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RIGHT OF WAY OCCUPANCY CONSENT AGENDA FOR GOVERNING BOARD APPROVAL

AUGUST 10, 2005

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Governing Board action is required for routine requests for permits which conform to applicable rules for utilization of Works and Lands of the District. Items are placed on this Consent Agenda when the staff's recommendation is for <u>approval</u> .	
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Governing Board action is required for routine requests which involve a change, addition or deletion to a use of the right of way which was previously permitted. Items are placed on this Consent Agenda when the staff's recommendation is for approval.	
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Governing Board action is required on petitions received requesting a waiver of District criteria. Section 120.542, F.S. and Rule 28-104.002, F.A.C., requires agencies to <u>grant variances and waivers</u> to their own rules when a person subject to the rules files a petition and demonstrates that he or she can achieve, or has achieved, the purpose of the underlying statute by other means <u>and</u> when application of rule would create a substantial hardship or would violate principles of fairness. A "substantial hardship" is defined as a demonstrated economic, technological, legal or other type of hardship to the person requesting the waiver. "Principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule. A "waiver" is defined as an agency decision not to apply all or part of a rule to the person subject to the rule.	

RIGHT OF WAY OCCUPANCY NEW PERMITS

4. CAMACHO, ROBINSON Permit Number 12651
Miami-Dade County Appl. No. 05-0628-1
(Fee)

AUTHORIZING: 2 EXISTING PALM TREES 3' INSIDE THE EAST RIGHT OF WAY OF C-1W (41' FROM THE TOP OF THE CANAL BANK) AT THE REAR OF 14570 SOUTHWEST 156TH AVENUE (LOT 48, BLOCK 1, OAK CREEK).

LAST DATE FOR BOARD ACTION: SEPTEMBER 14, 2005

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5. HAMMOND, DOUG Permit Number 12656
Broward County Appl. No. 04-1118-5
(Easement)

AUTHORIZING: PORTION OF (2) EXISTING FINGER PIERS, RIP-RAP AND DREDGING WITHIN THE SOUTH RIGHT OF WAY OF THE DANIA CUT-OFF CANAL LOCATED IMMEDIATELY WEST OF SOUTHWEST 30TH AVENUE.

LAST DATE FOR BOARD ACTION: OCTOBER 12, 2005

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6. TROTTA, THOMAS & DEBORAH Permit Number 12657
Miami-Dade County Appl. No. 05-0628-2
(Easement)

AUTHORIZING: PROPOSED REPLACEMENT OF BATTER PILES AND CAP OF EXISTING 75 LINEAR FEET OF EXISTING SEAWALL AND THE REPLACEMENT OF THE EXISTING DOCK WITHIN THE SOUTH RIGHT OF WAY OF C-8 AT THE REAR OF 1665 NORTHEAST 104TH STREET (LOT 21, BLOCK 3, RIVER BAY PARK ADDITION).

LAST DATE FOR BOARD ACTION: SEPTEMBER 14, 2005

RIGHT OF WAY OCCUPANCY NEW PERMITS

7. VERGA, DOUGLAS Permit Number 12658
St. Lucie County Appl. No. 05-0630-2
(Fee)

AUTHORIZING: EXISTING DOCK AND PROPOSED REQUIRED RIP-RAP WITHIN THE NORTH RIGHT OF WAY OF C-23 AT THE REAR OF 363 SOUTHWEST KESTOR DRIVE (LOT 14 AND 15, BLOCK 2379, PORT ST. LUCIE SECTION 34).

LAST DATE FOR BOARD ACTION: SEPTEMBER 14, 2005

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8. LACERTOSA, DOMENIC Permit Number 12661
Broward County Appl. No. 05-0627-1
(Easement)

AUTHORIZING: EXISTING SAND-CEMENT BAG WALL, CONCRETE PAVERS AND A PROPOSED WOOD DECK WITHIN THE NORTH RIGHT OF WAY OF C-10 SPUR AT THE REAR OF 3110 NORTH 34TH STREET (LOT 53, BLOCK 2, EMERALD HILLS SECTION 3).

LAST DATE FOR BOARD ACTION: SEPTEMBER 14, 2005

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9. GOLDIN, ARTHUR H. Permit Number 12662
Palm Beach County Appl. No. 05-0622-2
(Easement)

AUTHORIZING: EXISTING WOOD STAIRWAY EXTENDING FROM THE DEVELOPMENT'S EXISTING CONCRETE WALL LOCATED PARALLEL TO AND JUST OUTSIDE THE DISTRICT'S NORTH CANAL RIGHT OF WAY LINE AND INSTALLATION OF A DOCK WITHIN THE NORTH RIGHT OF WAY OF THE HILLSBORO CANAL AT THE REAR OF 23378 TORRE CIRCLE (LOT 32, COSTA DEL SOL).

LAST DATE FOR BOARD ACTION: OCTOBER 12, 2005

RIGHT OF WAY OCCUPANCY PERMIT MODIFICATIONS

1. MARTINEZ, LISA M. ELLER & LAZARO
Broward County

Permit Number 12141
Appl. No. 05-0627-3M
(Easement)

AUTHORIZING: EXISTING DECK AND CHICKEE WITH DECORATIVE STONES AND ELECTRIC SERVICE ENCROACHING 7' INSIDE THE PREVIOUSLY-AUTHORIZED FENCING WITHIN THE WEST RIGHT OF WAY OF C-42 AT THE REAR OF 3170 NORTHWEST 113TH AVENUE (LOT 27, BLOCK 20, SUNRISE GOLF VILLAGE SECTION 24, PART 2).

LAST DATE FOR BOARD ACTION: SEPTEMBER 14, 2005

RIGHT OF WAY OCCUPANCY PERMIT REQUESTS WITH WAIVER OF DISTRICT CRITERIA

1. Consideration of a request by **Southern Homes of Davie, II, LLC**, (Application Number 05-0506-4, Permit Number 12647) for issuance of a Right of Way Occupancy Permit and waiver of the District's criteria to allow the proposed installation of 125 linear feet of guardrail within the north right of way of C-11, 7 feet from the top of the canal bank, approximately 1944' west of Flamingo Road bridge. Location: Broward County, Section 26, Township 50 South, Range 40 East.

The applicant's request for Waiver of the District's criteria, which governs the placement of permanent and/or semi-permanent above-ground installations within 40 feet of the top of the canal bank is based on "substantial hardship". The applicant asserts that without the placement of the proposed guardrail at that location, an unsafe and hazardous driving condition could exist due to vehicular traffic – especially those drivers who may be unfamiliar with the area, as there would be the potential for traffic exiting the adjacent development to mistakenly drive straight into the canal. The District's Operations Maintenance Resource staff has met on-site and reviewed the proposal with the applicant and has determined that the proposed installation of the guardrail will not interfere with its current ability to perform necessary construction, alteration, operation and routine maintenance activities. This is based on the fact that existing Orange Drive roadway is located within the District's northerly canal right of way throughout this reach of C-11, because of this and the width of the District's northerly overbank (approximately 75'), the proposed section of guardrail will not cause an additional impediment as the District would continue to have the same level of available access for its vehicles and equipment as it currently enjoys.

The applicant's petition has been reviewed by the Office of Counsel for compliance with the applicable legal requirements. Pursuant to section 120.542(6), F.S., notice of the petition was provided to the Department of State and was published in *Volume 31, Number 22* of the *Florida Administrative Weekly* on *June 3, 2005*. No public comments were received.

Therefore, staff recommends **approval** of the issuance of Right of Way Occupancy Permit Number 12647 and **approval** of the Petition for waiver which governs the placement of permanent and/or semi-permanent above-ground installations within 40 feet of the top of the canal bank.
(Easement)