

ORDINANCE NO. 2018-031

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA APPROVING THE RELEASE OF A PUBLIC UTILITY EASEMENT TRAVERSING LAND LOCATED AT 795 HIALEAH DRIVE, HIALEAH, FLORIDA, COMPRISING LOTS 8, 9, 10, 11, AND 12 OF BLOCK 25 OF THE THIRD ADDITION TO ESSEX VILLAGE, AS SHOWN ON THE PLAT THEREOF RECORDED IN PLAT BOOK 47, PAGE 94 OF THE OFFICIAL RECORDS OF MIAMI-DADE COUNTY, FLORIDA; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATIONS HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Sunshine Dade Investments LLC ("SDI") is the fee simple owner of 795 Hialeah Drive, a vacant site situated along Hialeah Drive, East 8th Avenue, and East 1st Place in Hialeah, Florida, comprising Lots 8, 9, 10, 11, and 12 of Block 25 of the Third Addition to Essex Village (the "Property"), as shown on the plat thereof recorded in Plat Book 47, Page 94 of the Official Records of Miami-Dade County, Florida (the "Plat"); and

WHEREAS, the Property is subject to an easement reserved by the Plat for the installation and maintenance of public utilities, burdening the rearmost five feet (5') of each of the five platted lots that compose the Property (the "Easement"); and

WHEREAS, SDI has requested that the City of Hialeah release the Easement to allow SDI to redevelop the Property and build over, upon, and within the area now burdened by the Easement; and

WHEREAS, SDI has secured letters from the affected public and private utilities consenting to the release of the Easement; and

ORDINANCE NO. 2018-031

Page 2

WHEREAS, the City of Hialeah Department of Water and Sewers has no objection to the release of the Easement.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1. The recitations and findings contained in the preamble to this Ordinance are hereby adopted by reference thereto and incorporated as if fully set forth herein.

Section 2. The City of Hialeah, Florida hereby approves and consents to the release of the Easement as it affects the Property. The Easement is shown on the plan attached to this Ordinance as **Exhibit "1"** and is legally described as follows:

THE NORTH 5 FEET OF LOTS 8, 9, AND 10 AND THE SOUTH 5 FEET OF LOTS 11 AND 12, BLOCK 25, THIRD ADDITION TO ESSEX VILLAGE, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 47, PAGE 94 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

Section 3. The City of Hialeah, Florida hereby authorizes the Mayor and the City Clerk, as an attesting witness, to execute a Release of Easement in the form attached as **Exhibit "2"** to this Ordinance, in furtherance thereof, on the City's behalf.

Section 4. Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 5. Penalties.

Every person convicted of a violation of any provision of the Code of Ordinances of the City of Hialeah, Florida or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense.

ORDINANCE NO. 2018-031

Page 3

In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 6. Severability Clause.

If any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance.

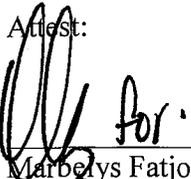
Section 7. Effective Date.

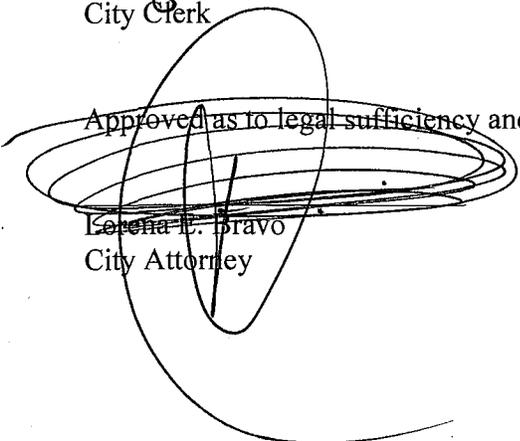
This Ordinance shall become effective when passed by the City Council and signed by the Mayor, or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 8 day of May 2018.

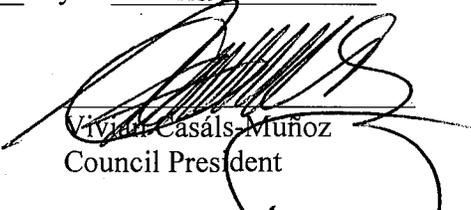
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.

Attest:

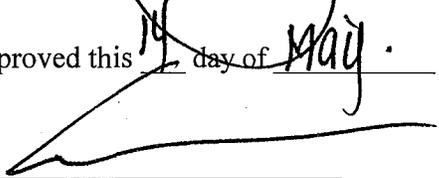

Marbelys Fatjo
City Clerk


Lorena E. Bravo
City Attorney

Approved as to legal sufficiency and form:


Vivian Casals-Munoz
Council President

Approved this 14 day of May 2018.


Carlos Hernandez
Mayor

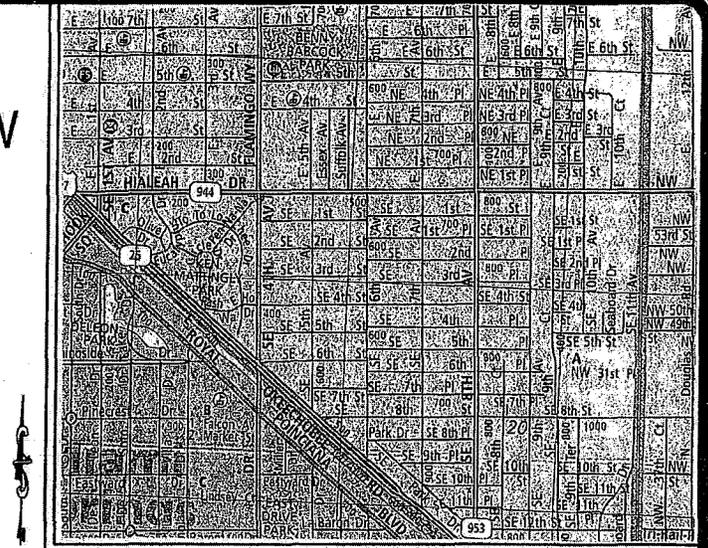
Ordinance was adopted by a 6-0-1 vote with Councilmembers, Caragol, Zogby, Lozano, Casals-Munoz, Garcia-Martinez and Cueva-Fuente voting "Yes", Hernandez absent

EXHIBIT "1"

Easement Plan

**SKETCH AND LEGAL DESCRIPTION
FOR THE
RELEASE OF EXISTING
PLATTED 10' UTILITY EASEMENT**

**795 HIALEAH DRIVE
MIAMI-DADE COUNTY, FLORIDA**



LOCATION MAP: NOT TO SCALE

LEGAL DESCRIPTION:

THE NORTH 5 FEET OF LOTS 8, 9, AND 10 AND THE SOUTH 5 FEET OF LOTS 11 AND 12, BLOCK 25, THIRD ADDITION TO ESSEX VILLAGE, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 47, PAGE 94, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.
CONTAINING: 1556.95 SQUARE FEET.

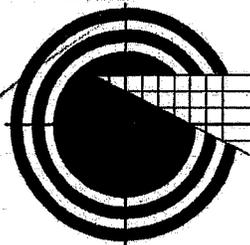
SURVEYOR'S NOTES:

1. THIS IS NOT A BOUNDARY SURVEY.
2. LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR EASEMENTS AND/OR RIGHTS OF WAY OF RECORD EXCEPT AS SHOWN ON THE RECORD PLAT IF ANY.
3. ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.
4. BEARINGS SHOWN HEREON ARE REFER TO AN ASSUMED MERIDIAN OF N87°49'23"E ALONG THE NORTH RIGHT OF WAY LINE OF HIALEAH DRIVE.

SURVEYOR'S CERTIFICATION:

I HEREBY CERTIFY THAT THIS SURVEY MAP AND/OR REPORT WAS PREPARED UNDER MY RESPONSIBLE CHARGE AND MEETS THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 461, FLORIDA ADMINISTRATIVE CODE AND THAT IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. SURVEY MAP AND REPORT OR THE COPIES THEREOF ARE NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL PAID SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

CRAIG D. WATSON
PROFESSIONAL SURVEYOR & MAPPER
NO. 6647 STATE OF FLORIDA



WATSON | KILLANE
SURVEYING AND MAPPING, INC.
2240 NE DIXIE HIGHWAY
JENSEN BEACH, FLORIDA 34957
PHONE 772-334-0868
WATSONKILLANE@GMAIL.COM

LICENSED BUSINESS NO. 8241

JOB #: 18-109
FIELD DATE: 2-12-18

SHEET 1 OF 2
NOT VALID WITHOUT SHEET 2 OF 2

EAST 1ST PLACE

CENTERLINE OF PLATTED 100' RIGHT OF WAY

SOUTH RIGHT OF WAY LINE

N87°42'30"E 100.74'

LOT 14

LOT 13

LOT 12

LOT 11

BLOCK 25

S02°43'12"E 106.19'

R=25.00' L=39.04'
D=89°28'09"

S87°42'27"W 60.00'

PLATTED 10' PUBLIC UTILITY EASEMENT
(SHADED PORTION TO BE RELEASED)

5.00'

5.00'

WEST RIGHT OF WAY LINE

S02°49'21"E 162.70'

PLATTED CENTERLINE OF 70' RIGHT OF WAY

EAST 8th AVENUE

LOT 7

LOT 8

LOT 9

LOT 10

N02°43'12"W 106.19'

R=25.00' L=39.55'
D=90°38'44"

35.00'

NORTH RIGHT OF WAY LINE

N87°49'23"E 160.61'

50.00'

50.00'

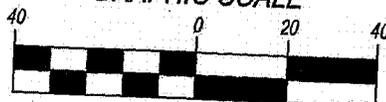
HIALEAH DRIVE

CENTERLINE OF PLATTED 100' RIGHT OF WAY

LEGEND:

R = RADIUS
D = DELTA
L = ARC LENGTH

GRAPHIC SCALE



(IN FEET)
1 Inch = 40 ft.

JOB #: 18-109
SHEET 2 OF 2
NOT VALID WITHOUT SHEET 1 OF 2

EXHIBIT "2"

Form of Release of Easement

**Prepared by and
after recording return to:**

Lorena E. Bravo, Esq.
City of Hialeah
Office of the City Attorney
501 Palm Avenue, 4th Floor
Hialeah, FL 33010

RELEASE OF EASEMENT

This **RELEASE OF EASEMENT** ("Release") is made this ___ day of _____ 2018, by the **CITY OF HIALEAH, FLORIDA**, a municipal corporation organized and existing under the laws of the State of Florida, with an address of 501 Palm Avenue, Hialeah, Florida 33010 ("City").

RECITALS

WHEREAS, Sunshine Dade Investments LLC ("SDI") is the fee simple owner of 795 Hialeah Drive, a vacant site situated along Hialeah Drive, East 8th Avenue, and East 1st Place in Hialeah, Florida, comprising Lots 8, 9, 10, 11, and 12 of Block 25 of the Third Addition to Essex Village (the "Property"), as shown on the plat thereof recorded in Plat Book 47, Page 94 of the Official Records of Miami-Dade County, Florida (the "Plat"); and

WHEREAS, the Property is subject to an easement reserved by the Plat for the installation and maintenance of public utilities, burdening the rearmost five feet (5') of each of the five platted lots that compose the Property (the "Easement"); and

WHEREAS, SDI has requested that the City of Hialeah release the Easement to allow SDI to redevelop the Property and build over, upon, and within the area now burdened by the Easement; and

WHEREAS, SDI has secured letters from the affected public and private utilities consenting to the release of the Easement; and

WHEREAS, the City's Department of Water and Sewers has no objection to the release of the Easement; and

WHEREAS, pursuant to Ordinance No. _____, the City approved the release of the Easement and the execution of this Release.

NOW, THEREFORE, in consideration of the foregoing recitals, which are true and correct and are incorporated herein by this reference, the City hereby agrees as follows:

TERMS AND CONDITIONS

Section 1. Release of Easement.

The City, for itself and on behalf of all public and private utilities, hereby terminates and extinguishes the Easement and forever remises, releases, and quitclaims all right, title, and interest in and to the Easement unto SDI and its successors and assigns. The Easement is shown on the plan attached to this Release and is legally described as follows:

THE NORTH 5 FEET OF LOTS 8, 9, AND 10 AND THE SOUTH 5 FEET OF LOTS 11 AND 12, BLOCK 25, THIRD ADDITION TO ESSEX VILLAGE, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 47, PAGE 94 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

Section 2. Other Rights Undisturbed.

This Release terminates and extinguishes the Easement only insofar as it affects the Property. This Release does not disturb the easements reserved by the Plat against other lots within Block 25 of the Third Addition to Essex Village.

Section 3. Recording.

This Release shall be recorded in the Official Records of Miami-Dade County, Florida.

[Signatures follow]

IN WITNESS WHEREOF, the City of Hialeah has caused this instrument to be executed by the respective officials thereunder duly authorized as of the date first above written.

WITNESSES:

CITY OF HIALEAH,
a Florida municipal corporation

Name: _____
(Print or Type Name)

Carlos Hernandez
Mayor

Name: _____
(Print or Type Name)

Attest:

Marbelys Fatjo
City Clerk

Approved as to legal sufficiency and form:

Lorena E. Bravo
City Attorney

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this ____ day of _____ 2018, by Carlos Hernandez, as Mayor of the City of Hialeah, a Florida municipal corporation, and attested by Marbelys Fatjo, as City Clerk of the City of Hialeah, on behalf of the City of Hialeah. They are personally known to me or have produced _____ as identification and did (did not) take an oath.

Name:
Notary Public, State of Florida
My Commission Expires:



Florida Power & Light Company, 6195 Northwest 82nd Ave, Miami, FL 33166
Phone: 305-599-4000, Fax: 305-599-4014

February 1, 2018

Kristofer Machado
98 Southeast Seventh Street, Suite 100
Miami, FL, 33131

Dear Mr. Machado,

This letter is in response to your request for the release of a platted utility easement.

In meeting with your request, FPL has no objection to releasing our rights in the platted utility easement known as "Plat of Third Addition to Essex Village LOT 8,9,10,11 and 12" in Plat Book Plat Book 47, Page Page 94 of the Public records of Miami-Dade County .

The release is restricted to the following description: to vacate the 10' utility easement starting from west R/W of E 8th Ave. and running W for approximately 185.885 ft. between Hialeah Dr. and E 1st Pl.,

Should you have any questions or concerns, please do not hesitate to contact Alejandro Estevez at 305-599-4023.

Sincerely,

A handwritten signature in black ink, appearing to read 'Katina Hernandez', is written over the typed name and title.

Katrina Hernandez
Engineering Lead



AT&T Florida
9101 SW 24 St
Miami, FL 33165

T: 305-222-8704
F: 305-552-5935
www.att.com

January 19, 2018

Kristofer Machado
Akerman LLP
98 Southeast Seventh Street, Suite 1100
Miami, FL 33131

Re: "No Objection" – 10 ft. Utility Easement starting from West R/W of E 8th Ave. and running W for approximately 185.885 ft. Between Hialeah Dr. and E 1st Pl. Request for property owner at 795 Hialeah Dr.

Mr. Machado,

Please accept the following as the written consent from Bellsouth Telecommunications, LLC d/b/a/ AT&T Florida to vacate the 10' utility easement starting from west R/W of E 8th Ave. and running W for approximately 185.885 ft. between Hialeah Dr. and E 1st Pl., as recorded on Plat Book 47, Page 94 of the Public Records of Miami-Dade County, Florida.

Based on a review of available records and/ or field verification, AT&T does not have existing facilities within the identified limits of the aforementioned defined area. Therefore Bellsouth Telecommunications, LLC d/b/a AT&T Florida has no objection to vacate the 10' utility easement.

If you need additional information or should any questions, comments or concerns arise, please do not hesitate to contact me.

Sincerely,



William I. Chung
OSP Manager Const/Eng-SFL



**Engineering – Design Department
2601 SW 145th Avenue Miramar, FL 33027**

Wednesday, January 17, 2018

**Kristofer Machado
Akerman LLP
98 Southeast Seventh Street, Suite 1100
Miami, FL 33131**

**Comcast No Objection/Utility Easement Vacation
795 Hialeah Drive,
Hialeah, FL 33010**

Dear Mr. Machado,

In reviewing your U/E vacation request for

795 Hialeah Drive, Hialeah, FL 33010

Comcast has no objection nor conflict to the requested action. Comcast has no facilities within the limits of this subject property.

Should you have any further questions, please feel free to call me at 1-954-447-8419 fax 1-954-534-7008 or e-mail at leonard_maxwell-newbold@cable.comcast.com or Lia_Castillo@comcast.com

A handwritten signature in black ink, appearing to read "Lia Castillo", is written over the typed name.

Lia Castillo
Regional Permit Coordinator
Leonard Maxwell-Newbold
Permit Supervisor / Southern Division
1/17/2018 8:26:42 AM



4045 NW 97th Ave
Doral, FL 33178
305 835 3648 tel
ddejesus@southamco.com

January 16, 2018

Akerman LLP
Three Brickell City Centre
98 Southeast Seventh St Suite 1100
Miami FL 33131

**Re: Easement Release at 795 Hialeah Dr, Hialeah, FL 33010
Folio # 04-3117-013-1880 of Miami-Dade County, FL.**

Dear Mr. Machado:

Florida City Gas (FCG) has received your request to release the easement located at the aforementioned location. FCG does not have existing facilities at the subject location and Therefore, **FCG has no objection and consents to the release of the easement.**

Please be advised that you are required to contact Sunshine State One Call of Florida, Inc. (SSOCF) at 811, at least two (2) full business days prior to commencing any excavation.

If you should have any questions please contact me at 305-835-3648

Sincerely,

A handwritten signature in cursive script that reads "Dina De Jesus".

Dina De Jesus
Operations Department