

1 SOUTH FLORIDA WATER MANAGEMENT DISTRICT

2
3 RESOLUTION NO. 2010-_____

4
5 A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER
6 MANAGEMENT DISTRICT TO APPROVE RELEASING ROAD EASEMENT
7 INTERESTS CONTAINING 0.90 ACRES, MORE OR LESS, TO THE UNDERLYING
8 FEE OWNER, LOCATED WITHIN ORANGEBROOK ESTATES (N/K/A VALENCIA
9 LANDINGS) SUBDIVISION, IN SECTION 1, TOWNSHIP 43 SOUTH, RANGE 28 EAST
10 AND IN SECTION 6, TOWNSHIP 43 SOUTH, RANGE 29 EAST, HENDRY COUNTY,
11 SUBJECT TO SATISFACTION OF CERTAIN TERMS, CONDITIONS AND
12 REQUIREMENTS, INCLUDING CONVEYANCE OF A REPLACEMENT EASEMENT
13 TO THE DISTRICT; REPEALING RESOLUTION NO. 2009-602; PROVIDING AN
14 EFFECTIVE DATE.
15

16 WHEREAS, pursuant to a request from the applicant/underlying fee owner,
17 Orangebrook Estates, LLC, a Florida limited liability company, the District has
18 determined that it is in the public interest to release road easement interests
19 encumbering approximately 0.90 acres, more or less, of the applicant's property located
20 in Section 1, Township 43 South, Range 28 East, and in Section 6, Township 43 South,
21 Range 29 East, Hendry County, to the underlying fee owner, in order that the property
22 may be used for residential development purposes; and

23 WHEREAS, provided certain terms, conditions and requirements are met, the
24 Governing Board has determined that the approximate 0.90 ± acre parcel is not required
25 by the District for present or apparent future use; and

26 WHEREAS, the applicant/underlying fee owner, has paid a \$1,000.00 non-
27 refundable application fee, and will pay all fees and costs associated with the release as
28 well as the fees and costs associated with the new road easement; and

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

33 WHEREAS, the Governing Board approved Resolution No. 2007-716 which
34 approved the release of the District's interest in the access road easement that
35 encumbers the applicant's property subject to the satisfaction of certain conditions; and

36 WHEREAS, due to construction delays and the poor economy, the
37 applicant/owner requested and received an extension of the termination date under

38 Resolution No. 2009-602 from August 1, 2009 to August 1, 2010, which also rescinded
39 Resolution No. 2007-716

40 **WHEREAS**, due to the continuing poor economy, the applicant/owner has
41 requested that the District extend the termination date of the terms, conditions and
42 requirements of said Resolution No. 2009-602, Section 3, from August 1, 2010 until
43 August 1, 2014.

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

46 **Section 1:** The Governing Board of the South Florida Water Management District
47 hereby approves releasing road easement interests containing approximately 0.90
48 acres, more or less, to the underlying fee owner, more particularly described as: District
49 Tract 34100-081, located in Section 1, Township 43 South, Range 28 East, and in
50 Section 6, Township 43 South, Range 29 East, Hendry County, C-43 (Caloosahatchee)
51 Canal project; subject to the following terms, conditions, and requirements which must
52 be satisfied to the District's satisfaction prior to delivery of the release of easement
53 instrument to the applicant/underlying fee owner:

- 54 a. A new access road easement, in form and content satisfactory to the District, must
55 be executed, delivered, and recorded in favor of the District with respect to the real
56 property more particularly described as District Tract 34100-080. The District must
57 be provided title insurance that the new access easement conveyed to the District
58 is granted by the underlying fee owner, that all necessary organizational approvals
59 of the owner have been obtained, and that the new access easement conveyed to
60 the District is free and clear of any and all liens, encumbrances and/or other matters
61 objectionable to the District.
- 62 b. The new access road easement must provide legal and practical access to the U.S.
63 Army Corps of Engineers ("COE") tract known as 1302-E and the District's tract
64 shown as Parcel No. 2648 on Sheet 6, of Canal C-43 Map, located in Section 6,
65 Township 43 South, Range 29 East, Hendry County.
- 66 c. The underlying fee owner must complete construction of a bridge/concrete culvert
67 across Bee Branch Creek that meets District requirements, including but not limited
68 to, width and weight requirements for heavy construction equipment. Construction
69 of said bridge/concrete culvert must be permitted and in compliance with all

70 governmental requirements, including but not limited to, State, County, and District
71 requirements, laws and standards.

72 d. The developer must inform all future owners of property within the development of
73 Orangebrook Estates (n/k/a Valencia Landings) of the potential for future use of
74 parcel 1302-E as a spoil easement by the District and the COE. Said disclosure
75 must be included in the homeowner's association documents, including the
76 Declaration of Restrictions, which must be recorded in the Public Records of
77 Hendry County, and must include disclosure of potential impacts of heavy
78 equipment, hauling and disposing of spoil, noise, and offensive odors.

79 **Section 2:** The Governing Board of the South Florida Water Management District
80 hereby authorizes the Chairman to execute the release document. No release
81 instrument shall be delivered to the applicant/underlying fee owner, or shall be effective,
82 until all of the foregoing requirements have been fully completed and fulfilled to the
83 District's satisfaction.

84 **Section 3:** In the event all of the terms, conditions, and requirements set forth in
85 Section 1 are not satisfied to the District's satisfaction on or before August 1, 2014, then
86 the release of easement interests authorized by this Resolution shall automatically
87 terminate and have no further force or effect.

88 **Section 4:** This Resolution repeals and replaces Resolution No. 2009-602
89 concerning the same release.

90 **Section 5:** This Resolution shall take effect immediately upon adoption.

91
92 **PASSED** and **ADOPTED** this _____ day of _____, 2010.

93
94
95 SOUTH FLORIDA WATER MANAGEMENT
96 DISTRICT, BY ITS GOVERNING BOARD

97
98
99 By: _____
100 Eric Buermann, Chairman

101
102
103 ATTEST:

Legal form approved:

104
105
106 By: _____
107 District Clerk/Secretary

By: _____
Office of Counsel