OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: January 10, 2008

To: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

Agenda Item No. 8(M)(1)(A)

From: George M. Burgess
County Manager

R-28-08

Subject: Tamiami Canal-SFWMD-Intent to Maintain

Recommendation
It is recommended that the Board approve the attached resolution expressing the intent of the County to maintain a linear park within the South Florida Water Management District (SFWMD) right of way of Canal C-4.

Scope
Canal C-4 is located north of SW 8th Street, between SW 122nd Avenue and SW 119th Avenue. This area is within Commission District 12.

Fiscal Impact/Funding Source
Installation costs for the linear park are estimated at $80,000. Maintenance costs are estimated at approximately $2,000 per year. Installation costs are included in the QNIP 4 Program and maintenance costs will be provided from the General Fund.

Track Record/Monitor
The County adopted a similar resolution to obtain a permit from SWFMD for a linear park near Black Point Park and Marina (R-1469-04). The Park and Recreation Department (PRD) will work to obtain the permit, install the park facilities and maintain the area.

Background
The SFWMD has a policy of allowing the public to utilize publicly owned rights of ways for passive recreational purposes and supports the development of linear parks and greenways. Adequate maintenance of facilities constructed on SFWMD property is required to avoid adverse implications to the District's mission to control flooding.

The County, through its PRD, has applied to the SFWMD to obtain a permit for a linear park consisting of landscaping and a pedestrian walkway within the right of way of Canal C-4 (Attachment 1). The SFWMD has requested that the County provide a resolution stating its intent to maintain the area.

Attachments

Alex Muñoz
Assistant County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

DATE: January 10, 2008

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No.8(M)(1)(A)

Please note any items checked.

_____ **"4-Day Rule" ("3-Day Rule" for committees) applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Bid waiver requiring County Manager's written recommendation**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **Housekeeping item (no policy decision required)**

_____ **No committee review**

2

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(M)(1)(A)
01-10-08

RESOLUTION NO. **R-28-08**

RESOLUTION CONFIRMING INTENT TO MAINTAIN IMPROVEMENTS WITHIN THE RIGHT OF WAY OF TAMIAMI CANAL (C-4) LOCATED NORTH OF SW 8th STREET BETWEEN SW 122 AND SW 119 AVENUES

WHEREAS, the South Florida Water Management District (SFWMD) has a policy of allowing the public to utilize publicly owned rights of ways for passive recreational purposes and SFWMD supports the development of linear parks and greenways; and

WHEREAS, the County, through its Park and Recreation Department, has applied for a SFWMD Permit to construct a linear park along the Tamiami Canal (C-1) between SW 122nd and SW 119th Avenues; and

WHEREAS, the County intends to maintain the linear park improvements that the County desires to construct on SFWMD properties; and

WHEREAS, the County understands the adverse implications of inadequate maintenance to the SFWMD's ability to perform its mission to control flooding; and

WHEREAS, SFWMD has requested that the County state in a resolution that the County would perform maintenance on facilities that the County constructed or desires to construct on SFWMD properties; and

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board confirms its

intent to maintain improvements to be constructed within the right of way of Tamiami Canal (C-4), located north of SW 8th Street, between SW 122nd and SW 119th Avenues, as shown on the map attached hereto and made a part hereof; and authorizes the County Manager to take appropriate actions to accomplish same for and on behalf of Miami-Dade County.

The foregoing resolution was offered by Commissioner Jose "Pepe" Diaz, who moved its adoption. The motion was seconded by Commissioner Sally A. Heyman and upon being put to a vote, the vote was as follows:

Bruno A. Barreiro, Chairman	aye		
Barbara J. Jordan, Vice-Chairwoman	aye		
Jose "Pepe" Diaz	aye	Audrey M. Edmonson	aye
Carlos A. Gimenez	aye	Sally A. Heyman	aye
Joe A. Martinez	aye	Dennis C. Moss	aye
Dorrin D. Rolle	aye	Natacha Seijas	aye
Katy Sorenson	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	absent		

The Chairperson thereupon declared the resolution duly passed and adopted this 10th day of January, 2008. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: Kay Sullivan
Deputy Clerk

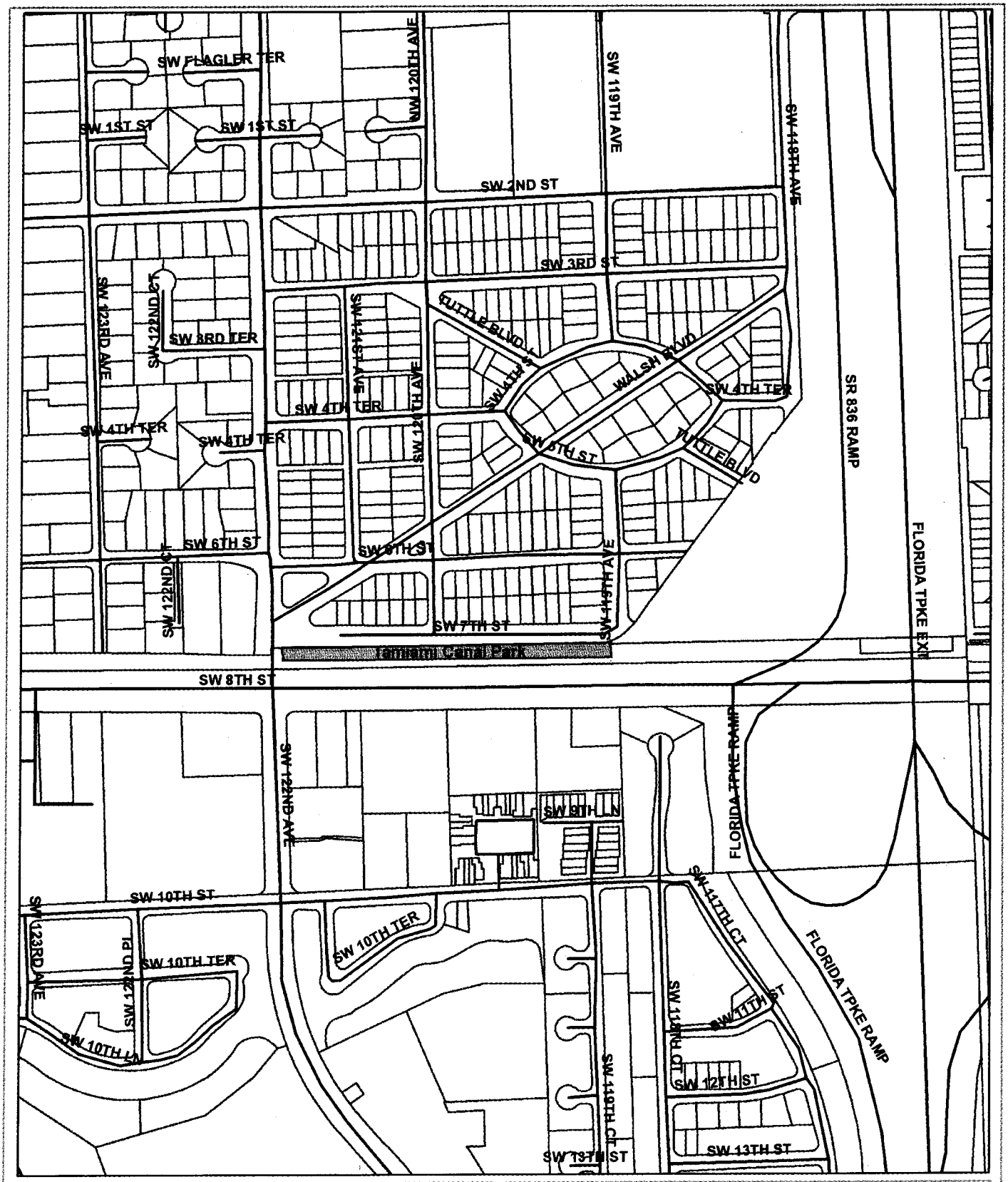
Approved by County Attorney as
to form and legal sufficiency.

DDC

Diamela del Castillo

MIAMI-DADE COUNTY

MIAMI-DADE COUNTY
PARK AND RECREATION DEPARTMENT
TAMIAMI CANAL PARK
LOCATION MAP



MAP PREPARED BY:
MIAMI-DADE COUNTY
PARK AND RECREATION
PLANNING AND RESEARCH DIVISION
NOVEMBER 2, 2007
305-755-7860

Legend

- Streets
- County Parks
- Property Lots

1 inch equals 500 feet

N
W E
S

Form #0122
Rev. 09/99
(SP-1)

SOUTH FLORIDA WATER MANAGEMENT DISTRICT
Post Office Box 24680, West Palm Beach, FL 33416-4680
Telephone (561) 686-8800 FL WATS Line 1-800-432-2045
Attention: Right of Way Permitting
APPLICATION NO._____

APPLICATION TO THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT FOR RIGHT OF WAY STANDARD PERMIT

NOTE: In order to be eligible to apply and be considered for issuance of a Right of Way Occupancy Standard Permit (SP) for use of the District's rights of way, all of the District's applicable criteria for the use or facility must be met in its entirety. Responsibility is borne by the applicant to provide all required information sufficient to the District to insure the District's criteria will be met.

Applicant's Full Name Miami-Dade County Park and Recreation Department
(include all applicants' names, if applicable)

Applicant's Complete Address 275 NW 2 Street, 5th floor, Miami, Florida 33128
(include zip-code)

Applicant's Telephone Numbers 305-755-7860

If applicant or user is other than the owner(s):

Owner(s) Full Name
(include all owners' names, if applicable)

Owner(s) Complete Address

Owner(s) Telephone Numbers

LOCATION OF PROJECT:

(Note: copy of recent property/boundary survey must be provided; or, a metes and bounds description)

Work or Land (canal or levee) Involved Tamiami Canal-C-1
County Miami-Dade
Section 2
Township 54 South
Range 39 East
Lot Number NA
Block Number NA
Subdivision Name NA

DESCRIPTION OF PROJECT:

(Note: Check all proposed uses/facilities that apply)

☐ Access (temporary) ☐ Bridge ☐ Landscaping ☐ Culvert ☐ Dock/Associated Facilities

☐ Fencing ☐ Utility Installation ☐ Storage (temporary) ☐ Vegetation Clearing/Removal

☒ Other Linear Park

(include description – Attach additional sheets if needed)

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Tamiami Canal Linear Park

40E-6.381 LIMITING CONDITIONS

The District's authorization to utilize lands and other works constitutes a revocable license (including both notice general permits and standard permits). In consideration for receipt of that license, permittee shall agree to be bound by the following standard limiting conditions, which shall be included within all permits issued pursuant to this chapter:

(1) All structures on District works or lands constructed by permittee shall remain the property of permittee, who shall be solely responsible for ensuring that such structures and other uses remain in good and safe condition. Permittees are advised that other federal, state and local safety standards may govern the occupancy and use of the District's lands and works. The District assumes no duty with regard to ensuring that such uses are so maintained and assumes no liability with regard to injuries caused to others by any such failure.

(2) Permittee solely acknowledges and accepts the duty and all associated responsibilities to incorporate safety features, which meet applicable engineering practice and accepted industry standards, into the design, construction, operation and continued maintenance of the permitted facilities/authorized use. This duty shall include, but not be limited to, permittee's consideration of the District's regulation and potential fluctuation, without notice, of water levels in canals and works, as well as the permittee's consideration of upgrades and modifications to the permitted facilities/authorized use which may be necessary to meet any future changes to applicable engineering practice and accepted industry standards. Permittee acknowledges that the District's review and issuance of this permit, including, but not limited to, any field inspections performed by the District, does not in any way consider or ensure that the permitted facilities/authorized use is planned, designed, engineered, constructed, or will be operated, maintained or modified so as to meet applicable engineering practice and accepted industry standards, or otherwise provide any safety protections. Permittee further acknowledges that any inquiries, discussions, or representations, whether verbal or written, by or with any District staff or representative during the permit review and issuance process, including, but not limited to, any field inspections, shall not in any way be relied upon by permittee as the District's assumption of any duty to incorporate safety features, as set forth above, and shall also not be relied upon by permittee in order to meet permittee's duty to incorporate safety features, as set forth above.

(3) Permittee agrees to abide by all of the terms and conditions of this permit, including any representations made on the permit application and related documents. This permit shall be subject to the requirements of Chapter 373, F.S., and Chapter 40E-6, F.A.C., including all subsequent rule and criteria revisions. Permittee agrees to pay all removal and restoration costs, investigative costs, court costs and reasonable attorney's fees, including appeals, resulting from any action taken by the District to obtain compliance with the conditions of the permit or removal of the permitted use. If District legal action is taken by staff counsel, "reasonable attorney's fees" is understood to mean the fair market value of the services provided, based upon what a private attorney would charge.

(4) This permit does not create any vested rights, and except for governmental entities and utilities, is revocable at will upon reasonable prior written notice. Permittee bears all risk of loss as to monies expended in furtherance of the permitted use. Upon revocation, the permittee shall promptly modify, relocate or remove the permitted use and properly restore the right of way to the District's satisfaction. In the event of failure to so comply within the specified time, the District may remove the permitted use and permittee shall be responsible for all removal and restoration costs.

(5) This permit does not convey any property rights nor any rights or privileges other than those specified herein and this permit shall not, in any way, be construed as an abandonment or any other such impairment or disposition of the District's property rights. The District approves the permitted use only to the extent of its interest in the works of the District. Permittee shall obtain all other necessary federal, state, local, special district and private authorizations prior to the start of any construction or alteration authorized by the permit. Permittee shall comply with any more stringent conditions or provisions which may be set forth in other required permits or other authorizations. The District, however, assumes no duty to ensure that any such authorizations have been obtained or to protect the legal rights of the underlying fee owner, in those instances where the District owns less than fee.

(6) Unless specifically prohibited or limited by statute, Permittee agrees to indemnify, defend and save the District (which used herein includes the District and its past, present and future employees, agents, representatives, officers and Governing Board members and any of their successors and assigns) from and against any and all lawsuits, actions, claims, demands, losses, expenses, costs, attorneys fees (including but not limited to the fair market value of the District's inhouse attorneys' fees based upon private attorneys' fees/rates), judgments and liabilities which arise from or may be related to the ownership, construction, maintenance or operation of the permitted use or the possession, utilization, maintenance, occupancy or ingress and egress of the District's right of way which arise directly or indirectly and/or are caused in whole or in part by the acts, omissions or negligence of the District or of third parties. Permittee agrees to provide legal counsel acceptable to the District if requested for the defense of any such claims.

(7) The District does not waive sovereign immunity in any respect.

40E-6.381 LIMITING CONDITIONS

(8) The permittee shall not engage in any activity regarding the permitted use which interferes with the construction, alteration, maintenance or operation of the works of the District, including:

(a) discharge of debris or aquatic weeds into the works of the District;

(b) causing erosion or shoaling within the works of the District;

(c) planting trees or shrubs or erecting structures which limit or prohibit access by District equipment and vehicles, except as may be authorized by the permit.

Permittee shall be responsible for any costs incurred by the District resulting from any such interference, as set forth in (a), (b), and (c), above;

(d) leaving construction or other debris on the District's right of way or waterway;

(e) damaging District berms and levees;

(a) the removal of District owned spoil material;

(b) removal of or damage to District locks, gates, and fencing;

(c) opening of District rights of way to unauthorized vehicular access; or

(d) running or allowing livestock on the District's right of way.

(9) The District is not responsible for any personal injury or property damage which may directly or indirectly result from the use of water from the District's canal or any activities which may include use or contact with water from the District's canal, since the District periodically sprays its canals for aquatic weed control purposes and uses substances which may be harmful to human health or plant life.

(10) Permittee shall allow the District to inspect the permitted use at any reasonable time.

(11) Permittee shall allow, without charge or any interference, the District, its employees, agents, and contractors, to utilize the permitted facilities before, during and after construction for the purpose of conducting the District's, routine and emergency, canal operation, maintenance, and construction activities. To the extent there is any conflicting use, the District's use shall have priority over the permittee's use.

(12) This permit is a non-exclusive revocable license. Permittee shall not interfere with any other existing or future permitted uses or facilities authorized by the District.

(13) The District has the right to change, regulate, limit, schedule, or suspend discharges into, or withdrawals from, works of the District in accordance with criteria established by the Big Cypress Basin, the District, or the U. S. Army Corps of Engineers for the works of the District.

(14) If the use involves the construction of facilities for a non exempt water withdrawal or surface water discharge, the applicant must apply for and obtain a water use or surface water management permit before or concurrently with any activities which may be conducted pursuant to the right of way occupancy permit.

(15) The District shall notify the local ad valorem taxing authority of the lands affected by the permitted use, where the permittee owns the underlying fee and derives a substantial benefit from the permitted use. The taxing authority may reinstate such lands on the tax roll. Failure to pay all taxes in a timely manner shall result in permit revocation. Such permit revocation shall not alleviate the responsibility of the permittee to pay all taxes due and payable.

(16) Permittee shall provide prior written notice to their successors in title of the permit and its terms and conditions.

(17) Permittee shall record a Notice of Permit through filing the appropriate notice agreed to by the District in the public records of the county or counties where the project is located and by providing the District with proof of filing or through an equivalent procedure. All costs associated with this requirement shall be the responsibility of the permittee. Governmental entities and utilities are not subject to this provision.

(18) This permit is contingent upon compliance with the recording of the Notice of Permit. Failure to provide proof of the recording of the Notice of Permit will result in the permit becoming invalid on its own terms, the removal of any existing facilities within the right of way, restoration of the right of way to the District's satisfaction, at the permittee's expense, and the possible assessment of civil penalties.

(19) Permittee shall be responsible for the repair or replacement of any existing facilities located within the District's right of way which are damaged as a result of the installation or maintenance of the authorized facility.

(20) All obligations under the terms of this permit authorization and any subsequent modifications hereto shall be joint and several as to all owners.

(21) It is the responsibility of the permittee to make prospective bidders aware of the terms and conditions of this permit. It shall be the responsibility of the permittee's contractors to understand the terms and conditions of this permit and govern themselves accordingly.

(22) It is the responsibility of the permittee to bring to the attention of the District any conflict in the permit authorization or permit conditions in order that they may be resolved prior to the start of construction. In resolving such conflicts the District's determination will be final.

Specific Authority 373.044, 373.113 F.S. Law Implemented Chapters 373.085(1), 373.086, 373.103, 373.109, 373.129, 373.1395, 373.603, 373.609, 373.613 F.S. History—New 9-3-81, Amended 5-30-82, 12-29-86, 12-24-91, 9-15-99 Formerly 16K-5.01(2), 16K-5.02(2), 16K-5.03(2), 16K-5.04(4), 16K-5.05, 40E-6.381.

In compliance with provisions of Chapter 373, Florida Statutes and Chapter 40E-6, Florida Administrative Code, application is hereby made for a Right of Way Occupancy Standard Permit in accordance with support drawings, data and incidental information filed with this application and made a part of this application. I hereby certify that all information contained in or made a part hereof is true and correct to the best of my knowledge, that any permit issued shall require that the permitted use be constructed and operated in accordance with such information.

I further certify that I have read the Standard Limiting Conditions appearing on this application and understand that said conditions will be incorporated within any permit issued pursuant to the application, unless expressly waived by the Governing Board. I further acknowledge that the SFWMD may incorporate additional special conditions as may be necessary in the best interest of the District.

In signing this application, I acknowledge that failure to comply with all conditions of this permit may result in permit revocation, financial assurance or bond forfeiture, and remedial action against me by the SFWMD. I assume full responsibility for the actions of all my employees, agents and persons, whether under direct contractual obligation to me or indirectly, with respect to compliance with the conditions and limitations contained within this application or within a permit issued as a result of this application.

Vivian Donnell Rodriguez, Director
Applicant's Name (print or type)

Applicant's Signature

Owner's Name (print or type)

6/22/04
Date

Applicant's Agent's Name (print or type)

Applicant's Agent's Signature

Owner's Signature

Date

Please be sure the following accompany the submittal of your application:

Application Processing Fee (if applicable)
Property/Boundary Survey/Metes and Bounds Description
Drawings Describing the proposed use or facilities
Copy of Building Permit (if applicable)
Copy of SFWMD Water Use, Surface Water Management Permits, etc. (if applicable)
Other Information Pertinent to the application

Approved _____ Mayor
Veto _____
Override _____

CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
DADE COUNTY, FLORIDA
Agenda Item No. 7(M)(1)(A)

12-14-04

RESOLUTION NO. R-1469-04

RESOLUTION CONFIRMING INTENT TO MAINTAIN IMPROVEMENTS WITHIN THE BLACK CREEK TRAIL ALONG THE C-1 CANAL EXTENDING FROM SW 87TH AVENUE TO BLACK POINT PARK AND MARINA

WHEREAS, the County passed Resolution R-679-95 on May 16, 1995, adopting the South Dade Greenway Network Master Plan, of which the Black Creek Trail along the South Florida Water Management District's C-1 Canal forms a part; and

WHEREAS, the District has a policy of allowing the public to utilize publicly owned rights of ways for passive recreational purposes and the District supports the development of linear parks and greenways; and

WHEREAS, the County, through its Park and Recreation Department, has Permit #7333 with the District to provide public access to a landscaped bike path along the C-1 Canal extending from SW 137 Avenue to Black Point Park and Marina; and

WHEREAS, the County, through its Park and Recreation Department, has Land and Water Conservation Fund monies to construct specific improvements to a portion of the District's C-1 Canal from SW 87th Avenue to Black Point Park and Marina; and

WHEREAS, the County is in the process of amending Permit #7333 from the District to authorize specific improvements to enhance the trail; and

WHEREAS, the County intends to maintain the specific improvements that the County desires to construct on District properties; and

WHEREAS, the County understands the adverse implications of inadequate maintenance to the District's ability to perform its mission to control flooding; and

WHEREAS, the District has requested that the County state in a resolution that the County would perform maintenance on facilities that the County constructed or desires to construct on District properties; and

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board confirms its intent to maintain improvements to be constructed along sections of the Black Creek Trail extending along the C-1 Canal from SW 87th Avenue to Black Point Park and Marina as shown on the map attached hereto and made a part hereof; and authorizes the County Manager to take appropriate actions to accomplish same for and on behalf of Miami-Dade County.

The foregoing resolution was offered by Commissioner Dennis C. Moss, who moved its adoption. The motion was seconded by Commissioner Dorrin C. Rolle and being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman aye
Dennis C. Moss, Vice-Chairman aye

Bruno A. Barreiro	aye	Dr. Barbara Carey-Shuler	aye
Jose "Pepe" Diaz	aye	Carlos A. Gimenez	aye
Sally A. Heyman	aye	Barbara J. Jordan	aye
Dorrin D. Rolle	aye	Natacha Seijas	absent
Katy Sorenson	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

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The Chairperson thereupon declared the resolution duly passed and adopted this 14th day of December, 2004. This Resolution and contract, if not vetoed, shall become effective in accordance with Resolution No. R-377-04.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

HARVEY RUVIN, CLERK

By: KAY SULLIVAN
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. MMC

Mariela Martinez-Cid

Memorandum

MIAMI-DADE COUNTY

Date: December 14, 2004

To: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

Agenda Item No. 7(M)(1)(A)

From: George M. Burgess, County Manager

Subject: Black Creek Trail Maintenance Declaration, South Florida Water Management District

RECOMMENDATION

It is recommended that the Board approve the attached resolution confirming the County's intent to maintain the facilities to be constructed on the Black Creek Trail, along the C-1 Canal from SW 87th Avenue to Black Point Park and Marina.

BACKGROUND

The Park and Recreation Department has Permit #7333 with the South Florida Water Management District to allow landscaping and improvements within the Black Creek Trail, along the C-1 Canal from SW 137th Avenue to Black Point Park and Marina. The Department has funding from the Land and Water Conservation Fund to construct new facilities within its right of way from SW 87 Avenue to Black Point Park and Marina. Improvements planned include a restroom and fishing platform. Because the canal right of way is under the District's jurisdiction, the facilities require the District's approval. Before the District will grant its approval, it has requested that the County provide assurance of its intent to maintain the facilities. It is understood that the County's commitment as expressed in this resolution is contingent upon the District's policy of allowing the public to use its land for passive recreational purposes.

It is recommended that the County confirm its intent to:

1. Provide maintenance to the facilities that it has and will construct along the C-1 Canal until Permit #7333 expires.

2. Seek approval from the District before constructing any of the facilities mentioned above that are within the District's jurisdiction.

3. Remove and trim any landscaping in a timely manner when requested to do so by the District until Permit #7333 expires.

4. Assume the responsibility to comply with any applicable tree ordinances and not attempt to use such ordinances as a means to retain trees, which the District determines, must be removed.

5. Design all facilities and improvements so as:
   A. to maintain a clear access pathway for District maintenance equipment and vehicles.

   B. to provide suitable set-up and operation areas for the District equipment to perform emergency debris removal operations.

   C. to allow areas for the District to temporarily stockpile debris.

   D. to prevent taller plants and trees from falling into the canal in case of a hurricane or severe windstorm event.

   E. not to impact any existing District staging areas.

   F. not to interfere with the District's access or passive recreational areas within the canal right of way.

6. Use a planting list that contains no less than 98% of the District's approved plant list and contains no noxious or undesirable species.

This resolution shall not be construed as a waiver or relinquishment of the District's right and responsibilities for maintaining areas within its jurisdiction. The District will have use and access to the areas for levee maintenance, including the elimination and removal of all safety hazards, natural or man-made, to levee maintenance.

Assistant County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: December 14, 2004

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 7(M)(1)(A)

Please note any items checked.

_____ **"4-Day Rule" ("3-Day Rule" for committees) applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

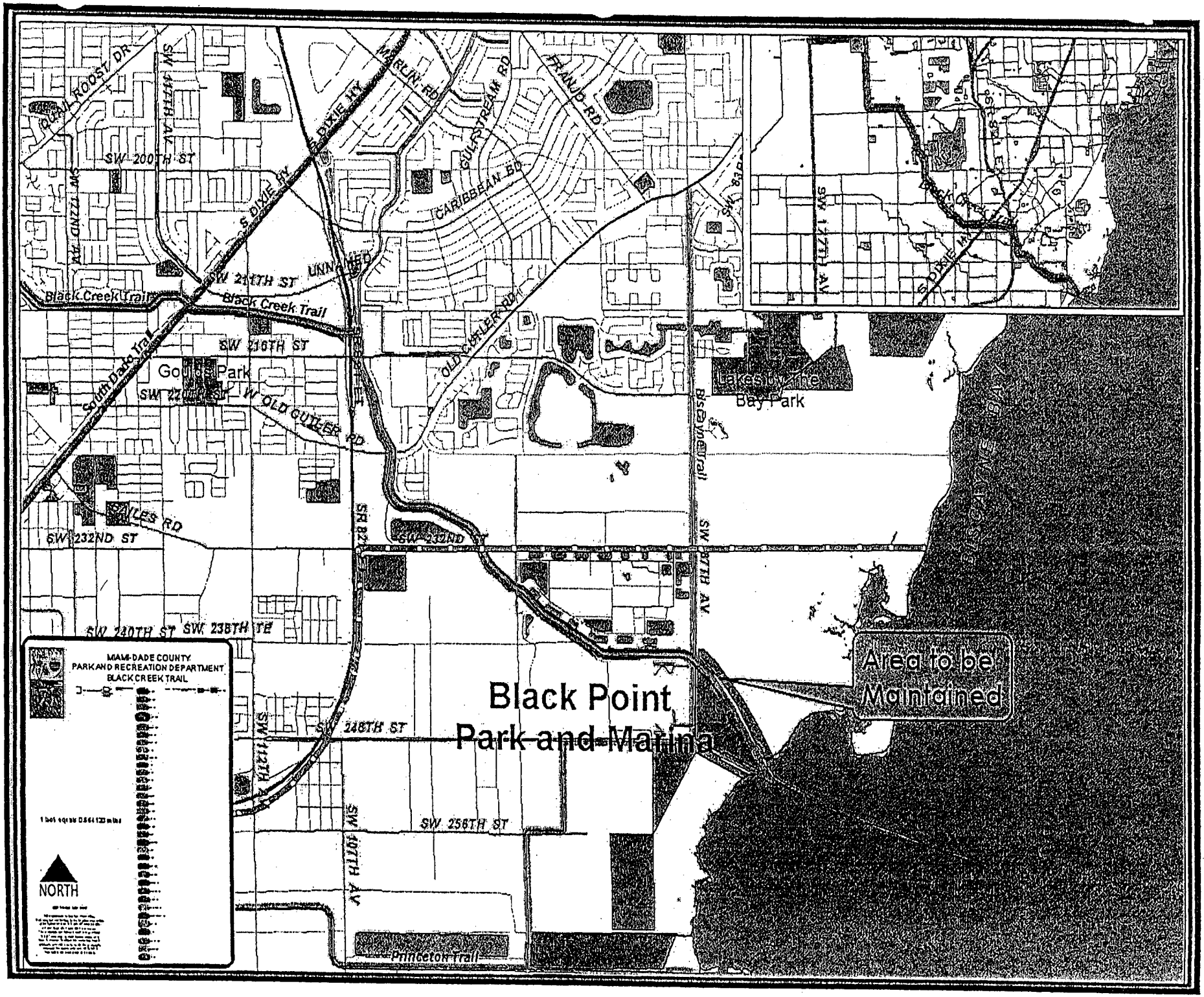
_____ **Bid waiver requiring County Manager's written recommendation**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **Housekeeping item (no policy decision required)**

_____ **No committee review**

15


Black Point
Park and Marina
Area to be
Maintained
MIAMI-DADE COUNTY
PARK AND RECREATION DEPARTMENT
BLACK CREEK TRAIL
NORTH
SW 200TH ST
SW 216TH ST
SW 232ND ST
SW 240TH ST
SW 248TH ST
SW 256TH ST
SW 117TH AV
SW 107TH AV
SW 87TH AV
S DIXIE HY
MARLIN RD
GULFSTREAM RD
FRANJO RD
CARIBBEAN BD
OLD CUTLER RD
W OLD CUTLER RD
SAILES RD
SR 821
Black Creek Trail
South Dade Trail
Princeton Trail
Goulds Park
Lakes by the
Bay Park
Biscayne Trail
BISCAYNE BAY

16

Proposed Restroom
Existing Shelter
BLACK CREEK CANAL
BLACK POINT PARK AND MARINA
BISCAYNE BAY
Proposed Fishing Platform

RESOLUTION NO. R-679-95

RESOLUTION ADOPTING SOUTH DADE GREENWAY NETWORK MASTER PLAN AND DIRECTING THE COUNTY MANAGER TO IMPLEMENT THE PLAN AS FUNDING PERMITS

WHEREAS, the proposed comprehensive system of multi-purpose trails in South Dade County known as the South Dade Greenway Network Master Plan would provide scenic, recreational and utilitarian corridors to be enjoyed by both residents and tourists, thereby promoting ecotourism and fostering economic development in that part of Dade County; and

WHEREAS, the Metropolitan Planning Organization by its action on May 12, 1994, has already included the South Dade Greenway Network Master Plan in the 1994-95 Transportation Improvement Program; and

WHEREAS, the South Florida Water Management District by its action in December 1994 has also approved and adopted the South Dade Greenway Network Master Plan; and

WHEREAS, six million dollars has already been committed by the Florida Department of Transportation, the Dade County Public Works Department and ISTEA to implement the South Dade Greenway Network Master Plan;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DADE COUNTY, FLORIDA, that this Board hereby adopts the South Dade Greenway Network Master Plan, to create an organized system of ten interconnecting trails, totalling 194

miles in length and spanning the area south of Kendall Drive to the Monroe County line, and west from Biscayne Bay to Everglades National Park. The Board further directs the County Manager to implement the Plan and to conduct all County activities in South Dade in a manner consistent with the Plan.

The foregoing resolution was sponsored by Commissioner Katy Sorenson and was offered by Commissioner Penelas, who moved its adoption. The motion was seconded by Commissioner Teele, and upon being put to a vote, the vote was as follows:

James Burke	Aye	Miguel Diaz de la Portilla	Aye
Betty T. Ferguson	Aye	Maurice A. Ferre	Aye
Bruce Kaplan	Aye	Gwen Margolis	Aye
Natacha S. Millan	Aye	Dennis C. Moss	Aye
Alexander Penelas	Aye	Pedro Reboredo	Aye
Katy Sorenson	Aye	Javier D. Souto	Aye

Arthur E. Teele, Jr. Aye

The Chairperson thereupon declared the resolution duly passed and adopted this 16th day of May, 1995.

DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: KAY SULLIVAN
Deputy Clerk

Approved by County Attorney as to form and legal sufficiency.

COUNTY COMMISSIONERS

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SFWMD PERMIT NO. MOD 7333

Form #0133
Rev 4-90

(NON-ASSIGNABLE)

February 13, 1992 DATE ISSUED

AUTHORIZING: 40' x 24' CANOE LAUNCH/LANDING RAMP WITHIN THE SOUTH RIGHT OF WAY OF C-1 LOCATED APPROXIMATELY 150' EAST OF SOUTHWEST 97TH AVENUE.

LOCATED IN DADE COUNTY, SECTION 21 TWP. 56S RGE. 40E

ISSUED TO: (owner)
Metro-Dade County
Parks and Recreation Department
50 Southwest 32nd Road
Miami, Florida 33129

Attn: Robert H. McLane

This permit is issued pursuant to Application No. _____ dated April 26, 91 and permittee's agreement to hold and save the South Florida Water Management District and its successors harmless from any and all damages, claims or liabilities which may arise by reason of the construction, maintenance or use of the work or structure involved in the Permit. Said application, including all plans and specifications attached thereto, is by reference made a part hereof. The permittee, by acceptance of this permit, hereby agrees that he shall promptly comply with all orders of the District and shall alter, repair or remove his use solely at his expense in a timely fashion. Permittee shall comply with all laws and rules administered by the District. This permit does not convey to permittee any property rights nor any rights or privileges other than those specified herein, nor relieve the permittee from complying with any law, regulation, or requirement affecting the rights of other bodies or agencies. All structures and works installed by permittee hereunder shall remain the property of the permittee.

This permit is issued by the District as a license to use or occupy District works or lands. It does not create any right or entitlement, either legal or equitable, to the continued use of the District works or lands. Since this permit conveys no right to the continued use of the District works or lands, the District is under no obligation to transfer this permit to any subsequent party. By acceptance of this permit, the permittee expressly acknowledges that the permittee bears all risks of loss as a result of revocation of this permit.

WORK PROPOSED, WILL BE COMPLETED ON OR BEFORE 2/28 19 93 otherwise, this permit is voided and all rights thereunder are automatically cancelled unless an extension to the construction period is applied for and granted.
12 LIMITING CONDITIONS - (on reverse side of permit)

SPECIAL CONDITIONS (SPECIFIC LIMITING CONDITIONS) ARE AS FOLLOWS:

SPECIAL CONDITIONS ON THE ATTACHED SHEET ARE A PART OF THIS DOCUMENT.

FILED WITH THE CLERK OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT
ON February 18, 1992
BY Bernell J. Miller
Deputy Clerk

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SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD

By: _____
Assistant Secretary

SPECIAL CONDITIONS ARE AS FOLLOWS:

1. THIS PERMIT IS ISSUED BY THE DISTRICT AS A LICENSE TO USE OR OCCUPY DISTRICT WORKS OR LANDS. IT IS REVOCABLE BY THE DISTRICT FOR CAUSE FOR THE REASONS STATED IN DISTRICT RULE 40E-6.341, FLORIDA ADMINISTRATIVE CODE. THE PERMITTEE EXPRESSLY ACKNOWLEDGES THAT THE PERMITTEE BEARS ALL RISKS OF LOSS AS A RESULT OF REVOCATION OF THIS PERMIT.

2. THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT IS NOT RESPONSIBLE FOR DAMAGE TO INSTALLATIONS LOCATED WITHIN ITS RIGHTS OF WAY.

3. PERMITTEE SHALL BE RESPONSIBLE FOR THE REPAIR AND/OR REPLACEMENT OF EXISTING FACILITIES LOCATED WITHIN THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT'S RIGHTS OF WAY.

4. ANY ADDITIONAL FACILITIES OR ALTERATIONS TO EXISTING FACILITIES WITHIN THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT'S RIGHTS OF WAY WILL REQUIRE A MODIFICATION OF THIS PERMIT.

5. CANAL RIGHT OF WAY DISTURBED DURING CONSTRUCTION, INSTALLATION AND/OR MAINTENANCE OF THE AUTHORIZED FACILITY SHALL BE RESTORED TO ORIGINAL OR BETTER CONDITION BY THE PERMITTEE.

6. PERMITTEE IS SOLELY RESPONSIBLE FOR ANY RELOCATION(S) WHICH MAY BE REQUIRED AS A RESULT OF THIS AUTHORIZATION. LIKEWISE, THE PERMITTEE IS RESPONSIBLE FOR ANY NOTIFICATION OR COORDINATION WITH THE OWNERS OF PREVIOUSLY PERMITTED FACILITIES LOCATED WITHIN THE DISTRICT'S RIGHTS OF WAY.

7. PERMITTEE RECOGNIZES THAT IN AN EMERGENCY SITUATION ANY OR ALL PERMITTED ITEMS WITHIN THE DISTRICT'S RIGHT OF WAY ARE SUBJECT TO IMMEDIATE ALTERATION, MODIFICATION OR REMOVAL BY DISTRICT FORCES. ANY DAMAGE RESULTING THEREFROM IS NOT THE RESPONSIBILITY OF THE DISTRICT.

8. THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT SHALL NOT, UNDER ANY CIRCUMSTANCES, BE HELD RESPONSIBLE FOR DAMAGE TO THE AUTHORIZED CANOE RAMP INCLUDING DAMAGE RESULTING FROM WATER LEVEL FLUCTUATIONS OR FLOWS.

9. RIP-RAP SHALL BE OF ADEQUATE DESIGN TO REMAIN INTACT DURING EXTREME FLOWS AND DISCHARGE.

10. PRIOR TO THE INSTALLATION OF RIP-RAP THE BANK SHALL BE SHAPED TO MATCH THE SURROUNDING BANK AND THE ENTIRE AREA COVERED AND SECURED WITH FILTER CLOTH OR AN ALTERNATIVE MATERIAL ACCEPTABLE TO THE DISTRICT.

11. ALL MATERIAL AND DEBRIS SHALL BE COMPLETELY REMOVED FROM THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT'S CANAL AND RIGHTS OF WAY.

12. PERMITTEE SHALL MAINTAIN THE CANOE LAUNCH/LANDING RAMP SITE INCLUDING BUT NOT LIMITED TO MOWING, SPRAYING FOR WEEDS, EROSION CONTROL, AND REPAIR/REPLACEMENT OF DETERIORATED WOOD.

40E-6.381 Limiting Conditions

The District's authorization to utilize lands and other works constitutes a revocable license. In consideration for receipt of that license, permittees shall agree to be bound by the following standard limiting conditions, which shall be included within all permits issued pursuant to this chapter.

(1) All structures on District works or lands constructed by permittee shall remain the property of permittee, who shall be solely responsible for ensuring that such structures and other uses remain in good and safe condition. Permittees are advised that other federal, state and local safety standards may govern the occupancy and use of the District's lands and works. The District assumes no duty with regard to ensuring that such uses are so maintained and assumes no liability with regard to injuries caused others by any such failure. The District further assumes no duty to ensure that the permitted use complies with the safety standards of other governmental entities.

(2) Permittee agrees to abide by all of the terms and conditions of this permit, including any representations made on the permit application and related documents. This permit shall be subject to the requirements of Chapter 373, F.S., and Chapter 40E-6, F.A.C. Permittee agrees to pay all investigative costs, court costs and reasonable attorney's fees resulting from any successful action taken by the District to obtain compliance with the conditions of the permit or removal of the permitted use. If District legal action is taken by staff counsel, "reasonable attorney's fees" is understood to mean the fair market value of the services provided, based upon what a private attorney would charge.

(3) This permit does not create any vested rights, and except for governmental entities and public or private utilities, is revocable at will upon reasonable prior written notice. Permittee bears all risk of loss as to monies expended in furtherance of the permitted use. Upon revocation, the permittee shall promptly modify, relocate or remove the permitted use. In the event of failure to so comply within the specified time, the District may remove the permitted use and permittee shall be responsible for all removal costs.

(4) This permit does not convey any property rights nor any rights or privileges other than those specified herein. The District approves the permitted use only to the extent of its interest in the works of the District. Permittees shall obtain all other necessary federal, state, local, special district and private authorizations prior to the start of any construction or alteration authorized by the permit. The District, however, assumes no duty to ensure that any such authorizations have been obtained.

(5) Permittee agrees to hold and save the District harmless from any and all damages or claims which arise from the ownership, construction, maintenance or operation of the permitted use, whether caused by the injured person or permittee, and whether occurring within the area of the permitted use or outside such area, provided the activity originated from the permitted use. This obligation expressly includes any alleged or actual negligence by the District as to all permitting activities regarding the subject use, including enforcement of permit conditions. Permittee agrees to provide legal counsel, if requested, for the defense of any such claims.

(6) The permittee shall demonstrate that it possesses financial integrity to ensure compliance with permit conditions. The District does not waive sovereign immunity in any respect.

(7) The permittee shall not engage in any activity regarding the permitted use which interferes with the construction, alteration, maintenance or operation of the works of the District, including:

(a) discharge of debris or aquatic weeds into the works of the District;

(b) causing erosion or shoaling within the works of the District;

(c) planting trees or shrubs or erecting structures which limit or prohibit access by District equipment and vehicles, except as may be authorized by the permit.

Permittee shall be responsible for any costs incurred by the District resulting from any such interference.

(8) Permittee shall allow the District to inspect the permitted use at any reasonable time.

(9) The District has the right to change, regulate, limit, schedule, or suspend discharges into, or withdrawals from, works of the District in accordance with criteria established by the District and/or the U. S. Army Corps of Engineers for the works of the District. Reasonable prior written notice shall be given to permittee.

(10) If the use involves the construction of facilities for a non exempt water withdrawal or surface water discharge, the applicant must apply for and obtain a water use or surface water management permit before any activities may be conducted pursuant to the right of way occupancy permit.

(11) The District shall notify the local ad valorem taxing authority of the lands affected by the permitted use, where the permittee owns the underlying fee and derives a substantial benefit from the permitted use. The taxing authority may reinstate such lands on the tax roll.

(12) Permittees shall provide prior written notice to their successors in title of the permit and its terms and conditions. Such notice may be made through filing a copy of the permit or other appropriate notice agreed to by the District in the public records of the county or counties where the project is located and by providing the District with proof of filing or through an equivalent procedure. All costs associated with this requirement shall be the responsibility of the permittee. This requirement applies to permittees who are adjacent landowners.

Specific Authority	373.044, 373.113 F.S.
Law Implemented	Chapters 25209 and 25270, Laws of Florida, 196.199(1), 373.042, 373.083(1), 373.085(1), 373.103, 373.109, 373.129, F.S.
History–New	9-3-81, Amended 5-30-82, 12-29-86, 12-24-91.
Formerly	16K-5.01(2), 16K-5.02(2), 16K-5.03(2), 16K-5.04(4), 16K-5.05.

REQUEST FOR PERMIT MODIFICATION

DATE: April 26, 1991

South Florida Water Management District
Post Office Box "V"
3301 Gun Club Road
West Palm Beach, Florida 33402-4238

Gentlemen:

I, the undersigned, request that Permit Number 7333 be modified to include:

construction of a canoe launching/landing area on the Black Creek Canal at S.W. 97th Avenue as per the enclosed plans.

in N.A. Subdivision, Block N.A., Lot N.A.

N.A. (Street, Avenue, etc.) N.A. (City), Florid

Sincerely, Robert H. McLane
(Please print or type)

Robert H. McLane
(Signature)

Association Dade County Park & Recreation Dep

Title Landscape Architect

RECEIVED
JUN 18 1991
RIGHT-OF-WAY DIVISION

Rev. Sept. 1982

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