

1 SOUTH FLORIDA WATER MANAGEMENT DISTRICT

2  
3 RESOLUTION NO. 2010- \_\_\_\_\_

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5 A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER  
6 MANAGEMENT DISTRICT APPROVING A REVISION TO THE BENEFICIAL  
7 INTEREST AND DISCLOSURE AFFIDAVIT IN CONNECTION WITH LAND  
8 ACQUISITIONS LIMITING THE DISCLOSURE REQUIREMENTS UNDER CERTAIN  
9 CIRCUMSTANCES; APPROVING THE USE OF THE BENEFICIAL INTEREST AND  
10 DISCLOSURE AFFIDAVIT IN CONNECTION WITH APPLICATIONS FOR RELEASES  
11 OF RESERVATIONS; PROVIDING AN EFFECTIVE DATE.  
12

13 WHEREAS, Florida Statute §286.23 provides for disclosure of ownership  
14 beneficial interests of 5% or greater in any transaction where real property is being sold  
15 to a public agency; and,

16 WHEREAS, any seller which is a publicly traded entity registered with the  
17 Federal Securities Exchange Commission is exempt from the statutory requirement;  
18 and,

19 WHEREAS, in 2007, other than with respect to the aforementioned publicly  
20 traded entities, to ensure that complete disclosure is made in all transactions where real  
21 property is being sold to the District, the District expanded its Beneficial Interest Affidavit  
22 to require disclosure of all ownership beneficial interests regardless of percentage and  
23 all individuals or entities that would receive any type of consideration in connection with  
24 the transaction; and,

25 WHEREAS, in 2008, to clarify the affidavit requirements for all transactions, other  
26 than with respect to a publicly traded entity, where real property is being sold to the  
27 District and to meet the District's overall objective of disclosure, by Resolution 2008-911  
28 the District approved the affidavit attached as an Exhibit "A" to this Resolution (the  
29 "2008 Affidavit"); and,

30 WHEREAS, the 2008 Affidavit requires the disclosure of all ownership beneficial  
31 interests regardless of percentage in connection with land acquisitions where the seller  
32 receives any type of consideration and the disclosure of all individuals and/or entities  
33 receiving any type of consideration in connection with the subject transaction; and,

34           **WHEREAS**, the 2008 Affidavit provides for a limit to the seller's disclosure  
35 requirements as to those individuals with a 1% or less interest in any Employee Stock  
36 Ownership Plan ("ESOP"); and,

37           **WHEREAS**, Staff recommends that, in connection with land acquisitions with  
38 respect to which the seller receives no greater than \$250,000 consideration, the seller  
39 be required to disclose only those persons or entities with at least a 5% ownership  
40 interest as required by Florida Statute §286.23; and,

41           **WHEREAS**, applications are submitted to the District requesting the release of  
42 canal, road right of way or oil, gas and mineral exploration reservations that are held by  
43 the District or the State and that encumber the applicant's real property; and,

44           **WHEREAS**, in 2007, in a further effort to ensure that the District had complete  
45 disclosure of all persons and entities benefiting from the above described releases of  
46 reservations, the use of the District's beneficial interest affidavit (other than with respect  
47 to publicly traded entities) was expanded to include owners who submitted applications  
48 for releases of reservations and required that the applicants disclose all owners  
49 regardless of their ownership percentage and all individuals and/or entities receiving  
50 any type of consideration in connection with the subject transaction; and,

51           **WHEREAS**, Staff recommends that, in connection with releases of reservations  
52 encumbering 100 acres or less, the applicants should only be required to disclose those  
53 persons or entities with at least a 5% ownership interest and, in connection with  
54 releases of reservations encumbering greater than 100 acres, the applicants should be  
55 required to disclose all owners regardless of their ownership percentage, and,  
56 regardless of the acreage of the property they are requesting be released, the  
57 applicants should be required to disclose all individuals and/or entities receiving any  
58 type of consideration in connection with the subject transaction.

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

61           1. The Governing Board of the South Florida Water Management District hereby  
62 approves that, in connection with land acquisitions in which land interests are being sold  
63 or exchanged to the District, whereby the seller receives consideration equal to or less  
64 than \$250,000, the seller's disclosure affidavit shall require disclosure of ownership

65 beneficial interests of 5% or greater as required by Florida Statute §286.23, shall  
66 continue to require disclosure of all individuals or entities that would receive any type of  
67 consideration in connection with the transaction and shall be in the form attached hereto  
68 and made a part hereof as Exhibit "B".

69 2. The 2008 Affidavit shall continue to be used in all land acquisitions in which  
70 land interests are sold or exchanged to the District and that are not described in  
71 Paragraph 1. above.

72 3. The Governing Board of the South Florida Water Management District hereby  
73 approves that, in connection with releases of reservations, the applicants (other than  
74 publicly traded entities) shall be required to execute a disclosure affidavit that discloses  
75 those persons or entities with at least a 5% ownership interest for releases of  
76 reservations encumbering 100 acres or less, discloses all owners regardless of their  
77 ownership percentage for releases of reservations encumbering greater than 100 acres  
78 and, regardless of the acreage of the property they are requesting be released,  
79 discloses all individuals and/or entities receiving any type of consideration in connection  
80 with the subject transaction.

81

82 This Resolution shall take effect immediately upon adoption.

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

85

86 **ATTEST:**

87

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

89 District Clerk/Secretary

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91

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

92

93 (Corporate Seal)

94

95

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

96 Chairman

97 **Approved as to form:**

98

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

100 Office of Counsel