

1  
2 **SOUTH FLORIDA WATER MANAGEMENT DISTRICT**  
3

4 **RESOLUTION NO. 2012-\_\_\_\_\_**  
5

6 **A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER**  
7 **MANAGEMENT DISTRICT APPROVING THE RELEASE AND TERMINATION OF THE**  
8 **DISTRICT'S INTEREST IN A PORTION OF THE C-14/OLD POMPANO CANAL RIGHT OF**  
9 **WAY CONTAINING 0.18 ACRES, MORE OR LESS, SECTION 1, TOWNSHIP 49 SOUTH,**  
10 **RANGE 42 EAST, BROWARD COUNTY, SUBJECT TO CERTAIN TERMS AND**  
11 **CONDITIONS; RESCINDING RESOLUTION NO. 2008-1002 RELATING TO THE SAME**  
12 **SUBJECT; PROVIDING AN EFFECTIVE DATE.**  
13

14 **WHEREAS**, on July 11, 2007, the Governing Board approved a request for release of  
15 the District's interest in a portion of the C-14/Old Pompano Canal Right of Way containing  
16 0.18 acres, more or less, located in Section 1, Township 49 South, Range 42 East, Broward  
17 County, to the applicant, MMJC Realty, Inc.; and

18 **WHEREAS**, pursuant to that request from the applicant the District determined that it  
19 was in the public interest to release the aforesaid portion of the C-14/Old Pompano Canal  
20 Right of Way containing 0.18 acres, more or less, located in Section 1, Township 49 South,  
21 Range 42 East, Broward County, for residential development and a marina; and

22 **WHEREAS**, the applicant received approval subject to conditions that included paying  
23 no less than appraised value for the interest, as well as any and all costs and fees associated  
24 with the construction, liability and maintenance of a seawall along or within that portion of the  
25 canal right-of-way being released, and the execution of a maintenance agreement accepting  
26 responsibility for said seawall/bank stabilization; and

27 **WHEREAS**, the construction of the above referenced seawall/bank stabilization was to  
28 be completed prior to August 1, 2012;

29 **WHEREAS**, the Governing Board, pursuant to Section 373.096 of the Florida Statutes,  
30 may release any right of way interests conveyed to it for which it has no present or apparent  
31 future use under terms and conditions determined by the Governing Board; and

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

37           **WHEREAS**, the District is willing to revise the condition for the construction of the  
38 seawall, and extend the date by which the applicant must satisfy such terms and conditions,  
39 as provided hereinbelow.

40           **NOW THEREFORE, BE IT RESOLVED** by the Governing Board of the South Florida  
41 Water Management District:

42    **Section 1:**    The Governing Board of the South Florida Water Management District has  
43 determined that the District has no present or apparent future use for the subject portion of  
44 canal right of way easement and therefore hereby approves releasing and terminating  
45 approximately 0.18 +/- acres, more or less, from the current easement area, located in Section  
46 1, Township 49 South, Range 42 East, Broward County, C-14/ Old Pompano Canal Right of  
47 Way, to the underlying fee owner, provided all of the following terms, conditions, and  
48 requirements are satisfied to the satisfaction of the District, in its sole and absolute discretion:

- 49           a.       Underlying fee owner must provide a legal description and sketch for the  
50                   release and termination instrument.
- 51           b.       All costs associated with this release shall be paid for by the underlying fee  
52                   owner, including but not limited to all recording and other closing costs, and  
53                   under no circumstances shall the District be obligated to pay any amount to  
54                   the underlying fee owner or otherwise in connection with this transaction.
- 55           c.       The underlying fee owner shall obtain from Broward County and any other  
56                   applicable governmental entities, all required approvals of the proposed  
57                   release of right of way, if applicable.
- 58           d.       The underlying fee owner shall pay to the District no less than appraised  
59                   value for the release of the subject portion of the Canal Easement. The  
60                   appraiser, appraisal and appraised value must all be acceptable to and  
61                   approved by the District.
- 62           e.       The underlying fee owner shall obtain all required permits from the District  
63                   (including but not limited to right of way permits, regulatory permits,  
64                   environmental resource permits, consumptive use permits, etc.), Broward  
65                   County, and any other governmental entities, if any, and pay all associated  
66                   fees. There is no representation, guaranty or assurance made by the District  
67                   that the District's Governing Board will in fact approve the issuance of any  
68                   required District permits, and there is no obligation on the part of the District's  
69                   Governing Board to approve the issuance of any required District permits.  
70                   The District's review process for any required permits will be done separate,  
71                   independent and unfettered of the fact that the District has approved this  
72                   Resolution and shall be in accordance with the District's applicable rules.
- 73           f.       The construction, on or before August 1, 2015 at no cost to the District, of a  
74                   seawall or alternative form of bank stabilization, whichever is deemed  
75                   acceptable by the District and all other permitting agencies, within this reach  
76                   of the canal.
- 77           g.       The execution by the underlying fee owner, on or before August 1, 2015, of a  
78                   maintenance agreement whereby the applicant will accept future liability and  
79                   maintenance responsibilities for said seawall/bank stabilization on behalf of  
80                   the underlying fee owner, its successors, assigns and all subsequent owners.

81 h. All of the foregoing terms, conditions, and requirements set forth in  
82 subparagraphs (a.) through (g.), inclusive, must be satisfied to the  
83 satisfaction of the District in its sole and absolute discretion no later than  
84 August 1, 2015.  
85

86 **Section 2:** The Governing Board of the South Florida Water Management District hereby  
87 authorizes the Chairman to execute the release/termination instrument upon satisfaction of  
88 all of the foregoing terms, conditions and requirements to the satisfaction of the District in its  
89 sole and absolute discretion. No release/termination instrument shall be delivered to the  
90 underlying fee owner, or shall be effective, until all of the foregoing requirements have been  
91 fully completed and fulfilled to the District's satisfaction in the District's sole and absolute  
92 discretion. Furthermore, such release/termination will not be effective until it has been  
93 executed by the underlying fee owner and the District and has been recorded in the Public  
94 Records of Broward County, Florida.

95 **Section 3:** This Resolution rescinds and replaces Resolution Number 2008-1002, dated  
96 October 9, 2008.

97 **Section 4:** This Resolution shall take effect immediately upon adoption.

98  
99 **PASSED and ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

100  
101  
102 SOUTH FLORIDA WATER MANAGEMENT  
103 DISTRICT, BY ITS GOVERNING BOARD  
104

105  
106 By: \_\_\_\_\_  
107 Joe Collins, Chairman  
108

109  
110  
111  
112  
113 ATTEST:

Legal Form Approved:

114  
115  
116 By: \_\_\_\_\_  
117 District Clerk/Secretary

By: \_\_\_\_\_  
Andrew R. Ross, Office of Counsel