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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 14(A)(6)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: September 16, 2015

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

SUBJECT: Resolution authorizing the release of unneeded portion of canal reservation lying within the northwest ¼ of Section 20, Township 54 South and Range 39 East in Miami-Dade County subject to certain conditions; and authorizing Mayor to execute disclaimer of interest for release of reservation and to take all actions necessary to effectuate such transactions

Resolution No. R-789-15

The accompanying resolution was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Commissioner Juan C. Zapata.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum

MIAMI-DADE COUNTY

Date: September 16, 2015

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Resolution Authorizing the Release of Unneeded Portion of Canal Reservation along SW 42 Street and SW 167 Avenue in Miami-Dade County, Subject to Certain Conditions

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Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached resolution authorizing the execution of a Miami-Dade County disclaimer for the release of unneeded portion of canal reservation in Tract 8 of Section 20, Township 54 South and Range 39 East, Miami-Dade County, subject to certain conditions.

Scope

The site is located along SW 42 Street and east of SW 167 Avenue in Commission District 11, which is represented by Commissioner Juan C. Zapata.

Fiscal Impact/Funding Source

This item does not require the expenditure of any Miami-Dade County funds.

Track Record / Monitor

The Water Control Section Manager within the Department of Regulatory and Economic Resources, Division of Environmental Resources Management (RER-DERM), Maria D. Molina, P.E., will be responsible for tasks related to this transaction.

Background

In 1960, the Central and Southern Florida Flood Control District, later known as the South Florida Water Management District, gave to the County a canal reservation for canal and water management purposes in connection with the Miami-Dade County Water Control Master Plan over the north 225 feet in Tract 8 of Section 20, Township 54 South and Range 39 East, now located along SW 42 Street between SW 167 Avenue and SW 164 Path. A site diagram is attached.

The property encumbered by the above-stated canal reservation is owned by Lennar Homes, LLC. Lennar Homes, LLC, plans to build residential units on this property and has requested the release of the southern 165 feet of the 225 foot wide canal reservation. In exchange, Lennar has offered to dedicate by plat to Miami-Dade County a 60 foot wide right-of-way, which may include the existing canal and may be used for County right-of-way purposes including but not limited to canal, bicycle and/or pedestrian pathways. The proposed dedication would effectively transfer ownership of the 0.908 acre portion to the County. Lennar has also offered to dedicate by plat a 15 foot wide canal maintenance easement, with a total area of 0.227 acres, which also may be used for a bicycle or pedestrian path and related purposes. Lennar has made these offers in exchange for the release of the remaining 165 foot wide canal reservation, with total area of 2.498 acres, as shown in Attachment A. These dedications are reflected on the current plat that is scheduled to come before this board this fall for final approval, and the dedications would be made at that time.

The requested 165 foot canal reservation is no longer needed for canal and water management purposes in connection with the Miami-Dade County Water Control Master Plan, provided that the aforementioned dedications are made. It is therefore recommended that the Board authorize the execution of the subject disclaimer for the release of the unneeded 165 foot wide portion of canal reservation on the south side of the north section line of Section 20, Township 54 South and Range 39 East, conditioned upon the subsequent dedications by plat.

Following the release of the 165 foot wide portion of canal reservation by the County, Lennar Homes, LLC would need to pursue further release from the South Florida Water Management District and/or other agencies or entities, as appropriate.

Jack Osterholt, Deputy Mayor

MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: September 16, 2015

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

SUBJECT: Agenda Item No. 14(A)(6)

Please note any items checked.

_____ **"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**

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

✓ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 14(A)(6)
9-16-15

RESOLUTION NO. R-789-15

RESOLUTION AUTHORIZING THE RELEASE OF UNNEEDED PORTION OF CANAL RESERVATION LYING WITHIN THE NORTHWEST ¼ OF SECTION 20, TOWNSHIP 54 SOUTH AND RANGE 39 EAST IN MIAMI-DADE COUNTY SUBJECT TO CERTAIN CONDITIONS; AND AUTHORIZING MAYOR TO EXECUTE DISCLAIMER OF INTEREST FOR RELEASE OF RESERVATION AND TO TAKE ALL ACTIONS NECESSARY TO EFFECTUATE SUCH TRANSACTIONS

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

WHEREAS, Lennar Homes, LLC, a Florida Limited Liability Company, is the owner of the property in Section 20, Township 54 South and Range 39 East which is encumbered by those rights in reservation given to Miami-Dade County in 1960 by the Central and Southern Florida Flood Control District, later known as the South Florida Water Management District, over the north 225 feet in Tract 8 of Section 20, Township 54 South and Range 39 East, to be reserved for water management and flood protection in connection with the Miami-Dade County Water Control Master Plan; and

WHEREAS, Lennar Homes, LLC, plans to develop the property and has requested the release of the southern 165 feet of the 225 foot wide canal reservation by Miami-Dade County, with total area of 2.498 acres; and

WHEREAS, in exchange for the aforementioned canal reservation release, Lennar Homes, LLC, has offered to dedicate by plat to Miami-Dade County a 60 foot wide right-of-way, with a total area of 0.908 acres, which may be used for right-of-way and canal purposes

including but not limited to a bicycle and pedestrian path, and thereby transferring ownership of the 60 foot portion to Miami-Dade County, and has offered to dedicate by plat a 15 foot wide easement with a total area of 0.227 acres, which may be used for canal maintenance, a bicycle and pedestrian path, and related purposes, all as shown in Attachment A; and

WHEREAS, the Bird Drive canal is currently located on the south side of the north section line of Section 20, Township 54 and Range 39 East; and

WHEREAS, on behalf of Miami-Dade County, the Department of Regulatory and Economic Resources has determined that the requested 165 foot wide portion of canal reservation is no longer needed by the County for canal and water management purposes in connection with the Miami-Dade County Water Control Master Plan,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. This Board incorporates the foregoing recitals as set forth herein.

Section 2. This Board authorizes the release of the unneeded portion of canal reservation from Miami-Dade County in Section 20, Township 54 South and Range 39 East as indicated in the Mayor's memorandum, a copy of which is attached hereto and incorporated herein by reference, specifically conditioned upon the following: 1) the dedication by plat within 120 days of the effective date of this resolution of a 60 foot wide right-of-way which may be used for right-of-way purposes, including but not limited to canal, bicycle and/or pedestrian pathways and related uses; and 2) the dedication by plat within 120 days of the effective date of this resolution of a 15 foot wide canal maintenance easement, which may also be used for County right-of-way purposes including but not limited to canal, bicycle, and/or pedestrian

pathways and related uses. In the event that such dedications are not made within such time period, this resolution, and the release set forth herein shall be null and void.

Section 3. After satisfaction of the conditions set forth in Section 2 herein, this Board authorizes the County Mayor to execute the disclaimer for the release of the rights in reservation from Miami-Dade County through the instrument of conveyance in substantially the form attached hereto and made a part hereof; authorizes the County Mayor and the County Mayor's designee to take all necessary actions to effectuate the transactions set forth herein, and, pursuant to Resolution No. R-974-09, (a) directs the Mayor or the Mayor's designee to record the instrument of conveyance accepted herein in the Public Records of Miami-Dade County, Florida and to provide a recorded copy of the instrument to the Clerk of the Board within thirty (30) days of execution of said instrument; and (b) directs the Clerk of the Board to attach and permanently store a recorded copy together with this resolution.

The foregoing resolution was offered by Commissioner **Esteban L. Bovo, Jr.** , 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:

Jean Monestime, Chairman **aye**
Esteban L. Bovo, Jr., Vice Chairman **aye**

Bruno A. Barreiro	**aye**	Daniella Levine Cava	**absent**
Jose "Pepe" Diaz	**aye**	Audrey M. Edmonson	**nay**
Sally A. Heyman	**aye**	Barbara J. Jordan	**aye**
Dennis C. Moss	**aye**	Rebeca Sosa	**aye**
Sen. Javier D. Souto	**aye**	Xavier L. Suarez	**aye**
Juan C. Zapata	**absent**		

The Chairperson thereupon declared the resolution duly passed and adopted this 16th day of September, 2015. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

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

HARVEY RUVIN, CLERK

By: Christopher Agrippa
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Abbie Schwaderer-Raurell

MIAMI-DADE COUNTY, FLORIDA, DISCLAIMER

KNOW ALL MEN BY THESE PRESENTS that MIAMI-DADE COUNTY, a political subdivision of the State of Florida, does hereby give notice that it disclaims certain rights, title and interests which said MIAMI-DADE COUNTY has in the following described lands lying and being in Miami-Dade County, Florida, to wit:

> THAT PORTION OF THE SOUTH 165 FEET OF THE NORTH 225 FEET OF THE NORTHWEST ¼ OF SECTION 20, TOWNSHIP 54 SOUTH, RANGE 39 EAST, WHICH LIES WITHIN TRACT 8, IN SECTION 20, TOWNSHIP 54 SOUTH, RANGE 39 EAST, OF MIAMI EVERGLADES LAND COMPANY SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2 AT PAGE 3 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

WHEREAS, the Central and Southern Florida Flood Control Districts by Rights in Reservations Deed No. 31 dated January 12, 1960 recorded in Official Records Book 1865 at Page 550 of the Public Records of MIAMI-DADE COUNTY, FLORIDA, conveyed, assigned, set over and granted to Miami-Dade County for canal and levee purposes only, the above described lands; and

WHEREAS, these same lands are also shown on the map attached as Exhibit A,

WHEREAS, the aforesaid rights in reservations upon the said above described lands are not now needed by MIAMI-DADE COUNTY for canal purposes:

NOW, THEREFORE, MIAMI-DADE COUNTY DOES disclaim any interest it has in the aforementioned lands by virtue of the said Rights in Reservations Deed No. 31 dated January 12, 1960 recorded in Official Records Book 1865 at Page 550 of the Public Records of Miami-Dade County, Florida.

This instrument was prepared by:
Carlos A. Calvache of Miami-Dade County
Department of Regulatory and Economic Resources
701 N.W. 1st Court, 6th Floor
Miami, Florida 33136

BY THE ISSUANCE of this instrument MIAMI-DADE COUNTY does not purport to lessen or diminish any existing canal right of way or canal maintenance easement, nor the rights of any other agency or governmental body in and to the aforementioned lands.

IN WITNESS WHEREOF MIAMI-DADE COUNTY FLORIDA, has caused these presents to be executed in its name by its Board of County Commissioners acting by the Mayor and the Clerk or Deputy Clerk of said Board on this the _____ day of _____ 20____.

ATTEST:

HARVEY RUVIN
CLERK OF SAID BOARD

By: _____
Deputy Clerk

Print:_____

MIAMI-DADE COUNTY, FLORIDA
BY ITS MAYOR

By: _____
Carlos A. Gimenez, Mayor

The foregoing instrument was acknowledged before me this ____ day of _____, 20___, by _____, who is personally known to me or who has produced _____ as identification and who did take an oath.

NOTARY PUBLIC:

Sign _____

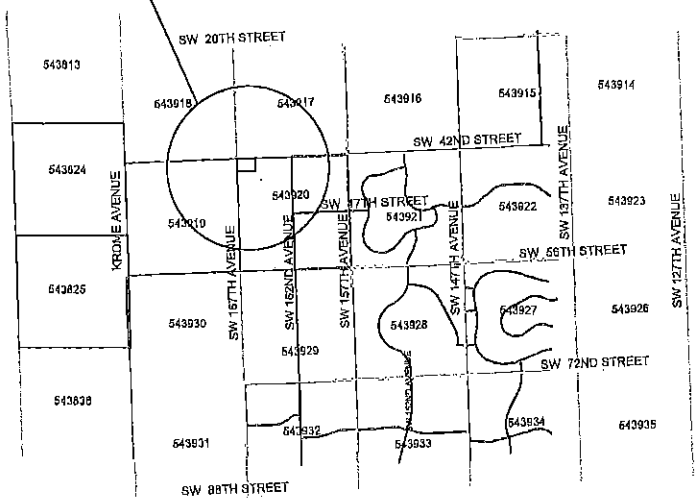
Print _____
STATE OF FLORIDA at large
(Seal)

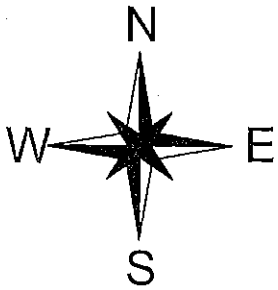
My commission expires:_____

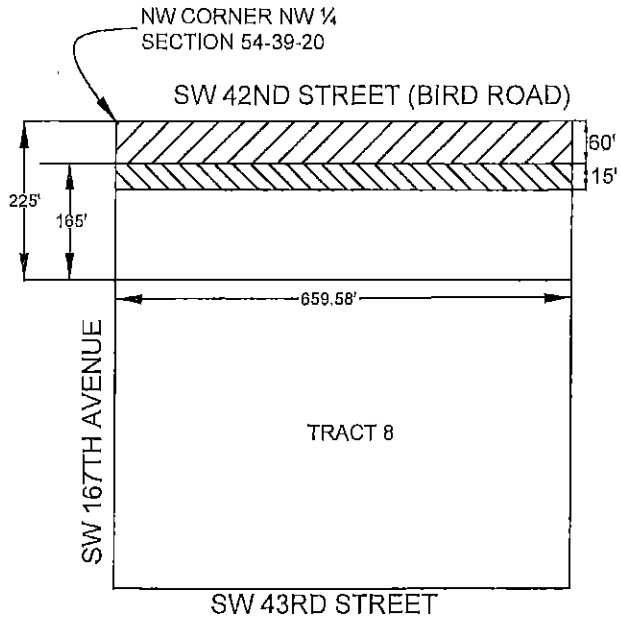
EXHIBIT A

WC. 904
SEC. 20
TWP. 54
RGE. 39

PROJECT LOCATION







60' CANAL RIGHT OF WAY TO BE ACQUIRED BY PLAT

15' CANAL MAINTENANCE EASEMENT TO BE ACQUIRED BY PLAT

165' CANAL RESERVATION TO BE DISCLAIMED

(NOT TO SCALE)