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**EXHIBIT 1
RESOLUTION 2020-**

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**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HALLANDALE
BEACH, FLORIDA AUTHORIZING VIRTUAL QUASI JUDICIAL HEARINGS
FOR CERTAIN APPLICATIONS DURING A DECLARED STATE OF
EMERGENCY; ESTABLISHING QUALIFICATIONS AND PROCEDURES; AND
PROVIDING FOR AN EFFECTIVE DATE.**

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WHEREAS, on March 9, 2020, Governor DeSantis issued Executive Order 20-52, declaring a State of Emergency in the State of Florida due to Novel Coronavirus Disease 2019 ("COVID-19"); and

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WHEREAS, on March 9, 2020 the City of Hallandale Beach declared a local state of emergency declared a State of Emergency pursuant to Chapter 252, Florida Statutes; and

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WHEREAS, on March 20, 2020, due to health and safety concerns related to COVID-19, Governor DeSantis issued Executive Order 20-69, "Emergency Management – COVID-19 Local Government Public Meetings" suspending physical quorum and location requirements for public meetings, as extended by Executive Orders 20-121, 20-123, 20-139, and 20-150, until August 1, 2020; and

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WHEREAS, pursuant to Executive Order 20-69, as extended, the City Commission has adopted rules for the use of communications media technology ("CMT") at public meetings for the duration of the state of emergency; and

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WHEREAS, recent spikes and record-breaking numbers of COVID-19 cases in the South Florida area have led the City Commission to find that the current state of affairs will continue for some time. However, the interests of the public and that of property owners should be balanced to the greatest, and safest, extent possible by permitting applications to proceed where the right of the public to participate, the due process rights of applicants, and the ability to limit the City's liability can be assured.

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WHEREAS, the Mayor and City Commission find that it is in the best interest of the residents of the City to institute Virtual Quasi-Judicial Hearing Procedures for use during the COVID-19 Declared State of Emergency in accordance with Executive Order 20-69, as extended.

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38 **NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY**
39 **COMMISSION OF THE CITY OF HALLANDALE BEACH, FLORIDA**
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41 **SECTION 1.** The foregoing “Whereas” clauses are confirmed as true and incorporated herein.
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43 **SECTION 2.** This Resolution is also issued as an Emergency Order consistent with the authority
44 of Ch. 252, Florida Statutes, and shall have full force and effect as such upon filing with the City
45 Clerk in accordance with Section 252.46, Florida Statutes.
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48 **SECTION 3.** All prior emergency orders and measures remain in effect except to the extent
49 modified by this Resolution. This Resolution supersedes and governs over any conflicting
50 provisions contained in any prior resolution, order or emergency measures. Resolution 2003-1,
51 Procedures for Conducting Quasi-Judicial Proceedings, is hereby suspended only to the extent it
52 conflicts with the instant resolution.
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54 **SECTION 4. Virtual Quasi-Judicial Hearing Procedures.** Quasi-judicial hearings conducted
55 using CMT (“Virtual Hearings”) shall be conducted according to the following procedures:
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57 (A) Qualification for a Quasi-Judicial Hearing. The City is only conducting Virtual Hearings if
58 requested by an Applicant; otherwise, quasi-judicial hearings will be scheduled for the next
59 available regularly scheduled City Commission meeting where all individuals may attend
60 the hearing in person in City Commission Chambers. In addition to all existing
61 requirements for qualification and application for a quasi-judicial hearing, in order to qualify
62 for a Virtual Hearing:

63 (1) Applicant must submit a fully executed (by Applicant), “Waiver, Indemnification, and
64 Hold Harmless Agreement,” which shall be in substantially the form attached hereto
65 as **Exhibit “A,”** and shall be subject to approval by the City Attorney as to form,
66 content, and legal sufficiency; and

67 (2) The City Manager, or his designee, shall make a finding that: the application involves
68 an educational institution, hospital/healthcare facility, governmental facility, public
69 works project; or, the item has been previously deferred more than two times; or,
70 consideration is required to avoid a detrimental affect to the City or protect the rights
71 of a party.

72 (B) **Platform.** The video conference platform Zoom will be used for remote participation in
73 virtual quasi-judicial meeting. The City already has a subscription with Zoom, it is the
74 platform used by the City Clerk for City Commission meetings during the COVID-19
75 Declared State of Emergency. The City will provide a physical location, at or near the city
76 Hall complex, where members of the public may access the Virtual Hearing for public
77 participation. However, the applicant and all witnesses or experts testifying on behalf of
78 the applicant are responsible for providing their own connection to the City Zoom meeting.

79 (C) Virtual Hearings will be noticed in the same manner and at the same locations as all quasi-
80 judicial meetings are typically noticed (including mailed notice, as may be required by the
81 City Code or Zoning Code). The Zoom conference number (along with instructions) will be
82 published on the agenda and will be included everywhere that the meeting is noticed. The
83 physical location for access will also be included on the agenda and everywhere that the
84 meeting is noticed. Options for pre-submission of public comment, an accordance with

City Commission procedures adopted for COVID-19 will also be included on the agenda and everywhere that the meeting is noticed.

- (D) Virtual quasi-judicial hearings shall be conducted in an informal manner. However, Commissioners, participating City Staff, Applicants and Experts and Witnesses testifying on behalf of any party must remain on video at all times during the hearing. However, failure to do so for circumstances beyond the control of the individual will not invalidate or constitute grounds to contest the Virtual Hearing or its outcome.
- (E) If the Applicant or agent of the Applicant agrees with the City Staff's recommendation and wishes to waive his or her right to a quasi-judicial hearing, and if no Commissioner or any member of the public wishes to speak for or against the quasi-judicial agenda item, the City Commission may vote on the item based upon the materials in the agenda back-up, without any discussion or debate on the item. Each of these elements shall be announced on the record by the City Clerk/board liaison.
- (F) A list of all individuals who will be called as witnesses during the hearings, shall be provided to the City Clerk/board liaison, five (5) days prior to the hearing. At the beginning of the hearing, the City Clerk/board liaison shall call each witness by name, one-by-one, in order to swear each person in. Any witness who wishes to testify during the hearing and is not included in the previously-provided witness list, shall be sworn in after all witnesses on the list are sworn in and prior to the beginning of the hearing. All witnesses providing testimony must appear by video conference.
- (G) The City Staff shall introduce their presentation, if any, first. Following the City Staff's presentation, the Applicant may introduce their presentation.
- (H) All witnesses are subject to cross-examination by the City Staff, City Commission, and the Applicant.
- (I) **Public Comment.** Any member of the public may speak on the quasi-judicial item. The Mayor/Chair will allow for public comment using Zoom after the parties have concluded the presentation of their cases and before a vote is taken. The individual's name and address must be provided prior to delivering any remarks. If the City Staff, City Commission, or Applicant want to cross-examine a member of the public, they must do so immediately following the individual's remarks. In addition, comments to be considered during the hearing that were submitted prior to the beginning of the meeting will be played after all "live" public comment. Written comments received prior to the hearing will be distributed to the Commission and all Parties and be made part of the record. However, public comments standing alone are not sworn and do not qualify as competent substantial evidence on which the quasi-judicial board may rely, except that they may be considered if they support sworn testimony that is considered competent substantial evidence.
- (J) The Applicant and City Staff will make concluding remarks, if any.
- (K) The City Commission will make their comments, ask questions, deliberate, and then announce its decision by vote of the City Commission.
- (L) The City Commission reserves the right to limit or prohibit redundant or irrelevant evidence, testimony, or questions and may set reasonable time limits.
- (M) The City's Comprehensive Plan, the Code of the City of Hallandale Beach, Florida, material in the City Commission's agenda backup, and City Staff resumes on file with the City Clerk will automatically be considered as evidence without authentication.

- (N) Any documents or evidence that the Applicant or any member of the public wishes to be admitted into evidence during his or her presentation (including but not limited to any documents or other evidence not contained in the agenda back up, all supplemental materials, PowerPoint/computer presentations, and statements related to the application) shall be provided to the City Clerk in electronic format no later than 12:00 p.m. five business days prior to the date of the Virtual Hearing.
- (O) Although the City Commission may listen to non-expert opinion and public sentiment, its decision must be based upon competent substantial evidence presented to it at the virtual quasi-judicial hearing.

APPROVED AND ADOPTED this ____ day of _____ 2020.

JOY F. COOPER
MAYOR

SPONSORED BY:

ATTEST:

JENORGEN M. GUILLEN, CMC
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY
AND FORM

FINAL VOTE ON ADOPTION

Mayor Cooper _____
Vice Mayor Javellana _____
Commissioner Butler _____
Commissioner Lazarow _____
Commissioner Lima-Taub _____

JENNIFER MERINO
CITY ATTORNEY

EXHIBIT A

**REQUEST FOR VIRTUAL QUASI JUDICIAL HEARING
WAIVER, INDEMNIFICATION, AND HOLD HARMLESS AGREEMENT**

THIS WAIVER, INDEMNIFICATION, AND HOLD HARMLESS AGREEMENT (the “Agreement”) is made this ____ day of _____, 2020 between the [APPLICANT], a [STATE] [BUSINESS ENTITY], (the “Applicant” and/or the “Indemnitor”), and the City of Hallandale Beach, a Florida municipal corporation (the “City” and/or the “Indemnitee”).

WHEREAS, the nation, state of Florida, Broward County (the “County”), and the City are facing an unprecedented public health emergency brought upon by the Covid-19 pandemic (the “Emergency”); and

WHEREAS, various emergency orders have been issued by the state, County, and City, respectively, severely curtailing personal interaction during the pendency of the Emergency, and thus impacting the City’s ability to conduct public meetings, including but not limited to quasi-judicial hearings; and

WHEREAS, in an effort to continue conducting municipal business during the Emergency, the City has created special procedures for conducting quasi-judicial hearings using communications media technology (“CMT”) (collectively “Virtual Hearings”); and

WHEREAS, on August 5, 2020, the City adopted Virtual Quasi-Judicial Hearing Procedures, a copy of which is attached hereto as **Exhibit “1,”** (the “Virtual Hearing Procedures”); and

WHEREAS, although the Virtual Hearing Procedures are intended to afford due process to all parties, the conduct of Virtual Hearings during the Emergency represents a novel endeavor for the City and the use of CMT, although generally reliable, is sometimes unpredictable and beyond the control of the City; and

WHEREAS, the Applicant is seeking development approvals for certain real property located generally at [PROPERTY ADDRESS], as legally described in **Exhibit “2,”** (the “Property”) pursuant to [APPLICATION OR HEARING NUMBER] (the “Application”) and wishes to proceed with a Virtual Hearing during the course of the Emergency rather than voluntarily stay further action on the Application until after the Emergency; and

WHEREAS, the City seeks to ensure that, in electing to proceed with a Virtual Hearing on the Application: (1) the Applicant accepts the Virtual Hearing Procedures after having carefully reviewed them and waives all rights to contest, appeal, or seek review of any decision by the City where such appeal is based in whole or in part on the Virtual Hearing Procedures or the conduct of the Virtual Hearing in accordance with them; and (2) the risks of appeal in connection with any Virtual Hearings on the Application are borne solely by the Applicant, such that the Applicant agrees to hold the City harmless and fully indemnify the City for any judgments, attorneys’ fees, fines, and costs associated with defending an appeal, original action under Chapter 163, Florida Statutes, or any other action intending to challenge, set aside, or otherwise contest the City’s action on the Application, which may be brought by third parties.

NOW, THEREFORE, in consideration of the scheduling, review, and deliberation by the City of the Application by Virtual Hearing utilizing the Virtual Hearing Procedures during the Emergency, the Applicant hereby agrees with the City as follows:

1. **Recitals.** The foregoing recitals are true and correct and are made a part hereof.
2. **Waiver.** The Applicant acknowledges: (a) that it has received and carefully reviewed a copy of the City’s Virtual Hearing Procedures; (b) that the conduct of Virtual Hearings in this municipal context has not previously been considered by Florida courts; and (c) that the Applicant is proceeding at its own

EXHIBIT A

risk. The Applicant hereby waives any and all objections and/or appellate arguments in any way based in whole or in part on the content or application of the Virtual Hearing Procedures or use of CMT to conduct the hearing, including but not limited to allegations or contentions invoking a lack of due process.

3. Hold Harmless and Indemnification With Respect to the Application.

a. The Applicant agrees to indemnify and hold harmless the City from any appeals, petitions, claims, demands, liabilities, losses or causes of action of any nature, including but not limited to original actions brought pursuant to Chapter 163, Florida Statutes, by any third party (any such claim being a “Third Party Claim”) in connection with: (a) the City’s consideration of the Application at a Virtual Hearing conducted during the Emergency; (b) the City’s implementation and use of the Virtual Hearing Procedures or CMT to consider the Application; (c) from and against any orders, judgments or decrees which may be entered; and/or (d) from and against all costs, attorneys’ fees, fines, expenses and liabilities incurred in the defense of any Third Party Claim, or in the investigation thereof.

b. The Applicant agrees to pay any and all of the City’s costs expended in connection with the City’s analysis of, preparation for, response, and/or defense of any Third Party Claim, including but not limited to, the cost and expense of City staff, attorneys’ fees and costs, and the fees and costs of any consultants (including but not limited to court reporters, information technology (IT) professionals, urban planners, engineers, etc.) (collectively, the “City’s Costs”).

c. In the event that a Third Party Claim described above is filed, the Applicant shall, within seven days of the filing of any such Third Party Claim, provide the City an initial deposit of \$25,000.00 from which the City’s Costs will be deducted as they are incurred. Should City’s Costs exceed the initial deposit, the Applicant agrees to pay any overage within thirty days of being billed by the City.

4. Hold Harmless, Defense, and Indemnification in Connection with this Agreement. The Applicant shall indemnify, defend and hold City harmless from and against any and all claims, liability, losses and causes of action, of any nature whatsoever which may arise out of the granting of this Agreement or out of the Applicant’s activities under this Agreement, including all other acts or omissions to act on the part of the Applicant or any person acting for or on the Applicant’s behalf, and from and against any orders, judgments or decrees which may be entered and from and against all costs, attorneys’ fees, fines expenses and liabilities incurred in the defense of any such claims or in the investigation thereof.

5. Successors. It is expressly understood and agreed that this instrument shall be binding upon the Applicant, and also upon its heirs, successors in interest, or assigns, and this instrument shall be a condition implied in any conveyance or other instrument affecting the title to the Property or any portion thereof.

6. Termination. This Agreement shall terminate automatically ten days after the complete expiration of any appeal periods or statutes of limitations for all potential Third Party Claims if no Third Party Claim has been made within that time frame. If any Third Party Claim is made, then this Agreement shall be deemed to continue until such time as there is a final adjudication, including the lapse of any applicable appeal periods, of all Third Party Claims.

7. Notice. Any notice, request, demand, approval or consent given or required to be given under this Agreement shall be in writing and shall be deemed as having been given when mailed by United States registered or certified mail (return receipt requested), postage prepaid, to the other parties at the address listed on the signature page of this Agreement or at the last changed address given by the party to be notified as herein specified.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year as first stated above.

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EXHIBIT A