

1 **SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

2 **RESOLUTION NO. 2008 - \_\_\_\_\_**

3 **A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA**  
4 **WATER MANAGEMENT DISTRICT REQUESTING THE RELEASE OF**  
5 **FUNDS FROM FLORIDA FOREVER TRUST FUND BY THE DEPARTMENT**  
6 **OF ENVIRONMENTAL PROTECTION FOR THE ACQUISITION OF LAND**  
7 **INTERESTS CONTAINING 12.55 ACRES FOR THE C-111 CANAL**  
8 **PROJECT (L-31 NORTH ACQUISITION AREA) IN MIAMI-DADE COUNTY,**  
9 **IN THE AMOUNT OF \$856,750, AND ASSOCIATED COSTS; PROVIDING**  
10 **AN EFFECTIVE DATE.**

11  
12 **WHEREAS**, the South Florida Water Management District has an active program  
13 underway to acquire land interests for the C-111 Canal Project (L-31 North Acquisition Area);  
14 and

15 **WHEREAS**, pursuant to Section 373.139 (3)(c) Florida Statutes, the District is  
16 required to submit a resolution to the Department of Environmental Protection when  
17 requesting funds from a trust fund, including the Florida Forever Trust Fund; and

18 **NOW THEREFORE, BE IT RESOLVED** by the Governing Board of the South Florida  
19 Water Management District:

20 (1) It does hereby advise the Secretary of the Department of Environmental  
21 Protection of its intent to acquire fee interest of 12.55 acres, more or less, for the C-111 Canal  
22 Project (L-31 North Acquisition Area) in Miami-Dade County. The lands are described in  
23 Exhibit "A" and as shown on location map Exhibit "AA", which are attached hereto and made  
24 a part hereof. The District has two contracts to acquire the following land interests for a total  
25 purchase price of \$856,750.

26

Owners	Tract Nos.	Interest	Acres	Appraised Value	Purchase Price
Dr. Richard D. Miller	B7100-178	Fee	10	\$550,000	\$632,500
Antonio Rivera and Nora Rivera, his wife, for life with remainder to Anthony Rivera, Jr. and Steven G. Rivera as joint tenants with right of survivorship and not as tenants in common	B7100-133	Fee	2.55	\$195,000	\$224,250
<b>TOTALS</b>		Fee	12.55	\$745,000	\$856,750

27  
28 (2) The purchase price of \$856,750 exceeds the \$745,000 appraised value  
29 based on the certified appraisal used to determine the value of the lands to be purchased,  
30 taking into account the value of non-cash considerations, defects in title or outstanding

31 interests. Staff has determined that acquiring these important parcels, which are located in  
32 the C111/L-31N project, at a purchase price of \$856,750 or 15% over the approved  
33 appraised value is in the District's best interest to avoid the risks inherent in the  
34 condemnation process. Regarding condemnation risks, within the last few years the  
35 District's experience in five recent condemnation cases resulted in a range of verdicts  
36 between 10% and 117% over appraised value for a weighted average of 42% above  
37 appraised value. Significantly, in 2003, two condemnation juries have returned verdicts of  
38 220% and 242% above the Government appraisal. In addition to the uncertainties  
39 regarding jury verdicts, the costs of condemnation litigation, even if the District is the  
40 prevailing party, can increase costs significantly. For example, in a condemnation case  
41 where the District received a very favorable verdict (10% over appraised value) the  
42 landowner's attorney was awarded costs that are 3% of the verdict (\$340,000 on an \$11  
43 million verdict). Based on this, staff believes this acquisition is in the District's best interest.

44 (3) The lands being acquired have been reviewed for the presence of State  
45 Sovereignty submerged lands and the District has taken reasonable measures to avoid  
46 paying for Sovereignty lands.

47 (4) This request for funds is consistent with the District's Five Year Plan of  
48 acquisition or the South Florida Water Management District Florida Forever Work Plan, as  
49 contained in Chapter 6A, Volume II of the South Florida Environmental Report, and last  
50 updated during a public hearing on December 13, 2007, and filed with the Legislature and  
51 the Department of Environmental Protection.

52 (5) Acquisition of this land furthers the Florida Forever goals set forth in (1)  
53 Section 259.105 (4)(a) Florida Statutes (i.e. enhance the coordination and completion of land  
54 acquisition projects as measured by the number of shared acquisition projects among Florida  
55 Forever funding partners and partners with other funding sources, including local  
56 governments and the Federal Government) and (2) Section 259.105 (4)(d) Florida Statutes  
57 (i.e. ensure that sufficient quantities of water are available to meet the current and future  
58 needs of natural systems and the citizens of the state, as measured by the quantity of water  
59 made available through the water resource development component of a district water supply  
60 plan for which a water management district is responsible).

61 (6) The funds requested shall be used only for the acquisition costs and pre-  
62 acquisition/associated costs and expenses of the described land interests.

63 (7) To the extent possible, the lands being acquired in fee shall be maintained in  
64 an environmentally acceptable manner.

65 (8) Should the District dispose of any or all of the interests acquired hereunder, all  
66 revenues derived therefrom will be used to acquire other lands for water management, water  
67 supply and the conservation and protection of water resources.

68 (9) An environmental assessment has been completed and no evidence of  
69 environmental concerns exists.

70 (10) The fee-acquired lands shall be managed for multiple-use purposes where  
71 compatible with the resource values of and management objectives for such lands as set forth  
72 in Section 259.105(5), Florida Statutes, is not applicable.

73 (11) The District will utilize funds from the Florida Forever Trust Fund.

74 (12) The Executive Director or the designee of the Executive Director is hereby  
75 authorized to request the release of funds for all acquisition costs and pre-  
76 acquisition/associated costs and expenses for the described interests identified in this  
77 Resolution.

78 (13) This Resolution shall take effect immediately upon adoption.

79

80 **PASSED** and **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

81

82

83 **ATTEST:**

84

85

86 By: \_\_\_\_\_  
87 District Clerk/Secretary

88

89

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

92

93 (Corporate Seal)

94

95

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

96

97

98 **Legal Form Approved:**

99

100

101 By: \_\_\_\_\_  
102 Office of Counsel