waiver is sought to be enforced. No waiver of any breach or default hereunder shall be deemed a waiver of any subsequent breach or default of the same or similar nature.
3. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, without regard to its conflict of laws principles.
4. **Jurisdiction and Venue.** The Parties irrevocably consent to the exclusive jurisdiction of the Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County, Florida, for any action arising out of or relating to this Agreement. Venue for any such action shall lie exclusively in Miami-Dade County, Florida.
5. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors, assigns, heirs, executors, administrators, and legal representatives.
6. **No Assignment.** No Party may assign, transfer, or delegate any of its rights or obligations under this Agreement without the prior written consent of the other Parties, which consent may be withheld in each Party's sole discretion. Any purported assignment, transfer, or delegation in violation of this Section shall be null and void.
7. **Severability.** If any provision of this Agreement is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired thereby. The Parties agree to negotiate in good faith to replace any invalid, illegal, or unenforceable provision with a valid, legal, and enforceable provision that achieves, to the greatest extent possible, the economic, business, and other purposes of the invalid, illegal, or unenforceable provision.
8. **Headings.** The article and section headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.
9. **Construction.** This Agreement has been negotiated at arm's length by the Parties, each of whom has been represented by counsel. No provision of this Agreement shall be construed against any Party on the basis that such Party was the drafter. The Parties agree that the language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.
10. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Facsimile or electronic signatures (including PDF signatures) shall be deemed original signatures for all purposes.

1. **Method of Notice.** All notices, demands, requests, consents, and other communications required or permitted under this Agreement (“Notices”) shall be in writing and shall be deemed given when (a) delivered personally, (b) sent by confirmed facsimile or email transmission, (c) delivered by a nationally recognized overnight courier service, or (d) mailed by certified or registered mail, return receipt requested, postage prepaid, in each case to the addresses set forth below.

2. **Notice Addresses.** Notices shall be sent to the following addresses:

FOR CITY: Zeida Sardiñas
City Manager
City of Doral
8401 NW 53rd Terrace
Doral, Florida 33166

WITH COPY TO: Raul Gastesi, Esq.
Lorenzo Cobiella, Esq.
Gastesi Lopez Mestre & Cobiella, PLLC
City Attorneys
8000 Governor’s Square, Suite 101
Miami Lakes, Florida 33016

FOR WJA: Wannemacher Jensen Architects, Inc.
Attention: Corporate Representative
132 Mirror Lake Drive, Unit 301
Saint Petersburg, Florida 33701

WITH COPY TO: Fields Howell, LLP
Attention: Armando P. Rubio, Esq.
9155 S. Dadeland Blvd., Suite 1012
Miami, Florida 33156

FOR KIMLEY-HORN: Kimley-Horn and Associates, Inc.
Attention: Mudassar Alam
421 Fayetteville Street, Suite 600
Raleigh, North Carolina 27601
Email: Mudassar.Alam@kimley-horn.com

WITH COPY TO: Lawson Huck Gonzalez, PLLC
Attention: Michael C. Kelley, Esq.
111 West Jefferson Street, Suite 100
Orlando, Florida 32801
Email: michael@lawsonhuckgonzalez.com

3. **Change of Address.** Any Party may change its address for Notices by giving written notice of such change to the other Parties in accordance with this Article.

Article 11 — Confidentiality

1. **Confidential Treatment.** The Parties agree that the terms and conditions of this Agreement, including without limitation the Settlement Payment and the releases contained herein, shall be kept confidential by the Design Team to the extent permitted by law. The Design Team acknowledges that the City is a Florida municipal corporation subject to Chapter 119, Florida Statutes (the Public Records Act), and Article I, Section 24 of the Florida Constitution, and that this Agreement is a public record that must be approved at a duly noticed public meeting and disclosed upon request. Nothing in this Agreement shall be construed to require the City to withhold any record or to violate the Public Records Act or Florida's Sunshine Law, Section 286.011, Florida Statutes. Subject to the foregoing, disclosure is permitted (a) to the Parties' respective attorneys, accountants, insurers, reinsurers, claims handlers, and other professional advisors who have a need to know and who agree to maintain confidentiality, (b) as required by law, court order, or governmental regulation, (c) as necessary to enforce the terms of this Agreement, or (d) as necessary to file the Joint Stipulation of Dismissal with Prejudice with the Court.
2. **Permitted Disclosure.** Notwithstanding the foregoing, each Party may disclose this Agreement to potential purchasers, investors, lenders, or other persons in connection with a merger, acquisition, financing, or similar transaction, provided that such persons agree to maintain the confidentiality of the Agreement.
3. **Breach of Confidentiality.** The Parties acknowledge that a breach of this confidentiality provision may cause irreparable harm for which monetary damages may be an inadequate remedy. Accordingly, in addition to any other remedies available at law or in equity, the non-breaching Party shall be entitled to seek injunctive relief to enforce this confidentiality provision.

Article 12 — No Third-Party Beneficiaries

1. **Parties Only.** This Agreement is for the sole benefit of the Parties and their respective Released Parties and is not intended to confer any rights or benefits upon any other person or entity. No person or entity other than the Parties shall have any right to enforce this Agreement or any of its provisions.
2. **Released Parties.** Notwithstanding Section I of this Article, the Released Parties defined in Article 1, Section III are express third-party beneficiaries of the releases set forth in Articles 3 and 4 of this Agreement and shall have the right to enforce such releases as if they were Parties hereto.

Article 13 — Covenant Not to Sue

1. **City's Covenant.** The City covenants and agrees that it will not sue, or cause or permit to be prosecuted, any lawsuit or other action or proceeding against the Design Team or any Design Team Released Parties with respect to any Project-Related Claims released under Article 3 of this Agreement.

2. **Design Team's Covenant.** The Design Team covenants and agrees that it will not sue, or cause or permit to be prosecuted, any lawsuit or other action or proceeding against the City or any City Released Parties with respect to any Project-Related Claims released under Article 4 of this Agreement.
3. **Covenant Not to Assign.** The City covenants that it shall not sell, assign, transfer, pledge, or otherwise convey to any person or entity, including any Non-Settling Party, any Project-Related claim released under Article 3, or any right, in whole or in part, to seek or obtain from any Design Team Released Party contribution, indemnity, reimbursement, or other recovery relating to the Project or the Litigation. Any purported assignment or transfer in violation of this Section is void. The releases and covenants set forth in this Agreement bind the City's successors and assigns and inure to the benefit of the Design Team Released Parties and any person claiming by, through, or under the City.
4. **Enforcement.** In the event of a breach of the covenants set forth in this Article, the breaching Party shall be liable for all damages, costs, and attorneys' fees incurred by the non-breaching Party in defending such action and enforcing this Agreement.

Article 14 — Independent Legal Advice

1. **Opportunity for Counsel.** Each Party acknowledges that it has had the opportunity to consult with independent legal counsel of its own choosing regarding this Agreement and has either done so or has voluntarily declined to do so.
2. **Understanding of Terms.** Each Party represents that it has carefully read and fully understands all of the provisions of this Agreement and is voluntarily entering into this Agreement with full knowledge of its significance and effect.
3. **No Duress.** Each Party represents that it is executing this Agreement freely and voluntarily, without any duress, coercion, or undue influence exercised by any other Party or any other person or entity.

Article 15 — Effective Date and Conditions

1. **Effective Date.** This Agreement shall become effective upon the date set forth in the preamble hereof, which shall be the date of execution by the last Party to execute this Agreement (the "Effective Date").
2. **Conditions Precedent.** The obligations of the Parties under this Agreement are subject to the following conditions precedent:
 - a. **Final Approval.** This Agreement shall be subject to approval by the City Council of the City of Doral at a duly noticed public meeting, in accordance with applicable Florida law and the City's Charter, ordinances, resolutions, and procedures. The Design Team acknowledges that no City officer, employee, or attorney has authority to bind the City absent such approval, and that this Agreement is not binding on the City until so approved and executed by the City Manager.

- b. **Execution by All Parties.** This Agreement must be executed by all Parties named herein.
- c. **No Material Breach.** As of the Effective Date, no Party shall be in material breach of any provision of this Agreement.

Article 16 — Further Assurances

1. **Cooperation.** Each Party agrees to cooperate fully with the other Parties and to execute and deliver such further documents, instruments, and assurances, and to take such further actions, as may be reasonably requested by any other Party to carry out the intent and purposes of this Agreement and to consummate the transactions contemplated hereby.
2. **Litigation Cooperation.** The Parties agree to cooperate in good faith in the preparation and filing of the Joint Stipulation of Dismissal with Prejudice and to take all actions necessary to effectuate the dismissal of the City's claims against the Design Team in the Litigation as contemplated by Article 5 of this Agreement.
3. **Cooperation in Ongoing Litigation.** The Design Team acknowledges that, notwithstanding the dismissal of the City's claims against the Design Team, the City's defense of the third-party complaint filed by Biltmore against the City and the City's prosecution of its counterclaim against Biltmore remain pending in the Litigation. The Design Team shall, and shall cause its officers, directors, employees, agents, and consultants to, fully and reasonably cooperate with the City, at the City's request, in connection with the City's defense of the third-party complaint and prosecution of the counterclaim, including without limitation by (a) making available for interview, deposition, or trial testimony such current officers, employees, and agents of the Design Team as may have knowledge relevant to the Project or the Litigation; (b) providing access to, and copies of, non-privileged documents, drawings, correspondence, and other records in the Design Team's possession, custody, or control relating to the Project; (c) responding truthfully and completely to any subpoena, request for production, or other discovery request properly served upon the Design Team in connection with the Litigation; and (d) refraining from voluntarily assisting, consulting with, or providing expert or fact testimony on behalf of Biltmore, Acosta, or any other party adverse to the City in the Litigation. The Design Team's cooperation obligations under this Section are subject to the following: (i) the City shall provide reasonable advance written notice, not fewer than ten (10) business days, of any request for documents, interview, or testimony; (ii) no current or former officer, director, employee, agent, or consultant of the Design Team shall be required to sit for more than one (1) deposition, or to appear on more than one (1) occasion for trial testimony, absent an order of the Court compelling the same; (iii) nothing in this Section shall require any Design Team Released Party to waive any applicable privilege or work-product protection, to incur unreasonable disruption to its business, or to take, adopt, or support any position adverse to the interests of any Design Team Released Party; and (iv) the City shall reimburse the Design Team for reasonable, documented out-of-pocket costs, including reasonable attorneys' and professional fees, incurred in complying with a request under this Section. The Design Team's obligations under this Section are further conditioned upon the City's continued performance of its obligations under Section 7.4, Article 13, and Article 19 of this Agreement; a material

breach by the City of those obligations, uncured within ten (10) business days of written notice, shall relieve the Design Team of its cooperation obligations under this Section. In addition, the Design Team's cooperation obligations under this Section shall be suspended during the pendency of any claim asserted by a Non-Settling Party against any Design Team Released Party arising out of or relating to the Project or the Litigation.

Article 17 — Attorneys' Fees and Costs

1. **Own Fees and Costs.** Except as expressly provided otherwise in this Agreement, each Party shall bear its own attorneys' fees, costs, and expenses incurred in connection with the negotiation, preparation, and execution of this Agreement and the Litigation.
2. **Enforcement Costs.** In the event any Party is required to initiate legal action to enforce the terms of this Agreement, the prevailing party in such action shall be entitled to recover from the non-prevailing party all reasonable attorneys' fees, costs, and expenses incurred in connection with such enforcement action, including fees and costs incurred in any appellate proceedings.

Article 18 — Authority to Execute

1. **Signatories.** Each individual executing this Agreement on behalf of a Party represents and warrants that he or she is duly authorized to execute this Agreement on behalf of such Party and that such execution binds the Party to the terms of this Agreement.
2. **Corporate Authority.** Each corporate Party represents and warrants that all necessary corporate action has been taken to authorize the execution, delivery, and performance of this Agreement and that the individual signing on behalf of such Party has full authority to do so.

Article 19 — Sovereign Immunity and Reservation of Rights

1. **Sovereign Immunity Preserved.** Nothing in this Agreement shall be construed as a waiver, in whole or in part, of the City's sovereign immunity or the limitations on liability set forth in Section 768.28, Florida Statutes, or of any other immunity, defense, or limitation available to the City, its officials, officers, employees, or agents under Florida law.
2. **Non-Waiver of Claims Against Non-Settling Parties.** The Parties acknowledge that the City's claims against the Non-Settling Parties remain pending. Nothing in this Agreement shall reduce or impair the City's recovery against the Non-Settling Parties.

Signature Page Follows

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement and Mutual Release as of the date set forth below, effective as of the Effective Date.

City of Doral, Florida

By: _____
Name: Zeida Sardiñas
Title: City Manager

ATTEST:

By: _____
Name: Connie Diaz
Title: City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: _____
Name: Lorenzo Cobiella, Esq.
Title: City Attorney

**WANNEMACHER JENSEN
ARCHITECTS, INC.**, a Florida
corporation

By: _____
Name: _____
Title: _____
Date: _____

ATTESTED BY:

**KIMLEY-HORN AND ASSOCIATES,
INC.**,
a North Carolina corporation

By: _____
Name: _____
Title: _____
Date: _____

ATTESTED BY:

