

MEMORANDUM

Agenda Item No. 8(O)(1)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: July 16, 2024

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution approving a Modification of Easement to allow for the installation of a stormwater drainage pipe, pavers, curbs and landscaping by Developer PRH Parcel 7 Owner, LLC, a Delaware Limited Liability Company, above the County's Subsurface Utilities Easement for sewer infrastructure located on Fisher Island in exchange for \$900,000.00 and other consideration; authorizing the County Mayor to execute Modification of Easement and Hold Harmless Agreement, take all actions necessary to effectuate the same, and exercise all provisions contained therein; and directing the County Mayor to record the Easement and Hold Harmless Agreement in the public records of Miami-Dade County as required by Resolution No. R-974-09, subject to certain conditions

Resolution No. R-678-24

The accompanying resolution was prepared by the Water and Sewer Department and placed on the agenda at the request of Prime Sponsor Commissioner Eileen Higgins.


Geri Bonzon-Keenan
County Attorney

GBK/ks

MDC001

Memorandum



Date: July 16, 2024

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County
Commissioners

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

Subject: Resolution Authorizing Execution of a Modification of Easement to Allow for a Stormwater Drainage and Other Limited Improvements to be Built Above a County Easement on Fisher Island in Exchange for \$900,000.00 and Other Consideration and Authorizing the County to Accept a Hold Harmless Agreement Subject to Certain Conditions

Executive Summary

This item seeks approval of the Board of County Commissioners (the “Board”) to authorize the execution of a Modification of Easement to allow PRH Parcel 7 Owner, LLC (the “Developer”) to install a stormwater drainage pipe, drainage box, pavers, curbs and landscaping above an easement granted on September 23, 2013 through a Final Judgment to Miami-Dade County (the “County”) for water and sewer utility installation and maintenance, which was recorded in Official Records Book 28841, Page 1838, of the Public Records of Miami-Dade County, Florida (the “Easement”). Although the Easement is subsurface extending from Elevation minus (-) 85.00 feet to Elevation minus (-) 30.00 feet, the terms of the Easement also prohibit the erection of any permanent structure in the area above the Easement. The Modification of Easement, attached hereto as Exhibit 1, permits a stormwater drainage pipe, drainage box, pavers, curbs and landscaping to be installed in the area above the Easement, on and a few feet below the surface, in connection with the development of the adjoining property, pursuant to the plans currently under review at the Miami-Dade Water and Sewer Department (“WASD”) in connection with Developer Agreement ID #31885. All other terms and provisions of the Easement will remain in full force and effect.

As consideration for the Modification of Easement, the Developer has agreed to pay the County \$900,000.00 and to revise its plans for the development of a multi-family residential building on its property abutting the Easement, folio no. 30-4210-000-0021, in order to move the pilings for the foundation of its structure further away from the County’s infrastructure in the Easement, thereby further protecting the integrity of the County’s infrastructure. It is important to note that although the infrastructure within the Easement in question is at Elevation of minus (-) 85.00 feet to Elevation minus (-) 30.00 feet, the infrastructure (a 60-inch sewer force main) in an adjacent easement is much shallower at Elevation plus (+) 2.75. The Modification of Easement will terminate if the Developer fails to revise its plans to the County’s satisfaction. In addition, the Developer will pay the costs that WASD incurs to: (i) analyze plans for the stormwater drainage system and abutting property to ensure that construction near the County’s underground sewer infrastructure in the Easement is protected sufficiently, and (ii) monitor the integrity of the sewer infrastructure in the Easement while certain construction activities occur on and near the Easement.

The Developer has also agreed to execute the Hold Harmless and Indemnification Agreement (the “Hold Harmless”), attached hereto as Exhibit 2, which will hold the County harmless from any damage that may occur to the stormwater drainage system if the County needs to access its existing sewer infrastructure within the Easement. Further, the Developer’s parent company,

PRH Investments, LLC, a Florida limited liability company, will provide a \$50 million corporate guarantee to secure the County, and the Developer will add the County as an additional insured to its contractor's insurance.

The County has hired an independent third-party to confirm the safety and viability of the proposed construction of the stormwater pipe and drainage box as well as the location of the pilings relative to the County's infrastructure. Although the risk to the County's infrastructure from installation of: (i) the stormwater pipe and related improvements on the Easement and (ii) the pilings on the property abutting the Easement will be significantly reduced once the County and its independent consultant have evaluated and approved the Developer's revised plans, the risk to the County's critical sewer infrastructure in the Easement will be low but cannot be fully eliminated. In the event the County's infrastructure in the Easement is damaged during the Developer's construction, a sewage spill from the County's 60-inch sewer force main on Fisher Island would likely have serious and long term consequences to the County, its neighboring municipalities and the environment, including but not limited to, impact to Biscayne Bay, the closure of beaches, extensive clean-up costs, possible penalties from regulatory agencies, and an expensive and lengthy process to repair the pipe. The provision in the stipulated Final Judgment entered by the Court in the eminent domain matter, preventing the erection of any permanent structure above the Easement, eliminated or mitigated such risks.

Therefore, the County has acquired the services of the original Engineer of Record for the 60-inch pipe to review the revised plans, conduct a risk assessment and evaluation, recommend controls (construction methods, geotechnical monitoring, and supplemental inspection and equipment), and provide a signed and sealed report presenting their findings with a position of concurrence or disapproval that the revised plans sufficiently mitigate risks and are appropriate to proceed with the proposed construction.

Recommendation

It is recommended that the Board adopt the accompanying Resolution, which approves and authorizes the execution of: (1) a Modification of Easement to allow for the Developer to install a stormwater drainage pipe, drainage box, pavers, curbs and landscaping pursuant to plans under review by WASD in connection with WASD Developer Agreement ID # 31885, and (2) the Hold Harmless.

Scope

The Easement at issue is located on Fisher Island within District 5, which is represented by Commissioner Eileen Higgins.

Delegation of Authority

Upon approval of this item, the County Mayor or County Mayor's designee shall have the authority to execute the Modification of Easement and Hold Harmless, exercise all provisions contained therein, and take all actions to effectuate same.

Fiscal Impact/Funding Source

There will be a positive fiscal impact to the County for the approval of the Modification of Easement and Hold Harmless because the Developer will pay the County \$900,000.00 for the

Modification of Easement and will pay for all costs of recording the documents. In addition, the Developer will pay for all costs the County incurs to: (i) analyze plans for the stormwater drainage system and abutting property to ensure that construction near the County's underground sewer infrastructure in the Easement is protected sufficiently, and (ii) monitor the integrity of the sewer infrastructure in the Easement while certain construction activities occur on and near the Easement.

Track Record/Monitor

Miami-Dade Water and Sewer Department Assistant Director of Utility Engineering Nelson Perez-Jacome, P.E., will monitor installation of the stormwater drainage and oversee the steps needed to ensure the integrity of the County's sewer infrastructure in the Easement remains intact during all construction near the Easement, and Assistant Director of Planning and Regulatory Compliance James Ferguson, P.E., will oversee all matters related to the Developer Agreement #31885, including the recording of documents and plans review.

Background

On September 23, 2013, as part of the Final Judgment rendered in an eminent domain case in the 11th Judicial Circuit in and for Miami-Dade County, Florida, Miami-Dade County v. Par 7, LLC, Case No. 10-46738-CA-25, the County acquired utility easements to construct, repair, maintain, and operate its water and sewer facilities after the County paid an appraised value of \$3,994,500.00 to the then owner of the property. A copy of the Final Judgment is attached hereto as Exhibit 3 and is recorded in Official Records Book 28841, at Page 1838 of the Public Records of Miami-Dade County. The Easement set forth in the Final Judgment provides, in part, that no permanent structure shall be erected upon or above the subterranean easement acquired by the County, which extends from Elevation minus (-) 85.00 feet to Elevation minus (-) 30 feet.

On November 28, 2023, as part of its proposed development on Fisher Island as memorialized in WASD Developer Agreement ID #31885, the Developer sent WASD a letter requesting that it be allowed to install a stormwater drainage system above the Easement. Due to the restriction set forth in the Easement, the Developer's installation of a pipe in the area above the Easement would be prohibited.

After reviewing the proposal, at the County's request and in consideration for the Modification of Easement, the Developer agreed to modify its design with respect to the location of the pilings for the multi-family residential project being constructed on the property abutting the Easement. This significant modification by the Developer will result in reduced risk to the integrity of the County's infrastructure, which was not otherwise required by the terms of the Easement. Additionally, administration has reviewed the proposed PVC drainage pipe structure that the Developer will be installing in the Easement and has concluded that, in light of the depth of the pipe being installed—at least 40 feet above the County's infrastructure—the Developer's stormwater pipe and drainage box should not impact or affect the safety of the County's existing infrastructure in the Easement. As an additional safeguard, the Modification of Easement only becomes effective: (i) after receipt of confirmation from the County's independent third-party engineer who is evaluating the safety of the proposed improvements and location of the pilings relative to the County's sewer infrastructure; and (ii) the County Mayor or County Mayor's designee, in its sole and absolute discretion, concurs with such written confirmation.

Notwithstanding, to address the potential for WASD's future need to access its infrastructure, the Developer has proffered the perpetual Hold Harmless, which will protect the County from liability for any damage that may occur, including to the Developer's stormwater drainage system, while WASD is accessing and/or repairing the County's infrastructure.

Attachments

A handwritten signature in blue ink, appearing to read 'J. Morales', is positioned above a horizontal line.

Jimmy Morales
Chief Operating Officer

Instrument Prepared by:
Miami-Dade Water and Sewer Department
3071 S.W. 38 Avenue
Miami, Florida 33146

Folio No. 30-4210-000-0021

**THIS DOCUMENT MODIFIES THE EASEMENT SET FORTH IN THE JUDGMENT
RECORDED AT OFFICIAL RECORDS BOOK 28841, AT PAGE 1838 OF THE PUBLIC
RECORDS OF MIAMI-DADE COUNTY, FLORIDA**

MODIFICATION OF EASEMENT AND AGREEMENT

Grantor, Miami-Dade County, a political subdivision of the State of Florida ("County" or "Grantor") and Grantee, PRH Parcel 7 Owner, LLC, a Delaware limited liability company ("Grantee"), in consideration of the payment of \$1.00 and other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, enter into this Modification of Easement and Agreement (the "Modification of Easement") this _____ day of _____, 2024, as follows:

WHEREAS, the County acquired utility easements in an eminent domain action as further set forth in the final judgment dated September 23, 2013 recorded in Official Records Book 28841, Page 1838 of the Public Records of Miami-Dade County ("Final Judgment"); and

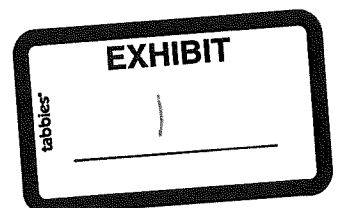
WHEREAS, one of the easements acquired, identified as Parcel No. 819-APH-2, included a Subterranean Utility Easement in the space vertically enclosed above elevation minus (-) 85.00 feet and extending to an elevation of minus (-) 30.00 feet ("Subterranean Easement"); and

WHEREAS, the Final Judgment included a restriction that: "No permanent structure shall be erected upon or above Parcel 819-APH-2... now or in the future" (the "Restriction"); and

WHEREAS, Grantee seeks to install a pvc pipe and drainage box above the Subterranean Easement, in connection with proposed construction on Grantee's adjacent property, and, therefore, has requested a modification of the Subterranean Easement solely to allow the installation of such pipe and drainage box, as set forth in the plans attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, Grantee seeks to install pavers, curbs and landscaping on the land above the Subterranean Easement; and

WHEREAS, as consideration for such modification to the Subterranean Easement, Grantee has agreed to: 1) pay the County \$900,000.00; 2) execute a hold harmless and indemnification agreement in favor of the Grantor (the "Hold Harmless Agreement"), attached hereto and incorporated herein as Exhibit "B;" 3) reimburse the County for the costs that Grantor incurs to: (i) analyze plans for the stormwater drainage system and abutting property to ensure that construction near the County's underground sewer infrastructure in the Subterranean Easement is protected sufficiently, and (ii) monitor the integrity of the sewer infrastructure in the Subterranean Easement while certain construction activities occur on and near the Subterranean Easement; and 4) modify its construction plans to shift the pilings for the foundation for the multi-family residential structure being built on the abutting property further away from the County's infrastructure in the Subterranean Easement and build in accordance therewith, as set forth on the plans shown on Exhibit "C",



NOW THEREFORE, Grantor and Grantee agree as follows:

- 1) The recitals set forth above are incorporated and adopted as is if fully set forth herein.
- 2) The Restriction in the Subterranean Easement is hereby modified as follows, which shall replace and supersede the language in the original Subterranean Easement:

No permanent structure shall be erected upon or above Parcel 819-APH-2 now or in the future, save and except for pavers, curbs and landscaping and the drainage pipe structure set forth in Exhibit "A" to this Modification of Easement.

The modification of the Restriction is conditioned upon the requirements agreed to by Grantor and Grantee as further set forth in paragraphs 3 through 7 herein.

- 3) Grantee shall pay the County \$900,000.00 within five (5) days of recordation of this Modification of Easement.
- 4) Grantee has agreed to modify its plans in accordance with Exhibit "C" herein in order to shift the construction of the pilings for the foundation for the multi-family residential structure being built on the abutting property further away from the County's infrastructure in the Subterranean Easement.
- 5) Within thirty (30) days of Grantor's written request, Grantee shall reimburse Grantor for all reasonable costs Grantor has incurred or will incur to: (i) analyze plans for the stormwater drainage system and abutting property to ensure that construction near the County's underground sewer infrastructure in the Subterranean Easement is protected sufficiently, and (ii) monitor the integrity of the sewer infrastructure in the Subterranean Easement while certain construction activities occur on and near the Subterranean Easement.
- 6) Grantee shall execute the Hold Harmless, which shall be recorded contemporaneously with this Modification of Easement.
- 7) In the event that Grantee fails to comply with the terms of this Modification of Easement, or the terms of the Hold Harmless, Grantor shall provide Grantee with notice of such breach, and a sixty (60) day period to cure. In the event that Grantee fails to cure such breach, among all other remedies at law or in equity, Grantor may record a termination of this Modification of Easement in the public records, and Grantee shall remove its drainage structure improvements within thirty (30) days of written notice from Grantor to Grantee requesting removal of same. In the event that Grantee fails to remove Grantee's improvements, then Grantor has the right to remove same. Grantee further grants Grantor the right to lien folio no. 30-4210-000-0021, Grantee's property, as a remedy in the event of such breach.
- 8) All other terms and conditions of the Subterranean Easement and the Final Judgment remain in full force and effect and are unmodified by the terms of this Modification of Easement. This Modification of Easement, and the agreements set forth herein, shall constitute a covenant which runs with the land.

IN WITNESS WHEREOF, the undersigned has signed and sealed this instrument on this ____ day of _____, 2024.

Juan Fernandez-Barquin,
Clerk of the Court and Comptroller

**MIAMI-DADE COUNTY, a political
subdivision of the State of Florida**

By: _____
Deputy Clerk

By: _____
County Mayor

Print Name Date

ATTEST:

**PRH PARCEL 7 OWNER, LLC., a
Delaware Limited Liability Company
(Corporate Seal)**

By: Ben Gerber
Signature

By: Matt Allen
Signature

Ben Gerber, Vice President
Print Name

Matt Allen, President
Print Name

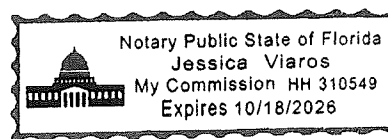
STATE OF Florida
COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me this 3rd day of July, 2024, by Ben Gerber, as Vice President, and Matt Allen, as President, of PRH PARCEL 7 OWNER, LLC, a Delaware limited liability company, on behalf of the corporation. He/She/They is/are personally known to me or has/hasn't/have/haven't produced identification and did/did not take an oath.

Jessie A Viaros
Notary Public
Print Name

HH 310549
Serial Number

Approved for Legal Sufficiency:



Assistant County Attorney

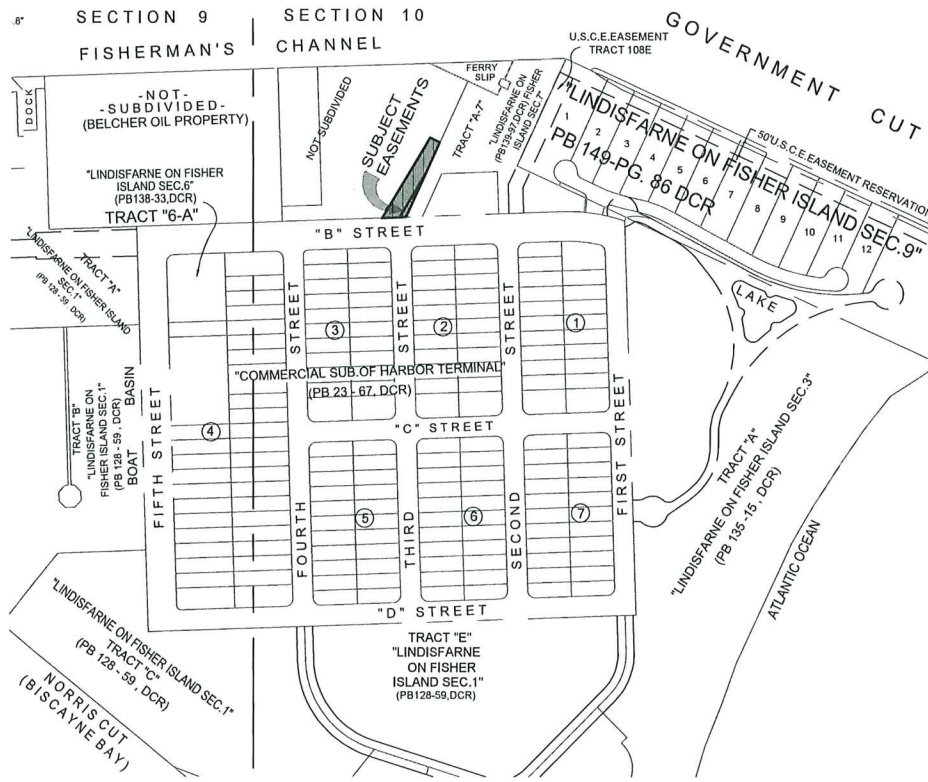
The foregoing was authorized and approved by Resolution _____ of the Board of County Commissioners of Miami-Dade County, Florida, on the _____ day of _____, 20__.

EXHIBIT "A"

PARCEL NO. 819-APH-2 & ADDITIONAL PARCEL (ORB 28841-1838) SKETCH & LEGAL DESCRIPTION AND OVERLAY OF PROPOSED STORMWATER IMPROVEMENTS

EXHIBIT

tabbles'
A



LOCATION MAP

FISHER ISLAND, MIAMI-DADE COUNTY, FLORIDA
PORTION OF SECTION 10, TOWNSHIP 54 SOUTH, RANGE 42 EAST
SCALE: 1" = 400'

LEGAL DESCRIPTION

PARCEL NO. 819-APH-2 (SUBTERRANEAN UTILITY EASEMENT):

A SUBTERRANEAN UTILITY EASEMENT TO LOCATE, CONSTRUCT, MAINTAIN, REPAIR, REPLACE, AND OPERATE, A WATER AND SEWER FACILITIES TOGETHER WITH ALL USES APPURTENANT THERETO, WITHIN THAT SPACE VERTICALLY ENCLOSED ABOVE ELEVATION MINUS (-)85.00 FEET AND EXTENDING TO AN ELEVATION OF MINUS (-)30.00 FEET, ACCORDING TO THE NATIONAL GEODETIC VERTICAL DATUM OF 1929 (NGVD29) AS ESTABLISHED BY THE UNITED STATES NATIONAL GEODETIC SURVEY, LYING IN SECTION 10, TOWNSHIP 54 SOUTH, RANGE 42 EAST, MIAMI-DADE COUNTY, FLORIDA, AND WHICH IS ENCOMPASSED WITHIN THE FOLLOWING HORIZONTAL LIMITS:

COMMENCE AT THE NORTHWEST CORNER OF "COMMERCIAL SUBDIVISION OF HARBOR TERMINAL", AS RECORDED IN PLAT BOOK 23 AT PAGE 67 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE RUN N87°40'43"E, ALONG THE NORTH RIGHT-OF-WAY LINE OF "B" STREET, FOR 842.77 FEET TO A POINT 82.97 FEET WEST OF THE SOUTHWEST CORNER OF TRACT "A-7" ACCORDING TO THE PLAT OF "LINDISFARNE ON FISHER ISLAND SECTION 7" RECORDED IN PLAT BOOK 139 AT PAGE 97 OF SAID PUBLIC RECORDS AND THE POINT OF BEGINNING; THENCE N31°08'45"E FOR 318.65 FEET; THENCE S65°36'17"E FOR 36.66 FEET TO THE WEST LINE OF SAID TRACT "A-7"; THENCE S24°23'43"W, ALONG THE WEST LINE OF SAID TRACT "A-7", FOR 115.63 FEET; THENCE S31°08'45"W FOR 175.08 FEET TO THE NORTH RIGHT OF WAY LINE OF "B" STREET; THENCE S87°40'43"W, ALONG THE NORTH RIGHT OF WAY LINE OF "B" STREET, FOR 59.94 FEET TO THE POINT OF BEGINNING.

ADDITIONAL PARCEL (SUBTERRANEAN EASEMENT):

A SUBTERRANEAN UTILITY EASEMENT TO LOCATE, CONSTRUCT, MAINTAIN, REPAIR, REPLACE, AND OPERATE, A WATER AND SEWER FACILITIES TOGETHER WITH ALL USES APPURTENANT THERETO, WITHIN THAT SPACE VERTICALLY ENCLOSED ABOVE ELEVATION MINUS (-)85.00 FEET AND EXTENDING TO AN ELEVATION OF MINUS (-)30.00 FEET, ACCORDING TO THE NATIONAL GEODETIC VERTICAL DATUM OF 1929 (NGVD29) AS ESTABLISHED BY THE UNITED STATES NATIONAL GEODETIC SURVEY, LYING IN SECTION 10, TOWNSHIP 54 SOUTH, RANGE 42 EAST, MIAMI-DADE COUNTY, FLORIDA, AND WHICH IS ENCOMPASSED WITHIN THE FOLLOWING HORIZONTAL LIMITS:

COMMENCE AT THE NORTHWEST CORNER OF "COMMERCIAL SUBDIVISION OF HARBOR TERMINAL", AS RECORDED IN PLAT BOOK 23 AT PAGE 67 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE RUN N87°40'43"E, ALONG THE NORTH RIGHT-OF-WAY LINE OF "B" STREET, FOR 902.71 FEET TO A POINT 23.03 FEET WEST OF THE SOUTHWEST CORNER OF TRACT "A-7" ACCORDING TO THE PLAT OF "LINDISFARNE ON FISHER ISLAND SECTION 7" RECORDED IN PLAT BOOK 139 AT PAGE 97 OF SAID PUBLIC RECORDS AND THE POINT OF BEGINNING; THENCE N31°08'45"E FOR 175.08 FEET TO THE WEST LINE OF SAID TRACT "A-7"; THENCE S24°23'43"W, ALONG THE WEST LINE OF SAID TRACT "A-7", FOR 163.51 FEET TO THE NORTH RIGHT-OF-WAY LINE OF "B" STREET; THENCE S87°40'43"W, ALONG THE NORTH RIGHT-OF-WAY LINE OF "B" STREET, FOR 23.03 FEET TO THE POINT OF BEGINNING.

NOTES:

- LEGAL DESCRIPTIONS CONTAINED IN OFFICIAL RECORDS BOOK 28841 AT PAGE 1838, MIAMI-DADE COUNTY, PUBLIC RECORDS.
- PROPOSED STORMWATER IMPROVEMENTS SHOWN HEREIN OBTAINED FROM PARCEL 7 PROPOSED PAVING, GRADING AND DRAINAGE PLAN PREPARED BY THIS FIRM, PROJECT NO. 22-782 AND LAST REVISED 4-1-2024.
- BEARINGS SHOWN HEREON ARE BASED ON A BEARING OF N88°04'00"E ALONG THE NORTH LINE OF "COMMERCIAL SUBDIVISION OF HARBOR TERMINAL", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 23 PAGE 67 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.
- CLIENT: LABTECH-PRH-BH FISHER ISLAND VENTURE
- ALL RECORDING REFERENCES HEREON REFER TO THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.
- THE SUBJECT PARCEL 7 LIES IN SECTION 10, TOWNSHIP 54 SOUTH, RANGE 32 EAST, MIAMI-DADE COUNTY, FLORIDA.
- THIS IS NOT A SURVEY.

This item has been digitally signed and sealed by
Geoffrey Leiter, P.S.M. No. 6395 State of Florida, on
10/30/2020 using a Digital Signature.

Printed copies of this document are not considered
signed and sealed and the SHA authentication code
must be verified on any electronic copies.

THIS SKETCH & LEGAL DESCRIPTION IS 2 SHEETS
AND IS NOT FULL AND COMPLETE UNLESS ACCOMPANIED BY ALL 2 SHEETS.

FILE: 24-142 PARCEL 7 SKETCH-LEGAL.DWG

LEITER PEREZ & ASSOCIATES, INC.
LAND DEVELOPMENT CONSULTANTS
CIVIL ENGINEERS - LAND SURVEYORS
LAND PLANNERS - ENVIRONMENTAL
520 N.W. 165TH ST. RD., SUITE 209, MIAMI, FLORIDA 33169
MIAMI-DADE (305) 652-5133 BROWARD (954) 524-2202 FAX: (305) 652-0411
E-Mail: office@leiterperez.com WEBSITE: www.leiterperez.com LICENSED BUSINESS NO. 6783

THIS "SKETCH & LEGAL DESCRIPTION" WAS PREPARED UNDER MY SUPERVISION.
LEITER, PEREZ & ASSOCIATES, INC.

BY: _____ PRESIDENT
GEOFFREY LEITER, PROFESSIONAL SURVEYOR & MAPPER #6395
STATE OF FLORIDA

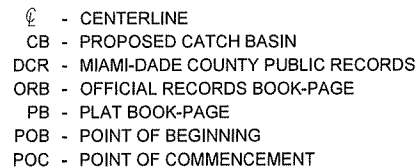
DATE: 4-30-2024 JOB NO.: 24-142 FILE: L-

NOT VALID WITHOUT
THE SIGNATURE AND
THE ORIGINAL RAISED SEAL
OF A FLORIDA LICENSED
SURVEYOR AND MAPPER

SHEET 1 OF 2

MDC009

**PARCEL NO. 819-APH-2 & ADDITIONAL PARCEL (ORB 28841-1838)
SKETCH & LEGAL DESCRIPTION AND
OVERLAY OF PROPOSED STORMWATER IMPROVEMENTS**



LEITER, PEREZ & ASSOCIATES, INC.
LAND DEVELOPMENT CONSULTANTS
 CIVIL ENGINEERS - LAND SURVEYORS
 LAND PLANNERS - ENVIRONMENTAL

520 N.W. 165TH ST. RD., SUITE 209, MIAMI, FLORIDA 33169
 MIAMI-DADE (305) 652-5133 BROWARD (954)524-2022 FAX: (305) 652-4141

E-Mail: office@leiteper.com WEBSITE: www.leiteper.com LICENSED BUSINESS NO. 6787

DATE: 4-30-2024

JOB NO. : 24-142

$$E \parallel E^* \quad | \quad -$$

SHEET 2 OF 2

Instrument Prepared by:
Miami-Dade Water and Sewer Department
3071 S.W. 38 Avenue
Miami, Florida 33146

Folio No. 30-4210-000-0021

HOLD HARMLESS AND INDEMNIFICATION AGREEMENT

THIS HOLD HARMLESS AND INDEMNIFICATION AGREEMENT (the "Hold Harmless") is made this _____ day of _____, 2024, between **PRH PARCEL 7 OWNER, LLC**, a Delaware limited liability company, whose mailing address is: 2850 Tigertail Avenue, Suite 800, Miami, Florida 33133, hereinafter designated as the "PROPERTY OWNER", and **Miami-Dade County**, a political subdivision of the State of Florida, hereinafter designated as the "COUNTY" and its successors, assigns and agencies. The PROPERTY OWNER hereby makes, declares and imposes on the land described on Exhibit "A" hereto, this Hold Harmless Agreement, which shall be binding on the PROPERTY OWNER, all heirs, successors and assigns, personal representatives, mortgagees, lessees, and against all persons claiming by, through or under them.

RECITALS

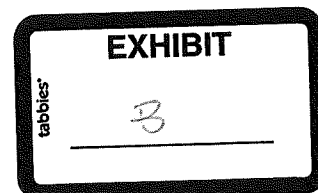
WHEREAS, the PROPERTY OWNER is the fee simple owner of the real property legally described on Exhibit "A" attached hereto (the "OWNER'S PROPERTY"); and

WHEREAS, the Miami-Dade County Water and Sewer Department (the "DEPARTMENT") operates the sewer system owned by the COUNTY, which includes infrastructure running through the OWNER'S PROPERTY; and

WHEREAS, the PROPERTY OWNER and the COUNTY entered into a Developer Agreement for the "Parcel 7 @ Fisher Island" project, dated January 19, 2023, recorded in Official Records Book 33549, at Page 3954, of the Public Records of Miami-Dade County (the "DEVELOPER AGREEMENT"); and

WHEREAS, the utility plans submitted by the PROPERTY OWNER for its project, which is a multi-unit residential building, show proposed encroachments, specifically a stormwater drainage pipe and box, being installed over an existing subterranean utility easement that was granted to the COUNTY through a Final Judgment, dated September 23, 2013, in an eminent domain proceeding, Miami-Dade County v. Par 7, LLC, Case No. 10-46738-CA-25, in the 11th Judicial Circuit in and for Miami-Dade County (the "SUBTERRANEAN EASEMENT"); and

WHEREAS, the Final Judgment provides that no permanent structures are to be erected upon or above the SUBTERRANEAN EASEMENT; and



WHEREAS, because the installation and maintenance of the DEVELOPER'S stormwater drainage pipe and box are not likely to damage or affect the DEPARTMENT'S sewer infrastructure in the SUBTERRANEAN EASEMENT, as confirmed by an independent third party hired by the COUNTY, the DEPARTMENT is willing to allow the proposed stormwater drainage pipe and box to be installed within the SUBTERRANEAN EASEMENT approximately nine (9) feet below the at grade level so long as the PROPERTY OWNER grants a hold harmless and indemnification agreement to the COUNTY that protects the COUNTY from or against any causes of action that may arise as a result of the encroachments being located above the SUBTERRANEAN EASEMENT; and

WHEREAS, the PROPERTY OWNER is willing to grant such hold harmless and indemnification agreement to the COUNTY,

NOW THEREFORE, for consideration of the premises, and for other good and valuable consideration, the receipt and adequacy of which is acknowledged, the parties agree as follows:

- 1 Recitals. The foregoing recitals are true and correct and incorporated into this Agreement.
- 2 Title to Property. The PROPERTY OWNER does hereby warrant that it has good title to the OWNER'S PROPERTY and that it has full power and authority to grant this Hold Harmless and Indemnification Agreement.
- 3 Acknowledgement of Conflict. The PROPERTY OWNER hereby acknowledges and agrees that the PROPERTY OWNER has proposed an encroachment a few feet from the ground surface above the SUBTERRANEAN EASEMENT that may conflict with the operation and maintenance by the COUNTY of its sewer infrastructure, as further set forth in the Modification of Easement recorded contemporaneously herewith (the "Improvements").
- 4 Indemnification and Hold Harmless. The PROPERTY OWNER shall, a period of 20 years from the date of recordation of this Agreement, indemnify, defend and save free and harmless the COUNTY, its agents and employees from and against any and all claims, demands, fines, suits, actions, proceedings, orders, decrees, and judgments of any kind or nature and from damages, whether compensatory, punitive or otherwise, by or in favor of anyone whomsoever, and from and against any and all costs and expenses, including reasonable attorneys' fees, appellate and otherwise, resulting from or in connection with loss of life, bodily or personal injury and/or property damages arising directly or indirectly, out of or from, or on account of, any damage caused by or sustained in connection with the Improvements.
- 5 Limitation of County Liability. The PROPERTY OWNER agrees that if, for any reason, the COUNTY has to demolish or damage any sections of the Improvements due to problems that arise in the SUBTERRANEAN EASEMENT, the COUNTY will

not be responsible, financially or otherwise, for repairing or replacing the damaged or demolished Improvements, and waives and releases any and all claims against the County in connection therewith.

6. Authorization. The PROPERTY OWNER warrants and represents that it has received the necessary corporate authorization to enter into this Agreement and that the person signing this Agreement on behalf of the PROPERTY OWNER has been duly authorized to do so.
7. Corporate Guaranty and Insurance. The PROPERTY OWNER shall add the County as an additional insured on the owner-controlled insurance program ("OCIP") in place for the construction of its project. Additionally, PRH Investments, LLC shall provide a guarantee in the amount of FIFTY MILLION DOLLARS (\$50,000,000.00) to secure the obligations of PROPERTY OWNER during the construction of the Improvements (the "GUARANTY"). The GUARANTY shall remain in effect until the date on which the work for the IMPROVEMENTS within the SUBTERRANEAN EASEMENT is completed and the installation of the garage pilings on the OWNER'S PROPERTY (the "WORK"), as evidenced by the issuance of a final inspection approval for such WORK. Upon completion of the WORK, PRH Investments, LLC obligations under this section shall be deemed fully satisfied, and the Guaranty shall automatically terminate. Acceptance of the form and terms of the Guaranty are subject to the approval of the County Mayor or County Mayor's designee.
8. Reimbursement of County Costs. Within 30 days of the County's written request, the PROPERTY OWNER shall reimburse the County for all costs the County incurs to: (i) analyze plans for the stormwater drainage system and abutting property to ensure that construction near the County's underground sewer infrastructure in the SUBTERRANEAN EASEMENT is protected sufficiently, and (ii) monitor the integrity of the sewer infrastructure in the SUBTERRANEAN EASEMENT while certain construction activities occur on and near the SUBTERRANEAN EASEMENT.
9. Entire Agreement. This Agreement constitutes the entire agreement between the PROPERTY OWNER and the COUNTY with respect to the specific subject matter hereof and supersedes all prior negotiations, agreements, understandings and arrangements, both oral and written, between the PROPERTY OWNER and the COUNTY with respect to such specific subject matter. This Agreement may not be modified in any way, except by a written instrument executed by each of the parties. This Agreement constitutes a covenant which runs with the land.
10. Severability. The invalidity of any one or more of the words, phrases, sentences, clauses or sections contained in this Agreement shall not affect the enforceability of the remaining portions of this Agreement or any part hereof, all of which are inserted conditionally on their being valid in law. In the event that any one or more of the words, phrases, sentences, clauses or sections contained in this Agreement shall be declared invalid by a court of competent jurisdiction, then, and in any such event, this Agreement shall be construed as if such invalid word or words, phrase or

phrases, sentence or sentences, clause or clauses, or section or sections had not been inserted.

11. Waiver. The waiver of either party of a breach or violation of any term or provision of this Agreement by the other party shall not operate nor be construed as a waiver of any subsequent breach or violation of any provision of this Agreement or of any other right or remedy.
12. Venue. Any claim, dispute, proceeding, or cause of action, arising out of or in any way relating to this Agreement, or the parties' relationship shall be decided by the laws of the State of Florida. The parties agree that venue for any of the foregoing shall lie exclusively in the courts located in Miami-Dade County, Florida.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officials as of the day and year above written.

WITNESSETH:

MIAMI-DADE COUNTY

signature

By: _____

**Brandon Garcia,
New Business Manager**

print name

3575 S. LeJeune Road, Miami, FL 33146

**For: Roy Coley, Director
Miami-Dade Water and Sewer Department**

signature

print name

3575 S. LeJeune Road, Miami, FL 33146

**STATE OF FLORIDA
COUNTY OF MIAMI-DADE**

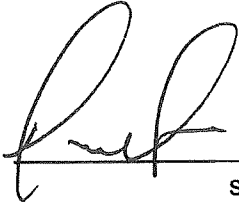
The foregoing instrument was acknowledged before me by means of: (check one)
☐ physical presence; or ☐ remote audio-visual means, this _____ day of _____, 2024, by **Brandon Garcia, New Business Manager**, for **Roy Coley, Director**, of the Miami-Dade Water and Sewer Department, who is personally known to me and did not take an oath.

Notary Public

print name

Serial Number

WITNESSETH:



signature

Print Name: Julissa Wintero

Address: 2850 Tigertail Ave
Suite 800 Miami FL 33133

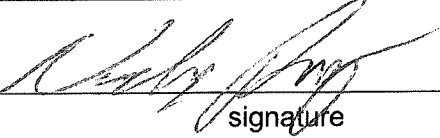


signature

Print Name: Rosella Rivas

Address: 915 Palermo Ave #107
Miami FL 33139

PRH PARCEL 7 OWNER, LLC, A FLORIDA
LIMITED PARTNERSHIP
BY: PRH PARCEL 7 HOLDINGS, LLC, A
DELAWARE LIMITED LIABILITY COMPANY

By: 

signature

Nicholas Perez, authorized signatory

Address: 2850 Tigertail Ave, Suite 800
Miami, FL 33133

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me by means of: (check one)

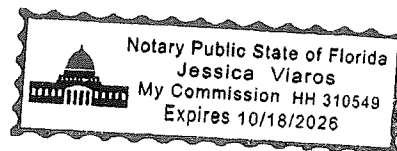
☒ physical presence; or ☐ remote audio-visual means, this 2nd day of July,
2024, by Nicholas Perez, as authorized signatory, who is personally known to me or
has/has not produced _____ as identification and did/did not
take an oath.



Notary Public

Jessica Viaros

print name



Serial Number

Approved for Legal Sufficiency:

Assistant County Attorney

Exhibit "A"

Legal Description

The land referred to herein below is situated in the County of Miami-Dade, State of FL, and described as follows:

A portion of Fisher Island lying within Section 10, Township 54 South, Range 42 East, Miami-Dade County, Florida, being more particularly described as follows:

Commence at the Northwesterly corner of COMMERCIAL SUBDIVISION OF HARBOR TERMINAL, according to the plat thereof, as recorded in Plat Book 23, Page 67, of the Public Records of Miami-Dade County, Florida; thence North 88°04'00" East along the North line of said plat of COMMERCIAL SUBDIVISION OF HARBOR TERMINAL for 500.00 feet to the Point of Beginning of the hereinafter described parcel of land; thence North 01°56'00" West for 520.25 feet; thence North 88°12'40" East for 524.98 feet; thence South 64°53'29" East for 144.67 feet; thence South 24°47'00" West for 507.31 feet; thence South 88°04'00" West along the North line of said plat of COMMERCIAL SUBDIVISION OF HARBOR TERMINAL for 425.74 feet to the Point of Beginning.

EXHIBIT C

**Piling Modified Construction Plans
(to be inserted)**

Instrument Prepared by:
Miami-Dade Water and Sewer Department
3071 S.W. 38 Avenue
Miami, Florida 33146

Folio No. 30-4210-000-0021

HOLD HARMLESS AND INDEMNIFICATION AGREEMENT

THIS HOLD HARMLESS AND INDEMNIFICATION AGREEMENT (the "Hold Harmless") is made this _____ day of _____, 2024, between **PRH PARCEL 7 OWNER, LLC**, a Delaware limited liability company, whose mailing address is: 2850 Tigertail Avenue, Suite 800, Miami, Florida 33133, hereinafter designated as the "PROPERTY OWNER", and **Miami-Dade County**, a political subdivision of the State of Florida, hereinafter designated as the "COUNTY" and its successors, assigns and agencies. The PROPERTY OWNER hereby makes, declares and imposes on the land described on Exhibit "A" hereto, this Hold Harmless Agreement, which shall be binding on the PROPERTY OWNER, all heirs, successors and assigns, personal representatives, mortgagees, lessees, and against all persons claiming by, through or under them.

RECITALS

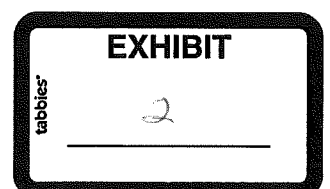
WHEREAS, the PROPERTY OWNER is the fee simple owner of the real property legally described on Exhibit "A" attached hereto (the "OWNER'S PROPERTY"); and

WHEREAS, the Miami-Dade County Water and Sewer Department (the "DEPARTMENT") operates the sewer system owned by the COUNTY, which includes infrastructure running through the OWNER'S PROPERTY; and

WHEREAS, the PROPERTY OWNER and the COUNTY entered into a Developer Agreement for the "Parcel 7 @ Fisher Island" project, dated January 19, 2023, recorded in Official Records Book 33549, at Page 3954, of the Public Records of Miami-Dade County (the "DEVELOPER AGREEMENT"); and

WHEREAS, the utility plans submitted by the PROPERTY OWNER for its project, which is a multi-unit residential building, show proposed encroachments, specifically a stormwater drainage pipe and box, being installed over an existing subterranean utility easement that was granted to the COUNTY through a Final Judgment, dated September 23, 2013, in an eminent domain proceeding, Miami-Dade County v. Par 7, LLC, Case No. 10-46738-CA-25, in the 11th Judicial Circuit in and for Miami-Dade County (the "SUBTERRANEAN EASEMENT"); and

WHEREAS, the Final Judgment provides that no permanent structures are to be erected upon or above the SUBTERRANEAN EASEMENT; and



WHEREAS, because the installation and maintenance of the DEVELOPER'S stormwater drainage pipe and box are not likely to damage or affect the DEPARTMENT'S sewer infrastructure in the SUBTERRANEAN EASEMENT, as confirmed by an independent third party hired by the COUNTY, the DEPARTMENT is willing to allow the proposed stormwater drainage pipe and box to be installed within the SUBTERRANEAN EASEMENT approximately nine (9) feet below the at grade level so long as the PROPERTY OWNER grants a hold harmless and indemnification agreement to the COUNTY that protects the COUNTY from or against any causes of action that may arise as a result of the encroachments being located above the SUBTERRANEAN EASEMENT; and

WHEREAS, the PROPERTY OWNER is willing to grant such hold harmless and indemnification agreement to the COUNTY,

NOW THEREFORE, for consideration of the premises, and for other good and valuable consideration, the receipt and adequacy of which is acknowledged, the parties agree as follows:

- 1 Recitals. The foregoing recitals are true and correct and incorporated into this Agreement.
- 2 Title to Property. The PROPERTY OWNER does hereby warrant that it has good title to the OWNER'S PROPERTY and that it has full power and authority to grant this Hold Harmless and Indemnification Agreement.
- 3 Acknowledgement of Conflict. The PROPERTY OWNER hereby acknowledges and agrees that the PROPERTY OWNER has proposed an encroachment a few feet from the ground surface above the SUBTERRANEAN EASEMENT that may conflict with the operation and maintenance by the COUNTY of its sewer infrastructure, as further set forth in the Modification of Easement recorded contemporaneously herewith (the "Improvements").
- 4 Indemnification and Hold Harmless. The PROPERTY OWNER shall, a period of 20 years from the date of recordation of this Agreement, indemnify, defend and save free and harmless the COUNTY, its agents and employees from and against any and all claims, demands, fines, suits, actions, proceedings, orders, decrees, and judgments of any kind or nature and from damages, whether compensatory, punitive or otherwise, by or in favor of anyone whomsoever, and from and against any and all costs and expenses, including reasonable attorneys' fees, appellate and otherwise, resulting from or in connection with loss of life, bodily or personal injury and/or property damages arising directly or indirectly, out of or from, or on account of, any damage caused by or sustained in connection with the Improvements.
- 5 Limitation of County Liability. The PROPERTY OWNER agrees that if, for any reason, the COUNTY has to demolish or damage any sections of the Improvements due to problems that arise in the SUBTERRANEAN EASEMENT, the COUNTY will

not be responsible, financially or otherwise, for repairing or replacing the damaged or demolished Improvements, and waives and releases any and all claims against the County in connection therewith.

6. Authorization. The PROPERTY OWNER warrants and represents that it has received the necessary corporate authorization to enter into this Agreement and that the person signing this Agreement on behalf of the PROPERTY OWNER has been duly authorized to do so.
7. Corporate Guaranty and Insurance. The PROPERTY OWNER shall add the County as an additional insured on the owner-controlled insurance program ("OCIP") in place for the construction of its project. Additionally, PRH Investments, LLC shall provide a guarantee in the amount of FIFTY MILLION DOLLARS (\$50,000,000.00) to secure the obligations of PROPERTY OWNER during the construction of the Improvements (the "GUARANTY"). The GUARANTY shall remain in effect until the date on which the work for the IMPROVEMENTS within the SUBTERRANEAN EASEMENT is completed and the installation of the garage pilings on the OWNER'S PROPERTY (the "WORK"), as evidenced by the issuance of a final inspection approval for such WORK. Upon completion of the WORK, PRH Investments, LLC obligations under this section shall be deemed fully satisfied, and the Guaranty shall automatically terminate. Acceptance of the form and terms of the Guaranty are subject to the approval of the County Mayor or County Mayor's designee.
8. Reimbursement of County Costs. Within 30 days of the County's written request, the PROPERTY OWNER shall reimburse the County for all costs the County incurs to: (i) analyze plans for the stormwater drainage system and abutting property to ensure that construction near the County's underground sewer infrastructure in the SUBTERRANEAN EASEMENT is protected sufficiently, and (ii) monitor the integrity of the sewer infrastructure in the SUBTERRANEAN EASEMENT while certain construction activities occur on and near the SUBTERRANEAN EASEMENT.
9. Entire Agreement. This Agreement constitutes the entire agreement between the PROPERTY OWNER and the COUNTY with respect to the specific subject matter hereof and supersedes all prior negotiations, agreements, understandings and arrangements, both oral and written, between the PROPERTY OWNER and the COUNTY with respect to such specific subject matter. This Agreement may not be modified in any way, except by a written instrument executed by each of the parties. This Agreement constitutes a covenant which runs with the land.
10. Severability. The invalidity of any one or more of the words, phrases, sentences, clauses or sections contained in this Agreement shall not affect the enforceability of the remaining portions of this Agreement or any part hereof, all of which are inserted conditionally on their being valid in law. In the event that any one or more of the words, phrases, sentences, clauses or sections contained in this Agreement shall be declared invalid by a court of competent jurisdiction, then, and in any such event, this Agreement shall be construed as if such invalid word or words, phrase or

phrases, sentence or sentences, clause or clauses, or section or sections had not been inserted.

11. Waiver. The waiver of either party of a breach or violation of any term or provision of this Agreement by the other party shall not operate nor be construed as a waiver of any subsequent breach or violation of any provision of this Agreement or of any other right or remedy.

12. Venue. Any claim, dispute, proceeding, or cause of action, arising out of or in any way relating to this Agreement, or the parties' relationship shall be decided by the laws of the State of Florida. The parties agree that venue for any of the foregoing shall lie exclusively in the courts located in Miami-Dade County, Florida.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officials as of the day and year above written.

WITNESSETH:

MIAMI-DADE COUNTY

signature

By: _____

**Brandon Garcia,
New Business Manager**

print name

3575 S. LeJeune Road, Miami, FL 33146

**For: Roy Coley, Director
Miami-Dade Water and Sewer Department**

signature

print name

3575 S. LeJeune Road, Miami, FL 33146

**STATE OF FLORIDA
COUNTY OF MIAMI-DADE**

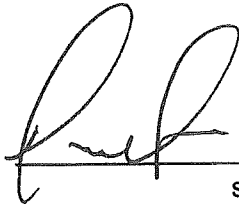
The foregoing instrument was acknowledged before me by means of: (check one)
☐ physical presence; or ☐ remote audio-visual means, this _____ day of _____, 2024, by **Brandon Garcia, New Business Manager**, for **Roy Coley, Director**, of the Miami-Dade Water and Sewer Department, who is personally known to me and did not take an oath.

Notary Public

print name

Serial Number

WITNESSETH:



signature

Print Name: Julissa Quintero

Address: 2850 Tigertail Ave
Suite 800 Miami FL 33133

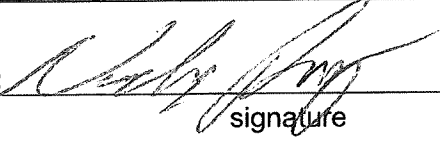


signature

Print Name: Rosella Rivas

Address: 915 Palermo Ave #107
Miami FL 33139

PRH PARCEL 7 OWNER, LLC, A FLORIDA
LIMITED PARTNERSHIP
BY: PRH PARCEL 7 HOLDINGS, LLC, A
DELAWARE LIMITED LIABILITY COMPANY

By: 

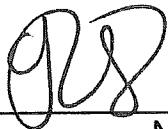
signature

Nicholas Perez, authorized signatory

Address: 2850 Tigertail Ave, Suite 800
Miami, FL 33133

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

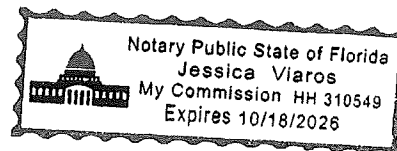
The foregoing instrument was acknowledged before me by means of: (check one)
☒ physical presence; or ☐ remote audio-visual means, this 2nd day of July,
2024, by Nicholas Perez, as authorized signatory, who is personally known to me or
has/has not produced _____ as identification and did/did not
take an oath.



Notary Public

Jessica Viaros

print name



Serial Number

Approved for Legal Sufficiency:

Assistant County Attorney

Exhibit "A"

Legal Description

The land referred to herein below is situated in the County of Miami-Dade, State of FL, and described as follows:

A portion of Fisher Island lying within Section 10, Township 54 South, Range 42 East, Miami-Dade County, Florida, being more particularly described as follows:

Commence at the Northwestern corner of COMMERCIAL SUBDIVISION OF HARBOR TERMINAL, according to the plat thereof, as recorded in Plat Book 23, Page 67, of the Public Records of Miami-Dade County, Florida; thence North 88°04'00" East along the North line of said plat of COMMERCIAL SUBDIVISION OF HARBOR TERMINAL for 500.00 feet to the Point of Beginning of the hereinafter described parcel of land; thence North 01°56'00" West for 520.25 feet; thence North 88°12'40" East for 524.98 feet; thence South 64°53'29" East for 144.67 feet; thence South 24°47'00" West for 507.31 feet; thence South 88°04'00" West along the North line of said plat of COMMERCIAL SUBDIVISION OF HARBOR TERMINAL for 425.74 feet to the Point of Beginning.

11
ORDER

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN
AND FOR DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO.: 10-46738 CA 25

PARCELS 819, 719-A, 719-B

MIAMI-DADE COUNTY, a political
subdivision of the State of Florida,

Petitioner,

vs.

PAR 7, LLC, a Delaware limited liability
company, et al.,

Respondents.

FILED FOR RECORD
2013 SEP 23 AM 9:00
CIRCUIT & COUNTY COURT
MIAMI-DADE COUNTY, FL
CLERK #4

PARCELS 819, 719-A, 719-B
FINAL ORDER SRS 10-1702-ETEN
NUMBER 12
THE COURT DISMISSES THIS CASE AGAINST
ANY PARTY NOT LISTED IN THIS FINAL ORDER
OR PREVIOUS ORDER(S). THIS CASE IS CLOSED
AS TO ALL PARTIES.
Judge's Initials

STIPULATED FINAL JUDGMENT

THIS MATTER came before the Court on the joint motion of the Petitioner, Miami-Dade County, a political subdivision of the State of Florida ("County" or "Petitioner"), Respondent, Par 7, LLC, ("Owner") and Respondent, FI Properties Limited, a private company incorporated in Jersey, (collectively "Respondents") and the Court being fully advised in the premises, it is

ORDERED AND ADJUDGED that:

1. Respondent, Par 7, LLC, is the fee simple owner of the property described in Exhibit "A" (the Subject Property), which includes the following easements: a) Parcels 819, 719-A and 719-B, legally described in Exhibit "B" (the "Original Parcels"; b) Parcels 819-PH2, 819-APH2, 719-APH2, and 719-BPH2, legally described in Exhibit "C" (the "New Parcels"); and c) the parcel which is legally described in Exhibit "D" (the "Additional Parcel").



2. Respondent, Par 7, LLC shall recover from the Petitioner the sum of \$3,994,500.00 in this matter. Such sum represents full and complete payment for: the taking of the Original Parcels and the New Parcels; the transfer of the Additional Parcel; for all damages or claims of any nature for which Petitioner might otherwise be liable in this proceeding, and is in settlement of all claims and counterclaims arising from the taking and/or acquisition of the New Parcels, the Original Parcels, and the Additional Parcel, including but not limited to all land, improvements, fixtures, equipment, severance damages and/or cost to cure damages, moving costs and interest, if any, and for all damages of any nature of the Respondents herein. This amount is inclusive of all attorneys' fees, expert fees, and costs which Respondents may have incurred and/or may have been entitled to recover in this action or otherwise. Furthermore, such sum is inclusive of any and all claims or potential claims in inverse condemnation, for trespass, or any other claim arising from the work performed by any contractor, subcontractor, agent, person or entity, in connection with the construction of Phase 1 or Phase 2 of the County's project pursuant to the acquisition of the Original Parcels, as described in Miami-Dade County Resolutions R-363-10 and R-244-10.

3. To the extent that Respondents may have or may later acquire claims arising out of or relating to the construction of Phase 2 of the County's project, such claims against the County are waived and released. Respondents shall defend and indemnify the County (and its employees) as to any such claims. Respondents shall bring no action or proceeding against the County (or its employees) arising out of or relating to such claims, provided, that the foregoing shall not prohibit Respondents from bringing such proceedings directly against the contractor or subcontractor performing such construction work. Additionally, nothing contained herein shall prohibit Respondents from asserting any claims they may have in the event that the Phase 2 work is not completed on or before September 1, 2016.

4. The recovery award specified in paragraph 2, above, is subject to claims of apportionment, if any, by all parties, persons, or entities with any right, title or interest in any of the Parcels as referenced in Exhibits B, C, and D hereto, including, but not limited to, FI Properties Limited.

5. Respondents shall allow no permanent structure to be erected upon or above Parcel 819-APH2 or the Additional Parcel now or in the future. This restriction shall be incorporated into the legal description and shall run with the land.

6. The sum of \$3,994,500 has been deposited into the Court Registry pursuant to the Order of Taking and the Second Order of Taking in this matter. The easement interests of Respondents in the Original Parcels and the New Parcels which vested in the Petitioner pursuant to these Orders of Taking and deposits of money described therein, is hereby approved, ratified and confirmed. The legal descriptions for such parcels are set forth in Exhibits B and C.

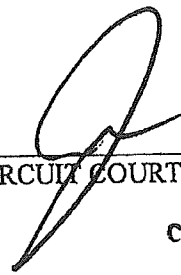
7. The compensation set forth herein is a compromise figure reached in this matter in order to resolve disputed claims.

8. The Court finds, holds, orders and adjudges that the easement interests of Respondents in the Additional Parcel, set forth in Exhibit D, shall vest in Petitioner upon execution of this Judgment.

9. The Court reserves jurisdiction to dispose of any other matters which arise from the takings or this action, to enforce the terms of the Orders of Taking entered in this matter, the provisions of the Settlement Agreement between the parties, and this Final Judgment, and to resolve any apportionment issues.

DONE AND ORDERED in Chambers at Miami-Dade County, Florida this 23rd day of

Sept, 2013.


CIRCUIT COURT JUDGE

JORGE E. CUETO
CIRCUIT COURT JUDGE

SUBJECT PROPERTY

Commence at the Northwestern corner of Commercial Subdivision of Harbor Terminal, as recorded in Plat Book 23, at Page 67 of the Public Records of Miami-Dade County, Florida, thence North 88°04'00" East along the North line of said Plat of Commercial Subdivision of Harbor Terminal for 500.00 feet to the Point of Beginning of the hereinafter described parcel of land; thence North 01°56'00" West, for 520.25 feet; thence North 88°12'40" East, for 524.98 feet; thence South 64°53'29" East, for 144.67 feet; thence South 24°47'00" West for 507.31 feet; thence South 88°04'00" West along the North line of said Plat of Commercial Subdivision of Harbor Terminal for 425.74 feet to the Point of Beginning, all the of the above land being and lying in Miami-Dade County, Florida.

parcel

EXHIBIT A

PARCEL NO. 819

(PERMANENT UTILITY EASEMENT)

A permanent utility easement to construct, repair, maintain, and operate water and sewer facilities together with all uses appurtenant thereto, lying in Section 10, Township 54 South, Range 42 East, Miami-Dade County, Florida, more particularly described as follows:

Commence at the Northwest corner of COMMERCIAL SUBDIVISION OF HARBOR TERMINAL, as recorded in Plat Book 23 at Page 67 of the Public Records of Miami-Dade County, Florida; thence run N 87°40'43" E, along the North right of way line of "B" Street, for 925.74 feet to the Southwest corner of Tract "A-7" according to the plat of LINDISFARNE ON FISHER ISLAND SECTION 7 recorded in Plat Book 139 at Page 97 of said Public Records; thence N 24°23'43" E, along the West line of said Tract "A-7", for 371.17 feet to the POINT OF BEGINNING; thence N 65°36'17" W for 15.00 feet; thence S 24°23'43" W for 5.00 feet; thence N 65°36'17" W for 25.00 feet; thence N 24°23'43" E for 25.00 feet; thence S 65°36'17" E for 25.00 feet; thence S 24°23'43" W for 5.00 feet; thence S 65°36'17" E for 15.00 feet, to the West Line of said Tract "A-7"; thence S 24°23'43" W, along said West line of Tract "A-7", for 15.00 feet to the POINT OF BEGINNING.

PARCEL NO. 719-A

(TEMPORARY CONSTRUCTION EASEMENT)

A temporary construction easement for a period of three (3) years, lying in Section 10, Township 54 South, Range 42 East, Miami-Dade County, Florida, more particularly described as follows:

Commence at the Northwest corner of COMMERCIAL SUBDIVISION OF HARBOR TERMINAL, as recorded in Plat Book 23 at Page 67 of the Public Records of Miami-Dade County, Florida; thence run N 87°40'43" E, along the North right of way line of "B" Street, for 925.74 feet to the Southwest corner of Tract "A-7" according to the plat of LINDISFARNE ON FISHER ISLAND SECTION 7 recorded in Plat Book 139 at Page 97 of said Public Records; thence N 24°23'43" E, along the West line of said Tract "A-7", for 284.62 feet to the POINT OF BEGINNING; thence N 66°37'28" W for 127.88 feet; thence N 6°48'16" W for 122.50 feet; thence N 89°30'54" E for 210.89 feet to a point on the West line of said Tract "A-7"; thence S 24°23'43" W, along said West line of Tract "A-7", for 191.23 feet to the POINT OF BEGINNING.

EXHIBIT B

PARCEL NO. 719-B

(TEMPORARY INGRESS AND EGRESS EASEMENT)

A temporary ingress and egress easement for a period of three (3) years, including a portion of the boat slip located in Sections 9 and 10, Township 54 South, Range 42 East, Miami-Dade County, Florida, being more particularly described as follows:

Commence at the Northwest corner of COMMERCIAL SUBDIVISION OF HARBOR TERMINAL, as recorded in Plat Book 23 at Page 67 of the Public Records of Miami-Dade County, Florida; thence run N 87°40'43" E, along the North right of way line of "B" Street, for 500.00 feet; thence N 2°19'17" W for 520.00 feet; thence N 87°40'43" E for 74.00 feet to the **POINT OF BEGINNING**; thence continue N 87°40'43" E for 26.00 feet; thence N 87°49'23" E for 74.53 feet; thence S 02°30'02" E for 179.42 feet; thence S 53°09'12" E for 12.62 feet; thence S 88°20'05" E for 101.50 feet; thence N 83°56'47" E for 150.66 feet; thence S 06°48'16" E for 20.21 feet; thence S 83°22'01" W for 189.01 feet; thence N 83°52'03" W for 61.68 feet; thence S 87°12'19" W for 114.57 feet; thence N 02°19'17" W for 211.06 feet to the **POINT OF BEGINNING**.

EXHIBIT B

(Page 2 of 2)

PARCEL NO. 819-PH2

(PERMANENT UTILITY EASEMENT)

A permanent utility easement to locate, construct, maintain, repair, replace, and operate water and sewer facilities together with all uses appurtenant thereto, lying in Section 10, Township 54 South, Range 42 East, Miami-Dade County, Florida, more particularly described as follows:

Commence at the Northwest corner of COMMERCIAL SUBDIVISION OF HARBOR TERMINAL, as recorded in Plat Book 23 at Page 67 of the Public Records of Miami-Dade County, Florida; thence run N 87°40'43" E, along the North right of way line of "B" Street, for 925.74 feet to the Southwest corner of Tract "A-7" according to the plat of LINDISFARNE ON FISHER ISLAND SECTION 7 recorded in Plat Book 139 at Page 97 of said Public Records; thence N 24°23'43" E, along the West line of said Tract "A-7", for 279.14 feet to the POINT OF BEGINNING; thence N 65°35'20" W for 27.35 feet; thence N 24°23'43" E for 36.00 feet; thence S 65°21'14" E for 27.35 feet to the West Line of said Tract "A-7"; thence S 24°23'43" W, along the West Line of said Tract "A-7", for 36.00 feet to the POINT OF BEGINNING,

The owner retains all rights which are not inconsistent with the County's use thereof.

PARCEL NO. 819-APH-2

(SUBTERRANEAN UTILITY EASEMENT)

A subterranean utility easement to locate, construct, maintain, repair, replace, and operate, a water and sewer facilities together with all uses appurtenant thereto, within that space vertically enclosed above Elevation minus (-) 85.00 feet and extending to an Elevation of minus (-) 30.00 feet, according to the National Geodetic Vertical Datum of 1929 (NGVD29) as established by the United States National Geodetic Survey, lying in Section 10, Township 54 South, Range 42 East, Miami-Dade County, Florida, and which is encompassed within the following horizontal limits:

Commence at the Northwest corner of COMMERCIAL SUBDIVISION OF HARBOR TERMINAL, as recorded in Plat Book 23 at Page 67 of the Public Records of Miami-Dade County, Florida; thence run N 87°40'43" E, along the North right of way line of "B" Street, for 842.77 feet to a point 82.97 feet West of the Southwest corner of Tract "A-7" according to the plat of LINDISFARNE ON FISHER ISLAND SECTION 7 recorded in Plat Book 139 at Page 97 of said Public Records and the POINT OF BEGINNING; thence N 31°08'45" E for 318.65 feet; thence S 65°36'17" E for 36.66 feet to the West line of said Tract "A-7"; thence S 24°23'43" W, along the West line of

EXHIBIT C

said Tract "A-7", for 115.63 feet; thence S 31°08'45" W for 175.08 feet to the North right of way line of "B" Street; thence S 87°40'43" W, along the North right of way line of "B" Street, for 59.94 feet to the POINT OF BEGINNING.

The owner retains all rights which are not inconsistent with the County's use thereof.
No permanent structure shall be erected upon or above Parcel 819-APH-2 now or in the future.

PARCEL NO. 719-APH-2
(TEMPORARY CONSTRUCTION EASEMENT)

A temporary construction easement for a period of four (4) years commencing on November 16, 2013, for purposes appertaining to the construction of the replacement of a 54 inch force main, lying in Section 10, Township 54 South, Range 42 East, Miami-Dade County, Florida, more particularly described as follows:

Commence at the Northwest corner of COMMERCIAL SUBDIVISION OF HARBOR TERMINAL, as recorded in Plat Book 23 at Page 67 of the Public Records of Miami-Dade County, Florida; thence run N 87°40'43" E, along the North right of way line of "B" Street, for 925.74 feet to the Southwest corner of Tract "A-7" according to the plat of LINDISFARNE ON FISHER ISLAND SECTION 7 recorded in Plat Book 139 at Page 97 of said Public Records; thence N 24°23'43" E, along the West line of said Tract "A-7", for 223.28' feet to the POINT OF BEGINNING; thence N 65°36'17" W for 143.85 feet; thence N 00°00'00" E for 48.04 feet; thence N 83°22'01" E for 43.60 feet; thence N 06°48'24" W for 60.36 feet; thence N 90°00'00" E for 173.05 feet to a point on the West line of said Tract "A-7"; thence S 24°23'43" W, along the West line of said Tract "A-7", for 26.43 feet; thence N 65°36'17" W for 15.00; thence N 24°23'43" E for 5.00 feet; thence N 65°36'17" W for 25.00 feet; thence S 24°23'43" W for 25.00 feet; thence S 65°36'17" E for 25.00 feet; thence N 24°23'43" E for 5.00 feet; thence S 65°36'17" E for 15.00 feet to a point on the West line of said Tract "A-7"; thence S 24°23'43" W, along the West line of said Tract "A-7" for 56.03 feet; thence N 65°21'14" W for 27.35 feet; thence S 24°23'43" W for 36.00 feet; thence S 65°35'20" E for 27.35 feet to a point on the West line of said Tract "A-7"; thence S 24°23'43" W, along the West line of said Tract "A-7", for 55.86 feet to the POINT OF BEGINNING.

The owner retains all rights which are not inconsistent with the County's use thereof.

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PARCEL NO. 719-BPH2 ✓
(TEMPORARY NON EXCLUSIVE INGRESS AND EGRESS EASEMENT)

A temporary non exclusive ingress and egress easement for a period of four (4) years commencing on November 16, 2013, for purposes appertaining to the construction of the replacement of a 54 inch force main, including a portion of the boat slip, lying in Sections 9 and 10, Township 54 South, Range 42 East, Miami-Dade County, Florida, being more particularly described as follows:

Commence at the Northwest corner of COMMERCIAL SUBDIVISION OF HARBOR TERMINAL, as recorded in Plat Book 23 at Page 67 of the Public Records of Miami-Dade County, Florida; thence run N 87°40'43" E, along the North right of way line of "B" Street, for 500.00 feet; thence N 2°19'17" W for 520.00 feet; thence N 87°40'43" E for 74.00 feet to the **POINT OF BEGINNING**; thence continue N 87°40'43" E for 26.00 feet; thence N 87°49'23" E for 74.53 feet; thence S 02°30'02" E for 179.42 feet; thence S 53°09'12" E for 12.62 feet; thence S 88°20'05" E for 101.50 feet; thence N 83°56'47" E for 156.57 feet; thence S 06°48'24" E for 20.15 feet; thence S 83°22'01" W for 194.91 feet; thence N 83°52'03" W for 61.68 feet; thence S 87°12'19" W for 114.57 feet; thence N 02°19'17" W for 211.08 feet to the **POINT OF BEGINNING**.

The owner retains all rights which are not inconsistent with the County's use thereof, including but not limited to the right to ingress and egress across the easement area, and access between the areas of the remainder property to the north and south of such easement area.

EXHIBIT C

(Page 3 of 3)

ADDITIONAL PARCEL

A subterranean utility easement to locate, construct, maintain, repair, replace, and operate, a water and sewer facilities together with all uses appurtenant thereto, within that space vertically enclosed above Elevation minus (-) 85.00 feet and extending to an Elevation of minus (-) 30.00 feet, according to the National Geodetic Vertical Datum of 1929 (NGVD29) as established by the United States National Geodetic Survey, lying in Section 10, Township 54 South, Range 42 East, Miami-Dade County, Florida, and which is encompassed within the following horizontal limits:

Commence at the Northwest corner of COMMERCIAL SUBDIVISION OF HARBOR TERMINAL, as recorded in Plat Book 23 at Page 67 of the Public Records of Miami-Dade County, Florida; thence run N 87°40'43" E, along the North right of way line of "B" Street, for 902.71 feet to a point 23.03 feet West of the Southwest corner of Tract "A-7" according to the plat of LINDISFARNE ON FISHER ISLAND SECTION 7 recorded in Plat Book 139 at Page 97 of said Public Records and the **POINT OF BEGINNING**; thence N 31°08'45" E for 175.08 feet to the West line of said Tract "A-7"; thence S 24°23'43" W, along the West line of said Tract "A-7", for 163.51 feet to the North right of way line of "B" Street; thence S 87°40'43" W, along the North right of way line of "B" Street, for 23.03 feet to the **POINT OF BEGINNING**.

The owner retains all rights which are not inconsistent with the County's use thereof.
No permanent structure shall be erected above or upon the Additional Parcel now or in the future.

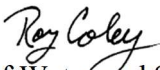
EXHIBIT D

Memorandum



Date: July 5, 2024

To: Eugene Love, Agenda Coordinator

From: Roy Coley, 
Department of Water and Sewer Director

Subject: Request to Process Late Departmental Agenda Item: Resolution Authorizing Execution of a Modification of Easement to Allow for a Stormwater Drainage and Other Limited Improvements to be Built Above a County Easement on Fisher Island in Exchange for \$900,000.00 and other Consideration and Authorizing the County to Accept a Hold Harmless Agreement Subject to Certain Conditions

I am respectfully requesting that the item entitled: "Resolution Authorizing Execution of a Modification of Easement to Allow for a Stormwater Drainage and Other Limited Improvements to be Built Above a County Easement on Fisher Island in Exchange for \$900,000.00 and other Consideration other Consideration and Authorizing the County to Accept a Hold Harmless Agreement Subject to Certain Conditions" be placed on the July 2024 Committee Cycle.

Although this item has not met the noticed deadline and has been provided to the Agenda Coordination Office late, this memorandum requesting the expeditious processing of the item has been prepared at the request of the sponsoring Commissioner, and review by the Office of the County Attorney.

Therefore, please process the item notwithstanding that the 3-day rule may be applicable to it.



Approved by County Mayor or County

Jimmy Morales
Print Name



Approved by Policy Director or Designee
Signature

Nicole Tallman
Print Name

Date

c: Geri Bonzon-Keenan, County Attorney
CAOagenda@miamidade.gov



MEMORANDUM

(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: July 16, 2024

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(O)(1)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(O)(1)
7-16-24

RESOLUTION NO. R-678-24

RESOLUTION APPROVING A MODIFICATION OF EASEMENT TO ALLOW FOR THE INSTALLATION OF A STORMWATER DRAINAGE PIPE, PAVERS, CURBS AND LANDSCAPING BY DEVELOPER PRH PARCEL 7 OWNER, LLC, A DELAWARE LIMITED LIABILITY COMPANY, ABOVE THE COUNTY'S SUBSURFACE UTILITIES EASEMENT FOR SEWER INFRASTRUCTURE LOCATED ON FISHER ISLAND IN EXCHANGE FOR \$900,000.00 AND OTHER CONSIDERATION; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE MODIFICATION OF EASEMENT AND HOLD HARMLESS AGREEMENT, TAKE ALL ACTIONS NECESSARY TO EFFECTUATE THE SAME, AND EXERCISE ALL PROVISIONS CONTAINED THEREIN; AND DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO RECORD THE EASEMENT AND HOLD HARMLESS AGREEMENT IN THE PUBLIC RECORDS OF MIAMI-DADE COUNTY AS REQUIRED BY RESOLUTION NO. R-974-09, SUBJECT TO CERTAIN CONDITIONS

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying County Mayor's memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. This Board approves and incorporates the foregoing recital, as if fully set forth herein.

Section 2. This Board approves a Modification of Easement and Agreement in substantially the form attached to the accompanying memorandum as Exhibit 1 ("Modification of Easement"), which allows the Developer, PRH Parcel 7 Owner LLC, a Delaware Limited Liability Company (the "Developer"), to install a stormwater drainage pipe above the County's Subsurface Utilities Easement for sewer infrastructure, as further described in Exhibit "A" to the Modification of Easement, as well as pavers, curbs and landscaping.

Section 3. In exchange for the granting of the Modification of Easement, the Developer shall: (1) make a payment to the County in the amount of \$900,000.00; (2) execute the Hold Harmless and Indemnification Agreement attached as Exhibit 2 to the accompanying County Mayor's memorandum ("Hold Harmless"); and (3) provide a corporate guarantee from PRH Investments, LLC in the amount of \$50,000,000.00 as well as adding the County as an additional insured to its prime contractor's insurance. The Developer's payment of the \$900,000.00 and proof of corporate guarantee and insurance will be made within five days of recordation of the Modification of Easement and Hold Harmless.

Section 4. This Board authorizes the County Mayor or County Mayor's designee to execute the Modification of Easement for and on behalf of the County, to take all actions necessary to effectuate same, and to exercise all provisions contained therein, including the right of termination, contingent upon the conditions set forth in Section 6, herein.

Section 5. This Board approves the Hold Harmless and authorizes the County to execute the acceptance of same, to take all actions necessary to effectuate the same, and to exercise all provisions contained therein, contingent upon the conditions set forth in Section 6, herein.

Section 6. Prior to execution of the Modification of Easement and the acceptance of the Hold Harmless, the County Mayor or County Mayor's designee shall obtain written confirmation from an independent third-party hired by the County that the proposed construction of the Developer's proposed stormwater improvements, and the revised position of the Developer's pilings relative to the County infrastructure are safe and viable. If the County Mayor or County Mayor's designee, in its sole discretion, concurs with such written confirmation, the County Mayor or County Mayor's designee is directed to attach Exhibit "C" to the Modification of Easement reflecting restrictions of such proposed construction and finalize such transaction.

Section 7. Pursuant to Resolution No. R-974-09, the County Mayor or County Mayor's designee is directed to record the Modification of Easement and the Hold Harmless Agreement in the public records of the County and provide recorded copies to the Clerk of the Board within 30 days of the execution of said instruments, and further directs the Clerk of the Board to permanently store the recorded copies with this resolution.

The foregoing resolution was offered by Commissioner **Anthony Rodriguez** , who moved its adoption. The motion was seconded by Commissioner **Danielle Cohen Higgins** and upon being put to a vote, the vote was as follows:

Oliver G. Gilbert, III, Chairman	aye		
Anthony Rodríguez, Vice Chairman	aye		
Marleine Bastien	aye	Juan Carlos Bermudez	absent
Kevin Marino Cabrera	absent	Sen. René García	aye
Roberto J. Gonzalez	aye	Keon Hardemon	aye
Danielle Cohen Higgins	aye	Eileen Higgins	aye
Kionne L. McGhee	aye	Raquel A. Regalado	aye
Micky Steinberg	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 16th day of July, 2024. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.



MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

JUAN FERNANDEZ-BARQUIN, CLERK

By: Basia Pruna
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

SED

Sarah E. Davis
Debra Herman