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RIGHT OF WAY OCCUPANCY CONSENT AGENDA FOR GOVERNING BOARD APPROVAL

April 14, 2011

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RIGHT OF WAY OCCUPANCY NEW PERMITS

1. EUGENE AND SANDRA D. ZONTA
COUNTY:ST. LUCIE

Permit Number 13828
Appl. Number 11-0120-3
Easement

AUTHORIZING:

EXISTING LANDSCAPING CONSISTING OF MULTIPLE TREES ENCROACHING 30' (70' FROM TOP OF BANK) WITHIN THE NORTH RIGHT OF WAY OF C-24 AT THE REAR OF 1752 SW LEXINGTON DRIVE (LOT 25, BLOCK 1330, PORT ST. LUCIE SECTION 11).

LAST DATE FOR BOARD ACTION: **April 14, 2011**

2. ANTOINETTE ST. MARTIN
COUNTY:ST. LUCIE

Permit Number 13819
Appl. Number 11-0120-1
Easement

AUTHORIZING:

EXISTING DOCK AND WITH PROPOSED RIP-RAP; AN EXISTING FENCE ENCLOSURE ENCROACHING APPROXIMATELY 36' (54' FROM TOP OF BANK) WITH EXISTING MISCELLANEOUS LANDSCAPING INSIDE THE FENCING WITHIN THE NORTH RIGHT OF WAY OF C-24 AT THE REAR OF SW LEXINGTON DRIVE (LOT 12, BLOCK 1330, PORT ST. LUCIE SECTION 11).

LAST DATE FOR BOARD ACTION: **April 14, 2011**

3. ROBERT CHITTY
COUNTY:MIAMI-DADE

Permit Number 13836
Appl. Number 11-0118-1
Easement

AUTHORIZING:

75 LINEAR FEET OF EXISTING SEAWALL, REMOVAL OF THE WESTERN 10' OF EXISTING DOCK RELOCATION OF EXISTING WOODEN PILE AND INSTALLATION OF A BOAT LIFT AND ELECTRICAL SERVICE WITH LIGHTS WITHIN THE SOUTH RIGHT OF WAY OF C-8 AT THE REAR OF 1665 NORTHEAST 104TH STREET (LOT 21, BLOCK 3, RIVER PARK ADDITION).

LAST DATE FOR BOARD ACTION: **April 14, 2011**

4. ROBERT AND DAVINA CLARK
COUNTY:COLLIER

Permit Number 13811
Appl. Number 11-0126-2
Easement

AUTHORIZING:

EXISTING WOODEN DECK WITHIN THE EAST RIGHT OF WAY OF THE I-75 CANAL AT THE REAR OF 1735 OAKES BOULEVARD (LOT 5, GOLDEN GATE ESTATES).

LAST DATE FOR BOARD ACTION: **April 14, 2011**

5. SCARLET, LLC
COUNTY:BROWARD

Permit Number 13834
Appl. Number 11-0211-2
Fee

AUTHORIZING:

REPLACEMENT/REPAIR OF 110 LINEAR FEET OF EXISTING SEAWALL CAP AND REPLACEMENT OF EXISTING DOCK AND PILINGS WITHIN THE EAST RIGHT OF WAY OF C-14 AT THE REAR OF 1301 SE 5TH AVENUE (HIGH RIDGE ESTATES).

LAST DATE FOR BOARD ACTION: **May 12, 2011**

RIGHT OF WAY OCCUPANCY PERMIT MODIFICATIONS

1. DENNIS J. AND EILEEN M. KIICK
COUNTY:ST. LUCIE

Permit Number 12114
Appl. Number 11-0113-4M

Easement

AUTHORIZING:

EXISTING AND PROPOSED LANDSCAPING CONSISTING OF MULTIPLE TREES ENCROACHING APPROXIMATELY 35' (40' FROM TOP OF BANK) WITHIN THE NORTH RIGHT OF WAY OF C-24 AT THE REAR OF 1416 SW SULTAN DRIVE (LOT 33, BLOCK 1312, PORT ST. LUCIE SECTION 12).

LAST DATE FOR BOARD ACTION: **April 14, 2011**

2. DAVID J. AND DIANA PELLICANO
COUNTY:ST. LUCIE

Permit Number 12382
Appl. Number 11-0125-1M

Easement

AUTHORIZING:

EXISTING LANDSCAPING CONSISTING OF 3 QUEEN PALM TREES AND A ROYAL PALM TREE ENCROACHING 10' (90' FROM THE TOP OF BANK) WITHIN THE NORTH RIGHT OF WAY OF C-24 AT THE REAR OF 1951 S.W. IMPORT DRIVE (LOT 11, BLOCK 1735, PORT ST. LUCIE SECTION 31).

LAST DATE FOR BOARD ACTION: **April 14, 2011**

3. WILLIAM AND ANNA FITE
COUNTY:ST. LUCIE

Permit Number 12746
Appl. Number 11-0120-2M

Easement

AUTHORIZING:

EXISTING AND PROPOSED LANDSCAPING CONSISTING OF MULTIPLE TREES ENCROACHING 15' (41' FROM THE TOP OF BANK) WITHIN THE SOUTH RIGHT OF WAY OF C-24 AT THE REAR OF 1895 S.W. IMPORT ROAD (LOT 50, BLOCK 1670, PORT ST. LUCIE SECTION 31).

LAST DATE FOR BOARD ACTION: **April 14, 2011**

4. ROBERT E. GAMMONS
COUNTY:BROWARD

Permit Number 4426
Appl. Number 10-0301-1

AUTHORIZING:

EXISTING FENCE ENCLOSURE ENCROACHING APPROXIMATELY 80' (50' FROM TOP OF BANK) WITH AN EXISTING TEMPORARY SHED , WOODEN DECK SITTING AREA, BAR-B-QUE AREA AND EXISTING TREES, ALL LOCATED WITHIN THE FENCE ENCLOSURE ON THE NORTH RIGHT OF WAY OF C-13 AT THE REAR OF 3350 N.W. 39TH STREET (ORIOLE ESTATES, SEC 7, LOT 12,13, BLK 29).

LAST DATE FOR BOARD ACTION: **April 14, 2011**

RIGHT OF WAY OCCUPANCY PERMIT MODIFICATIONS

5. ROBERT H. BREWSTER JR.
COUNTY:PALM BEACH

Permit Number 13643
Appl. Number 11-0114-1M

Easement

AUTHORIZING:

EXISTING BOAT LIFT ATTACHED TO EXISTING, PREVIOUSLY-AUTHORIZED DOCK WITHIN THE NORTH RIGHT OF WAY OF C-16 AT THE REAR OF 830 SHORE DRIVE (LOT 47, COQUINA COVE).

LAST DATE FOR BOARD ACTION: **April 14, 2011**

6. BROWARD COUNTY BOARD OF COUNTY COMMISSIONERS
COUNTY:BROWARD

Permit Number 13793
Appl. Number 11-0113-6

Easement

AUTHORIZING:

GREENWAY IMPROVEMENTS CONSISTING OF CONCRETE PATHWAY, SIGNAGE AND APPURTENANCES WITHIN THE NORTH RIGHT OF WAY OF THE NORTH NEW RIVER CANAL BEGINNING AT NW 136TH STREET AND RUNNING WESTERLY TO MARKHAM PARK (APPROXIMATELY 1 MILE).

LAST DATE FOR BOARD ACTION: **May 12, 2011**

RIGHT OF WAY OCCUPANCY PERMIT REQUESTS WITH WAIVER OF DISTRICT CRITERIA

1. Consideration of a request submitted by **Florida Power and Light Company** (Application Number 11-0224-1, Permit Number 13835) for Waiver of District criteria and issuance of a Right of Way Occupancy Permit for the proposed installation of a aerial transmission line crossing C-102 with placement of a concrete pole within the west right of way of C-102 immediately north of S.W. 248th Street bridge as part of Florida Power and Light Company's new Princeton Substation. Location: Miami-Dade County, Section 23, Township 56 South, Range 39 East.

The applicant's petition requests a waiver of the District's criteria which governs the placement of permanent and/or semi-permanent above-ground encroachments within the District's designated equipment staging areas located at all bridges and pile-supported crossings within Works and Lands of the District is based on "substantial hardship". The applicant asserts that a substantial hardship exists as there is now an expedited need to energize the new Substation and, although the Applicant is in final negotiations with the landowner to the west of this site for a platted easement for the aerial parallel portion and associated facilities of this transmission line; there is no other alternate location available to place the proposed pole to accommodate the proposed crossing and meet all vertical clearance requirements. The District's Operations and Maintenance staff has reviewed the applicant's proposal and site conditions and has determined that proposed facilities will not interfere with the District's current ability to perform necessary construction, alteration, operation and maintenance activities, so the purpose of the underlying statute will be achieved.

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 published in *Volume 37, Number 11* of the *Florida Administrative Weekly* on *March 18, 2011*. No public comments were received.

Therefore, staff recommends **approval** of the issuance of the issuance of Right of Way Occupancy Permit t Number 13835, and **approval** of the petition for waiver of the District's criteria which governs the placement of permanent and/or semi-permanent above-ground encroachments within the District's designated equipment staging areas at all bridges and pile-supported crossings within Works or Lands of the District.

(Fee)

2. Consideration of a request by **Robert Kyle and Joy Luanne Ray** (Application Number 11-0304-2, Permit Number 13837), for issuance of a Right of Way Occupancy Permit and Waiver of the District's criteria for the proposed temporary vehicular use of approximately 22.5 miles of L-28 right of way to gain access to the applicant's camp/cabin which is located approximately 1.3 miles from L-28 in Big Cypress, located in Miami-Dade and Collier Counties.

The applicant's petition requests a waiver of the District's criteria which governs that except for public and private utilities, an applicant must own or lease the land adjacent to or served by the portions of the Works of Lands of the District and is based on "substantial hardship". The applicant states that a substantial hardship exists due to the

RIGHT OF WAY OCCUPANCY PERMIT REQUESTS WITH WAIVER OF DISTRICT CRITERIA

fact that reaching their property is needed to maintain private property and make necessary repairs to keep the camp in good, safe working condition, and when water levels drop periodically, access with the airboat is impossible.

During times of normal or average water levels, the applicant accesses their property using an airboat, therefore, utilization of the District's right of way for vehicular access would only be at those times when the water levels are low and the use of airboats to reach the camp is not possible. The applicant obtained a permit from the Miccosukee Tribe of Indians of Florida for access through their Leased Lands; from the National Park Services for access from L-28 to the camp/cabin, the Florida Fish and Wildlife Conservation Commission has also granted a permit for access to cross the Water Conservation Area via airboat leaving from Holiday Park at times of high water. The applicant states that the inability to have access to their camp/cabin to maintain the property as required by the Park Service would cause violations and possible loss of property.

The District's Operations and Maintenance Resource staff have reviewed the proposal and have determined that the proposed temporary vehicular use of the L-28 right of way will not significantly interfere with the District's current ability to perform necessary construction, alteration, operation and routine maintenance activities, so the purpose of the underlying statute will be achieved.

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 37, Number 11* of the *Florida Administrative Weekly* on *March 18, 2011*. No public comments were received.

Therefore, staff recommends **approval** of the issuance of Right of Way Occupancy Permit Number 13837 and **approval** of the petition for waiver of the District's criteria which governs the requirement that except for public and private utilities, an applicant must own or lease the land lying adjacent to the District Work within Works or Lands of the District.

(Easement)

3. Consideration of a request submitted by **CenturyLink (fka Sprint-Embarq)** (Application Number 10-0927-3, Modification of Permit Number 13627) for Waiver of District criteria and issuance of a Modification of Right of Way Occupancy Permit Number 13627. The project includes an existing aerial fiber optic cable, hung on Florida Power and Light Company poles, crossing the northern-most portion of the existing Airport Pulling Road culvert bridge within the Airport Road Canal (also located approximately 88' south of the centerline of Vanderbilt Beach Road bridge). Location: Collier County, Section 35, Township 48 South, Range 25 East.

The applicant's petition requests a waiver of the District's criteria which governs the minimum vertical clearance of aerial installations crossing Works and Lands of the District. The applicant's petition is based on both "substantial hardship" and "principles of fairness" as a substantial hardship exists due to the crowded nature of existing buried utilities in the vicinity of the project, which elevates the danger of damaging said utilities (including a force main and water main). Another option would have been to direct the buried proposed cable within the roadside shoulder

RIGHT OF WAY OCCUPANCY PERMIT REQUESTS WITH WAIVER OF DISTRICT CRITERIA

over the culvert bridge; however, the amount of existing cover above the culvert is inadequate. In addition, the applicant asserts that principles of fairness also applies due to the fact that other aerial utility installations exist (both authorized and unauthorized) crossing the canal right of way that do not meet the minimum clearance criteria (those unpermitted are currently under consideration for issuance of Right of Way Occupancy Permits).

The District's Big Cypress Basin Operation and Maintenance staff has reviewed the applicant's proposal and site conditions and has determined that as the Basin does not stage equipment at this site as maintenance is performed by water-based equipment, the existing non-voltage fiber optic crossing at 22' above the existing roadway does not interfere with the District's current ability to perform necessary construction, alteration, operation and maintenance activities, so the purpose of the underlying statute will be achieved.

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 published in *Volume 36, Number 49* of the *Florida Administrative Weekly* on *December 10, 2010*. No public comments were received.

Therefore, staff recommends **approval** of the issuance of a Modification of Right of Way Occupancy Permit Number 13627, and **approval** of the petition for waiver of the District's criteria which governs the minimum vertical clearance of aerial crossings within Works or Lands of the District.

(Easement)