

South Florida Water Management District

Resolution No. 2006-____

A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT TO AUTHORIZE ENTERING INTO AN AMENDED CONSENT FINAL JUDGMENT IN THE TWO CASES TITLED, SOUTH FLORIDA WATER MANAGEMENT DISTRICT vs. PALM BEACH AGGREGATES, INC., FILED IN THE 15TH CIRCUIT COURT FOR PALM BEACH COUNTY, FLORIDA, WITH RESPECT TO 1,220 ACRES OF LAND, MORE OR LESS, IN PALM BEACH COUNTY, FLORIDA, FOR THE C-51 AND L-8 RESERVOIR CERP PROJECT AND AUTHORIZE THE GENERAL COUNSEL OR HER DESIGNEE TO EXECUTE THE AMENDMENT TO THE CONSENT FINAL JUDGMENTS; AUTHORIZE ENTERING INTO A MEMORANDUM OF UNDERSTANDING WITH FLORIDA POWER & LIGHT WITH RESPECT TO C-51 AND L-8 RESERVOIR CERP PROJECT OPERATIONS AND MAINTENANCE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, in December, 2002, the Governing Board authorized entering into a Consent Final Judgment to acquire approximately 1220 acres of land, in Palm Beach County, Florida, owned by Palm Beach Aggregates, Inc., ("PBA") to be utilized as the C-51 and L-8 Reservoir Component of the North Palm Beach County-Part One, Comprehensive Everglades Restoration Project ("CERP Project") and the Consent Final Judgment required delivery of a water storage volume of 31,500 acre feet in accordance with a six year delivery schedule with PBA reserving a perpetual easement over the bottom 10 feet; and,

WHEREAS, in January 2004, the District acquired the perpetual easement reserved in the initial acquisition which provided an additional approximate 15,500 acre feet of storage resulting in a cumulative storage capacity of approximately 47,000 acre feet contained within two separate storage areas, north and south, which were divided by a dredged process pit retained under the ownership of PBA; and,

WHEREAS, in February, 2005, the Governing Board approved entering into an exchange agreement with PBA wherein the District would convey lands acquired in the southernmost end of the Project's South Storage Area in exchange for the dredged process pit centrally located between the Project's Northern and Southern Storage Areas thereby providing the District with water storage and operational benefits by having a single contiguous water storage area rather than two disconnected areas as identified in attached Exhibit "A"; and,

WHEREAS, as a result of the all of the above action, the following amendments to both consent final judgments are proposed:

Modification of the current delivery of interim deliveries of useable storage as a condition to PBA making interim withdrawals of compensation so as to allow PBA partial withdrawals of up to 85% of funds based on the area certified as excavated. PBA will not reduce the current interim useable storage volume of 18,000 acre feet previously delivered to the District;

Modification of the requirement for PBA making up interim storage delivery deficits allowing deficits to be delivered up to 270 days after the final delivery date of 2007 rather than within a year of each delivery;

Modification of the Northern Storage Area Infrastructure completion date and the final delivery of, at least, 18,000 acre feet of useable storage for the North Storage Area by moving from the fourth delivery date (1/06) to the fifth delivery date (11/06);

Modification of the maximum withholding to ensure compliance with the water storage seepage test by reducing the withholding to \$15,000,000 from \$31,400,000 based on updated cost estimates for potential seepage cures and, PBA already having installed a slurry wall around three sides in the South Storage Area;

WHEREAS, the proposed amendments maintain the initial construction completion date of December 2007 and provide for improved levees throughout the CERP Project without any increase in the compensation to PBA; and

WHEREAS, in order to provide the single connected water storage area between the process pit and Southern Storage Area, excavation, installation, operation and maintenance of culvert(s), channel(s) or cut(s) is required within a portion of an existing Florida Power & Light (FP&L) utility easement area that forms the border between the process pit and Southern Storage Area; and,

WHEREAS, to obtain consent from FP&L and to provide satisfactory alternative access for FP&L's needs, the Governing board, at its February 2005 meeting, approved granting an access

easement to FP&L via the L-8 Right of Way; and,

WHEREAS, staff proposes entering into a Memorandum of Understanding with FP&L to address the CERP Project's operation and maintenance activities within the Easement Area and to coordinate activities therein;

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

(1) The Governing Board of the South Florida Water Management District hereby authorizes entering into an Amended Consent Final Judgment in the two cases titled South Florida Water Management District vs. Palm Beach Aggregates, Inc., filed in the 15th Circuit Court for Palm Beach County, Florida, and authorize the General Counsel or her designee to execute the Amendment to the Consent Final Judgments; and,

(2) The Governing Board of the South Florida Water Management District hereby authorizes entering into a Memorandum of Understanding with Florida Power & Light with respect to CERP Project operations and maintenance.

(3) This Resolution shall take effect immediately upon adoption.

PASSED and ADOPTED, this the 10th day of May, 2006.

Approved:
Legal Form Approved

SOUTH FLORIDA WATER MANAGEMENT
DISTRICT, BY ITS GOVERNING BOARD

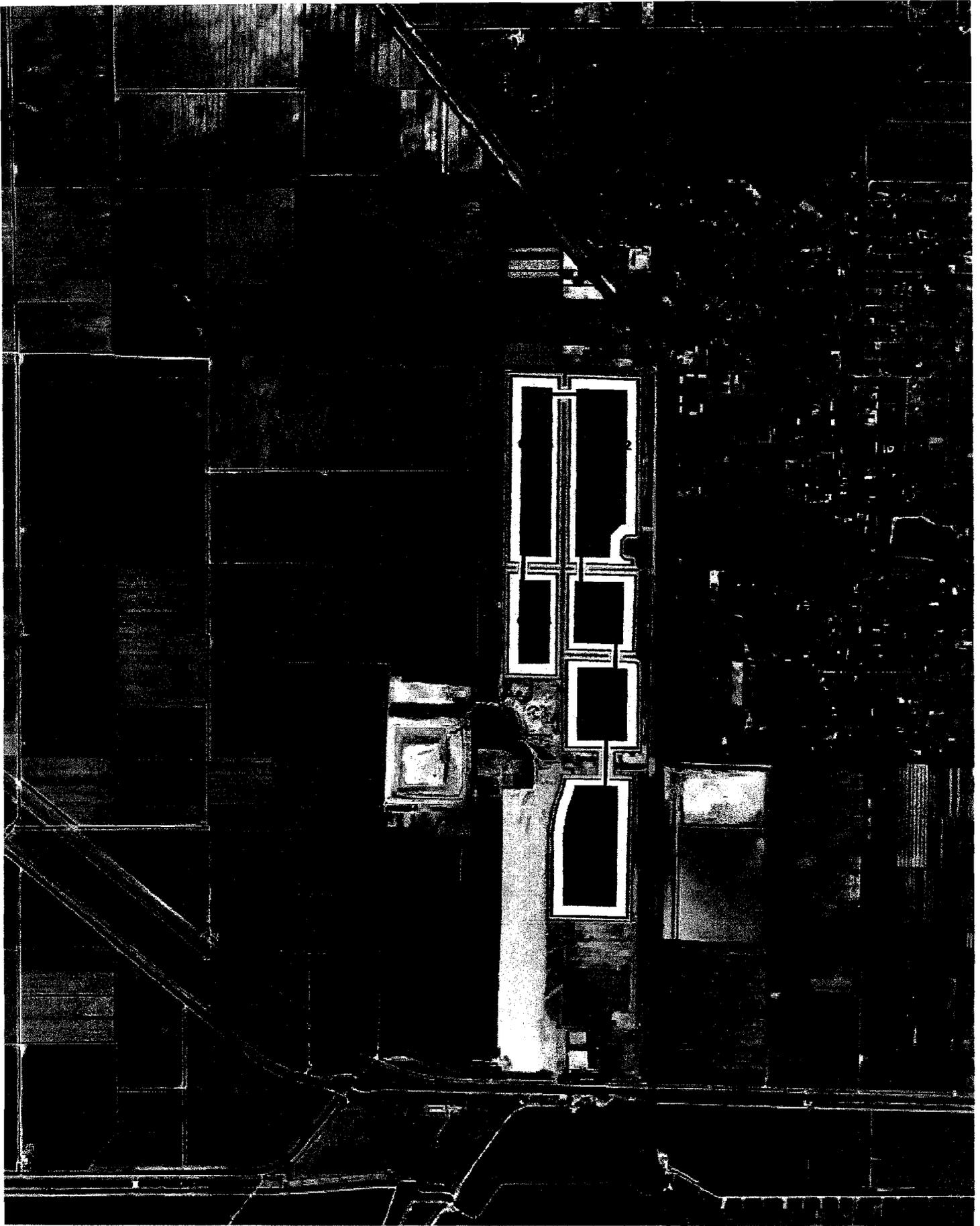
BY Alie Cooper 4/26/2006

By: _____
Chairperson

(Corporate Seal)

ATTEST:

By: _____
Assistant Secretary



Palm Beach Aggregates

Exhibit A