

**South Florida Water Management District**

**Resolution No. 2007 - \_\_\_\_\_**

**A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT REQUESTING REIMBURSEMENT FROM THE DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE PURCHASE OF LAND INTERESTS CONTAINING 40.73 ACRES, MORE OR LESS, FOR ASSOCIATED COSTS FROM THE FLORIDA FOREVER TRUST FUND; FOR A PERPETUAL FLOWAGE AND INUNDATION EASEMENT (TRACT NO. 19-101-065 J. PAT CORRIGAN FAMILY LIMITED PARTNERSHIP) WITHIN THE DESIGNATED BOUNDARIES OF THE KISSIMMEE RIVER AND HEADWATER REVITALIZATION PROJECT STYLED SOUTH FLORIDA WATER MANAGEMENT DISTRICT V. J. PAT CORRIGAN FAMILY LIMITED PARTNERSHIP FILED IN THE 19<sup>TH</sup> CIRCUIT COURT IN AND FOR OKEECHOBEE COUNTY, FLORIDA, CASE NO. 2005-CA-184, PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the District has an active program underway to acquire land interests for the Kissimmee River and Headwater Revitalization Project in Okeechobee County;

**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 that it has acquired through settlement of a condemnation suit for a perpetual flowage and inundation easement for 40.73 acres, more or less of land for the Kissimmee River and Headwater Revitalization Project in Okeechobee County. The apportionment of the acquisition mediation settlement price of \$203,854.30, plus attorney fees of \$85,168.00 will be funded with Florida Forever Trust Fund.

<b>Owner</b>	<b>Tract No.</b>	<b>Interest</b>	<b>Acres</b>	<b>Appraised Value</b>	<b>Settlement Purchase Price</b>
J. Pat Corrigan Family Limited Partnership	19-101-065	Perpetual Flowage and Inundation Easement	40.73	\$203,854.30	\$289,022.30

The legal interest to be acquired is a Perpetual Flowage and Inundation Easement. The land is described in Exhibit "A" and as shown on a location map Exhibit "AA", both of which are attached hereto and made a part hereof.

(2) Title to the subject property, was acquired through the condemnation process, at the time the District made a \$203,854.30 Court deposit on August 5, 2005. The mediation settlement purchase price of \$417,483.00 (exclusive of fees and costs), agreed to on July 16, 2007, for Tract No. 19-101-065, does not exceed the appraised value based on the certified appraisal used to determine the value of the lands to

be purchased, taking into account the value of non-cash considerations, defects in title or outstanding interests. Staff has determined that acquiring this important parcel, which is located in Kissimmee River and Headwater Revitalization Project in Okeechobee County at a purchase price 0.0% over the approved appraised value is in the District's best interest to avoid the risks inherent in the condemnation process. Regarding condemnation risks, within the last few years the District's experience in five recent condemnation cases resulted in a range of verdicts between 10% and 117% over appraised value for a weighted average of 42% above appraised value. Significantly, in 2003, two condemnation juries have returned verdicts of 220% and 242% above the Government appraisal. In addition to the uncertainties regarding jury verdicts, the costs of condemnation litigation, even if the District is the prevailing party, can increase costs significantly. For example, in a condemnation case where the District received a very favorable verdict (10% over appraised value), the landowner's attorney was awarded costs that are 3% of the verdict (\$340,000 on an \$11 million verdict). Based on this, staff believes this acquisition is in the District's best interest. For this parcel there is a separate owner attorney fee to be paid by the District of approximately \$85,168.00 that the seller is entitled to under the Chapter 73, Florida Statutes which will be paid with using Florida Forever Trust Fund.

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

(4) This request for funds is consistent with the District's Five Year Plan of acquisition or the Florida Forever Water Management District Work Plan, as applicable, filed with the Legislature and the Department, and is consistent with Sections 373.139, 373.470 and 373.59, Florida Statutes, as applicable.

(5) Acquisition of this land satisfied two Florida Forever goals: (1) enhance the coordination and completion of land acquisition projects as measured by the number of acres acquired of significant landscapes, landscape linkages and conservation corridors, giving priority to completing linkages and (2) ensure that sufficient quantities of water are available to meet the current and future needs of natural systems and the citizens of the state, as measured by the quantity of water made available through the water resource development component of a district water supply plan for which a water management district is responsible.

(6) The funds requested shall be used only for the acquisition costs and pre-acquisition/ associated costs of the described land.

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

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

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

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

(11) The District used Eminent Domain to complete acquisition of the property pursuant to the authority granted under 373.139 and 373.1501, Florida Statutes.

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

(13) The Executive Director or her designee is hereby authorized to request reimbursement of all expenses for lands and associated costs identified in this Resolution.

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

**PASSED and ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

**Legal Form Approved:**

By: \_\_\_\_\_  
Office of Counsel

(Corporate Seal)

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

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

**ATTEST:**

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