

1 **SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

2 **RESOLUTION NO. 2007 - _____**

3
4 **A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA**
5 **WATER MANAGEMENT DISTRICT REQUESTING RELEASE OF FUNDS FROM**
6 **THE SAVE OUR EVERGLADES TRUST FUND BY THE DEPARTMENT OF**
7 **ENVIRONMENTAL PROTECTION FOR THE ACQUISITION OF LAND**
8 **INTERESTS CONTAINING 256.94 ACRES, MORE OR LESS, IN PALM BEACH**
9 **COUNTY, FLORIDA, FOR THE CERP NORTHERN PALM BEACH COUNTY –**
10 **PART 1 PROJECT, IN THE AMOUNT OF UP TO \$18,540,000, AND**
11 **ASSOCIATED COSTS; PROVIDING AN EFFECTIVE DATE.**

12
13 **WHEREAS**, the South Florida Water Management District (hereinafter, the “District”) has
14 an active program underway to acquire land interests for the CERP Northern Palm Beach County
15 – Part 1 Project (the “Project”); and

16 **WHEREAS**, that certain Cooperative Agreement between the South Florida Water
17 Management District (hereinafter, the “District”) and the Florida Department of Environmental
18 Protection dated November 1, 2001, requires submission of a resolution of the Governing Board of
19 the District to the Department advising about a proposed acquisition in the event the District
20 requests release of funds from the Save Our Everglades Trust Fund for acquisition of such lands.

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

23 (1) It does hereby advise the Secretary of the Department of Environmental
24 Protection of its intent to acquire fee title to 256.94 acres, more or less of land in Palm Beach
25 County, Florida, for the Project. The District has a contract to purchase the parcel described
26 below.

27

Owner	Tract No.	Interest	Acres	Appraised Value	Purchase Price
Palm Beach Acquisitions, LLC	DA-100-019	Fee	256.94	\$17,500,000	\$18,540,000

28
29 The legal interest to be acquired is the fee simple estate. The lands are described in Exhibit "A"
30 and as shown on a location map Exhibit "AA", both of which are attached hereto and made a part
31 hereof. The purchase price will be paid in five installments with the last installment due on
32 December 1, 2011.

33 (2) The purchase price of \$18,540,000 exceeds the \$17,500,000, the appraised value
34 based on the certified appraisal used to determine the value of the lands to be purchased, taking
35 into account the value of non-cash considerations, defects in title or outstanding interests. Staff

36 has determined that acquiring this important parcel, which is located in the Lake Okeechobee
37 Watershed Project, at a purchase price of \$18,540,000 or 6% over the approved appraised value,
38 is in the District's best interest to avoid the risks inherent in the condemnation process. Regarding
39 condemnation risks, within the last few years the District's experience in five recent condemnation
40 cases resulted in a range of verdicts between 10% and 117% over appraised value for a weighted
41 average of 42% above appraised value. Significantly, in 2003, two condemnation juries have
42 returned verdicts of 220% and 242% above the Government appraisal. In addition to the
43 uncertainties regarding jury verdicts, the costs of condemnation litigation, even if the District is the
44 prevailing party, can increase costs significantly. For example, in a condemnation case where the
45 District received a very favorable verdict (10% over appraised value), the landowner's attorney
46 was awarded costs that are 3% of the verdict (\$340,000 on an \$11 million verdict). Based on this,
47 staff believes this acquisition is in the District's best interest.

48 (3) The original source of the funds to be released from Save Our Everglades Trust
49 Funds shall be General Revenue Funds.

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

53 (5) This request for funds deposited into Save Our Everglades Trust Fund is consistent
54 with the District's Five Year Plan of acquisition or the South Florida Water Management District
55 Florida Forever Work Plan as contained in Chapter 6, Volume II of the South Florida
56 Environmental Report, last updated during a public hearing on December 14, 2006, as applicable,
57 and filed with the Legislature and the Department of Environmental Protection, and is consistent
58 with Sections 373.139, 373.470 and 373.59, Florida Statutes, as applicable.

59 (6) The funds requested shall be used only for the acquisition costs and pre-
60 acquisition/ associated costs of the described lands, and simple interest of 4% per annum on the
61 unpaid balance of the purchase price.

62 (7) The lands being acquired shall be maintained in an environmentally acceptable
63 manner.

64 (8) Should the District dispose of any or all of the interests acquired hereunder, all
65 revenues derived therefrom will be used to acquire other lands for water management, water
66 supply and the conservation and protection of water resources, within the boundaries of a CERP
67 component.

68 (9) An environmental assessment will be conducted and any environmental concerns
69 will be addressed prior to closing.

70 (10) The Executive Director or her designee is hereby authorized to request the release
71 of funds for all expenses for land and associated costs identified in this Resolution.

72 (11) This Resolution shall take effect immediately upon adoption.

73 **PASSED** and **ADOPTED** this _____ day of _____, 2007.

74
75 **SOUTH FLORIDA WATER MANAGEMENT**
76 **DISTRICT,**
77 **BY ITS GOVERNING BOARD**

78
79 (Corporate Seal)

80
81
82 By: _____
Chairman

83 **ATTEST:**

84
85
86 By: _____
87 District Clerk/Secretary

88
89 **Legal Form Approved:**

90
91 By: _____
92 Office of Counsel