

EXECUTIVE SUMMARY

- PROJECT:** C-14/Old Pompano Canal Right of Way
- COUNTY:** Broward
- SIZE:** 0.18 +/- acres
- PURPOSE:** Release and termination of a portion of the C-14/ Old Pompano Canal Right of Way
- APPLICANT:** MMJC Realty, Inc.
- HIGHLIGHTS:** Applicant, requests release of District's Right of Way Easement with respect to subject parcel in order to clear overgrown vegetation and to construct a marina as part of its Subdivision.

CONSIDERATIONS: On July 11, 2007, the Governing Board approved a request for release of the District's interest in a portion of the C-14/Old Pompano Canal Right of Way containing 0.18 acres, more or less, located in Section 1, Township 49 South, Range 42 East, Broward County, to the applicant, MMJC Realty, Inc., for residential development and a marina.

The applicant received approval subject to conditions that included paying no less than appraised value for the interest, as well as any and all costs and fees associated with the construction, liability and maintenance of a seawall along or within that portion of the canal right-of-way being released, and the execution of a maintenance agreement accepting responsibility for said seawall/bank stabilization. The construction of the above referenced seawall/bank stabilization was to be completed prior to August 1, 2012, but has not been completed.

The applicant has requested (1) the requirement that a seawall be constructed be changed to require the construction of a seawall or alternative form of bank stabilization acceptable to the District and all other permitting agencies; and (2) additional time to satisfy the terms and conditions set forth in Resolution No. 2008-1002, as rescinded and replaced by this Resolution.

The District is willing to revise the condition for the construction of the seawall, and extend the date by which the applicant must satisfy the required terms and conditions, and approves releasing and terminating approximately 0.18 +/- acres, more or less, from the current easement area, located in Section 1, Township 49 South, Range 42 East, Broward County, C-14/Old Pompano Canal Right of Way, to the underlying fee owner, provided all of the following terms, conditions, and requirements are satisfied to the satisfaction of the District, in its sole and absolute discretion:

- a. Underlying fee owner must provide a legal description and sketch for the release and termination instrument.
- b. All costs associated with this release shall be paid for by the underlying fee owner, including but not limited to all recording and other closing costs, and under no circumstances shall the District be obligated to pay any amount to the underlying fee owner or otherwise in connection with this transaction.

- c. The underlying fee owner shall obtain from Broward County and any other applicable governmental entities, all required approvals of the proposed release of right of way, if applicable.
- d. The underlying fee owner shall pay to the District no less than appraised value for the release of the subject portion of the Canal Easement. The appraiser, appraisal and appraised value must all be acceptable to and approved by the District.
- e. The underlying fee owner shall obtain all required permits from the District (including but not limited to right of way permits, regulatory permits, environmental resource permits, consumptive use permits, etc.), Broward County, and any other governmental entities, if any, and pay all associated fees. There is no representation, guaranty or assurance made by the District that the District's Governing Board will in fact approve the issuance of any required District permits, and there is no obligation on the part of the District's Governing Board to approve the issuance of any required District permits. The District's review process for any required permits will be done separate, independent and unfettered of the fact that the District has approved this Resolution and shall be in accordance with the District's applicable rules.
- f. The construction, on or before August 1, 2015 at no cost to the District, of a seawall or alternative form of bank stabilization, whichever is deemed acceptable by the District and all other permitting agencies, within this reach of the canal.
- g. The execution by the underlying fee owner, on or before August 1, 2015, of a maintenance agreement whereby the applicant will accept future liability and maintenance responsibilities for said seawall/bank stabilization on behalf of the underlying fee owner, its successors, assigns and all subsequent owners.
- h. All of the foregoing terms, conditions, and requirements set forth in subparagraphs (a.) through (g.), inclusive, must be satisfied to the satisfaction of the District in its sole and absolute discretion no later than August 1, 2015.

FISCAL IMPACT: As stated in Resolution 2007-712 (rescinded) and replaced by 2008-1002, this parcel is part of the C-14/Old Pompano Canal Right of Way and the District obtained its interest in the right of way from the Trustees, via Everglades Drainage District, at no cost. The applicant will pay no less than appraised value for the interest to be released and the lands shall be returned to the tax roll.

AUTHORIZATION: The Governing Board, pursuant to Section 373.096 of the Florida Statutes, may release any right of way interests conveyed to it for which it has no present or apparent future use under terms and conditions determined by the Governing Board

RECOMMENDATION: A Resolution of the Governing Board of the South Florida Water Management District approving the release and termination of the District's interest in a portion of the C-14/Old Pompano Canal Right of Way containing 0.18 acres, more or less, Section 1, Township 49 South, Range 42 East, Broward County, subject to certain terms and conditions; rescinding Resolution No. 2008-1002 relating to the same subject; providing an effective date.

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