

1 SOUTH FLORIDA WATER MANAGEMENT DISTRICT

2
3 RESOLUTION NO. 2008-_____

4
5 A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER
6 MANAGEMENT DISTRICT APPROVING THE RELEASE OF AN ACCESS
7 EASEMENT (TRACT NO. 30-001-009) CONTAINING 0.6778 ACRES, MORE OR
8 LESS, TO THE UNDERLYING FEE OWNER IN EXCHANGE FOR A NEW ACCESS
9 EASEMENT LYING WITHIN A PORTION OF THE NORTHERLY RIGHT OF WAY OF
10 THE NORTH NEW RIVER CANAL IN SECTION 2, TOWNSHIP 50 SOUTH, RANGE 40
11 EAST, BROWARD COUNTY, FLORIDA; SUBJECT TO SATISFACTION OF CERTAIN
12 REQUIREMENTS; PROVIDING AN EFFECTIVE DATE.

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14 WHEREAS, pursuant to a request from the applicant, Rhon Ernest-Jones
15 Consulting Engineers, Inc., on behalf of the current fee owner, ARC Communities 13
16 LLC, and the future owner, TCR South Florida Land Acquisition Limited Partnership, the
17 District has determined that it is in the public interest to release that certain easement
18 recorded in Official Records Book 4899, at page 409, of the Public Records of Broward
19 County, containing 0.6778 acres, more or less, that encumbers the applicant's property
20 located in Section 2, Township 50 South, Range 40 East, Broward County, for
21 residential development in exchange for a replacement access easement; and

22 WHEREAS, upon the satisfaction of certain terms, conditions and requirements,
23 the Governing Board has determined that the 0.6778 acre, more or less, access
24 easement is not required by the District for present or future use; and

25 WHEREAS, the applicant has paid a \$1,000.00 non-refundable application fee
26 and shall pay all costs associated with this transaction, including but not limited to the
27 appraisal, the cost of filling in the channel, and adding the proposed easement to the
28 development plat. The applicant/owner will pay appraised value for the easement
29 interest to be released less the value of the proposed replacement easement; and

30 WHEREAS, the Governing Board, pursuant to Sections 373.089 and 373.096 of
31 the Florida Statutes, may sell or exchange lands, or interests or rights in lands to which
32 the District has acquired title, and may release any right of way interests conveyed to it
33 for which it has no present or apparent future use under terms and conditions
34 determined by the Governing Board.

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

37 **Section 1:** The Governing Board of the South Florida Water Management District has
38 determined that the District has no present or apparent future use for the subject access
39 easement, and therefore hereby approves releasing the 0.6778 acre, more or less,
40 access easement located in Section 2, Township 50 South, Range 40 East, Broward
41 County, Florida, to the underlying fee owner, provided all of the following terms,
42 conditions, and requirements are satisfied to the satisfaction of the District, in its sole
43 and absolute discretion:

44 a. The applicant/owner shall fill in the channel up to and within their property
45 line, in accordance with all applicable permits, and provide the District with an
46 access easement that is wide enough to allow District equipment to navigate
47 around the remaining channel and pipe (approximately 40 feet wide).

48 b. The applicant/owner shall pay no less than appraised value for the
49 release of the subject easement, less the value of the proposed replacement
50 easement. The appraiser, appraisal and appraised value must all be acceptable
51 to and approved by the District. Under no circumstances shall the District be
52 obligated to pay any amount to the applicant/underlying owner, even if the
53 appraised value of the proposed replacement easement exceeds the appraised
54 value of the subject access easement to be released.

55 c. The proposed replacement easement shall be conveyed to the District in
56 form and content acceptable to the District, and shall be free and clear of all liens,
57 encumbrances, and other matters objectionable to the District.

58 d. Applicant/Owner shall provide, at applicant's/owner's sole cost and
59 expense, title assurance acceptable to the District that the proposed replacement
60 easement is not subject to any lien, encumbrance, or other matter objectionable
61 to the District.

62 e. The applicant/owner shall be required to obtain all necessary permits from
63 the District, Broward County, and any other governmental agencies, and pay all
64 associated fees. There is no representation, guaranty or assurance made by the
65 District that the District's Governing Board will in fact approve the issuance of any
66 required District permits, and there is no obligation on the part of the District's
67 Governing Board to approve the issuance of any required District permits. The
68 District's review process for any required permits will be done separate,

69 independent and unfettered of the fact that the District has approved this
70 Resolution and shall be in accordance with the District's applicable rules.

71 f. The terms, conditions, and requirements set forth above shall be satisfied
72 to the District's satisfaction on or before September 1, 2009, unless otherwise
73 extended by the District.

74 **Section 2:** The Governing Board of the South Florida Water Management District
75 hereby authorizes the Chairman to execute the release document upon satisfaction of
76 all of the foregoing terms, conditions and requirements to the satisfaction of the District
77 in its sole and absolute discretion. No release instrument shall be delivered to the
78 applicant/owner, or shall be effective, until all of the foregoing requirements have been
79 fully completed and fulfilled to the District's satisfaction, in the District's sole and
80 absolute discretion. Furthermore, such release will not be effective until it has been
81 recorded in the Public Records of Broward County, Florida.

82 **Section 3:** This Resolution shall take effect immediately upon adoption.

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84 **PASSED** and **ADOPTED** this _____ day of _____, 2008.

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SOUTH FLORIDA WATER MANAGEMENT
DISTRICT, BY ITS GOVERNING BOARD

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By: _____
Eric Buermann, Chairman

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95 ATTEST:

Approved:

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By: _____
District Clerk/Secretary

By: _____
Office of Counsel

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