

TABLE OF CONTENTS

RIGHT OF WAY OCCUPANCY CONSENT AGENDA FOR GOVERNING BOARD APPROVAL

AUGUST 9, 2007

	<u>PAGES</u>
I. RIGHT OF WAY OCCUPANCY NEW PERMITS: 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> .	2, 3
II. RIGHT OF WAY OCCUPANCY PERMIT MODIFICATIONS: 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 <u>approval</u> .	4, 5
III. RIGHT OF WAY OCCUPANCY PERMIT REQUESTS WITH WAIVER OF PAYMENT OF APPLICATION PROCESSING FEE: Waiver of Application Processing Fee may be approved by the Governing Board, when appropriate, when the staff's recommendation is for <u>approval</u> .	6
IV. RIGHT OF WAY OCCUPANCY PERMIT APPLICATIONS FOR DENIAL: Governing Board action is required for routine requests for permits which do not conform to applicable rules and criteria of Works and Lands of the District. Items are placed on this Consent Agenda when the staff's recommendation is for <u>denial</u> .	7, 8
V. RELAXATION OF STANDARDS AS ALLOWED UNDER DISTRICT RULE 40E-6.011(9) F.A.C.: Governing Board reserves sole authority to make a determination that portions of the District's rights of way are inaccessible for routine maintenance activities due to a variety of physical limitations. While a determination that a certain segment of right of way is presently unusable for routine land-based maintenance activities and relaxation of the restrictions in zones 2, 3, 4, and 5 may be allowed, such determination shall be at the sole discretion of the District and does not obviate the need for individuals with proposed or existing facilities within these areas to obtain permits from the District. Further, the District reserves the right to enter these areas to conduct emergency operations or to require the removal of any encroachments that are inconsistent with these rules at such time as maintenance access is perfected through the area.	9
VI. RIGHT OF WAY OCCUPANCY PERMIT REQUESTS WITH WAIVER OF DISTRICT CRITERIA: 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.	10 - 11

RIGHT OF WAY OCCUPANCY NEW PERMITS

4. SOUND CONNECTION DISTRIBUTORS, INC. Permit Number 13096
Broward County Appl. No. 07-0406-1
(Easement)

AUTHORIZING: DOCK, MANGROVE MITIGATION, SHOAL REMOVAL WITH BANK RESTORATION; EXISTING PATIO TABLE AND POTTED PLANTS WITHIN THE SOUTH RIGHT OF WAY OF C-10 SPUR LOCATED IMMEDIATELY WEST OF I-95 AND EXTENDING APPROXIMATELY 450' UPSTREAM AT THE REAR OF 2801 GREENE STREET.

LAST DATE FOR BOARD ACTION: SEPTEMBER 13, 2007

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5. ST. LUCIE COUNTY Permit Number 13100
St. Lucie County Appl. No. 06-0823-2
(Fee & Easement)

AUTHORIZING: VEGETATION REMOVAL WITH BANK STABILIZATION INCLUDING INSTALLATION OF RIP-RAP WITHIN THE NORTH AND SOUTH RIGHTS OF WAY OF C-25 AND DREDGING OF PORTIONS OF C-25 BETWEEN DISTRICT WATER CONTROL STRUCTURE S-50 TO THE INDIAN RIVER LAGOON AS PART OF THE COUNTY'S "TAYLOR CREEK RESTORATION PROJECT".

LAST DATE FOR BOARD ACTION: SEPTEMBER 13, 2007

RIGHT OF WAY OCCUPANCY PERMIT MODIFICATIONS

1. FRED AND PAT MORRIS Permit Number 12032
Okeechobee County Appl. No. 07-0327-1M
(Easement)

AUTHORIZING: EXISTING SEAWALL, CULVERT, LANDSCAPING, FOOTBRIDGE AND IRRIGATION PUMP; ALSO CONSTRUCTION OF A PROPOSED SEAWALL WITH BASIN, MAINTENANCE DREDGING/EXCAVATION, AND RIP-RAP WITHIN THE NORTH RIGHT OF WAY OF L-47 AT THE REAR OF TO 8083 S.E. 99TH TRAIL (LOTS 5 AND 6, PLEASANT VALLEY WEST).

LAST DATE FOR BOARD ACTION: AUGUST 9, 2007

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2. PAULETTE YANNETT Permit Number 9646
Okeechobee County Appl. No. 07-0606-1M
(Easement)

AUTHORIZING: REPAIR TO EXISTING CONCRETE BOAT RAMP AND INSTALLATION OF APPROXIMATELY 170 LINEAR FEET OF SEAWALL WITHIN THE NORTHEAST RIGHT OF WAY OF L-47 AT THE REAR OF 10164 HIGHWAY 441 SOUTHEAST (LOTS 23, 24, AND 25, LARADO SHORES).

LAST DATE FOR BOARD ACTION: AUGUST 9, 2007

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3. FRANCIS R. & LOIS A. DAVINO Permit Number 12431
Okeechobee County Appl. No. 07-0627-1M
(Fee)

AUTHORIZING: 100 LINEAR FEET OF WOODEN SEAWALL WITHIN THE EAST RIGHT OF WAY OF C-38 AT THE REAR OF 13608 SOUTHWEST 144TH PARKWAY (LOT 29, RIVER OAK ACRES).

LAST DATE FOR BOARD ACTION: SEPTEMBER 13, 2007

RIGHT OF WAY OCCUPANCY PERMIT MODIFICATIONS

4. SOUTH FLORIDA STADIUM CORP. Permit Number 8037
Miami-Dade County Appl. No. 06-0919-4
(Easement)

AUTHORIZING: VARIOUS EXISTING AND PROPOSED FACILITIES CONSISTING OF SIDEWALKS, LANDSCAPED AREA, 2 PEDESTRIAN FOOTBRIDGES OVER DRAINAGE SWALE AND CROSS-DRAINS LOCATED WITHIN THE SOUTH RIGHT OF WAY OF C-9 IN CONJUNCTION WITH THE "MIAMI DOLPHIN" PRO PLAYER STADIUM .

LAST DATE FOR BOARD ACTION: AUGUST 9, 2007

5. MIAMI-DADE CO. AVIATION DEPT. Permit Number 11641
Miami-Dade County Appl. No. 07-0607-1
(Fee)

AUTHORIZING: BOAT RAMP WITHIN THE WEST RIGHT OF WAY OF C-4 AT THE MIAMI INTERNATIONAL AIRPORT LOCATED AT THE TANK FARM CANAL.

LAST DATE FOR BOARD ACTION: AUGUST 9, 2007

**RIGHT OF WAY OCCUPANCY PERMIT REQUESTS WITH WAIVER OF PAYMENT
OF APPLICATION PROCESSING FEE**

1. Consideration of a request by **City of Lauderdale Lakes, Office of Engineering & Construction Management Services**, for a Waiver of the District's rule governing payment of Application Processing Fees. The request is made in connection with proposed fence improvements to a previously authorized linear park permitted to the City of Lauderdale Lakes under Right of Way Occupancy Permit Number 12550. The project is located within the north right of way of C-13 between State Road 7 and NW 31st Avenue. Location: Broward County, Section 19, Township 49 South, Range 42 East.

As part of the City's efforts to resolve issues with area residents the City's staff has agreed to work with residents adjacent to its linear park that currently do not possess Right of Way Occupancy Permits and submit completed permit applications. The City is requesting that the Application Processing Fees for its residents be waived in order to facilitate resolution of the adjacent residents' issues in conjunction with the City's request for Modification of their Right of Way Occupancy Permit for fencing. District staff concurs with the applicant's request, as it would address unauthorized encroachments adjacent to approximately 50 lots and resolve issues with regard to the maintenance of the District's right of way between the proposed fencing and the north right of way line.

Staff has reviewed the number and type of encroachments and projects a loss of approximately \$3,750.00 in Application Processing Fees.

Staff recommends **approval** of the City's request for Waiver of District Rule 40E-6.601, F.A.C., which governs payment of Application Processing Fees associated with the issuance of Right of Way Occupancy Permits.
(Fee)

RIGHT OF WAY OCCUPANCY PERMIT APPLICATIONS FOR DENIAL

1. Consideration of a request by **Sylvia Penido** (Application Number 98-1201-2) for issuance of a Right of Way Occupancy Permit for the proposed installation of fencing within the south right of way of L-62 adjacent to the applicant's ownership in Okeechobee. Location: Okeechobee County, Section 23, Township 37 South, Range 34 East.

Staff recommends **denial** of the application as the applicant has failed to provide information sufficient to demonstrate that the proposed use meets the criteria established in the document referred to in Rule 40E-6.201(1)(i), F.A.C.

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2. Consideration of a request by **Ron Howse** (Application Number (97-0603-1) for issuance of a Right of Way Occupancy Permit for proposed channel excavation, installation of a culvert, seawall, dock with buried electrical service and security lighting and the proposed paving of a portion of the District's north right of way of C-31 adjacent to the applicant's ownership. Location: Osceola County, Sections 33 and 34, Township 25 South, Range 30 East.

Staff recommends **denial** of the application as the applicant has failed to provide information sufficient to demonstrate that the proposed use meets the criteria established in the document referred to in Rule 40E-6.201(1)(i), F.A.C.

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3. Consideration of a request by **Hanna Woods** (Application Number 05-0503-1) for issuance of a Right of Way Occupancy Permit for the proposed installation of a boat dock with lift and mooring piles within the north right of way of C-43 at the rear of 15860 Rivercreek Court, Alva. Location: Lee County, Section 15, Township 43 South, Range 26 East.

Staff recommends **denial** of the application for issuance of a Right of Way Occupancy Permit due to the fact that the applicant is no longer the owner of the land lying adjacent to the District's Works as required in District Rule 40E-6.221(9), F.A.C.

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4. Consideration of a request by **Comcast ABB Management Corporation** (Application Number 07-0522-6) for issuance of a Right of Way Occupancy Permit for the proposed installation of a cable attachment to the west face of the existing N.W. 67th Avenue (Ludlum Road) Bridge crossing C-8 Extension. Location: Miami-Dade County, Section 14, Township 52 South, Range 40 East.

Staff recommends **denial** of the application for issuance of a Right of Way Occupancy Permit due to the fact that the applicant is currently and continues to be in violation of District Rules and criteria by either placing encroachments within the District's rights of way without benefit of a

RIGHT OF WAY OCCUPANCY PERMIT APPLICATIONS FOR DENIAL

permit or is in violation of certain special conditions that were included with permits issued in the past.

District Rule 40E-6.221(3), F.A.C. (Conditions for Issuance of Standard Permits), states:

(3) The District shall consider a permit applicant's past and present violation of any District rule or permit conditions, including enforcement action, when determining whether the applicant has provided reasonable assurance that the standards will be met.

In a certified letter dated June 27, 2007, District staff advised the applicant of its intention to request that the Governing Board deny the Application based on their continued failure to comply with District requirements and non-compliance with District Rules and criteria; at that time the applicant was offered the opportunity to request that the application be withdrawn from further consideration for issuance of a Right of Way Occupancy Permit. The applicant was also provided a Notice of Rights.

To date, a response has not been received.

**RELAXATION OF STANDARDS AS ALLOWED UNDER DISTRICT
RULE 40E-6.011(9) F.A.C.:**

1. It is the recommendation of the staff of the Land Resources and Operation Management Resources Departments that the Governing Board waive, for future Right of Way Occupancy Permit Applications for existing, unauthorized encroachments, the requirement contained in the District Rules which specifies that an unencumbered 40 foot wide strip of right of way, as measured from the top of bank landward, is required in order for the District to perform the routine operations and maintenance activities along the following reach of C-7 (Little River Canal), located in Section 34, Township 52 South, Range 41 East, Miami-Dade County:
 - A. The south right of way of C-7 beginning 100' east of N.W. 22nd Avenue bridge and running east 450' to N.W. 21st Avenue and includes adjacent properties located at 2165, 2153, 2121, 2125, 2115 and 2101 NW 105th Terrace (Serino Subdivision)

Staffs' recommendation is based on the fact that the 40 foot wide southerly overbank right of way throughout this reach of C-7 has been encumbered with encroachments for many years, consisting of existing vegetation and above-ground encroachments which block the District's access; no overbank exists on the north side of the canal; and, there is presently no access to the site from public road right of way.

This waiver specifically excludes the adjacent owner whose properties lie adjacent to the District's required 100 foot long staging area located downstream (east) of the N.W. 22nd Avenue bridge. An Application for encroachments within this specified staging area when submitted, shall be handled on an individual basis.

District Rule 40E-6.011(9), F.A.C., (Policy and Purpose), states that "the District reserves sole authority to make a determination that portions of the District's rights of way are inaccessible for routine maintenance activities due to a variety of physical limitations. While a determination that a certain segment of right of way is presently unusable for routine land-based maintenance activities such determination shall be at the sole discretion of the District, would only allow permissibility of existing encroachments and does not obviate the need for individuals with proposed or existing facilities within these areas to obtain permits from the District. Further, in relaxing the 40 foot standard, should the existing facilities be damaged, the permittee would not be allowed to replace the facility or in the case of trees or other plantings when the existing trees die, or are blow down, etc., they would not be allowed to be replaced. The District reserves the right to enter these areas to conduct emergency operations or to require the removal of any encroachments that are inconsistent with these rules at such time as maintenance access is perfected through the area."

(Fee)

**RIGHT OF WAY OCCUPANCY PERMIT REQUESTS WITH WAIVER OF
DISTRICT CRITERIA**

1. Consideration of a request by **South Florida Stadium Corporation, d/b/a Dolphin Stadium**, (Application Number 06-0919-2M, Permit Number 13089) for issuance of a Right of Way Occupancy Permit and waiver of the District's criteria to allow the use of the southerly right of way of C-9 between NW 27th Avenue and Florida's Turnpike to be utilized for stadium related activities which include; the installation of a temporary fence and intermittent, temporary overflow parking during the 2007 Football Season. Location: Miami-Dade County, Section 34, Township 51 South, Range 41 East.

The applicant's request for wavier of the District's criteria which governs the placement of permanent and/or semi-permanent above ground facilities within 40 feet of the top of the canal bank and generally prohibits parking of motor vehicles within the right of way is based on "substantial hardship". The applicant asserts that the available adjacent lands (outside the District's right of way) are already being used for parking and event activities. As such, the stadium personnel requests the use of the District's right of way adjacent to the stadium to be utilized on an intermittent basis to accommodate over-flow parking for the up-coming football season (primarily for public safety vehicles and stadium employees) which would make available additional areas of the stadium for parking for vendors and sports fans. The applicant states that clear unobstructed access to the C-9 canal will be provided and maintained at all times. The District's Operations and Maintenance Resource staff has determined that the proposed facilities will not significantly interfere with the District's access and 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 was published in *Volume 33, Number 25* of the *Florida Administrative Weekly* on *June 22, 2007*. No public comments were received.

Therefore, staff recommends **approval** of the issuance of Right of Way Occupancy Permit Number 13089 and **approval** of the petition for Waiver of the District's criteria which governs the placement of permanent and/or semi-permanent above-ground facilities within 40 feet of the top of the canal bank and generally prohibits parking of motor vehicles within Works or Lands of the District.
(Easement)

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2. Consideration of a request by the **Village of Wellington**, (Application 07-0613-2, Permit Number 13107) for issuance of a Right of Way Occupancy Permit and waiver of the District's criteria to authorize the construction of three pump discharge pipes and one gravity discharge pipe within the south right of way of C-51 approximately 100 feet west of Flying Cow Road Bridge. These facilities are appurtenant to the Village's Pump Station Number 7. Location: Palm Beach County, Section 36, Township 43 South, Range 40 East.

The applicant's request for waiver of the District's criteria which governs the elevation of culverts and pipes connecting to District canals is based on "substantial hardship". In order for the culverts to meet the District's criteria, the invert elevation of the pipes would need to set at 8.5' NGVD or lower. The invert elevations of the proposed pipes are set at 13.0' NGVD. The applicant asserts that if it has to redesign its pump station to meet

RIGHT OF WAY OCCUPANCY PERMIT REQUESTS WITH WAIVER OF DISTRICT CRITERIA

criteria will result in a delay that will not allow them to meet their construction and “in-service” schedule based on the pump station being operable by September 1, 2007 resulting in immediate adverse effects as the Pump Station is critical in providing Village residents with the required flood protection during the peak of Hurricane season, delays may also result in additional charges by the contractor. There will also be extra costs associated with reengineering the pipe design and fabrication delays. In an effort to lessen adverse impacts on the C-51 Canal, the applicant will rip rap the entire channel bottom from top of bank on the south side of the canal to elevation 15.0' on the north side and will extend the westerly limits of the riprap. The District's Operations and Maintenance Resource staff has evaluated the proposal and believes that with the additional riprap protection the treat of adverse impact on the operation of C-51 is minimized. Therefore the purpose and intent of the District's criteria and underlying rule will be achieved.

The Applicants 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 petition was provided to the Department of State and was published in *Volume 33, Number 31* of the *Florida Administrative Weekly* on *August 3, 2007*. Due to the publication date and the date of the Governing Board meeting, the Board's action on this item will be subject to the receipt of no objection by August 17, 2007.

Therefore, staff recommends **approval** of the issuance of Right of Way Occupancy Permit Number 13107 and **approval** of the petition for Waiver of the District's criteria which governs the elevation of culverts and pipes connecting to District canals adopted as “Works of the District” pursuant to Chapter 373.086 Florida Statutes.

(Fee)