

**SOUTH BROWARD DRAINAGE DISTRICT  
GOVERNING BOARD MEETING MINUTES**

**FEBRUARY 27, 2014**

**Present:**

Scott Hodges, Chairperson  
James Ryan, Vice Chairperson  
Vicki Minnaugh, Treasurer  
Robert E. Goggin, IV, Secretary  
Alanna Mersinger, Commissioner  
Thomas Good, Commissioner  
Mercedes Santana-Woodall, Commissioner

Kevin M. Hart, District Director  
Douglas R. Bell, Legal Counsel  
Reina Muniz, Recording Secretary  
General Public: See Attached List

**Absent:**

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**01. CALL TO ORDER/PLEDGE OF ALLEGIANCE**

Chair Hodges called the SBDD Board Meeting to order at 8:08 A.M. with Chair Hodges, Vice Chair Ryan, Commissioner Minnaugh, Commissioner Mersinger, Commissioner Good and Commissioner Santana-Woodall present; followed by the Pledge of Allegiance.

**02. PUBLIC COMMENT**

None.

**03. APPROVAL OF MINUTES**

Commissioner Minnaugh moved for approval of the minutes of the January 30<sup>th</sup>, 2014, South Broward Drainage District Board meeting. Motion was seconded by Commissioner Mersinger and was carried unanimously by the Commissioners present.

**04. DIRECTOR'S REPORT**

**A. PRESENTATION OF FINAL SBDD FINANCIAL STATEMENT FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2013 BY BARRY FINK, CPA**

District Director Hart stated that the final report of the SBDD Financial Statements for the Fiscal Year Ending September 30, 2013 was prepared by the District's accounting firm, Margolies, Fink and Wichrowski, Certified Public Accounts (MFW), and that Barry Fink, CPA was present at the meeting to present the report and answer any questions.

Mr. Fink stated that everything had been corrected as per the Board's directives from the prior meeting.

Commissioner Minnaugh moved for approval of Final SBDD Financial Statement for the Fiscal Year ending September 30, 2013. Motion was seconded by Commissioner Mersinger and it was carried unanimously by the Commissioners present.

Commissioner Goggin joined the meeting at approximately 8:13 A.M.

## **B. CONTRACT AWARD**

### *SBDD S.W. 145<sup>TH</sup> AVENUE CULVERT EXTENSION PROJECT IN PEMBROKE PINES*

District Director Hart stated that SBDD advertised for bids for the extension of a 48" culvert on SW 145<sup>th</sup> Avenue in Pembroke Pines, FL. The District received a total of eleven (11) bids. The Bid amounts ranged in price from \$42,600.00 to \$119,100.00.

The lowest bid was submitted by LCCI Construction, LLC in the amount of \$42,600.00. SBDD has reviewed the bid submitted by LCCI Construction, LLC and has determined that the bid is non-responsive as several required forms were not included in the bid submittal. Therefore, it is recommended that the District reject the bid submitted by LCCI Construction, LLC as non-responsive.

The second lowest bid was submitted by Straight Ahead Construction, Inc. in the amount of \$45,897.89. SBDD has reviewed the bid submitted by Straight Ahead Construction, Inc. and has determined that the bid is complete and that the Contractor is qualified to perform the work. In addition, SBDD staff has checked the references for Straight Ahead Construction, Inc. and received positive feedback. District Director Hart recommended that the District award the contract for the SW 145<sup>th</sup> Avenue Culvert Extension project in Pembroke Pines, FL to Straight Ahead Construction, Inc. in the amount of \$45,897.89 as the lowest responsive, responsible bidder.

This project is included under the District's 2013-2014 Budget under "Basin 3 Drainage Improvements"; and funding for the project will come from the General Operating Account.

District Director Hart requested action from the Board to reject the bid submitted by LCCI Construction, LLC as being non-responsive and to approve the award contract for the SBDD SW 145<sup>th</sup> Avenue Culvert Extension Project to Straight Ahead Construction, Inc. in the amount of \$45,897.89.

Commissioner Minnaugh moved to reject the bid submitted by LCCI Construction, LLC in the amount of \$42,600.00 as non-responsive. Motion was seconded by Commissioner Mersinger.

Vice Chair Ryan asked what items were considered non-responsive in the LCCI Construction, LLC bid. District Director Hart replied that there are several forms that are required with any bid that the District receives, and there were five forms that were not submitted by LCCI Construction, LLC in its bid.

The question was called and the bid submitted by LCCI Construction, LLC was rejected as non-responsive by unanimous consent.

Commissioner Minnaugh moved for approval to award the SBDD S.W. 145<sup>th</sup> Avenue Culvert Extension Project in Pembroke Pines to Straight Ahead Construction, Inc. in the amount of

\$45,897.89 as the lowest responsive, responsible bidder. Motion was seconded by Commissioner Goggin.

Commissioner Mersinger asked District Director Hart if the contract price is capped. District Director Hart replied that the contract price is a lump sum price, and cannot be increased without a change order, which could be initiated by the Contractor or the District, but in either case, it would have to be approved by the District.

Commissioner Goggin asked District Director Hart how often change orders are done. District Director Hart replied that change orders occur on approximately 50% of SBDD's contracts.

The question was called and it was carried unanimously.

### **C. DISCUSSION AND ACTION REGARDING SBDD STANDARD EASEMENT FORMS**

District Director Hart stated that this is a follow-up from the last Board meeting with regard to easements. He said that there was a good discussion among the Board members about the language in the easement forms and on the terminology of "exclusive" and "non-exclusive". He met with District Attorney Bell to review all of the District's easement forms and to present updated easement forms to the Board with a recommendation on how these forms should be standardized.

District Director Hart described the four easement forms that the District uses and some of the key points that were discussed at the last Board meeting.

The easement forms for a Drainage Easement; Drainage, Flowage and Storage Easement; Lake Maintenance Easement; and Boat Ramp/Lake Access Easement have been updated and are recommended as follows:

- Drainage, Flowage and Storage Easements and Boat Ramp/Lake Access Easements would be dedicated as exclusive easements.
- Drainage Easements and Lake Maintenance Easements would be dedicated as non-exclusive easements.
- All easement forms have been standardized to follow the same general format and language.
- The language stating that "such approval by the District shall not be unreasonably withheld or denied" has been removed from the easement forms.
- Existing and proposed improvements within Drainage Easements, Lake Maintenance Easements, and Boat Ramp/Lake Access Easements would be noted and approved in a separate, attached Exhibit "B" to the easement form. Any additional improvements will require approval by the District.
- There would be no improvements approved in a Drainage, Flowage and Storage Easement (i.e.: lakes and water bodies) without a separate permit from the District.
- All new development and redevelopment projects are required to have a Maintenance & Indemnification Agreement executed by the property owner, which will indemnify

the District against any damage done to improvements located within the easement areas by the District.

District Director Hart indicated that the District has the right, but not the obligation, if the property owner is not doing the job on maintenance, to do the job and get reimbursed for its costs. There is also language in the agreements that talks about easements and restrictions in the easements; requirements to get approval for any improvements in the easements; and the District's requirement to be indemnified against any damage to any improvements within that easement. Those maintenance agreements stay with the property and are recorded documents.

Upon approval by the Board, SBDD will utilize the updated easement forms for all new easements. The District Director and District Attorney would be authorized to approve non-substantive changes to the standard easement forms, and the District Director would be authorized to approve existing and proposed improvements within all SBDD easement areas.

Finally, District Attorney Bell said that he reviewed older easement documents and he noticed that they go back and forth between exclusive and non-exclusive, and to date, he is not aware of any problems with either language. He said that "exclusive" gives the District absolute rights to restrict everything and anything, but that the way the "non-exclusive" forms are worded, you cannot do anything within those easements without District approval, so it is essentially the same thing.

Commissioner Minnaugh moved to approve the SBDD easement forms. Motion was seconded by Commissioner Santana-Woodall.

Discussion ensued.

Chair Hodges commented that as far back as the 80's, South Broward and Central Broward, etc. has always used "perpetual, non-exclusive" easements, because there is other language that protects the District. Exclusive easements were usually an exception because there was some problem or reason to have it that way. He said that from an engineering standpoint he has no problem if the easements are all non-exclusive because the District is protected either way.

Commissioner Mersinger prefers the word "exclusive" because she feels it gives the District some teeth. She wanted to know what would be the reason to do an "exclusive" vs a "non-exclusive" easement. District Director Hart replied that on a lake or water body (Drainage, Flowage & Storage Easement) there is practically no other use for the property, or any reason for another entity to overlap or use that property. The SBDD Criteria does allow for improvements in these easements, and SBDD will give a permit for those improvements; but as far as the language in the Drainage, Flowage and Storage Easement being "exclusive", he opined that it should be more restrictive. On Drainage Easements which will run from the street to the lake, or between two homes, or on a commercial/industrial property, very often it will run through a parking lot and there will be a number of other improvements and overlaps within that easement area, and the District will make sure that there are no adverse impacts to the drainage. He said when you are trying to do a development it is not uncommon that there are overlaps.

Commissioner Mersinger said that her concern is that she would like to know beforehand what is going in the easement. She wants to be pro-active rather than re-active on this.

Commissioner Good commented that there are two perspectives on “exclusive” and “non-exclusive”. He said that “non-exclusive” is a gray area and “exclusive” is black letter law. If you have “non-exclusive” there is the ability for someone to request permission and for the District to deny their request and get into a lawsuit; because maybe that request is something that is really critical to their need; and there is an opening for someone to be able to challenge the District’s decision. If it’s “exclusive”, it is a bit different; there is not that great of an opportunity for litigation to take place against the District, and that is what he is concerned about. He said that he prefers the word “exclusive”. He also stated that he has an issue with the process for vacating easements, and the need to obtain approvals from other users within the easement area.

District Director Hart asked Attorney Bell on a vacation request if there is an obligation to have another party that may be in the District’s easement, to vacate their interest as well; or, if their use is separate and independent from the District’s use, would that be an issue? Attorney Bell replied that it depends on how they got there. He said that if there was another easement dedicated over the District’s easement, that easement would stay, because the District does not want to be vacating what another party has. If the District is issuing them a permit and allowing them in the easement, perhaps with an indemnification agreement, the District may have a difficult time saying they want to vacate its interest in it, when there is someone else using it, and relied upon it, and got it locked in; unless the District places language in the agreement, that upon the District vacating the easement, the party involved acknowledges that they are going to lose the “right to use that easement for whatever purpose was granted”. However, he does not think anyone would sign something like that.

Commissioner Goggin has concerns with the District allowing an entity to place something within an easement and suddenly, for whatever reason, the entity needs to remove that improvement, and now the residents have a non-self-inflicted hardship because of it. He says that he foresees a problem down the line. District Director Hart said that the District would not allow for any entity to place something in an easement unless they had the authority to place it there. He stated that, for example, in the case of Hotwire, the HOA had, under their original development documents, the right to place cable in the common areas of the property. The way it was defined in their documents, the area behind the house to the lake was defined as common property; so they had the right to place that cable in the easement area, and the District’s only evaluation was whether or not that would impact the District’s use of its easement.

Commissioner Mersinger commented that if it came to permitting something in an easement, does it make a difference if the language is “exclusive” or “non-exclusive”; and she answered her question with “probably not”. She said if we make everything “exclusive”, what difference does it make in practicality? Chair Hodges answered that the difference is that the Board is placing their confidence in staff to make those decisions. Commissioner Goggin reiterated his concerns and asked if staff needed the “exclusive” language to help them with this or not? District Director Hart replied not in his opinion, and that he believes it to be more of a policy decision for the Board.

Vice Chair Ryan suggested that if they are both the same as far as the Board is concerned, why not make them all “exclusive” and see what happens. He does not see a problem with that.

To clarify, Commissioner Mersinger reiterated that if it’s “exclusive”, prior to anything going in, the District would have to be notified; and that under “non-exclusive”, the District would need be notified, so either way, they need to notify the District. Chair Hodges stated if it states “exclusive”, you will create a hardship, and will force property owners to come in every time a landscape easement wants to overlap a drainage easement by two feet, whereas otherwise, if it’s “non-exclusive”, staff is able to make that decision.

Commissioner Minnaugh commented that the District has been operating pretty smoothly and has tried to accommodate the people and stay out of lawsuits. She said at this point, it seems that the Board is micromanaging; and she does not want to do that. She said there was one incident with Hotwire, and she does not feel they did this maliciously; and as soon as they were contacted, they stopped; came in and cooperated with the District. That is no different than a home owner wanting to build a dock in a drainage easement, where they came in and petitioned to us, and the District worked with them. She said a violation is a violation. She would hope that the District would try to continue the philosophy that the District wants to work with the public and be the good guys and to work things out for them. Sometimes the District has had to be the bad guys. She prefers it to stay “non-exclusive”. She said that District Director Hart has met with Attorney Bell whenever there was something he felt uncomfortable with, and if it’s really something major he’ll bring it to the Board.

Chair Hodges agreed with Commissioner Minnaugh and said that he believes that the District has a very good reputation in the way that the District manages permits and developments.

Commissioner Good said that the purpose of standardizing these agreements is to allow the District Director to operate without having to bring these before the Board. He said there are two agreements that are exclusive and two that are non-exclusive, and none of the four will come to the Board unless there is a unique circumstance where staff objects, and the applicant feels they want to take it to the Board, or staff makes a decision, based on what is being requested, to bring it before the Board.

The question was called, a roll call was taken and it was carried unanimously.

#### **D. APPROVAL OF DRAINAGE EASEMENTS FOR MERCEDES BENZ PROPERTY AND STARBUCKS AT SHOPPES AT SILVERISLES PROPERTY**

District Director Hart stated that the Drainage Easements (DEs) for the Mercedes Benz Property and Starbucks at Shoppes at Silver Isles Property have been updated in response to the Board’s directive from the January Board meeting.

However, in light of the Board’s decision on the new easement language, he wanted to see if these Drainage Easements should reflect the newly approved language.

Commissioner Minnaugh moved for approval of the Drainage Easements for Pembroke Falls Phase 3 (Mercedes Benz Property) under the new language. Motion was seconded by Commissioner Goggin.

Commissioner Minnaugh withdrew her motion for approval of Drainage Easements for Pembroke Falls Phase 3 (Mercedes Benz Property). Commissioner Goggin withdrew his second to the motion.

Commissioner Mersinger moved to rescind the approval at the previous Board meeting for the Drainage Easement for the Mercedes Benz property. Commissioner Minnaugh seconded the motion to rescind, and it was carried unanimously.

Commissioner Minnaugh moved for approval of the Drainage Easements for Pembroke Falls Phase 3 (Mercedes Benz Property) with the newly adopted language. Motion was seconded by Commissioner Goggin and it was carried unanimously.

Commissioner Minnaugh moved to rescind the approval at the previous Board meeting for the Drainage Easement for the North 29 Association Plat. Motion was seconded by Commissioner Mersinger and it was carried unanimously.

Commissioner Minnaugh moved for approval of the Drainage Easement for the North 29 Association Plat with the newly adopted language. Motion was seconded by Commissioner Goggin and it was carried unanimously.

## **E. OTHER**

District Director Hart mentioned the following items:

- **Water Matters Day** – District Director Hart said that this year’s event will take place on Saturday, March 8<sup>th</sup>, 2014 at Tree Tops Park at 9:00 a.m. to 3:00 p.m. and there will be native landscape trees that the County will be giving away. SBDD is a sponsor to this event and he encourages the Board to stop by.
- **Eliminating Unnecessary Flooding on Commercial/Industrial Properties** – District Director Hart mentioned that he has followed-up on several different drainage issues on commercial properties where many of the problems are self-inflicted because of inadequate maintenance. He said that he has been working with All-State Resource Management Company to give a course to educate Property Managers. The name of the course is called Eliminating Unnecessary Flooding on Commercial/Industrial Properties. It was submitted to the Florida Department of Business and Professional Regulation for CEU credits for licensed property managers, and the course was approved by the State Board for 2-CEU credits. It is a 2-hr. course and will be held on Friday, April 4<sup>th</sup>, 2014 here at the SBDD Headquarters at 9:00 a.m., with an 8:30 registration time, and will be limited to 50 registrants. He said there are several topics they will cover. The course is meant to mainly educate Property Managers on how their drainage system works and inform them of the unique aspects of a commercial/industrial property; where they have to pretreat the water, so there is usually a two to three tier system from the parking lot, to a swale to the lake, etc.
- **Broward County Exchange Program** – Broward County is hosting a “Durban, South Africa Exchange”. A community from Durban, South Africa is coming here to South Florida to learn how Broward County handles water management, drainage, water quality, and the unique aspects of South Florida drainage. Broward County has asked South Broward Drainage District to be part of that program; and on Thursday, March 13, 2014 at 11:00 a.m., SBDD will be hosting the exchange group here at SBDD

Headquarters which will include a short presentation about the District and how they manage their facilities and water quality, etc. The attendees will be given a tour of one of SBDD pump stations to demonstrate how SBDD performs and then return for lunch.

- **Florida League of Mayors Board Meeting** - District Director Hart said that he was part of the Florida League of Mayors Meeting that took place on February 7<sup>th</sup>, 2014 at Bergeron's Green Glades Ranch. He said that he had an opportunity to speak to a group of Florida Mayors regarding the water quality perspective from a local drainage district. He said it went very well and he received a thank you letter from the City of Pembroke Pines.

## **05. ATTORNEY'S REPORT:**

### **A. UPDATE ON PEMBROKE FALLS / HOT WIRE PERMIT FOR USE OF SBDD LAKE MAINTENANCE EASEMENT**

On the update on the Hotwire permit, Attorney Bell said that he has the Agreement just about done with their Attorney. It is 80% complete, but there are some minor changes that he needs to do to it, and additional paragraphs that Attorney Bell needs to add regarding the easement they have with the HOA, and he will be reviewing the Agreement with District Director Hart. He should be able to return it to the District's outside attorney soon.

Commissioner Good has concerns regarding the restoration component of the Agreement. He said that if they do not do the correct type of surface and subsurface restoration, within a year's time, it will be noticeable, and he suggested that some sort of bond be created that stays in effect for some period of time in the event that there is a need to return and correct things because of poor restoration work. District Director Hart said that the bond can be added to the agreement and that it can be modified to add language regarding a one-year inspection.

### **B. LEONARD MILLER**

The Board of Commissioners, Attorney Bell and SBDD recognized Former Commissioner Lenny Miller who passed away last Friday, February 21, 2014. Chair Hodges commented that the District was very fortunate to have him serve as a Commissioner and Board Chair. There was an exchange of memorable stories among the Board members and a moment of silence.

### **C. LEGISLATION**

Attorney Bell said that he is not aware of anything regarding Special District legislation; he said there is some rumbling about trying to do lobbying registration. Commissioner Mersinger suggested that a policy might be a good idea so that the District is pro-active as opposed to re-active, because it does not affect how the District does business. District Director Hart stated that it can be included in the update to the Criteria Manual.

## **06. APPROVAL OF LEGAL FEES**

Commissioner Goggin moved for approval of the legal bills. Motion was seconded by Commissioner Minnaugh and it was carried unanimously.



**07. BOARD MEMBER’S QUESTIONS/COMMENTS**

Commissioner Santana-Woodall thanked District Director Hart for handling the concerns that the residents of Trilogy had regarding grass over the apron of the drains. District Director Hart said that they had some issues with oak trees, but there was no damage to the structures or the pipes as far as staff could determine. He said that when the HOA and City went to address some of the issues with the sidewalks and other concrete, they removed the aprons and replaced it with grass. It will not impact the drainage at all, but the District will keep an eye on it.

Commissioner Santana-Woodall said that the 16<sup>th</sup> Anniversary of Relay for Life for the City of Pembroke Pines will begin on May 14, 2014. She also mentioned two teams that she is affiliated with: one is “Little Divas for Cure”, and the other is “You Have Been Flocked”. It is a fun event and she is inviting anyone who would like to participate.

Commissioner Goggin commented that yesterday a staff member from the HOA from Pembroke Falls was in his store and he asked “what’s going on and is everything being taken care of?” He said that the staff showed him about 20 pictures of problems that they have created, but that there were no problems along the easement. He said that he is talking to the gentleman in charge of the maintenance crew, and the gentlemen in charge of the HOA, and Commissioner Goggin gave out his business card and his phone number for them to call him if they have any problems or questions that he can help them with, but so far, nothing.

Commissioner Mersinger commented on an article she read on the newspaper regarding the C51; where it discusses issues of Palm Beach not being thrilled with paying \$30,000.00. She said that a large group took a tour of the area yesterday and she was fortunate to have taken a private tour. She said it gave her time to ask more pertinent questions. She said that there were some issues, which she will inform the Board of, once the C51 meets again.

**08. MEETING DATE(S)**

A. The Next Regular Board Meeting will be held on **Thursday, March 27<sup>th</sup> at 8:00 a.m.**

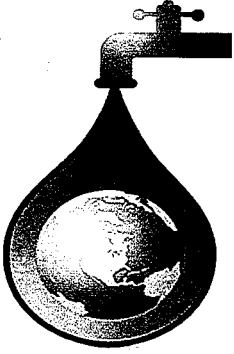
Adjournment at 9:45 A.M.

Respectfully submitted,

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Robert E. Goggin IV, Secretary  
South Broward Drainage District

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# PROCLAMATION

## *Water Conservation Month*

**WHEREAS**, Florida's natural beauty, crystal blue waters and white sand beaches attract residents and visitors from around the world; and

**WHEREAS**, clean and sustainable water resources are vital to Florida's environment, economy and quality of life; and

**WHEREAS**, more than 90 percent of Florida's drinking water is supplied by underlying aquifers, and our quality of life and the economy depend upon a clean and healthy environment; and

**WHEREAS**, Floridians consume more than 6.4 billion gallons per day of fresh water, and the future of Florida depends greatly upon the availability of water; and

**WHEREAS**, Florida's residential consumption of water has decreased from 123 gallons per person, per day in 1995 to 89 gallons per person, per day in 2010, due in large part to water conservation measures; and

**WHEREAS**, the State of Florida, together with local partners, are investing billions of dollars to develop alternative water supplies, clean up stormwater pollution, restore rivers, lakes and springs, upgrade drinking water facilities and improve wastewater treatment; and

**WHEREAS**, water conservation can cost as little as 6 cents to 72 cents per 1,000 gallons of water saved, while the cost of constructing alternative water supply facilities may exceed \$7 per 1,000 gallons of water created; and

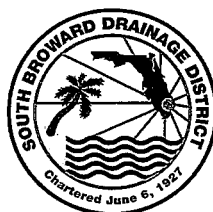
**WHEREAS**, all water users including commercial, industrial, agricultural, institutional, hospitality, private citizens and others can make positive contributions to reduce water use and protect Florida's water resources;

**WHEREAS**, the South Florida Water Management District, and Broward County have implemented Comprehensive Water Conservation Programs to instill a lasting culture of conservation in our communities; and

**WHEREAS**, the Governor and Cabinet of the State of Florida are designating April as Florida's Water Conservation Month to encourage Floridians to conserve the state's precious water resources;

**NOW, THEREFORE**, be it resolved that by virtue of the authority vested in me as Chairperson, the South Broward Drainage District Board of Commissioners:

Do hereby proclaim the month of April as "WATER CONSERVATION MONTH".



\_\_\_\_\_  
Date

\_\_\_\_\_  
Chair

\*\*\*\*MEMORANDUM\*\*\*\*

DATE: March 20, 2014

TO: South Broward Drainage District Commissioners

FROM: Kevin M. Hart, P.E.  
District Director

Subject: Variance Request for Property Owned by Efren Castillo

Comments:

The owner of the property located at 9831 NW 4<sup>TH</sup> Street, Pembroke Pines, FL 33024 is requesting a variance from SBDD for the extension of an existing shadow-box, wood fence 12 feet into a SBDD Lake Maintenance Easement (LME). The shadow-box, wood fence was installed between 2/25/14 and 3/1/14 as a replacement for an existing wood fence that was in need of repair/replacement. The property is located in the Westview development of Pembroke Pines.

The property was purchased by Mr. Castillo in February, 2005 and at that time there was an existing board-on-board, wood fence in the same location as the new, shadow-box, wood fence. However, no permit had been obtained by the previous property owner for the fence, and Mr. Castillo was not aware that a permit had never been obtained.

On 2/27/14 Mr. Castillo was made aware by the City of Pembroke Pines Code Enforcement that a Building Permit was required for the new fence due to the fact that he was replacing the wood posts. Due to safety concerns, the installation of the new fence was completed prior to Mr. Castillo obtaining the required permits from the City and SBDD. On 3/6/14 Mr. Castillo visited the City's Building Department and was told that he would also need to obtain a permit from SBDD, and on that same day, Mr. Castillo stopped by and met with SBDD staff.

Mr. Castillo met with the Variance Review Committee (VRC) on March 17, 2014 and as a follow-up to that meeting the variance request is being presented to the SBDD Board for consideration.

The details of the variance as discussed at the VRC are as follows:

1. Per SBDD Criteria, no wooden fences are permitted within LMEs. Allowable fence materials include chain link, aluminum and PVC with no visual barriers or obstructed panels.
2. On the Castillo property, there is 12 feet of shadow-box, wood fencing and 8 feet of chain link fencing within the 20-foot LME.
3. The adjacent property owner has no objection to the wood fence as constructed.
4. There is no HOA in this community.
5. Mr. Castillo purchased the home in February, 2005.
6. At the time of purchase, there was a board-on-board, wood fence that encroached 12 feet into the LME.
7. Mr. Castillo was not aware that the previous fence was not properly permitted.
8. On 2/25/14, Mr. Castillo started to replace the existing board-on-board, fence with a new, shadow-box fence as a "do-it-yourself" home improvement project.

9. On 2/27/14, Mr. Castillo was made aware that a permit was required from the City of Pembroke Pines to replace the old fence with a new fence.
10. Mr. Castillo completed the construction of the new fence due to safety concerns and with the intention of obtaining an "after-the-fact" Building Permit.
11. On 3/6/14, Mr. Castillo was made aware that a permit was required by SBDD and that the new shadow-box fence, as constructed, did not meet SBDD's Criteria.
12. The issuance of the Building Permit and final inspection of the fence is waiting on the issuance of the SBDD Permit.
13. Mr. Castillo is agreeable to entering into an Indemnification and Hold Harmless Agreement with SBDD.

SBDD staff has no objections to this variance request.

The requested variance is to allow the extension of an existing shadow-box, wood fence 12 feet into a SBDD Lake Maintenance Easement. If the variance is approved, the homeowner will be required to enter into an Indemnification and Hold Harmless Agreement with SBDD and pay for all associated legal fees and recording fees.

Financial impacts to this Agenda Item: there will be no financial impacts to this agenda item, as the property owner will be required to pay all associated legal costs, if any, and recording fees.

**KH**  
**Attachments**

## \*\*\*MEMORANDUM\*\*\*

DATE: March 20, 2014

TO: South Broward Drainage District Commissioners

FROM: Kevin M. Hart, P.E.  
District Director

Subject: Request to Vacate a Drainage/Flowage/Storage Easement -Retention Area in the  
"Country Lakes NW Quadrant" Plat

## Comments:

South Broward Drainage District (SBDD) received a request to vacate a Drainage/Flowage/Storage Easement - Retention Area (Easement) located within the Miramar Centre Business Park – Building B development. The Easement was previously dedicated by separate instrument under OR Book 41547, Page 1255, BCR. The property is owned by Miramar Centre B, LLC.

Attached to this memo is the sketch & legal description of the Easement area to be vacated, along with the original easement dedication.

The Easement requested to be vacated is no longer needed as the property owner has dedicated new Drainage Easements to SBDD for the drainage system serving the development. An overall Exhibit showing the vacated easement area and the new easement areas is attached.

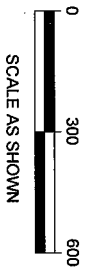
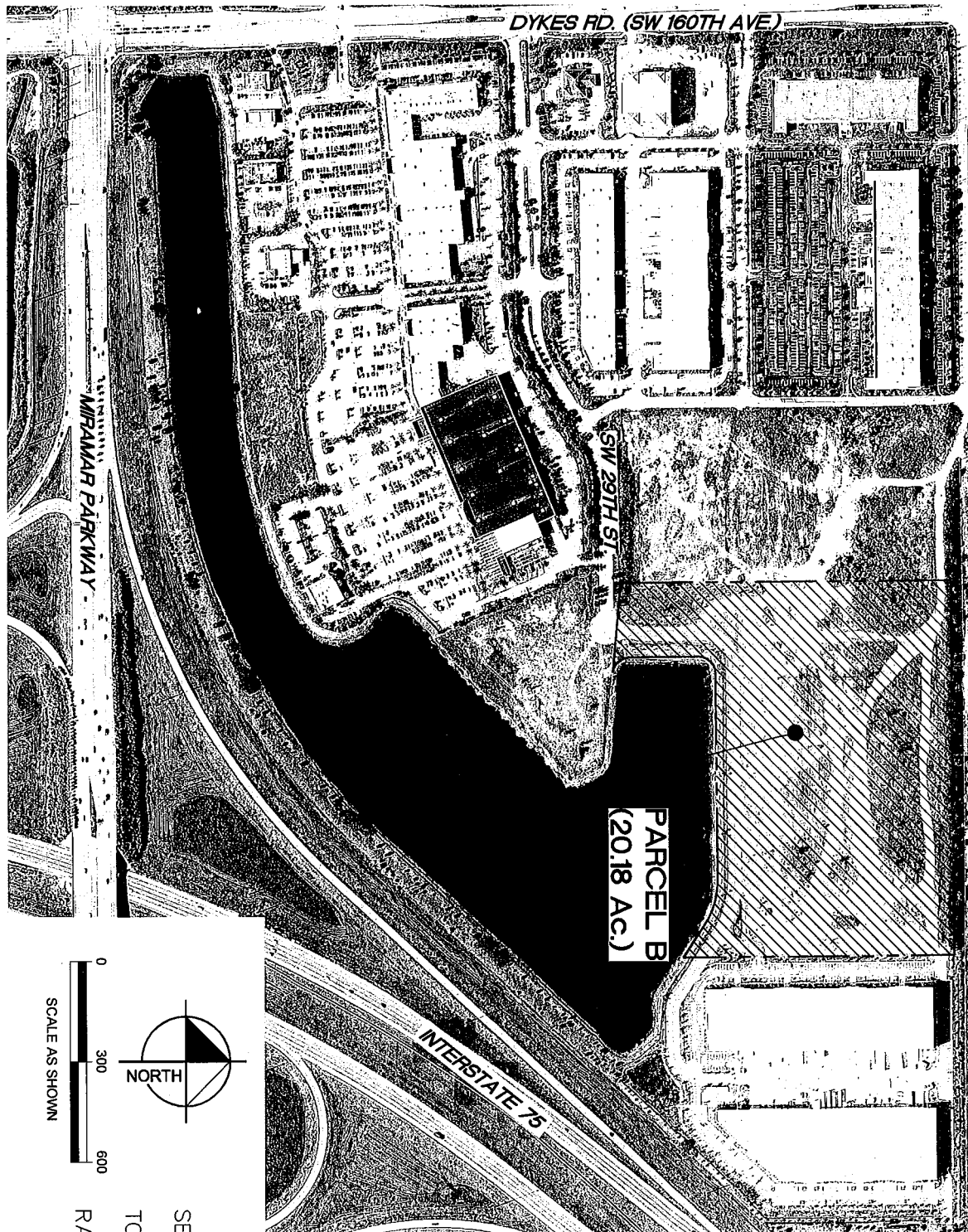
The reason for the request is to remove a previously dedicated Easement that has been superseded by new DEs.

SBDD staff has no objection to this vacation request.

Financial impacts to this Agenda Item: none, other than SBDD administrative costs; all other costs will be incurred by the property owner.

**The request is for approval of SBDD to vacate and release its interest in the property described in the attached Exhibit "A" of the Release and Vacation of Drainage/Flowage/Storage Easement – Retention Area (Miramar Centre Business Park Parcels J & H)), said property being a portion of Parcel 'A', "Country Lakes Northwest Plat", according to the Plat thereof as recorded in Plat Book 163, Pages 16, B.C.R. and also being the easement thereof recorded in ORB 41547, Pg 1255, B.C.R.**

**KH**  
**Attachments**



SECTION — 28  
 TOWNSHIP — 51  
 RANGE — 40

MIRAMAR CENTRE  
 BUSINESS PARK  
 BUILDING B  
 BROWARD COUNTY FLORIDA

SCALE  
 DESIGNED BY  
 DRAWN BY  
 CHECKED BY

DESIGN ENGINEER:  
 ERIK J. HILCZEK, P.E.  
 FLORIDA REGISTRATION NUMBER:  
 58216  
 DATE:

**Kimley-Horn and Associates, Inc.**  
 © 2013 KIMLEY-HORN AND ASSOCIATES, INC.  
 5200 NF 33rd Avenue, Suite 100, Fort Lauderdale, FL 33309  
 PHONE (954) 330-9100 FAX (954) 731-2247  
 WWW.KIMLEY-HORN.COM CA 00000596

No.	REVISIONS	DATE	BY

Prepared by  
And Return To:

South Broward Drainage District  
6591 S.W. 160<sup>th</sup> Avenue  
Southwest Ranches, Florida 33331

Folio No.: 5140 28 11 0010

---

**RELEASE AND VACATION OF A PORTION OF  
DRAINAGE/FLOWAGE/STORAGE EASEMENT RETENTION AREA  
MIRAMAR CENTRE BUSINESS PARK PARCELS J & H**

THIS RELEASE AND VACATION OF DRAINAGE/FLOWAGE/STORAGE EASEMENT RETENTION AREA @ MIRAMAR CENTRE BUSINESS PARK PARCELS J & H ("RELEASE AND VACATION"), executed this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by SOUTH BROWARD DRAINAGE DISTRICT, a political subdivision of the State of Florida, having its principal place of business at 6591 S.W. 160<sup>th</sup> Avenue, Southwest Ranches, Florida 33331, first party, in favor of **MIRAMAR CENTRE B, LLC**, a Delaware limited liability company, whose address is 1100 Peachtree Street, Suite 1100, Atlanta, Georgia 30309 (Attn: Chief Operating Officer), its successors and assigns as their interest may appear of record, second party.

(Wherever used herein, the terms "first party" and "second party" shall include singular and plural, heirs, legal representatives, assigns of individuals, the successors and assigns of corporations, wherever the context so admits or requires.)

WITNESSETH

That the first party, for and in consideration of the sum of \$10.00, in hand paid by the second party, the receipt whereof is hereby acknowledged, does hereby remise, release and quit-claim unto the said second party forever, all the right, title, interest, claim and demand which the said first party has in and to the Drainage/Flowage/Storage Easement Retention Area -- MIRAMAR CENTRE BUSINESS PARK PARCELS J& H ("Easement") located on the following described lot, piece or parcel of land situate, lying and being in the County of Broward, State of Florida, to-wit:

**SEE EXHIBIT "A" ATTACHED HERETO**

Said easement having been recorded in the Broward County, Florida Public Records at Official Records Book 41547, Page 1255.

The purpose of this RELEASE AND VACATION is to release and vacate the first party's interest in and to that portion of the Easement located on second party's property as described above. No other interest of the first party is being released or vacated by this document.

TO HAVE AND TO HOLD, the same together with all singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest lien, equity and claim whatsoever of the said first party, either in law or equity, to the only proper use, benefit and behoof of the said second party forever.

IN WITNESS WHEREOF, the said first party has caused these presents to be executed in its name, and its seal to be hereunto affixed, by its proper officers thereunto duly authorized the day and year first above written.

Signed, sealed and delivered

**SOUTH BROWARD DRAINAGE DISTRICT**

In the presence of:

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
SCOTT HODGES, Chairperson

\_\_\_\_\_  
Witness Printed Name

Attest:

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
ROBERT GOGGIN IV, Secretary

\_\_\_\_\_  
Witness Printed Name

STATE OF FLORIDA        )  
                                      )§  
COUNTY OF BROWARD    )

The foregoing instrument was executed before me this \_\_\_\_\_ of \_\_\_\_\_, 2014, by SCOTT HODGES and ROBERT GOGGIN IV as Chairperson and Secretary, respectively of the SOUTH BROWARD DRAINAGE DISTRICT, first party, who are personally known to me.

WITNESS my hand and official seal in the County and State last aforesaid this \_\_\_\_ day of \_\_\_\_\_, 2014.

(NOTARY SEAL/STAMP)

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



EXHIBIT A



**Patriot Surveying and Mapping, Inc.**

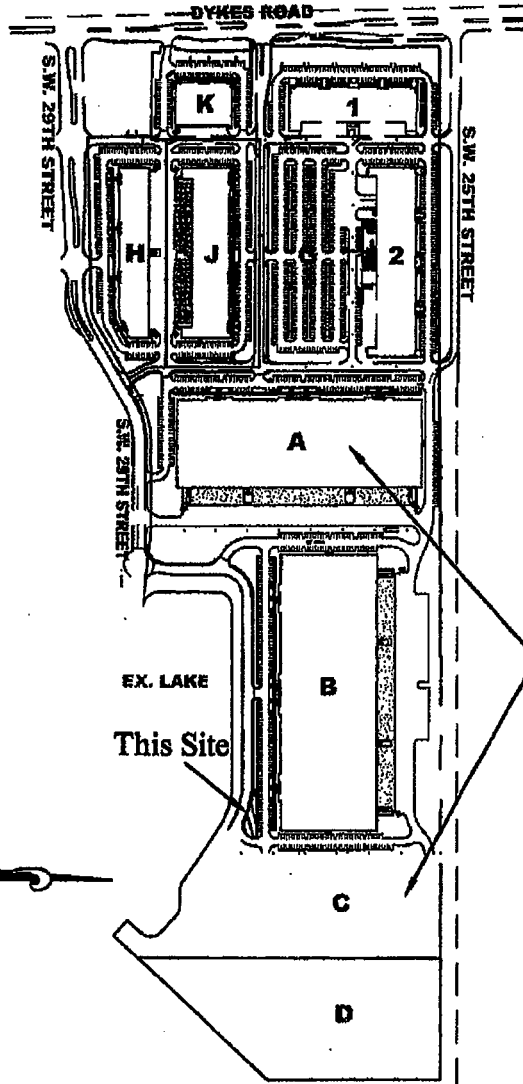
3748 NW 124th Avenue Coral Springs, Florida 33065

Phone: (954) 509-0083 Fax: (954) 301-2623

LB # 7303

- Sketch and Description -

Sheet 1 of 3



Parcel "A"  
 Country Lakes Northwest Quadrant Plat  
 Plus Book 163, Page 16, Broward County Records

*Dennis J. Gabriele* 8-9-05

Dennis J. Gabriele  
 Professional Surveyor and Mapper No. LS5709  
 State of Florida

Not Valid without the signature  
 and original raised seal of a Florida  
 licensed Surveyor and Mapper

Updates and Revisions	Date	By	QC

NOTE: The undersigned and PATRIOT SURVEYING AND MAPPING, INC. make no representations or guarantees as to the completeness of the information reflected hereon pertaining to easements, right-of-way, set-back lines, reservations, agreements or other matters of record. This instrument is intended to reflect or set forth only those items shown in the reference above. PATRIOT SURVEYING AND MAPPING, INC. did not research the public records for matters affecting the lands shown. This instrument is the property of PATRIOT SURVEYING AND MAPPING, INC. and shall not be reproduced in whole or in part without written permission of PATRIOT SURVEYING AND MAPPING, INC.

Job No. 0412-010

Drawn By: MK

RETENTION AREA  
 "E"

FB. PG.

EXHIBIT A



**Patriot Surveying and Mapping, Inc.**

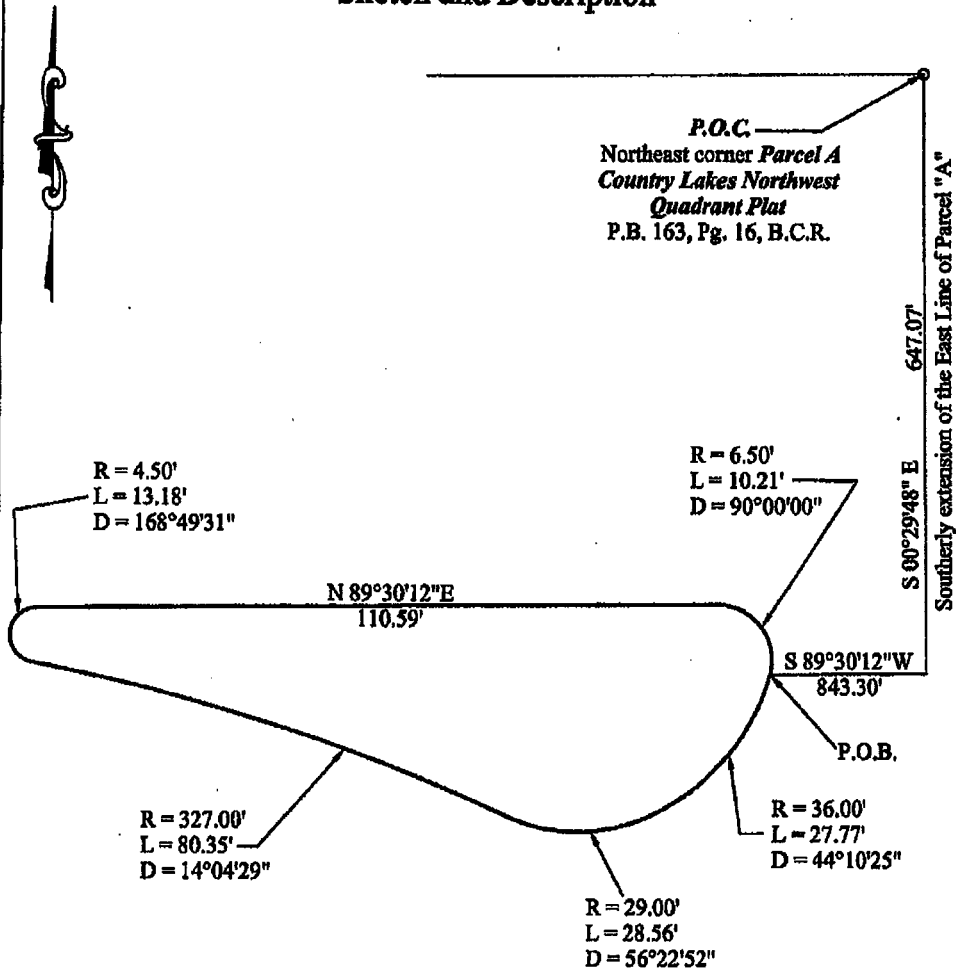
3748 NW 124th Avenue Coral Springs, Florida 33065

Phone: (954) 509-0083 Fax: (954) 301-2623

LB # 7303

- Sketch and Description -

Sheet 2 of 3



Surveyor's Notes

1. Bearing Reference: The Bearings shown hereon are referenced to the North Line of Parcel "A", of *Country Lakes Northwest Quadrant Plat*, as recorded in Plat Book 163, Page 16, of the Public Records of Broward County, Florida. Said Line bears *North 89°30'12" East*.
2. The information shown hereon is a graphic representation and does not represent a survey.

Legend

- P.O.C. = point of commencement
- P.O.B. = point of beginning
- R = radius
- L = arc length
- D = central angle (Delta)
- B.C.R. = Broward County Records
- P.B. = Plat book
- Pg. = Page

Job No. 0412-010

Drawn By: MK

RETENTION AREA  
"E"

FB. PG.

EXHIBIT A



**Patriot Surveying and Mapping, Inc.**

3748 NW 124th Avenue Coral Springs, Florida 33065

Phone: (954) 509-0083

Fax: (954) 301-2623

LB # 7303

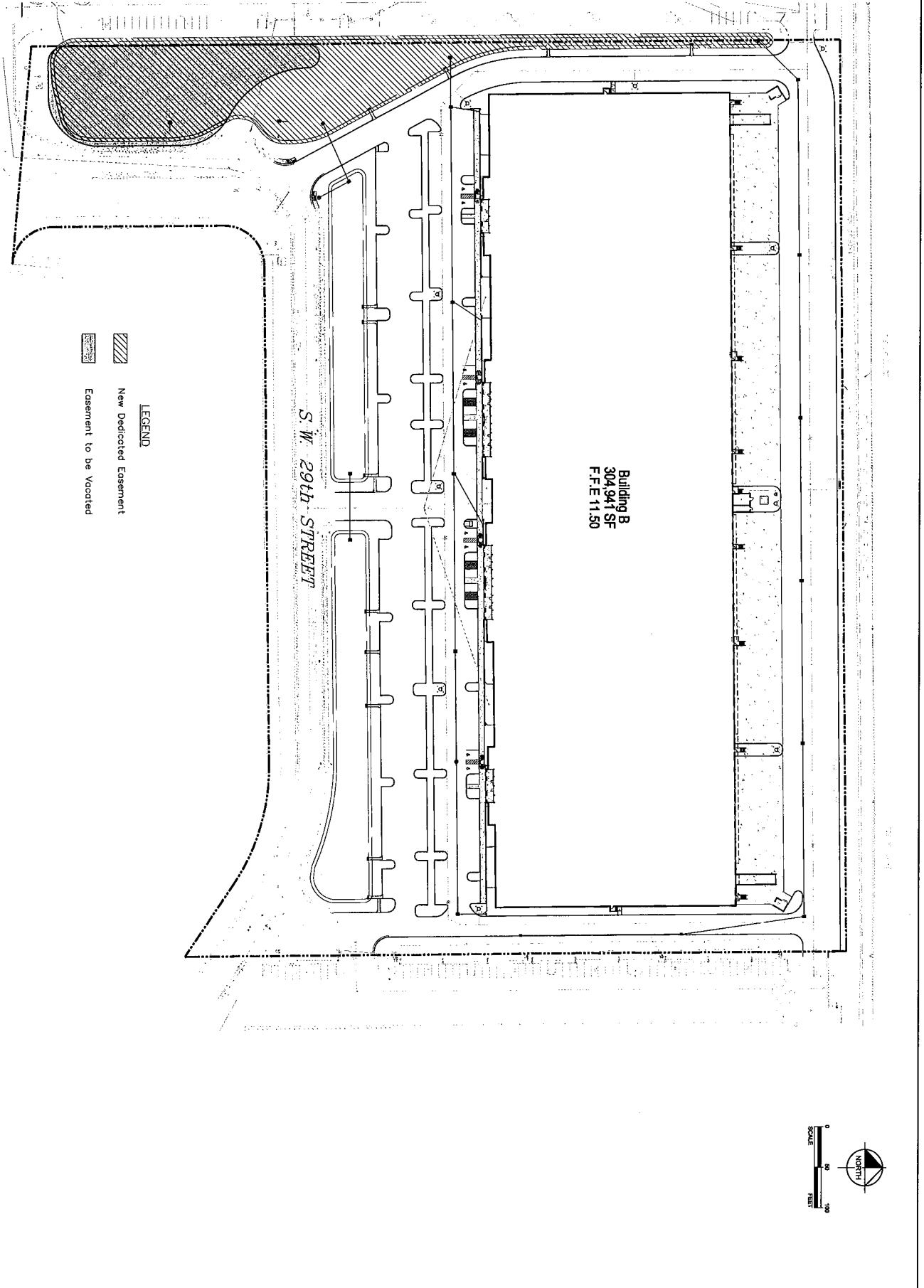
**- Legal Description -**

**Sheet 3 of 3**

A portion of *Parcel A, Country Lakes Northwest Quadrant Plat*, according to the plat thereof, as recorded in Plat Book 163, Page 16, of the Public Records of Broward County, Florida, being more particularly described as follows:

Commence at the Northeast corner of said Parcel A;  
Thence, South 00°29'48" East, along the east line, and the Southerly extension thereof, of said Parcel A, a distance of 649.11 feet;  
Thence, South 89°30'12" West, a distance of 1,712.56 feet to the *Point of Beginning*; said point being the point of curvature of a circular curve concave to the East, having a radius of 116.00 feet and a central angle of 43°00'37";  
Thence, Southerly along the arc of said curve, an arc distance of 87.08 feet to the point of reverse curvature of a circular curve concave to the North, having a radius of 14.00 feet and a central angle of 97°07'59";  
Thence, Westerly along the arc of said curve, an arc distance of 23.73 feet to the point of compound curvature of a circular curve concave to the East, having a radius of 64.00 feet and a central angle of 59°38'00";  
Thence, Northerly along the arc of said curve, an arc distance of 66.61 feet;  
Thence, North 00°29'48" West, a distance of 18.15 feet to the point of curvature of a circular curve, concave to the South, having a radius of 7.00 feet and a central angle of 90°00'00";  
Thence, Easterly along the arc of said curve, an arc distance of 11.00 feet;  
Thence, North 89°30'12" East, a distance of 101.63 feet to the point of curvature of a circular curve, concave to the West, having a radius of 7.00 feet and a central angle of 156°15'08";  
Thence, Southerly along the arc of said curve, an arc distance of 19.09 feet to the *Point of Beginning*.

Said lands lying and being in the City of Miramar, Broward County, Florida, and containing 5,818square feet (0.13 acres) more or less.



SHEET NUMBER	<b>MIRAMAR CENTRE BUSINESS PARK BUILDING B</b>		<b>EASEMENT EXHIBIT</b>	KHA PROJECT 043233002		LICENSED PROFESSIONAL ERIK J. WILCZEK, P.E.		Kimley-Horn and Associates, Inc. © 2012 KIMLEY-HORN AND ASSOCIATES, INC. 800 NORTH PINE ISLAND ROAD, SUITE 450, FT. PLEASANT, FL 33324 PHONE: 954-535-5100 FAX: 954-739-2247 WWW.KIMLEY-HORN.COM CA 0000596					
	CITY OF MIRAMAR	IDI		FLORIDA	DATE 09-28-2012	SCALE AS SHOWN	DESIGNED BY TZ		FL LICENSE NUMBER 58216	DRAWN BY TZ	CHECKED BY EJW	DATE	
										REVISIONS		DATE	BY

Document Cover Page

(Space above this line reserved for recording office use.)

Document Title:

THIS IS NOT AN  
Warranty Deed, Mortgage, Affidavit, etc.

Executed By:

OFFICIAL COPY

To:

Brief Legal Description:  
(If Applicable)

Return Recorded Documents to:

Rhon Ernest-Jones Consulting Engineers, Inc.  
12500 W Atlantic Blvd.  
Coral Springs, FL 33071

6

Prepared By and Return To:

South Broward Drainage District  
6591 S.W. 160<sup>th</sup> Ave.  
Southwest Ranches, FL 33331

Folio N<sup>o</sup> 1028 11 0010

**DRAINAGE/FLOWAGE/STORAGE EASEMENT  
RETENTION AREA  
MIRAMAR CENTRE BUSINESS PARK PARCELS J & H**

THESE DRAINAGE/FLOWAGE/STORAGE EASEMENTS are granted this 22<sup>nd</sup> day of Feb, 2006, by **INDUSTRIAL DEVELOPMENT INTERNATIONAL, INC.**, a Delaware Corporation, whose address is 1401 East Broward Boulevard, Suite 201, Fort Lauderdale, Florida 33301, hereinafter referred to as "Grantor" to **SOUTH BROWARD DRAINAGE DISTRICT**, a political subdivision of the State of Florida, located at 6591 Southwest 160<sup>th</sup> Avenue, Southwest Ranches, Florida 33331, hereinafter referred to as "District".

WITNESSETH:

That the Grantor, for and in consideration of the sum of ten dollars (\$10.00) and other good and valuable consideration in hand paid by District, the receipt whereof is hereby acknowledged, does hereby grant and convey;

(1) To District, its successors and assigns, perpetual and non-exclusive Drainage/Flowage/Storage Easement for the construction and maintenance of a dry retention area and for flowage and storage of stormwater together with any necessary appurtenances incidental and necessary thereto, over, across and through the real property described in Exhibits "A", attached hereto and made a part hereof, together with free ingress, egress and regress across said Drainage/Flowage/Storage Easement Area for the purpose of constructing, maintaining and repairing the drainage system and appurtenances contained therein.

(2) Although the Easement granted herein to the District is non-exclusive, should any easements over the same property be granted, subsequent to the date of this Easement, the holder of any such subsequent easement shall be required to obtain approval from the District and for the use of the Drainage/Flowage/Storage Easement Area. Such approval by the District shall not be unreasonably withheld or denied.

(3) Grantor acknowledges that Grantor and Grantor's successors and assigns shall be responsible for construction and maintenance of the dry retention area constructed within the Drainage/Flowage/Storage Easement Area and that District shall have the right but not the obligation to maintain said area.

(4) Grantor further acknowledges that in the event the District incurs any expenses in maintaining or repairing the dry retention area within the Drainage/Flowage/Storage Easement Area, Grantor and Grantor's successors and assigns shall reimburse District for said expenses including attorney's fees and costs to collect said expenses. However, before incurring any expenses, except in an emergency, District shall provide written notice to Grantor and Grantor's successors and assigns at least five (5) working days prior to performing any work to maintain or repair said drainage facilities.

During this period of time, Grantor and Grantor's successors and assigns may perform the work proposed by District or notify District that Grantor will perform said work to District's requirements.

IN WITNESS WHEREOF, Grantor has caused these presents to be signed in its name by its proper officers, the day and year first above written.

Signed, sealed and delivered in the presence of:

THIS IS NOT AN OFFICIAL COPY  
"Grantor"  
Industrial Development International, Inc., a Delaware Corporation  
Witness Signature ↑ Mona L. Hand  
Witness Printed Name ↑ Mona L. Hand  
By: [Signature]  
(Please sign and print name)  
Timothy J. Gunter  
Secretary

Witness Signature ↑ [Signature]  
Witness Printed Name ↑ Anthony J. Davis

STATE OF FLORIDA Georgia  
COUNTY OF BROWARD DeKalb

The foregoing Drainage/Flowage/Storage Easements were acknowledged before me this 22nd day of February, 2006 by Timothy J. Gunter as Secretary for Industrial Development International, as Grantor, who ( is personally known to me) or ( has produced \_\_\_\_\_ as identification).

Witness my hand and official seal in the county and state last aforesaid this 22nd day of February, 2006.

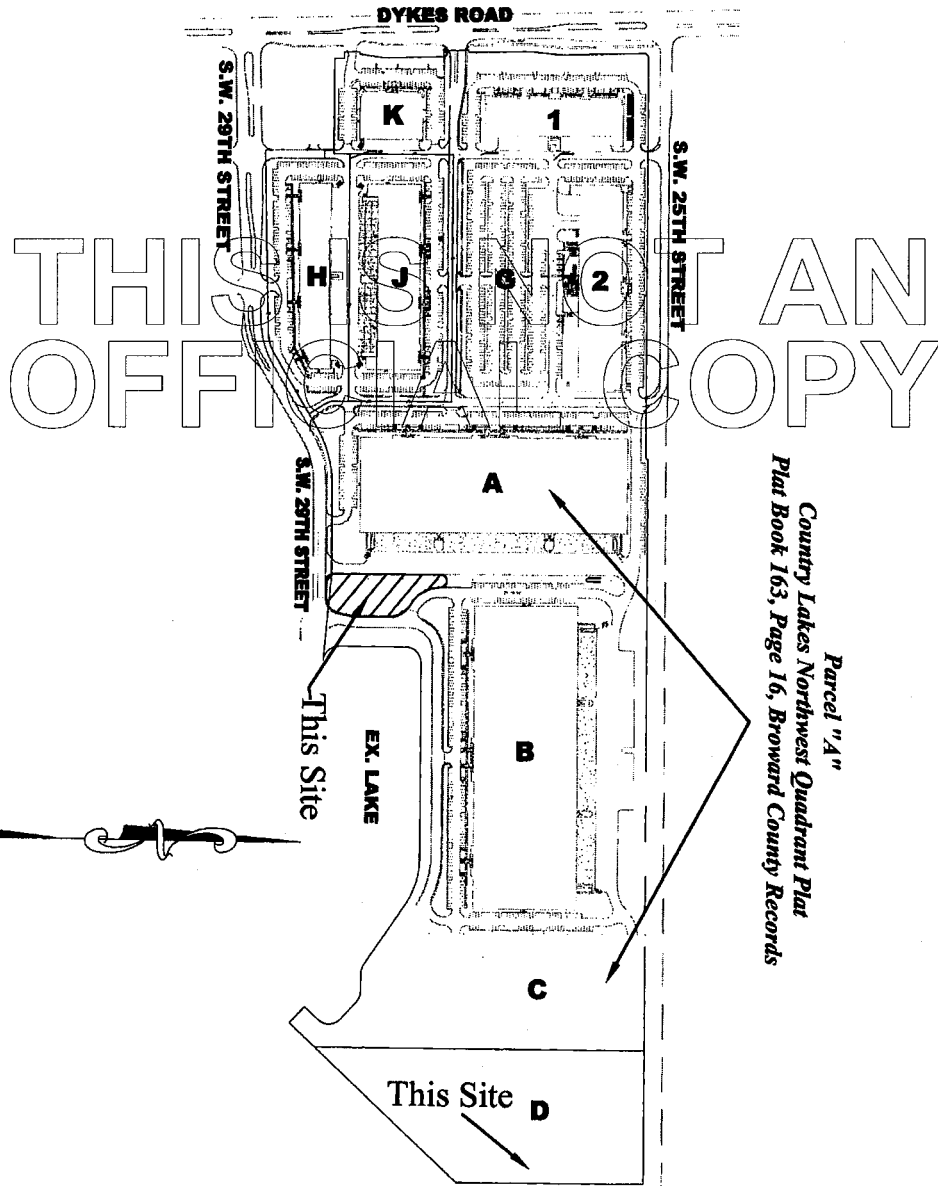
[NOTARY SEAL, STAMP]

Charlotte Robinson  
NOTARY PUBLIC:  
CHARLOTTE ROBINSON  
Notary Public, DeKalb County, Georgia  
My Commission Expires Oct. 11, 2009



**Patriot Surveying and Mapping, Inc.**  
 3748 NW 124th Avenue Coral Springs, Florida 33065  
 Phone: (954) 509-0083 Fax: (954) 301-2623  
 LB # 7303

- Sketch and Description - Sheet 1 of 3



Parcel "A"  
 Country Lakes Northwest Quadrant Plat  
 Plat Book 163, Page 16, Broward County Records

*Dennis J. Gabriele*

2-1-06

Dennis J. Gabriele  
 Professional Surveyor and Mapper No. LS5709  
 State of Florida

Not Valid without the signature  
 and original raised seal of a Florida  
 licensed Surveyor and Mapper

Updates and Revisions	Date	By	QC

NOTE: The undersigned and PATRIOT SURVEYING AND MAPPING, INC. make no representations or guarantees as to the completeness of the information reflected hereon pertaining to easements, right-of-way, set-back lines, reservations, agreements or other matters of record. This instrument is intended to reflect or set forth only those items shown in the references above. PATRIOT SURVEYING AND MAPPING, INC. did not research the public records for matters affecting the lands shown. This instrument is the property of PATRIOT SURVEYING AND MAPPING, INC. and shall not be reproduced in whole or in part without written permission of PATRIOT SURVEYING AND MAPPING, INC.

Job No. 0412-010	Drawn By: MK	QA / QC: DG	FB. PG.	Scale: NTS
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# Patriot Surveying and Mapping, Inc.

3748 NW 124th Avenue Coral Springs, Florida 33065

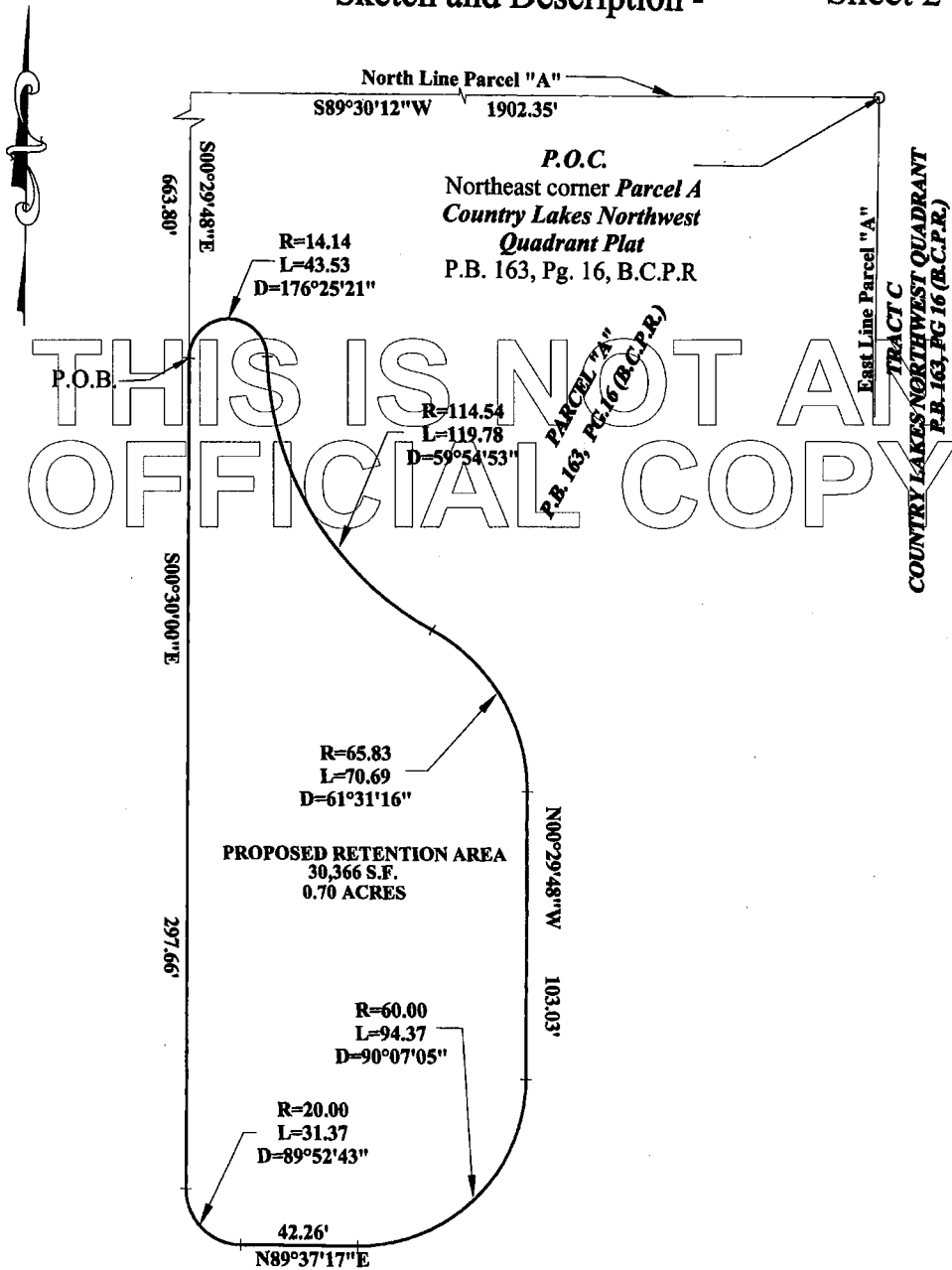
Phone: (954) 509-0083

Fax: (954) 301-2623

LB # 7303

## - Sketch and Description -

Sheet 2 of 3



### Surveyor's Notes

1. Bearing Reference: The Bearings shown hereon are referenced to the North Line of Parcel "A", of *Country Lakes Northwest Quadrant Plat*, as recorded in Plat Book 163, Page 16, of the Public Records of Broward County, Florida. Said Line bears *North 89°30'12" East*.
2. The information shown hereon is a graphic representation and does not represent a survey.

### Legend

- P.O.C. = point of commencement
- P.O.B. = point of beginning
- R = radius
- L = arc length
- D = central angle (Delta)
- B.C.P.R. = Broward County Public Records
- P.B. = Plat book
- Pg. = Page



# Patriot Surveying and Mapping, Inc.

3748 NW 124th Avenue Coral Springs, Florida 33065

Phone: (954) 509-0083

Fax: (954) 301-2623

LB # 7303

## - Legal Description -

Sheet 3 of 3

A portion of *Parcel A, Country Lakes Northwest Quadrant Plat*, according to the plat thereof, as recorded in Plat Book 163, Page 16, of the Public Records of Broward County, Florida, being more particularly described as follows:

Commence at the Northeast corner of said Parcel A;  
 Thence, South 89°30'12" West, a distance of 1902.35 feet along the North line of said *Parcel A*;  
 Thence, South 00°29'48" East, a distance of 663.80 feet to the *Point of Beginning*; Thence South 00°30'00" East, a distance of 297.66 feet to the point of curvature of a circular curve concave to the Northeast having a radius of 20.00 feet. Thence, Southeasterly along said curve through a central angle of 89°52'43" and an arc distance of 31.37 feet; Thence, North 89°37'17" East, a distance of 42.26 feet to the point of curvature of a circular curve concave to the Northwest having a radius of 60.00 feet. Thence, Northeasterly along said curve through a central angle of 90°07'05" and an arc distance of 94.37 feet; Thence, North 00°29'48" West, a distance of 103.03 feet to the point of curvature of a circular curve concave to the Southwest having a radius of 65.83 feet. Thence, Northwesternly along said curve through a central angle of 61°31'16" and an arc distance of 70.69 feet to the point of reverse curvature of a circular curve concave to the Northeast having a radius of 114.54 feet; Thence Northerly along said curve through a central angle of 59°54'53" and an arc distance of 114.54 feet to the point of reverse curvature of a circular curve concave to the South having a radius of 14.14 feet. Thence Westerly along said curve through a central angle of 176°25'21" and an arc distance of 43.53 feet to the *Point of Beginning*.

Said lands lying and being in the City of Miramar, Broward County, Florida, and containing 30,366 square feet (0.70 acres) more or less.

## \*\*\*MEMORANDUM\*\*\*

DATE: March 20, 2014

TO: South Broward Drainage District Commissioners

FROM: Kevin M. Hart, P.E.  
District Director

Subject: SBDD Resolution No. 2014-01 – Requirement for Lobbyist Registration and Reporting

## Comments:

Proposed Resolution 2014-01 establishes a requirement for all lobbyists to register with the District and to file an annual statement of all lobbying activities. The proposed Resolution mirrors Section 11.045, Florida Statutes, Broward County Ordinance 2009-34, and Pembroke Pines Ordinance 1712 (aka: 2011-31).

If approved, this Resolution will require all lobbyists to register with SBDD prior to beginning any lobbying activities using the Lobbyist Registration Form attached as Exhibit "A" to the Resolution; and to pay an annual registration fee of \$40.00. In addition, each lobbyist will be required to submit an annual report disclosing all lobbying expenditures, contingency fees and the sources from which making such expenditures and paying such contingency fees have come. Failure to comply with this Resolution may result in a warning, reprimand or suspension from appearing before the Board for up to a 2 year period.

Senate Bill 846 which is pending before the 2014-Florida Legislature includes a section which requires independent Special Districts that exercise ad valorem taxing authority with annual revenues of more than \$5,000,000 to create a procedure for registration of Lobbyists and to create a registration form. Although SBDD does not currently have revenues in excess of \$5,000,000 and does not exercise ad valorem taxing authority, by implementing this procedure now, SBDD would nonetheless be compliant with the proposed language in Senate Bill 846.

Financial impacts to this Agenda Item: None.

**This to request approval of Resolution 2014-01 establishing a requirement for Lobbyist Registration and Reporting.**

**KH**  
**Attachments**

SOUTH BROWARD DRAINAGE DISTRICT  
RESOLUTION Nº 2014-01

RESOLUTION OF THE SOUTH BROWARD DRAINAGE DISTRICT REQUIRING ALL LOBBYISTS TO REGISTER WITH THE DISTRICT; PROVIDING THAT ALL LOBBYISTS SHALL FILE AN ANNUAL STATEMENT OF ALL LOBBYING ACTIVITIES PERFORMED WITHIN THE DISTRICT AS SET FORTH HEREIN; PROVIDING DEFINITIONS OF LOBBYING, LOBBYIST, PERSON, EMPLOYER, COMPENSATION, AND CONTINGENCY FEE; PROVIDING FOR A REGISTRATION FEE, PROVIDING FOR A PROHIBITION ON USE OF LOBBYING STATEMENTS; PROVIDING FOR DISCLOSURE OF CONTINGENCY FEES; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the South Broward Drainage District, hereinafter referred to as "District" is a political subdivision of the State of Florida charged with the responsibility of effecting drainage and water management within its geographical boundaries and approving all subdivision plats and development plans affecting lands within its geographical boundaries; and

WHEREAS, the District's Board of Commissioners, hereinafter referred to as "Board" has determined that it is in the best interest of the District to adopt lobbyist registration procedures; and

WHEREAS, the Board has determined that the registration of lobbyists promotes the integrity of the governmental decision-making process and fosters transparency in government by providing the identity and activities of certain persons who engage in efforts to influence District Commissioners and decision-making bodies under the jurisdiction of the Board; and

WHEREAS, the Board desires to require that all lobbyists must register with the District as provided herein, prior to engaging in any lobbying activity with the District; and

WHEREAS, for the purpose of this Resolution, lobbying or lobbying activities is defined as "communicating directly or indirectly in person, by telephone, by letter, by text, by e-mail, or by any other form of communication, on behalf of any other person, with any District Commissioner, any member of any decision-making body under the jurisdiction of

the Board or any District employee, where the lobbyist seeks to influence a decision to be made by the Board, a decision to be made by any decision-making body under the jurisdiction of the District's Board of Commissioners or a final procurement decision to be made by a District employee"; and

WHEREAS, appearing before the Board or other decision-making body under the jurisdiction of the Board at a publicly noticed meeting does not constitute lobbying; and

WHEREAS, for the purpose of this Resolution, "person" is defined as "any individual, business, corporation, association, firm, partnership, organization, group, or other entity, whether operated for profit or not for profit"; and

WHEREAS, for the purpose of this Resolution, "lobbyist" is defined as "any person who engaging in lobbying as defined herein, regardless of whether he or she receives any compensation for such lobbying. Any person who, in her or his individual capacity, merely communicates with a District Commissioner, a decision-making body under the jurisdiction of the Board, or any District employee, for the purpose of self-representation, without compensation to express support of or opposition to any item shall not be required to register as a lobbyist"; and

WHEREAS, for the purpose of this Resolution, "employer" is defined as "any person providing or agreeing to provide compensation of any kind to a lobbyist in consideration for his or her performance of lobbying activities"; and

WHEREAS, for the purpose of this Resolution, "compensation" is defined as "paying or agreeing to pay or give, directly or indirectly, any money, anything of value, or reimbursement of expenses (in whole or in part), in consideration for the performance of lobbying activities"; and

WHEREAS, for the purpose of this Resolution, "contingency fee" is defined as "a fee, bonus, commission, or non-monetary benefit as compensation which is dependent or in any way contingent on the enactment, defeat, modification, or other outcome of any specific action of the Board; and

WHEREAS, the District's Board of Commissioners requires that all lobbyists must comply with this Resolution, regardless of whether or not they receive compensation for lobbying; and

WHEREAS, the District's Board of Commissioners also require that all lobbyists

must file an annual statement on or before October 15<sup>th</sup> of all lobbying activities performed within the District during the prior fiscal year ending September 30<sup>th</sup>, including a disclosure of all lobbying expenditures, contingency fees, and the sources from which funds for making such expenditures and paying such contingency fees have come; and

WHEREAS, a public hearing was held on the 27<sup>th</sup> day of March, 2014 at 8:00 A.M. at the offices of the South Broward Drainage District located at 6591 S.W. 160th Avenue, Southwest Ranches, Florida 33331 for the purpose of approving this Resolution No. 2014-01 to require all lobbyists to comply with the provisions of said Resolution No. 2014-01. NOW, THEREFORE, be it resolved by the Board of Commissioners of the South Broward Drainage District in meeting assembled that:

1. The foregoing statements are incorporated herein as if fully stated herein.
2. This Resolution shall be known as the "SOUTH BROWARD DRAINAGE DISTRICT LOBBYIST REGISTRATION RESOLUTION".
3. Prior to engaging in any lobbying activities, whether or not compensation is paid or received in connection with those lobbying activities, each lobbyist shall file an annual registration statement with the District Director in a form consistent with the sample registration attached hereto as Exhibit "A" and made part of this Resolution.
4. The annual registration statement shall include and be accompanied by the following information:
  - (a) The lobbyists full name, residence address, business name, business address, and nature of business.
  - (b) The full name and address of all persons on whose behalf the lobbyist will be lobbying.
  - (c) The general and specific subject matters which the lobbyist seeks to influence.
  - (d) The extent of any direct business association by the lobbyist with any current elected or appointed official or employee of the District. For purposes of this article, the term "direct business association" shall mean any mutual endeavor undertaken for profit or compensation.
  - (e) Documentation of appropriate authorization from the person(s) on whose behalf the lobbyist will be lobbying on said persons behalf upon a particular

subject matter.

5. If, after filing the registration statement, the lobbyist intends to lobby on behalf of any person(s) not listed on the registration statement, the lobbyist shall, prior to engaging in lobbying activities on behalf of such unlisted person(s), file an amendment to the registration statement containing all the information required in the annual registration statement.

6. A lobbyist is required to promptly amend or supplement any filed registration statement if any information in the statement changes.

7. Registration statements shall be effective for a twelve (12) month period from the date on which they are filed with the District. A new registration statement shall be filed prior to engaging in any lobbying activities after the expiration of a previously-filed registration statement.

8. On or before October 15<sup>th</sup> of each year, each lobbyist shall submit to the District a signed statement under oath, disclosing all lobbying expenditures, contingency fees, and the sources from which funds for making such expenditures and paying such contingency fees have come. This statement shall provide such information with respect to all lobbying activities undertaken from October 1 of the prior year through September 30 of the year in which such disclosure statement is required to be filed. Lobbying expenditures shall not include personal expenses for lodging, meals, and travel. A statement shall be filed even if there have been no expenditures during a reporting period. A public official acting in his or her official capacity shall not be required to file the statement required by this paragraph .

9. All lobbyists shall be required to pay an annual Forty Dollar (\$40) registration fee for each employer on whose behalf the lobbyist is engaged in lobbying activities for compensation. This fee must be paid prior to any lobbyist lobbying on behalf of his or her employer. A lobbyist, who is lobbying as a volunteer, without any compensation, is not required to pay a registration fee in connection with those un-compensated lobbying activities.

10. The District Director shall notify any lobbyist who fails to timely file a disclosure statement. Said notification shall be within forty-five (45) days of lobbyist's failure to file the required disclosure statement, and shall be made by US mail. If, after

sixty (60) days, the lobbyist has still not filed the required disclosure statement, the lobbyist will not be authorized to lobby the District Commissioners or employees.

11. Any lobbyist may appeal any determination that it is not authorized to lobby on behalf of his or her employer and may request and shall be entitled to a hearing before the Board which will have the authority to determine whether or not the lobbyist has complied with the requirements of this Resolution and to overturn or uphold said determination.

12. The District shall keep a current list of registered lobbyists and their respective statements required under this Resolution, all of which shall be open for public inspection.

13. Discontinuance of lobbying activities during a fiscal year shall not relieve the lobbyist of the requirement to file the statement required by this Resolution for that portion of the year during which the lobbyist was engaged in lobbying activities.

14. The District Attorney, the District Director and the Board shall be informed of any person engaged in lobbying activities who have failed to comply with the provisions of this Resolution, and, in each such instance, shall conduct such investigation as he, she, or they shall deem necessary under the circumstances. The results of each investigation shall be reported to the Board.

15. The Board shall warn, reprimand, suspend or prohibit the violator from appearing on behalf of any person before the Board or any decision-making body under the jurisdiction of the Board or from otherwise lobbying for any person in any fashion for a period of time; provided, however, that any suspension or prohibition may not exceed a period of two (2) years, and no sanction shall be imposed unless the lobbyist allegedly in violation has been afforded reasonable notice and an opportunity to be heard. The intentional failure or refusal of any lobbyist to comply with any order of the Board suspending or prohibiting the lobbyist from lobbying shall be punishable as provided by law and shall otherwise be subject to such civil remedies as the District may pursue, including injunctive relief.

16. The validity of any action taken by the Board, District employees, or any decision-making body under the jurisdiction of the Board, shall not be affected by the failure of any person to comply with the provisions of this Resolution.



17. In addition to all other penalties in this section, an employer who has retained a lobbyist(s) to lobby in connection with a competitive solicitation shall be deemed non-responsive unless the employer, in responding to the competitive solicitation, certifies that each lobbyist retained has timely filed the registration or amended registration required by this Resolution. If, after awarding a contract in connection with the solicitation, the District learns that the certification was erroneous, and upon investigation determines that the error was willful or intentional on the part of the employer, the District may, on that basis, exercise any contractual right to terminate the contract for convenience.

18. To promote full and complete transparency, lobbyists and their principals or employers who intend to meet or otherwise communicate with a member of the Board for the purpose of engaging in lobbying activities, either at the Board member's offices or elsewhere on District premises, must legibly complete a contact log listing each member of the Board with whom the lobbyist, principal, or employer meets or intends on meeting or communicating.

(a) The information stated on the contact log shall include the lobbyist's name; the name of the entity by which the lobbyist is employed; the name of the person or entity for whom or which he or she is lobbying; the name of each member of the Board with whom he or she is meeting or communicating; the date and time of each such meeting; and the specific purpose and subject matter of each such meeting.

(b) The contact log shall be completed contemporaneously with the meeting(s) and shall be filed for public inspection.

19. No information obtained from lobbying statements required by this Resolution shall be sold or utilized by any person for the purpose of soliciting campaign contributions or selling tickets to a testimonial or similar fund-raising affair or for commercial purposes.

20. A lobbyist shall separately disclose to the District Director any compensation received in the form of contingency as defined herein.

21. A database of current principals shall be added to the District's website.

22. A lobbyist shall promptly send a written statement to the Board cancelling the registration for a principal upon termination of the lobbyist's representation of that

principal. The District may remove the name of a lobbyist from the list of registered lobbyists if the principal notifies the District that said lobbyist is no longer authorized to represent that principal.

24. This Resolution shall be referred to or identified in the District's Criteria Manual under Section 1.6.

25. If any one or more of the covenants, agreements or provisions of this Resolution shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be separate from the remaining covenants, agreements or provisions and shall in no way affect the validity of all other provisions of this Resolution. If any Court determines that this Resolution or any portion hereof, cannot be legally applied to any individual(s), group(s), entity(ies), property(ies), or circumstance(s), such determination shall not affect the applicability hereof to this Resolution or the Exhibits attached hereto to any other individual, group, entity, property, or circumstance.

26. This Resolution shall take effect on May 1, 2014.

IN WITNESS WHEREOF, the Chairperson of the Board of Commissioners of the SOUTH BROWARD DRAINAGE DISTRICT has hereunto set his hand and the Secretary of the Board of Commissioners of the SOUTH BROWARD DRAINAGE DISTRICT has caused to be set its seal.

ADOPTED AND DATED the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

SOUTH BROWARD DRAINAGE DISTRICT

(SEAL)

By: \_\_\_\_\_

Attest:

Scott Hodges, Chairperson

\_\_\_\_\_  
Robert E. Goggin, IV, Secretary

STATE OF FLORIDA                    )  
  )§  
COUNTY OF BROWARD                )

The foregoing Resolution N° 2014-01 was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014 by SCOTT HODGES and ROBERT E. GOGGIN, IV as Chairperson and 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 \_\_\_\_\_ day of \_\_\_\_\_, 2014.

(NOTARY SEAL OR STAMP)



\_\_\_\_\_  
Notary Public - State of Florida at Large

**EXHIBIT "A"**  
**SOUTH BROWARD DRAINAGE DISTRICT RESOLUTION NO. 2014-01**  
**LOBBYIST REGISTRATION FORM**

**Lobbyist Full Name:** \_\_\_\_\_

**Lobbyist Business Name:** \_\_\_\_\_

**Lobbyist Residence Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Lobbyist Business Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Lobbyist Phone Number (Business):** \_\_\_\_\_

**Lobbyist Phone Number (Cell):** \_\_\_\_\_

**Lobbyist E-mail Address:** \_\_\_\_\_

**List the full name and address of all persons on whose behalf you will be lobbying:**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**State the general and specific subject matters which you seek to influence for each person on the foregoing list:**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Do you have any direct business association with any current elected or appointed official or employee of the District: YES \_\_\_\_\_ NO \_\_\_\_\_

If yes, please explain: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Provide Documentation of appropriate authorization from the person(s) on whose behalf you will be lobbying: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Please acknowledge the following statements by initialing the appropriate boxes:

- I am the person who has registered as a lobbyist with South Broward Drainage District (SBDD) and who has signed this Lobbyist Registration Form.
- I understand that I must register as a lobbyist in SBDD for each Employer/Client whom I am representing prior to beginning my lobbying activities.
- I understand that I must promptly amend or supplement this form if any information changes.
- I understand that on or before October 15<sup>th</sup> of each year, I am required to submit a signed statement under oath, disclosing all lobbying expenditures, contingency fees, and the sources from which funds for making such expenditures and paying such contingency fees have come.
- The District Director shall notify any lobbyist who fails to timely file a disclosure statement. Said notification shall be within forty-five (45) days of the lobbyist's failure to file the required disclosure statement, and shall be made by US mail. If, after sixty (60) days, the lobbyist has still not filed the required disclosure statement, the lobbyist will not be authorized to lobby the District Commissioners or employees.
- All lobbyists shall be required to pay an annual Forty Dollar (\$40) registration fee for each person on whose behalf the lobbyist is engaged in lobbying activities for compensation. This fee must be paid prior to any lobbyist lobbying on behalf of said person (s).
- To promote full and complete transparency, lobbyists and their principals or employers who intend to meet or otherwise communicate with a member of the Board for the purpose of engaging in lobbying activities, either at the Board member's offices or elsewhere on District premises, must legibly complete a contact log listing each member of the Board with whom the lobbyist, principal, or employer meets or intends on meeting or communicating.



## \*\*\*MEMORANDUM\*\*\*

DATE: March 20, 2014

TO: South Broward Drainage District Commissioners

FROM: Kevin M. Hart, P.E.  
District Director

Subject: Request to Purchase New Vehicle

## Comments:

SBDD staff has researched pricing for the purchase of a new vehicle to replace one of the District's existing vehicles. The District is in need of replacing a 2003 Ford Ranger truck with 102,218 miles of use, as this vehicle has exceeded its useful life span for use by District staff.

This is a request to purchase a new 2014 Ford F-250 4x4 truck with a standard cab and trailer tow package. The lowest price available for the purchase of a new Ford F-250 4x4 truck is through the Florida Sheriff's Association Contract in the amount of \$19,997.00. The Florida Sheriff's Association Contract was awarded through a publically advertised, competitive bid process and therefore, the purchase of a vehicle through this contract does not require SBDD to publically advertise for bids.

SBDD has researched other pricing options for a comparable F-250 truck, and determined that the pricing through the Florida Sheriff's Association Contract is the most economical option. Informal pricing obtained from other local car/truck dealers exceeded \$30,000.00 in price.

I am requesting approval for the District to purchase a 2014 Ford F-250 4x4 trucks from Don Reid Ford, Inc. under the Florida Sheriff's Association Contract in the amount of \$19,997.00. The vehicle will be outfitted with additional options including an electric brake controller, LED safety warning lights, aluminum toolbox, spray on bed liner, skid plates, back-up alarm, and a 2-way radio. The total amount of the optional items is \$3,207.75. The total cost for the new vehicle, including all optional items is \$23,204.75.

Upon acquisition of the new vehicle, SBDD will utilize the on-line public auction site, Public Surplus, to sell the 2003 Ford Ranger, which will become obsolete and whose continued use will serve no useful function to the District. This vehicle will be sold "as is" to the highest responsible bidder.

Financial impacts to this Agenda Item: The purchase of the new vehicle will be funded through the General Operating Account as part of the District's 2013-2014 budget. It is estimated that the sale of the District's surplus vehicles will generate approximately \$3,000.

**This is to request approval for the purchase of a 2014 Ford F-250 4x4 truck in the total amount of \$23,204.75. Funding for this project will come from the SBDD General Operating Account as part of the 2013-2014 Budget.**

**KH**  
**Attachments**

\*\*\*MEMORANDUM\*\*\*

DATE: March 20, 2014  
TO: South Broward Drainage District Commissioners  
FROM: Kevin M. Hart, P.E.  
District Director  
Subject: Update to the SBDD Employee Policy Handbook

Comments:

Attached for the Board's review and approval is an update to the District's Drug Free Workplace Policy, including a new provision for Commercial Driver License (CDL) holders. The proposed changes will bring these policies in line with current Florida Statutes and Federal and State laws that are applicable to government employees.

The proposed updates are consistent with the District's current practices and will not result in any reductions or changes to SBDD employee benefits.

**This is to request approval for an update to the South Broward Drainage District's Drug Free Workplace Policy, including a new provision for Commercial Driver License (CDL) holders.**

**KH**  
**Attachments**



**UPDATE TO SBDD DRUG-FREE WORKPLACE POLICY WITHOUT MARK-UPS**

SOUTH BROWARD  
DRAINAGE DISTRICT  
EMPLOYEE POLICY HANDBOOK



*Date: March 2014*

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**EXHIBITS:**

**"A" - VEHICLE TAKE-HOME POLICY**

**"B" - DRUG-FREE WORKPLACE PROGRAM**

**"C" - COMMERCIAL DRIVER'S LICENSE (CDL) DRUG TESTING POLICY**

## *1.09 DRIVING RECORD STATUS*

Employees who drive on District business are required to have a valid driver's license and proper automobile insurance. In addition, due to the job duties of certain positions, employees may be required to possess a Class A, B, or C Commercial Driver's License (CDL).

Employees driving on District business must report any vehicle violation, whether in a District or personal vehicle, and any change in their insurance coverage, to their department head/supervisor within 24 hours of the event.

Employees who possess a Commercial Driver's License (CDL) and whose job duties include the operation of District equipment that qualify as Commercial Motor Vehicles as defined by the Federal Motor Carrier Safety Regulations (FMCSR) shall comply with the District's CDL Drug Testing Policy as defined in Exhibit "C" of this Employee Policy Handbook.

## *6.02 DRUG AND ALCOHOL USE/DRUG-FREE WORKPLACE POLICY (SEE EXHIBIT "B")*

The District is committed to maintaining a Drug-Free Workplace.

Substance abuse, which includes the possession, use or sale of illegal drugs or the unlawful use or misuse of lawful substances, including alcohol and prescription drugs, will not be tolerated. The District also prohibits the illicit use, possession, sale, attempted sale, purchase, attempted purchase, conveyance, distribution, cultivation or manufacture of illegal drugs, intoxicants, or controlled substances in any amount or in any manner. It is a condition of employment at the District to refrain from using illegal drugs and unlawfully using lawful substances, including alcohol and prescription medicines, and to abide by the guidelines of the District's Drug-Free Workplace Policy.

Certain employees of the District who operate commercial motor vehicles, and must be subjected to enhanced drug testing standards pursuant to the regulations of the Federal Motor carrier Safety Administration contained in 49 C.F.R. parts 40 and 382. The District will provide these employees with a copy of the District's Commercial Driver's License Drug Testing Policy and are expected to comply with the Policy's enhanced requirements in all respects (See Exhibit "C").

## Exhibit "B"

### DRUG-FREE WORKPLACE POLICY

#### INTRODUCTION

This is your official notification that South Broward Drainage District ("SBDD" or "Organization") complies with Florida's Drug-Free Workplace program requirements as authorized by Florida Statutes §§ 440.101-440.102. The District employees are absolutely prohibited from unlawfully manufacturing, distributing, dispensing, possessing or using controlled substances in the workplace. It is a condition of employment with the District to refrain from taking drugs on or off the job and to abide by the guidelines of this Policy and the District's Drug-Free Workplace program.

**Drug Tests:** The following is a list of drugs the District may test for:

<u>CHEMICAL NAME</u>	<u>BRAND NAME</u>	<u>COMMON NAME</u>
Alcohol (ETOH)		Liquor, Booze, Wine, Beer, Distilled Spirits
Amphetamines	Obetrol, Biphedamine, Desoxyn, Dexedrine, Didrex, Ionamine, Fastin	Uppers, Speed, Bennies, Crystal, Black Beauties
Barbiturates	Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Fiorinal, Fioricet, Esgic, Butisol, Mebaral, Butabarbital, Butalbital, Phrenilin, Triad	Barbs, Goofballs, Reds, Rainbows, Downers, Yellows, Blues
Benzodiazepines	Ativan, Azene, Clonopin, Dalmane, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Verstran, Halcion, Paxipam, Restoril	Downers
Cannabinoids (THC) (Tetrahydrocannabinol)	Marinol (Dronabinol, THC)	Pot, Marijuana, Weed, Grass, Joint, Hashish, Maryjane
Cocaine (Benzoylcegonine)	Cocaine HCl topical solution (Roxanne)	Freebase, Crack, Blow, Snow, Nose Candy, Coke
Opiates	Paregoric, Parepectolin, Donnagel PG, Morphine, Tylenol with Codeine, Empirin with Codeine, APAP with Codeine, Aspirin with Codeine, Robitussin AC, Guiatuss AC, Novahistine DH, Novahistine Expectorant, Dilaudid, M-S Contin and Roxanol (morphine sulfate), Percodan, Vicodin	Downers, Smack, Heroine
Methadone	Dolophine, Mathadose	Junk, Jungle Juice
Methaqualone	Quaaludes	Ludes
Phencyclidine (PCP)		PCP, Angel Dust, THC
Propoxyphene	Darvocet, Dolene, Darvon N	

In accordance with, Florida Statutes § 440.102(4), the Organization shall conduct the following types of drug tests:

- 1) **Job Applicant Testing**: All job applicants applying for a mandatory-testing or specialty-risk position will submit to pre-employment drug testing. In accordance with applicable Florida law, a mandatory-testing position and a special-risk position are defined as follows:
  - A. “Mandatory-testing position” means, with respect to a public employer, a position in which a drug impairment constitutes an immediate and direct threat to public health or safety, such as a position that requires the employee to carry a firearm, perform life-threatening procedures, work with confidential information or documents pertaining to criminal investigations, or work with controlled substances; a position subject to employee security checks in accordance with Section 110.1127, Fla. Stat.; or, a position in which a momentary lapse in attention could result in injury or death to another person.
  - B. “Special-risk position” means, with respect to a public employer, a position that is required to be filled by a person who is certified under Chapter 633, Fire Prevention and Control, or Chapter 943, Department of Law Enforcement.
  
- 2) **Reasonable-Suspicion Drug Testing**: All employees will submit to reasonable-suspicion drug testing. Reasonable-suspicion drug testing is based on a belief that an employee is using or has used drugs in violation of this Policy. Such a belief must be drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon:
  - A. Observable phenomena while at work, such as direct observation of drug use or of the physical symptoms or manifestations of being under the influence of a drug;
  - B. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;
  - C. A report of drug use, provided by a reliable and credible source;

- D. Evidence that an individual has tampered with a drug test during his employment with the Organization;
  - E. Information that an employee has caused, contributed to, or been involved in an accident while at work; or,
  - F. Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the Organization's premises or while operating the Organization's vehicle, machinery, or equipment.
- 3) **Routine Fitness-For-Duty Testing:** Employees will submit to drug testing if such testing is conducted as part of routinely scheduled fitness-for-duty medical examinations in accordance with the Organization's established policy or routinely scheduled for all members of an employment classification or group.
- 4) **Followup Drug Testing:** Employees, who in the course of their employment with the Organization, enter an employee assistance program for drug-related problems or a drug rehabilitation program, will submit to followup drug tests, unless they voluntarily enter the program. When an employee voluntarily enters a program, this Organization has the option to not require followup drug testing. If followup drug testing is required, it must be conducted at least once a year for a two (2)-year period after completion of the program. Advance notice of a followup drug testing date will not be given to the employee to be tested.

Additional testing may be conducted as required by applicable state and federal laws, rules or regulations or as deemed necessary by the Organization.

**Consequences of a Positive Confirmed Drug Screen:** This Organization will not hire any applicant who tests positive on a drug test. This Organization separates all employees who test positive on their drug tests. Any employee who is separated on the basis of a positive drug test will be ineligible to collect unemployment compensation. In addition, if the employee is asked to submit to a drug test as a result of the employee's involvement in a work-related accident and tests positive on a drug or alcohol test, the employee will be separated, ineligible to collect unemployment and may be denied related workers' compensation benefits.



**Consequences of Refusal to Allow Testing:** An applicant who refuses to submit to a drug test will not be hired. Employees who refuse to submit to reasonable-suspicion drug testing will lose their jobs and their unemployment benefits. In addition, if an employee is requested to submit a drug test as a result of the employee's involvement in a work-related accident and refuses to submit to a test, the employee will lose his job, unemployment benefits and may be denied related workers' compensation benefits.

**Consequences of a Diluted Test Result:** If an employee/job applicant's drug test result is diluted, the employee/job applicant must submit to retesting. If an employee refuses to submit to a retest, the employee will be separated; if a job applicant refuses to submit to a retest, the job applicant will not be hired.

**Confidentiality:** Employers and their agents and laboratories must keep drug test results and other related information confidential. If information is released, it shall be done solely under a written consent form voluntarily signed by the person tested unless a release is compelled by a hearing officer or a court or unless it is deemed appropriate by a professional or occupational licensing board in a related disciplinary proceeding. The consent form must meet the criteria set by the State of Florida and in accordance with Florida Statutes § 440.102(8).

**Reporting Use of Prescription or Non-Prescription Medications:** An employee/job applicant can confidentially report the use of all prescription or non-prescription medications to a Medical Review Officer ("MRO"), both before and after being tested, as presence of those medications in the body may affect the outcome of the test. A list of the most common medications by brand name, common name and by chemical name, which may alter or affect a drug test, accompanies this Policy.

**Collection of Specimens:** All specimens collected and tested for drugs shall be collected with the privacy interests of the individual in mind and shall be documented according to those procedures prescribed in Florida Statutes § 440.102(5). Moreover, collection and testing will be accomplished by a licensed clinical laboratory and according to those procedures provided by Florida Statutes § 440.102(9). In accordance with Florida Statutes § 440.102(5)(g), the laboratory is required to preserve the specimen that produces a positive confirmed test result for a period of at least 210 days after the results of the positive confirmation are mailed or otherwise delivered to the MRO. Within 180 days after written notification of a positive test result, the employee or job applicant may have a portion of the specimen retested at the employee or job applicant's expense at another laboratory. The second laboratory test must be of equal or greater sensitivity as the first laboratory test,

licensed and approved by the agency for Health Care Administration. The first laboratory shall be responsible for the transfer of a portion of the specimen to be retested to the second laboratory and for the integrity of the chain of custody doing the transfer.

**Education:** Each year this Organization will post or circulate a list of locations offering educational courses to help our employees identify the personal and emotional problems that may result from the misuse of drugs and alcohol. The offered classes will also provide information on legal, social, physical and emotional consequences on the misuse of alcohol and drugs.

**Employee Assistance Program:** A list of Employee Assistance Programs and Drug and Alcohol Rehabilitation Programs available locally accompanies this Policy. The cost of these programs is the responsibility of the employee. Public employees in mandatory-testing or special-risk positions must not the following:

- a) If an employee, who is employed by a public employer in a mandatory-testing position, enters an employee assistance program or drug rehabilitation program, the employer must assign the employee a position other than a mandatory-testing position or, if such position is not available, place the employee on leave while the employee is participating in the program. However, the employee shall be permitted to use any accumulated leave credits before leave may be ordered without pay.
- b) An employee, who is employed by a public employer in a special-risk position, may be discharged or disciplined by a public employer for the first positive confirmed test result if the drug confirmed is an illicit drug under Section 893.03, Fla. Stat. A special-risk employee, who is participating in an employee assistance program or drug rehabilitation program, may not be allowed to continue to work in any special-risk or mandatory-testing position of the public employer, but may be assigned to a position other than a safety-sensitive position or placed on leave while the employee is participating in the program. However, the employee shall be permitted to use any accumulated annual leave credits before leave may be ordered without pay.

**Explanation for Employee/Job Applicant:** Within five (5) working days after receipt of notice of a positive confirmed test result, the employee/job applicant may submit information to the MRO and the employer explaining or contesting the test

results and stating why the test results do not constitute a violation of the employer's policy. If this explanation is unsatisfactory, the Organization must, within fifteen (15) days of receipt of the explanation or challenge, provide the employee/job applicant with a written explanation as to why the employee's explanation is unsatisfactory along with the report of the positive confirmed test results. This documentation shall be kept confidential by the Organization and shall be retained by them for at least a year. If the employee wishes to challenge a confirmed drug test result that was requested as a result of a work place accident, the employee may file an administrative challenge by filing a claim for benefits with a Judge of Compensation Claims. If no workplace accident occurred, the confirmed positive test result of the employee/job applicant may be challenged in a court of competent jurisdiction.

**Administrative or Civil Action:** An employee/job applicant must notify the drug testing laboratory of any administrative or civil action brought pursuant to Florida Statutes § 440.102. The laboratory will maintain the sample until the case or administrative appeal is settled.

**Right to Consult with Laboratory:** If any initial drug test of an employee/job applicant is confirmed as positive, the Organization's MRO shall provide technical assistance for the purpose of interpreting the test results to determine whether the result could have been caused by prescription and non-prescription medication taken by the employee/job applicant.

**Policy Guidelines:** The contents of this Policy may be changed and updated at anytime. This Policy is not intended to create a contract for term between the Organization and any employee. Nothing in this Policy binds this Organization to a specific or definite period of employment or to any specific policies, procedures, actions, rules, or terms and conditions of employment.

# SOUTH BROWARD DRAINAGE DISTRICT

## EMPLOYEE ASSISTANCE AND REHABILITATION PROGRAMS

The following list is not an endorsement of any of the identified programs by South Broward Drainage District. This Organization provides this list of programs as a community service and in compliance with Florida Statutes § 440.102(3)(7).

**If your drug test result is positive and/or you have a drug or alcohol problem, you may want to consider contacting the following organizations for assistance:**

### EMPLOYEE ASSISTANCE PROGRAMS:

Employee Assistance Programs are available through the District's Health Provider, Blue Cross Blue Shield of Florida. For more information visit the Blue Cross Blue Shield of Florida web site at [www.bcbsfl.com](http://www.bcbsfl.com).

In addition, the following is a list of agencies that may be of assistance:

#### **National Assistance:**

<i>AIDS Treatment Information Services</i>	1-800-448-0440
<i>Al-Anon/Alateen Family Groups</i>	1-800-356-9996
<i>Alateen</i>	1-561-882-0308

#### **Organizations Offering Assistance in Florida:**

<i>Florida AIDS Hotline</i>	1-800-352-2437
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### DRUG AND ALCOHOL REHABILITATION PROGRAMS:

Drug and Alcohol Rehabilitation Programs are available through District's Health Provider, Blue Cross Blue Shield of Florida. For more information visit the Blue Cross Blue Shield of Florida web site at [www.bcbsfl.com](http://www.bcbsfl.com).

In addition, the following is a list of agencies that may be of assistance:

#### **National Assistance:**

<i>Alcoholics Anonymous</i>	1-800-252-6465
	1-561-655-5700
<i>American Council on Alcoholism Helpline</i>	1-800-527-5344
<i>800 Cocaine (Information and Referral Hotline)</i>	1-800-COCAINE
<i>MADD (Mothers Against Drunk Driving)</i>	1-561-683-5888
<i>Nar-Anon Family Group Headquarters</i>	1-800-477-6291
<i>Narcotics Anonymous</i>	1-866-288-6262

*National Council on Alcoholism and Drug Dependence  
Partnership for a Drug-Free America*

1-800-NCA-CALL  
1-800-662-HELP

**Organizations Offering Assistance in Florida:**

<i>Drug/Alcohol Abuse Helpline (24 Hours)</i>	1-800-362-2644
<i>Drug/Alcohol Abuse &amp; Information (24 Hour Emergency Service)</i>	1-850-487-2930
<i>Drug Abuse Alcoholism &amp; Cocaine (Toll Free)</i>	1-800-333-4444
<i>Drug/Alcohol Abuse (24 Hour Crisis line &amp; Treatment)</i>	1-800-283-2600

# SOUTH BROWARD DRAINAGE DISTRICT

## EMPLOYEE/APPLICANT ACKNOWLEDGEMENT FORM

Read carefully; if you do not understand a question please ask. Initial each item then sign and date at the bottom.

- \_\_\_\_\_ 1. I have received and read South Broward Drainage District's ("SBDD" or "Organization") Drug-Free Workplace Policy, including the medications that may alter or affect a drug test (*DFW-4*).
- \_\_\_\_\_ 2. I understand that if I am applying for a mandatory-testing or special-risk position with this Organization and refuse to submit to a pre-employment drug test or refuse to authorize the release of my drug test results that I will not be hired. (Applicants for mandatory-testing and special risk positions only).
- \_\_\_\_\_ 3. I understand that total compliance with the Drug-Free Workplace is a condition of continued employment with SBDD.
- \_\_\_\_\_ 4. I received a list of local Employee Assistance Programs and Drug and Alcohol Rehabilitation Programs (*DFW-1*).
- \_\_\_\_\_ 5. I understand that if I refuse a reasonable-suspicion drug or alcohol test, I will lose my job and my unemployment benefits. I also understand that if I refuse to take a test that was requested as a result of my involvement in a work-related accident, I may lose all of my related workers' compensation benefits, if I am injured.
- \_\_\_\_\_ 6. I understand if I am taking any medication that could affect my ability to perform my duties, I must inform my supervisor immediately.
- \_\_\_\_\_ 7. I understand I have the right to challenge any positive test result and I understand that I must notify the laboratory if I wish to challenge the test result.
- \_\_\_\_\_ 8. I understand the Organization's Drug-Free Workplace Policy does not constitute an employment contract for term between SBDD and me.

I have read, understood and initialed each above item and have voluntarily signed this form below.

Printed Name \_\_\_\_\_

Date \_\_\_\_\_

Signature \_\_\_\_\_

Witness Name \_\_\_\_\_

Date \_\_\_\_\_

Witness Signature \_\_\_\_\_

# SOUTH BROWARD DRAINAGE DISTRICT

## CONSENT TO AUTHORIZE JOB APPLICANT/EMPLOYEE TESTING

By placing my initials in the blanks below, and by signing and dating this form, I consent to take the Drug and Alcohol test(s) and authorize release of any test results to South Broward Drainage District ("SBDD" or "Organization"). I understand that I may be placed on a temporary leave of absence pending results of said test(s). I further understand that if I am requested to test as an applicant, should my test(s) results be confirmed positive, my application for employment will be rejected and if I am requested to test as a current employee, should my test(s) results be a confirmed positive, I will be separated immediately. I also understand that if I refuse to submit to a drug test, I may be disqualified from hiring consideration.

I have been informed through this consent form that Florida Statutes §§ 440.101-440.102 governs drug testing and notice requirements in the State of Florida for employees of public and private employers.

I understand that the SBDD will keep all records regarding drug testing and all results confidential, including this consent form and the information contained therein.

I understand the above stated policy and hereby give my consent to SBDD to administer drug and alcohol testing, which may consist of the taking of blood, urine, breath, saliva, or hair samples from my body, or any other medically accepted test designed to detect traceable amounts of drugs, controlled substances, and alcohol in the body. I also understand that I can confidentially report to a Medical Review Officer the use of prescription or nonprescription medications before and after being tested.

1.     \_\_\_ I have not used any illegal or incapacitating drugs or controlled substances in the last sixty (60) days.
2.     \_\_\_ I have used the following prescription drug, or over-the-counter drug or medication, within the last sixty (60) days.
  - (a)    Drug(s): \_\_\_\_\_
  - (b)    Prescribing Physician  
          Name: \_\_\_\_\_  
          Address: \_\_\_\_\_  
          \_\_\_\_\_  
          Phone: \_\_\_\_\_

If I receive a positive confirmed test result, I understand that I may contest or explain the results to the Medical Review Officer ("MRO") and SBDD within five (5) working days after receiving written notification of the test result. If my explanation or challenge is unsatisfactory to the MRO, the MRO shall report my positive test result to District. I may contest the drug test result pursuant to applicable law or pursuant to rules adopted by the agency for Health Care Administration. If I choose to contest those results pursuant to applicable law or the rules for Health Care Administration, I must notify the laboratory that conducted my drug test of any administrative or civil action brought by me.

I hereby give my consent to the District to administer any, or all, of the above drug and alcohol testing procedures to me and to use the results thereof in determining my employability with the District.

I further release any testing facility or any physicians who have tested me from any liability arising from the release of any and all test(s) results, written reports, medical records, and data concerning my test(s) to the appropriate officials of the Organization.

Applicant Signature: \_\_\_\_\_ Date: \_\_\_\_\_



## COMMON MEDICATIONS WHICH COULD AFFECT A DRUG TEST

The following is a list of the most common medications by brand name, common name and chemical name. These over the counter and prescription drugs could alter or affect drug test results:<sup>1</sup>

Alcohol:	All liquid medications containing ethyl alcohol (ethanol). Please read the label for alcohol content. As an example, Vick's Nyquil is 25% (50 proof) ethyl alcohol, Comtrex is 20% (40 proof), Contact Severe Cold Formula Night Strength is 25% (50 proof) and Listerine is 26.9% (54 proof).
Amphetamines:	Obetrol, Biphedamine, Desoxyn, Dexedrine, Didrex, Ionamine, Fastin.
Cannabinoids:	Marinol (Dronabinol, THC).
Cocaine:	Cocaine HCl topical solution (Roxanne).
Phencyclidine:	Not legal by prescription.
Methaqualone:	Not legal by prescription.
Opiates:	Paregoric, Parepectolin, Donnagel PG, Morphine, Tylenol with Codeine, Empirin with Codeine, APAP with Codeine, Aspirin with Codeine, Robitussin AC, Guiatuss AC, Novahistine DH, Novahistine Expectorant, Dilaudid (Hydromorphone), M-S Contin and Roxanol (morphine sulfate), Percodan, Vicodin, Tussi-organidin.
Barbiturates:	Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Fiorinal, Fioricet, Esgic, Butisol, Mebaral, Butabarbital, Butalbital, Phrenilin, Triad.
Benzodiazepines:	Ativan, Azene, Clonopin, Dalmane, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Verstran, Halcion, Paxipam, Restoril, Centrax.
Methadone:	Dolophine, Methadose.
Propoxyphene:	Darvocet, Darvon N., Dolene, etc.

DFW-4

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<sup>1</sup> Due to the large number of obscure brand names and constant marketing of new products, this list cannot, and is not intended to, be all-inclusive.

## **EXHIBIT "C"**

### **COMMERCIAL DRIVER'S LICENSE DRUG TESTING POLICY**

The Omnibus Transportation Employee Testing Act of 1991 requires certain drug testing of South Broward Drainage District ("SBDD") employees who must maintain a Class A, B or C Commercial Driver's License ("CDL") as a valid condition of their employment ("CDL Drivers").

SBDD designates District Director Kevin Hart as the person(s) to whom all CDL Drivers should direct questions about this Policy.

SBDD shall comply with all procedures specified by Title 49, Parts 40 and 382, to protect its CDL Drivers and the integrity of its testing processes. In no event will any testing be conducted that might in any way endanger the life of any CDL Driver.

SBDD shall comply with all required procedures to safeguard the validity of all test results and to ensure that those results are attributed to the correct CDL Driver, including post-accident information, procedures and instructions.

SBDD shall maintain all records in accordance with federal law, including but not limited to all records regarding SBDD's alcohol and controlled substances abuse prevention programs. All SBDD records shall be maintained in a secure location with controlled access.

All CDL Drivers performing safety-sensitive functions are required to comply with this Policy at all times. A CDL Driver is considered to be performing a safety-sensitive function during any period in which he is actually performing, ready to perform, or immediately available to perform such function.

Safety-sensitive functions include, but are not limited to all time spent by CDL Drivers:

1. At SBDD headquarters, or other SBDD property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by SBDD;
2. Inspecting equipment or otherwise inspecting, servicing, or conditioning any Commercial Motor Vehicle ("CMV") at any time;
3. At the driving controls of a CMV in operation;
4. Other than driving times in or upon any CMV, except when resting in a sleeper berth that conforms to the requirements of applicable federal law;
5. Performing, supervising, assisting or attending to the loading or unloading of a vehicle, or all time spent in readiness to operate a vehicle; and,
6. Repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

CDL Drivers are prohibited from performing safety-sensitive functions if they:

1. Have an alcohol concentration of 0.04 or greater;
2. Are under the influence of or impaired by alcohol, as shown by the behavioral, speech and performance indicators of alcohol misuse;
3. Have consumed alcohol within four (4) hours;

4. Have used any controlled substances except when such use is pursuant to instructions of a licensed medical practitioner who has advised the CDL Driver that it will not adversely affect his ability to safely work; or,
5. Refuse to submit to a post-accident, random, reasonable suspicion, or follow-up alcohol or controlled substances test.

If a CDL Driver or SBDD violates any part of this Policy, or the requirements of 49 C.F.R. Part 40, either or both may be subject to the civil and criminal penalties imposed under 49 U.S.C. § 521(b); criminal penalties include fines and/or a term of imprisonment.

SBDD shall make the following available to all CDL Drivers: information concerning the effects of alcohol and controlled substances on an individual's health; information about signs and symptoms of alcohol or controlled substances problems; and, information about Employee Assistance Programs ("EAP").

SBDD shall conduct the following drug tests on CDL Drivers:

1. Job Applicant Testing for CDL Drivers  
CDL employee candidates who refuse to submit to a drug test or produce a positive confirmed drug test shall not be hired.
2. Reasonable-Suspicion Testing
  - a. Reasonable-suspicion testing for CDL Drivers shall occur based upon specific, contemporaneous, articulable observations of a trained supervisor or a trained SBDD official concerning the appearance, behavior, speech or body odors of a CDL driver; such observations may include indications of the chronic and withdrawal effects of controlled substances.
  - b. With respect to reasonable suspicion regarding alcohol testing of CDL Drivers:
    - i. The person who makes the determination that reasonable-suspicion exists shall not be the person to conduct the alcohol test.
    - ii. Alcohol testing is authorized only if the required observations are made while the CDL Driver is performing safety-sensitive functions, just before he is to perform safety-sensitive functions, or just after he has ceased performing such functions.
    - iii. Alcohol testing may not be administered more than 8 hours following the reasonable-suspicion determination and if no test is given, SBDD will prepare a record stating the reasons.
    - iv. If alcohol testing cannot be administered within two (2) hours of a reasonable-suspicion determination, SBDD will prepare a record stating why testing could not be promptly administered.
  - c. If reasonable-suspicion is observed, but a test cannot be administered, SBDD will not permit a CDL Driver to perform safety-sensitive functions unless and until:
    - i. a test is conducted and the alcohol concentration is determined to be less than 0.02; or,
    - ii. twenty-four (24) hours have passed from the time of the initial observation.
  - d. A CDL Driver subjected to reasonable-suspicion testing shall be placed on

leave without pay pending the results of the test. A CDL Driver whose reasonable-suspicion test is negative shall be retroactively paid for time spent on leave without pay pending the results of the test.

3. Random Testing

- a. Random, unannounced testing shall be spread reasonably throughout the calendar year. Upon being notified of being selected for testing, a CDL Driver shall immediately report to the test site.
- b. SBDD shall select CDL Drivers for random testing using a scientifically valid method. Each CDL Driver shall have an equal chance of being tested each time selections are made.
- c. A CDL Driver is only subject to random testing for alcohol while the CDL Driver is performing safety-sensitive functions, just before he is to perform safety-sensitive functions, or just after he has ceased performing such functions.
- d. At least 10 percent of the average number of CDL Driver positions, randomly selected, shall be tested for alcohol each year. At least fifty (50) percent or half (1/2) the average number of CDL Driver positions shall be randomly tested for controlled substances each year.

4. Post-Accident Testing

Post-accident testing on CDL Drivers shall occur as soon as practicable following an accident.

- a. SBDD will test each surviving CDL Driver:
  - i. Who was performing a safety sensitive function with respect to the vehicle, if the accident involved the loss of human life.
  - ii. For alcohol, if he receives a citation within eight (8) hours of the occurrence under state or local law for a moving traffic violation arising from the accident, if the accident involved:
    - (a) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or,
    - (b) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.
  - iii. For controlled substances if he receives a citation within thirty-two (32) hours of the occurrence under state or local law for a moving traffic violation arising from the accident, if the accident involved:
    - (a) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or,
    - (b) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.
- b. CDL Drivers are prohibited from using alcohol within eight (8) hours following an accident requiring a post-accident test, or until a post-accident alcohol test is taken, whichever occurs first.

- c. Testing must be performed in a timely manner.
  - i. Post-accident alcohol testing shall be done within two (2) hours of any accident; if alcohol testing is not administered by SBDD within eight (8) hours following the accident, SBDD shall not conduct alcohol testing.
  - ii. Post-accident controlled substances testing shall be conducted as soon as possible, but no later than thirty-two (32) hours following an accident.
  - iii. SBDD shall document those instances when testing is not conducted in accordance with established timeframes.
  - iv. A CDL Driver subjected to post-accident testing shall remain readily available for such testing or may be deemed by SBDD to have refused to submit to such testing.
- d. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a CDL Driver from leaving the scene of an accident to obtain assistance in responding to the accident or to obtain necessary emergency medical care.
- e. A CDL Driver subjected to post-accident testing shall be placed on leave without pay pending the results of the test. A CDL Driver whose post-accident test is negative shall be retroactively paid for time spent on leave without pay pending the results of the test.

5. Return to Duty Testing

- a. If a CDL Driver violates this Policy, he will not be permitted to perform any safety-sensitive functions unless and until he has:
  - i. Been evaluated by a Department of Transportation (“DOT”) qualified Substance Abuse Professional (“SAP”) who shall determine what assistance, if any, the CDL Driver needs in resolving problems associated with alcohol misuse and controlled substances use;
  - ii. Been advised of the availability of and provided with the names, addresses and telephone numbers of SAPs and counseling treatment programs; and,
  - iii. Undergone requisite return-to-duty testing with a verified negative result.
- b. Neither SBDD nor a CDL Driver shall seek a second SAP’s evaluation.

6. Follow-Up Testing

- a. Follow-up testing shall occur following a CDL Driver’s completion of an EAP for drug-related problems or a drug rehabilitation program.
  - i. Follow-up testing shall be conducted a minimum of six (6) times during the first twelve month period following completion of the program.
  - ii. Follow-up testing can last up to sixty (60) months.
  - iii. Follow-up testing will include an evaluation by a SAP to determine that the CDL Driver has properly followed any prescribed rehabilitation program.
  - iv. Advance notice of any follow-up testing date shall not be given to the CDL Driver to be tested.

- b. CDL Drivers who refuse to submit to follow-up testing or produce a positive confirmed drug test shall be separated from SBDD.
- c. A CDL Driver subject to follow-up testing will continue to be subject to SBDD's random testing program.

SBDD shall provide required training on alcohol misuse and use of controlled substances to all persons designated to supervise drivers.

CDL Drivers who refuse to submit to testing required by applicable state and federal laws, rules or regulations or produce a positive confirmed drug test shall be separated from SBDD.

1. Obstruction and lack of cooperation with the testing process is considered refusal to submit to the required testing.
2. Any verified adulterated or substituted drug test result shall be treated as a refusal to test.

**DRIVER CERTIFICATE OF RECEIPT**  
**SOUTH BROWARD DRAINAGE DISTRICT**  
**POLICY ON COMMERCIAL DRIVER'S LICENSE DRUG TESTING**

By signing this statement, I certify that I have received a copy of South Broward Drainage District's ("SBDD") Commercial Driver's License Drug Testing Policy in accordance with the Regulations of the FMCSA, contained in 49 C.F.R. Parts 40 and 382. This Policy is separate from and in addition to any other controlled substance and/or alcohol testing policies enacted by SBDD.

I understand that, as a covered driver, I am subject to the provisions of this policy and it is my responsibility to be in compliance with its provisions. My signature below acknowledges my receipt of this Policy and of all related materials.

\_\_\_\_\_  
Employee Name -- Print or Type

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Supervisor Signature

\_\_\_\_\_  
Date

*The original version of this document must be maintained by SBDD.*

**UPDATE TO SBDD DRUG-FREE WORKPLACE POLICY WITH MARK-UPS**



SOUTH BROWARD  
DRAINAGE DISTRICT  
EMPLOYEE POLICY HANDBOOK



*Date: March 2014*

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## **1.09 DRIVING RECORD STATUS**

Employees who drive on District business are required to have a valid driver's license and proper automobile insurance. In addition, due to the job duties of certain positions, employees may be required to possess a ~~Class B or Class C driver's license~~ Class A, B, or C Commercial Driver's License (CDL).

Employees driving on District business must report any vehicle violation, whether in a District or personal vehicle, and any change in their insurance coverage, to their department head/supervisor within 24 hours of the event.

Employees who possess a Commercial Driver's License (CDL) and whose job duties include the operation of District equipment that qualify as Commercial Motor Vehicles as defined by the Federal Motor Carrier Safety Regulations (FMCSR) shall comply with the District's CDL Drug Testing Policy as defined in Exhibit "C" of this Employee Policy Handbook.

## **6.02 DRUG AND ALCOHOL USE/DRUG-FREE WORKPLACE POLICY (SEE EXHIBIT "B")**

The District is committed to maintaining a Drug-Free Workplace.

Substance abuse, which includes the possession, use or sale of illegal drugs or the unlawful use or misuse of lawful substances, including alcohol and prescription drugs, will not be tolerated. The District also prohibits the illicit use, possession, sale, attempted sale, purchase, attempted purchase, conveyance, distribution, cultivation or manufacture of illegal drugs, intoxicants, or controlled substances in any amount or in any manner. It is a condition of employment at the District to refrain from using illegal drugs and unlawfully using lawful substances, including alcohol and prescription medicines, and to abide by the guidelines of the District's Drug-Free Workplace Policy.

Certain employees of the District who operate commercial motor vehicles, and must be subjected to enhanced drug testing standards pursuant to the regulations of the Federal Motor carrier Safety Administration contained in 49 C.F.R. parts 40 and 382. The District will provide these employees with a copy of the District's Commercial Driver's License Drug Testing Policy and are expected to comply with the Policy's enhanced requirements in all respects (See Exhibit "C").

## **DRUG-FREE WORKPLACE POLICY**

### **INTRODUCTION**

This is your official notification that South Broward Drainage District (“District” “SBDD” or “Organization”) complies with Florida’s Drug-Free Workplace program requirements as authorized by Florida Statutes §§ 440.101-440.102. The District employees are absolutely prohibited from unlawfully manufacturing, distributing, dispensing, possessing or using controlled substances in the workplace. It is a condition of employment with the District to refrain from taking drugs on or off the job and to abide by the guidelines of this Policy and the District’s Drug-Free Workplace program.

**Drug Tests:** The following is a list of drugs the District may test for:

<b><u>CHEMICAL NAME</u></b>	<b><u>BRAND NAME</u></b>	<b><u>COMMON NAME</u></b>
Alcohol (ETOH)		Liquor, Booze, Wine, Beer, Distilled Spirits
Amphetamines	Obetrol, Biphedamine, Desoxyn, Dexedrine, Didrex, Ionamine, Fastin	Uppers, Speed, Bennies, Crystal, Black Beauties
Barbiturates	Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Fiorinal, Fioricet, Esgic, Butisol, Mebaral, Butabarbital, Butalbital, Phrenilin, Triad	Barbs, Goofballs, Reds, Rainbows, Downers, Yellows, Blues
Benzodiazepines	Ativan, Azene, Clonopin, Dalmane, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Verstran, Halcion, Paxipam, Restoril	Downers
Cannabinoids (THC) (Tetrahydrocannabinol)	Marinol (Dronabinol, THC)	Pot, Marijuana, Weed, Grass, Joint, Hashish, Maryjane
Cocaine (Benzoyllecgonine)	Cocaine HCl topical solution (Roxanne)	Freebase, Crack, Blow, Snow, Nose Candy, Coke
Opiates	Paregoric, Parepectolin, Donnagel PG, Morphine, Tylenol with Codeine, Empirin with Codeine, APAP with Codeine, Aspirin with Codeine, Robitussin AC, Guiatuss AC, Novahistine DH, Novahistine Expectorant, Dilaudid, M-S Contin and Roxanol (morphine sulfate), Percodan, Vicodin	Downers, Smack, Heroine
Methadone	Dolophine, Mathadose	Junk, Jungle Juice
Methaqualone	Quaaludes	Ludes
Phencyclidine (PCP)		PCP, Angel Dust, THC
Propoxyphene	Darvocet, Dolene, Darvon N	

In accordance with, Florida Statutes § 440.102(4), the Organization shall conduct the following types of drug tests:

1) **Job Applicant Testing:** All job applicants applying for a mandatory-testing or specialty-risk position will submit to pre-employment drug testing in keeping with applicable law. In accordance with applicable Florida law, a mandatory-testing position and a special-risk position are defined as follows:

A. “Mandatory-testing position” means, with respect to a public employer, a position in which a drug impairment constitutes an immediate and direct threat to public health or safety, such as a position that requires the employee to carry a firearm, perform life-threatening procedures, work with confidential information or documents pertaining to criminal investigations, or work with controlled substances; a position subject to employee security checks in accordance with Section 110.1127, Fla. Stat.; or, a position in which a momentary lapse in attention could result in injury or death to another person.

B. “Special-risk position” means, with respect to a public employer, a position that is required to be filled by a person who is certified under Chapter 633, Fire Prevention and Control, or Chapter 943, Department of Law Enforcement.

2) **Reasonable-Suspicion Drug Testing:** All employees will submit to reasonable-suspicion drug testing. Reasonable-suspicion drug testing is based on a belief that an employee is using or has used drugs in violation of this Policy. Such a belief must be drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon:

A. Observable phenomena while at work, such as direct observation of drug use or of the physical symptoms or manifestations of being under the influence of a drug;

B. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;

C. A report of drug use, provided by a reliable and credible source;

- D. Evidence that an individual has tampered with a drug test during his employment with the Organization;
- E. Information that an employee has caused, contributed to, or been involved in an accident while at work; or,
- F. Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the Organization's premises or while operating the Organization's vehicle, machinery, or equipment.

- 3) **Routine Fitness-For-Duty Testing:** Employees will submit to drug testing if such testing is conducted as part of routinely scheduled fitness-for-duty medical examinations in accordance with the Organization's established policy or routinely scheduled for all members of an employment classification or group.
- 4) **Followup Drug Testing:** Employees, who in the course of their employment with the Organization, enter an employee assistance program for drug-related problems or a drug rehabilitation program, will submit to followup drug tests, unless they voluntarily enter the program. When an employee voluntarily enters a program, this Organization has the option to not require followup drug testing. If followup drug testing is required, it must be conducted at least once a year for a two (2)-year period after completion of the program. Advance notice of a followup drug testing date will not be given to the employee to be tested.

Additional testing may be conducted as required by applicable state and federal laws, rules or regulations or as deemed necessary by the Organization.

**Consequences of a Positive Confirmed Drug Screen:** This Organization will not hire any applicant who tests positive on a drug test. This Organization separates all employees who test positive on their drug tests. Any employee who is separated on the basis of a positive drug test will be ineligible to collect unemployment compensation. In addition, if the employee is asked to submit to a drug test as a result of the employee's involvement in a work-related accident and tests positive on a drug or alcohol test, the employee will be separated, ineligible to collect unemployment and may be denied related workers' compensation benefits.

**Consequences of Refusal to Allow Testing:** An applicant who refuses to submit to a drug test will not be hired. Employees who refuse to submit to reasonable-suspicion drug testing will lose their jobs and their unemployment benefits. In addition, if an employee is requested to submit a drug test as a result of the employee's involvement in a work-related accident and refuses to submit to a test, the employee will lose his job, unemployment benefits and may be denied related workers' compensation benefits.

**Consequences of a Diluted Test Result:** If an employee/job applicant's drug test result is diluted, the employee/job applicant must submit to retesting. If an employee refuses to submit to a retest, the employee will be separated; if a job applicant refuses to submit to a retest, the job applicant will not be hired.

~~**Employee Suspension:** The Organization may suspend employees without pay pending the results of a drug test or related investigation.~~

**Confidentiality:** Employers and their agents and laboratories must keep drug test results and other related information confidential. If information is released, it shall be done solely under a written consent form voluntarily signed by the person tested unless a release is compelled by a hearing officer or a court or unless it is deemed appropriate by a professional or occupational licensing board in a related disciplinary proceeding. The consent form must meet the criteria set by the State of Florida and in accordance with Florida Statutes § 440.102(8).

**Reporting Use of Prescription or Non-Prescription Medications:** An employee/job applicant can confidentially report the use of all prescription or non-prescription medications to a Medical Review Officer ("MRO"), both before and after being tested, as presence of those medications in the body may affect the outcome of the test. A list of the most common medications by brand name, common name and by chemical name, which may alter or affect a drug test, accompanies this Policy.

**Collection of Specimens:** All specimens collected and tested for drugs shall be collected with the privacy interests of the individual in mind and shall be documented according to those procedures prescribed in Florida Statutes § 440.102(5). Moreover, collection and testing will be accomplished by a licensed clinical laboratory and according to those procedures provided by Florida Statutes § 440.102(9). In accordance with Florida Statutes § 440.102(5)(g), the laboratory is required to preserve the specimen that produces a positive confirmed test result for a period of at least 210 days after the results of the positive confirmation are mailed or otherwise



delivered to the MRO. Within 180 days after written notification of a positive test result, the employee or job applicant may have a portion of the specimen retested at the employee or job applicant's expense at another laboratory. The second laboratory test must be of equal or greater sensitivity as the first laboratory test, licensed and approved by the agency for Health Care Administration. The first laboratory shall be responsible for the transfer of a portion of the specimen to be retested to the second laboratory and for the integrity of the chain of custody doing the transfer.

**Education:** Each year this Organization will post or circulate a list of locations offering educational courses to help our employees identify the personal and emotional problems that may result from the misuse of drugs and alcohol. The offered classes will also provide information on legal, social, physical and emotional consequences on the misuse of alcohol and drugs.

**Employee Assistance Program:** A list of Employee Assistance Programs and Drug and Alcohol Rehabilitation Programs available locally accompanies this Policy. The cost of these programs is the responsibility of the employee. Public employees in mandatory-testing or special-risk positions must not the following:

**Public Employees in Safety-Sensitive or Special-Risk Positions:**

- a) If an employee, who is employed by a public employer in a ~~safety-sensitive~~ mandatory-testing position, enters an employee assistance program or drug rehabilitation program, the employer must assign the employee a position other than a ~~safety-sensitive~~ mandatory-testing position or, if such position is not available, place the employee on leave while the employee is participating in the program. However, the employee shall be permitted to use any accumulated leave credits before leave may be ordered without pay.
- b) An employee, who is employed by a public employer in a special-risk position, may be discharged or disciplined by a public employer for the first positive confirmed test result if the drug confirmed is an illicit drug under Section 893.03, Fla. Stat. A special-risk employee, who is participating in an employee assistance program or drug rehabilitation program, may not be allowed to continue to work in any special-risk or ~~safety-sensitive~~ mandatory-testing position of the public employer, but may be assigned to a position other than a safety-sensitive position or placed on leave while the employee is participating in the program.

However, the employee shall be permitted to use any accumulated annual leave credits before leave may be ordered without pay.

**Explanation for Employee/Job Applicant:** Within five (5) working days after receipt of notice of a positive confirmed test result, the employee/job applicant may submit information to the MRO and the employer explaining or contesting the test results and stating why the test results do not constitute a violation of the employer's policy. If this explanation is unsatisfactory, the Organization must, within fifteen (15) days of receipt of the explanation or challenge, provide the employee/job applicant with a written explanation as to why the employee's explanation is unsatisfactory along with the report of the positive confirmed test results. This documentation shall be kept confidential by the Organization and shall be retained by them for at least a year. If the employee wishes to challenge a confirmed drug test result that was requested as a result of a work place accident, the employee may file an administrative challenge by filing a claim for benefits with a Judge of Compensation Claims. If no workplace accident occurred, the confirmed positive test result of the employee/job applicant may be challenged in a court of competent jurisdiction.

**Administrative or Civil Action:** An employee/job applicant must notify the drug testing laboratory of any administrative or civil action brought pursuant to Florida Statutes § 440.102. The laboratory will maintain the sample until the case or administrative appeal is settled.

**Right to Consult with Laboratory:** If any initial drug test of an employee/job applicant is confirmed as positive, the Organization's MRO shall provide technical assistance for the purpose of interpreting the test results to determine whether the result could have been caused by prescription and non-prescription medication taken by the employee/job applicant.

**Policy Guidelines:** The contents of this Policy may be changed and updated at anytime. This Policy is not intended to create a contract for term between the Organization and any employee. Nothing in this Policy binds this Organization to a specific or definite period of employment or to any specific policies, procedures, actions, rules, or terms and conditions of employment.

## **SOUTH BROWARD DRAINAGE DISTRICT**

### **EMPLOYEE ASSISTANCE AND REHABILITATION PROGRAMS**

The following list is not an endorsement of any of the identified programs by South Broward Drainage District. This Organization provides this list of programs as a community service and in compliance with Florida Statutes § 440.102(3)(7).

**If your drug test result is positive and/or you have a drug or alcohol problem, you may want to consider contacting the following organizations for assistance:**

#### **EMPLOYEE ASSISTANCE PROGRAMS:**

Employee Assistance Programs are available through the District's Health Provider, Blue Cross Blue Shield of Florida. For more information visit the Blue Cross Blue Shield of Florida web site at [www.bcbsfl.com](http://www.bcbsfl.com).

In addition, the following is a list of agencies that may be of assistance:

#### **National Assistance:**

<u>AIDS Treatment Information Services</u>	<u>1-800-448-0440</u>
<u>Al-Anon/Alateen Family Groups</u>	<u>1-800-356-9996</u>
<u>Alateen</u>	<u>1-561-882-0308</u>

#### **Organizations Offering Assistance in Florida:**

<u>Florida AIDS Hotline</u>	<u>1-800-352-2437</u>
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#### **DRUG AND ALCOHOL REHABILITATION PROGRAMS:**

Drug and Alcohol Rehabilitation Programs are available through District's Health Provider, Blue Cross Blue Shield of Florida. For more information visit the Blue Cross Blue Shield of Florida web site at [www.bcbsfl.com](http://www.bcbsfl.com).

In addition, the following is a list of agencies that may be of assistance:

#### **National Assistance:**

<u>Alcoholics Anonymous</u>	<u>1-800-252-6465</u>
	<u>1-561-655-5700</u>
<u>American Council on Alcoholism Helpline</u>	<u>1-800-527-5344</u>
<u>800 Cocaine (Information and Referral Hotline)</u>	<u>1-800-COCAINE</u>
<u>MADD (Mothers Against Drunk Driving)</u>	<u>1-561-683-5888</u>
<u>Nar-Anon Family Group Headquarters</u>	<u>1-800-477-6291</u>

Narcotics Anonymous

1-866-288-6262

National Council on Alcoholism and Drug Dependence

1-800-NCA-CALL

Partnership for a Drug-Free America

1-800-662-HELP

**Organizations Offering Assistance in Florida:**

Drug/Alcohol Abuse Helpline (24 Hours)

1-800-362-2644

Drug/Alcohol Abuse & Information (24 Hour Emergency Service)

1-850-487-2930

Drug Abuse Alcoholism & Cocaine (Toll Free)

1-800-333-4444

Drug/Alcohol Abuse (24 Hour Crisis line & Treatment)

1-800-283-2600

# SOUTH BROWARD DRAINAGE DISTRICT

## EMPLOYEE/APPLICANT ACKNOWLEDGEMENT FORM

Read carefully; if you do not understand a question please ask. Initial each item then sign and date at the bottom.

- \_\_\_\_\_ 1. I have received and read ~~the District's~~ South Broward Drainage District's ("SBDD" or "Organization") Drug-Free Workplace Policy, including the medications that may alter or affect a drug test (*DFW-4*).
- \_\_\_\_\_ 2. I understand that if I am applying for a ~~safety-sensitive~~ mandatory-testing or special-risk position with this Organization and refuse to submit to a pre-employment drug test or refuse to authorize the release of my drug test results that I will not be hired. (Applicants for ~~safety-sensitive~~ mandatory-testing and special risk positions only).
- \_\_\_\_\_ 3. I understand that total compliance with the Drug-Free Workplace is a condition of continued employment with ~~the District~~ SBDD.
- \_\_\_\_\_ 4. I received a list of local Employee Assistance Programs and Drug and Alcohol Rehabilitation Programs (*DFW-1*).
- \_\_\_\_\_ 5. I understand that if I refuse a reasonable-suspicion drug or alcohol test, I will lose my job and my unemployment benefits. I also understand that if I refuse to take a test that was requested as a result of my involvement in a work-related accident, I may lose all of my related workers' compensation benefits, if I am injured.
- \_\_\_\_\_ 6. I understand if I am taking any medication that could affect my ability to perform my duties, I must inform my supervisor immediately.
- \_\_\_\_\_ 7. I understand I have the right to challenge any positive test result and I understand that I must notify the laboratory if I wish to challenge the test result.
- \_\_\_\_\_ 8. I understand the Organization's Drug-Free Workplace Policy does not constitute an employment contract for term between ~~the District~~ SBDD and me.

I have read, understood and initialed each above item and have voluntarily signed this form below.

Printed Name \_\_\_\_\_

Date \_\_\_\_\_

Signature \_\_\_\_\_

Witness Name \_\_\_\_\_

Date \_\_\_\_\_

Witness Signature \_\_\_\_\_

# SOUTH BROWARD DRAINAGE DISTRICT

## CONSENT TO AUTHORIZE JOB APPLICANT/EMPLOYEE TESTING

~~I understand that if drug testing indicates the presence of drugs and/or alcohol in my body in any detectable amount, I may be disqualified from further hiring consideration for the applied for position or may result in termination of my current employment.~~

By placing my initials in the blanks below, and by signing and dating this form, I consent to take the Drug and Alcohol test(s) and authorize release of any test results to South Broward Drainage District ("SBDD" or "Organization"). I understand that I may be placed on a temporary leave of absence pending results of said test(s). I further understand that if I am requested to test as an applicant, should my test(s) results be confirmed positive, my application for employment will be rejected and if I am requested to test as a current employee, should my test(s) results be a confirmed positive, I will be separated immediately. I also understand that if I refuse to submit to a drug test, I may be disqualified from hiring consideration.

I have been informed through this consent form that Florida Statutes §§ 440.101-440.102 governs drug testing and notice requirements in the State of Florida for employees of public and private employers.

I understand that ~~the District~~ SBDD will keep all records regarding drug testing and ~~the~~ all results ~~therefrom~~ confidential, including this consent form and the information contained therein.

I understand the above stated policy and hereby give my consent to ~~the District~~ SBDD to administer drug and alcohol testing, which may consist of the taking of blood, urine, breath, saliva, or hair samples from my body, or any other medically accepted test designed to detect traceable amounts of drugs, controlled substances, and alcohol in the body. I also understand that I can confidentially report to a Medical Review Officer the use of prescription or nonprescription medications before and after being tested.

1.     \_\_\_    I have not used any illegal or incapacitating drugs or controlled substances in the last sixty (60) days.
2.     \_\_\_    I have used the following prescription drug, or over-the-counter drug or medication, within the last sixty (60) days.
  - (a)    Drug(s): \_\_\_\_\_
  - (b)    Prescribing Physician  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_

If I receive a positive confirmed test result, I understand that I may contest or explain the results to the Medical Review Officer ("MRO") and ~~District~~ SBDD within five (5) working days after receiving written notification of the test result. If my explanation or challenge is unsatisfactory to the MRO, the MRO shall report my positive test result to District. I may contest the drug test result pursuant to applicable law or pursuant to rules adopted by the agency for Health Care

Administration. If I choose to contest those results pursuant to applicable law or the rules for Health Care Administration, I must notify the laboratory that conducted my drug test of any administrative or civil action brought by me.

I hereby give my consent to the District to administer any, or all, of the above drug and alcohol testing procedures to me and to use the results thereof in determining my employability with the District.

I further release any testing facility or any physicians who have tested me from any liability arising from the release of any and all test(s) results, written reports, medical records, and data concerning my test(s) to the appropriate officials of the Organization.

Applicant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## COMMON MEDICATIONS WHICH COULD AFFECT A DRUG TEST

The following is a list of the most common medications by brand name, common name and chemical name. These over the counter and prescription drugs could alter or affect drug test results:<sup>1</sup>

Alcohol:	All liquid medications containing ethyl alcohol (ethanol). Please read the label for alcohol content. As an example, Vick's Nyquil is 25% (50 proof) ethyl alcohol, Comtrex is 20% (40 proof), Contact Severe Cold Formula Night Strength is 25% (50 proof) and Listerine is 26.9% (54 proof).
Amphetamines:	Obetrol, Biphetamine, Desoxyn, Dexedrine, Didrex, Ionamine, Fastin.
Cannabinoids:	Marinol (Dronabinol, THC).
Cocaine:	Cocaine HCl topical solution (Roxanne).
Phencyclidine:	Not legal by prescription.
Methaqualone:	Not legal by prescription.
Opiates:	Paregoric, Parepectolin, Donnagel PG, Morphine, Tylenol with Codeine, Empirin with Codeine, APAP with Codeine, Aspirin with Codeine, Robitussin AC, Guiatuss AC, Novahistine DH, Novahistine Expectorant, Dilaudid (Hydromorphone), M-S Contin and Roxanol (morphine sulfate), Percodan, Vicodin, Tussi-organidin.
Barbiturates:	Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Fiorinal, Fioricet, Esgic, Butisol, Mebaral, Butabarbital, Butalbital, Phrenilin, Triad.
Benzodiazepines:	Ativan, Azene, Clonopin, Dalmane, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Verstran, Halcion, Paxipam, Restoril, Centrax.
Methadone:	Dolophine, Methadose.
Propoxyphene:	Darvocet, Darvon N., Dolene, etc.

DFW-4

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<sup>1</sup> Due to the large number of obscure brand names and constant marketing of new products, this list cannot, and is not intended to, be all-inclusive.