

ORDINANCE NO. 2021-060

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 1950 WEST 49 STREET, HIALEAH, FLORIDA; 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, 1950 Hialeah Holdings, LLC (“1950 Hialeah Holdings”) is the fee simple owner of 1950 West 49 Street (Folio No. 04-3002-020-0010) (the “Property”); and

WHEREAS, the Property is subject to a 15 foot water line easement for the installation and maintenance of public utilities, that traverses the Property (the “Easement”), and as more specifically delineated in Exhibit “A”, attached hereto and made a part hereof; and

WHEREAS, 1950 Hialeah Holdings, LLC has requested that the City of Hialeah release the Easement to allow 1950 Hialeah Holdings to redevelop the Property and build over, upon, and within the area now burdened by the Easement; and

WHEREAS, the City of Hialeah Public Works Department 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 "A".

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 Agreement in the form attached as Exhibit "B" 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All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 5: Penalties.

Every person convicted of a violation of any provision of the Code 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. 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.

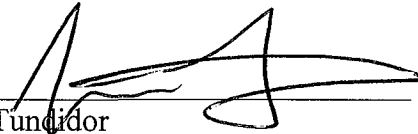
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such

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 22 day of June, 2021.



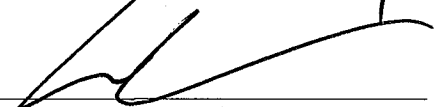
Jesus Tundidor
Council President

Attest:

Approved on this 7 day of July, 2021.



Marbelys Fatjo, City Clerk



Mayor Carlos Hernandez

Approved as to legal sufficiency and form:

Ordinance was adopted by 6-0-1 vote with Councilmembers, De la Rosa, Garcia-Roves, Hernandez, Perez, Tundidor, and Zogby voting "Yes" and with Council Member Cue-Fuente absent.



Lorena E. Bravo, City Attorney

EXHIBIT "B"

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 _____ 2021, 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, 1950 Hialeah Holdings, LLC ("1950 Hialeah Holdings") is the fee simple owner of 1950 W 49 Street (Folio No. 04-3002-020-0010) (the "Property"), not shown on the plat, recorded in Plat Book 99, Page 62 of the Official Records of Miami-Dade County, Florida (the "Plat"); and

WHEREAS, the Property is subject to a 15 foot utility easement reserved by the Plat for the installation and maintenance of public utilities, that traverses the Property (the "Easement"), and as more specifically delineated in **Exhibit "A"**; and

WHEREAS, 1950 Hialeah Holdings has requested that the City of Hialeah release the Easement to allow 1950 Hialeah Holdings to redevelop the Property and build over, upon, and within the area now burdened by the Easement; and

WHEREAS, the Water Line Easement recorded in Official Records Book 16475 at Pages 2154 through 2155 is hereby released; 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 1950 Hialeah Holdings and its successors and assigns. The Easement is shown on the plan attached to this Release as **Exhibit "A"**.

Section 2. Other Rights Undisturbed.

This Release terminates and extinguishes the Easement only insofar as it affects the Property. This Release does not disturb any other easements reserved by the Plat.

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

Signature

Carlos Hernandez
Mayor

Printed Name

Attest:

Signature

Marbelys Fatjo
City Clerk

Printed Name

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 by means of physical presence or online notarization, this ___ day of _____, 2021, 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.

[NOTARIAL SEAL]

Print Name: _____
Notary Public, State of _____
Commission #: _____
My Commission Expires: _____

Vacate 2 EASEMENTS

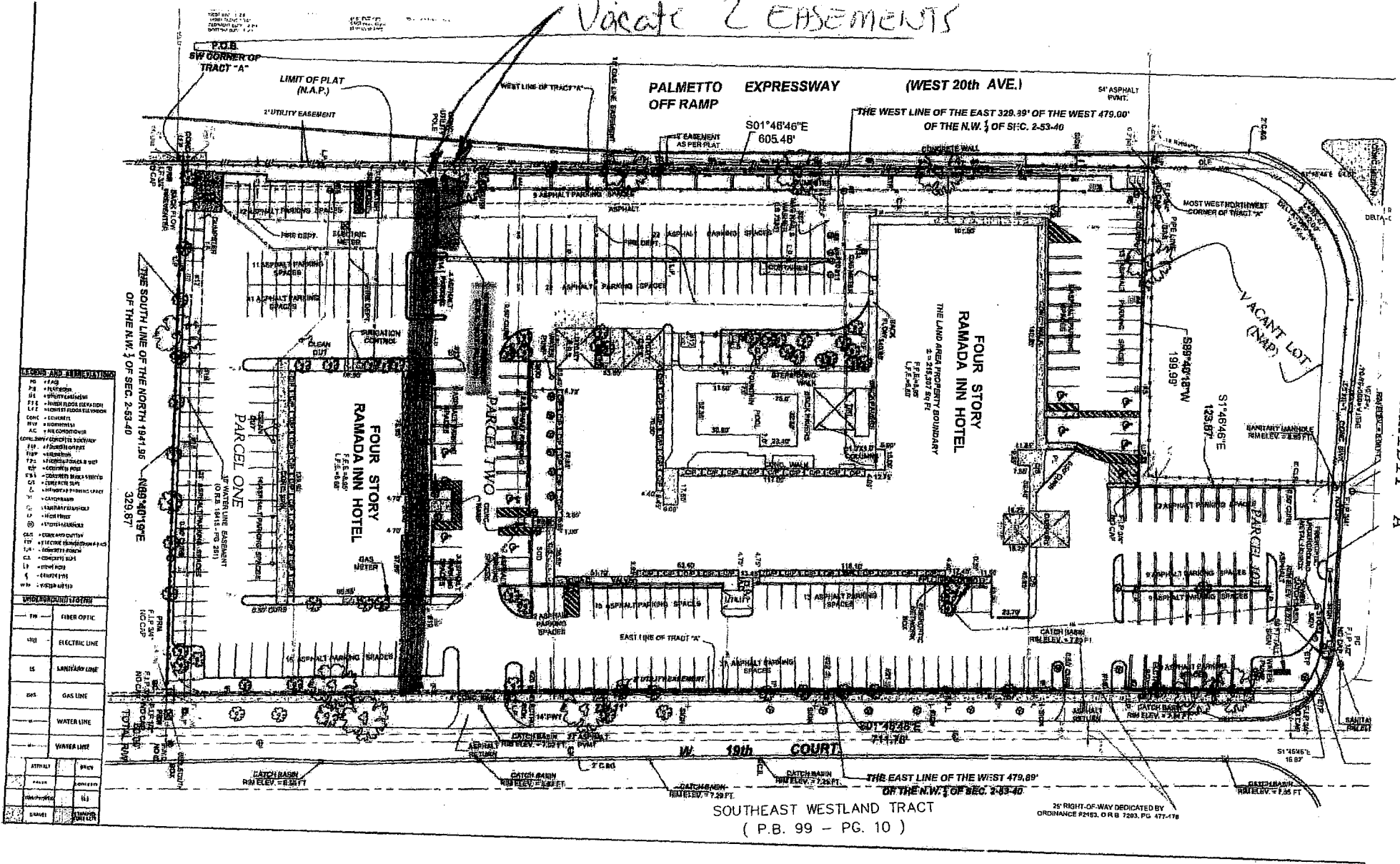


EXHIBIT "A"

SOUTHEAST WESTLAND TRACT
(P.B. 99 - PG. 10)

25' RIGHT-OF-WAY DEDICATED BY ORDINANCE #262, D.R.B. 7293, PG. 477-478

EXHIBIT "B"

Off. REC: 1647502154

WATER LINE EASEMENT

This instrument was prepared by
Jack L. Haygood, Director
Dept. of Water & Sewers
3700 West 4 Avenue
Hialeah, Florida 33012
Tel (305) 556-3800

94RS90582 1994 AUG 15 10:18

BOOSTFDEE 0.60 SURTX 0.45
HARVEY RUVIN, CLERK DADE COUNTY, FL

Dept. of Water and Sewers
City of Hialeah
Hialeah, Florida

Know all men by these presents that the undersigned owner(s) of the property hereinafter described, in consideration of the sum of One Dollar and Other Good and Valuable Considerations, do grant unto the Department of Water & Sewers, City of Hialeah, an easement for the installation and maintenance of an underground water (line) main on the following described real property.

TO WIT: A 15 Foot Easement Lying 7.50 feet each side of the following described line: Commence at the Southeast corner of Tract "A" of "Hialeah Inn Tract" according to the Plat thereof as Recorded in Plat Book 99, at Page 62, of the Public Records of Dade County, Florida; thence run N.01°27'24"W. Along the West line of said tract "A" for a distance of 165.48 feet to the point of beginning of aforementioned line; thence run N.88°32'36"E. At right angle to the last mentioned course for a distance of 50.00 feet to the point of terminus of aforementioned line.

Physical Address: 1950 W. 49 Street, Hialeah, Florida.

This easement is given and accepted by the Grantors and the Grantees herein for the installation and maintenance of a water (main) line along the above described easement and it is further understood that all installations by the Department of Water and Sewers in this easement shall be at or below the finished ground line and that the Grantor may continue to use the above described area for any use whatsoever, except that no permanent structures shall be built on the above mentioned property and, further, any damage which is caused by the proposed installation during any breaks or maintenance activities shall be repaired and restored at the expense of the Department.

1080

OFF. REC. 16475PC2155

TO HAVE AND TO HOLD so long as the same may be required for such purpose.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 21st day of July, A.D., 1994.

Signed, sealed and delivered in our presence:

Doris B. Lewis
First Witness: Signature

Printed Name: Doris B. Lewis

Second Witness: Signature

Printed Name: _____

By: [Signature]
(Signature of Second V. P.)

Printed Name: William M. Stephens

By: _____
(Signature)

JEFFERSON-PILOT LIFE INS. CO.

Printed Name: _____

JEFFERSON-PILOT LIFE INS. CO.

Registered Business Name (SEAL)



STATE OF) NORTH CAROLINA

COUNTY OF) GUILFORD

THE FOREGOING INSTRUMENT was acknowledged before me this 21st day of July, 1994, by William M. Stephens

who is (or are) personally known to me, or who has produced N/A, as identification, and who (or who does not) take an oath.

Charles M. Kerans
(Notary Public)

Printed, typed or stamped name

Charles M. Kerans

N/A

(Serial Number, if any)



RECORDED IN OFFICIAL RECORDS BOOK OF DARE COUNTY, FLORIDA. RECORD VERIFIED HARVEY RUVIN, Clerk of Circuit & County Courts