

MEMORANDUM

TO: Governing Board Members

FROM: Sheryl Wood, General Counsel

DATE: December 21, 2009

SUBJECT: Mediated Settlement of Lawsuit - *Cutler Properties, LC v. SFWMD*, 11th Judicial Circuit Court in and for Miami-Dade County Case No. 08-46701 CA 5

Background

Cutler Properties LC is the fee simple owner of approximately 130 acres located in Miami-Dade County, abuts Biscayne National Park and is partially located within the Biscayne Bay Coastal Wetlands Project. On or about August 12, 2008, Cutler Properties filed an inverse condemnation lawsuit against the District in the 11th Judicial Circuit Court of Miami-Dade County, captioned *Cutler Properties LC v. South Florida Water Management District*, Case No. 08-46701 CA 5. Starting on or about October 6, 2009, and continuing, the parties engaged in mediation. A compromised settlement of this lawsuit was reached resolving all claims which Cutler Properties has or could have had against the District.

How this helps meet the District's 10-year Strategic Plan:

This land acquisition, the majority of which is located in area of the Biscayne Coastal Wetlands Project will enhance wetlands restoration and fulfill the goals of Biscayne Bay Coastal Wetlands Project.

Funding Source:

We have been advised by the Land Acquisition Department that this settlement is funded using CERP ad valorem funds, subject to Governing Board approval of a budget transfer, and subject to Governing Board approval of future fiscal year budgets for the subsequent years. The first installment requires Governing Board approval of a budget transfer of ad valorem funds (CERP ad valorem) from River of Grass Project Debt Service to Biscayne Bay Coastal Wetlands CERP Project - Everglades Restoration & Capital Projects Resource Area.

This Board item impacts what areas of the District, both resource areas and geography:

The proposed settlement provides for the acquisition of approximately 122 acres located within the Biscayne Coastal Wetlands Project, Miami-Dade County, Florida.

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What concerns could this Board item raise?

This settlement could have effects on a pending condemnation action in the Miami-Dade County Circuit Court, also located within the Biscayne Bay Coastal Wetlands Project and approximately 2 miles south of the Cutler Properties parcel – *South Florida Water Management District v. Cutler Bay Venture LLC*, Case No. 07-30747 CA 10.

Why should the Governing Board approve this item?

This settlement resolves all claims for compensation from the District and a jury trial will no longer be needed, avoiding a potentially adverse jury verdict, as well as the District's expenditure of additional taxpayer dollars to not only pay the District's costs associated with trial, but also those costs of the property owner.

If you have any questions, please do not hesitate to call me at ext. 6976.

SGW/MJC/pm