

1 SOUTH FLORIDA WATER MANAGEMENT DISTRICT

2  
3 RESOLUTION NO. 2007-\_\_\_\_\_

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  
10 EAST AND IN SECTION 6, TOWNSHIP 43 SOUTH, RANGE 29 EAST, HENDRY  
11 COUNTY, SUBJECT TO SATISFACTION OF CERTAIN TERMS, CONDITIONS AND  
12 REQUIREMENTS, INCLUDING CONVEYANCE OF A REPLACEMENT EASEMENT  
13 TO THE DISTRICT; PROVIDING AN EFFECTIVE DATE.  
14

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

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

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

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

32 NOW THEREFORE, BE IT RESOLVED by the Governing Board of the South  
33 Florida Water Management District:

34 **Section 1:** The Governing Board of the South Florida Water Management District  
35 hereby approves releasing road easement interests containing approximately 0.90

36 acres, more or less, to the underlying fee owner, more particularly described as:  
37 District Tract 34100-081, located in Section 1, Township 43 South, Range 28 East,  
38 and in Section 6, Township 43 South, Range 29 East, Hendry County, C-43  
39 (Caloosahatchee) Canal project; subject to the following terms, conditions, and  
40 requirements which must be satisfied to the District's satisfaction prior to delivery of  
41 the release of easement instrument to the applicant/underlying fee owner:

- 42 a. A new access road easement, in form and content satisfactory to the District,  
43 must be executed, delivered, and recorded in favor of the District with respect to  
44 the real property more particularly described as District Tract 34100-080. The  
45 District must be provided title insurance that the new access easement  
46 conveyed to the District is granted by the underlying fee owner, that all  
47 necessary organizational approvals of the owner have been obtained, and that  
48 the new access easement conveyed to the District is free and clear of any and  
49 all liens, encumbrances and/or other matters objectionable to the District.
- 50 b. The new access road easement must provide legal and practical access to the  
51 U.S. Army Corps of Engineers ("COE") tract known as 1302-E and the Districts  
52 tract shown as Parcel No. 2648 on Sheet 6, of Canal C-43 Map, located in  
53 Section 6, Township 43 South, Range 29 East, Hendry County.
- 54 c. The underlying fee owner must complete construction of a bridge/concrete  
55 culvert across Bee Branch Creek that meets District requirements, including but  
56 not limited to, width and weight requirements for heavy construction equipment.  
57 Construction of said bridge/concrete culvert must be permitted and in  
58 compliance with all governmental requirements, including but not limited to,  
59 State, County, and District requirements, laws and standards.
- 60 d. The developer must inform all future owners of property within the development  
61 of Orangebrook Estates (n/k/a Valencia Landings) of the potential for future use  
62 of parcel 1302-E as a spoil easement by the District and the COE. Said  
63 disclosure must be included in the homeowner's association documents,  
64 including the Declaration of Restrictions, which must be recorded in the Public  
65 Records of Hendry County, and must include disclosure of potential impacts of  
66 heavy equipment, hauling and disposing of spoil, noise, and offensive odors.

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

72 **Section 3:** In the event all of the terms, conditions, and requirements set forth in  
73 Section 1 are not satisfied to the District's satisfaction on or before August 1, 2009,  
74 then the release of easement interests authorized by this Resolution shall  
75 automatically terminate and have no further force or effect.

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

77  
78 **PASSED** and **ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2007.  
79

80  
81

SOUTH FLORIDA WATER MANAGEMENT  
DISTRICT, BY ITS GOVERNING BOARD

82  
83

BY: \_\_\_\_\_  
Eric Buermann, Chairman

84  
85

86  
87

88  
89  
90 ATTEST:

91  
92

By: \_\_\_\_\_  
District Clerk/Secretary

93  
94

Legal form approved:

95  
96

By: \_\_\_\_\_  
Office of Counsel

97  
98

99  
100  
101