

MEMORANDUM

Agenda Item No. 14(A)(3)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: February 19, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution approving a
Temporary Construction
Easement between the South
Florida Water Management
District and Miami-Dade County
which grants the County access
to property owned by the South
Florida Water Management
District to construct the Card
Sound Road Wetlands
Restoration Project; authorizing
the County Mayor to execute
said Easement; authorizing the
County Mayor to execute
subsequent Easements for
additional periods of time; and
directing the County Mayor to
record the Temporary Easement

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

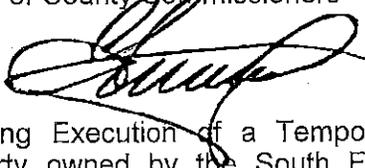


Abigail Price-Williams
County Attorney

APW/smm

Date: February 19, 2020

To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Resolution Authorizing Execution of a Temporary Construction Easement Granting Access to a Property owned by the South Florida Water Management District for Wetlands Restoration near Card Sound Road

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the Temporary Construction Easement, attached to the resolution as Exhibit 1, between the South Florida Water Management District (SFWMD) and Miami-Dade County, and authorize execution of the Temporary Construction Easement. The Temporary Construction Easement will allow Miami-Dade County to access a property owned by the SFWMD in order to construct the South Miami-Dade Card Sound Road Salt Intrusion Barrier Project, also known as the Card Sound Road Wetlands Restoration Project.

Scope

The Temporary Construction Easement will provide access to a portion of the project site located on the west side of Card Sound Road between SW 432 Street and approximately SW 428 Street (theoretical), within Commission District 9, which is represented by Commissioner Dennis C. Moss.

Fiscal Impact/Funding Source

This Temporary Construction Easement will cost a one-time fee of \$10.00 to be paid to the SFWMD from Index Code 387167, an operating account of the Department of Regulatory and Economic Resources (RER), Division of Environmental Resources Management (DERM). The work will be funded under separate Board authorizations.

Track Record / Monitor

The EEL Program Manager within DERM, Janet Gil, will monitor the Easement.

Background

The objective of the South Miami-Dade Card Sound Road Salt Intrusion Barrier Project is to protect fresh water resources by improving hydrology and reducing salt water intrusion in this area. The Card Sound Road Canal, excavated in 1926 to provide fill for construction of the Card Sound Road, inadvertently allows salt water to intrude inland and contaminate groundwater in the Biscayne Aquifer, a drinking water source for Miami-Dade and Monroe County wellfields. Salt water intrusion and over-drainage by the Card Sound Road Canal also degrades publicly owned wetlands managed by Miami-Dade County's Environmentally Endangered Lands (EEL) Program that are needed for regional restoration projects, including the Comprehensive Everglades Restoration Plan.

Most of the land within the Card Sound Road Salt Intrusion Barrier Project is owned by Miami-Dade County through the EEL Program, except for one parcel owned by the SFWMD. The proposed Temporary Construction Easement will grant access to the SFWMD property to allow Miami-Dade County to restore the portion of the canal owned by the SFWMD in addition to the County-owned lands.

Within the SFWMD property, the Card Sound Road Canal will be backfilled to wetland elevations to restore wetlands that were destroyed by the canal's construction. This project is part of a regional

strategy to reduce salt intrusion by restoring wetlands and improving hydrology in southern Miami-Dade County. In June 2018, the Board approved Resolution No. R-635-18, ratifying an FDEP grant agreement that will reimburse the County up to \$600,000.00 for the South Miami-Dade Card Sound Road Salt Intrusion Barrier Project.

The SFWMD's only obligation under this Temporary Construction Easement is to allow the County to access the property to conduct this work, referred to in the Temporary Construction Easement as the Card Sound Road Wetlands Restoration Project, for a five year period or until completion of the scope of work. The County recognizes that the SFWMD is not obligated to maintain the project improvements and their land could be converted to some other use. However, County staff believe this is unlikely because the County and SFWMD have been working cooperatively for many years to preserve and restore wetlands in this area. This includes implementation of the Comprehensive Everglades Restoration Plan, which this project will enhance. The restoration is consistent with the goals and objectives of the Memorandum of Understanding between Miami-Dade County and the SFWMD, approved by the Board through Resolution No. R-718-10, for the continued cooperative management of the South Dade Wetlands. Furthermore, any future work on the newly created wetlands would be subject to the regulatory authority of Miami-Dade County through Chapters 24 and 33 of the Code of Miami-Dade County. The proposed Temporary Construction Easement will allow access needed for the Card Sound Road Salt Intrusion Barrier Project to obtain the required permits for this work.

Delegation

Upon approval of this item, the County Mayor or County Mayor's designee will have the authority to execute subsequent easements for additional periods of time up to a total of five years. Any subsequent easements shall be substantially in the form of the Temporary Construction Easement attached to the resolution as Exhibit 1.



Jack Osterholt
Deputy Mayor



MEMORANDUM
(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: February 19, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 14(A)(3)

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
- Statement of social equity 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 present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) 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)(3)
2-19-20

RESOLUTION NO. _____

RESOLUTION APPROVING A TEMPORARY CONSTRUCTION EASEMENT BETWEEN THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT AND MIAMI-DADE COUNTY WHICH GRANTS THE COUNTY ACCESS TO PROPERTY OWNED BY THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT TO CONSTRUCT THE CARD SOUND ROAD WETLANDS RESTORATION PROJECT; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAID EASEMENT; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SUBSEQUENT EASEMENTS FOR ADDITIONAL PERIODS OF TIME; AND DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO RECORD THE TEMPORARY EASEMENT

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:

Section 1. The foregoing recitals are incorporated in this resolution and are approved.

Section 2. This Board hereby approves the Temporary Construction Easement (Easement), in substantially the form attached hereto as Exhibit 1, which grants the County access to a property owned by the South Florida Water Management District in order to construct the Card Sound Road Wetlands Restoration Project, also known as the South Miami-Dade Card Sound Road Salt Intrusion Barrier Project, within a canal running through said property.

Section 3. This Board authorizes the County Mayor or County Mayor's designee to execute the Easement.

Section 4. This Board authorizes the County Mayor or County Mayor's designee to execute subsequent easements for additional periods of time, for a total not to exceed five years. The form of such subsequent easements shall be substantially in the form attached as the Temporary Construction Easement in Exhibit 1.

Section 5. Pursuant to Resolution No. R-974-09, the Board (a) directs the Mayor or the Mayor's designee to record the Easement in the Public Records of Miami-Dade County, Florida, and to provide a recorded copy of the Easement to the Clerk of the Board within thirty (30) days of execution of said Easement; and (b) directs the Clerk of the Board to attach and permanently store a recorded copy of said Easement together with this resolution.

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

Audrey M. Edmonson, Chairwoman

Rebeca Sosa, Vice Chairwoman

Esteban L. Bovo, Jr.

Jose "Pepe" Diaz

Eileen Higgins

Joe A. Martinez

Dennis C. Moss

Xavier L. Suarez

Daniella Levine Cava

Sally A. Heyman

Barbara J. Jordan

Jean Monestime

Sen. Javier D. Souto

The Chairperson thereupon declared the resolution duly passed and adopted this 19th day of February, 2020. 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: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Abbie Schwaderer-Raurell

EXHIBIT 1

This instrument prepared by:
South Florida Water Management District
3301 Gun Club Road
West Palm Beach, FL 33406
Attn: Marcy Zehnder, MSC 3720

Project: Card Sound Road Wetlands Restoration
SFWMD Tract: 45101-048
PCN: 30-8921-000-1150

TEMPORARY CONSTRUCTION EASEMENT

THIS TEMPORARY CONSTRUCTION EASEMENT is made this ____ day of _____, 20__, ("Commencement Date") by **SOUTH FLORIDA WATER MANAGEMENT DISTRICT, a government entity created under Chapter 373, Florida Statutes**, whose mailing address is 3301 Gun Club Road, West Palm Beach, Florida 33406, hereinafter referred to as "Grantor", in favor of **MIAMI-DADE COUNTY, a political subdivision of the State of Florida**, c/o Environmentally Endangered Lands Program, 701 NW 1st Court, 5th Floor, Miami, Florida 33136-3912, hereinafter referred to as "Grantee".

WITNESSETH:

That for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration in hand paid by the Grantee to the Grantor, the adequacy and receipt of which are hereby acknowledged, the Grantor does hereby grant to the Grantee, a Temporary Construction Easement ("Easement"), for the purposes as set forth below, over the following described lands, situate in Miami-Dade County, Florida legally described as follows (the "Easement Parcel"):

The North one-half (N ½) of the South one-half (S ½) of the South one-half (S ½) of the Northeast one-quarter (NE ¼) lying West of State Road No. 4A (Card Sound Road), LESS the West 1,483 feet thereof

This Easement is given for any and all purposes deemed by Grantee to be necessary, convenient, incident to, or in connection with, the Card Sound Road Wetlands Restoration Project (the "Activities").

The Grantee agrees that no later than the effective date of termination of this Easement, the Grantee will restore any wetland impacts to the Easement Parcel caused by the Activities to the pre-existing contours and elevations to promote natural recruitment of vegetation and to maintain the pre-existing habitat type and hydrological condition it is in as of the Commencement Date or to an improved condition as authorized pursuant to the applicable construction permits, including but not limited to the Environmental Resource Permit. The Grantor and the Grantee agree to document the condition of the property prior to any work with photographs and the Grantee shall provide this documentation to the Grantor within sixty (60) days of the effective date of this Easement.

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All activities of the Grantee conducted with respect to the Premises shall be in accordance and compliance with all applicable federal, state and local laws, statutes, regulations, permits, and ordinances, including but not limited to all environmental and archeological laws and regulations, as well as any permits issued by the Grantor. The Grantee shall maintain all of such permits and approvals throughout the term of this Easement.

This Easement may not be assigned or transferred without the prior written consent of the Grantor.

All notices, requests, consents and other communications required or permitted under this Agreement, except as provided in paragraph 2 above, shall be in writing (including telex and telegraphic communications) and shall be (as elected by the person giving such notice) hand delivered by messenger or courier service, telecommunicated, emailed, or mailed (airmail if international) by registered or certified mail (postage prepaid), return receipt requested, or sent by any form of overnight mail, addressed to:

TO Grantor:
Director, Real Estate Division
3301 Gun Club Road
West Palm Beach, Florida 33406

Fax: (561) 682-5694
Email: RealEstate@sfwmd.gov

TO Grantee:
Janet Gil, Program Director
Environmentally Endangered Lands Program
701 NW 1st Court, 5th Floor
Miami, Florida 33136-3912

Fax: (305) 372-6673
Email: Janet.Gil@miamidade.gov

or to such other address as any party may designate by notice complying with the terms of this paragraph. Each such notice shall be deemed delivered (1) on the date delivered if by personal delivery; (2) on the date telecommunicated if by telegraph; (3) on the date of transmission with confirmed receipt if by telex, telefax or other telegraphic method; (4) on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as not deliverable, as the case may be, if mailed; and (5) one day after mailing by any form of overnight mail service, and (6) the date sent if by e-mail.

Grantor makes no warranties or representations as to its interest in the Easement Parcel, or that the Easement Parcel is safe or suitable for the purposes for which the Grantee is permitted to use the Easement Parcel. The Grantee acknowledges that it accepts the Easement Parcel in its "AS IS", "WHERE IS" and "WITH ALL FAULTS" condition.

All terms, conditions and provisions of this Easement shall run with the land and shall inure to the

benefit of and be binding upon the parties hereto and their respective successors and assigns.

TO HAVE AND TO HOLD this Easement, together with all and singular the appurtenances thereunto belonging or in anywise incident or appertaining to the use, benefit and behoof of the Grantee, commencing on the last date of execution of this Easement (the "Commencement Date") and continuing through and including the earlier occurrence of either of the following: (i) Five (5) years after the Commencement Date, or (ii) the completion of the Card Sound Road Wetlands Restoration Project in accordance with the plans and specifications, after which the Easement granted hereunder shall automatically terminate and have no further force or effect.

IN WITNESS WHEREOF, the parties hereto have caused this Easement to be executed by their duly authorized representatives on the day and year noted below.

GRANTOR:

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, a government entity created under Section 373, Florida Statute

Attest:

Rosie Byrd, District Clerk

Chauncey P. Goss, II, Chairman

Date: _____

Legal form approved
SFWMD Office of Counsel

By: _____ Date: _____

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by Chauncey P. Goss, II, and Rosie Byrd, as Chairman and District Clerk, respectively, of the South Florida Water Management District, a government entity created under Section 373, Florida Statutes, on behalf of the entity, who are personally known to me.

(notary seal)

Notary Public

GRANTEE:

MIAMI-DADE COUNTY, a political subdivision of the State of Florida

Attest:

_____, Clerk

By: _____

Date: _____

Approved as to form and legal sufficiency by County Attorney:

By: _____ Date: _____

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ by _____ and _____, as _____ Mayor and Clerk, respectively, of Miami-Dade County, a political subdivision of the State of Florida, on behalf of the county, who are personally known to me.

(notary seal)

Notary Public