

1 SOUTH FLORIDA WATER MANAGEMENT DISTRICT

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3 RESOLUTION NO. 2007 - \_\_\_\_\_

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5 A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA  
6 WATER MANAGEMENT DISTRICT REQUESTING THE RELEASE OF  
7 FUNDS FROM FLORIDA FOREVER TRUST FUND BY THE DEPARTMENT  
8 OF ENVIRONMENTAL PROTECTION FOR THE ACQUISITION OF LAND  
9 INTERESTS CONTAINING 5.0 ACRES FOR THE C-111 CANAL PROJECT  
10 (L-31 NORTH ACQUISITION AREA) IN MIAMI-DADE COUNTY, IN THE  
11 AMOUNT OF \$689,000, AND ASSOCIATED COSTS; PROVIDING AN  
12 EFFECTIVE DATE.

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

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

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

22 (1) It does hereby advise the Secretary of the Department of Environmental  
23 Protection of its intent to acquire fee interest of 5.0 acres, more or less, for the C-111 Canal  
24 Project (L-31 North Acquisition Area) in Miami-Dade County. The lands are described in  
25 Exhibit "A" and as shown on location map Exhibit "AA", which are attached hereto and made  
26 a part hereof. The District has a contract to acquire the following land interest for a purchase  
27 price of \$689,000.

Owner	Tract No.	Interest	Acres	Appraised Value	Purchase Price
Marco A. Martinez	B7100-104	Fee	5.0	\$600,000	\$689,000

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29 (2) The purchase price of \$689,000 exceeds the \$600,000; the appraised value  
30 based on the certified appraisal used to determine the value of the lands to be purchased,  
31 taking into account the value of non-cash considerations, defects in title or outstanding  
32 interests. Staff has determined that acquiring this important parcel, which is located in the  
33 Lake Okeechobee Watershed Project, at a purchase price of \$689,000 or 15% over the  
34 approved appraised value, is in the District's best interest to avoid the risks inherent in the  
35 condemnation process. Regarding condemnation risks, within the last few years the  
36

37 District's experience in five recent condemnation cases resulted in a range of verdicts  
38 between 10% and 117% over appraised value for a weighted average of 42% above  
39 appraised value. Significantly, in 2003, two condemnation juries have returned verdicts of  
40 220% and 242% above the Government appraisal. In addition to the uncertainties  
41 regarding jury verdicts, the costs of condemnation litigation, even if the District is the  
42 prevailing party, can increase costs significantly. For example, in a condemnation case  
43 where the District received a very favorable verdict (10% over appraised value), the  
44 landowner's attorney was awarded costs that are 3% of the verdict (\$340,000 on an \$11  
45 million verdict). Based on this, staff believes this acquisition is in the District's best interest.

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

49 (4) This request for funds is consistent with the District's Five Year Plan of  
50 acquisition or the South Florida Water Management District Florida Forever Work Plan, as  
51 contained in Chapter 6, Volume II of the South Florida Environmental Report, and last  
52 updated during a public hearing on December 14, 2006, as applicable, filed with the  
53 Legislature and the Department, and is consistent with Sections 373.139, 373.470 and  
54 373.59, Florida Statutes, as applicable.

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

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

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

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

71

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

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

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

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

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

83 **PASSED** and **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

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86 **ATTEST:**

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89 By: \_\_\_\_\_  
90 District Clerk/Secretary

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96 (Corporate Seal)

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

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102 **Legal Form Approved:**

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By: \_\_\_\_\_  
Office of Counsel