

1 SOUTH FLORIDA WATER MANAGEMENT DISTRICT

2
3 RESOLUTION NO. 2009 –

4
5 A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER
6 MANAGEMENT DISTRICT AUTHORIZING A FINAL PURCHASE OFFER AND EMINENT
7 DOMAIN PROCEEDINGS FOR THE ACQUISITION OF CERTAIN LAND INTERESTS,
8 CONSISTING OF 134.43 ACRES, MORE OR LESS, IN OSCEOLA AND POLK
9 COUNTIES, FLORIDA, WHICH ARE PART OF THE KISSIMMEE RIVER RESTORATION
10 AND HEADWATERS REVITALIZATION PROJECT FOR WHICH DEDICATED FUNDS
11 (FLORIDA FOREVER TRUST FUND) ARE BUDGETED; DECLARING SURPLUS,
12 DISPOSAL OF, AND REMOVAL FROM THE ASSET RECORDS, ANY SUCH
13 STRUCTURES AND IMPROVEMENTS DEEMED UNNECESSARY FOR THE STATED
14 PURPOSE OF THE ORIGINAL LAND ACQUISITION; PROVIDING AN EFFECTIVE
15 DATE.

16
17 **WHEREAS**, the Florida Legislature has declared in Section 373.1501(3), Florida Statutes, that the
18 Kissimmee River Restoration and Headwaters Revitalization Project (hereinafter "Project") is in the public
19 interest, for a public purpose, and therefore necessary for the public health and welfare; and

20 **WHEREAS**, the Project is defined in Section 373.1501(1)(d), Florida Statutes, in relevant part, as the
21 project identified in the Project Cooperation Agreement between the United States Department of the Army
22 and the South Florida Water Management District (hereinafter "District") dated March 22, 1994; and

23 **WHEREAS**, the primary objectives of the Project are: (1) to reestablish the structure and function of
24 the historic, pre-channelized river channel and floodplain; (2) to reestablish the historic flows to the restored
25 river channel and floodplain; and, (3) the modification of water levels throughout the river system to provide
26 both greater and more natural fluctuations in the upper basin lakes. Flows into the Kissimmee River from the
27 upper basin lakes will further reestablish the natural Kissimmee River floodplain; and

28 **WHEREAS**, the implementation of the Project and the reestablishment of the historic river channel
29 and floodplain will cause the water levels in the restored river and the upper Chain of Lakes (Headwaters) to
30 fluctuate impacting properties cited in this Resolution; and

31 **WHEREAS**, the acquisition of perpetual flowage and inundation easements between 52.5 and 54
32 feet NGVD is necessary because this area will be affected by the fluctuation in water levels; and

33 **WHEREAS**, Florida Legislature has determined in Section 373.1501(3), Florida Statutes, that the
34 acquisition of real property interests for the objective of implementing the Project is necessary and constitutes
35 a public purpose for which public funds may be expended; and

36 **WHEREAS**, the Florida Legislature in Section 373.1501(3), Florida Statutes, has empowered and
37 authorized the Governing Board of the South Florida Water Management District to acquire interests in lands
38 by eminent domain for the purpose of implementing and maintaining the Project; and

39 **WHEREAS**, the Florida Legislature in Section 373.1501(3), Florida Statutes, directs the District, in
40 the absence of a willing seller, to acquire any land interests necessary for the implementation for the Project
41 in accordance with state condemnation law pursuant to Chapters 73 and 74, Florida Statutes; and

42 **WHEREAS**, the District has been unsuccessful in negotiating the voluntary purchase of the land
43 interests, comprising 134.43 acres, more or less, located in Osceola and Polk counties, and;

44 **NOW THEREFORE, BE IT RESOLVED** by the Governing Board of the South Florida Water
 45 Management District that the acquisition by the District of the following lands, in the area of Kissimmee River
 46 Restoration and Headwaters Revitalization Project, consisting of 134.43 acres, more or less, as shown on the
 47 map attached hereto as Exhibit "AA" and as more particularly described on attached Exhibit "A", hereinafter
 48 referred to as the "easement parcels", with respect to which the District will seek to acquire a perpetual
 49 flowage and inundation easement according to the provisions attached hereto as Exhibit "C" and subject to
 50 those interests attached hereto and made a part hereof as Exhibit "B, is found by the Governing Board of the
 51 District to be necessary to complete the Kissimmee River Restoration and Headwaters Revitalization Project
 52 and is in the public interest and for a public purpose:

53 The easement parcels with respect to which the District will seek to acquire a perpetual flowage and
 54 inundation easement are referred to as SFWMD Tract Nos. 18-029-001, 18-030-001, 18-002-016, 18-117-
 55 006, 18-117-007 and 18-117-008 and consist of a total of 134.43 acres, more or less, lying in Osceola and
 56 Polk counties, Florida. In accordance with Section 73.015, Florida Statutes, the Governing Board of the
 57 South Florida Water Management District hereby authorizes and directs staff to make final written offers to
 58 voluntarily purchase land interests containing a total of 134.43 acres, more of less, for the Kissimmee River
 59 Restoration and Headwaters Revitalization Project, in amounts no greater than as stated below, together with
 60 associated costs, as follows:

61

Tract Nos.	Owners Name	Easement Acres	Appraised Value	Final Purchase Offer
18-029-001	Mary Louise Zipprer	20.77	50,000	57,500
18-030-001	Gwendolyn C. Zipprer, William C. Zipprer, III and Lynda K. Zipprer Mims, as Trustees under the Last Will and Testament of William C. Zipprer, Jr. deceased.	29.53	70,500	81,075
18-116-002	David Gary Zipprer, as Trustee of the David Gary Zipprer Revocable Trust dated June 29, 2004, subject to life estate as to Morris E. Zipprer	79.22	113,000	129,950
18-117-006	William C. Zipprer, III and Lynda Z. Wetzal	1.84	1,600	1,840
18-117-007	Lynda Zipprer Mims and R. Richard Mims, her husband	0.39	7,100	8,165
18-117-008	David Gary Zipprer, as Trustee of the David Gary Zipprer Revocable Trust dated June 29, 2004, subject to life estate as to Morris E. Zipprer	2.68	6,700	7,705
Totals:		134.43	\$248,900	\$286,235

62

63 **Budgeted:**
64

Dollars	Fund	Fund Center	Functional Area	Commitment Item GL Account
\$286,235	404000	3510144000	FD01	580013

65
66 **BE IT FURTHER RESOLVED** by the Governing Board of the South Florida Water Management
67 District hereby approves the purchase of land interests, containing 134.43 acres, more or less, for the
68 Kissimmee River Restoration and Headwaters Revitalization Project, in Osceola and Polk counties, in a
69 cumulative amount not to exceed \$286,235, together with associated costs, and approves declaring surplus,
70 disposal of, and removal from the asset records, any such structures and improvements deemed
71 unnecessary for the stated purpose of the original land acquisition, upon acceptance of the above-referenced
72 offer.

73 **BE IT FURTHER RESOLVED** by the Governing Board of the South Florida Water Management
74 District hereby authorizes the Chair to execute Agreements for Sale and Purchase upon acceptance of any
75 or all of the above referenced final purchase offer.

76 **BE IT FURTHER RESOLVED** by the Governing Board of the South Florida Water Management
77 District approves utilization of dedicated funds (Florida Forever Trust Fund).

78 **BE IT FURTHER RESOLVED** by the Governing Board of the South Florida Water Management
79 District that upon rejection of the final purchase offers referenced above, a Legal Officer of the District is
80 hereby authorized, instructed, and directed to acquire by eminent domain land interests with respect to
81 perpetual flowage and inundation easements, to institute or cause to be instituted eminent domain
82 proceedings as may be necessary pursuant to Chapters 73 and 74, Florida Statutes, to avail the District of all
83 eminent domain powers and procedures authorized by Florida Statute and by rule of court, and to accomplish
84 the acquisition described herein, including the authority to negotiate the acquisition of the described property
85 subject to the approval of the Governing Board. This Resolution shall take effect immediately upon adoption.

86
87 **PASSED and ADOPTED** this ____ day of _____, 2009

88
89 **ATTEST:**
90
91 By: _____
92 District Clerk/Secretary

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

93
94
95 (Corporate Seal)
96 By: _____
97 Chair

98 **Approved as to form:**
99
100 By: _____
101 Office of Counsel