

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

**RESOLUTION NO. 2009 - \_\_\_\_\_**

**A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT REQUESTING THE RELEASE OF FUNDS FROM FLORIDA FOREVER TRUST FUND BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE ACQUISITION OF LAND INTERESTS CONTAINING 2.63 ACRES, MORE OR LESS, FOR THE HERBERT HOOVER DIKE REHABILITATION PROJECT IN PALM BEACH COUNTY, IN THE AMOUNT OF \$125,000, AND ASSOCIATED COSTS; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the South Florida Water Management District has an active program underway to acquire land interests for the Herbert Hoover Dike Rehabilitation Project ("Project");

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

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

(1) It does hereby advise the Secretary of the Department of Environmental Protection of its intent to acquire fee title to 2.63 acres, more or less, for the Herbert Hoover Dike Rehabilitation Project in Palm Beach County. The lands are described in Exhibit "A" and as shown on location map Exhibit "AA", which are attached hereto and made a part hereof. The District has a contract to acquire the following land interests for a purchase price of \$125,000.

<b>Owner</b>	<b>Tract No.</b>	<b>Interest</b>	<b>Acres</b>	<b>Appraised Value</b>	<b>Purchase Price</b>
Estate of Callie G. Terrell, deceased	HH-101-001	Fee	2.63	\$105,000	\$125,000

(2) The total \$125,000 purchase price exceeds the \$105,000 appraised value based on the certified appraisal(s) used to determine the value of the land interests to be purchased, taking into account the value of non-cash considerations, defects in title or outstanding interests. The District staff has determined that it will be cost effective and beneficial to the timely implementation of the Herbert Hoover Dike Rehabilitation Project, and in the District's best interest, to acquire for a purchase price of \$125,000 or 19% over the approved appraised value the 2.63 acres, more or less, of land interests.

38 District staff has also determined that acquiring these land interests required by the Project for a total  
39 consideration of \$125,000 or 19% over the approved appraised value is in the District's best interest to  
40 avoid the risks inherent in the condemnation process. Regarding condemnation risks, in a November  
41 2007 case, the jury returned a verdict of 195% over the District's appraised value. Additionally, within the  
42 last few years the District's experience in five recent condemnation cases resulted in a range of verdicts  
43 between 10% and 117% over appraised value for a weighted average of 42% above appraised value.  
44 Significantly, in 2003, two condemnation juries have returned verdicts of 220% and 242% above the  
45 Government appraisal. In addition to the uncertainties regarding jury verdicts, the costs of condemnation  
46 litigation, even if the District is the prevailing party, can increase costs significantly. For example, in a  
47 condemnation case where the District received a very favorable verdict (10% over appraised value), the  
48 landowner's attorney was awarded costs that are 3% of the verdict (\$340,000 on an \$11 million verdict).  
49 Based on this, staff believes this acquisition is in the District's best interest.

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

52 (4) This request for funds is consistent with the District's Five Year Plan of acquisition or the South  
53 Florida Water Management District Florida Forever Work Plan, as contained in Chapter 6, Volume II of the  
54 South Florida Environmental Report, and last updated during a public hearing on December 13, 2007, filed  
55 with the Legislature and the Department of Environmental Protection.

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

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

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

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

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

74 (10) The lands shall be managed for multiple-use purposes where compatible with the resource  
75 values of and management objectives for such lands as set forth in Section 259.105(5), Florida Statutes.

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

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

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

81

82 **PASSED** and **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

83

84

85

86

87

88

89 **ATTEST:**

90

91 By: \_\_\_\_\_  
92 District Clerk/Secretary

93

94

95

96

97 (Corporate Seal)

98

99

100

101

102 **Legal Form Approved:**

103

104 By: \_\_\_\_\_  
105 Office of Counsel

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

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