

1 SOUTH FLORIDA WATER MANAGEMENT DISTRICT

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

3  
4 A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER  
5 MANAGEMENT DISTRICT ADVISING THE DEPARTMENT OF ENVIRONMENTAL  
6 PROTECTION OF THE PROPOSED ACQUISITION OF LAND INTERESTS CONTAINING  
7 191.12 ACRES FOR THE SOUTHERN CORKSCREW REGIONAL ECOSYSTEM  
8 WATERSHED PROJECT ("CRITICAL CREW PROJECT"), IN LEE COUNTY, AND  
9 REQUESTING THE RELEASE OF FUNDS IN THE AMOUNT OF \$3,828,890.00 FROM THE  
10 FLORIDA FOREVER TRUST FUND FOR ACQUISITION OF SUCH LAND INTERESTS,  
11 TOGETHER WITH STATUTORY COSTS AND ASSOCIATED COSTS; PROVIDING AN  
12 EFFECTIVE DATE.  
13

14 WHEREAS, the South Florida Water Management District has an active program underway to  
15 acquire land interests for the Southern Corkscrew Regional Ecosystem Watershed Project ("Critical Crew  
16 Project");

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

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

22 (1) It does hereby advise the Secretary of the Department of Environmental Protection of its  
23 intent to acquire fee title with respect to 191.12 acres, more or less, for Southern Corkscrew Regional  
24 Ecosystem Watershed Project ("Critical Crew Project") in Lee County. Pursuant to a resolution adopted by  
25 the District's Governing Board at its September 9, 2010 meeting, the District will acquire fee interest in the  
26 land interests described below. The lands are described in Exhibit "A" and as shown on location map Exhibit  
27 "AA", which are attached hereto and made a part hereof.  
28

| Tract No. | Owner/Interest  | Fee Acres | Appraised Value | Purchase Price |
|-----------|---|-----------|-----------------|----------------|
| 09005-231 | Helen Connone, Individually and as Trustee of The Connone Family Grantor A.B.C. Trust (Fee Interest)  | 161.92    | \$2,186,000.00  | \$2,732,340.00 |
| 09005-281 | Helen G. Connone, Individually and as Trustee of the Helen G. Connone Trust (1/2 Undivided Fee Interest) and Terry Gene Connone, Joyce Lynne Connone, Jill Leslie O'Keefe and Jack Lee Connone (1/2 Undivided Fee Interest) | 29.20     | \$847,000.00    | \$1,096,550.00 |
| Totals    |   | 191.12    | \$3,033,000.00  | \$3,828,890.00 |

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30  
31 (2) The total \$3,828,890.00 purchase price exceeds the \$3,030,000.00 appraised value based  
32 on the certified appraisals used to determine the value of the land interests to be purchased, taking into  
33 account the value of non-cash considerations, defects in title or outstanding interests. The District staff

34 has determined that it will be cost effective and beneficial to the timely implementation of the Critical Crew  
35 Project, and in the District's best interest, to acquire for a purchase price of \$3,828,890.00 or 26% over  
36 the approved appraised value the 191.12 acres, more or less, of land interests. District staff has also  
37 determined that acquiring these land interests required by the Project for a total consideration of  
38 \$3,828,890.00 or 26% over the approved appraised value is in the District's best interest to avoid the  
39 risks inherent in the condemnation process. Regarding condemnation risks, in a November 2007 case,  
40 the jury returned a verdict of 195% over the District's appraised value. Additionally, within the last few  
41 years the District's experience in five recent condemnation cases resulted in a range of verdicts between  
42 10% and 117% over appraised value for a weighted average of 42% above appraised value.  
43 Significantly, in 2003, two condemnation juries have returned verdicts of 220% and 242% above the  
44 Government appraisal. In addition to the uncertainties regarding jury verdicts, the costs of condemnation  
45 litigation, even if the District is the prevailing party, can increase costs significantly. For example, in a  
46 condemnation case where the District received a very favorable verdict (10% over appraised value); the  
47 landowner's attorney was awarded costs that are 3% of the verdict (\$340,000 on an \$11 million verdict).  
48 Based on this, staff believes this acquisition is in the District's best interest.

49 (3) The lands being acquired have been reviewed for the presence of State sovereignty  
50 submerged lands and the District has taken reasonable measures to avoid paying for sovereignty lands.

51 (4) This request for funds is consistent with the District's Five Year Plan of acquisition or the  
52 South Florida Water Management District Florida Forever Work Plan, as contained in Chapter 6A, Volume II  
53 of the South Florida Environmental Report, and last updated during a public hearing on January 14, 2010,  
54 and filed with the Legislature and the Department of Environmental Protection.

55 (5) Acquisition of this land furthers the Florida Forever goals set forth in (1) Section  
56 259.105(4)(a), Florida Statutes (i.e. enhance the coordination and completion of land acquisition projects  
57 as measured by the number of shared acquisition projects among Florida Forever funding partners and  
58 partners with other funding sources, including local governments and the Federal Government), and (2)  
59 Section 259.105(4)(c), Florida Statutes (i.e. Protect, restore and maintain the quality and natural functions  
60 of land, water, and wetland systems of the state, as measured by the number of acres identified for  
61 acquisition to minimize damage from flooding and the percentage of those acres acquired).

62 (6) The funds requested shall be used only for the acquisition costs and pre-acquisition/  
63 associated costs and expenses of the described land interests, and the owner's statutory costs pursuant to  
64 Chapter 73, Florida Statutes.

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

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

70 (9) An environmental assessment has been completed and no evidence of significant  
71 environmental concerns exists.

72 (10) The acquired lands shall be managed for multiple-use purposes where compatible with the

73 resource values of land management objectives for such lands as set forth in Section 259.105(5), Florida  
74 Statutes.

75 (11) The Resolution to approve acquisition of these land interests was approved by the  
76 Governing Board of the District on September 9, 2010.

77 (12) The District will utilize funds from the Florida Forever Trust Fund and/or ad valorem funds.

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

81 (14) This Resolution shall take effect immediately upon adoption.

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

84

85 **ATTEST:**

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

89 District Clerk/Secretary

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94 (Corporate Seal)

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

101 Office of Counsel

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

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

Chairman

**Approved as to form:**