

1 SOUTH FLORIDA WATER MANAGEMENT DISTRICT

2 RESOLUTION NO. 2007 - _____

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5 A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER
6 MANAGEMENT DISTRICT REQUESTING RELEASE OF FUNDS FROM THE SAVE OUR
7 EVERGLADES TRUST FUND BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION
8 FOR THE ACQUISITION OF LAND INTERESTS CONTAINING 262.01 ACRES, MORE OR
9 LESS, IN MIAMI-DADE COUNTY, FLORIDA, FOR THE BISCAYNE BAY COASTAL
10 WETLANDS ACCELER8 PHASE 1 PROJECT, CUTLER FLOW WAY COMPONENT, IN THE
11 AMOUNT OF \$4,975,000, AND ASSOCIATED COSTS; PROVIDING AN EFFECTIVE DATE.
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13 WHEREAS, the South Florida Water Management District (hereinafter, the "District") has an active
14 program underway to acquire land interests for the Biscayne Bay Coastal Wetlands Acceler8 Phase 1 Project,
15 Cutler Flow Way Component (the "Project"); and

16 WHEREAS, that certain Cooperative Agreement between the South Florida Water Management District
17 (hereinafter, the "District") and the Florida Department of Environmental Protection dated November 1, 2001,
18 requires submission of a resolution of the Governing Board of the District to the Department advising about a
19 proposed acquisition in the event the District requests release of funds from the Save Our Everglades Trust Fund
20 for acquisition of such lands.

21 NOW THEREFORE, BE IT RESOLVED by the Governing Board of the South Florida Water
22 Management District:

23 (1) It does hereby advise the Secretary of the Department of Environmental Protection of its intent
24 to acquire fee title to 262.01 acres, more or less of land in Miami-Dade County, Florida, for the Project. The
25 District has a contract to purchase the parcel described below.
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Owners	Tract No.	Interest	Acres	Appraised Value	Purchase Price
Frank B. Bradshaw, III, as Trustee of the Frank B. Bradshaw, Jr. Share B QTIP Trust	GZ300-013	Fee	262.01	\$3,750,000	4,975,000
Totals			262.01	\$3,750,000	\$4,975,000

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28 The legal interest to be acquired is the fee simple estate. The lands are described in Exhibit "A" and as shown on
29 a location map Exhibit "AA", both of which are attached hereto and made a part hereof.

30 (2) The purchase price of \$4,975,000 for Tract No. GZ300-013 to be acquired exceeds the
31 \$3,750,000 appraised value based on the certified appraisal used to determine the value of the lands to be
32 purchased, taking into account the value of non-cash considerations, defects in title or outstanding interests.
33 Though the appraised value is \$3,750,000, the Miami-Dade County Property Appraiser's 2006 assessed
34 value for the subject tract is \$4,400,000. In response to lower offers, the landowner was unwilling to

35 negotiate unless the purchase price was considerably higher than the \$4,400,000 assessed value.
36 Furthermore, the Florida legislature has established a special state appropriations fund for the Project.
37 Other than the subject tract, there is only one more privately owned parcel required for the Project.
38 Therefore, the District staff has determined that acquiring this important parcel, which is located in Biscayne
39 Bay Coastal Wetlands Phase 1 Acceler8 (CERP) Project at a purchase price of \$4,975,000 or 33% over the
40 approved appraised value, and only 13% over the Miami-Dade County Property Appraiser's 2006 assessed
41 value, is in the District's best interest for Project purposes and to avoid the risks inherent in the
42 condemnation process. Regarding condemnation risks, within the last few years the District's experience in
43 five recent condemnation cases resulted in a range of verdicts between 10% and 117% over appraised
44 value for a weighted average of 42% above appraised value. Significantly, in 2003, two condemnation juries
45 have returned verdicts of 220% and 242% above the Government appraisal. In addition to the uncertainties
46 regarding jury verdicts, the costs of condemnation litigation, even if the District is the prevailing party, can
47 increase costs significantly. For example, in a condemnation case where the District received a very
48 favorable verdict (10% over appraised value), the landowner's attorney was awarded costs that are 3% of
49 the verdict (\$340,000 on an \$11 million verdict). Based on this, staff believes this acquisition is in the
50 District's best interest.

51 (3) The original source of the funds to be released from Save Our Everglades Trust Fund
52 shall be General Revenue Funds.

53 (4) The lands being acquired have been reviewed for the presence of State Sovereignty submerged
54 lands and the District has taken reasonable measures to avoid paying for sovereignty lands.

55 (5) This request for funds deposited into Save Our Everglades Trust Fund is consistent with the
56 District's Five Year Plan of acquisition or the South Florida Water Management District Florida Forever Work Plan
57 as contained in Chapter 6, Volume II of the South Florida Environmental Report, last updated during a public
58 hearing on December 14, 2006, as applicable, and filed with the Legislature and the Department of Environmental
59 Protection, and is consistent with Sections 373.139, 373.470 and 373.59, Florida Statutes, as applicable.

60 (6) The funds requested shall be used only for the acquisition costs and pre-acquisition/ associated
61 costs of the described lands.

62 (7) The lands being acquired shall be maintained in an environmentally acceptable manner.

63 (8) Should the District dispose of any or all of the interests acquired hereunder, all revenues derived
64 therefrom will be used to acquire other lands for water management, water supply and the conservation and
65 protection of water resources, within the boundaries of a CERP component.

66 (9) A Phase I and Phase II environmental assessment has been completed and there are no clean
67 up concerns.

68 (10) The Executive Director or the designee of the Executive Director is hereby authorized to request
69 the release of funds for all acquisition costs and pre-acquisition/associated costs, attorney's fees and expenses for

70 all lands identified in this Resolution.

71 (11) This Resolution shall take effect immediately upon adoption.

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74 **PASSED** and **ADOPTED** this _____ day of _____, 2007.

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

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80 (Corporate Seal)

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By: _____
Chairman

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ATTEST:

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By: _____
District Clerk/Secretary

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Legal Form Approved:

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By: _____
Office of Counsel

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