RESOLUTION NO. 08-86

RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA APPROVING A DEPARTMENT OF WATER AND SEWERS SUBMETERING AGREEMENT WITH HILTON ESTATES OF HIALEAH IV, INC., A FLORIDA CORPORATION, THAT PROVIDES FOR SUBMETERING FOR 33 RESIDENTIAL UNITS LOCATED AT 6365 WEST 24 AVENUE, HIALEAH, FLORIDA AND 33 RESIDENTIAL UNITS LOCATED AT 6385 WEST 24 AVENUE, HIALEAH, FLORIDA; FOR A TERM OF FIVE YEARS, WITH FIVE-YEAR RENEWALS, AND FURTHER AUTHORIZING THE MAYOR AND THE CITY CLERK, AS ATTESTING WITNESS, ON BEHALF OF THE CITY, TO EXECUTE THE AGREEMENT IN FURTHERANCE THEREOF.

WHEREAS, pursuant to Hialeah, Fla., Ordinance 2001-30 (Apr. 12, 2001) as amended by Hialeah, Fla., Ordinance 02-12 (Feb. 5, 2002), the City of Hialeah provides for remetering or submetering agreements with property owners subject to City Council approval.

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

Section 1: The City of Hialeah, Florida hereby approves a Department of Water and Sewers submetering agreement with Hilton Estates of Hialeah IV, Inc., a Florida corporation, that provides for submetering for 33 residential units located at 6365 West 24 Avenue, Hialeah, Florida and 33 residential units located at 6385 West 24 Avenue, Hialeah, Florida, for a term of five years, with five-year renewals; and further authorizes the Mayor and the City Clerk, as attesting witness, on behalf of the City, to

execute the agreement in furtherance thereof.

PASSED AND ADOPTED this 12th day of August, 2008.

Esteban Bovo
Council President

Attest:

Rafael E. Granado, City Clerk

Approved on this 13 day of August, 2008.

Mayor Julio Robaina

Approved as to form and legal sufficiency:

William M. Grodnick, City Attorney

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Resolution was adopted by a unanimous vote with Councilmembers Bovo, Caragol, Casals-Muñoz, Garcia-Martinez, Gonzalez, Hernandez, and Yedra voting "Yes".

CITY OF HIALEAH
DEPARTMENT OF WATER AND SEWERS
SUBMETERING/REMETERING AGREEMENT

THIS AGREEMENT is made and entered into this _ _ day of _____, 2008 by and between the City of Hialeah, a Florida municipal corporation with principal office located at 501 Palm Avenue, Hialeah, Florida (hereinafter "CITY") "Hilton Estates" (hereinafter "OWNER") to provide for the submetering or remetering of water services on the property known as "6385 & 6365 W. 24 Ave" (hereinafter "PROPERTY").

WHEREAS, the OWNER is the lawful owner of the PROPERTY; and

WHEREAS, the OWNER desire to install individual water meters for each individual dwelling unit (hereinafter "SUBMETERS") after the master meter on the PROPERTY; and

WHEREAS, REMETERING shall mean the resale of water service by use of a SUBMETER by an OWNER charging a rate that does not exceed the OWNER'S actual purchase price from the CITY; and

WHEREAS, property owners or customers, who are authorized by the City, under agreement, to remeter a multi-unit development shall not resell the remetered water at rates higher than those charged by the CITY and shall not charge administrative fees representing additional costs to individual costs to individual tenants or unit owners; and

WHEREAS, this Agreement expressly allows the operation of private submeters subject to compliance with the rules and regulations of the City of Hialeah, Department of Water and Sewers.

NOW, THEREFORE, in consideration of the terms and conditions, provisions, covenants and promises hereinafter set forth, the parties agree that:

1. The foregoing recitations contained in the preamble are true and correct and are hereby incorporated herein by reference thereto.

2. The CITY agrees with the installation, operation and use of SUBMETERS on the PROPERTY, subject to the limitations and conditions set forth in this Agreement, federal, state, and local rules and regulations; the Florida Building Code; as amended; and the American Water Works Association ("AWWA").

3. The OWNER is solely responsible for any and all costs associated with the installation, operation and use of the SUBMETERS, in connection with REMETERING on the PROPERTY including, but not limited to, the cost of permitting and installation of all water SUBMETERS and associated plumbing.

July 1, 2013

4. The OWNER shall operate and maintain the submeters for a period of 5 years, ending on ~~June 1, 2008~~. The agreement shall be extended for an additional renewal period of 5 years, subject to City Council approval, which approval shall not be unreasonably be withheld, if the OWNER is in compliance with all applicable city code and regulations. The CITY shall automatically renew this Agreement for additional five-year terms provided the OWNER has not resold the water at rates higher than the City tenants or unit owners. The CITY shall notify the OWNER and provide owner with an opportunity to make adjustments or revisions to the rates charged to the tenants or unit owners and otherwise cure any violations of this agreement, including refunds of excess charges, within 30 days of notice.

5. The use of the SUBMETERS shall be limited to the purpose of allocating the direct cost of water and sewer services to the individual user and shall be billed at a rate consistent with the rate billed by the City. At no time shall the OWNER be permitted to charge an individual user more than the actual direct costs of the water and sewer consumption for the individual dwelling unit.

6. The OWNER is required to read the SUBMETERS on a periodic schedule and use the readings to determine the water use among the individual dwelling units. The SUBMETERS shall be read once every __30__days (or_1__months).

7. Owner agrees to perform a test of the accuracy of a SUBMETER upon reasonable request by the CITY or an individual user. Only if the submeter fails the accuracy test shall the OWNER or the individual user, if requested by the individual user, pay for the cost of the test. The CITY may request an accuracy test and pay for the results, if the CITY chooses to do so. The OWNER shall submit copies of all results within fifteen calendar days of completing all required tests, to the Hialeah Department of Water and Sewers. 3700 West 4 Avenue, Hialeah, Florida 33012. The OWNER shall also submit copies to the individual user requesting the test.

8. The CITY reserves the right to audit the prorated bills distributed to the individual users to verify that the aggregate amount charged to the individual users is not greater than the direct amount charged to the OWNER by the CITY. OWNER agrees to provide billing information to the CITY as requested.

9. The OWNER shall pay the Department of Water and Sewers an annual fee of $ 5.- for each unit for inspecting, monitoring and auditing the REMETERING system.

10. Upon written notice by the CITY, the OWNER within 30 days of receipt, shall make the following information available for CITY's inspection and copying:

a. The direct billing from the OWNER to the user(s) for the current month and twelve preceding months.

b. The calculation for the billing for the current month and twelve preceding months.

c. ALL SUBMETER readings of a user (s) for the current month and twelve preceding months.

11. The OWNER shall abide by all rules and regulations of the Department laws, rules, regulations and orders of Water and Sewers of the City; all applicable federal, state and City of Hialeah.

12. The CITY shall in no way be liable or responsible for any problems with the water and sewers services that are caused by REMETERING the PROPERTY. The OWNER shall be solely responsible for all costs in order to ensure the prompt provision of water and sewer service to the individual user, during the amortization period.

13. If there is any disagreement between the OWNER and the CITY regarding the right to automatically renew this Agreement for a five-year term, or for any other issue arising out of this agreement, either party has the right to seek appropriate administrative or judicial relief regarding any dispute arising out of this Agreement or the right to renew this Agreement.

14. The OWNER, its officers, directors, members, employees, volunteers, assistants, agents, successors, and assigns shall be considered an independent contractor and at no time shall be deemed an employee or agent of the CITY.

(THIS SPACE IS LEFT INTENTIONALLY BLANK)

IN WITNESS WHEREOF, the parties have made and executed this REMETERING AGREEMENT on the date indicated on the first page.

Attest:

By:_____
Rafael E. Granado
Date
City Clerk

CITY OF HIALEAH, FLORIDA
501 Palm Avenue
Hialeah, Florida 33010

By:_____ 8/13/08
Mayor Julio Robaina

(Seal)

Approved as to form and
Legal sufficiency:

William Grodnick
William M. Grodnick
City Attorney

Corporate Signature

Attest:

OWNER: Hilton Estates of Hialeah IV, Inc.

_____
~~Corporate Secretary~~
Property Administrator
Typed/Printed name MAIDA BETANCOURT

By:_____ 6/30/2008
President Date
Typed/Printed name TOMAS BETANCOURT

(Seal)