

## MEMORANDUM

**TO:** Governing Board Members

**THROUGH:** Kenneth G. Ammon, P.E., Deputy Executive Director,  
Everglades Restoration Resource Area

**FROM:** Ruth P. Clements, Department Director, Land Acquisition  
and Land Management

**DATE:** August 28, 2008

**SUBJECT:** Authorize amendment of South Florida Water Management  
District Beneficial Interest Affidavit to capture all individuals  
having ownership interest or deriving contingent monetary  
benefit

**Background** Florida Statute Section 286.23 provides for disclosure of ownership beneficial interests of 5% or greater in any transaction where real property is being conveyed to a public agency. However, any seller which is a publicly traded entity registered with the Federal Securities Exchange Commission, is exempt from the statutory requirement. The District has routinely required disclosure of all such interests prior to presenting land acquisitions to the Governing Board. In 2007, in an effort to ensure that the District had complete disclosure of all persons and entities benefiting from its real property acquisitions, the beneficial interest affidavit was expanded to include all owners regardless of their ownership percentage and also disclosure of all individuals and entities that will receive any type of consideration in connection with the transaction.

Recently, in an attempt to clarify the affidavit and meet the District's overall objective of disclosure, the staff recommends the following changes:

Section 2 dealing with disclosure of any ownership interest would be amended to state that persons holding an interest in an Employee Stock Ownership Plan only need to be disclosed if they hold greater than 1% interest in the Plan. This eliminates the need of disclosure of potentially thousands of names with minimal interest which may change frequently and tracks the intent of the statute which completely exempts publicly traded stocks which could change ownerships daily

Section 3 regarding disclosure of all other individuals or entities having a financial interest in the transaction would be amended to

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require disclosure of those individuals or entities not disclosed in Section 2 (ownership interests). In addition, anyone receiving a fee contingent upon achieving a successful acquisition would also need to disclose the fee amount. However, attorney's fees received as a result of legal representation would be exempt from disclosing amounts. The purpose of this change is to ensure that the public monies being paid for the acquisition are being paid for a land interest and not as part of a "success" or contingency fee for brokering a deal.

The proposed draft affidavit is attached as an exhibit.

**Recommendation** Approve a Resolution amending the South Florida Water Management District's Beneficial Interest and Disclosure Affidavit.

Prepared by: \_\_\_\_\_  
Ruth P. Clements, Director  
Land Acquisition and  
Land Management Department  
Date \_\_\_\_\_

Approved by: \_\_\_\_\_  
Kenneth G. Ammon, P.E.  
Deputy Executive Director  
Everglades Restoration Resource Area  
Date \_\_\_\_\_

KA/RC/as