

1 SOUTH FLORIDA WATER MANAGEMENT DISTRICT

2  
3 RESOLUTION NO. 2010 –

4  
5 A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER  
6 MANAGEMENT DISTRICT AUTHORIZING A FINAL PURCHASE OFFER AND EMINENT  
7 DOMAIN PROCEEDINGS FOR THE ACQUISITION OF CERTAIN LAND INTERESTS,  
8 CONSISTING OF 106.19 ACRES, MORE OR LESS, IN OSCEOLA COUNTY, FLORIDA,  
9 WHICH ARE PART OF THE KISSIMMEE RIVER RESTORATION AND HEADWATERS  
10 REVITALIZATION PROJECT FOR WHICH AD VALOREM (CAPITAL PROJECTS  
11 OKEECHOBEE) AND DEDICATED (FLORIDA FOREVER TRUST FUND) FUNDS ARE  
12 BUDGETED; PROVIDING AN EFFECTIVE DATE.  
13

14 WHEREAS, the Florida Legislature has declared in Section 373.1501(3), Florida Statutes, that the  
15 Kissimmee River Restoration and Headwaters Revitalization Project (hereinafter "Project") is in the public  
16 interest, for a public purpose, and therefore necessary for the public health and welfare; and

17 WHEREAS, the Project is defined in Section 373.1501(1)(d), Florida Statutes, in relevant part, as the  
18 project identified in the Project Cooperation Agreement between the United States Department of the Army  
19 and the South Florida Water Management District (hereinafter "District") dated March 22, 1994; and

20 WHEREAS, the primary objectives of the Project are: (1) to reestablish the structure and function of  
21 the historic, pre-channelized river channel and floodplain; (2) to reestablish the historic flows to the restored  
22 river channel and floodplain; and, (3) the modification of water levels throughout the river system to provide  
23 both greater and more natural fluctuations in the upper basin lakes. Flows into the Kissimmee River from the  
24 upper basin lakes will further reestablish the natural Kissimmee River floodplain; and

25 WHEREAS, the implementation of the Project and the reestablishment of the historic river channel  
26 and floodplain will cause the water levels in the restored river and the upper Chain of Lakes (Headwaters) to  
27 fluctuate impacting properties cited in this Resolution; and

28 WHEREAS, the acquisition of perpetual conservation and flowage/inundation easements between  
29 52.5 and 54 feet NGVD are necessary because this area will be affected by the fluctuation in water levels;  
30 and

31 WHEREAS, Florida Legislature has determined in Section 373.1501(3), Florida Statutes, that the  
32 acquisition of real property interests for the objective of implementing the Project is necessary and constitutes  
33 a public purpose for which public funds may be expended; and

34 WHEREAS, the Florida Legislature in Section 373.1501(3), Florida Statutes, has empowered and  
35 authorized the Governing Board of the South Florida Water Management District to acquire interests in lands  
36 by eminent domain for the purpose of implementing and maintaining the Project; and

37 WHEREAS, the Florida Legislature in Section 373.1501(3), Florida Statutes, directs the District, in  
38 the absence of a willing seller, to acquire any land interests necessary for the implementation for the Project  
39 in accordance with state condemnation law pursuant to Chapters 73 and 74, Florida Statutes; and

40 WHEREAS, the District has been unsuccessful in negotiating a voluntary purchase of the land  
41 interests, comprising 106.19 acres, more or less, located in Osceola County, and;

42 **NOW THEREFORE, BE IT RESOLVED** by the Governing Board of the South Florida Water  
 43 Management District that the acquisition by the District of the following land interests, in the area of  
 44 Kissimmee River Restoration and Headwaters Revitalization Project, consisting of 106.19 acres, more or  
 45 less, as shown on the map attached hereto as Exhibit "AA" and as more particularly described on attached  
 46 Exhibits "A-1" and "A-2", hereinafter referred to as the "Easement Parcels", with respect to which the District  
 47 will seek to acquire a perpetual conservation and flowage/inundation easement from the owner of the said  
 48 land interests (the "OWNER") according to the provisions attached hereto as Exhibit "B" is found by the  
 49 Governing Board of the District to be necessary to complete the Kissimmee River Restoration and  
 50 Headwaters Revitalization Project and is in the public interest and for a public purpose:

51 The Easement Parcels with respect to which the District will seek to acquire a perpetual conservation  
 52 and flowage/inundation easement are referred to as SFWMD Tract Nos. 18072-003 and 18072-004 and  
 53 consist of a total of 106.19 acres, more or less, lying in Osceola County, Florida. In accordance with Section  
 54 73.015, Florida Statutes, the Governing Board of the South Florida Water Management District hereby  
 55 authorizes and directs staff to make a final written offers to voluntarily purchase land interests containing a  
 56 total of 106.19 acres, more or less, for the Kissimmee River Restoration and Headwaters Revitalization  
 57 Project, in amounts no greater than as stated below, together with associated costs, as follows:

58

Tract Nos.	Owners Name	Easement Acres	Appraised Value	Final Purchase Offer
18072-003	Kenneth Hyatt a/k/a Kenneth G. Hyatt	20.44	\$102,000	\$117,300
18072-004	Kenneth Hyatt a/k/a Kenneth G. Hyatt	85.75	\$1,988,000	\$2,286,200
<b>Totals:</b>		<b>106.19</b>	<b>\$2,090,000</b>	<b>\$2,403,500</b>

59

60 **Budgeted:**

61

Dollars	Fund	Fund Center	Functional Area	Commitment Item GL Account
\$2,403,500	404000	3510144000	FD01	580013

62

63 **BE IT FURTHER RESOLVED** that the Governing Board of the South Florida Water Management  
 64 District hereby approves the purchase of land interests, containing 106.19 acres, more or less, for the  
 65 Kissimmee River Restoration and Headwaters Revitalization Project, in Osceola County, in a cumulative  
 66 amount not to exceed \$2,403,500, together with associated costs, upon acceptance of the above-referenced  
 67 offer.

68           **BE IT FURTHER RESOLVED** that the Governing Board of the South Florida Water Management  
69 District hereby authorizes the Chair to execute Agreements for Sale and Purchase upon acceptance of any  
70 or all of the above referenced final purchase offer.

71           **BE IT FURTHER RESOLVED** that the Governing Board of the South Florida Water Management  
72 District hereby approves utilization of ad valorem (Capital Projects Okeechobee) and dedicated (Florida  
73 Forever Trust Fund) funds.

74           **BE IT FURTHER RESOLVED** by the Governing Board of the South Florida Water Management  
75 District that upon rejection of the final purchase offers referenced above, a Legal Officer of the District is  
76 hereby authorized, instructed, and directed to acquire land interests by eminent domain, to institute or cause  
77 to be instituted eminent domain proceedings as may be necessary pursuant to Chapters 73 and 74, Florida  
78 Statutes, to avail the District of all eminent domain powers and procedures authorized by Florida Statute and  
79 by rule of court, and to accomplish the acquisition described herein, including the authority to negotiate the  
80 acquisition of the described property subject to the approval of the Governing Board. This Resolution shall  
81 take effect immediately upon adoption.

82

83 **PASSED** and **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

84

85 **ATTEST:**

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87

88

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

90           District Clerk/Secretary

91

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT,  
BY ITS GOVERNING BOARD**

92

93

94 (Corporate Seal)

95

96

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

97

Chair

98

99 **Approved as to form:**

100

101

102

103

104

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

Office of Counsel