

**ORDINANCE NO. 2014-21**

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA APPROVING THE RELEASE OF AN EASEMENT AND OPERATING AGREEMENT DATED AUGUST 12, 1999, AS RECORDED IN OFFICIAL RECORDS BOOK 18739 AT PAGE 2732, IN THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. **THE EASEMENT AND OPERATING AGREEMENT INCLUDED VARIOUS RECIPROCAL AND NON-EXCLUSIVE EASEMENTS OVER A PORTION OF PROPERTY LOCATED EAST OF LE JEUNE ROAD AND NORTH OF EAST 56 STREET, HIALEAH, FLORIDA, FORMERLY WHERE THE BUSINESS OWNED BY ABC DISTRIBUTING, INC. WAS LOCATED, AND AS MORE PARTICULARLY DESCRIBED AND DEPICTED IN EXHIBITS TO THE EASEMENT AND OPERATING AGREEMENT BEING RELEASED;** AND FURTHER APPROVING A NEW EASEMENT AND OPERATING AGREEMENT ON THE SAME PROPERTY FOR WHICH, IN PART, ALLOWS AN INGRESS AND EGRESS EASEMENT IN FAVOR THE PROPERTY OWNER OVER A PORTION OF THE PROPERTY THAT IS BEING CONVEYED TO THE CITY AS RIGHT-OF-WAY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the current property owner, Centergate at Gratigny, LLC, intents to replat the property to allow two parcels of land to act as independent development but will retain reciprocal access agreements over the subject parcels, including access to a portion of the right-of-way on East 56 Street, east of Le Jeune Road, that is being conveyed to the City; and

**WHEREAS**, in doing so, the current property owner has requested a release of a prior easement and operating agreement that was recorded by the previous property owner.

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

**Section 1:** The City of Hialeah, Florida hereby approves the release of an Easement and Operating Agreement dated August 12, 1999, as recorded in Official Records Book 18739, at page 2732, of the Public Records of Miami-Dade County, Florida. The Easement and

Operating Agreement included various reciprocal and non-exclusive easements over a portion of property located east of Le Jeune Road and north of East 56 Street, Hialeah, Florida, formerly where the business owned by ABC Distributing, Inc. was located, and as more particularly described and depicted in Exhibits to the Easement and Operating Agreement being released.

**Section 2:** The City Council of the City of Hialeah, Florida hereby authorizes the Mayor and the Acting City Clerk, as attesting witness, on behalf of the City, to execute a Release of Easement and Operating Agreement, in the form as attached hereto and made a part hereof as Exhibit "1", in furtherance thereof.

**Section 3:** The City of Hialeah, Florida hereby approves a new Easement and Operating Agreement of the property referenced above for which, in part, allows an ingress and egress easement in favor of the property owner over a portion of the property that is being conveyed to the City as right-of-way.

**Section 2: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 3: Penalties.**

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed 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. In addition to the penalty described above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

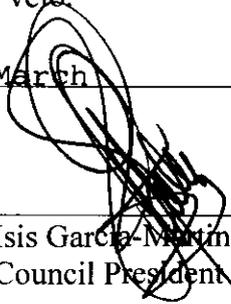
**Section 4: Severability Clause.**

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.

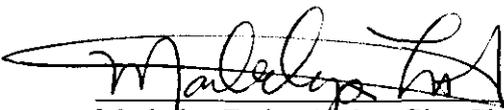
**Section 5: Effective Date.**

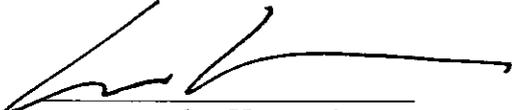
This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 25 day of March, 2014.

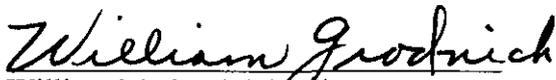
  
\_\_\_\_\_  
Isis Garcia-Martinez  
Council President

Attest: Approved on this 25 day of March, 2014.

  
\_\_\_\_\_  
Marbelys Fatjo, Acting City Clerk

  
\_\_\_\_\_  
Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

  
\_\_\_\_\_  
William M. Grodnick, City Attorney

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