

**RESOLUTION NO. 2005 – 020**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA APPROVING AN AGREEMENT BETWEEN THE TOWN OF SOUTHWEST RANCHES AND THE SOUTH BROWARD DRAINAGE DISTRICT ("SBDD") RELATING TO A GRANT OF EASEMENT TO RELOCATE THE MAINTENANCE AND OPERATION OF CANAL LATERAL #3 FROM THE SOUTH BANK OF CANAL LATERAL #3 TO THE NORTH BANK OF CANAL LATERAL #3, ADJACENT TO THE ROLLING OAKS OPEN SPACE PARK; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR, AND TOWN ATTORNEY TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, SBDD Canal Lateral #3 is located within easements dedicated to SBDD between SW 172<sup>nd</sup> Avenue and SW 178<sup>th</sup> Avenue in the Town of Southwest Ranches, Florida; and

**WHEREAS**, in order to better serve the adjacent property owners of Canal Lateral #3, SBDD has requested that the maintenance operations for Canal Lateral #3 be relocated to the Rolling Oaks Open Space Park; and

**WHEREAS**, the relocation will move the existing maintenance operations for Canal Lateral #3 from the south bank of Canal Lateral #3 to the north bank of Canal Lateral #3; and

**WHEREAS**, the Town of Southwest Ranches has agreed to dedicate to SBDD a forty-five foot Canal and Canal Maintenance Easement, over the south forty-five feet of the Rolling Oaks Open Space Park to facilitate this relocation; and

**WHEREAS**, following the Town's dedication, SBDD has agreed to vacate a portion of its interest in and to its existing Easement; and

**WHEREAS**, the Town and SBDD are desirous of entering into this agreement to better serve the adjacent property owners.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Southwest Ranches, Florida:

**Section 1.** The above referenced recitals are true and correct and are incorporated herein by reference.

**Section 2.** The Town Council hereby approves an agreement between the Town of Southwest Ranches and South Broward Drainage District ("SBDD") relating to a grant of easement to relocate the maintenance and operation of Canal Lateral #3 from the south bank of Canal Lateral #3 to the north bank of Canal Lateral #3, adjacent to the Rolling Oaks Open Space Park.

**Section 3.** The Town Council hereby authorizes the Mayor, Town Administrator and Town Attorney to enter into an Agreement in substantially the same form as that attached hereto as Exhibit "A" and to make such modifications, additions and/or deletions, which they deem necessary to effectuate the intent of this Resolution.

**Section 4.** That this Resolution shall become effective immediately upon its adoption.

**PASSED AND ADOPTED** by the Town Council of the Town of Southwest Ranches, Florida, this 9<sup>th</sup> day of December, 2004, on a motion by Council Member Forest Blanton and seconded by Vice Mayor Aster Knight.

Fink	<u>Y</u>	Ayes	<u>5</u>
Knight	<u>Y</u>	Nays	<u>0</u>
Blanton	<u>Y</u>	Absent or	
Maines	<u>Y</u>	Abstaining	<u>0</u>
Nelson	<u>Y</u>		



Mecca Fink, Mayor

ATTEST:



Shari Canada, Town Clerk

Approved as to Form and Correctness:



Gary A. Poliakoff, J.D., Town Attorney

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This Document Prepared by and Return to:  
Douglas R. Bell, Esquire  
Cumberland Building - Suite 601  
800 East Broward Boulevard  
Fort Lauderdale, Florida 33301

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**CANAL AND CANAL MAINTENANCE EASEMENT AGREEMENT**  
(Southwest Ranches)

THIS CANAL AND CANAL MAINTENANCE EASEMENT AGREEMENT, made and entered into this \_\_\_\_\_, day of \_\_\_\_\_, 2004, by and between SOUTH BROWARD DRAINAGE DISTRICT, a political subdivision of the State of Florida, whose address is 6591 Southwest 160<sup>th</sup> Avenue, Southwest Ranches, Florida 33331, hereinafter referred to as "SBDD" and TOWN OF SOUTHWEST RANCHES, a political subdivision of the State of Florida, whose address is 6589 Southwest 160<sup>th</sup> Avenue, Southwest Ranches, Florida 33331, hereinafter referred to as "TOWN".

WITNESSETH:

WHEREAS, SBDD Canal Lateral #3 is located within easements dedicated to SBDD between Southwest 172<sup>nd</sup> Avenue and Southwest 178<sup>th</sup> Avenue in Southwest Ranches, Florida and the easements within which Canal Lateral #3 is constructed are located on the south 20 feet of Tracts 52 and 61 of Section 31, Township 50 South, Range 40 East of Florida Fruit Lands Company's Subdivision N<sup>o</sup> 1, recorded in Plat Book 2, Page 17 of the Public Records of Miami-Dade County, Florida and the north 20 feet of Tracts 53 and 60 of said Section 31; and

WHEREAS, SBDD has requested, in order to better serve the adjacent property owners of said Canal Lateral #3, that the maintenance operations for SBDD Canal Lateral #3 be relocated to the Rolling Oaks Open Space Park, located in the Town of Southwest Ranches; and

WHEREAS, the relocation will result in the existing maintenance operations for Canal Lateral #3 to be relocated from the south bank of Canal Lateral #3 to the north bank of Canal Lateral #3; and

WHEREAS, TOWN has agreed to dedicate to SBDD a forty-five foot (45') CANAL AND CANAL MAINTENANCE EASEMENT, over the South forty-five feet (45') of the Rolling Oaks Open Space Park, which includes the area that the approximately 25 foot Canal Lateral #3 is constructed and a 20 foot canal maintenance area north of the canal; and

WHEREAS, after dedication of the foregoing CANAL AND CANAL MAINTENANCE EASEMENT (hereinafter referred to as "CCME") to SBDD, SBDD agrees to vacate a portion of its interest in and to the existing Easement located within the north 20 feet of said Tracts 53 and 60, said portion to be the south 10 feet of said 20 feet; and

WHEREAS, it is in the best interest of the TOWN and SBDD that the TOWN and

SBDD enter into this CANAL AND CANAL MAINTENANCE EASEMENT AGREEMENT;

NOW, THEREFORE, in consideration of the premises and Ten and No/100 Dollars (\$10.00) and other good and valuable consideration from each to the other, the receipt and sufficiency of which are hereby acknowledged by TOWN and SBDD each intending to be legally bound do hereby represent, warrant, covenant and agree as follows:

1. The foregoing statements are true and correct and incorporated herein by reference as though set forth verbatim.
2. SBDD may deepen the existing Canal within its existing boundaries and place the removed material on the north bank of the Canal. All fill that SBDD does not utilize to construct a maintenance/canal access area on the north side of the Canal will be available to TOWN upon completion of the construction of the maintenance area.
3. SBDD is authorized to construct a maintenance area for maintenance and access to the Canal within that part of the CCME located north of the existing Canal.
4. The TOWN agrees to remove all steel hardware, fasteners and wire from the existing wood fence located within the CCME. After TOWN has removed said hardware, fasteners and wire, SBDD at SBDD's expense will clear and remove the fence, tree and shrub materials along the north bank of the canal within the CCME.
5. SBDD may use the CCME perpetually for construction of drainage facilities and maintenance of the canal, drainage systems connected thereto and appurtenances.
6. Unless otherwise agreed to by the TOWN or adjacent property owners, SBDD agrees to only enter and exit the CCME from the east or west end of the canal at Southwest 172<sup>nd</sup> Avenue and Southwest 178<sup>th</sup> Avenue.
7. In the event an entry gate is constructed at either the east or west end of the canal, SBDD shall take all reasonable efforts to secure the entry gates at all times when not in use and shall provide the TOWN with appropriate keys for the TOWN's emergency use only.
8. TOWN shall not be responsible for any costs or liability arising out of SBDD's use of the CCME. SBDD shall be solely responsible for all liability or damage caused by SBDD and for which SBDD is legally responsible within the CCME.
9. SBDD agrees that the CCME shall only be used for construction of new drainage facilities, if any, and for maintenance of the Canal Lateral #3, drainage systems connected thereto and appurtenances.
10. In the event of any litigation involving this Agreement, the prevailing party shall be entitled to an award for legal representation of its court costs and reasonable attorney's fees at trial and all appellate levels of judicial proceedings.
11. SBDD shall have free ingress, egress and regress across the CCME for the purpose of constructing, maintaining and repairing the Canal Lateral #3, drainage system and appurtenances contained therein.
12. SBDD shall keep the CCME free and clear from debris resulting from SBDD's activities and other debris which the SBDD currently is responsible for removal of.
13. SBDD shall vacate and quit claim the south 10 feet of the existing 20 foot easement located on Tracts 53 and 61 to the underlying property owners owning property located adjacent to the south side of the CCME. SBDD shall within seventy five (75) days of full execution of this Agreement provide copies of the recorded vacation and quit claim deeds to the TOWN.

14. Simultaneously with signing this Agreement, TOWN shall dedicate to SBDD the forty five foot (45') CCME which includes the existing Canal and adjacent maintenance area which is more fully described in Exhibit "A" attached hereto and which is a part of this Agreement.

15. TOWN may in its sole discretion place a fence north of the CCME. The fence shall be maintained and be the sole responsibility of the TOWN in perpetuity.

16. Nothing contained in this Agreement shall be deemed or interpreted to constitute a waiver by SBDD or TOWN of any limitations of their liability as may be accorded SBDD and TOWN by virtue of Section 768.28, Florida Statutes, or any subsequently enacted similar law.

17. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which will constitute one and the same Agreement.

18. This Agreement is a covenant running with the land and shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, personal representatives, successors, assigns, grantees and to those persons who are specifically assigned in writing any rights or obligations hereunder.

19. This Agreement shall be construed and interpreted according to the laws of the State of Florida and venue with respect to any litigation with respect to this Agreement shall be Broward County, Florida. This Agreement does not and is not intended to release third parties from any damage that third parties may cause to the facilities constructed within the CCME.

20. All notices of requests, demand and other communications hereunder shall be addressed to the parties as follows:

As to SBDD:

South Broward Drainage District  
Attn: District Director  
6591 Southwest 160th Avenue  
Southwest Ranches, Florida 33331

with copy to:

Douglas R. Bell, Esquire  
Cumberland Building, Suite 601  
800 East Broward Boulevard  
Ft. Lauderdale, Florida 33301

As to TOWN:

Town of Southwest Ranches  
Attn: Town Administrator  
6589 Southwest 160<sup>th</sup> Avenue  
Southwest Ranches, Florida 33331

Agreement shall be found to be invalid or unenforceable, such findings shall not affect the remainder of this Agreement.

22. This CANAL AND CANAL MAINTENANCE EASEMENT AGREEMENT constitutes the full agreement of the parties and supercedes all oral and prior agreements. No modifications or changes to this Agreement shall be effective unless the same are made in writing and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

Signed, sealed and delivered in the presence of:

"SBDD" (SOUTH BROWARD DRAINAGE DISTRICT)

Pamela Walsh  
Witness Signature

PAMELA WALSH  
Witness Printed Name

Witness Printed Name ↑

Douglas R. Bell  
Witness Signature

DOUGLAS R. BELL  
Witness Printed Name

Witness Printed Name ↑

Leonard Miller

By: Leonard Miller, President

Attest: Vicki Minnaugh

Vicki Minnaugh, Acting Secretary

STATE OF FLORIDA )  
                                  )§  
COUNTY OF BROWARD )

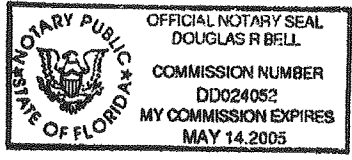
The foregoing Agreement was acknowledged before me this 28<sup>th</sup> day of October, 2004 by LEONARD MILLER and VICKI MINNAUGH as President and Acting Secretary, respectively of the SOUTH BROWARD DRAINAGE DISTRICT, a political subdivision of the State of Florida, on behalf of SOUTH BROWARD DRAINAGE DISTRICT. They are personally known to me.

WITNESS my hand and official seal in the county and state last aforesaid this 28<sup>th</sup> day of October, 2004.

NOTARY SEAL OR STAMP

Douglas R. Bell

NOTARY PUBLIC: STATE OF FLORIDA AT LARGE



Signed, sealed and delivered in the presence of:

"TOWN" (TOWN OF SOUTHWEST RANCHES)

\_\_\_\_\_  
By: Mecca Fink, Mayor

\_\_\_\_\_  
John Canada, Town Administrator

Attest:

\_\_\_\_\_  
Shari Canada, Town Clerk

Approved as to Form:

\_\_\_\_\_  
By: Gary A. Poliakoff, J.D.  
Town Attorney

STATE OF FLORIDA     )  
                                  )§  
COUNTY OF BROWARD    )

The foregoing Agreement was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2004 by MECCA FINK, Mayor of the Town of Southwest Ranches, a political subdivision of the State of Florida, on behalf of the Town of Southwest Ranches. She is personally known to me.

WITNESS my hand and official seal in the county and state last aforesaid this \_\_\_ day of \_\_\_\_\_, 2004.

NOTARY SEAL OR STAMP

\_\_\_\_\_  
NOTARY PUBLIC: STATE OF FLORIDA AT LARGE

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**EXHIBIT "A" TO**  
**CANAL AND CANAL-MAINTENANCE EASEMENT**

THE SOUTH 45 FEET OF THE FOLLOWING-DESCRIBED PROPERTY:

THAT PART OF TRACTS 49, 50, 51, 52, 61 AND 62 OF SECTION 31, TOWNSHIP 50 SOUTH, RANGE 40 EAST, ACCORDING TO THE FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION NO. 1, AS RECORDED IN PLAT BOOK 2, PAGE 17, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SE 1/4 OF SAID SECTION 31, RUN SOUTHERLY ALONG THE WEST LINE OF SAID SE 1/4 A DISTANCE OF 660.17 FEET TO A POINT OF BEGINNING; THENCE EASTERLY ALONG THE SOUTH LINE OF SAID TRACT 63, A DISTANCE OF 1995 FEET TO A POINT; THENCE NORTHERLY PARALLEL TO THE WEST LINE OF SAID SE 1/4, A DISTANCE OF 660.26 FEET; THENCE EASTERLY ALONG THE NORTH LINE OF SAID SE 1/4, A DISTANCE OF 500.44 FEET; THENCE SOUTHERLY PARALLEL WITH AND 100 FEET WEST OF THE EAST LINE OF SAID SE 1/4, A DISTANCE OF 1320.55 FEET; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID TRACTS 52 AND 61, A DISTANCE OF 2518.13 FEET; THENCE NORTHERLY ALONG THE WEST LINE OF SAID SE 1/4, A DISTANCE OF 660.17 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN BROWARD COUNTY, FLORIDA.

SUBJECT PROPERTY CONTAINING 1,992,858 SQUARE FEET (45.750 ACRES) MORE OR LESS.

SAID LANDS LYING, BEING AND SITUATE IN BROWARD COUNTY, FLORIDA