This instrument prepared by:
Name: Gisela Nanson Torres
Senior Assistant City Attorney
Address: Office of the City Attorney
1700 Convention Center Drive, 4th Floor
Miami Beach, Florida 33139

(Space reserved for Clerk)

UTILITY EASEMENT AGREEMENT

THIS GRANT OF A UTILITY EASEMENT AGREEMENT (the "Agreement") is made this _____ day of _____, 2022 ("Effective Date"), between Bella Isla, LLC a Florida limited liability company, as owner and grantor, and its successors and assigns (hereinafter called "Grantor") and the **CITY OF MIAMI BEACH, FLORIDA**, a municipal corporation of the State of Florida (the "City"), as grantee, and its successors and assigns (hereinafter called "Grantee").

WITNESSETH:

WHEREAS, Grantor is the owner of that certain improved real property located within the City's municipal jurisdiction, with a street address of 31 Venetian Way, Miami Beach, FL 33139, and more particularly described in **EXHIBIT** "**A**", attached hereto and made a part hereof (the "Grantor's Property").

WHEREAS, in connection with a water and sewer project that will benefit Grantor's Property and other surrounding properties, Grantor has agreed to convey to the City a perpetual, non-exclusive Easement (as defined in Section 2 below) for the City to access, construct, install, operate, maintain, repair, replace and upgrade underground public water and sewer facilities (collectively, the "City's Utilities Infrastructure"); and

WHEREAS, on _____, the Mayor and City Commission adopted Resolution No. _____, authorizing the City Manager to accept this Easement (as defined in Section 2) on the Grantor's Property.

NOW THEREFORE, for and in consideration of ten and no/100 dollars ($10.00) and other good and valuable consideration, the receipt of which is acknowledged, the parties hereby mutually covenant and agree as follows:

GRANT OF EASEMENT

1. **Recitals**. The above recitals are true and correct and are hereby incorporated into this Agreement.

2. **Consideration and Description**. the Grantor, for and in consideration of the City's Utilities Infrastructure, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby grants to the Grantee, its licensees, agents, successors and assigns a perpetual, non-exclusive easement (the "Easement") on, over, and under a portion of Grantor's Property, as such property is more specifically described and delineated in **EXHIBIT "B,"** attached hereto and made a part hereof (the "Easement Area") to access, construct, install, operate, maintain, repair, replace and upgrade the City's Utilities Infrastructure, together with the non-exclusive right of ingress, egress and regress on, over and through Grantor's Property for access to the Easement Area.

3. **Uses**.

3.1 The Grantee shall use the Easement and the Easement Area during the Term provided herein for the express purposes provided in Section 2 hereof, which will include, without limitation, use of the Easement Area for inspecting and performing work in connection with the construction, installation, operation maintenance repairs and replacement of the City's Utilities Infrastructure. Grantee may utilize the Easement Area without Grantor's prior written approval at any time or times.

3.2 The Grantor shall have the right to full use and enjoyment of Grantor's Property, except for such use as may unreasonably interfere with the exercise by the Grantee of the rights granted under this Agreement. Grantor shall be prohibited from obstructing Grantee's access to, or use of, the Easement Area.

4. **Inspection**. It is hereby agreed that any City official has the right, during normal business hours, to enter and investigate the use of the Grantor's Property to verify compliance with the conditions of this Agreement and the requirements of the City's Building, Public Works, Zoning and Land Development Regulations.

5. **Term**. The Easement and rights granted herein shall be perpetual and shall be possessed and enjoyed by the Grantee, its successors and assigns, for the purposes stated herein.

6. **Maintenance**. At all times during the Term, the City's Utilities Infrastructure shall remain property of the Grantee and Grantee, at its sole cost and expense, shall maintain the City's Utilities Infrastructure and shall make all repairs as deemed necessary by Grantee, in its reasonable discretion; provided, however, that Grantor shall be responsible for reimbursing Grantee for any damage caused by Grantor, its officers, employees, contractors, agents and invitees. The maintenance, repair and replacement of any other attachments installed within the Easement Area ("Third-Party Attachments"), excluding the City's Utilities Infrastructure, shall be the responsibility of the third party who installs the Third Party Attachments. In the event the City is required to perform repairs or improvements to the City's Utilities Infrastructure, the City, at its sole cost, shall be responsible for replacing/restoring any affected above ground landscape or hardscape to existing conditions.

7. **Notices**. All notices, requests, consents and other communications required or permitted under this Agreement shall be in writing and shall be (as elected by the person giving such notice) hand-delivered by messenger or courier service; or mailed (airmail, if international) by registered or certified mail (postage prepaid), return receipt requested; or sent by any form of overnight mail service, addressed to:

AS TO GRANTOR:	Bella Isla, LLC c/o Euroamerican Group, Inc., Manager Attention: President 407 Lincoln Rd, PH-N Miami Beach, Florida 33139
AS TO GRANTEE:	City of Miami Beach Attn: City Manager 1700 Convention Center Drive, 4th Floor Miami Beach, FL 33139
WITH COPIES TO:	City of Miami Beach Attn: City Attorney 1700 Convention Center Drive, 4th Floor Miami Beach, FL 33139

Or to such other address as any party may designate by notice complying with the terms of this Section. Each such notice shall be deemed delivered: (i) on the date delivered if by personal delivery; (ii) on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as not deliverable, as the case may be, if mailed; and (iii) on the day after mailing by any form of overnight mail service.

8. **Miscellaneous Terms and Conditions**

8.1 Sovereign Immunity. Nothing contained herein shall be construed as a waiver of Grantee's Right of sovereign immunity.

8.2 Construction. For purposes of construction by a Court, the parties hereto acknowledge that both parties hereto participated in the drafting of this document.

8.3 City's Governmental Capacity/No Waiver of City Police Powers. Grantor confirms that it has full power and authority to grant this Easement. Nothing in this Agreement or in the parties' acts or omissions in connection herewith shall be deemed in any manner to waive, impair, limit, or otherwise affect the authority of the Grantee in the discharge of its police or governmental powers.

8.4 Remedies. An action to enforce the terms and conditions of this Agreement may be brought by the Grantee and may be, at law or in equity, against any party or person violating or attempting to violate any provision of this Agreement, either to restrain violations or to recover damages.

8.5 Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, Grantor and Grantee and their respective successors and assigns.

8.6 Entire Agreement; Modifications. This Agreement sets forth the entire agreement between the parties specifically relating to the subject matter of the Easement granted hereby and there are no other agreements or understandings between them relating to Grantee's use of the Easement Area. This Agreement may not be modified, released or terminated, except by agreement in writing executed by the parties hereto or their respective successors and/or assigns, and in the case of Grantee, approved by the Mayor and City Commission of the City of Miami Beach.

8.7 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Florida, both substantive and remedial, without regard to principles of conflict of laws. The exclusive venue for any litigation arising out of this Agreement shall be Miami-Dade County, Florida, if in state court, and the U.S. District Court for the Southern District of Florida, if in federal court.

8.8 Grantor Representations. Grantor covenants, warrants and represents (i) that Grantor is the fee simple owner of Grantor's Property and has the right title and capacity to grant the perpetual Easement granted herein, and (ii) there are no lienholders on the Grantor's Property.

8.9 Easements and Covenants Run with the Land. Each and all of the easements, covenants, obligations and rights granted or created under the terms of this Agreement are appurtenant to Grantor's Property.

8.10 Recording. This Agreement shall be recorded in the Public Records of Miami-Dade County, Florida by Grantee at the cost of Grantor.

TO HAVE AND TO HOLD the same unto Grantee, its successors and assigns forever, and Grantor will defend the title to Grantor's Property against the lawful claims of all persons whomsoever.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the Grantor herein has caused these presents to be executed in its name on the day and year first above written.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

_____
Signature

_____
Print Name

_____
Signature

_____
Print Name

BELLA ISLA, LLC
c/o **EUROAMERICAN GROUP, INC**.,
Manager

By:_____
Name: Ivan Gonzalez Ruiz
Title: President

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

The forgoing instrument was acknowledged before me by means of ___ physical presence or ___ online notarization this ____ day of _____, 2022, by Ivan Gonzalez Ruiz, as President of Euroamerican Group, Inc., a Florida corporation, as Manager of Bella Isla, LLC, a Florida limited liability company, on behalf of said corporation, who is personally known to me or produced _____ as identification.

_____
Print Name:_____

Notary Public, State of Florida

My Commission Expires: [NOTARIAL SEAL]

IN WITNESS WHEREOF, the Grantee herein has caused these presents to be executed in its name on the day and year first above written.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

_____
Signature

_____
Print Name

_____
Signature

_____
Print Name

CITY OF MIAMI BEACH, **FLORIDA**, a municipal corporation of the State of Florida

By:_____
Name: Alina T. Hudak
Title: City Manager

ATTEST:

_____
Signature

Rafael E. Granado, City Clerk
Print Name

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

The forgoing instrument was acknowledged before me by means of ___ physical presence or ___ online notarization this ___ day of _____, 2022, by Alina T. Hudak, as City Manager, and Rafael E. Granado, as City Clerk, of the **CITY OF MIAMI BEACH**, **FLORIDA**, a municipal corporation of the State of Florida, on behalf of said municipal corporation, who is personally known to me or produced _____ as identification.

_____
Print Name:

Notary Public, State of Florida

My Commission Expires: [NOTARIAL SEAL]

Exhibit "A"

Grantor's Property

ALL OF LARKMI, a subdivision of EL Retiro, according to the Plat thereof, as recorded in Plat Book 41, at Page 68, of the Public Records of Miami-Dade County, Florida.

Exhibit “B”

Easement Area