

MEMORANDUM

TO: Governing Board Members

FROM: Tommy B. Strowd, Division Director, Operations, Maintenance & Construction

DATE: January 12, 2012

SUBJECT: Resolution to Un-adopt as Works of the District the C-1 Connector Canal Right of Way, portions of the Golden Gate Main Canal Right of Way, and portions of the Miller Canal Right of Way within the Big Cypress Basin, Collier County

Background:

Pursuant to Resolution Nos. 93-33, 90-05, and 91-03, the C-1 Connector Canal, the Golden Gate Main Canal, and the Miller Canal rights of way; respectively, were adopted as "Works of the District" in accordance with Section 373.086, Florida Statutes.

The South Florida Water Management District (the District) and Collier County entered into a certain Cooperative Agreement dated October 13, 2000, designated by the District as Contract C-11759 (Canal Maintenance Agreement), which among other things provided that the District would be the public agency in Collier County, Florida generally responsible for the control, operation and maintenance of the canals described therein.

Pursuant to the Third Amendment to the Canal Maintenance Agreement, the District and Collier County have agreed that the District would transfer all of its right, title, interest and control in the C-1 Connector Canal Right of Way, as well as portions of the Golden Gate Main Canal Right of Way and portions of the Miller Canal Right of Way, back to Collier County; and in connection therewith, the District would "Un-adopt" as "Works of the District" the C-1 Connector Canal Right of Way, as well as portions of the Golden Gate Main Canal Right of Way and portions of the Miller Canal Right of Way, upon which the C-1 Connector Canal Right of Way, as well as portions of the Golden Gate Main Canal Right of Way and portions of the Miller Canal Right of Way shall no longer be subject to the provisions of Chapter 40E-6 of the Florida Administrative Code, and the District shall no longer have jurisdictional authority over permitting and authorizing uses with respect thereto.

The amendment would also facilitate the resolution of pending litigation involving the subject rights of way.

How this helps meet the District's 10-year Strategic Plan:

This action is necessary to allow the District to comply with requirements specified in the Third Amendment to the Canal Maintenance Agreement between the District and Collier County.

Funding Source: No funding is required.

This Board item impacts what areas of the District, both resource areas and geography:

The impacted areas are the Operations, Maintenance, and Construction Division and the Big Cypress Basin Field Station in Collier County.

What concerns could this Board item raise?

Some residents may be concerned that the un-adopted portions of the rights of way will no longer be subject to the requirements and prohibitions outlined in Chapters 40E-6 and 40E-7, Florida Administrative Code.

Why should the Governing Board approve this item?

Not approving this item would be in contradiction with the Third Amendment to the Canal Maintenance Agreement between the District and Collier County. The amendment would also facilitate the resolution of pending litigation involving the subject rights of way.

If you have any questions, please do not hesitate to call me at ext. 6998.

TS/jrp