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## South Florida Water Management District

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### GOVERNING BOARD MONTHLY MEETING AGENDA

*This meeting is open to the public*

September 12, 2013

9:00 AM

District Headquarters - B-1 Auditorium

3301 Gun Club Road

West Palm Beach, FL 33406

FINAL

*Pursuant to Section 373.079(7), Florida Statutes, all or part of this meeting may be conducted by means of communications media technology in order to permit maximum participation of Governing Board members.*

*The Governing Board may take official action at this meeting on any item appearing on this agenda and on any item that is added to this agenda as a result of a change to the agenda approved by the presiding officer of the meeting pursuant to Section 120.525, Florida Statutes. The order of items appearing on the agenda is subject to change during the meeting and is at the discretion of the presiding officer. Public Comment will be taken after each presentation and before any Governing Board action(s) except for Governing Board hearings that involve the issuance of final orders based on recommended Orders received from the Florida Division of Administrative Hearings.*

1. Call to Order - Dan O'Keefe, Chairman, Governing Board
2. Pledge of Allegiance - Dan O'Keefe, Chairman, Governing Board
3. Employee Recognitions - Presented by Blake C. Guillory, Executive Director
  - September Employee of the Month: Kristen McKeon, Lead Database Administrator, Administrative Services Division
  - September Team of the Month: Restoration Strategies Science Plan Team
  - 40 Year Service Recognition: Wesley P. Ficht, Jr., Field Station Crew Chief, Miami Field Station, Operations, Maintenance & Construction

4. Agenda Revisions - Reagan Walker, Director, Office of Governing Board & Executive Services
5. Abstentions by Board Members from items on the Agenda
6. Water Resources Advisory Commission (WRAC) Report - Tim Sargent, Chair
7. Big Cypress Basin Board Report - Rick Barber, Chair

## **Consent Agenda**

*Members of the public wishing to address the Governing Board are to complete a Public Comment Card and submit the card to the front desk attendant. You will be called by the Board Chair or designee to speak. If you want to request that an item be removed from the Consent Agenda and be discussed by the Governing Board, please advise the Governing Board when you are called upon to speak. Governing Board directives limit comments from the public to 3 minutes unless otherwise determined by the Governing Board Chair. Your comments will be considered by the Governing Board prior to adoption of the Consent Agenda.*

*Unless otherwise determined by the Chair, Board action on pulled Consent Agenda items will occur at or after 9:00 a.m. on Thursday. Regulatory items pulled from the Consent Agenda for discussion will be heard during the Discussion Agenda. **Unless otherwise noted, all Consent Agenda items are recommended for approval.***

8. Public Comment on Consent Agenda
  9. Pull Items for Discussion from Consent Agenda
  10. Board Comment on Consent Agenda
- Consent Items
11. Approval of the Minutes for the August 15, 2013, Regular Business meeting held in West Palm Beach, Florida
  12. Waivers for Water Resources Advisory Commission (WRAC) members pursuant to Section 112.313, Florida Statutes
  13. Regulatory Consent Items
    - Denials
    - Consent Orders
    - Conservation Easements, Amendments and Releases
  14. Right of Way Regulatory Consent Items
    - Right of Way Occupancy New Permits
    - Right of Way Occupancy Permit Requests with Waiver of District Criteria
    - Right of Way Occupancy Permit Requests for Denial
  15. **Resolution No. 2013 - 0901** A Resolution of the Governing Board of the South Florida Water Management District approving release of District canal, mineral and road reservations, and issuance of non-use commitment; providing an effective date. (OMC, Kathy Massey, ext. 6835)

16. **Resolution No. 2013 - 0902** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into an Interagency Agreement between the South Florida Water Management District and St. Johns River Water Management District for designation of regulatory responsibility for permitting under Part IV of Chapter 373, Florida Statutes, for the project known as Lucky L Ranch Mitigation Bank that crosses jurisdictional boundaries of both Water Management Districts; providing an effective date. (REG, Anita Bain, ext. 6866)
17. Authorize publication of Notice of Rule Development in the Florida Administrative Register and request review by the Office of Fiscal Accountability and Regulatory Reform, to amend Rules 40E-1.021 and 40E-1.6058, F.A.C., to promote regulatory streamlining, cost savings and increase transparency by defining the term “posting” and providing for website posting of the receipt of certain applications, as opposed to newspaper publication. (REG, Sharon Trost, ext. 6814)
18. Authorize publication of Notice of Proposed Rule in the Florida Administrative Register (FAR) to update, clarify and modify Public Use Rules 40E-7.511, 40E-7.520, 40E-7.521, 40E-7.523, 40E-7.525, 40E-7.526, 40E-7.527, 40E-7.528, 40E-7.529, 40E-7.530, 40E-7.532, 40E-7.534, 40E-7.535, 40E-7.537, 40E-7.538, 40E-7.5381, 40E-7.5382, 40E-7.5383, 40E-7.5384, and 40E-7.539, F.A.C., based on public comments solicited and received, and authorize review from the Office of Fiscal Accountability and Regulatory Reform. (OMC, Dan Cotter, ext. 2301)
19. **Resolution No. 2013 - 0903** A Resolution of the Governing Board of the South Florida Water Management District authorizing payment of \$10,000 from Big Cypress Basin Field Station FY14 operating budget for settlement of claim made by Wallace Homes of Southwest Florida, Inc., a Florida Corporation, against South Florida Water Management District regarding alleged unauthorized construction and use of an access boat ramp located west of the Cypress Way E Bridge on the Cocohatchee West Canal, Collier County and acquisition of a boat ramp easement; subject to Governing Board approval of the FY14 budget; providing an effective date. (OMC, Jorge Patino, ext. 6175)
20. **Resolution No. 2013 - 0904** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 319 day contract with Overland Construction, Inc., the lowest responsive and responsible bidder, for the Emergency Operations and Data Center HVAC improvements, in the amount of \$879,800.00, for which ad valorem funds of \$75,000.25 is budgeted in FY13 and the remaining amount is subject to Governing Board approval of the FY14 Budget; providing an effective date. (Contract Number 4600002936) (Denise Palmatier, ext. 6758)

21. **Resolution No. 2013 - 0905** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a three-year contract with two (2) one-year renewal options with Toler Enterprises, Inc., the lowest responsive and responsible bidder, for Slope Mowing Services in the Fort Lauderdale Field Station area, in the amount of \$486,000 for three years, of which \$162,000 in ad valorem funds are budgeted in FY14 and the remainder is subject to Governing Board approval of the FY15 and FY16 budgets; providing an effective date. (OMC, Karen Estock, ext. 6282)
22. **Resolution No. 2013 - 0906** A Resolution of the Governing Board of the South Florida Water Management District authorizing the payment in lieu of taxes (PILT) to Okeechobee County Board of County Commissioners for actual ad valorem tax losses incurred as a result of land purchased by the District; providing an effective date. (OMC, Jayne Bergstrom, ext. 2672)
23. **Resolution No. 2013 - 0907** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a purchase order with Terremark Federal Group, Inc, for a disaster recovery alternate data center facility and services for the time period November 1, 2013 to October 31, 2014, using Broward College Contract #ITN-2010-001-BM, in the amount of \$196,056 for which ad valorem funds are budgeted and subject to Governing Board approval of the FY14 budget; providing an effective date. (AS, Duane Piper, ext. 2638)
24. **Resolution No. 2013 - 0908** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a purchase order with Presidio Corporation for the annual renewal of Cisco Systems network hardware and software maintenance, for the time period November 1, 2013 to October 31, 2014 using State of Florida Contract #250-000-09-1, in the amount of \$365,855 for which ad valorem funds are budgeted and subject to Governing Board approval of the FY14 budget; providing an effective date. (AS, Duane Piper, ext. 2638)
25. **Resolution No. 2013 - 0909** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a purchase order with Oracle Corporation for the annual renewal of Sun Microsystems server, storage, and peripheral hardware maintenance, for the time period November 1, 2013 to October 31, 2014, using State of Florida Contract #250-000-09-1, in the amount of \$318,085 for which ad valorem funds are budgeted and subject to Governing Board approval of the FY14 budget; providing an effective date. (AS, Duane Piper, ext. 2638)
26. **Resolution No. 2013 - 0910** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a purchase order with Mythics, Inc. for the annual renewal of Oracle software maintenance and upgrades, for the time period October 25, 2013 to October 24, 2014, using GSA Schedule #GS-35f-0153M, in the amount of \$886,367 for which ad valorem funds are budgeted and subject to Governing Board approval of the FY14 budget; providing an effective date. (AS, Duane Piper, ext. 2638)

27. **Resolution No. 2013 - 0911** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a purchase order with Forsythe Solutions Group for the annual renewal of infrastructure hardware and software maintenance, for the time period November 1, 2013 to October 31, 2014, using State of Florida Contract #250-000-09-1, in the amount of \$198,594 for which ad valorem funds are budgeted and subject to Governing Board approval of the FY14 budget; providing an effective date. (AS, Duane Piper, ext. 2638)
28. **Resolution No. 2013 - 0912** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a purchase order with Dyntek Services, Inc. for the annual renewal of Symantec storage software maintenance and upgrades, for the time period December 1, 2013 to November 30, 2014, using GSA Schedule #GS-35f-0119Y, in the amount of \$225,820 for which ad valorem funds are budgeted and subject to Governing Board approval of the FY14 budget; providing an effective date. (AS, Duane Piper, ext. 2638)
29. **Resolution No. 2013 - 0913** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a purchase order with Environmental Systems Research Institute, Inc. (Esri) as an exception to the general standards of competition for an Enterprise License Agreement for geographic information systems software, for the time period October 1, 2013 to September 30, 2016 in the amount of \$989,000 for which \$389,000 of ad valorem funds are budgeted and subject to Governing Board approval of the FY14 budget and the remainder is subject to Governing Board approval of the FY15 and FY16 budgets; providing an effective date. (AS, Duane Piper, ext. 2638)
30. **Resolution No. 2013 - 0914** A Resolution of the Governing Board of the South Florida Water Management District authorizing a three-year agreement with Audubon of Florida's Tavernier Science Center for hydrology, aquatic vegetation, and prey-base fauna monitoring in the Southern Everglades Mangrove Communities and authorize a sole source as an exception to the general standards of competition in an amount not to exceed \$390,000 subject to Governing Board approval of the FY14 through FY16 budgets; providing an effective date. (Contract #4600002916) (WR, Joseph Stachelek, ext. 4543)
31. **Resolution No. 2013 - 0915** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a one year agreement with Collier County in the amount not to exceed \$290,500, for the construction of the Northern Golden Gate Estate Flow Way Restoration project, for which dedicated Big Cypress Basin ad valorem funds are budgeted; subject to Governing Board approval of the FY14 budget; providing an effective date. (EXO, Dan Delisi, ext. 6232)

32. **Resolution No. 2013 - 0916** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a one year agreement with Collier County in the amount not to exceed \$600,000, for the construction of the Livingston Road Aquifer Storage and Recovery (ASR) Well #2 project, for which dedicated Big Cypress Basin ad valorem funds are budgeted; subject to Governing Board approval of the FY14 budget; providing an effective date. (EXO, Dan Delisi, ext. 6232)
33. **Resolution No. 2013 - 0917** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a one year agreement with the City of Marco Island in the amount not to exceed \$236,000, for the construction of the City's Swallow Avenue Drainage Improvements project, for which dedicated Big Cypress Basin ad valorem funds are budgeted; subject to Governing Board approval of the FY14 budget; providing an effective date. (EXO, Dan Delisi, ext. 6232)
34. **Resolution No. 2013 - 0918** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a one year cooperative agreement with the City of Naples in the amount not to exceed \$600,000, for the construction of the City's Aquifer Storage and Recovery (ASR) Well #3 project, for which dedicated FY 14 Big Cypress Basin ad valorem funds are budgeted, subject to Governing Board approval of the FY14 budget; providing an effective date. (EXO, Dan Delisi, ext. 6232)
35. **Resolution No. 2013 - 0919** A Resolution of the Governing Board of the South Florida Water Management District authorizing the Governing Board chair to execute a certification that the District has completed the economic estimates required under paragraph 120.745(9)(b), Florida Statutes, and authorizing transmittal of the same to the Joint Administrative Procedures Committee; providing an effective date. (OC, Carolyn Ansay, ext. 6976)
36. **Resolution No. 2013 - 0920** A Resolution of the Governing Board of the South Florida Water Management District to authorize entry into a stipulated motion for order to pay costs with Kenneth G. Hyatt for payment of attorney's fees and expert witness costs of \$865,220.96 which represents any and all costs incurred by Kenneth G. Hyatt in the Osceola County Kissimmee River restoration project styled South Florida Water Management District v. Kenneth G. Hyatt, et al., case no.: 2011CA-002798-ED, filed in the 9th Circuit Court in and for Osceola County, Florida; providing an effective date. (OC, Carolyn Ansay, ext. 6976)
37. **Resolution No. 2013 - 0921** A Resolution of the Governing Board of the South Florida Water Management District to authorize entry into a stipulated motion for order to pay costs with Arnold H. Mack for payment of attorney's fees and expert witness costs of \$645,444.79 which represents any and all costs incurred by Arnold H. Mack in the Osceola County Kissimmee River restoration project styled South Florida Water Management District v. Kenneth G. Hyatt, et al., case no.: 2011CA-002798-ED, filed in the 9th circuit court in and for Osceola County, Florida; providing an effective date. (OC, Carolyn Ansay, ext. 6976)

38. Board Vote on Consent Agenda
39. General Public Comment

## Discussion Agenda

40. Technical Reports
  - A) Water Conditions Report - Tommy Strowd, Assistant Executive Director, Operations, Maintenance & Construction (ext. 6998)
  - B) Ecological Conditions Report - Terrie Bates, Division Director, Water Resources (ext. 6952)
41. Enter a Final Order Approving the 2013 Lower East Coast Water Supply Plan Update - Mark Elsner, Section Administrator, Water Supply Development Section (ext. 6156)
42. Central Florida Water Initiative (CFWI) Update - Len Lindahl, Assistant Executive Director, Business & Regulatory (ext. 6283)
43. Overview of Aquifer Storage and Recovery (ASR) Technology: Opportunities and Challenges - Dean Powell, Bureau Chief, Water Supply (ext. 6787)
44. Broward County East Coast Protective Levee Update - John Mitnik, Bureau Chief, Engineering & Construction Bureau (ext. 2679)
45. **Resolution No. 2013 - 0922** A Resolution of the Governing Board of the South Florida Water Management District, directing staff to move forward to analyze options, including but not limited to, disposal of land interests containing 12,341 acres, more or less, in Palm Beach, Broward, and Miami-Dade Counties, together with any structures and improvements and personal property appurtenant thereto, and thereafter propose recommendations to the Governing Board for further approval; providing an effective date. (OMC, Ray Palmer, ext. 2246)
46. Dispersed Water Management Update - Temperince Morgan, Division Director, Office of Everglades Policy & Coordination (ext. 6987)
47. FY14 Budget Update - Doug Bergstrom, Division Director, Administrative Services (ext. 6214)
48. Patient Protection and Affordable Healthcare Act Overview - Len Lindahl, Assistant Executive Director, Business & Regulatory (ext. 6283)
49. **Resolution No. 2013 - 0923** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a one year agreement with the City of Naples in the amount not to exceed \$1,000,000, for the construction of Phase III of the City's Reclaimed Water System Distribution Expansion project, for which dedicated FY14 Big Cypress Basin ad valorem funds are budgeted; subject to Governing Board approval of the FY14 budget; providing an effective date. (EXO, Dan Delisi, ext. 6232)

50. General Public Comment

## **Staff Reports**

51. Monthly Financial Statement - Doug Bergstrom, Division Director,  
Administrative Services
52. General Counsel's Report - Carolyn S. Ansay
53. Executive Director's Report - Blake C. Guillory  
Report on permits issued by authority delegated to the Executive Director  
from August 1-31, 2013.
54. Board Comment

## **Attorney Client Sessions**

### 55. Attorney Client Session

Attorney client session pursuant to Section 286.011(8), Florida Statutes (2012), to discuss strategy related to litigation expenditures and/or settlement negotiations in United States of America v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 88-1886-CIV-Moreno.

ATTENDEES: Governing Board Members F. Barber, S. Batchelor, M. Hutchcraft, J. Moran, D. O'Keefe, J. Portuondo, K. Powers, T. Sargent, G. Waldman; Executive Director B. Guillory; District attorneys C. Ansay, K. Burns, C. Kowalsky, D. MacLaughlin. (Carolyn S. Ansay, ext. 6976)

### **Action Items (if any) Stemming from Attorney Client Session**

Attorney client session pursuant to Section 286.011(8), Florida Statutes (2012), to discuss strategy related to litigation expenditures and/or settlement negotiations in United States of America v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 88-1886-CIV-Moreno. (Carolyn S. Ansay, ext. 6976)

### 56. Adjourn

**September Employee of the Month**  
**Kristen McKeon – Lead Database Administrator**  
Administrative Services Division

Kris works in the IT Bureau as a Database Administrator and supports many systems that have Oracle and Microsoft databases. Her dedication to her job helps make technology easy to use so all of us are able to work more efficiently.

Recently, she worked 10 hours on a Saturday to resolve *single-sign-on* issues with Kinexa and Performance Manager. Most outstanding is her work to manage Oracle licenses as part of a team effort to implement the server consolidation. Kris persevered to stay on top of the licensing process for more than a year and the District realized a savings of \$344,000.00.

Kris is an asset to the District's Information Technology team. Congratulations for being selected as our September Employee of the Month!

**September Team of the Month**  
**Restoration Strategies Science Plan Team**  
 37 Members Representing  
 Office of Everglades Policy and Coordination  
 Water Resources Division  
 Operations, Maintenance and Construction Division

Wossenu Abteu	Zaki Moustafa
Holly Andreotta	Susan Newman
Lucia Baldwin	Jayantha Obeysekera
Kevin Carter	Stacey Ollis
Michael Chimney	Tracey Piccone
Mark Cook	Kathleen Pietro
Carlos Coronado	Peter Rawlik
Brian Garrett	Garth Redfield
Larry Gerry	Larry Schwartz
Susan Gray	Sean Sculley
Nenad Iricanin	Trudy Morris Stein
Delia Ivanoff	Dave Struve
Megan Jacoby	Lou Toth
Wasantha Lal	Odi Villapando
Neil Larson	Naiming Wang
Jennifer Leeds	Walter Wilcox
Jonathan Madden	Shi Kui Xue
Jeremy McBryan	Hongying Zhao
Shili Miao	

The Restoration Strategies Science Plan Team was formed and began work to develop a Science Plan in August 2012. Two months earlier, in June, the State of Florida and the U.S. Environmental Protection Agency reached consensus on new restoration strategies for further improving water quality in the Everglades.

The permits and associated consent orders that require additional treatment and storage projects required the District to develop and implement a Science Plan to enhance the understanding of mechanisms and factors that affect phosphorus treatment performance. Results from the Science Plan may be used to inform the design and operations of water quality projects -- improving capabilities to manage for achievement of the Stormwater Treatment Areas' stringent numeric discharge limit for total phosphorus.

Developing the Science Plan has required significant effort to review existing knowledge; determine information gaps and formulate questions regarding phosphorus removal mechanisms and factors that influence these mechanisms -- including physical, chemical and biological processes.

The Science Plan Team worked collaboratively with technical representatives, experts and consultants representing the U.S. Environmental Protection Agency, Florida Department of Environmental Protection, U.S. Army Corps of Engineers, Everglades National Park and Arthur R. Marshall Loxahatchee Wildlife Refuge. This was accomplished through seven technical meetings and multiple informal workshops. Progress updates were presented to public stakeholders at Long-Term Plan Quarterly meetings and Water Resources Advisory Commission meetings.

The draft Science Plan was released for public comment in April and finalized by June. Deadline for implementation is this month; however, many of the studies have already been initiated due to the exceptional work of the Restoration Strategies Science Plan Team. Thank you for your exceptional work and congratulations to our Team of the Month!

40-Year Service Recognition  
Wesley P. Ficht, Jr. – Field Station Crew Chief  
Miami Field Station  
Operations, Maintenance and Construction

Wesley was hired in September 1973 to work at the Miami Field Station as a Fieldman and reclassified to Equipment Operator in 1977. His job was cutting trees and operating heavy equipment. He also became very proficient at operating towboats for the Miami, West Palm Beach, Clewiston and Okeechobee field stations and in 1989 was promoted to Craft Supervisor of Towboats.

Always a team player, Wesley's work goes beyond District borders: He cleared a debris jam on the Myakka River for the Southwest District; and cleared canal debris and removed tussocks from Lake Trafford for the St. Johns River District. Other career highlights include meeting the challenges of the long recovery from Hurricane Andrew in 1992. Wesley played a key role in developing standard operating procedures for flat and slope mowing contracts when he supervised the mowing program in 1995 and oversaw the program's outsourcing in 1996.

As Crew Chief, Wesley now leads a team of 11 employees to maintain canal conveyance capacity and conduct special projects such as tree removal. Known for his dedication and resourcefulness, he has been recognized for being on two teams of the month.

Thank you, Wesley, for commendable work and 40 years of public service!

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September 12, 2013

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## REGULATION AGENDA ITEMS

**PERMIT DENIAL:** Those listed on the consent agenda are routine in nature and non-controversial. Such denials are typically due to failure of applicant to complete the application. Unique or controversial projects or those requiring a policy decision are normally listed as discussion items. Permit types include:

**Environmental Resource (ERP):** Permits that consider such factors as the storage of storm water to prevent flooding of a project (upstream or downstream projects); the treatment of stormwater prior to discharge from the site to remove pollutants; and the protection of wetlands on the project site.

**Surface Water Management:** Permits for drainage systems, which address flood protection, water quality, and environmental protection of wetlands.

**Water Use:** Permits for the use of ground and/or surface water from wells, canals, or lakes.

**Lake Okeechobee Works of the District:** Permits that set concentration limits for total phosphorus in surface discharge from individual parcels in the Lake Okeechobee Basin.

**EAA Works of the District:** Permits to reduce the total phosphorus load from the EAA by 25 percent in water discharged to Works of the District.

**Wetland Resource:** Permits for dredge and fill activities within Waters of the State and their associated wetlands.

**ADMINISTRATIVE HEARING:** A case in litigation conducted pursuant to the Administrative Procedures Act (Chapter 120, Florida Statutes) involving the determination of a suit upon its merits. Administrative hearings provide for a timely and cost effective dispute resolution forum for interested persons objecting to agency action.

**FINAL ORDER:** The Administrative Procedures Act requires the District to timely render a final order for an administrative hearing after the hearing officer submits a recommended order. The final order must be in writing and include findings of fact and conclusions of law.

**CONSENT ORDER:** A voluntary contractual agreement between the District and a party in dispute which legally binds the parties to the terms and conditions contained in the agreement. Normally used as a vehicle to outline the terms and conditions regarding settlement of an enforcement action.

**CONSERVATION EASEMENT:** A perpetual interest to the District in real property that retains land or water areas in their existing, natural, vegetative, hydrologic, scenic, open or wooded condition and retains such areas as suitable habitat for fish, plants, or wildlife in accordance with Section 704.06, F.S.

**TECHNICAL DENIAL:** This action normally takes place when a proposed project design does not meet water management criteria or the applicant does not supply information necessary to complete the technical review of an application.

**EMERGENCY ORDER and AUTHORIZATION:** An immediate final order issued without notice by the Executive Director, with the concurrence and advice of the Governing Board, pursuant to (Section 373.119(2), Florida Statutes, when a situation arises that requires timely action to protect the public health, safety or welfare and other resources enumerated by rule and statute.

**MEMORANDUM OF AGREEMENT/UNDERSTANDING:** A contractual arrangement between the District and a named party or parties. This instrument typically is used to define or explain parameters of a long-term relationship and may establish certain procedures or joint operating decisions.

**PETITION:** An objection in writing to the District, requesting either a formal or an informal administrative hearing, regarding an agency action or a proposed agency action. Usually a petition filed pursuant to Chapter 120, Florida Statutes, challenges agency action, a permit, or a rule. Virtually all agency action is subject to petition by substantially affected persons.

**SEMINOLE TRIBE WORK PLAN:** The District and the Seminole Indians signed a Water Use Compact in 1987. Under the compact, annual work plans are submitted to the District for review and approval. This plan keeps the District informed about the tribe plans for use of their land and the natural resources. Although this is not a permit, the staff has water resource related input to this plan.

**SITE CERTIFICATIONS:** Certain types of projects (power plants, transmission lines, etc.) are permitted by the Governor and Cabinet under special one-stop permitting processes that supercede normal District permits. The Water Management Districts, DEP, DCA, FGFWFC, and other public agencies are mandatory participants. DEP usually coordinates these processes for the Governor and Cabinet.

**VARIANCES FROM, OR WAIVERS OF, PERMIT CRITERIA:** The Florida Administrative Procedures Act provides that persons subject to an agency rule may petition the agency for a variance from, or waiver of, a permitting rule. The Governing Board may grant a petition for variance or waiver when the petitioner demonstrates that 1) the purpose of the underlying statute will be or has been achieved by other means and, 2) when application of the rule would create a substantial hardship or would violate principles of fairness.

HENDRY COUNTY

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1. 4 W FARM  
RICKY DURRANCE  
SEC 22,23,26 TWP 43S RGE 31E

APPL. NO. 060630-41  
PERMIT NO. 26-00310-W  
ACREAGE: 108.00  
LAND USE: AGRICULTURAL

PERMIT TYPE: WATER USE RENEWAL

WATER SOURCE: SURFICIAL AQUIFER AND MYRTLE SLOUGH CANAL  
ALLOCATION: UNKNOWN

PRIMARY ISSUES: FINAL ORDER TO DENY DUE TO APPLICANT'S FAILURE TO COMPLETE  
APPLICATION

LAST DATE FOR BOARD ACTION: SEPTEMBER 12, 2013

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Attachment: ca\_reg\_rm\_100\_sd (1463 : Regulatory Consent Agenda)



1. RESPONDENT: FERNANDO VERGARA  
PROJECT: COCO SOD FARMS

SEC 28,29,31-33 TWP 37S RGE 33E HIGHLANDS COUNTY  
SETTLEMENT OF AN ENFORCEMENT ACTION REGARDING UNPERMITTED WATER DISCHARGE AND  
FAILURE TO MAINTAIN WETLAND PRESERVES

2. RESPONDENT: AMKBJ PARTNERS, LTD, LLLP  
PROJECT: PIONEER ROAD IWD

PALM BEACH COUNTY  
SETTLEMENT OF AN ENFORCEMENT ACTION REGARDING UNAUTHORIZED WORKS RESULTING IN  
ALTERATION OF PROPERTY CONTROL ELEVATION.

3. RESPONDENT: SPACE COAST CREDIT UNION  
PROJECT: CHARLIE'S MITSUBISHI

SEC 27 TWP 35S RGE 40E ST. LUCIE COUNTY  
SETTLEMENT OF AN ENFORCEMENT ACTION REGARDING UNPERMITTED CONSTRUCTION OF A  
SURFACE WATER MANAGEMENT SYSTEM

Attachment: ca\_reg\_rm\_100\_sd (1463 : Regulatory Consent Agenda)

- 
- 1. PERMITTEE: SDG PALM CITY INC
  - PROJECT: SAWGRASS VILLAS

MARTIN COUNTY

APPROVE A REQUEST FOR A PARTIAL RELEASE OF A CONSERVATION EASEMENT WITHIN A RESIDENTIAL COMMUNITY KNOWN AS SAWGRASS VILLAS IN MARTIN COUNTY. THE APPLICANT IS REQUESTING THE RELEASE OF A 3,097 SQ FT AREA TO ALLOW FOR WIDENING OF CR 714/MARTIN HIGHWAY. MITIGATION TO OFFSET WETLAND IMPACTS AS A RESULT OF THE ROAD CONSTRUCTION WILL INCLUDE THE USE OF FRESHWATER HERBACEOUS CREDITS FROM BLUEFIELD MITIGATION BANK.

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- 2. PERMITTEE: CITY OF SUNNY ISLES BEACH
  - PROJECT: NORTH BAY ROAD BRIDGE

MIAMI-DADE COUNTY

APPROVE A REQUEST FOR RELEASE OF A 0.11 ACRE AREA WITHIN AN EXISTING CONSERVATION EASEMENT FOR THE NORTH BAY ROAD BRIDGE PROJECT IN THE CITY OF SUNNY ISLES BEACH (CITY). ON SEPTEMBER 13, 1999, THE DISTRICT ISSUED ENVIRONMENTAL RESOURCE PERMIT 13-01266-P FOR THE APPROVAL OF A 2.566 ACRE WETLAND MITIGATION AREA ASSOCIATED WITH THE 17070 COLLINS AVENUE SHOPPING CENTER DEVELOPMENT IN MIAMI DADE COUNTY. THIS CONSERVATION EASEMENT AREA WAS SUBSEQUENTLY REDUCED TO 2.417 ACRES TO ACCOMMODATE A FIRE LANE ASSOCIATED WITH THE DEVELOPMENT OF THE AVENTURA BEACH MARINA APARTMENTS (APPLICATION NUMBER 010411-19). THE CITY HAS NOW APPLIED TO CONSTRUCT THE NORTH BAY ROAD BRIDGE TO ADDRESS ACCESS ISSUES ASSOCIATED WITH PUBLIC SAFETY CONCERNS (APPLICATION NUMBER 090408-3). THEREFORE, THE 0.11 ACRE PORTION OF THE EXISTING CONSERVATION EASEMENT OVERLAPPING THE PROPOSED BRIDGE CONSTRUCTION FOOTPRINT IS REQUESTED TO BE RELEASED.

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- 3. PERMITTEE: DEERFIELD LAND CORPORATION
  - PROJECT: OSCEOLA CROSSING

OSCEOLA COUNTY

APPROVE A REQUEST FOR THE PARTIAL RELEASE OF A CONSERVATION EASEMENT IN A PROJECT AREA KNOWN AS OSCEOLA CROSSING (APPLICATION NO. 130620-12) IN OSCEOLA COUNTY. THE EXISTING EASEMENT WAS RECORDED IN 2000 AS PART OF THE OSCEOLA CORPORATE CENTER PERMIT NO. 49-00477-S. SPECIFICALLY, 2.50 ACRES OF WETLANDS, 4.90 ACRES OF UPLAND CUT SURFACE WATERS AND 2.86 ACRES OF UPLAND PRESERVATION WILL BE REMOVED FROM THE EXISTING CONSERVATION EASEMENT. AREAS REPRESENTING FORMER MITIGATION ACREAGE INCLUDE 0.08 ACRES OF WETLAND CUT BORROW POND, AND 1.31 ACRES OF UPLANDS. THE APPLICANT WILL PROVIDE 1.37 FRESHWATER FORESTED WETLAND CREDITS TO OFFSET THE AREAS REQUIRING MITIGATION.

Attachment: ca\_reg\_rm\_100\_sd (1463 : Regulatory Consent Agenda)

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4. PERMITTEE: OSCEOLA CORPORATE CENTER  
PROJECT: THE APARTMENTS AT OCC

OSCEOLA COUNTY

APPROVE A REQUEST FOR THE PARTIAL RELEASE OF A CONSERVATION EASEMENT IN A PROJECT AREA KNOWN AS THE APARTMENTS AT OCC (APPLICATION NO. 130802-5) IN OSCEOLA COUNTY. THE EXISTING EASEMENT WAS RECORDED IN 2000 AS PART OF THE OSCEOLA CORPORATE CENTER PERMIT NO. 49-00477-S. SPECIFICALLY, 3.27 ACRES OF WETLANDS WILL BE REMOVED FROM THE EXISTING CONSERVATION EASEMENT. THE APPLICANT WILL PROVIDE 1.31 FRESHWATER FORESTED WETLAND CREDITS TO OFFSET THE AREAS REQUIRING MITIGATION.

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Attachment: ca\_reg\_rm\_100\_sd (1463 : Regulatory Consent Agenda)

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**RIGHT OF WAY OCCUPANCY NEW PERMITS**

1. DJ TRUNK ENTERPRISES, LLC  
COUNTY: PALM BEACH

Permit Number: 14216  
Appl No.: 13-0514-1

**AUTHORIZING:**

DOCK WITH BANK STABILIZATION AND REVETMENT WITHIN THE NORTH RIGHT OF WAY OF C-15  
LOCATED AT THE REAR OF 1420 CORMORANT ROAD.

---

Attachment: ca\_om\_reg\_101\_sd (1462 : Right of Way Regulatory Consent Agenda)

**RIGHT OF WAY OCCUPANCY PERMIT REQUESTS WITH WAIVER OF DISTRICT CRITERIA**

1. Consideration of a request by **CenturyLink**, (Application Number 13-0604-1M) for issuance of a Modification to Right of Way Occupancy Permit Number 13784, and waiver of the District's criteria for the installation of an aerial communication cable crossing the Henderson Creek Canal. Location: Collier County, Section 26, Township 50 South, Range 26 East.

The applicant's request for waiver of the District's criteria, which governs the minimum vertical clearance requirement for low-voltage aerial crossings within the Works or Lands of the District's, is based on "substantial hardship." The applicant asserts and has provided written documentation from the County and FP&L that there are many buried utilities in the project area which precludes a subaqueous crossing; and increasing the height of the proposed aerial cable would cause a violation of the National Electric Safety Code due to the proximity of adjacent overhead powerlines. The existing FP&L poles to which the proposed communication cable will be attached do not accommodate the District's required minimum vertical clearance of 40'. The proposed re-tensioned crossing, however, will provide a vertical clearance ranging from approximately 33' to 38' over the east bank of the canal where the District's current land-based access exists.

The District's Field Operations and Land Management staff of the District's Big Cypress Field Station has determined that the proposed aerial communication cable will not significantly interfere with the District's ability to perform necessary construction, alteration, operation and maintenance activities, so the purpose of the underlying statute will be achieved.

The applicant's petition has been reviewed by the Office of Counsel for compliance with the applicable legal requirements. Pursuant to Section 120.542(6), F.S. notice of the petition was provided to the Department of State and was published in *Volume 39, Number 113* of the *Florida Administrative Register* on June 11, 2013. No public comments were received.

Therefore, staff recommends **approval** of the issuance of Modification to Right of Way Occupancy Permit Number 13784 and **approval** of the petition for Waiver of the District's criteria which governs the minimum vertical clearance requirements of aerial crossings within Works or Lands of the District.  
(Easement)

**RIGHT OF WAY OCCUPANCY PERMIT REQUESTS WITH WAIVER OF DISTRICT CRITERIA**

2. Consideration of a request by **Carl E. and Leslie A. Rasmussen** (Application Number 12-1120-2) for issuance of Right of Way Occupancy Permit Number 14215 and waiver of the District's criteria for an existing boat dock with roof within the northerly right of way of the C-38 Canal. Location: Okeechobee County, Section 30, Township 37, South, Range 34 East.

The applicant's request for waiver of the District's criteria which governs the minimum low member elevation for pile-supported facilities located within Works or Lands of the District is based on "principles of fairness". The applicant asserts there are similar docks along this reach of C-38 that do not meet the District's low member elevation criteria. The applicant also agrees that at such time as renovation or replacement of the subject docking facility is required, the permittee shall re-construct the boat dock with roof to meet the District's minimum low member elevation criteria. The low member elevation for the existing boat dock with roof is set at 23.12'NGVD which is approximately 1' lower than the 24.0' NGVD requirement.

The District's Field Operations and Land Management staff has determined that the existing structure will not significantly interfere with the District's ability to perform necessary construction, alteration, operation and maintenance activities, so the purpose of the underlying statute will be achieved.

The applicant's petition has been reviewed by the Office of Counsel for compliance with the applicable legal requirements. Pursuant to section 120.542(6), F.S. notice of the petition was provided to the Department of State and was published in *Volume 39, Number 20 of the Florida Administrative Register on January 30<sup>th</sup>, 2013*. No Public comments were received.

Therefore, staff recommends **approval** of the issuance of a Right of Way Occupancy Permit Number 14215 and **approval** of the petition for Waiver of the District's criteria which governs the minimum low member elevation of pile-supported facilities within Works or Lands of the District.  
(Easement)

**RIGHT OF WAY OCCUPANCY PERMIT REQUESTS FOR DENIAL**

1. Consideration of a request by **Corenthia Willis** (Application Number 13-0621-1), for issuance of a Right of Way Occupancy Permit to allow installation of a fence enclosure within the south right of way of C-9 at the rear of 351 NW 201 Street, Miami, FL. Location: Miami-Dade County, Section 36, Township 51 South, Range 41 East.

Staff recommends **denial** of the request for issuance of a permit due to the fact that the proposed fence would interfere with Miami-Dade County's Snake Creek Trail - a public recreational facility previously authorized under Right of Way Occupancy Permit Number 13901 issued on August 11, 2011. Miami-Dade County Parks, Recreation and Open Spaces Department has objected in writing to the application submitted by Corenthia Willis. As such, the proposed fence enclosure is inconsistent with District Rule 4-E-6.221(3), Florida Administrative Code, which states: "In determining whether a permit should be issued, the District shall consider whether the activity unduly burdens the District's interests. In making this decision, the District shall weigh the following critical factors:

(j) meets the general and specific criteria in the Criteria Manual which is incorporated by reference in Rule 40E-6.091, Florida Administrative Code;

(k) interferes with actual or potential public use of the District's works or lands, including public recreational or other facilities not within the District's works."

**M E M O R A N D U M**

**TO:** Governing Board Members

**FROM:** Karen Estock, Division Director

**DATE:** September 12, 2013

**SUBJECT:** Approve the release of District canal, mineral and road reservations, and issuance of non-use commit

**BACKGROUND INFORMATION:** Canal reservations evolved from efforts to provide infrastructure, without cost to the taxpayers, to carry out drainage and reclamation projects, and provide roads. Many, but not all, conveyances of land by the State of Florida through the Trustees of the Internal Improvement Trust Fund ("TIITF") and the Everglades Drainage District (EDD), a predecessor to the South Florida Water Management District, reserved rights to construct future water control works, percentages of the mineral rights, together with the right of ingress, egress and exploration, and reservations for State and County road rights-of-way.

The District routinely receives applications for releases of these reservations from landowners, attorneys, title companies and lending institutions, who consider the reservations to be title defects; applications are processed by the Real Estate Management Section. Applications are reviewed by appropriate District personnel and applicable local governmental agencies to determine that there is no present or future need for the canal reservation. Road reservations are released upon review and approval by the affected county and the Florida Department of Transportation. Mineral reservations are released for parcels containing 1.25+/- acres or less, and non-use commitments are issued for parcels greater than 1.25+/- acres. When a non-use commitment is issued, the District agrees not to exercise its right of ingress and egress for the exploration of minerals, provided the landowner does not explore for the same. The District retains its interest in the mineral estate and is entitled to any future proceeds should exploration occur.

**CONSIDERATIONS:** See Exhibit "A" attached hereto and made a part hereof, which contains the details of releases to be approved and issued.

**AUTHORIZATION:** Pursuant to Section 373.096 of the Florida Statutes, the Governing Board of the District may release any reservation for which it has no present or apparent use under terms and conditions determined by the Board.

**FISCAL IMPACT:** None; reservations were acquired at no cost to the District.

**RECOMMENDATION:** A Resolution of the Governing Board of the South Florida Water Management District approving release of District canal, mineral and road reservations, and issuance of non-use commitment; providing an effective date.

**EXHIBIT "A"**

File No.: 18552  
 Applicant: Vadim Brinzan and Svitlana Brinzan, husband and wife  
 Reserving Deeds: E-1579 (DB 703-216, 11/20/1944) and E-2547 (DB 707-439, 2/7/1945)  
 Fee paid: \$250.00  
 Action: Approve release of District canal, mineral and road reservations  
 Acres: 0.47 acres, more or less  
 Legal Description: Lot 22, Block B-3, OAKS AT BOCA RATON PLAT ONE, PB 95-16, Section 31, Township 46 South, Range 42 East  
 Location: 9568 Grand Estates Way, Boca Raton, Palm Beach County  
 Reviewed by: Lake Worth Drainage District, Palm Beach County and Florida Department of Transportation (no internal review needed due to size and land use)

File No.: 18553  
 Applicant: Archdiocese of Miami, Inc., a Florida non-profit corporation  
 Reserving Deed: E-2228 (DB 470-322, 1/16/1945)  
 Fee paid: \$250.00  
 Action: Approve release of District canal, mineral and road reservations  
 Acres: 1.0 acre, more or less  
 Legal Description: Portion of Section 18, Township 50 South, Range 41 East, NEWMAN'S SURVEY, PB 2-26(D), and the Hiatus between T50S-R40E and T50S-R41E  
 Location: 2350 SW 112<sup>th</sup> Avenue, Davie, Broward County  
 Reviewed by: Water Supply Development Section, Right of Way Section, Environmental Resource Permitting Bureau, Survey Section and Office of Everglades Policy and Coordination, Florida Department of Transportation and Broward County

File No.: 18556  
 Applicant: Fidel Suarez  
 Reserving Deed: E-2653 (DB 2499-335, 3/7/1945)  
 Fee paid: \$250.00  
 Action: Approve release of District canal, mineral and road reservations  
 Acres: 1.25 acres, more or less  
 Legal Description: Portion of Tract 52, FLORIDA FRUIT LAND'S SUBDIVISION NO. 1, PB 2-17, Section 13, Township 52 South, Range 39 East  
 Location: NW 159<sup>th</sup> Street, Miami, Miami-Dade County  
 Reviewed by: Miami-Dade Water Control Section, Miami-Dade County and Florida Department of Transportation (no internal review needed due to size and land use)

File Nos.: 18557, 18558 and NUC 1631  
 Applicant: Palm Tree Farms, LLC, a Florida limited liability company  
 Reserving Deeds: E-5331 (DB 773-249, 7/5/1946), and T-1772 (DB 332-518, 8/15/1925)  
 Fee paid: \$725.00  
 Action: Approve release of District canal and mineral reservations, and issuance of non-use commitment  
 Acres: 9.41 acres, more or less

Legal Description: Portion of Tracts 33, 34, 47 and 48, Block 28, THE PALM BEACH FARMS CO. PLAT NO. 3, PB 2-45, Section 29, Township 44 South, Range 42 East  
 Location: Hooks Road, Lake Worth, Palm Beach County  
 Reviewed by: Water Supply Development Section, Right of Way Section, Environmental Resource Permitting Bureau, Survey Section, Office of Everglades Policy and Coordination, and Lake Worth Drainage District

File No.: 18559  
 Applicant: G.L. Homes of Palm Beach Associates, Ltd., a Florida limited partnership  
 Reserving Deed: E-271 (DB 681-169, 2/28/1944)  
 Fee paid: \$250.00  
 Action: Approve release of District canal and road reservations  
 Acres: 25.50 acres, more or less  
 Legal Description: Portion of Tract "A", CANYON SPRINGS PRESERVE PLAT NO. 5, PB 107-112, Section 32, Township 45 South, Range 42 East and Section 5, Township 46 South, Range 42 East  
 Location: Acme Dairy Road, Boynton Beach, Palm Beach County  
 Reviewed by: Water Supply Development Section, Right of Way Section, Environmental Resource Permitting Bureau, Survey Section and Office of Everglades Policy and Coordination, Lake Worth Drainage District, Palm Beach County and Florida Department of Transportation

# SOUTH FLORIDA WATER MANAGEMENT DISTRICT

## Resolution No. 2013 - 0901

**A Resolution of the Governing Board of the South Florida Water Management District approving release of District canal, mineral and road reservations, and issuance of non-use commitment; providing an effective date. (OMC, Kathy Massey, ext. 6835)**

**WHEREAS**, certain underlying landowners have requested that the South Florida Water Management District (“District”) release certain canal, mineral and road reservations, and issue a non-use commitment;

**WHEREAS**, the District is empowered to grant such releases pursuant to Section 373.096, Florida Statutes;

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

**Section 1.** The Governing Board of the South Florida Water Management District hereby approves the release of District canal, mineral and road reservations, and issuance of a non-use commitment, as described in Exhibit “A”, attached hereto and made a part hereof.

**Section 2.** This Resolution shall take effect immediately upon adoption.

**PASSED** and **ADOPTED** this 12<sup>th</sup> day of September, 2013.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD  
By:

\_\_\_\_\_

Chairman

Attest:

Legal form approved:

By:

\_\_\_\_\_

District Clerk/Secretary

\_\_\_\_\_

Office of Counsel

Print name:

\_\_\_\_\_

**EXHIBIT "A"****RELEASE OF DISTRICT CANAL, MINERAL AND ROAD RESERVATIONS:**

File No.: 18552  
 Applicant: Vadim Brinzan and Svitlana Brinzan, husband and wife  
 Reserving Deeds: E-1579 (DB 703-216, 11/20/1944) and E-2547 (DB 707-439, 2/7/1945)  
 Acres: 0.47 acres, more or less  
 Legal Description: Lot 22, Block B-3, OAKS AT BOCA RATON PLAT ONE, PB 95-16, Section 31, Township 46 South, Range 42 East  
 Location: 9568 Grand Estates Way, Boca Raton, Palm Beach County

File No.: 18553  
 Applicant: Archdiocese of Miami, a Florida non-profit corporation  
 Reserving Deed: E-2228 (DB 470-322, 1/16/1945)  
 Acres: 1.0 acre, more or less  
 Legal Description: Portion of Section 18, Township 50 South, Range 41 East, NEWMAN'S SURVEY, PB 2-26(D), and the Hiatus between T50S-R40E and T50S-R41E  
 Location: 2350 SW 112th Avenue, Davie, Broward County

File No.: 18556  
 Applicant: Fidel Suarez  
 Reserving Deed: E-2653 (DB 2499-335, 3/7/1945)  
 Acres: 1.25 acres, more or less  
 Legal Description: Portion of Tract 52, FLORIDA FRUIT LAND'S SUBDIVISION NO. 1, PB 2-17, Section 13, Township 52 South, Range 39 East  
 Location: NW 159th Street, Miami, Miami-Dade County

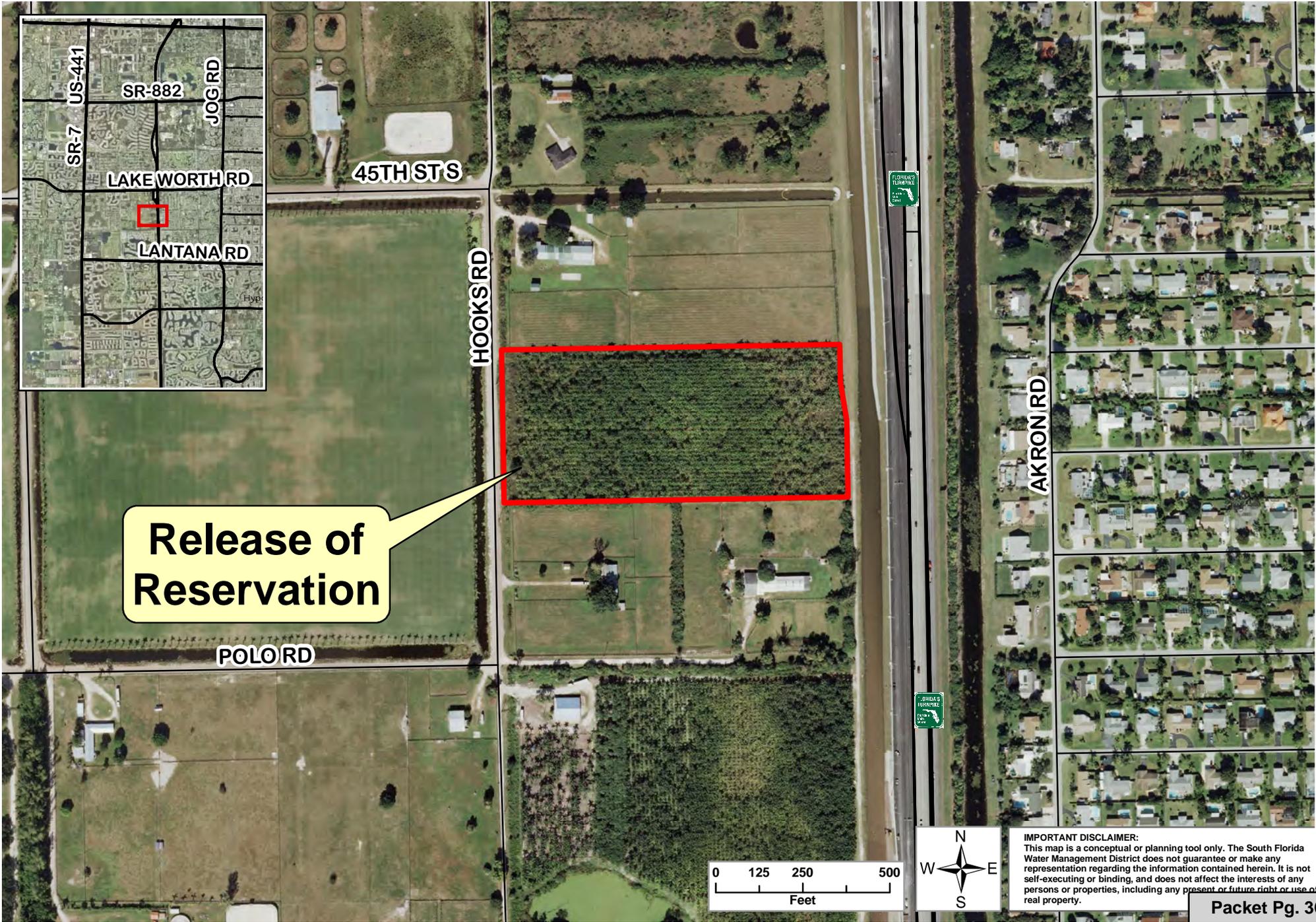
File Nos.: 18557 and 18558  
 Applicant: Palm Tree Farms, LLC, a Florida limited liability company  
 Reserving Deeds: E-5331 (DB 773-249, 7/5/1946), and T-1772 (DB 332-518, 8/15/1925)  
 Acres: 9.41 acres, more or less  
 Legal Description: Portion of Tracts 33, 34, 47 and 48, Block 28, THE PALM BEACH FARMS SO. PLAT NO. 3, PB 2-45, Section 29, Township 44 South, Range 42 East  
 Location: Hooks Road, Lake Worth, Palm Beach County

File No.: 18559  
 Applicant: G.L. Homes of Palm Beach Associates, Ltd., a Florida limited partnership  
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 Acres: 25.50 acres, more or less  
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 Location: Acme Dairy Road, Boynton Beach, Palm Beach County

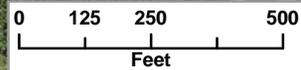
ISSUANCE OF NON-USE COMMITMENT:

File No.: NUC 1631  
Applicant: Palm Tree Farms, LLC, a Florida limited liability company  
Reserving Deed: E-5331 (DB 773-249, 7/5/1946)  
Acres: 9.41 acres, more or less  
Legal Description: Portion of Tracts 33, 34, 47 and 48, Block 28, THE PALM BEACH FARMS SO. PLAT NO. 3, PB 2-45, Section 29, Township 44 South, Range 42 East  
Location: Hooks Road, Lake Worth, Palm Beach County

# 18557, 18558, and NUC 1631 Palm Beach County

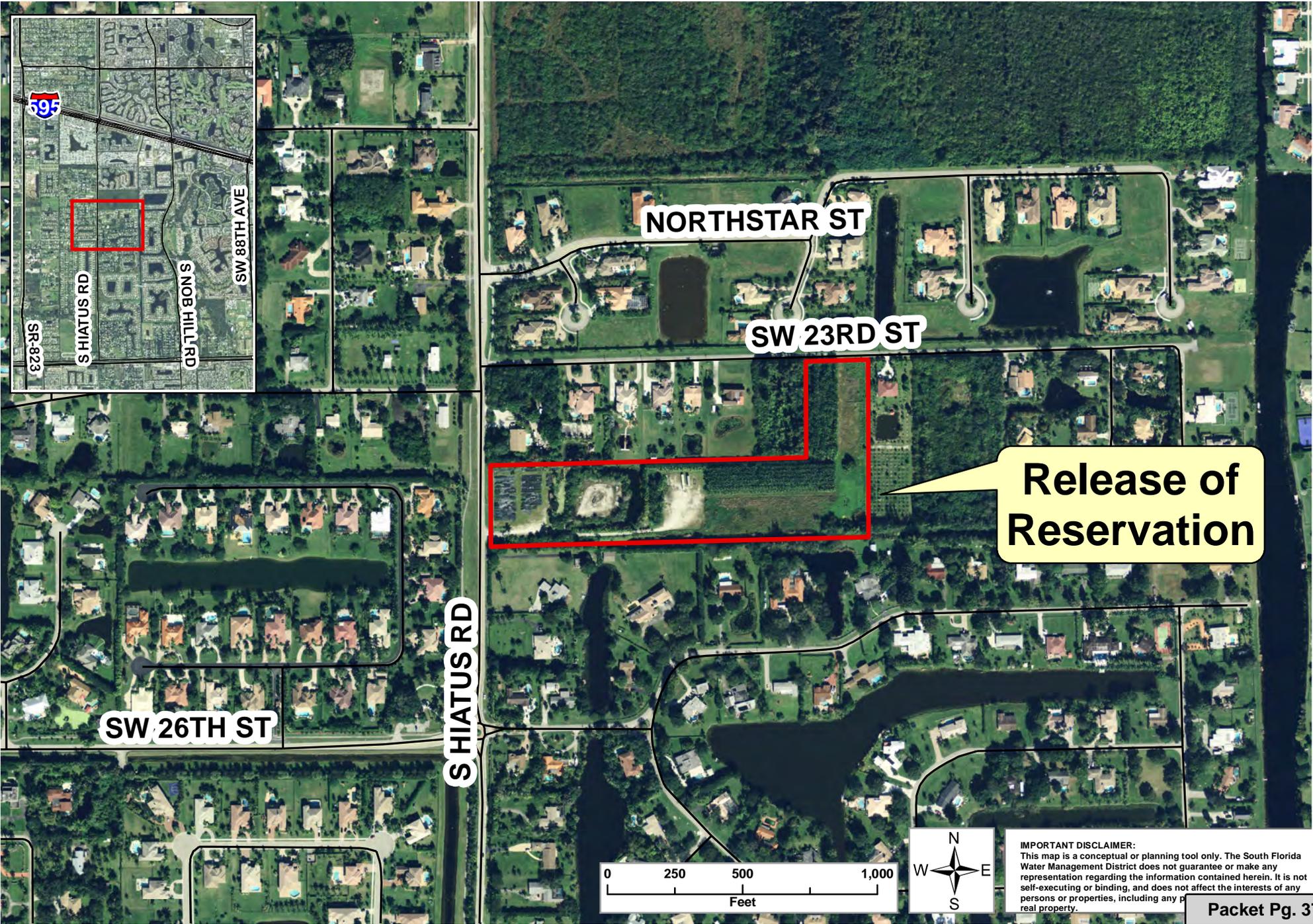


**Release of  
Reservation**

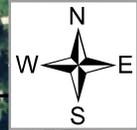
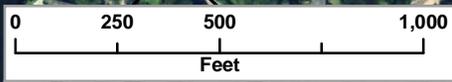


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This map is a conceptual or planning tool only. The South Florida Water Management District does not guarantee or make any representation regarding the information contained herein. It is not self-executing or binding, and does not affect the interests of any persons or properties, including any present or future right or use of real property.

# 18553 Broward County

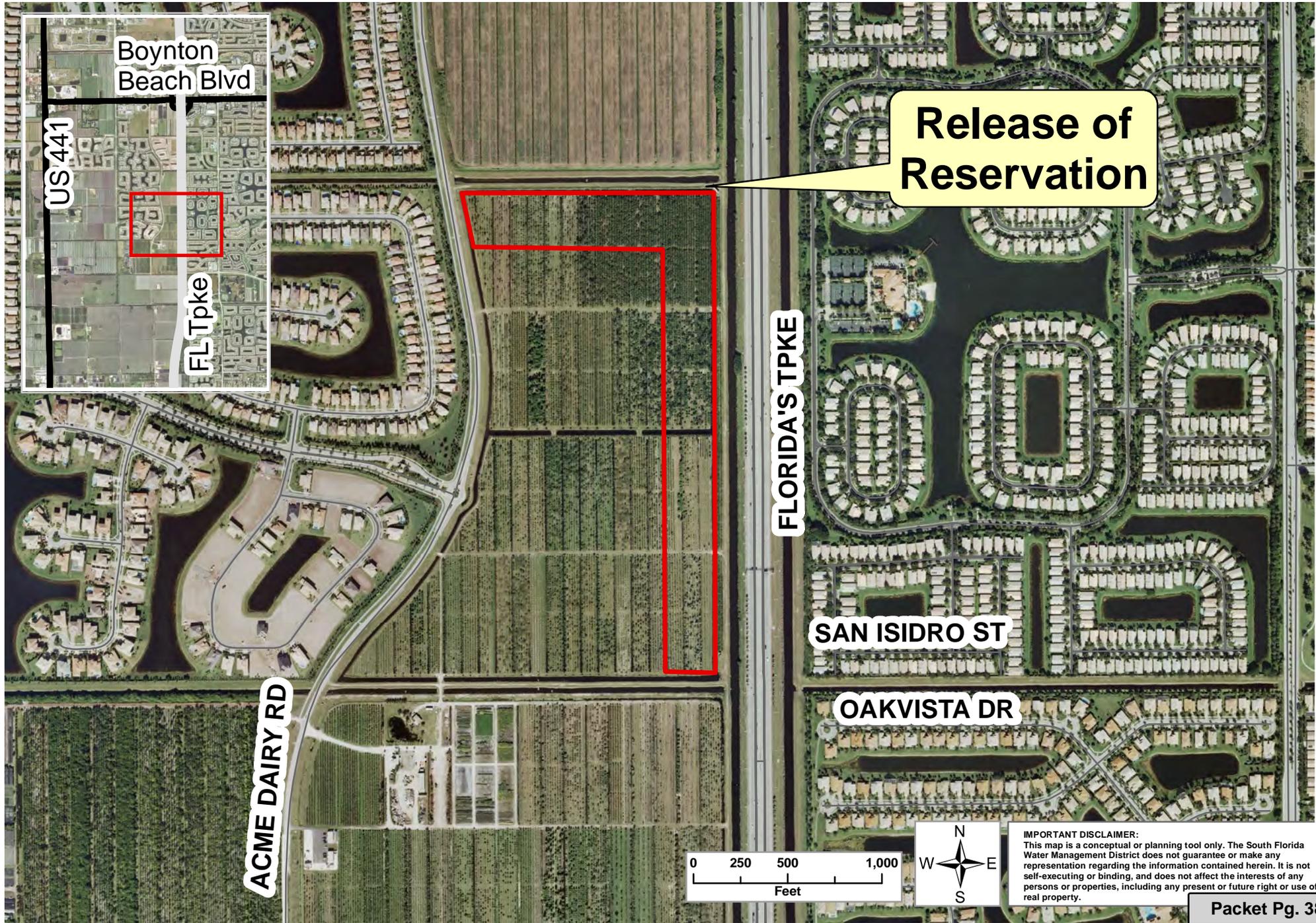


**Release of  
Reservation**



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# 18559 Palm Beach County



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Attachment: GB\_2013-08-28\_18559 (Resolution No. 2013 - 0901 : Approve the release of District canal,

# 18552 Palm Beach County



SR7

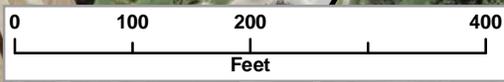
CLINT MOORE RD

Lyons

GRAND ESTATES WAY

ESTE LAGO DR

Release of Reservation



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Attachment: GB\_2013-08-30\_18552 (Resolution No. 2013 - 0901 : Approve the release of District canal,

# 18556 Miami-Dade County



**Release of  
Reservation**

**NW 159TH ST**

**NW 157TH ST**

**NW 122ND AVE**

**NW 117TH AVE**



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**MEMORANDUM**

**TO:** Governing Board Members

**FROM:** Sharon M. Trost, PG, AICP, Director, Regulatory Division

**DATE:** September 12, 2013

**SUBJECT:** Approve Interagency Agreement for permitting responsibilities for Lucky L Ranch Mitigation Bank

**Background**

Blue Water LLC (BWLLC) proposes to construct and operate a mitigation bank known as "Lucky L Ranch Mitigation Bank" (Project) which requires environmental resource permits, as outlined in Part IV of Section 373, Florida Statutes ("Fla. Stat."). The project is located within the jurisdictional boundaries of both the South Florida Water Management District (SFWMD) and St. Johns River Water Management District (SJRWMD).

SFWMD staff is currently reviewing ERP Application Number 130808-15 for the mitigation bank.

**Summary**

In order to streamline the review of the Environmental Resource Permitting (ERP) elements of the project review, SFWMD staff will review and take final agency action on the mitigation bank, portions of which in Osceola County are located within the SJRWMD.

**Recommendation**

Staff recommends Governing Board approval of the Interagency Agreement between SFWMD and SJRWMD for designation of responsibility for permitting under Part IV of Chapter 373, F.S. for the project known as "Lucky L Mitigation Bank".

**Staff Contact:** **Anita R. Bain, Director, Environmental Resource Permitting Division, (561) 682-6866**

**Susan Martin, Sr. Specialist Attorney, Office of Counsel (561) 682-6251**

## SOUTH FLORIDA WATER MANAGEMENT DISTRICT

### Resolution No. 2013 - 0902

**A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into an Interagency Agreement between the South Florida Water Management District and St. Johns River Water Management District for designation of regulatory responsibility for permitting under Part IV of Chapter 373, Florida Statutes, for the project known as Lucky L Ranch Mitigation Bank that crosses jurisdictional boundaries of both Water Management Districts; providing an effective date. (REG, Anita Bain, ext. 6866)**

**WHEREAS**, the Blue Water LLC proposes to construct and operate a mitigation bank known as “Lucky L Ranch Mitigation Bank ” (Project) which requires environmental resource permits, as outlined in Part IV of Section 373, Florida Statutes (“Fla. Stat.”); and

**WHEREAS**, the Project is located within the jurisdictional boundaries of both the South Florida Water Management District and St. Johns River Water Management District; and

**WHEREAS**, Section 373.046(6), Fla. Stat., authorizes a water management district to designate, through an interagency agreement, regulatory responsibility to another water management district over a project which crosses the jurisdictional boundaries of both districts; now therefore

**BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:**

**Section 1.** The Governing Board of the South Florida Water Management District hereby authorizes the execution of the Interagency Agreement with St. Johns River Water Management District, which is attached hereto and incorporated herein.

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED** and **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

SOUTH FLORIDA WATER MANAGEMENT  
DISTRICT, BY ITS GOVERNING BOARD  
By:

\_\_\_\_\_

Chairman

Attest:

Legal form approved:

By:

\_\_\_\_\_

District Clerk/Secretary

\_\_\_\_\_

Office of Counsel

Print name:

\_\_\_\_\_

**INTERAGENCY AGREEMENT BETWEEN  
SOUTH FLORIDA WATER MANAGEMENT DISTRICT AND THE  
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT  
FOR DESIGNATION OF REGULATORY RESPONSIBILITY  
FOR THE LUCKY L MITIGATION BANK PROJECT**

THIS INTERAGENCY AGREEMENT (“AGREEMENT”) by and between the SOUTH FLORIDA WATER MANAGEMENT DISTRICT, a special taxing district organized under Chapter 373, Florida Statutes, whose address is 3301 Gun Club Road, West Palm Beach, Florida 33406, hereinafter referred to as “SFWMD”, and ST. JOHNS RIVER WATER MANAGEMENT DISTRICT, a special taxing district organized under Chapter 373, Florida Statutes, whose address is 4049 Reid Street, Palatka, Florida 32177, hereinafter referred to as “SJRWMD is entered into two originals this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**WITNESSETH:**

WHEREAS, the applicant, Blue Water LLC, proposes to construct and operate a 1,317 acre mitigation bank known as the Lucky L Mitigation Bank located in the central region of Osceola County, east of Lake Kissimmee and north of Lake Marian (the proposed project); and

WHEREAS, in order to construct the proposed project, the applicant will need to apply for and receive certain authorizations under Part IV of Chapter 373, Florida Statutes; and

WHEREAS, the proposed project is located primarily within the jurisdictional boundaries of the SFWMD but is partially located within the jurisdictional boundaries of the SJRWMD; and

WHEREAS, when the geographic area of a project crosses water management district boundaries, subsection 373.046(6), Florida Statutes, authorizes the affected districts to designate, via an interagency agreement, a single affected district to implement in that area, under the rules of the designated district, all or a part of the applicable regulatory responsibilities of Part IV of Chapter 373, Florida Statutes; and

WHEREAS, because the majority of the project will be located within the jurisdictional boundaries of the SFWMD, both Districts desire to designate to SFWMD all regulatory responsibilities under Part IV of Chapter 373, F.S., for the Lucky L Mitigation Bank project.

**NOW THEREFORE**, SJRWMD and SFWMD, under the authority of Subsection 373.046(6), F.S., hereby agree as follows:

1. In order to facilitate a more coordinated and efficient review of the application, SJRWMD hereby designates to SFWMD all regulatory responsibilities for the Lucky L Mitigation Bank project under Part IV of Chapter 373, Florida Statutes, for those portions of the proposed project that lie within the jurisdictional boundaries of the SJRWMD.
2. SFWMD will review and process any required authorizations for the entire Lucky L Mitigation Bank including establishment of the Mitigation Bank Service Area.  
]
3. SFWMD will keep the mitigation bank ledger.
4. Modifications of any permits issued pursuant to Part IV of Chapter 373, Florida Statutes, for the proposed project, shall also be processed by the SFWMD.
5. This Agreement will commence upon execution by all parties and will remain in effect until all parties mutually agree in writing to terminate this Agreement.

**IN WITNESS WHEREOF**, each party, or lawful representative, has executed this AGREEMENT on the date set forth next to their signature below.

**SOUTH FLORIDA WATER  
MANAGEMENT DISTRICT**

Attest: \_\_\_\_\_

By: \_\_\_\_\_  
Daniel O’Keefe, Chair  
Governing Board

Date: \_\_\_\_\_

**ST. JOHNS RIVER WATER  
MANAGEMENT DISTRICT**

Attest: \_\_\_\_\_

By: \_\_\_\_\_  
Hans G. Tanzler III  
Executive Director

Date: \_\_\_\_\_

DRAFT 8/19/13

**40E-1.021 Definitions.**

When used in this Chapter, Chapters 40E-2, 40E-4, 40E-20, 40E-40, 40E-41, 40E-61, and 40E-400, F.A.C.:

(1) “through (5) No Change.

(6) “Posting” means placing notice on the District’s website.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 668.003, 668.004, 668.50 FS. History–New 10-1-06, Amended 10-23-12, \_\_\_\_\_.*

**40E-1.6058 Posting, Publication and Requests for Notification of Permit Applications or Notices of Intent.**

(2) Posting and Publication of Notice of Receipt of Permit Application or Notice of Intent.

(a) Within 45 days of receipt of an individual or general permit application, the District shall post notice thereof on the District’s website and shall cause notice to be published of receipt of applications for individual water use permits, permits for construction or alteration of dams, impoundments, reservoirs, and appurtenant works, under part IV of this chapter; and permits under s. 403.812, Fla. Stat. thereof in a newspaper having general circulation as defined in Chapter 50, F.S., in the county in which the activity will occur.

*Rulemaking Authority 373.113, 668.003, 668.004, 668.50, FS. Law Implemented 120.53(1), 120.60(3), 668.003, 668.004, 668.50, FS. History–New 10-3-95, Amended 7-2-98, 6-12-00, 10-1-06, 12-15-11.*

## Public Use Rule

### 40E-7.511 Policy and Purpose.

(1) The purpose of Rules 40E-7.511 through 40E-7.539, F.A.C., hereinafter “this Part,” ~~the rule in this part~~ is to further implement the legislative intent expressed in Sections 259.101, 373.016(3)(i)(2)(h), 373.1391, 373.1395, and 373.59(11), F.S., ~~and Chapter 140, Article IV, South Florida Water Management District Policies and Procedures Code,~~ and therefore, to establish regulations governing public access to certain District lands and use of said lands for nature based recreation and allied purposes. It is the intent of these regulations to protect the water resources, native plant communities, fish and wildlife populations, and related natural features of these lands together with any historic and cultural improvements thereon.

(2) Pursuant to Section 373.1395, F.S., ~~the Nothing contained in these regulations shall be construed as an assurance by the District~~ provides no assurance that said District lands are safe for any purpose, that the District has a duty of care toward any person entering said lands or that the District is responsible for any injuries or damage to persons or property caused by an act or omission of any person who enters said District lands, including invitees, licensees, contractors, trespassers or other persons.

*Specific Authority 279.101, 373.044, 373.113, 373.171 FS. Law Implemented 259.101, 373.016, 373.056, 373.103, 373.1391, 373.1395, 373.59 FS. History—New 5-24-94, Amended 1-5-03, 7-12-06.*

### 40E-7.520 Scope and Applicability.

(1) The general regulations contained herein are broad in scope and applicable to all District lands.

(2) The regulations are applicable to all persons entering upon, using, or visiting said District lands.

(3) A copy of the regulations contained herein may be posted at entry points, activity areas, and recreation sites equipped with bulletin boards or otherwise made reasonably available to the public.

(4) Consistent with the environmental sensitivity of these areas and the purposes for which the lands were acquired, and all rights, privileges, and protections afforded by the provisions of Section 373.1395, F.S., all District lands are hereby deemed open and available to the public for outdoor recreational purposes and access unless otherwise limited, restricted, or prohibited by special provision in this rule. Nothing in this rule prevents shall prevent other federal, state, or local agencies, including but not limited to those with management contracts with the District, from requiring compliance with their own rules, permits, regulations, ordinances, or laws to the fullest extent of their lawful authority.

(5) Any signage, prohibiting access to or, use of District lands shall only apply to the property or area set forth in or delineated by such signage and a presumption shall exist that all other portions of the Management Areas, Stormwater Treatment Areas, ~~and Impoundment Areas,~~ Rights of Way, and vacant undesignated lands where public access or use is not specifically prohibited are open and available for outdoor recreational purposes unless otherwise limited, restricted or prohibited by the Governing Board. This provision shall not be construed to impede enforcement of trespass statutes including but not limited to Chapter 810, F.S.

(6) When the District authorizes another government entity to jointly manage public recreation on District lands, this Part ~~Chapter 40E 7, Part V, F.A.C.,~~ is supplemental to the laws, statutes,

ordinances, and rules of the other government entity. When in conflict with this Part, the laws, statutes, ordinances, and rules of the other government entity supersede this Part, unless otherwise inconsistent with Chapter 373, F.S. ~~governmental entities where cooperative agreements for management of certain public uses of district lands have been approved by the Governing Board.~~

(7) The following District lands are not governed under this Part: ~~exempt from the provisions of Chapter 40E-7, Part V, F.A.C:~~

(a) District office buildings, service centers, field stations, pump stations, ~~water control structures~~ and other facilities.

(b) District lands that are under a land management lease or agreement with city, county, state, federal agencies, or private entities to assume total management responsibility, including without limitations Water Conservation Areas 1, 2 and 3.

(c) District lands that are commercially leased lands will not be governed by these rules unless the lease specifically permits public access.

(d) District lands on Tribal Reservations.

(8) Public Use Activities that are authorized by this Part are not authorized on District lands where the District has less than fee interest and where the underlying fee owner has legally restricted or prohibited public access.

*Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.056, 373.1391, 373.1395, 373.1401, 373.59 FS. History—New 5-24-94, Amended 11-12-95, 1-7-97, 11-13-97, 1-1-99, 1-5-03, 7-12-06.*

#### **40E-7.521 Definitions.**

When used in this Ppart:

(1) “Activity area” means a zone within a management area designated for specific recreational activities.

(2) “Access point” means a designated location or boundary for public access to ~~a~~District lands.

(3) “Allied purposes” means other related outdoor activities including, but not limited to, frogging, photography, painting, environmental education, and nature study.

(4) “Camping” means to use a vehicle, tent or shelter, or to arrange bedding or both with the intent to stay overnight.

(5) “Designated road” means any road, path, lane, or trail officially designated by name or number for public vehicular travel.

(6) “District lands” means any real property owned, leased, managed, or controlled by ~~in which~~ the District and includes lands or water areas defined in this Part as ~~has an interest and is limited to~~ Management Areas, Stormwater Treatment Areas, Impoundment Areas, Rights of Way, and vacant undesignated lands.

(7) “Event Authorization” means a permission to access and use District lands in a manner not otherwise provided for or authorized in this Part.

~~(8) “Executive Director” means the person who is in the position of Executive Director for the South Florida Water Management District.~~

~~(8)(9) “Facility” or “Structure” means any object placed on District lands which is intended to be permanently attached to the land for which would be considered a fixture under Florida law.~~

~~(9)(10) “Group campsite” means a designated campsite for campers whose total is eight (8) or more people.~~

~~(10)(11) “Horse cart” means a non-motorized two- (2) wheeled vehicle pulled by a single saddle animal.~~

~~(11)(12) “Hunting device” means any mechanical device used to take or attempt to take wildlife or feral hogs.~~

~~(12)(13) “Idle Speed” means the minimum speed at which a motorized Vessel is able to move and maintain adequate steering control.~~

~~(13)(14) “Impoundment Area” means District lands designated by the Governing Board as an Impoundment Area.~~

~~(14)(15) “Leased” means the granting of either an exclusive or non-exclusive use of or interest in District lands for a specified period of time.~~

~~(15)(16) “Outdoor recreational purposes” means natural resource based outdoor recreational activities including, but not limited to, fishing, hunting, horseback riding, bicycling, swimming, camping, hiking, canoeing, boating, airboating, scuba diving, birding, sailing, jogging, picnicking, nature study, water skiing, geocaching, astronomy, and visiting historical, archaeological, scenic or scientific sites.~~

~~(16)(17) “Management Area” means District lands ~~any Save Our Rivers land, other District land, or combination thereof,~~ designated by the Governing Board as a Management Area. ~~Such lands are managed as single and distinct units for the purpose of restoring, preserving, and protecting the water and related environmental resources of said area, including regulating the public uses thereon.~~~~

~~(17)(18) “Management Unit” means a portion of any Save Our Rivers land ~~or other District lands~~ within a management area that requires a specific public use regulation due to legal, cultural or environmental factors uniquely affecting the specific unit of land, but which is not applicable to the entire management area.~~

~~(18)(19) “Natural Resources” mean water, soils, flora, and fauna.~~

~~(19) “This Part” means Rules 40E-7.511 through 40E-7.539, F.A.C.~~

(20) “Personal watercraft” means a Vessel less than ~~then~~ 16 feet in length which uses an inboard motor powering a water jet pump as its primary source of motorized power and which is designed to be operated by a person sitting, standing, or kneeling on the Vessel, rather than in the conventional

manner of sitting or standing inside the Vvessel.

(21) “Primitive Camping” means no amenities are provided.

(22) “Recreation site” means an improved or unimproved site established to facilitate public use of a designated Management Area, Stormwater Treatment Area, Impoundment Area, Right of Way or vacant undesignated land.

(23) “Recreational trail” means saddle animal riding, hiking, canoeing, bicycling, or jogging trails for use by the public.

(24) “Right of Way” or “Rights of Way,” for purposes of this Rule, means those lands the Right of Way acquired by the District in fee, easement, or other type of grant, for the purpose of construction, operation, and maintenance of the canals and levees adopted as Works of the District adopted pursuant to Section 373.086, F.S., including, but not limited to, These Right of Way include the canals, levees, water control structures, spoil areas, and access roads, excluding Stormwater Treatment Areas (STAs), maintenance berms and spoil mounds located thereon.

(25) “Saddle animal” means any animal used to transport a person or property.

~~(26) “Service animal” means an animal such as a guide dog, signal dog or other animal individually trained to provide assistance to an individual with a disability.~~

~~(26)~~(27) “Special Use License” means a type of license granted by the District to allow access to and use of certain District lands and facilities as set forth in this Part.

~~(27)~~(28) “Stormwater Treatment Area” means District lands designated by the Governing Board as a Stormwater Treatment Area.

~~(28)~~(29) “Vacant undesignated land” means any land owned by the District that is not designated as a Management Area, Stormwater Treatment Area, Impoundment Area, or Rights of Way ~~which land is greater than ten (10) acres and has legal and practical public access.~~

~~(29)~~(30) “Vessel” is synonymous with a boat as referenced in s. 1(b), Art. VII of the Florida State Constitution and includes every description of watercraft, barge, and air boat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

*Rulemaking Authority 373.019, 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.056, 373.069, 373.0693, 373.073, 373.079, 373.083, 373.103, 373.1391, 373.59 FS. History—New 5-24-94, Amended 11-13-97, 1-1-99, 1-5-03, 7-12-06, 8-28-12.*

#### **40E-7.523 Access to District Lands; Closures.**

(1) When designated access points are indicated, entry onto and exiting from Management Areas, Stormwater Treatment Areas, and Impoundment Areas by the general public is only authorized at those designated access points.

(2) Entry onto and exiting from Right of Way may be at any legal public access point.

(3) ~~Under District lands or areas within District lands shall be closed to public use under the~~

following conditions, specific activities will be prohibited or District lands will be closed:

(a) When necessary during emergency conditions such as floods, severe weather events, or wildfire for public safety and the protection of natural resources. Such closures shall require the approval of the Executive Director ~~and concurrence of the Governing Board. In no event shall such closures exceed forty five (45) days duration absent reconsideration and approval by the Governing Board.~~

(b) When necessary, ~~in the judgment of the Executive Director or the Governing Board,~~ based upon available information at the time, on a temporary, seasonal or permanent basis to protect natural, historic or archaeological resources. ~~Such closures, to the extent they exceed forty five (45) days, shall require approval by the Governing Board.~~

(c) During certain days, hours or periods of time, when such closure is necessary to implement land management practices such as prescribed burning, vegetation spraying, construction, operations, maintenance, research studies, data collection, resource protection, or as a condition of a contract or permit.

(d) Upon the designation by the Governing Board pursuant to Section 373.6055, F.S., that certain District lands or facilities are “critical infrastructure,” as designated by the Regional Domestic Security Task Force pursuant to applicable law, whereupon such lands or facilities shall be immediately deemed closed for public use without further action required by the Governing Board.

~~(e) Specific uses permitted on District lands may be restricted to certain areas within those lands.~~

(4) Closures of District lands ~~Regulated closures under subsection 40E-7.523(3), F.A.C., temporary, seasonal, or permanent closures of District lands or areas within District lands will be posted at authorized points of entry or at an established boundary within said areas.~~

(5) The use or occupancy of existing buildings, structures, and related improvements is prohibited unless designated as a public use facility.

(6) Entry into and exiting from Management Areas and Rights of Way from Vessels~~vessel~~ is allowed when these lands are open for public access.

*Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.119, 373.1391, 373.59 FS. History—New 5-24-94, Amended 1-1-99, 1-1-01, 7-12-06.*

#### **40E-7.525 Use of Vehicles, Vessels, and Aircraft; Navigational Restrictions.**

(1) The operation of licensed and unlicensed vehicles, including swamp buggies, tracked vehicles, off-road or off-highway all-terrain vehicles, motorcycles, golf carts, or any other type of unlicensed motorized vehicle, on District lands is prohibited except: ~~on District lands is prohibited with the following exception: District lands are open to licensed vehicles on designated named and numbered roads only unless otherwise authorized.~~

(a) The use of licensed vehicles is authorized on designated roads open to the public;

(b) The use of vehicles is authorized where the District has affirmatively opened a roadway or parking area for a specified public use; or

(c) The use of vehicles is authorized where authorized by a Special Use License or Event Authorization.

(2) Any person who drives a vehicle on District lands shall drive in a careful and prudent manner, having regard for the width, grade, curves, corners, traffic and all other attendant circumstances, so as not to endanger the life, limb or property of any person.

(3) Motorized vehicle operators shall comply with posted speed limits on District lands and roads. If no speed limit is posted, the speed limit is 20 mph. Speed limits are not applicable to airboats, except when ~~the latter are~~ operated on roads on District lands.

(4) ~~Parking or operating~~ a motor vehicle, or trailer, in an unauthorized location or in a manner blocking roads, levees, maintenance berms, gates, or water control structures is prohibited ~~except where the District has affirmatively opened a roadway or a parking area for such use.~~

(5) Servicing or maintaining vehicles and equipment is prohibited except when in conjunction with authorized recreational activities and allied purposes.

~~(6) The operation of unlicensed swamp buggies, tracked vehicles, off road or off highway all-terrain vehicles, motorcycles, off road motorcycles or motocross motorcycles, or any other type of motorized vehicle on District lands is prohibited unless otherwise approved by an Event Authorization.~~

~~(6)(7)~~ Any restrictions to navigation established pursuant to state or federal law, applicable to District lands, ~~are shall be~~ specified in Rules 40E-7.538, 40E-7.5381, 40E-7.5382, 40E-7.5383 and 40E-7.5384, F.A.C., and ~~reasonably identified by posted signage. in the field by appropriate signs.~~

~~(7)(8)~~ No person shall enter or exit District lands from a Vvessel or airboat when public access to such land is closed.

~~(8)(9)~~ No person shall launch an airboat or motorized Vvessel except at designated boat launch facilities. Ramps constructed pursuant to Chapter 40E-6, F.A.C., ~~are shall be~~ deemed to be designated boat launch facilities.

~~(9)(10)~~ No person shall operate an airboat or Vvessel beyond posted signage. ~~District signs.~~

~~(10)(11)~~ The takeoff ~~take off~~ or landing of either motorized or non-motorized aircraft, including airplanes, helicopters, ultra lights, gliders and hang gliders, is prohibited except in an emergency or for official business.

~~(11)(12)~~ The takeoff ~~take off~~ or landing of model aircraft is prohibited unless ~~otherwise specified in Rules 40E-7.538, 40E-7.5381, 40E-7.5382, 40E-7.5383 and 40E-7.5384, F.A.C., or approved by an Event Authorization.~~

*Specific Authority 373.044, 373.113 FS. Law Implemented 316.192, 316.1925, 316.655, 373.016, 373.1391, 373.59 FS. History—New 5-24-94, Amended 1-5-03, 7-12-06.*

#### **40E-7.526 Equestrian Activities; Use of Saddle Animals.**

(1) Equestrian activities are allowed ~~on vacant undesignated lands and on~~ Rights of Way on ~~existing~~ canal maintenance berms and levee tops. On all other District lands, equestrian activities are

allowed where identified by posted signage on trails, areas, on-designated roads, or equestrian campgrounds. ~~trails and established roads where permitted by signs.~~ District lands ~~where requiring a Special Use License is required to conduct for~~ equestrian activities are identified in Rules ~~40E-7.538, 40E-7.5381, 40E-7.5382, 40E-7.5383 and 40E-7.5384, F.A.C.~~ by posted signage.

(2) Users of saddle animals on District owned land must possess proof of negative Coggins test on their person, as required by Chapter 5C-18, F.A.C.

(3) Equestrian activities are prohibited ~~not permitted~~ in wetland areas.

(4) The use of a horse cart as defined by subsection 40E-7.521(1012), F.A.C., is authorized ~~permitted~~ on Rights of Way on existing canal maintenance berms and levee tops and on. ~~On all other District lands as identified by posted signage on trails, areas, designated roads, or equestrian campgrounds,~~ horse carts are ~~prohibited except as authorized in Rules 40E-7.538, 40E-7.5381, 40E-7.5382, 40E-7.5383 and 40E-7.5384, F.A.C.~~

*Specific Authority 373.044, 373.113 FS. Law Implemented 316.192, 316.1925, 316.655, 373.016, 373.1391, 373.59 FS. History—New 5-24-94, Amended 1-5-03, 7-12-06.*

#### **40E-7.527 Hunting.**

(1) Consistent with applicable provisions of local, state, and federal law, concerning hunting, ~~or the possession and use of firearms or other types of hunting devices,~~ such as the rules of the Florida Fish and Wildlife Conservation Commission and the United States Department of Interior, Fish and Wildlife Service, hunting, trapping, and the releasing of free-running hunting dogs are prohibited on District lands unless the land is opened as a public hunting area and these uses are authorized in the specific public hunting area regulations.

(2) Public hunting on District lands is regulated, administered and enforced by the Florida Fish and Wildlife Conservation Commission, in cooperation with the District. A ~~If a~~ public hunting area, ~~established is permitted on District lands will, it shall~~ be posted as prescribed by Chapter 810, F.S. ~~Management Areas currently established as public hunt areas are noticed in Rules 40E-7.538, 40E-7.5381, 40E-7.5382, 40E-7.5383 and 40E-7.5384, F.A.C.~~

(3) Public hunting areas are ~~shall only be~~ established on District lands with approval of the Governing Board, except that Governing Board approval is not required to authorize public hunting on District lands less than 100 acres in size and adjacent to other District lands with established hunting areas. ~~Agreements between the District and the Florida Fish and Wildlife Conservation Commission or the United States Fish and Wildlife Service are considered to be authorizations to remove designated game species.~~

(4) Hunting is prohibited ~~No person shall hunt~~ except during regulated hunting seasons established and managed by the Florida Fish and Wildlife Conservation Commission.

(5) Erecting or maintaining tree stands on District lands more than 10 days before or more than 10 days after any authorized hunting season is prohibited.

(6) Placing, exposing or distributing any grain or other food for wildlife is prohibited.

(7) Hunting from improved roads is prohibited.

(8) Hunting in areas posted as closed to hunting safety zones is prohibited.

~~(9) Hunting beyond posted signs is prohibited.~~

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.1391, 373.1401, 373.59, 790, 810.09 FS. History—New 5-24-94, Amended 1-1-01, 1-5-03, 7-12-06, 8-28-12.*

#### **40E-7.528 Bicycling.**

Bicycling is allowed on ~~vacant undesignated lands and on Rights of Way~~ on existing canal maintenance berms and levee tops. On all other District lands, bicycling is allowed except as restricted by posted signage on designated trails and established roads except where restricted by signs. ~~Lands requiring a Specific Use License for bicycling are identified in Rules 40E-7.538, 40E-7.5381, 40E-7.5382, 40E-7.5383 and 40E-7.5384, F.A.C.~~

*Specific Authority 373.044, 373.133 FS. Law Implemented 373.016, 373.1391, 373.1401, 373.59, 790, 810.09 FS. History—New 7-12-06.*

#### **40E-7.529 Overnight Camping.**

(1) Management Areas:

(a) Camping and the use of camping amenities are authorized only within designaged campsites as identified by posted signage. ~~Overnight, primitive camping on a first come, first serve basis is permitted only at designated campsites and shall require a Special Use License as specified in Rule 40E-7.538, F.A.C.~~

~~(b) Designated campsites and amenities within specific Management Areas shall be reasonably identified in the field by appropriate signs or markers.~~

~~(b)(e)~~ (e) Overnight camping or the presence of camping equipment is shall be limited to eight (8) five (5) consecutive days, or 30 total days per year on per District lands where camping is authorized, unless authorized by Special Use License.

(c) A Special Use License is required:

1. in certain camping areas identified by posted signage; and

2. for group campsites in Management Areas.

(d) Camping is prohibited without Use of group campsites in Management Areas requires a Special Use License where a Special Use License is required as posted by signage.

(2) Overnight camping within Stormwater Treatment Areas, Impoundment Areas, and Rights of Way is prohibited, except that overnight Primitive Camping, or the presence of camping equipment on the Florida National Scenic Trail is authorized for one night only per site and when in possession of a Special Use License.

~~(a) Overnight, primitive camping is permitted only along the Florida National Scenic Trail when in possession of a Special Use License.~~

~~(b) Overnight camping or the presence of camping equipment shall be limited to one (1) night unless authorized by a Special Use License.~~

(3) Camping within vacant undesignated lands is prohibited unless authorized by an Event Authorization.

~~(4)(3) No person shall install, erect, or maintain any unauthorized camp, building, structure, shelter, residence or sign.~~

(5) Between the hours of 11:00 p.m. and 7:00 a.m., loud music, barking dogs, or any other activities causing excessive noise are prohibited in camping areas. Generator use in camping areas is allowed except as restricted by posted signage.

(6) Pets must be leashed and under control within camping areas.

(7) Within camping areas, pet and horse waste must be disposed of properly. Horse manure must be disposed in designated manure disposal areas if provided.

*Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.1391, 373.59 FS. History—New 5-24-94, Amended 11-13-97, 1-1-99, 1-5-03, 7-12-06.*

#### **40E-7.530 Trapping.**

Trapping is prohibited on all District lands except where authorized by an Event Authorization, permit, or agreement ~~which shall be limited to scientific study or removal of nuisance species. Trapping on District land is regulated, administered and enforced by the Florida Fish and Wildlife Conservation Commission.~~

*Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.1391, 373.59 FS. History—New 7-12-06.*

#### **40E-7.532 Operating Hours.**

District lands ~~will shall~~ be open to public use twenty-four (24) hours a day, seven (7) days a week, or during the hours and days designated for specific areas identified by posted signage, consistent with Rules 40E-7.5382, 40E-7.5383, and 40E-7.5384, F.A.C., except during authorized closures as set forth in subsection 40E-7.523(3), F.A.C., ~~above or unless otherwise specified in Rules 40E-7.538, 40E-7.5381, 40E-7.5382, 40E-7.5383 and 40E-7.5384, F.A.C.~~

*Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.119, 373.1391, 373.59 FS. History—New 5-24-94, Amended 7-12-06.*

#### **40E-7.534 Special Use Licenses.**

(1) In order to maximize opportunities for public recreation on District lands and provide public access where it might otherwise be prohibited, the District issues Special Use Licenses. A Special Use License, issued by the District's Land Stewardship Division or its authorized agents or contractors at no cost to the public, shall be is required to engage in the following in select activities on District

~~lands identified by the Governing Board, when determined necessary to protect the natural resources of said areas, prevent overuse of facilities, or to avoid conflicts between users. District lands with Special Use License requirements, including the daily quota for Special Use Licenses for each District land, if any, shall be specified in Rules 40E-7.538, 40E-7.5381, 40E-7.5382, 40E-7.5383 and 40E-7.5384, F.A.C.~~

- (a) to obtain vehicular access to District lands through locked gates as identified by posted signage;
- (b) to reserve campsites in certain areas with limited capacity as identified by posted signage;
- (c) for equestrian use in certain areas with limited capacity as identified by posted signage; or
- (d) for persons with a mobility impairment requesting to use a vehicle in areas prohibited under Rule 40E-7.525, F.A.C., or requesting other mobility-impaired accommodations.

(2) The District will issue Special Use Licenses on a first-come, first-served basis when the area and facilities can accommodate the requested use and such use is consistent with the protection of natural resources.

~~(3)(2) A Special Use Application and License holder and all participants must comply with all conditions of the shall be submitted to the District on Form #0830. Upon receipt of a properly completed Special Use Application and License, Form #0830, the District's Land Stewardship Division shall issue Special Use Licenses on a first come first served basis until the daily quota established by the District for that activity is reached.~~

~~(3) Special Use Licenses shall only be valid for the dates shown on the License and must be in the possession of the applicant while on the identified District land. If the applicant is a group, then the license must be in the possession of the designated group leader.~~

(4) Special Use License holders must retain the license in their possession at all times when using the area for which the license applies. If the Licensee is a group, the license must be in the possession of the group leader.

(5) If the Licensee is using a vehicle, the license reference number must be displayed on the driver's side of the dashboard of the Licensee's and any participant's vehicle.

~~(6)(4) Persons requesting wishing to obtain a Special Use License, when required by the District, may apply in person, call, or write to request a copy of Special Use Application and License Form #0830 from the District at the following:~~

- ~~(a) Land Resources Bureau Stewardship Division  
South Florida Water Management District  
Post Office Box 24680 (mailing)  
Building B-1 3301 Gun Club Road (in person)  
West Palm Beach, FL 33416-4680  
Telephone: (561)686-8800 or Florida WATS 1(800)432-2045, or~~

(b) The District's website: [www.sfwmd.gov/recreation](http://www.sfwmd.gov/recreation) From the applicable service center as set forth in the special provisions for the specific District land, or

(e) From the District's website: [www.sfwmd.gov/org/elm/lsd/public.html](http://www.sfwmd.gov/org/elm/lsd/public.html).

~~(5) In the event the daily quota has been reached, the District shall notify the Special Use License applicant that the District intends to deny the application, and the applicant may request further consideration by the Governing Board.~~

~~(7)(6) The District may Executive Director, or his designee, shall revoke a Special Use License if the licensee violates any provisions of this Part rule or the Special Use License.~~

~~(7) Special Use Licenses shall be issued in accordance with the provisions of this section, for the purpose of providing mobility impaired persons the opportunity to use motorized vehicles to access portions of the District lands not otherwise open to motorized vehicles. Licenses for this purpose will be issued upon request, including proof of mobility impairment, as long as the requested use will not adversely impact the resource, impair the safety and welfare of the user, interfere with the reasonable use by others, or result in substantial financial obligations by the District to accommodate the user. Mobility impaired hunting permits are issued by the Florida Fish and Wildlife Conservation Commission.~~

~~(8) Any person prohibited from entering onto District land by a court order shall not be eligible to apply for a Special Use License, during the prohibition period.~~

*Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.1391, 373.59 FS. History—New 5-24-94, Amended 1-1-99, 1-1-01, 1-5-03, 7-12-06.*

#### **40E-7.535 Event Authorization.**

~~(1) In order to provide opportunities for group activities on A person or entity shall apply for an Event Authorization, at no cost to the applicant, to use District lands in a manner not otherwise provided for or authorized in this Part, the District issues Event Authorizations part.~~

~~(2) To receive an Event Authorization, a person or entity the applicant must provide reasonable assurance that:~~

~~(a) The requested use will not involve the permanent alteration of any District lands or the permanent placement of any structure on District lands;~~

~~(b) The requested use is resource-based;~~

~~(c) The requested use is consistent with the management plan for the District lands involved;~~

~~(d) The requested use will not harm the natural environmental resources of the District lands;~~

~~(e) The requested use will not cause unreasonable expense to the District;~~

~~(f) The requested use will not create a substantial risk of liability that is not mitigated pursuant to subsection (4)(b) to the District;~~

~~(g) The requested use will not harm any dam, impoundment, works, water control structure, road, or District-owned facilities or equipment;~~

(h) The requested use will not interfere with District water management, leased, or authorized uses of the land; and

(i) The requested use will not interfere with any other use allowed by this Ppart.

~~(3) The District shall impose upon any Event Authorizations issued pursuant to this Ppart will include such reasonable conditions as are necessary to assure that the use or activity authorized will meet the criteria set forth in this Ppart.~~

~~(4) The Governing Board delegates to the Executive Director or their Designee the authority to issue or revoke Event Authorizations pursuant to this part.~~

~~(4)(5) A person or entity may request ~~apply for~~ an Event Authorization according to the following procedure:~~

(a) Submit a written request to:

South Florida Water Management District  
Land Resources Bureau~~Stewardship Division~~  
P.O. Box 24680  
West Palm Beach, Florida 33416-4680

(b) If the requested use will create a substantial risk of liability to the District, the person or entity applicant must mitigate the substantial risk of liability by:

1. Providing proof of liability and property damage insurance naming the District as an insured in an amount sufficient and determined by the District to cover the cost of the potential liability; and
2. Providing waivers or releases of liability sufficient to eliminate the potential liability.

~~(c) If the requested use satisfies all of the criteria set forth in this section and is not otherwise inconsistent with District Policy, the Executive Director shall issue the Event Authorization.~~

~~(5)(6) A person or entity receiving an Event Authorization from the District must have the Event Authorization in their possession at all times while on District lands.~~

~~(6)(7) The District may revoke ~~In the event the holder of an Event Authorization if the holder violates its the terms or of the authorization, engages in an activity a use not authorized permitted by the authorization, or the authorized activity is no longer consistent with District policy, the Event Authorization shall be subject to revocation by the Executive Director or designee.~~~~

(7) An Event Authorization holder and all participants must comply with all conditions of the Event Authorization.

*Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.1391, 373.59 FS. History—New 7-12-06.*

#### 40E-7.537 General Prohibitions.

The following ~~are shall be~~ prohibited on all District lands unless otherwise specified:

- (1) Discharging firecrackers, rockets, or any other fireworks.
- (2) Destroying, defacing, or removing any natural resource or native plant, including the felling of dead trees.
- (3) Destroying, injuring, defacing, vandalizing, removing, or disturbing in any manner any public building, tower, recorder, gage, walkway, platform, well, sign, gate, fence, equipment, monument, marker, or other structure or improvement.
- (4) Destroying or damaging scientific study plots, photo points, transect lines, benchmarks or survey monuments, or survey markers.
- (5) Trespassing on, operating, vandalizing, or interfering with the operation of any water control structures.
- (6) Discharging or disposing of oil, gasoline, paint, thinner, pesticides, fertilizer, explosives or other pollutants, chemicals and wastes.
- (7) Cleaning or disposing of fish, game, animals, or food at: potable watering stations, ~~in~~-rest rooms, ~~at~~-boat ramps, camping areas, levees, or trailheads; or washing clothing or articles, or washing, cleaning or servicing of vehicles; except where facilities for such activities have been provided by the District or other management entity.
- (8) Using refuse containers or other refuse facilities to dispose for disposal of household or commercial garbage ~~or trash~~.
- (9) Building or maintaining a fire in a place other than a grill, fireplace, or fire ring provided by the District or other authorized management agency for such purpose. This prohibition does not apply to portable camp stoves or grills provided by the user.
- (10) Commercial activity by a ~~for-profit~~ person or entity without a written contractual agreement with the District.
- (11) Conducting an activity on District lands that is prohibited, restricted, or regulated by posted signage. ~~where prohibited by posted signs where such activity is regulated by the posting of signs under Chapter 40E-7, Part V, F.A.C.~~
- (12) Installing or maintaining unauthorized signs.
- (13) Pets that are not under physical restraint. ~~with the exception of service animals and leashed animals on Management Areas.~~
- (14) The abandonment of personal property.
- (15) Using a horse trough for anything other than watering horses.

*Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.1391, 373.59 FS. History—New 5-24-94, Amended 1-1-99, 1-5-03, 7-12-06.*

#### **40E-7.538 Special Provisions for Management Areas of the District Open to the Public.**

~~(1) Rough Island North and South and Johnson Island Units.~~

~~(a) Seasonal public access to the Rough Island North limited access area is permitted from August 16 to February 14 only between the hours of 6:00 a.m. to 9:00 p.m., via the airboat gate. Users of this area must be in possession of a Special Use License.~~

~~(b) A quota of fifty (50) annual Special Use Licenses has been established for this area. Annual Special Use Licenses are available on June 1st of each year from the District's Upper Lakes Region land manager at the Orlando Service Center.~~

~~(c) Hunting is permitted in the Rough Island North limited access area only on those dates during seasonal public access period referenced in paragraph 40E-7.538(1)(a), F.A.C., which coincide with hunting seasons established by the Florida Fish and Wildlife Conservation Commission.~~

~~(d) Any person who has been issued an annual Special Use License for the limited use area shall have the annual Special Use License in possession while in the limited use area.~~

~~(e) Special Use License holders shall not operate any vessel not registered with the District in the limited access area without first notifying the District.~~

~~(f) The number of hunters that can accompany an annual Special Use License holder to hunt in the limited access area is limited to three.~~

~~(g) The annual Special Use License may be transferred from one registered airboat or watercraft to another airboat or watercraft after notifying the Upper Lakes Region land manager at the Orlando Service Center. The Special Use License holder may not operate that vessel in the limited access area until after such notification has been made.~~

~~(h) Any person convicted of violating a federal, District, state or local fish and wildlife law, statute, rule or ordinance within the previous 3 years shall not be eligible for a Special Use License to enter the Rough Island North limited use area.~~

~~(2) Lake Marion Creek Management Area in Polk County. Camping is permitted only at designated campsites when in possession of a Special Use License.~~

~~(1)(3) Gardner-Cobb Marsh Management Unit in Osceola County; -~~

~~(a) Persons may only enter and exit the Management Unit management area from Lake Cypress, Lake Hatchineha, Lake Kissimmee, and Canal 36.~~

~~(b) Airboating is prohibited beyond the restricted area signs, on or across improved roadways or within hammock areas, except that airboats may cross the main grade at the designated crossing points.~~

~~(c) Hunting in Ike Hammock is prohibited.~~

~~(4) Lower Kissimmee River Management Area located in Polk, Osceola, Highlands, Glades, and Okeechobee Counties.~~

~~(a) Camping is permitted only at designated campsites when in the possession of a Special Use License.~~

~~(b) The use or possession of saddle animals is permitted when in the possession of a Special Use License.~~

~~(c) The use or possession of saddle animals and camping at designated campsites is permitted for both uses when in possession of a Special Use License permitting both uses.~~

~~(2)(5) DuPuis Management Area located in Martin and Palm Beach Counties;\_:~~

~~(a) The use or possession of saddle animals and horse carts is restricted to the equestrian center, designated equestrian trails, and named or numbered roads.~~

~~(b) The use of off road vehicles is restricted to the designated disabled hunt in accordance with Florida Fish and Wildlife Conservation Commission regulations.~~

~~(c) No dogs are allowed on DuPuis except as authorized by the Florida Fish and Wildlife Conservation Commission.~~

~~(a)(d) Camping at the family campsite is limited to:~~

~~1. Only tent camping or tent popup camping; and is allowed.~~

~~2. A maximum of 8 people and 2 vehicles are allowed per campsite.~~

~~3. Generators are not allowed.~~

~~(6) CREW Marsh Management Area located in Lee and Collier Counties.~~

~~(a) Persons may enter and exit the Management Area each day between sunrise and sunset from any established trailhead off State Road 850 (Corkscrew Road).~~

~~(b) Overnight camping is permitted at the designated primitive campsite when in the possession of a Special Use License (See Rule 40E-7.534, F.A.C.) or as authorized by Florida Fish and Wildlife Conservation Commission. A quota of twenty (20) persons per night has been established by the District for use of the designated campsites.~~

~~(7) Bird Rookery Swamp Management Area located in Collier County. Persons may enter the Management Area on foot at the west end of N.W. 43 Avenue, Collier County.~~

~~(8) Flint Pen Strand Management Area located in Lee County. Persons may enter and exit the Management Area on foot from Poormans Pass.~~

~~(9) Nicodemus Slough Management Area located in Glades County.~~

~~(a) Persons may enter the Management Area each day between sunrise and sunset; nighttime activities other than those specified in paragraph 40E-7.538(9)(c), F.A.C., below are prohibited.~~

(b) Overnight camping is prohibited.

~~(c) Airboating and frogging are permitted on the Management Area. Airboaters operating on the Management Area must be in possession of a Special Use License. A quota of five airboats per day has been established by the District. A copy of the Special Use License must be displayed in a readily visible location within the licensee's vehicle while parked on the Management Area.~~

~~(d) The use or possession of a saddle animal is prohibited.~~

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.1391, 373.59 FS. History—New 1-1-01, Amended 1-5-03, 7-12-06, 8-28-12.*

#### **40E-7.5381 Special Provisions for Rights of Way of the District.**

Unless authorized under Chapter 40E-6, F.A.C., the following, in addition to the other prohibitions and restrictions in this Part, shall be prohibited on all Right of Way of the District Rights of Way; which include rights of way, canals, levees, maintenance berms, and spoil mounds:

(1) Hunting.

~~(2) Discharging firecrackers, rockets, or any other fireworks.~~

~~(3) Operating a motor vehicle including licensed and registered motor vehicles as well as off highway and all terrain vehicles except where the District has affirmatively opened a roadway or a parking area for public use.~~

~~(4) Operating any all terrain vehicles or off highway vehicles, or amphibious vehicles.~~

~~(5) Parking vehicles or trailers in such a manner as to block access roads, levees, maintenance berms, gates or water control structures.~~

~~(2)(6) Anchoring or tying a Vessel, including personal vessel or watercraft, to a road, levee, maintenance berm, structure, fence, tree, post, sign, gauge, data recorder, weed barrier, or boat barrier.~~

~~(3)(7) Vessels being occupied or used as a temporary or permanent residence or business.~~

~~(4)(8) Operating or mooring a Vessel, including personal vessel or watercraft, in such a manner as to impede the District's ability to construct, operate and maintain its structures.~~

~~(5)(9) Pets that are not under physical restraint or, with the exception of service animals, leashed animals and animals otherwise under the effective control of the owner.~~

~~(10) Installing, erecting or maintaining a temporary or permanent place of residence including, but not limited to, a camp, trailer, or shelter. Overnight primitive camping along the Florida National Scenic Trail is permitted if camper possesses a Special Use License on their person.~~

~~(11) The abandonment of personal or commercial property.~~

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.1391, 373.59 FS. History—New 7-12-06, Amended 8-28-12.*

#### 40E-7.5382 Special Provisions for Vacant Undesignated District Lands Open to the Public.

(1) In addition to the other prohibitions and restrictions in this Part, the following are prohibited.~~The following shall be prohibited on vacant undesignated lands, as that term is defined in subsection 40E-7.521(30), F.A.C.~~

~~(1) Hunting is only authorized in those vacant undesignated lands which have been opened for public hunting as provided in Rule 40E-7.525, F.A.C., if any.~~

~~(2) Camping.~~

~~(a)(3) Motorized vessels.~~

~~(4) Pets with the exception of service animals, leashed animals, and animals otherwise under the effective control of the owner.~~

~~(b)(5) Public access between 1/2 hour after sunset to 1/2 hour before sunrise.~~

(2) Pets must be under physical restraint at all times.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.1391, 373.59 FS. History—New 7-12-06, Amended 8-28-12.*

#### 40E-7.5383 Special Provisions for Stormwater Treatment Areas (STAs~~STA's~~) of the District Open to the Public.

Persons may only enter and exit Stormwater Treatment Areas at designated public access points during the hours and days, and in areas as identified~~designated~~ by posted signage~~signs~~.

(1) In addition to the other prohibitions and restrictions in this Part, the~~The~~ following are prohibited in all Stormwater Treatment Areas:

~~(a) Pets, with the exception of service animals.~~

~~(b) Frogging.~~

(a)(e) Fishing or frogging in areas closed to fishing or frogging within the STAs~~STA's~~ as restricted by posted signage~~by sign~~.

(b)(d) Motorized and non-motorized Vessels~~vessel~~ and boat trailers in interior waters, with the exception of those areas identified by posted signage.

(c)(e) Entering interior waters.

~~(2) Hunting is only authorized in those STA's which have been opened for public hunting in accordance with Rule 40E-7.525, F.A.C.~~

(2)(3) Vessels and Vessel operation are authorized~~is permitted~~ only on STA exterior canals under the following limitations:

(a) Vessel and Vessel operation limitations are~~shall be~~ posted by signage.

(b) Vessel and ~~V~~vessel operation limitations ~~are shall be~~ made specific to each Stormwater Treatment Area exterior canal for: resource protection; protection of District structures, equipment, and levees; and operation and maintenance of the STA.

(c) Vessels ~~are shall be~~ limited as motorized or non-motorized, and by engine horsepower, engine type, and ~~V~~vessel type.

(d) Vessel operation ~~is shall be~~ limited by area, water depth, by distance from District structures, equipment, or levees, and by speed.

~~(3)(4)~~ The following ~~V~~vessel and ~~V~~vessel operations are prohibited in Stormwater Treatment Area exterior canals:

(a) Personal watercraft.

(b) Airboats.

(c) Vessel operation greater than Idle Speed within 300 feet of any District, structure or equipment.

(d) Vessel operation which causes damage to plants, injures animals or fish, or other natural environmental resources.

(e) Vessel operation within an area delineated by ~~V~~vessel barriers.

(f) Anchoring or tying a ~~V~~vessel or watercraft to a road, levee, maintenance berm, structure, fence, tree, post, sign, gauge, data recorder, weed barrier, or ~~V~~vessel barrier.

(4) Pets must be under physical restraint at all times and are only allowed in areas identified by posted signage.

*Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.1391, 373.4592(4)(a), 373.59 FS. History–New 7-12-06.*

#### **40E-7.5384 Special Provisions for Impoundment Areas of the District Open to the Public.**

Persons may only enter and exit Impoundment Areas at designated public access points during the hours and days, and in areas as identified ~~designated~~ by posted signage ~~signs~~.

(1) The following are prohibited in all Impoundment Areas:

~~(a) Pets with the exception of service animals, leashed animals, and animals otherwise under the effective control of the owner.~~

~~(b) Frogging.~~

(a)(e) Fishing or frogging in areas closed to fishing or frogging within the Impoundment Areas identified by as-posted signage ~~by sign~~.

~~(b)(d) Swimming, surfing, snorkeling, scuba diving or use of other underwater breathing apparatus.~~

~~(c)(e) Water skiing, tubing, wake boarding or similar in water sports.~~

~~(2) Hunting is only authorized in those Impoundments Areas which have been opened for the public hunting in accordance with Rule 40E-7.525, F.A.C., if any.~~

~~(2)(3)~~ Vessels and Vvessel operation is authorized ~~permitted~~ on Impoundment Areas under the following limitations:

(a) Vessel and Vvessel operation limitations are ~~shall be~~ posted by signage.

(b) Vessel and Vvessel operation limitations are ~~shall be~~ made specific to each Impoundment Area for: resource protection; protection of District structures, equipment, and levees; and operation and maintenance of the Impoundment Area.

(c) Vessels are ~~shall be~~ limited as motorized or non-motorized, and by engine horsepower, engine type, and Vvessel type.

(d) Airboat operation is ~~shall be~~ limited to designated areas.

(e) Vessel operation is ~~shall be~~ limited by area, water depth, by distance from District structures, equipment, or levees, and by speed.

~~(3)(4)~~ The following Vvessels and Vvessel operations are prohibited in Impoundments:

(a) Personal watercraft.

(b) Vessel operation greater than Idle Speed within 300 feet of any District, structure or equipment.

(c) Vessel operation which causes damage to plants, injures animals or fish, or other natural environmental resources.

(d) Vessel operation within an area delineated by Vvessel barriers.

(e) Anchoring or tying a Vvessel or watercraft to a road, levee, maintenance berm, structure, fence, tree, post, sign, gauge, data recorder, weed barrier or Vvessel barrier.

(4) Pets must be under physical restraint at all times and are only allowed in areas identified by posted signage.

*Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.1391, 373.59 FS. History—New 7-12-06.*

#### **40E-7.539 Penalties.**

(1) Pursuant to Section 373.609, F.S., it shall be the duty of every state and county attorney, sheriff, police officer, and the appropriate city and county official to assist the District, and their agents, in the enforcement of the provisions of this rule.

(2) Any person who violates any provision of this rule is subject to eviction from the premises and/or arrest and prosecution for a second-degree misdemeanor, punishable as provided in Section 775.082 or 775.083, F.S.

(3) The penalties identified in these rules do not supersede other remedies available to the District

at law and/or in equity.

*Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.129, 373.1391, 373.59, 373.609, 373.613 FS. History—New 5-24-94, Amended 1-5-03, 7-12-06.*

**MEMORANDUM**

**TO:** Governing Board Members  
**FROM:** Karen Estock, Division Director  
**DATE:** September 12, 2013  
**SUBJECT:** Cocohatchee Access Easement Boat Ramp Agreement

**Agenda Item Description**

In anticipation of legal cost and expenses exceeding the disputed amount in the event the District contests this claim through litigation, it is recommended that the District settle the claim for \$10,000.00 upon receipt of a release of liability and permanent easement interest that would allow the existing access boat ramp to remain in use at its current location.

**Background**

Collier County was issued Right of Way Permit No. 10911 to construct various facilities within the right of way including a District boat ramp east of the Cypress Way E bridge. According to Collier County staff, the referenced boat ramp location was modified in the field in consultation with Field Station management at the time to the current location which is partially on property owned by the claimant (see attached map). The District's Field Station has since been using the boat ramp, currently the only available access point to this reach of the canal, to maintain the canal. The District did not obtain the claimant's consent to use the subject property, which was necessary since the subject boat ramp is located on the claimant's property. The claimant is in the process of converting the strip of land partially occupied by the boat ramp into a park and has agreed to allow the boat ramp to remain permanently as part of the settlement agreement.

**Core Mission and Strategic Priorities**

The District's Big Cypress Field Station needs this boat ramp, currently the only available access point to this reach of the canal, to maintain the canal.

**Funding Source**

The required funding (\$10,000) will come from the BCB Field Station FY2014 Operating Budget, subject to Governing Board Approval of the FY 2014 Budget.

**Staff Recommendation**

Staff recommends the District settle the claim for \$10,000.00 upon receipt of a release of liability and permanent easement interest.

If you have any questions, please call Karen Estock at ext. 6282 or Jorge Patino at ext. 6175.

## SOUTH FLORIDA WATER MANAGEMENT DISTRICT

### Resolution No. 2013 - 0903

**A Resolution of the Governing Board of the South Florida Water Management District authorizing payment of \$10,000 from Big Cypress Basin Field Station FY14 operating budget for settlement of claim made by Wallace Homes of Southwest Florida, Inc., a Florida Corporation, against South Florida Water Management District regarding alleged unauthorized construction and use of an access boat ramp located west of the Cypress Way E Bridge on the Cocohatchee West Canal, Collier County and acquisition of a boat ramp easement; subject to Governing Board approval of the FY14 budget; providing an effective date. (OMC, Jorge Patino, ext. 6175)**

**WHEREAS**, Collier County was issued Right of Way Permit No. 10911 to construct various facilities within the right of way including a District boat ramp east of the Cypress Way E bridge. According to Collier County staff, the referenced boat ramp location was modified in the field in consultation with Field Station management at the time to the current location which is partially on property owned by the claimant (see attached map). The District's Field Station has since been using the boat ramp, currently the only available access point to this reach of the canal, to maintain the canal. The District did not obtain the claimant's consent to use the subject property, which was necessary since the subject boat ramp is located on the claimant's property. The claimant is in the process of converting the strip of land partially occupied by the boat ramp into a park and has agreed to allow the boat ramp to remain permanently as part of the settlement agreement.

**WHEREAS**, The Governing Board of the South Florida Water Management District deems it necessary, appropriate and in the public interest that, in anticipation of legal cost and expenses exceeding the disputed amount in the event the District contests this claim through litigation, the District settle the claim for \$10,000.00 upon receipt of a release of liability and permanent easement interest that would allow the existing access boat ramp to remain in use at its current location; now therefore

**BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:**

**Section 1.** The Governing Board of the South Florida Water Management District hereby approves settlement of the claim for \$10,000.00 from the BCB Field Station Operating Budget, upon receipt of a release of liability and permanent easement interest that would allow the existing access boat ramp to remain in use at its current location.

**Section 2.** Approval is subject to Governing Board approval of the FY2014 budget.

**Section 3.** This resolution shall take effect immediately upon adoption.

**PASSED** and **ADOPTED** this 12th day of September, 2013.

SOUTH FLORIDA WATER MANAGEMENT  
DISTRICT, BY ITS GOVERNING BOARD

By:

\_\_\_\_\_  
Chairman

Attest:

Legal form approved:

By:

\_\_\_\_\_  
District Clerk/Secretary

\_\_\_\_\_  
Office of Counsel

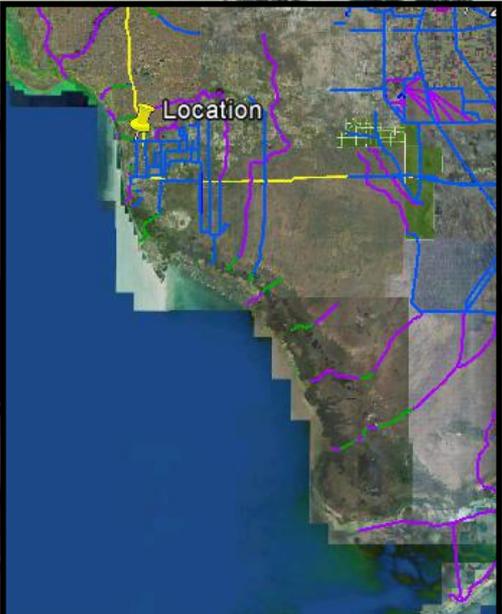
Print name:

\_\_\_\_\_

Boat Ramp

Piper Blvd/Immokalee road

Airport Road



2013 Collier County Aerial Photography  
SFWMD Enterprise GIS Layers

26°16'22.46" N, 81°46'19.81" W elev 6 ft

Google earth

## MEMORANDUM

**TO:** Governing Board Members  
**FROM:** Jeff Kivett, Division Director  
**DATE:** September 12, 2013  
**SUBJECT:** EOC Chiller - Contract Number 4600002936

### **Agenda Item Description**

Project includes the installation of a new Trane 156 ton chiller and its associated chilled water piping and the replacement of two existing air cooled condensing units (CAC-1 and CAC-2) and replacement of two existing computer room air conditioning units (CRAC-1 and CRAC-2) with new Liebert condensers and conditioning units. In addition, the existing chiller/condenser enclosure structure will require modifications which include steel and reinforced concrete to accommodate the new larger equipment.

### **Background**

Project is located on District Headquarters and is adjacent to the Emergency Operations Center to the east. The District's current air conditioning system does not have sufficient capacity to support the District's Emergency Operations Center and Data Center or have a redundant source for air conditioning needs. The EOC Data Center's goal is to become a Tier 4 data center. Therefore, all components need to be fault tolerant including the Chiller. This project provides a new chiller and modifications to the existing chilled water piping which will have sufficient capacity to provide chilled water to the three existing Trane air handlers, three Liebert control room air conditioning units, two UPS room air conditioning units as well as provide additional capacity to accommodate future CRAC units needed by the District. Two of the existing condensing units (CAC-1 and CAC-2) as well as two existing computer room air conditioning units (CRAC-1 and CRAC-2) will also be replaced in this project. The existing and proposed replacement condensers will provide the required redundant source for the CRAC unit's air conditioning needs. The existing 70 ton Chiller will be left in place as a partial chilled water back-up.

### **Core Mission and Strategic Priorities**

This Project supports the Emergency Operations Center and Data Center. The EOC is staffed and operated 24 hours a day, 365 days a year by the Operation Control Center (OCC) Staff and the District's Security Department. Additionally, during major weather events, it is operated by additional support Staff of approximately 50 people. The District's current air conditioning system does not have sufficient capacity to support the District's Emergency Operations Center (EOC) and Data Center or have a redundant source for air conditioning needs. The EOC Data Center's goal is to become a Tier 4 data center. Therefore, all components need to be fault-tolerant including the chiller.

### **Funding Source**

The lowest responsive and responsible bidder is Overland Construction Co., Inc. with a total amount of \$879,800.00 for which ad valorem funds of \$75,000.25 is budgeted in FY13 and the remaining amount is subject to Governing Board approval of the FY14 budget.

**Staff Recommendation**

Staff recommends approval of this project. The present air conditioning system does not have enough capacity to efficiently cool the Data Center, Control Room and the Emergency Operation center. Currently the redundant cooling systems are serving as primary cooling units. With the addition of the new UPS units and the future planned growth of the Data Center, the existing cooling systems will not meet the cooling demands. The new air-cooled chiller and associated systems will efficiently provide the capacity necessary to ensure the District's Emergency Response Mission as well as provide the necessary capacity required for the Data Center. Delay of this project could impact the District's ability to provide Emergency Response.

If you have any questions, please call John Mitnik, P.E., Bureau/Office Chief at ext. 2679.

## SOUTH FLORIDA WATER MANAGEMENT DISTRICT

### Resolution No. 2013 - 0904

**A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 319 day contract with Overland Construction, Inc., the lowest responsive and responsible bidder, for the Emergency Operations and Data Center HVAC improvements, in the amount of \$879,800.00, for which ad valorem funds of \$75,000.25 is budgeted in FY13 and the remaining amount is subject to Governing Board approval of the FY14 Budget; providing an effective date. (Contract Number 4600002936) (Denise Palmatier, ext. 6758)**

**WHEREAS**, This project supports the District's Mission of Emergency Response and the addition of the new chiller and replacement of the condensers is recommended for the continued operational integrity and efficiency of the Emergency Operations Center and Data Centers; and

**WHEREAS**, The existing condensers and computer room air conditioning units have met their useful lives. The addition of the new chiller, condensers, and conditioning units will provide enough capacity to efficiently cool the Data Center, Control Room and the Emergency Operation center;

**NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:**

**Section 1.** The Governing Board of the South Florida Water Management District hereby authorizes the execution of Contract Number 4600002936 with Overland Construction, Inc.

**Section 2.** This project supports the District mission of Emergency Operations.

**Section 3.** This resolution shall take effect immediately upon adoption.

**PASSED and ADOPTED** this 12th day of September, 2013.

SOUTH FLORIDA WATER MANAGEMENT  
DISTRICT, BY ITS GOVERNING BOARD  
By:

\_\_\_\_\_  
Chairman

Attest:

\_\_\_\_\_  
District Clerk/Secretary

Legal form approved:  
By:

\_\_\_\_\_  
Office of Counsel

Print name:

\_\_\_\_\_

## MEMORANDUM

**TO:** Governing Board Members  
**FROM:** Karen Estock, Division Director  
**DATE:** September 12, 2013  
**SUBJECT:** Ft. Lauderdale Slope Mowing - Contract Number 4600002935

### **Agenda Item Description**

A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a three-year contract with two (2) one-year renewal options with Toler Enterprises, Inc., the lowest responsive and responsible bidder for Slope Mowing Services in the Fort Lauderdale Field Station area, in the amount of \$486,000 for three (3) years, of which \$162,000 in ad valorem funds are budgeted in FY14 and the remainder is subject to Governing Board approval of the FY15 and FY16 budgets; providing an effective date.

### **Background**

Maintenance of the Right of Ways is required to ensure that vegetation is controlled at a manageable height and will uphold the operational integrity of the District's flood control system. This project for the Fort Lauderdale Field Station area, will contract approximately 1,080 acres to be mowed on an annual basis. The lowest responsive and responsible bidder is Toler Enterprises, Inc., at \$150 per acre. Since this is a work order contract, the amount of acres to be mowed will fluctuate, based on the weather, budget, and construction projects in these areas.

### **Core Mission and Strategic Priorities**

Mowing the District's Right of Ways will reduce and control vegetative growth along canal banks which can impede operations, inspections and access to the District's water control facility.

### **Funding Source**

This is a three-year contract with two (2) one-year renewal options, in the amount of \$486,000 for which \$162,000 in ad valorem funds are budgeted in FY14 and the remainder is subject to Governing Board approval of the FY15 and FY16 budgets.

### **Staff Recommendation**

Staff recommends authorizing the approval of Contract Number 4600002935, as this item supports continual operations and maintenance of the District canal system. If not mowed and maintained, these areas would become a potential hazard to the public as well as District employees.

If you have any questions, please call Karen A. Estock at ext. 6282 or Mike Gallagher at ext. 2124.

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

**Resolution No. 2013 - 0905**

**A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a three-year contract with two (2) one-year renewal options with Toler Enterprises, Inc., the lowest responsive and responsible bidder, for Slope Mowing Services in the Fort Lauderdale Field Station area, in the amount of \$486,000 for three years, of which \$162,000 in ad valorem funds are budgeted in FY14 and the remainder is subject to Governing Board approval of the FY15 and FY16 budgets; providing an effective date. (OMC, Karen Estock, ext. 6282)**

**WHEREAS**, the Governing Board of the South Florida Water Management District deems it necessary, appropriate and in the public interest to authorize entering into a three-year contract with two (2) one-year renewal options with Toler Enterprises, Inc., the lowest responsive and responsible bidder, for Slope Mowing Services in the Fort Lauderdale Field Station area, in the amount of \$486,000 for three years, of which \$162,000 in ad valorem funds are budgeted in FY14 and the remainder is subject to Governing Board approval of the FY15 and FY16 budgets; providing an effective date.

**NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:**

**Section 1.** The Governing Board of the South Florida Water Management District hereby authorizes the execution of Contract Number 4600002935 with Toler Enterprises, Inc.

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED** and **ADOPTED** this 12th day of September, 2013.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD

By:

\_\_\_\_\_ Chairman

Attest:

Legal form approved:

By:

\_\_\_\_\_ District Clerk/Secretary

\_\_\_\_\_ Office of Counsel

Print name:

\_\_\_\_\_

**MEMORANDUM**

**TO:** Governing Board Members

**FROM:** Karen Estock, Division Director

**DATE:** September 12, 2013

**SUBJECT:** Approve a Resolution Authorizing Payment in Lieu of Taxes (PILT) for Okeechobee County BOCC

**Background:** Pursuant to Ch. 373.59(10), F.S., the District is obligated to process and provide payment in lieu of taxes (PILT) to taxing authorities located within eligible counties when property has been acquired and removed from the tax roll. In accordance to the statutes, the local taxing authority submits an application with supporting documentation which enables District staff to verify actual ad valorem property tax loss to the taxing authority, package the application and submit to the Department of Revenue for certification.

**How this helps meet the District's Mission?** Authorization of PILT enables the District to comply with Florida Statutes.

**Funding Source:** The PILT payment is budgeted in the Water Management Lands Trust Fund supported by lease revenue.

**This Board item impacts what areas of the District, both organization and geography:**

The Operations, Maintenance and Construction Division coordinates the PILT process for eligible counties within its jurisdiction which includes Charlotte, Glades, Hendry, Highlands, Martin, Monroe and Okeechobee. This PILT package is for Okeechobee County.

**What concerns could this Board item raise?** This item is required by Ch. 373.59, F.S. in order to provide financial compensation for acquisitions which remove property from the tax rolls of low population counties.

**Why should the Governing Board approve this item?** Approval of this item will allow the Board to make payments for PILT to Okeechobee County pursuant to their application certified by the Department of Revenue in the amount of \$4,556.81.

## SOUTH FLORIDA WATER MANAGEMENT DISTRICT

### Resolution No. 2013 - 0906

**A Resolution of the Governing Board of the South Florida Water Management District authorizing the payment in lieu of taxes (PILT) to Okeechobee County Board of County Commissioners for actual ad valorem tax losses incurred as a result of land purchased by the District; providing an effective date. (OMC, Jayne Bergstrom, ext. 2672)**

**WHEREAS**, Florida Statutes, 373.59 (10) provides that payment in lieu of taxes shall be available to all counties that have a population of 150,000 or fewer, as determined pursuant to S. 186.901; and

**WHEREAS**, the ability to apply for payment in lieu of taxes is available to all local governments located in eligible counties and whose lands are acquired and taken off the tax rolls after January 1, 2000; and

**WHEREAS**, if sufficient funds are unavailable in any year to make full payments to all qualifying counties and local governments, such counties and local governments shall receive a pro rata share of the moneys available; and

**WHEREAS**, the payment amount shall be based on the average amount of actual ad valorem taxes paid on the property for the 3 years preceding acquisition; and

**WHEREAS**, payment in lieu of taxes shall be made annually to qualifying counties and local governments after certification by the Department of Revenue that the amounts applied for are reasonably appropriate, based on the amount of actual ad valorem taxes paid on the eligible property;

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

**Section 1.** The Governing Board of the South Florida Water Management District hereby authorizes the payment in lieu of taxes (PILT) to be remitted to Okeechobee County Board of County Commissioners annually until the population of Okeechobee County exceeds 150,000, or status of the properties change.

**Section 2.** This Resolution shall take effect immediately upon adoption.

**PASSED** and **ADOPTED** this 12th day of September, 2013.

SOUTH FLORIDA WATER MANAGEMENT  
DISTRICT, BY ITS GOVERNING BOARD  
By:

\_\_\_\_\_  
Chairman

Attest:

Legal form approved:  
By:

\_\_\_\_\_  
District Clerk/Secretary

\_\_\_\_\_  
Office of Counsel

Print name:

\_\_\_\_\_

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Doug Bergstrom, Director, Administrative Services Division

**DATE:** September 12, 2013

**SUBJECT:** Terremark Federal Group, Inc. Disaster Recovery Alternate Data Center

### **Agenda Item Description**

This is continuation of the District's Disaster Recovery Alternate Data Center facility and services in the amount of \$196,056. The time period is November 1, 2013 through October 31, 2014. These services will be procured from Terremark Federal Group, Inc. using the Broward College Contract #ITN-2010-001-BM.

### **Background**

Since January 2007 the District's Disaster Recovery site has been located at the NAP of Americas, Inc. This alternate data center allows the District to deliver essential business functions despite damage, loss, or disruption of the headquarters information systems due to unexpected occurrences of a natural or man-made emergency or disaster. The Information Technology Bureau must ensure the resumption of mission critical systems and services within a reasonable period of time and with minimal loss of data.

### **Core Mission and Strategic Priorities**

Having a disaster recovery alternate data center is part of maintaining emergency readiness. The systems housed in the NAP of the Americas are critical for communication, processing and storage of the District data used to support the District's mission.

### **Funding Source**

The total amount for the Disaster Recovery Site is \$196,056, for which ad valorem funds are subject to Governing Board approval of the FY14 budget.

### **Staff Recommendation**

Authorize entering into a purchase order with Terremark Federal Group, Inc. for a disaster recovery alternate data center facility and services, for the time period November 1, 2013 - October 31, 2014, using the Broward College Contract #ITN-2010-001-BM, in the amount of \$196,056 for which ad valorem funds are subject to Governing Board approval of the FY14 budget.

If you have any questions, please call Doug Bergstrom at ext. 6214 or Duane Piper at ext. 2638.

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

**Resolution No. 2013 - 0907**

**A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a purchase order with Terremark Federal Group, Inc, for a disaster recovery alternate data center facility and services for the time period November 1, 2013 to October 31, 2014, using Broward College Contract #ITN-2010-001-BM, in the amount of \$196,056 for which ad valorem funds are budgeted and subject to Governing Board approval of the FY14 budget; providing an effective date. (AS, Duane Piper, ext. 2638)**

**WHEREAS**, the Governing Board of the South Florida Water Management District deems it necessary, appropriate, and in the public interest to authorize entering into a purchase order with Terremark Federal Group, Inc. for a disaster recovery alternate data center facility and services, for the time period November 1, 2013 - October 31, 2014, using Broward College Contract #ITN-2010-001-BM in the amount of \$196,056 for which ad valorem funds are budgeted and subject to Governing Board approval of the FY14 budget; providing an effective date.

**NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:**

**Section 1.** The Governing Board of the South Florida Water Management District hereby approves issuing a purchase order to Terremark Federal Group, Inc.

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED and ADOPTED** this 12th day of September, 2013.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD

By:

\_\_\_\_\_

Chairman

Attest:

Legal form approved:

By:

\_\_\_\_\_

District Clerk/Secretary

\_\_\_\_\_

Office of Counsel

Print name:

\_\_\_\_\_

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Doug Bergstrom, Director, Administrative Services Division

**DATE:** September 12, 2013

**SUBJECT:** Annual Renewal of Cisco Systems Hardware and Software Maintenance

### **Agenda Item Description**

This is the annual renewal of the Cisco Systems network hardware and software maintenance in the amount of \$365,855. The time period for support is November 1, 2013 through October 31, 2014 and will be procured from Presidio Corporation using the State of Florida Contract #250-000-09-1.

### **Background**

The Cisco Systems hardware and software supports all District networks including the SCADA and internal networks, our ability to monitor and control water levels, internet connectivity, telephone system, and connection between all District offices and microwave network sites. The hardware maintenance includes phone support to trouble shoot network problems and replacement of malfunctioning equipment. The software support includes upgrades for the Cisco router operating system and technical support. This maintenance renewal also includes support for the video conferencing equipment.

### **Core Mission and Strategic Priorities**

The hardware and software maintenance provide improved network reliability and network support for the entire District.

### **Funding Source**

The total amount for the annual renewal is \$365,855, for which ad valorem funds are subject to Governing Board approval of the FY14 budget.

### **Staff Recommendation**

Authorize entering into a purchase order with Presidio Corporation for the annual renewal of Cisco Systems network hardware and software maintenance, for the time period November 1, 2013 - October 31, 2014, using State of Florida Contract #250-000-09-1, in the amount of \$365,855 for which ad valorem funds are subject to Governing Board approval of the FY14 budget.

If you have any questions, please call Doug Bergstrom at ext. 6214 or Duane Piper at ext. 2638.

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

**Resolution No. 2013 - 0908**

**A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a purchase order with Presidio Corporation for the annual renewal of Cisco Systems network hardware and software maintenance, for the time period November 1, 2013 to October 31, 2014 using State of Florida Contract #250-000-09-1, in the amount of \$365,855 for which ad valorem funds are budgeted and subject to Governing Board approval of the FY14 budget; providing an effective date. (AS, Duane Piper, ext. 2638)**

**WHEREAS**, the Governing Board of the South Florida Water Management District deems it necessary, appropriate, and in the public interest to authorize entering into a purchase order with Presidio Corporation for the annual renewal of Cisco Systems network hardware and software maintenance, for the time period November 1, 2013 - October 31, 2014, using State of Florida Contract #250-000-09-1, in the amount of \$365,855 for which ad valorem funds are budgeted and subject to Governing Board approval of the FY14 budget; providing an effective date.

**NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:**

**Section 1.** The Governing Board of the South Florida Water Management District hereby approves issuing a purchase order to Presidio Corporation.

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED and ADOPTED** this 12th day of September, 2013.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD  
By:

\_\_\_\_\_ Chairman

Attest:

Legal form approved:  
By:

\_\_\_\_\_ District Clerk/Secretary

\_\_\_\_\_ Office of Counsel

Print name:  
\_\_\_\_\_

**MEMORANDUM**

**TO:** Governing Board Members

**FROM:** Doug Bergstrom, Director, Administrative Services Division

**DATE:** September 12, 2013

**SUBJECT:** Annual Renewal of Sun Microsystems (Oracle Corporation) Hardware Maintenance

**Agenda Item Description**

This is the annual renewal of the Sun Microsystems (Oracle Corporation) hardware maintenance in the amount of \$318,085. The time period for support is November 1, 2013 through October 31, 2014. This support will be procured from Oracle Corporation using State of Florida Contract #250-000-09-1. Oracle Corporation purchased Sun Microsystems.

**Background**

The Sun Microsystems maintenance includes servers, storage, peripherals and the Sun Solaris operating system. Currently the District has 100+ Sun Solaris servers. Critical District applications such as SAP, DBHYDRO, Operations, Oracle, and other core infrastructure applications reside on the Sun Microsystems hardware. Utilizing this support provides a high availability of services and reduced systems administration cost.

**Core Mission and Strategic Priorities**

The Sun Microsystems hardware houses critical data supporting the District's mission and five-year strategic goals.

**Funding Source**

The total amount for the annual renewal is \$318,085, for which ad valorem funds are subject to Governing Board approval of the FY14 budget.

**Staff Recommendation**

Authorize entering into a purchase order with Oracle Corporation for the annual renewal of Sun Microsystems server, storage, and peripheral hardware maintenance, for the time period November 1, 2013 - October 31, 2014, using State of Florida Contract #250-000-09-1, in the amount of \$318,085 for which ad valorem funds are subject to Governing Board approval of the FY14 budget.

If you have any questions, please call Doug Bergstrom at ext. 6214 or Duane Piper at ext. 2638.

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

**Resolution No. 2013 - 0909**

**A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a purchase order with Oracle Corporation for the annual renewal of Sun Microsystems server, storage, and peripheral hardware maintenance, for the time period November 1, 2013 to October 31, 2014, using State of Florida Contract #250-000-09-1, in the amount of \$318,085 for which ad valorem funds are budgeted and subject to Governing Board approval of the FY14 budget; providing an effective date. (AS, Duane Piper, ext. 2638)**

**WHEREAS**, the Governing Board of the South Florida Water Management District deems it necessary, appropriate, and in the public interest to authorize entering into a purchase order with Oracle Corporation for the annual renewal of Sun Microsystems server, storage, and peripheral hardware maintenance, for the time period November 1, 2013 - October 31, 2014, using State of Florida Contract #250-000-09-1, in the amount of \$318,085 for which ad valorem funds are budgeted and subject to Governing Board approval of the FY14 budget; providing an effective date.

**NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:**

**Section 1.** The Governing Board of the South Florida Water Management District hereby approves issuing a purchase order to Oracle Corporation.

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED and ADOPTED** this 12th day of September, 2013.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD  
By:

\_\_\_\_\_ Chairman

Attest:

Legal form approved:  
By:

\_\_\_\_\_ District Clerk/Secretary

\_\_\_\_\_ Office of Counsel

Print name:

\_\_\_\_\_

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Doug Bergstrom, Director, Administrative Services Division

**DATE:** September 12, 2013

**SUBJECT:** Annual Renewal of Oracle Software Maintenance

### **Agenda Item Description**

This is the annual renewal of the Oracle software maintenance in the amount of \$886,367. The time period for support is October 25, 2013 through October 24, 2014. This support will be procured from Mythics, Inc. using the GSA Schedule #GS-35F-0153M.

### **Background**

This maintenance includes technical support and upgrade service on all Oracle software supporting numerous (90) District and CERPZone databases and websites. The District's Oracle infrastructure is utilized by Operations, SAP and all Portal Web Applications (Portal, Employee Emergency Notification Site, Weather/Real-Time Readings, Agenda Builder, GB/WRAC Public Reporting, Key Permit Application, ePermitting, eSubmittal, Graphical Verification Analysis, and Regulation). The Operations Oracle database is part of the decision support system that is critical for water managers making real-time decisions. SAP leverages Oracle's Real Application Cluster to provide high availability of financial services for the entire District user community. The Portal infrastructure is built on Oracle Application and Cluster Server ensuring reliable web applications and service availability. This level of support for the Oracle maintenance also ensures access to Oracle's engineering team for issues and rapid escalation to problem resolution.

### **Core Mission and Strategic Priorities**

Some of the vital District functions managed by Oracle software are budget preparation, hydrologic and meteorological data processing and storage, regulatory administration, research, planning, land management, risk management, operations and maintenance, and water quality monitoring.

### **Funding Source**

The total amount for the annual renewal is \$886,367, for which ad valorem funds are subject to Governing Board approval of the FY14 budget.

### **Staff Recommendation**

Authorize entering into a purchase order with Mythics, Inc. for the annual renewal of Oracle software maintenance and upgrades, for the time period October 25, 2013 - October 24, 2014, using GSA Schedule #GS-35F-0153M, in the amount of \$886,367 for which ad valorem funds are subject to Governing Board approval of the FY14 budget.

If you have any questions, please call Doug Bergstrom at ext. 6214 or Duane Piper at ext. 2638.

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

**Resolution No. 2013 - 0910**

**A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a purchase order with Mythics, Inc. for the annual renewal of Oracle software maintenance and upgrades, for the time period October 25, 2013 to October 24, 2014, using GSA Schedule #GS-35f-0153M, in the amount of \$886,367 for which ad valorem funds are budgeted and subject to Governing Board approval of the FY14 budget; providing an effective date. (AS, Duane Piper, ext. 2638)**

**WHEREAS**, the Governing Board of the South Florida Water Management District deems it necessary, appropriate, and in the public interest to authorize entering into a purchase order with Mythics, Inc. for the annual renewal of Oracle software maintenance and upgrades, for the time period October 25, 2013 - October 24, 2014, using GSA Schedule #GS-35F-0153M in the amount of \$886,367 for which ad valorem funds are budgeted and subject to Governing Board approval of the FY14 budget; providing an effective date.

**NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:**

**Section 1.** The Governing Board of the South Florida Water Management District hereby approves issuing a purchase order to Mythics, Inc.

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED and ADOPTED** this 12th day of September, 2013.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD  
By:

\_\_\_\_\_  
Chairman

Attest:

Legal form approved:  
By:

\_\_\_\_\_  
District Clerk/Secretary

\_\_\_\_\_  
Office of Counsel

Print name:  
\_\_\_\_\_

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Doug Bergstrom, Director, Administrative Services Division

**DATE:** September 12, 2013

**SUBJECT:** Annual Renewal of EMC Corporation Hardware and Software Maintenance

### **Agenda Item Description**

This is the annual renewal of the EMC Corporation infrastructure hardware and software maintenance in the amount of \$198,594. The time period for support is November 1, 2013 through October 31, 2014 and will be procured from Forsythe Solutions Group using the State of Florida Contract #250-000-09-1.

### **Background**

The Systems Engineering Section uses EMC equipment and software to maintain, store and backup the District's critical data across three tiers of storage. The storage infrastructure provides high availability and redundancy for numerous services. The third tier of storage is utilized by Documentum, file system & email archiving. The second tier provides file system storage for all employees at the District (proserv & dataserv). The final tier provides the high speed storage to critical services such as SAP, email and Operations databases. Also to protect this data from any unforeseen disaster select information across the storage platforms is replicated remotely to the District's disaster recovery site. The environment is scalable and strategically lends itself to the overall long term solution for data management at the District.

### **Core Mission and Strategic Priorities**

Information is one of the most important and valuable assets of the District. As the amount of information that is stored electronically grows, the management of the storage systems is of critical importance. This hardware and software assist District staff in the administration and protection of the District's core mission and strategic priorities and enables the high availability of the information to the end users.

### **Funding Source**

The total amount for the annual renewal is \$198,594, for which ad valorem funds are subject to Governing Board approval of the FY14 budget.

### **Staff Recommendation**

Authorize entering into a purchase order with Forsythe Solutions Group for the annual renewal of EMC Corporation infrastructure hardware and software maintenance, for the time period November 1, 2013 - October 31, 2014, using State of Florida Contract #250-000-09-1, in the amount of \$198,594 for which ad valorem funds are subject to Governing Board approval of the FY14 budget.

If you have any questions, please call Doug Bergstrom at ext. 6214 or Duane Piper at ext. 2638.

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

**Resolution No. 2013 - 0911**

**A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a purchase order with Forsythe Solutions Group for the annual renewal of infrastructure hardware and software maintenance, for the time period November 1, 2013 to October 31, 2014, using State of Florida Contract #250-000-09-1, in the amount of \$198,594 for which ad valorem funds are budgeted and subject to Governing Board approval of the FY14 budget; providing an effective date. (AS, Duane Piper, ext. 2638)**

**WHEREAS**, the Governing Board of the South Florida Water Management District deems it necessary, appropriate, and in the public interest to authorize entering into a purchase order with Forsythe Solutions Group for the annual renewal of infrastructure hardware and software, for the time period November 1, 2013 to October 31, 2014 using State of Florida Contract #250-000-09-1, in the amount of \$198,594 for which ad valorem funds are budgeted and subject to Governing Board approval of the FY14 budget; providing an effective date.

**NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:**

**Section 1.** The Governing Board of the South Florida Water Management District hereby approves issuing a purchase order to Forsythe Solutions Group.

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED and ADOPTED** this 12th day of September, 2013.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD  
By:

\_\_\_\_\_ Chairman

Attest:

Legal form approved:  
By:

\_\_\_\_\_ District Clerk/Secretary

\_\_\_\_\_ Office of Counsel

Print name:  
\_\_\_\_\_

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Doug Bergstrom, Director, Administrative Services Division

**DATE:** September 12, 2013

**SUBJECT:** Annual Renewal of Symantec Corporation (Veritas) Software Maintenance

### **Agenda Item Description**

This is the annual renewal of the Symantec Corporation (Veritas) software maintenance in the amount of \$225,820. The time period for support is December 1, 2013 through November 30, 2014. This maintenance will be procured from Dyntek Services, Inc. using the GSA Schedule #GS-35F-0119Y.

### **Background**

This maintenance includes technical support and upgrade service, on all Symantec Corporation (Veritas) software licenses (Storage Foundation, Enterprise Vault and Netbackup). With Veritas Storage Foundation, physical disks can be grouped into logical volumes to improve disk utilization and eliminate storage-related downtime. In addition, Veritas Storage Foundation gives systems administrators the flexibility to move data between different operating systems and storage arrays, and to balance input/output (I/O) across multiple paths to improve performance. Veritas Netbackup enables the District to backup, restore, and provide data integrity. Ensuring critical data retention is a high priority and, in case of an emergency and data loss, Netbackup provides data protection for the District. Enterprise Vault is the District's email archiving tool that streamlines backup and recovery times by moving older, infrequently accessed data from production sources into a centralized archive.

### **Core Mission and Strategic Priorities**

Information is one of the most important and valuable assets of the District. As the amount of information that is stored electronically grows, the management of the storage systems is of critical importance. This software assists staff in the administration and protection of the information supporting the District's mission and five-year strategic goals.

### **Funding Source**

The total amount for the annual renewal is \$225,820, for which ad valorem funds are subject to Governing Board approval of the FY14 budget.

### **Staff Recommendation**

Authorize entering into a purchase order with Dyntek Services, Inc. for the annual renewal of Symantec storage software maintenance and upgrades, for the time period

December 1, 2013 - November 30, 2014, using GSA Schedule #GS-35F-0119Y, in the amount of \$225,820 for which ad valorem funds are subject to Governing Board approval of the FY14 budget.

If you have any questions, please call Doug Bergstrom at ext. 6214 or Duane Piper at ext. 2638.

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

**Resolution No. 2013 - 0912**

**A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a purchase order with Dyntek Services, Inc. for the annual renewal of Symantec storage software maintenance and upgrades, for the time period December 1, 2013 to November 30, 2014, using GSA Schedule #GS-35f-0119Y, in the amount of \$225,820 for which ad valorem funds are budgeted and subject to Governing Board approval of the FY14 budget; providing an effective date. (AS, Duane Piper, ext. 2638)**

**WHEREAS**, the Governing Board of the South Florida Water Management District deems it necessary, appropriate, and in the public interest to authorize entering into a purchase order with Dyntek Services, Inc. for the annual renewal of Symantec storage software maintenance and upgrades, for the time period December 1, 2013 - November 30, 2014 using GSA Schedule #GS-35F-0119Y, in the amount of \$225,820 for which ad valorem funds are budgeted and subject to Governing Board approval of the FY14 budget; providing an effective date.

**NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:**

**Section 1.** The Governing Board of the South Florida Water Management District hereby approves issuing a purchase order to Dyntek Services, Inc.

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED and ADOPTED** this 12th day of September, 2013.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD  
By:

\_\_\_\_\_  
Chairman

Attest:

Legal form approved:  
By:

\_\_\_\_\_  
District Clerk/Secretary

\_\_\_\_\_  
Office of Counsel

Print name:  
\_\_\_\_\_

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Doug Bergstrom, Director, Administrative Services Division

**DATE:** September 12, 2013

**SUBJECT:** Enterprise License Agreement for Geographical Systems Software

### **Agenda Item Description**

This is a three year Enterprise License Agreement in the amount of \$989,000. The time period for the agreement is October 1, 2013 through September 30, 2016. This license agreement will be procured directly from the manufacturer Environmental Systems Research Institute, Inc. (Esri).

### **Background**

The Esri software licenses include: ArcGIS Desktop and extensions, ArcGIS Server and extensions (including Portal for ArcGIS), Workflow Manager, Data Reviewer, and all existing licenses. The Esri software is used to manage District spatial data, analyze spatial and non-spatial data, develop maps and reports, and develop applications for internal and external customers. The Enterprise License Agreement provides unlimited access to software, software maintenance, ArcGIS Online Level 4 Organizational Annual Subscription, and the Enterprise Advantage Program. The Esri maintenance includes all software upgrades, patches, fixes and full technical support for all District licenses.

### **Core Mission and Strategic Priorities**

The Esri software licenses allow the District to manage, deliver, and analyze spatial data that supports the District's programs including Operations, Maintenance & Construction, Regulation, and Water Resources. Specific applications using this software include the Integrated Real Estate Information System (IRIS), Geographic Information System (GIS), Operations Decision Support System (ODSS), Regulatory GIS Support System (RegGSS), ePermitting and the Emergency Operations Center (EOC). Most of the spatial data visible in the District's Google Earth Enterprise system is developed and maintained by District staff using the Esri software.

### **Funding Source**

The total amount for the three year agreement is \$989,000. The first year of the agreement is \$389,000, for which ad valorem funds are subject to Governing Board approval of the FY14 budget. The remaining \$600,000 is subject to Governing Board approval of the FY15 and FY16 budgets.

### **Staff Recommendation**

Authorize entering into a purchase order with Environmental Systems Research Institute, Inc. for a three year Enterprise License Agreement in the total amount of \$989,000 for which \$389,000 is budgeted in FY14 and the remainder is subject to Governing Board approval of the FY15 and FY16 budgets.

If you have any questions, please call Doug Bergstrom at ext. 6214 or Duane Piper at ext. 263

## **SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

### **Resolution No. 2013 - 0913**

**A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a purchase order with Environmental Systems Research Institute, Inc. (Esri) as an exception to the general standards of competition for an Enterprise License Agreement for geographic information systems software, for the time period October 1, 2013 to September 30, 2016 in the amount of \$989,000 for which \$389,000 of ad valorem funds are budgeted and subject to Governing Board approval of the FY14 budget and the remainder is subject to Governing Board approval of the FY15 and FY16 budgets; providing an effective date. (AS, Duane Piper, ext. 2638)**

**WHEREAS**, the Governing Board of the South Florida Water Management District deems it necessary, appropriate, and in the public interest to authorize entering into a purchase order with Environmental Systems Research Institute, Inc. (Esri) as an exception to the general standards of competition for an Enterprise License Agreement for geographic information systems software, for the time period October 1, 2013 - September 30, 2016, in the amount of \$989,000 for which \$389,000 of ad valorem funds are budgeted and subject to Governing Board approval of the FY14 budget and the remainder is subject to Governing Board approval of the FY15 and FY16 budgets; providing an effective date.

**NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:**

**Section 1.** The Governing Board of the South Florida Water Management District hereby approves issuing a purchase order as an exception to the general standards of competition to Environmental Systems Research Institute, Inc.

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED and ADOPTED** this 12th day of September, 2013.

SOUTH FLORIDA WATER MANAGEMENT  
DISTRICT, BY ITS GOVERNING BOARD  
By:

\_\_\_\_\_  
Chairman

Attest:

\_\_\_\_\_  
District Clerk/Secretary

Legal form approved:  
By:

\_\_\_\_\_  
Office of Counsel

Print name:

\_\_\_\_\_

## M E M O R A N D U M

**TO:** Governing Board Members

**FROM:** Terrie Bates, Director, Water Resources Division

**DATE:** September 12, 2013

**SUBJECT:** Aquatic Vegetation and Prey-base Fish Monitoring in Southern Everglades Agreement

### **Agenda Item Description**

A three-year, sole source agreement, with Audubon of Florida's Tavernier Science Center to continue the monitoring of hydrology, aquatic vegetation, and prey-base fauna within the mangrove transition zones of Northern Florida Bay in an amount not to exceed \$390,000 subject to Governing Board approval of the FY14-FY16 budgets.

### **Background**

Audubon of Florida's Tavernier Science Center has been measuring aquatic vegetation and prey-base fauna (invertebrates and fishes) across the mangrove transition zones of southern Biscayne Bay, Florida Bay and the Gulf of Mexico since the mid-1990s. Audubon developed these important ecological indicators because they are critical links in the mangrove food web. The relatively short generation times of aquatic vegetation and prey-base fauna gives these indicators the ability to respond quickly to hydrologic and habitat conditions in a timeframe well suited for adaptive water management. A subset of these monitoring stations, combined with Audubon monitoring stations funded by the USACOE, in the mangrove habitats along the northern fringe of Florida Bay are poised to change as a result of a variety of water management projects including the C-111 Spreader Canal, Tamiami Trail bridging, and Frog Pond detention area projects. The proposed agreement requires an exception to the standards for competition (sole source) to maintain statistical continuity with other CERP monitoring and because it would fund the only permitted Hydro-SAV-Fish monitoring network in the mangrove transition zone. Note: Stations are not in the open waters of Florida Bay. The work proposed for this multi-year contract is intended to maintain ecological expertise, quality assurance, and build upon previously collected baseline monitoring data in order to integrate data with USACOE monitoring and discriminate between natural variability and water management effects.

### **Core Mission and Strategic Priorities**

This item is aligned with the District mission to balance and improve water quality, flood control, and natural systems. It supports multiple objectives within northeast Florida Bay including determining impacts of water management in Taylor Slough and the C-111 area on the natural system, assessing the effectiveness of the Florida Bay Minimum Flows and Levels rule, assessing the impacts of the Frog Pond detention area project, reporting of system condition for RECOVER, and documenting a shifting base condition from which to evaluate the full C-111 Spreader Canal project when it is implemented.

### **Funding Source**

The funding is from Alligator Alley Toll Road special revenue (228000 funds), and the request is \$390,000 (distributed over three years), subject to Governing Board approval of the FY14-FY16 budgets.

**Staff Recommendation**

Staff recommends a sole source exception to general standards of competition to maintain spatial and temporal continuity with RECOVER monitoring by the USACOE and recommends approval of this agreement, which will allow the District to receive data and analyze information about the effect of water management and restoration within the coastal habitats of the Southern Everglades.

If you have any questions, please call me at ext. 6952 or Linda Lindstrom at ext. 6820.

## SOUTH FLORIDA WATER MANAGEMENT DISTRICT

### Resolution No. 2013 - 0914

**A Resolution of the Governing Board of the South Florida Water Management District authorizing a three-year agreement with Audubon of Florida's Tavernier Science Center for hydrology, aquatic vegetation, and prey-base fauna monitoring in the Southern Everglades Mangrove Communities and authorize a sole source as an exception to the general standards of competition in an amount not to exceed \$390,000 subject to Governing Board approval of the FY14 through FY16 budgets; providing an effective date. (Contract #4600002916) (WR, Joseph Stachelek, ext. 4543)**

**WHEREAS**, the Governing Board of the South Florida Water Management District deems it necessary, appropriate and in the public interest to authorize entering into a 3 year agreement with Audubon of Florida's Tavernier Science Center and to authorize a sole source as an exception to the general standards of competition , in the amount of \$390,000 subject to Governing Board approval of the FY14-16 budgets, to measure hydrology, aquatic vegetation, and prey-base fauna in the Southern Everglades mangrove communities to determine impacts of operations and restoration projects, and;

**WHEREAS**, effects of water releases and altered water deliveries through operational plans or restoration projects upstream of Florida Bay, Manatee Bay, and Barnes Sound will be measured and documented by this work; **now therefore**

**BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:**

**Section 1.** The Governing Board of the South Florida Water Management District hereby authorizes the execution of contract number 4600002916 with Audubon of Florida's Tavernier Science Center as a sole source exception to the general standards of competition.

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED** and **ADOPTED** this 12<sup>th</sup> day of September, 2013.

SOUTH FLORIDA WATER MANAGEMENT  
DISTRICT, BY ITS GOVERNING BOARD

By:

\_\_\_\_\_

Chairman

Attest:

Legal form approved:

By:

\_\_\_\_\_

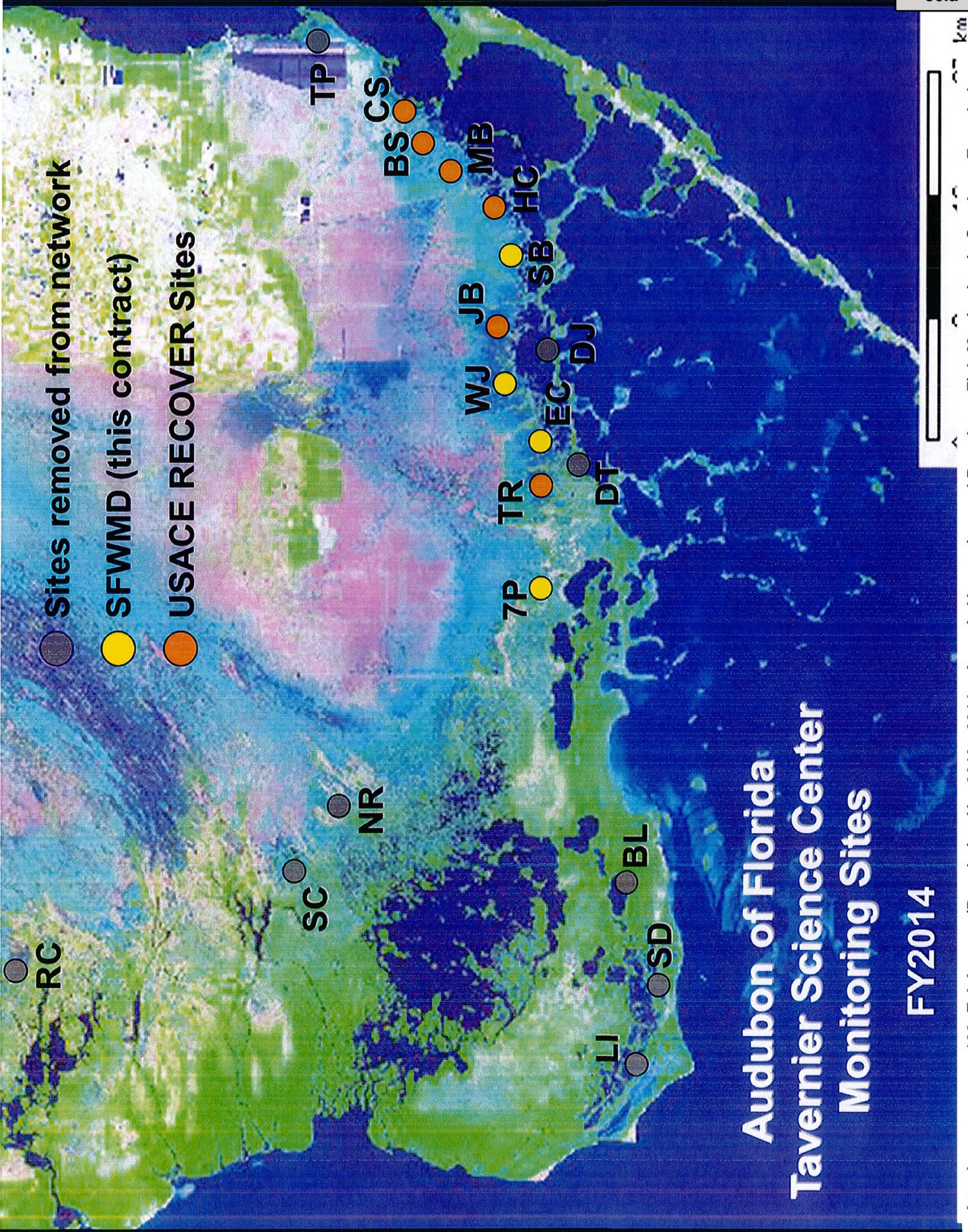
Office of Counsel

\_\_\_\_\_

District Clerk/Secretary

Print name:

\_\_\_\_\_



**Audubon of Florida  
Tavernier Science Center  
Monitoring Sites**

**FY2014**

## M E M O R A N D U M

**TO:** Governing Board Members

**FROM:** Dan DeLisi, Chief of Staff

**DATE:** September 12, 2013

**SUBJECT:** Collier County – Northern Golden Gate Estates (NGGE) Flow Way Restoration

### **Agenda Item Description**

This item is to seek District Governing Board authorization to enter into one-year cost-share agreements with Collier County, which will provide partial funding to support construction of the NGGE Flow Way Restoration project that includes the installation of 42 culvert crossings to restore historic flow ways.

### **Background**

Collier County has recently completed a comprehensive plan funded by DEP for restoration of the historic flow ways in a 34-square mile area of Northern Golden Gate Estates (NGGE). The plan aims at restoring the remnant sloughs of Winchester Head, Horsepen Strand and other wetlands impaired by roads, canals and residential developments. It also laid out the preliminary feasibility of diverting additional Golden Gate Main Canal flows by spreader channels in Northern Belle Meade and eventual sheet flows to South Belle Meade through I-75 culverts. The funding provided with this agreement will support the first phase of this project, which includes the installation of 42 equalizing culverts north and south of Oil Well Road (CR-858) within the existing Right of Way in order to reconnect historic flow ways in the project area.

The main goal of this project is to facilitate surface water conveyance to low lying areas to reduce the burden placed on the Basin's canal system, reduce flows to Naples Bay, and provide aquifer recharge for public water supplies.

The agreement shall commence on October 1, 2013 and terminate on September 30, 2014. Individual projects were identified, scoped and budgeted to fit within the coming fiscal year and staff is confident that this project will be completed within FY14. This item was reviewed and approved by the Big Cypress Basin Board on May 16, 2013.

### **Core Mission and Strategic Priorities**

This project supports the District's core missions of flood protection and improvement of water quality in the receiving waters as set forth in the priorities of the 10-Year Strategic Plan. The project will assist Collier County in meeting their future demands for mitigation of flooding problems and surface water quality improvement.

### **Funding Source**

The total construction cost of the project in FY14 is estimated to be \$581,000. The District's contribution is not to exceed \$290,500 in dedicated Big Cypress Basin ad valorem funds, budgeted for FY14.

### **Staff Recommendation**

Staff recommends approval for authorization to enter into a one-year cost-share agreement with Collier County for providing partial funding to support construction of this project.

If you have any questions, please call me at ext. 6232.

DD/mg

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

**Resolution No. 2013 - 0915**

**A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a one year agreement with Collier County in the amount not to exceed \$290,500, for the construction of the Northern Golden Gate Estate Flow Way Restoration project, for which dedicated Big Cypress Basin ad valorem funds are budgeted; subject to Governing Board approval of the FY14 budget; providing an effective date. (EXO, Dan Delisi, ext. 6232)**

**WHEREAS**, the Governing Board of the South Florida Water Management District deems it necessary, appropriate and in the public interest to authorize entering into a one (1) year agreement with Collier County for the construction of the Northern Golden Gate Estates (NGGE) Flow Way Restoration project, for the not exceed amount of \$290,500, for which dedicated Big Cypress Basin funds are budgeted; subject to Governing Board approval of the FY14 budget; providing an effective date. (Agreement Number 4600002932)

**NOW AND THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:**

**Section 1.** The Governing Board of the South Florida Water Management District hereby authorizes the execution of the Agreement Number 4600002932 with Collier County.

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED and ADOPTED** this 12<sup>th</sup> day of September, 2013.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD

By:

\_\_\_\_\_

Chairman

Attest:

Legal form approved:

By:

\_\_\_\_\_

District Clerk/Secretary

\_\_\_\_\_

Office of Counsel

Print name:

\_\_\_\_\_

## MEMORANDUM

**TO:** Governing Board Members  
**FROM:** Dan DeLisi, Chief of Staff  
**DATE:** September 12, 2013  
**SUBJECT:** Collier County - Livingston Road ASR Well #2

### **Agenda Item Description**

This item is to seek District Governing Board authorization to enter into one-year cost-share agreements with Collier County, which will provide partial funding to support the construction of the Livingston Road Aquifer Storage & Recovery (ASR) Well #2 project, an alternative water supply development project.

### **Background**

The Big Cypress Basin Board has been providing financial assistance to Collier County for several years to support construction of projects for enhancing alternative water supplies. The funding provided with this agreement will support the construction of ASR Well #2 at the Livingston Road ASR Wellfield to store freshwater and reclaimed water for use during peak demand periods in the County's Irrigation Quality (IQ) Water System. This project is part of the County's ASR program that includes the construction of five ASR Wells at the Livingston Road site. The construction of Wells #3 through #5 will follow in future years. The requested funding for FY14 is only for construction of ASR Well #2.

The benefits of this project include conservation of water supply, reduction of discharge of treated effluent, reduction of raw water withdrawal for potable water supply and extended lifetime and sustainable capacity of the potable water treatment facilities. It is expected that one MGD (million gallons per day) reclaimed water will be made available with the addition of this well.

The agreement shall commence on October 1, 2013 and terminate on September 30, 2014. Individual projects were identified, scoped and budgeted to fit within the coming fiscal year and staff is confident that this project will be completed within FY14. This item was reviewed and approved by the Big Cypress Basin Board on May 16, 2013.

### **Core Mission and Strategic Priorities**

This program supports the District's core missions of alternative water supply development and improvement of water quality as set forth in the priorities of the 10-Year Strategic Plan. This project will assist Collier County in meeting the future demands for alternative water supply.

### **Funding Source**

The total construction cost of the project in FY14 is estimated to be \$1,500,000. The District's contribution is not to exceed \$600,000 in dedicated Big Cypress Basin ad valorem funds, budgeted for FY14.

### **Staff Recommendation**

Staff recommends approval for authorization to enter into a one-year cost-share agreement with the Collier County for providing partial funding to support construction of this project.

If you have any questions, please call me at ext. 6232.

DD/mg

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

**Resolution No. 2013 - 0916**

**A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a one year agreement with Collier County in the amount not to exceed \$600,000, for the construction of the Livingston Road Aquifer Storage and Recovery (ASR) Well #2 project, for which dedicated Big Cypress Basin ad valorem funds are budgeted; subject to Governing Board approval of the FY14 budget; providing an effective date. (EXO, Dan Delisi, ext. 6232)**

**WHEREAS**, the Governing Board of the South Florida Water Management District deems it necessary, appropriate and in the public interest to authorize entering into a one (1) year agreement with Collier County for the construction of the Livingston Road Aquifer Storage and Recovery (ASR) Well #2 project, for the not to exceed amount of \$600,000, for which dedicated Big Cypress Basin funds are budgeted; subject to Governing Board approval of the FY14 budget; providing an effective date. (Agreement Number 4600002929)

**NOW AND THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:**

**Section 1.** The Governing Board of the South Florida Water Management District hereby authorizes the execution of the Agreement Number 4600002929 with Collier County.

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED and ADOPTED** this 12th day of September, 2013.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD  
By:

\_\_\_\_\_  
Chairman

Attest:

Legal form approved:  
By:

\_\_\_\_\_  
District Clerk/Secretary

\_\_\_\_\_  
Office of Counsel

Print name:  
\_\_\_\_\_

## M E M O R A N D U M

**TO:** Governing Board Members

**FROM:** Dan DeLisi, Chief of Staff

**DATE:** September 12, 2013

**SUBJECT:** City of Marco Island – Swallow Avenue Drainage Improvements

### **Agenda Item Description**

This item is to seek District Governing Board authorization to enter into one-year cost-share agreements with the City of Marco Island, which will provide partial funding to support construction of the City's Swallow Avenue Drainage Improvements project, a drainage and flood mitigation project.

### **Background**

The Big Cypress Basin Board has been providing financial assistance to the City of Marco Island for several years to support construction of projects for upgrading stormwater management systems to mitigate flooding problems and to improve water quality of the receiving inland waters and estuaries.

The existing stormwater collection system of the Swallow Avenue area is not capable of handling the drainage problems that lead to road closures and stranded vehicles. The current flooding hinders the City's ability to provide fire department access during and after storm events. Two (2) new outfalls were completed as Phase 1 of the project in 2010. The funding provided with this agreement will support Phase 2, which includes the installation of large reinforced concrete pipes and drainage structures along Swallow Avenue to collect runoff and provide water quality treatment prior to discharge through the two (2) new outfalls completed in Phase 1. This project will alleviate severe flooding that impacts the public and limits access to numerous condominium developments and provide access to emergency response during and after storm events.

The agreement shall commence on October 1, 2013 and terminate on September 30, 2014. Individual projects were identified, scoped and budgeted to fit within the coming fiscal year and staff is confident that this project will be completed within FY14. This item was reviewed and approved by the Big Cypress Basin Board on May 16, 2013.

### **Core Mission and Strategic Priorities**

This project supports the District's core missions of flood protection and improvement of water quality in the receiving waters as set forth in the priorities of the 10-Year Strategic Plan. The project will assist the City of Marco Island in meeting their future demands for mitigation of flooding problems and surface water quality improvement.

### **Funding Source**

The total construction cost of the project in FY14 is estimated to be \$590,000. The District's contribution is not to exceed \$236,000 in dedicated Big Cypress Basin ad valorem funds, budgeted for FY14.

### **Staff Recommendation**

Staff recommends approval for authorization to enter into a one-year cost-share agreement with the City of Marco Island for providing partial funding to support construction of this project.

If you have any questions, please call me at ext. 6232.

DD/mg

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

**Resolution No. 2013 - 0917**

**A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a one year agreement with the City of Marco Island in the amount not to exceed \$236,000, for the construction of the City's Swallow Avenue Drainage Improvements project, for which dedicated Big Cypress Basin ad valorem funds are budgeted; subject to Governing Board approval of the FY14 budget; providing an effective date. (EXO, Dan Delisi, ext. 6232)**

**WHEREAS**, the Governing Board of the South Florida Water Management District deems it necessary, appropriate and in the public interest to authorize entering into a one (1) year agreement with the City of Marco Island for the construction of the Swallow Avenue Drainage Improvements project for the not to exceed amount of \$236,000, for which dedicated Big Cypress Basin funds are budgeted; subject to Governing Board approval of the FY14 budget; providing an effective date. (Agreement Number 4600002930)

**NOW AND THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:**

**Section 1.** The Governing Board of the South Florida Water Management District hereby authorizes the execution of the Agreement Number 4600002930 with the City of Marco Island.

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED and ADOPTED** this 12th day of September, 2013.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD  
By:

\_\_\_\_\_ Chairman

Attest:

Legal form approved:  
By:

\_\_\_\_\_ District Clerk/Secretary

\_\_\_\_\_ Office of Counsel

Print name:  
\_\_\_\_\_

## MEMORANDUM

**TO:** Governing Board Members  
**FROM:** Dan DeLisi, Chief of Staff  
**DATE:** September 12, 2013  
**SUBJECT:** Naples (ASR) Well #3

### **Agenda Item Description**

This item is to seek District Governing Board authorization to enter into one-year cost-share agreements with the City of Naples, which will provide partial funding to support the construction of the City's Aquifer Storage and Recovery (ASR) Well #3 project, an alternative water supply development project.

### **Background**

The Big Cypress Basin Board has been providing financial assistance to the City of Naples for several years to support construction of projects for enhancing alternative water supplies. The funding provided in this agreement is to continue the construction of an ASR wellfield at the Riverside Circle location, which includes the installation and testing of four (4) ASR wells, three (3) monitoring wells, and the evaluation of potential storage zones below the Underground Supply of Drinking Water (USDW). The scope of work for this phase includes the following: Construction ASR Well #3, Installation of Yard Piping and Construction of a Monitoring Well for ASR Well #3.

The agreement shall commence on October 1, 2013 and terminate on September 30, 2014. Individual projects were identified, scoped and budgeted to fit within the coming fiscal year and staff is confident that this project will be completed within FY14. This item was reviewed and approved by the Big Cypress Basin Board on May 16, 2013.

### **Core Mission and Strategic Priorities**

This program supports the District's core missions of alternative water supply development and improvement of water quality as set forth in the priorities of the 10-Year Strategic Plan. This project will assist the City of Naples in meeting the future demands for alternative water supply.

### **Funding Source**

The total construction cost of the project is estimated to be \$1,914,000. The District's contribution is not to exceed \$600,000 in dedicated Big Cypress Basin ad valorem funds, budgeted for FY14.

### **Staff Recommendation**

Staff recommends approval for authorization to enter into a one-year cost-share agreement with the City of Naples for providing partial funding to support construction of ASR Well #3.

If you have any questions, please call me at ext. 6232

DD/mg

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

**Resolution No. 2013 - 0918**

**A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a one year cooperative agreement with the City of Naples in the amount not to exceed \$600,000, for the construction of the City’s Aquifer Storage and Recovery (ASR) Well #3 project, for which dedicated FY 14 Big Cypress Basin ad valorem funds are budgeted, subject to Governing Board approval of the FY14 budget; providing an effective date. (EXO, Dan Delisi, ext. 6232)**

**WHEREAS**, the Governing Board of the South Florida Water Management District deems it necessary, appropriate and in the public interest to authorize entering into a one (1) year agreement with the City of Naples for the construction of the Aquifer Storage and Recovery (ASR) Well #3 project, for the not to exceed amount of \$600,000, for which dedicated Big Cypress Basin funds are budgeted; subject to Governing Board approval of the FY14 budget; providing an effective date. (Agreement Number 4600002927)

**NOW AND THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:**

**Section 1.** The Governing Board of the South Florida Water Management District hereby authorizes the execution of the Agreement Number 4600002927 with the City of Naples.

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED and ADOPTED** this 12th day of September, 2013.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD  
By:

\_\_\_\_\_ Chairman

Attest:

Legal form approved:  
By:

\_\_\_\_\_ District Clerk/Secretary

\_\_\_\_\_ Office of Counsel

Print name:  
\_\_\_\_\_

## MEMORANDUM

**TO:** Governing Board Members  
**FROM:** Carolyn S. Ansay, General Counsel  
**DATE:** September 12, 2013  
**SUBJECT:** Certification of Completion of Economic Estimates

### **Agenda Item Description**

This item requests the Governing Board authorize its Chair to execute a certification that the District has completed the economic estimates required under paragraph 120.745(9)(b), Florida Statutes, and authorizing transmittal of the certification to the Joint Administrative Procedures Committee before October 1, 2013.

### **Background**

Subsection 120.745(9), Florida Statutes (F.S.), provides an exemption from the enhanced rule review and compliance economic review if it meets specified criteria and certifies in writing to the Joint Administrative Procedures Committee (JAPC) an election to utilize such an exemption. The South Florida Water Management District (District) voluntarily complied with the specified criteria and, pursuant to Resolution No. 2011-903 elected to utilize the exemption.

Pursuant to paragraph 120.745(9)(b), F.S., the District is required to provide a reasonable economic estimate of regulatory cost or economic impact for District rules identified by the Office of Fiscal Accountability and Regulatory Reform (OFARR) as having such cost or impact. The agency head is required to certify in writing to JAPC, on or before October 1, 2013, that the agency has completed each economic estimate required by paragraph 120.745(9)(b), F.S., in order to be exempt from the biennial review required in subsection 120.74(2), F.S., for the year 2013. District staff will complete the economic estimates required and will input the information into OFARR's web application before October 1, 2013. The proposed certification is attached and incorporated in the associated Governing Board Resolution.

### **Core Mission and Strategic Priorities**

The District is required to adopt rules and to comply with the provisions of sections 120.74 and 120.745, F.S.

### **Funding Source**

District staff time will be used to prepare the economic estimates.

### **Staff Recommendation**

Staff recommends authorization for the Governing Board Chair to execute the Certification of Completion of Economic Estimates and transmittal of same to JAPC no later than October 1, 2013.

If you have any questions, please call Carolyn Ansay at ext. 6976 or Doug MacLaughlin at ext. 2153.

CSA/jr

## SOUTH FLORIDA WATER MANAGEMENT DISTRICT

### Resolution No. 2013 - 0919

**A Resolution of the Governing Board of the South Florida Water Management District authorizing the Governing Board chair to execute a certification that the District has completed the economic estimates required under paragraph 120.745(9)(b), Florida Statutes, and authorizing transmittal of the same to the Joint Administrative Procedures Committee; providing an effective date. (OC, Carolyn Ansay, ext. 6976)**

**WHEREAS**, subsection 120.745(9), Florida Statutes (F.S.), provides an exemption from the enhanced rule review and compliance economic review if it meets specified criteria and certifies in writing to the Joint Administrative Procedures Committee (JAPC) an election to utilize such an exemption;

**WHEREAS**, the South Florida Water Management District (District) voluntarily complied with the specified criteria and, pursuant to Resolution No. 2011-903 elected to utilize the exemption;

**WHEREAS**, pursuant to paragraph 120.745(9)(b), F.S., the District is required to provide a reasonable economic estimate of regulatory cost or economic impact for District rules identified by the Office of Fiscal Accountability and Regulatory Reform (OFARR) as having such cost or impact;

**WHEREAS**, the agency head is required to certify in writing to JAPC, on or before October 1, 2013, that the agency has completed each economic estimate required by paragraph 120.745(9)(b), F.S., in order to be exempt from the biennial review required in subsection 120.74(2), F.S., for the year 2013;

**WHEREAS**, District will complete the economic estimates required by paragraph 120.745(9)(b), F.S., and will input the information into OFARR's web application before October 1, 2013; **now therefore**

**BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:**

**Section 1.** The Governing Board of the South Florida Water Management District hereby authorizes the Governing Board chair to execute a Certification of Completion of Economic Estimates, attached and incorporated herein, and further authorizes transmittal of the same to JAPC.

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED** and **ADOPTED** this 12th day of September, 2013.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD  
By:

\_\_\_\_\_

Chairman

Attest:

Legal form approved:

By:

\_\_\_\_\_

District Clerk/Secretary

\_\_\_\_\_

Office of Counsel

Print name:

\_\_\_\_\_

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
CERTIFICATION OF COMPLETION OF  
ECONOMIC ESTIMATES PURSUANT  
TO PARAGRAPH 120.745, FLORIDA STATUTES**

I, Daniel O’Keefe, Chair of the South Florida Water Management District (District) Governing Board, do hereby certify that, pursuant to paragraph 120.745(9)(b), Florida Statutes, the District has completed the economic estimates of its rules identified by the Office of Fiscal Accountability and Regulatory Reform.

SOUTH FLORIDA WATER  
MANAGEMENT DISTRICT

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Daniel O’Keefe  
Governing Board Chair

\_\_\_\_\_  
Date

Approved as to Legal Form  
And Content

\_\_\_\_\_

Attachment: 2013-09-12 FINAL certification (Resolution No. 2013 - 0919 : Certification of Completion of Economic Estimates)

**MEMORANDUM**

**TO:** Governing Board Members  
**FROM:** Carolyn S. Ansay, General Counsel  
**DATE:** September 12, 2013  
**SUBJECT:** Hyatt Stipulated Motion for Order to Pay Costs

**Agenda Item Description:**

This is an agenda item to resolve all attorney's fees and expert witness costs incurred by Kenneth G. Hyatt in the eminent domain action styled South Florida Water Management District v. Kenneth G. Hyatt, et al., Osceola County Case Number 2011CA-002798-ED- from 1993 to the present date.

**Background:**History

On August, 24 2011, the District filed an eminent domain "slow-take" lawsuit to acquire flowage easement interests adjacent to Lake Kissimmee from Kenneth G. Hyatt and Arnold H. Mack in furtherance of the Kissimmee River Restoration Project. The District began negotiations to acquire property from these landowners under a threat of condemnation in November 1993. On April 11, 2013, the District dismissed its eminent domain action to allow the USACE to review the quality and quantity of the estates required for the project, along with any engineering fixes or "cures". As a result, the landowners are entitled to recover their reasonable attorney's fees and costs incurred in defense of this eminent domain action. Section 73.091 and Section 73.092, Florida Statutes (2012) requires the condemning authority to pay the landowner's reasonable attorney's fees and reasonable costs incurred in defense of condemnation. The Court ordered the District to pay for expert witness engineering fees incurred by Kenneth G. Hyatt pursuant to the condemnation efforts by the District. The District reached full settlement with Kenneth G. Hyatt to pay costs incurred by Kenneth G. Hyatt that were not determined by the Court.

Current Resolution. The order from the Court to the District to pay engineering fees and the proposed settlement reached with Kenneth G. Hyatt for the payment of the remaining attorney's fees and costs related to the condemnation action will require the District to pay attorney's fees and costs of \$865,220.96 to Kenneth G. Hyatt. The parties have agreed to enter a stipulated motion for an order to pay costs which includes previous orders to pay costs entered by the Court. This order and its payment represents payment for any and all attorney's fees, expert witness costs, or other taxable costs incurred by Kenneth G. Hyatt in defense of District eminent domain efforts from November 1993 to the date of the entry of the stipulated order.

**Core Mission and Strategic Priorities:**

Payment of attorney's fees and costs is necessary to satisfy the District's statutory obligation to pay reasonable attorney's fees and costs incurred by the landowner in defense of District eminent domain actions. The terms of this settlement are consistent with previous settlements, within the guidelines provided by the Governing Board and cost payment guidelines.

**Funding Source:**

We have been advised by the Land Resource Department that settlement of costs is funded with monies from the Okeechobee Ad Valorem Fund. The proposed full settlement provides for payment of costs of \$865,220.96. This settlement is a savings of \$124,337.01 (approximately 14%) from the initial demand and documentation submitted by attorneys for the landowner totaling \$989,557.97. The total amount required to be deposited by the District under this settlement is \$865,220.96.

**Staff Recommendation**

Staff recommends approval of this item to resolve any and all claims for attorney's fees, expert witness fees, and taxable costs and to avoid the uncertainties associated with litigation over these costs which would require the District's expenditure of additional funds to pay both the District's and property owner's substantial legal costs associated with further litigation. The discount obtained through negotiations will most likely exceed that which the District could obtain through further judicial action.

If you have any questions, please call Carolyn Ansay at [ext. 6976] or Keith Williams at [ext. 2791].

## SOUTH FLORIDA WATER MANAGEMENT DISTRICT

### Resolution No. 2013 - 0920

**A Resolution of the Governing Board of the South Florida Water Management District to authorize entry into a stipulated motion for order to pay costs with Kenneth G. Hyatt for payment of attorney's fees and expert witness costs of \$865,220.96 which represents any and all costs incurred by Kenneth G. Hyatt in the Osceola County Kissimmee River restoration project styled South Florida Water Management District v. Kenneth G. Hyatt, et al., case no.: 2011CA-002798-ED, filed in the 9th Circuit Court in and for Osceola County, Florida; providing an effective date. (OC, Carolyn Ansay, ext. 6976)**

**WHEREAS**, Sections 373.083(1) and 373.129, Florida Statutes, authorize the South Florida Water Management District to settle existing lawsuits; and

**WHEREAS**, this case was filed in Osceola County, Florida; and

**WHEREAS**, the Parties have been engaged in negotiations in an attempt to resolve the outstanding attorney's fees and costs without trial; and

**WHEREAS**, settlement of this matter avoids the additional costs of a trial and the uncertainties of a judicial order; and

**WHEREAS**, the Parties have been successful in presenting a proposed stipulated motion for order to pay costs to the Governing Board of the South Florida Water Management District; and

**WHEREAS**, the terms of the proposed stipulated motion for order to pay costs are set forth on the attached document;

### **BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:**

To authorize entry into a stipulated motion for order to pay costs with Kenneth G. Hyatt for \$865,220.96, which represents payment of any and all attorney's fees, expert witness fees or other taxable costs incurred by Kenneth G. Hyatt for the eminent domain action styled South Florida Water Management District v. Kenneth G. Hyatt, et al., Case No.: 2011CA-002798-ED, filed in the Circuit Court of the 9<sup>th</sup> Judicial District in and for Osceola County, Florida; providing an effective date.

This Resolution shall take effect immediately upon adoption.

**PASSED and ADOPTED** this 12<sup>th</sup> day of September 2013.

BUDGETED

\$865,220.96

<b>402000</b>	<b>520</b>	<b>5214</b>	<b>FD01</b>	<b>580013</b>
<b>Fund</b>	<b>Agency</b>	<b>Org</b>	<b>Activity</b>	<b>Object/Revenue</b>

\_\_\_\_\_  
Budget Approval

SOUTH FLORIDA WATER MANAGEMENT  
DISTRICT, BY ITS GOVERNING BOARD  
By:

\_\_\_\_\_  
Chairman

Attest:

Legal form approved:  
By:

\_\_\_\_\_  
District Clerk/Secretary

\_\_\_\_\_  
Office of Counsel

Print name:  
\_\_\_\_\_

## IN THE CIRCUIT COURT IN AND FOR OSCEOLA COUNTY, FLORIDA

SOUTH FLORIDA WATER  
MANAGEMENT DISTRICT,

Petitioner,

vs.

Case No. 2011 CA 002798 ED  
Parcel No. 18072-003  
18072-004

KENNETH G. HYATT, et al.,

Respondents.  
\_\_\_\_\_ /**STIPULATED MOTION FOR ORDER TO PAY COSTS**

The Petitioner, SOUTH FLORIDA WATER MANAGEMENT DISTRICT, and Respondent, KENNETH G. HYATT, by and through undersigned counsel, respectfully stipulate and agree that costs shall be paid as follows:

Klusza & Goding, Inc.	\$ 82,000.00
Peter Spyke	\$ 1,000.00
Raffa Consulting Economists, Inc.	\$ 1,000.00
Vanasse Hangen Brustlin, Inc.	\$ 20,000.00
Weed Systems, Inc.	\$ 28,000.00
Peterson & Myers, P.A.	\$ 6,500.00
Charlie Stratton, Esq.	\$ 5,250.00
Balmoral Group	\$ 1,500.00
Geosyntec** (see attached Order)	\$371,455.96
Peterson & Myers, P.A. - attorney fees	<u>\$350,000.00</u>
TOTAL	<u>\$865,220.96</u>

The total sum of **\$865,220.96** shall, within thirty (30) days from the date of the signing of the Order, be paid by the Petitioner to the Trust Account of Peterson & Myers, P.A., P. O. Box 1079, Lake Wales, FL 33859-1079 for proper disbursement. The parties further stipulate and agree that the total sum reflected herein represents payment of any and all attorney's fees, expert witness fees, and taxable costs incurred by the Respondent from January 1, 1993 to the date of entry of this Order.

SOUTH FLORIDA WATER  
MANAGEMENT DISTRICT  
BY \_\_\_\_\_Keith L. Williams, Esq.  
Fla. Bar No. 0135615  
3301 Gun Club Road MSC 1410  
West Palm Beach, FL 33406  
561/682-2791  
Attorney for Petitioner

PETERSON &amp; MYERS, P.A.

BY \_\_\_\_\_  
Deborah A. Ruster, Esq.  
Fla. Bar No. 0327581  
P. O. Box 1079  
Lake Wales, FL 33859-1079  
863/676-7611  
Attorneys for Respondent Hyatt

## IN THE CIRCUIT COURT IN AND FOR OSCEOLA COUNTY, FLORIDA

SOUTH FLORIDA WATER  
MANAGEMENT DISTRICT,

Petitioner,

vs.

Case No. 2011 CA 002798 ED

Parcel No. 18072-003

18072-004

KENNETH G. HYATT, et al.,

Respondents.

ORDER ON COSTS

THIS CAUSE having come before the Court on a Stipulated Motion for Order to Pay Costs, and all parties being represented by counsel before the Court, and the Court having considered all matters before it, and the Court being otherwise fully advised, it is

ORDERED that the Petitioner, SOUTH FLORIDA WATER MANAGEMENT DISTRICT, shall pay costs as follows:

Klusza & Goding, Inc.	\$ 82,000.00
Peter Spyke	\$ 1,000.00
Raffa Consulting Economists, Inc.	\$ 1,000.00
Vanasse Hangen Brustlin, Inc.	\$ 20,000.00
Weed Systems, Inc.	\$ 28,000.00
Peterson & Myers, P.A.	\$ 6,500.00
Charlie Stratton, Esq.	\$ 5,250.00
Balmoral Group	\$ 1,500.00
Geosyntec** (see attached Order)	\$371,455.96
Peterson & Myers, P.A. - attorney fees	<u>\$350,000.00</u>
TOTAL	\$865,220.96

That within thirty (30) days from the signing of this Order the total sum of **\$865,220.96** shall be paid by the Petitioner to the Trust Account of Peterson & Myers, P.A., P. O. Box 1079, Lake Wales FL 33859-1079 for proper disbursement.

DONE AND ORDERED in Chambers at Kissimmee, Osceola County, Florida, this \_\_\_\_\_ day of September, 2013.

\_\_\_\_\_  
Scott Polodna, Circuit Judge

Copies furnished to: All counsel of record

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT IN AND FOR  
OSCEOLA COUNTY, FLORIDA

SOUTH FLORIDA WATER  
MANAGEMENT DISTRICT,

Petitioner,

CASE NO.: 2011-CA-2798-ED

vs.

KENNETH HYATT, ARNOLD MACK,  
et al.,

Respondents.

**ORDER GRANTING RESPONDENTS MOTION TO TAX FEES AND COSTS**

THIS MATTER came before the Court as a result of South Florida Water Management District (“SFWMD”) having filed a Petition in Eminent Domain on 24 August 2011 and voluntarily dismissing said Petition on 11 April 2013. A hearing on Respondents’ Motion to Tax Fees and Costs was held on 23 July 2013. The Court having reviewed Respondents’ Motion, case law, the file, arguments of counsel, and being fully advised in the premises FINDS as follows:

Legal Authority

The Florida Constitution guarantees that “[n]o private property shall be taken except for a public purpose and will full compensation therefor paid to each owner.” Art. X, Section 6(a), Fla. Const. Full compensation is the objective of this provision and includes costs of expert witnesses. *Jacksonville Expressway Authority, Dade County v. Brigham*, 47 So.2d 602 (Fla. 1950). This Court has the authority to determine and award reasonable fees and costs to the Respondents associated with the defense of the petition. Regarding the motions to tax attorney’s fees and costs, section 73.091, Fla. Stat. (2013),

obligates the Petitioner to pay attorney's fees and all reasonable costs incurred in the defense of the proceedings. Moreover, the Petitioner's voluntary dismissal of the petition did not divest the trial court of jurisdiction to consider the motions for fees and costs. *See Golf Course Resorts v. DOT*, 816 So.2d 236 (Fla. 2<sup>nd</sup> DCA 2002) (Citing: *City of Hallandale v. Chatlos*, 236 So.2d 761, 763 (Fla.1970); *State, Dep't of Transp. v. ABS Prop. P'ship*, 693 So.2d 703, 705 (Fla. 2d DCA 1997)).

#### Findings of Fact

The Respondent's witness, J. Davis Connor<sup>1</sup>, testified that SFWMD interest in their property dates back to November 24, 1993 (Respondent's Exhibit #1). The Respondents received an appraisal along with an offer letter in 2010 (Respondent's Exhibit #2). Mr. Connor testified that the appraisal was intimidating to the Respondents since the cost to cure was estimated at \$1.9 million and they were under time pressure due to the accompanying offer letter. As a result of the Petitioner's actions, the Respondent Hyatt entered into a contract with Geosyntec Consultants that required special terms, including special payment terms which made Hyatt directly liable for payment to Geosyntec. Respondent Mack subsequently entered into a cost sharing contract with Hyatt regarding the services to be provided by Geosyntec. Additionally, Mack also entered into a contract with Geosyntec with similar provisions (Respondent's Exhibit #4). Mr. Connor testified both of these arrangements (Hyatt being directly liable and Hyatt/Mack cost sharing agreement) are highly unusual in Eminent Domain practice.

Respondents' Exhibits 5 and 6 reflect the Notice to Proceed contracts that contained "not to exceed" clause which was a major concession by Geosyntec that put them at risk for cost overruns. In addition to both Respondents being jointly and

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<sup>1</sup> Mr. Connor's background and experience speak for themselves and need not be reiterated in this Order.

severally liable for the entirety of Geosyntec's work, each Respondent had to invest \$17,500 in order for Geosyntec to begin its work. Mr. Connor testified that not only was this an unusual contract with Geosyntec but this case was unusual in two other ways; the cooperative efforts between Hyatt and Mack to procure the necessary professional services and the sharing of work-product information with the Petitioner. Mr. Connor also testified that the contract for services were both necessary and reasonable under the circumstances of this Petition.

Mr. Jack Brandon testified for the Respondents and emphasized the unusual and cooperative nature of this Petition.<sup>2</sup> He testified that the Petition agreed to pay for groundwater data collection and surveying. Mr. Brandon contracted with Mr. David Carter initially for modeling done exclusively for Respondent Mack. He indicated that his work did not go into the same detail as Geosyntec and more work would have been necessary to determine a final cure. The Petitioner was never given any accounting of costs for Mr. Carter or Geosyntec during their employment nor did the Petitioner request to see the fees and costs of these contracts.<sup>3</sup> Mr. Brandon also explained how eminent domain engineering is costlier compared to development engineering.

The Respondents also presented the testimony of Chad Drummond who is employed by Geosyntec as an associate engineer and was the person who negotiated the contract with Respondents. Mr. Drummond testified how his company had never entered into a contract like the ones involved in this Petition. Geosyntec had to front most of the money of their work and performed the work within the proposed budget. The budget constraints were very important to Geosyntec since there was the "not to exceed" clause

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<sup>2</sup> Mr. Brandon's background and experience speak for themselves and need not be reiterated in this Order.

<sup>3</sup> Mr. Brandon testified that in his 42 years of experience he has never asked the condemning authority to approve the costs of his engineers/experts.

which placed the risk of cost overruns onto Geosyntec. Mr. Drummond also explained the challenges reflected in their scope of work, including 8 different crops to consider in their surface and ground water modeling. Mr. Drummond also established that their work was accomplished in the most cost effective manner possible (Respondents' Exhibit #10 and 11)<sup>4</sup>. Mr. Drummond also explained the nature of the work that was necessary to defend the Petition.

The Respondents presented the expert testimony of Gregory Seidel who opined that Geosyntec's hours and rates were reasonable. He stated Geosyntec was very efficient in their fees when analyzed per acre and per node and was actually done less expensively than 5 of 6 of Mr. Seidel's own similar projects. Mr. Seidel testified that he took into account the complexity of the project and the number of acres. He also indicated "legal work" was riskier than development work and therefore the rate charged should be higher.<sup>5</sup>

The Petitioner presented the testimony of Alan Shirkey, an employee of SFWMD. Mr. Shirkey is an engineer and worked on the project with the Respondents' engineers. He never discussed with Respondents the scope and budget of the work for the project. Mr. Shirkey opined that the Respondents' engineering work was not reasonable in that the fee vs. cost of improvements was too high and that too many hours were worked by high level engineers and too few were done by low level engineers. Mr. Shirkey pointed out that Mr. Carter's invoices were much lower than Geosyntec and that their end-work was similar. Mr. Shirkey also testified that he failed to see the difference between a

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<sup>4</sup> These exhibits give the breakdown of labor hour and expense distribution.

<sup>5</sup> This Court infers that Mr. Seidel's definition of legal work includes eminent domain projects which requires more meetings with lawyers and governmental agencies and ultimately may require court testimony.

litigation case and a development case. The Petitioner's also introduced several exhibits establishing rates SFWMD pays to engineers for continuing engineering services for similar work in Florida.

Mr. Shirkey conceded that the engineering work done by Geosyntec and Mr. Carter was necessary on the Respondent's property because the report obtained by SFWMD was inadequate—that a higher level of engineering needed to be done. Mr. Shirkey also agreed that ideally engineering firms are paid monthly for their work and he recognized that Geosyntec took on risk by not being paid in the usual manner. He also agreed under these circumstances it was reasonable for Geosyntec to negotiate some premium in exchange for the risk. Mr. Shirkey opined that a rate adjustment would have saved a considerable amount of money but he did not opine whether the number of hours was reasonable or unreasonable.<sup>6</sup> Mr. Shirkey did not testify to what rates he believes are reasonable for lower level and higher level engineers and staff for this project.

#### Conclusions of Law

The Respondents have shown this Court by clear and convincing evidence that the hiring of a professional engineer to perform the scope of work contracted with Geosyntec and David Carter was absolutely necessary to defend the Petition. In fact, Petitioner agreed the work was necessary through the testimony of its own expert/employee, Mr. Alan Shirkey. The only challenge to the fees at issue in the hearing was the hourly rates

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<sup>6</sup> If this Court's memory and notes are correct, Mr. Shirkey was never even asked about the total number of hours; rather, his testimony focused ultimately on the rates charged (including high level vs. low level)

charged by Geosyntec. Petitioner's expert used the rates charged by one Respondent's original expert, David Carter, as an example of reasonableness.<sup>7</sup>

While the Petitioner presented conflicting evidence regarding the reasonableness of rates, this Court finds that the hourly rates charged by Geosyntec were reasonable under the unique circumstances of this Petition. The Petitioner attempted to compare rates by introducing rates SFWMD establishes for its continuing services contracts. This Court gives those rates relatively little weight in its analysis since the Respondents relative bargaining position in this case is not anything similar to the bargaining position of a governmental agency with (arguably) a lot of work to contract out to any engineer willing to accept those rates. Respondents are two land owners under strict time constraints that must hire an engineering firm willing to defer payment to undertake a large task in a litigated matter. The Petitioner's own expert witness recognized a firm was entitled to negotiate a premium under these circumstances. While the Petitioner's witness established that the engineering project could have possibly been done cheaper, they did not overcome the Respondents' proof of reasonableness.

BASED UPON the foregoing it is therefore **ORDERED and ADJUDGED**

1. Respondent Hyatt Farms is awarded:
  - a. Pre-Modeling work \$63,091.26
  - b. Hyatt ½ of Geosyntec Modeling \$134,294.79
  - c. Cost to cure and litigation support \$174,069.91
2. Respondent Mack Farms is awarded:
  - a. Mack ½ of Geosyntec Modeling \$134,294.79

<sup>7</sup> This Court concludes that Petitioner thus is not contesting the fees sought on behalf of Mr. Carter.

**DONE and ORDERED** in Chambers, Osceola County, Florida on August 1,  
2013.



SCOTT POLODNA, Circuit Judge

Attachment: Hyatt Composite Exhibit A (Resolution No. 2013 - 0920 : Hyatt Stipulated Motion for Order to Pay Costs)

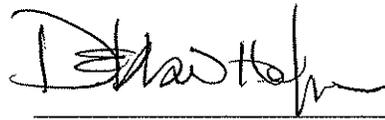
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 1, 2013, a true and correct copy of the foregoing has been emailed to:

Keith L. Williams, Esq. [kwilliam@sfwmd.gov](mailto:kwilliam@sfwmd.gov); [acarrell@sfwmd.gov](mailto:acarrell@sfwmd.gov); and [litigation@sfwmd.gov](mailto:litigation@sfwmd.gov)

Deborah A. Ruster, Esq. [druster@petersonmyers.com](mailto:druster@petersonmyers.com)  
J. Davis Connor, Esq. [jconnor@petersonmyers.com](mailto:jconnor@petersonmyers.com)

Jack P. Brandon, Esq. [jbrandon@petersonmyers.com](mailto:jbrandon@petersonmyers.com)  
John B. Allen, Esq. [ballen@petersonmyers.com](mailto:ballen@petersonmyers.com)



\_\_\_\_\_  
Judicial Assistant

## M E M O R A N D U M

**TO:** Governing Board Members

**FROM:** Carolyn S. Ansay, General Counsel

**DATE:** September 12, 2013

**SUBJECT:** Mack Stipulated Motion for Order to Pay Costs

### **Agenda Item Description:**

This is an agenda item to resolve all attorney's fees and expert witness costs incurred by Arnold H. Mack in the eminent domain action styled South Florida Water Management District v. Kenneth G. Hyatt, et al., Osceola County Case Number 2011CA-002798-ED- from 1993 to the present date.

### **Background:**

#### History

On August 24, 2011, the District filed an eminent domain "slow-take" lawsuit to acquire flowage easement interests adjacent to Lake Kissimmee from Kenneth G. Hyatt and Arnold H. Mack in furtherance of the Kissimmee River Restoration Project. The District began negotiations to acquire property from these landowners under a threat of condemnation in November 1993. On April 11, 2013, the District dismissed its eminent domain action to allow the USACE to review the quality and quantity of the estates required for the project, along with any engineering fixes or "cures". As a result, the landowners are entitled to recover their reasonable attorney's fees and costs incurred in defense of this eminent domain action. Section 73.091 and Section 73.092, Florida Statutes (2012) requires the condemning authority to pay the landowner's reasonable attorney's fees and reasonable costs incurred in defense of condemnation. The Court ordered the District to pay for expert witness engineering fees incurred by Arnold H. Mack pursuant to the condemnation efforts by the District. The District reached full settlement with Arnold H. Mack to pay costs incurred by Arnold H. Mack that were not determined by the Court.

Current Resolution. The order from the Court to the District to pay engineering fees and the proposed settlement reached with Arnold H. Mack for the payment of the remaining attorney's fees and costs related to the condemnation action will require the District to pay attorney's fees and costs of \$645,444.79 to Arnold H. Mack. The parties have agreed to enter a stipulated motion for an order to pay costs which includes previous orders to pay costs entered by the Court. This order and its payment represents payment for any and all attorney's fees, expert witness costs, or other taxable costs incurred by Arnold H. Mack in defense of District eminent domain efforts from November 1993 to the date of the entry of the stipulated order.

**Core Mission and Strategic Priorities:**

Payment of attorney's fees and costs is necessary to satisfy the District's statutory obligation to pay reasonable attorney's fees and costs incurred by the landowner in defense of District eminent domain actions. The terms of this settlement are consistent with previous settlements, within the guidelines provided by the Governing Board and cost payment guidelines.

**Funding Source:**

We have been advised by the Land Resource Department that settlement of costs is funded with monies from the Okeechobee Ad Valorem Fund. The proposed full settlement provides for payment of costs of \$645,444.79. This settlement is a savings of \$92,769.71 (approximately 14%) from the initial demand and documentation submitted by attorneys for the landowner totaling \$738,214.50. The total amount required to be deposited by the District under this settlement is \$645,444.79.

**Staff Recommendation**

Staff recommends approval of this item to resolve any and all claims for attorney's fees, expert witness fees, and taxable costs and to avoid the uncertainties associated with litigation over these costs which would require the District's expenditure of additional funds to pay both the District's and property owner's substantial legal costs associated with further litigation. The discount obtained through negotiations will most likely exceed that which the District could obtain through further judicial action.

If you have any questions, please call Carolyn Ansay at [ext. 6976] or Keith Williams at [ext. 2791].

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

**Resolution No. 2013 - 0921**

**A Resolution of the Governing Board of the South Florida Water Management District to authorize entry into a stipulated motion for order to pay costs with Arnold H. Mack for payment of attorney’s fees and expert witness costs of \$645,444.79 which represents any and all costs incurred by Arnold H. Mack in the Osceola County Kissimmee River restoration project styled South Florida Water Management District v. Kenneth G. Hyatt, et al., case no.: 2011CA-002798-ED, filed in the 9th circuit court in and for Osceola County, Florida; providing an effective date. (OC, Carolyn Ansay, ext. 6976)**

**WHEREAS**, Sections 373.083(1) and 373.129, Florida Statutes, authorize the South Florida Water Management District to settle existing lawsuits; and

**WHEREAS**, this case was filed in Osceola County, Florida; and

**WHEREAS**, the Parties have been engaged in negotiations in an attempt to resolve the outstanding attorney’s fees and costs without trial; and

**WHEREAS**, settlement of this matter avoids the additional costs of a trial and the uncertainties of a judicial order; and

**WHEREAS**, the Parties have been successful in presenting a proposed stipulated motion for order to pay costs to the Governing Board of the South Florida Water Management District; and

**WHEREAS**, the terms of the proposed stipulated motion for order to pay costs are set forth on the attached document;

**BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:**

To authorize entry into a stipulated motion for order to pay costs with Arnold H. Mack for \$645,444.79, which represents payment of any and all attorney’s fees, expert witness fees or other taxable costs incurred by Arnold H. Mack for the eminent domain action styled South Florida Water Management District v. Kenneth G. Hyatt, et al., Case No.: 2011CA-002798-ED, filed in the Circuit Court of the 9<sup>th</sup> Judicial District in and for Osceola County, Florida; providing an effective date.

This Resolution shall take effect immediately upon adoption.

BUDGETED

\$645,444.79	402000	520	5214	FD01	580013
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	Fund	Agency	Org	Activity	Object/Revenue
--	------	--------	-----	----------	----------------

Budget Approval

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD  
By:

Chairman

Attest:

Legal form approved:  
By:

District Clerk/Secretary

Office of Counsel

Print name:

\_\_\_\_\_

IN THE CIRCUIT COURT IN AND FOR OSCEOLA COUNTY, FLORIDA

SOUTH FLORIDA WATER  
MANAGEMENT DISTRICT,

Petitioner,

vs.

Case No. 2011 CA 002798 ED  
Parcel No. 18072-002

KENNETH G. HYATT, et al.,

Respondents.

\_\_\_\_\_ /

**STIPULATED MOTION FOR ORDER TO PAY COSTS**

The Petitioner, SOUTH FLORIDA WATER MANAGEMENT DISTRICT, and Respondent, ARNOLD H. MACK, as Trustee off the Arnold H. Mack Revocable Trust dated December 27, 2000, by and through undersigned counsel, respectfully stipulate and agree that the costs shall be paid as follows:

American Compliance Technologies, Inc. (A-C-T)	\$ 35,000.00
Calhoun, Collister & Parham, Inc.	\$ 62,000.00
David C. Carter Consulting	\$ 71,000.00
Dr. Sal J. Locascio	\$ 8,500.00
Pickett & Associates, Inc.	\$ 56,000.00
Peterson & Myers, P.A.	\$ 1,900.00
Broad & Cassel, P.A.	\$ 5,250.00
Balmoral Group	\$ 1,500.00
Geosyntec** (see attached Order)	\$134,294.79
Peterson & Myers - attorney fees	<u>\$270,000.00</u>
TOTAL	\$645,444.79

The total sum of \$645,444.79 shall, within thirty (30) days from the date of the signing of the Order, be paid by the Petitioner to the Trust Account of Peterson & Myers, P.A., P.O. Box 1079, Lake Wales FL 33859-1079 for proper disbursement. The parties further stipulate and agree that the total sum reflected herein represents payment of any and all attorney's fees, expert witness fees, and taxable costs incurred by the Respondent from January 1, 1993 to the date of entry of this Order.

SOUTH FLORIDA WATER  
MANAGEMENT DISTRICT  
BY \_\_\_\_\_  
Keith L. Williams, Esq.  
Fla. Bar No. 0135615  
3301 Gun Club Road MSC 1410  
West Palm Beach, FL 33406  
561/682-2791  
Attorney for Petitioner

PETERSON & MYERS, P.A.  
BY \_\_\_\_\_  
Deborah A. Ruster, Esq.  
Fla. Bar No. 0327581  
P. O. Box 1079  
Lake Wales, FL 33859-1079  
863/676-7611  
Attorneys for Respondent Mack

## IN THE CIRCUIT COURT IN AND FOR OSCEOLA COUNTY, FLORIDA

SOUTH FLORIDA WATER  
MANAGEMENT DISTRICT,

Petitioner,

vs.

Case No. 2011 CA 002798 ED  
Parcel No. 18072-002

KENNETH G. HYATT, et al.,

Respondents.  
\_\_\_\_\_ /ORDER ON COSTS

THIS CAUSE having come before the Court on a Stipulated Motion for Order to Pay Costs, and all parties being represented by counsel before the Court, and the Court having considered all matters before it, and the Court being otherwise fully advised, it is

ORDERED that the Petitioner, SOUTH FLORIDA WATER MANAGEMENT DISTRICT, shall pay costs as follows:

American Compliance Technologies, Inc. (A-C-T)	\$ 35,000.00
Calhoun, Collister & Parham, Inc.	\$ 62,000.00
David C. Carter Consulting	\$ 71,000.00
Dr. Sal J. Locascio	\$ 8,500.00
Pickett & Associates, Inc.	\$ 56,000.00
Peterson & Myers, P.A.	\$ 1,900.00
Broad & Cassel, P.A.	\$ 5,250.00
Balmoral Group	\$ 1,500.00
Geosyntec** (see attached Order)	\$134,294.79
Peterson & Myers - attorney fees	<u>\$270,000.00</u>
TOTAL	\$645,444.79

That within thirty (30) days from the signing of this Order the total sum of **\$645,444.79** shall be paid by the Petitioner to the Trust Account of Peterson & Myers, P.A., P. O. Box 1079, Lake Wales FL 33859-1079 for proper disbursement.

DONE AND ORDERED in Chambers at Kissimmee, Osceola County, Florida, this \_\_\_\_\_ day of September, 2013.

\_\_\_\_\_  
Scott Polodna, Circuit Judge

Copies furnished to: All counsel of record

Attachment: Mack Composite Exhibit A (Resolution No. 2013 - 0921 : Mack Stipulated Motion for Order to Pay Costs)

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT IN AND FOR  
OSCEOLA COUNTY, FLORIDA

SOUTH FLORIDA WATER  
MANAGEMENT DISTRICT,

Petitioner,

CASE NO.: 2011-CA-2798-ED

vs.

KENNETH HYATT, ARNOLD MACK,  
et al.,

Respondents.

**ORDER GRANTING RESPONDENTS MOTION TO TAX FEES AND COSTS**

THIS MATTER came before the Court as a result of South Florida Water Management District (“SFWMD”) having filed a Petition in Eminent Domain on 24 August 2011 and voluntarily dismissing said Petition on 11 April 2013. A hearing on Respondents’ Motion to Tax Fees and Costs was held on 23 July 2013. The Court having reviewed Respondents’ Motion, case law, the file, arguments of counsel, and being fully advised in the premises FINDS as follows:

Legal Authority

The Florida Constitution guarantees that “[n]o private property shall be taken except for a public purpose and will full compensation therefor paid to each owner.” Art. X, Section 6(a), Fla. Const. Full compensation is the objective of this provision and includes costs of expert witnesses. *Jacksonville Expressway Authority, Dade County v. Brigham*, 47 So.2d 602 (Fla. 1950). This Court has the authority to determine and award reasonable fees and costs to the Respondents associated with the defense of the petition. Regarding the motions to tax attorney’s fees and costs, section 73.091, Fla. Stat. (2013),

obligates the Petitioner to pay attorney's fees and all reasonable costs incurred in the defense of the proceedings. Moreover, the Petitioner's voluntary dismissal of the petition did not divest the trial court of jurisdiction to consider the motions for fees and costs. *See Golf Course Resorts v. DOT*, 816 So.2d 236 (Fla. 2<sup>nd</sup> DCA 2002) (Citing: *City of Hallandale v. Chatlos*, 236 So.2d 761, 763 (Fla.1970); *State, Dep't of Transp. v. ABS Prop. P'ship*, 693 So.2d 703, 705 (Fla. 2d DCA 1997)).

#### Findings of Fact

The Respondent's witness, J. Davis Connor<sup>1</sup>, testified that SFWMD interest in their property dates back to November 24, 1993 (Respondent's Exhibit #1). The Respondents received an appraisal along with an offer letter in 2010 (Respondent's Exhibit #2). Mr. Connor testified that the appraisal was intimidating to the Respondents since the cost to cure was estimated at \$1.9 million and they were under time pressure due to the accompanying offer letter. As a result of the Petitioner's actions, the Respondent Hyatt entered into a contract with Geosyntec Consultants that required special terms, including special payment terms which made Hyatt directly liable for payment to Geosyntec. Respondent Mack subsequently entered into a cost sharing contract with Hyatt regarding the services to be provided by Geosyntec. Additionally, Mack also entered into a contract with Geosyntec with similar provisions (Respondent's Exhibit #4). Mr. Connor testified both of these arrangements (Hyatt being directly liable and Hyatt/Mack cost sharing agreement) are highly unusual in Eminent Domain practice.

Respondents' Exhibits 5 and 6 reflect the Notice to Proceed contracts that contained "not to exceed" clause which was a major concession by Geosyntec that put them at risk for cost overruns. In addition to both Respondents being jointly and

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<sup>1</sup> Mr. Connor's background and experience speak for themselves and need not be reiterated in this Order.

severally liable for the entirety of Geosyntec's work, each Respondent had to invest \$17,500 in order for Geosyntec to begin its work. Mr. Connor testified that not only was this an unusual contract with Geosyntec but this case was unusual in two other ways; the cooperative efforts between Hyatt and Mack to procure the necessary professional services and the sharing of work-product information with the Petitioner. Mr. Connor also testified that the contract for services were both necessary and reasonable under the circumstances of this Petition.

Mr. Jack Brandon testified for the Respondents and emphasized the unusual and cooperative nature of this Petition.<sup>2</sup> He testified that the Petition agreed to pay for groundwater data collection and surveying. Mr. Brandon contracted with Mr. David Carter initially for modeling done exclusively for Respondent Mack. He indicated that his work did not go into the same detail as Geosyntec and more work would have been necessary to determine a final cure. The Petitioner was never given any accounting of costs for Mr. Carter or Geosyntec during their employment nor did the Petitioner request to see the fees and costs of these contracts.<sup>3</sup> Mr. Brandon also explained how eminent domain engineering is costlier compared to development engineering.

The Respondents also presented the testimony of Chad Drummond who is employed by Geosyntec as an associate engineer and was the person who negotiated the contract with Respondents. Mr. Drummond testified how his company had never entered into a contract like the ones involved in this Petition. Geosyntec had to front most of the money of their work and performed the work within the proposed budget. The budget constraints were very important to Geosyntec since there was the "not to exceed" clause

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<sup>2</sup> Mr. Brandon's background and experience speak for themselves and need not be reiterated in this Order.

<sup>3</sup> Mr. Brandon testified that in his 42 years of experience he has never asked the condemning authority to approve the costs of his engineers/experts.

which placed the risk of cost overruns onto Geosyntec. Mr. Drummond also explained the challenges reflected in their scope of work, including 8 different crops to consider in their surface and ground water modeling. Mr. Drummond also established that their work was accomplished in the most cost effective manner possible (Respondents' Exhibit #10 and 11)<sup>4</sup>. Mr. Drummond also explained the nature of the work that was necessary to defend the Petition.

The Respondents presented the expert testimony of Gregory Seidel who opined that Geosyntec's hours and rates were reasonable. He stated Geosyntec was very efficient in their fees when analyzed per acre and per node and was actually done less expensively than 5 of 6 of Mr. Seidel's own similar projects. Mr. Seidel testified that he took into account the complexity of the project and the number of acres. He also indicated "legal work" was riskier than development work and therefore the rate charged should be higher.<sup>5</sup>

The Petitioner presented the testimony of Alan Shirkey, an employee of SFWMD. Mr. Shirkey is an engineer and worked on the project with the Respondents' engineers. He never discussed with Respondents the scope and budget of the work for the project. Mr. Shirkey opined that the Respondents' engineering work was not reasonable in that the fee vs. cost of improvements was too high and that too many hours were worked by high level engineers and too few were done by low level engineers. Mr. Shirkey pointed out that Mr. Carter's invoices were much lower than Geosyntec and that their end-work was similar. Mr. Shirkey also testified that he failed to see the difference between a

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<sup>4</sup> These exhibits give the breakdown of labor hour and expense distribution.

<sup>5</sup> This Court infers that Mr. Seidel's definition of legal work includes eminent domain projects which requires more meetings with lawyers and governmental agencies and ultimately may require court testimony.

litigation case and a development case. The Petitioner's also introduced several exhibits establishing rates SFWMD pays to engineers for continuing engineering services for similar work in Florida.

Mr. Shirkey conceded that the engineering work done by Geosyntec and Mr. Carter was necessary on the Respondent's property because the report obtained by SFWMD was inadequate—that a higher level of engineering needed to be done. Mr. Shirkey also agreed that ideally engineering firms are paid monthly for their work and he recognized that Geosyntec took on risk by not being paid in the usual manner. He also agreed under these circumstances it was reasonable for Geosyntec to negotiate some premium in exchange for the risk. Mr. Shirkey opined that a rate adjustment would have saved a considerable amount of money but he did not opine whether the number of hours was reasonable or unreasonable.<sup>6</sup> Mr. Shirkey did not testify to what rates he believes are reasonable for lower level and higher level engineers and staff for this project.

#### Conclusions of Law

The Respondents have shown this Court by clear and convincing evidence that the hiring of a professional engineer to perform the scope of work contracted with Geosyntec and David Carter was absolutely necessary to defend the Petition. In fact, Petitioner agreed the work was necessary through the testimony of its own expert/employee, Mr. Alan Shirkey. The only challenge to the fees at issue in the hearing was the hourly rates

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<sup>6</sup> If this Court's memory and notes are correct, Mr. Shirkey was never even asked about the total number of hours; rather, his testimony focused ultimately on the rates charged (including high level vs. low level)

charged by Geosyntec. Petitioner's expert used the rates charged by one Respondent's original expert, David Carter, as an example of reasonableness.<sup>7</sup>

While the Petitioner presented conflicting evidence regarding the reasonableness of rates, this Court finds that the hourly rates charged by Geosyntec were reasonable under the unique circumstances of this Petition. The Petitioner attempted to compare rates by introducing rates SFWMD establishes for its continuing services contracts. This Court gives those rates relatively little weight in its analysis since the Respondents relative bargaining position in this case is not anything similar to the bargaining position of a governmental agency with (arguably) a lot of work to contract out to any engineer willing to accept those rates. Respondents are two land owners under strict time constraints that must hire an engineering firm willing to defer payment to undertake a large task in a litigated matter. The Petitioner's own expert witness recognized a firm was entitled to negotiate a premium under these circumstances. While the Petitioner's witness established that the engineering project could have possibly been done cheaper, they did not overcome the Respondents' proof of reasonableness.

BASED UPON the foregoing it is therefore **ORDERED and ADJUDGED**

1. Respondent Hyatt Farms is awarded:
  - a. Pre-Modeling work \$63,091.26
  - b. Hyatt ½ of Geosyntec Modeling \$134,294.79
  - c. Cost to cure and litigation support \$174,069.91
2. Respondent Mack Farms is awarded:
  - a. Mack ½ of Geosyntec Modeling \$134,294.79

<sup>7</sup> This Court concludes that Petitioner thus is not contesting the fees sought on behalf of Mr. Carter.

**DONE and ORDERED** in Chambers, Osceola County, Florida on August 1,  
2013.



SCOTT POLODNA, Circuit Judge

Attachment: Mack Composite Exhibit A (Resolution No. 2013 - 0921 : Mack Stipulated Motion for Order to Pay Costs)

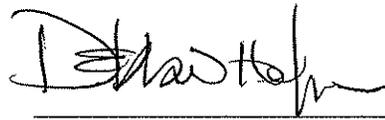
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 1, 2013, a true and correct copy of the foregoing has been emailed to:

Keith L. Williams, Esq. [kwilliam@sfwmd.gov](mailto:kwilliam@sfwmd.gov); [acarrell@sfwmd.gov](mailto:acarrell@sfwmd.gov); and [litigation@sfwmd.gov](mailto:litigation@sfwmd.gov)

Deborah A. Ruster, Esq. [druster@petersonmyers.com](mailto:druster@petersonmyers.com)  
J. Davis Connor, Esq. [jconnor@petersonmyers.com](mailto:jconnor@petersonmyers.com)

Jack P. Brandon, Esq. [jbrandon@petersonmyers.com](mailto:jbrandon@petersonmyers.com)  
John B. Allen, Esq. [ballen@petersonmyers.com](mailto:ballen@petersonmyers.com)



\_\_\_\_\_  
Judicial Assistant

**MEMORANDUM**

**TO:** Governing Board Members

**FROM:** Karen Estock, Division Director

**DATE:** September 12, 2013

**SUBJECT:** Directing staff to move forward to analyze options for disposal of 12,341 acres

**Background:**

Over six decades, the South Florida Water Management District has acquired nearly 1.5 million acres of land within its 16-county jurisdiction to support flood control infrastructure, protect water resources and restore impaired ecosystems. As part of a broad effort to maximize its resources to meet mission-critical responsibilities, the District is conducting a comprehensive land assessment to ensure that each parcel is being put to its most effective use. For the land assessment process, the 16-county District has been divided into five geographic regions for which each parcel of District land is thoroughly analyzed to determine how its current use contributes to the agency's core mission of balancing and improving water quality, flood control, natural systems and water supply. The completion of the comprehensive process for this region has resulted in conclusions involving the potential for surplus with respect to tracts comprising 12,341 acres, more or less, located in the Palm Beach, Broward, and Miami-Dade Counties. The tracts are depicted and the respective background facts and considerations are briefly summarized on Exhibits "A-1" through "A-5" attached hereto and made a part hereof.

It is intended that District staff will now further analyze options for their potential surplus and thereafter propose recommendations to the Governing Board for further consideration. With respect to these subject tracts, they may be offered by the District to another governmental entity pursuant to terms and conditions approved by the Governing Board, they may be conveyed as part of an exchange transaction upon terms and conditions approved by the Governing Board, or they may be offered to the public for bid and be sold for the highest price obtainable but not less than the appraised value. Whatever tracts or portions thereof are further considered for surplus, the final acres and applicable market values may be altered based on certain easement rights that may be reserved and/or certain cut outs that may occur. With respect to any of the subject tracts, the conveyance of the fee title may be subject to certain reservations and/or adjustments because of project needs or other considerations. All disposals shall be conditioned on United States Army Corps of Engineers and Florida Department of Environmental Protection approval where required.

**How this helps meet the District's 10-year Strategic Plan:**

The continuation of the land assessment process represented by this item, contributes to the agency's core mission of balancing and improving water quality, flood control, natural systems and water supply.

**Funding Source:**

All disposals shall be subject to funding source requirements.

**This Board item impacts what areas of the District, both resource areas and geography:**

The item will fall under the entire Operations, Maintenance and Construction Division resource area.

**What concerns could this Board item raise?**

There are no concerns regarding this Board item.

**Why should the Governing Board approve this item?**

As stated herein, the land assessment process is being conducted as part of a broad effort to maximize District resources to meet mission-critical responsibilities and ensure that land is being put to its most effective use. With approval of this item, further necessary analysis will be conducted to allow further recommendations to the Governing Board regarding the potential surplus of specific tracts or portions thereof.

## SOUTH FLORIDA WATER MANAGEMENT DISTRICT

### Resolution No. 2013 - 0922

**A Resolution of the Governing Board of the South Florida Water Management District, directing staff to move forward to analyze options, including but not limited to, disposal of land interests containing 12,341 acres, more or less, in Palm Beach, Broward, and Miami-Dade Counties, together with any structures and improvements and personal property appurtenant thereto, and thereafter propose recommendations to the Governing Board for further approval; providing an effective date. (OMC, Ray Palmer, ext. 2246)**

**WHEREAS**, as part of a land assessment process conducted by District staff, certain lands containing a total of 12,341 acres, more or less, located in the Palm Beach, Broward, and Miami-Dade Counties have been identified as potentially being surplus to District needs; and

**WHEREAS**, the Governing Board, pursuant to Section 373.056, Florida Statutes, has the authority to convey to any governmental entity, land or rights in land owned by the District not required for its purposes, under terms and conditions determined by the Governing Board; and

**WHEREAS**, the Governing Board, pursuant to Section 373.089, Florida Statutes, has the authority to convey as part of an exchange transaction, land or rights in land owned by the District not required for its purposes, under terms and conditions determined by the Governing Board; and

**WHEREAS**, the Governing Board, pursuant to Section 373.089, Florida Statutes, has the authority to sell lands, or interests, or rights in land owned by the District not required for its purposes, for the highest price obtainable, but not less than the appraised value; and

**WHEREAS**, the Governing Board concurs with staff that the land assessment process has identified certain lands as potentially being surplus to District needs and directs staff to move forward to analyze the options, including but not limited to, disposal of the subject lands and thereafter propose recommendations to the Governing Board for further approval.

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

**Section 1:** The Governing Board of the South Florida Water Management District hereby concurs with the staff that the land assessment process has identified certain lands described in Exhibits "A-1" through "A-5" attached hereto and made a part hereof, together with any structures and improvements and personal property appurtenant thereto, containing a total of 12,341 acres, more or less, located in the Palm Beach, Broward, and Miami-Dade Counties as potentially being surplus to District needs.

**Section 2:** The Governing Board directs staff to move forward to analyze the options, including but not limited to, disposal of the subject lands and thereafter propose recommendations to the Governing Board

for further approval, which recommendations may include: (i) conveying to a governmental entity upon terms and conditions approved by the Governing Board in accordance with the provisions of Section 373.056 Florida Statutes, (ii) conveying as part of an exchange transaction upon terms and conditions approved by the Governing Board in accordance with the provisions of Section 373.089 Florida Statutes, and/or (iii) offering to the public for bid and sold for the highest price obtainable, but in no event less than the appraised value, in accordance with the provisions of Section 373.089, Florida Statutes.

**Section 3:** All disposals will be subject to funding source requirements, and conditioned on United States Army Corps of Engineers and/or Florida Department of Environmental approval where required.

**Section 4:** This Resolution is effective immediately upon adoption.

**PASSED** and **ADOPTED** this 12<sup>th</sup> day of September, 2013.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD

By:

\_\_\_\_\_

Chairman

Attest:

Legal form approved:

By:

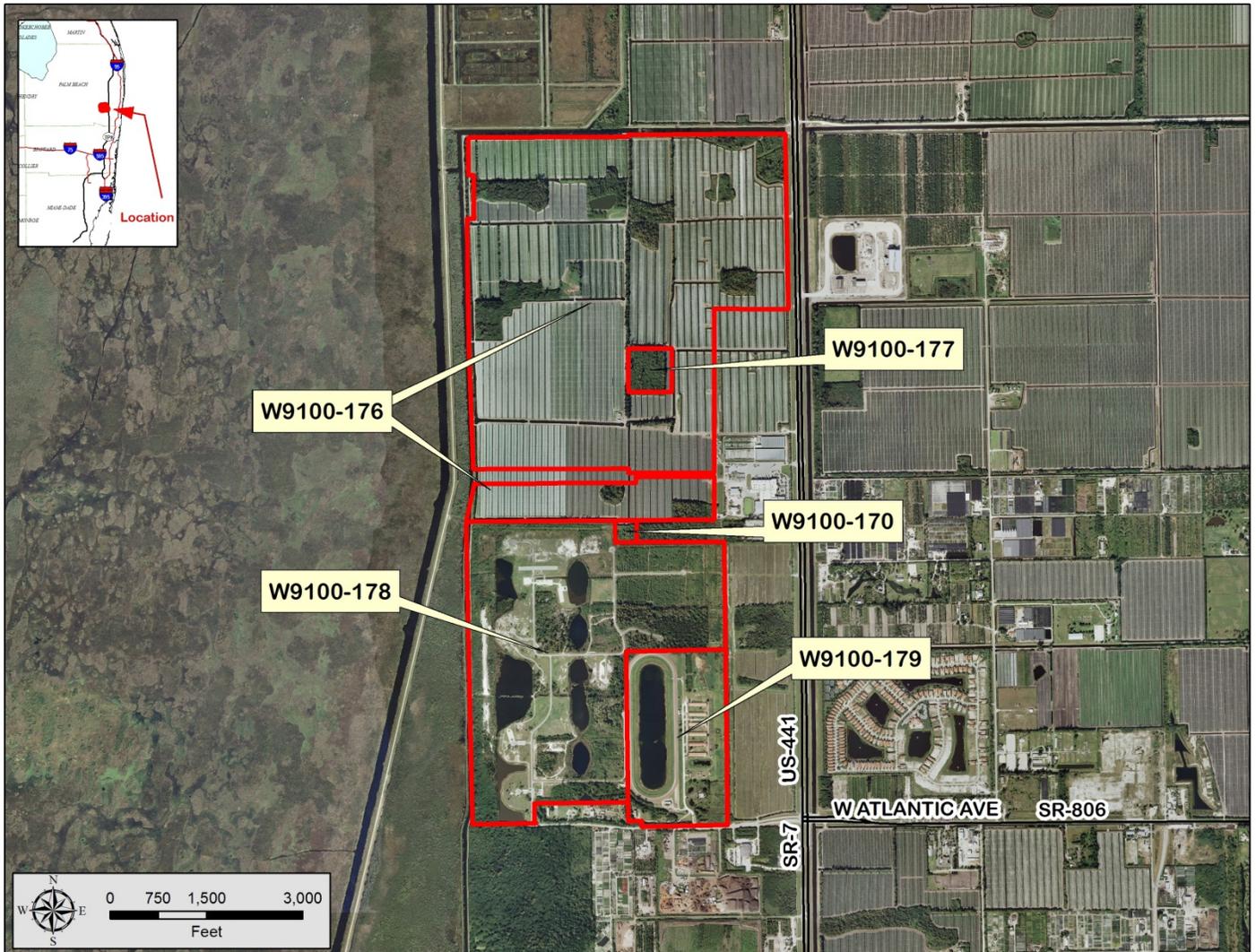
\_\_\_\_\_ District Clerk/Secretary

\_\_\_\_\_ Office of Counsel

Print name:

\_\_\_\_\_

## EXHIBIT A-1 Exchange or Surplus



### Palm Beach County

#### East Coast Buffer - Palm Beach County Ag. Reserve Reservoir

W9100-176 (~570.77 acres)

W9100-178 (~313.37 acres)

W9100-179 (~97.01 acres)

W9100-177 (~10.47 acres)

W9100-170 (~2.6 acres)

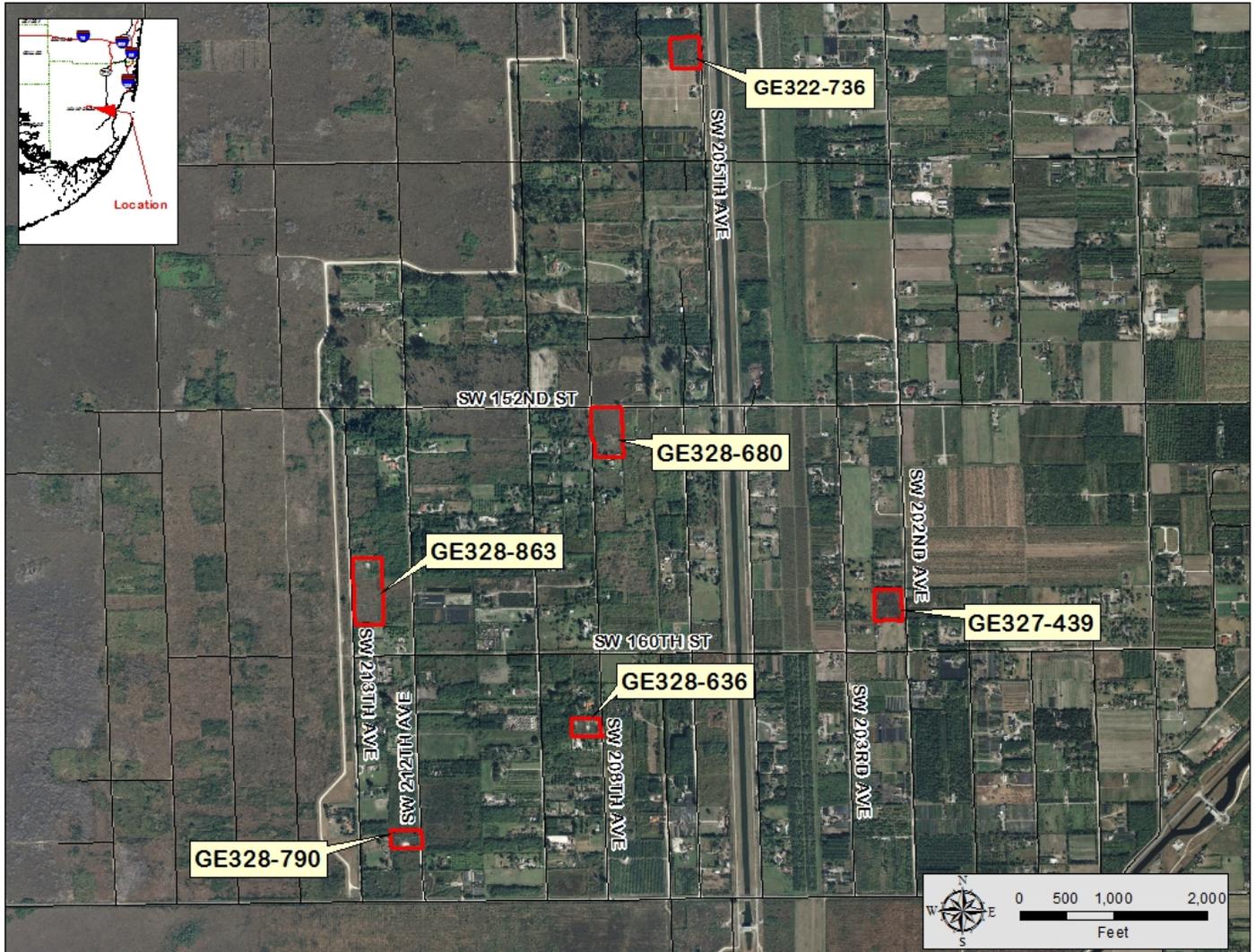
There are three leases on this site: (W9100-176) a pepper farm operation, (W9100-179) an equestrian training facility, and (W9100-178) a lease to Palm Beach County for the operation of the West Delray Regional Park. Due to proximity to the Loxahatchee Wildlife Refuge, staff recognizes that there may be an interest by either the County or USFWS to acquire the property from the District. The District no longer has an interest in the property for water management purposes, and has no other planned use for the property.

The further evaluation of these tracts will determine if there is an interest on the part of Palm Beach County or the U.S. Fish and Wildlife Service to acquire the land, and if not, staff will consider the exchange or surplus of the District's fee-simple interest in the sites.

Funding: Federal, Palm Beach County and District-CERP

## EXHIBIT A-2

### Exchange or Surplus



#### Miami-Dade County East Coast Buffer - 8½ SMA

GE328-636 (~1.26 acres)

GE327-439 (~2.24 acres)

GE328-790 (~1.44 acres)

GE328-863 (~5.04 acres)

GE328-680 (~3.76 acres)

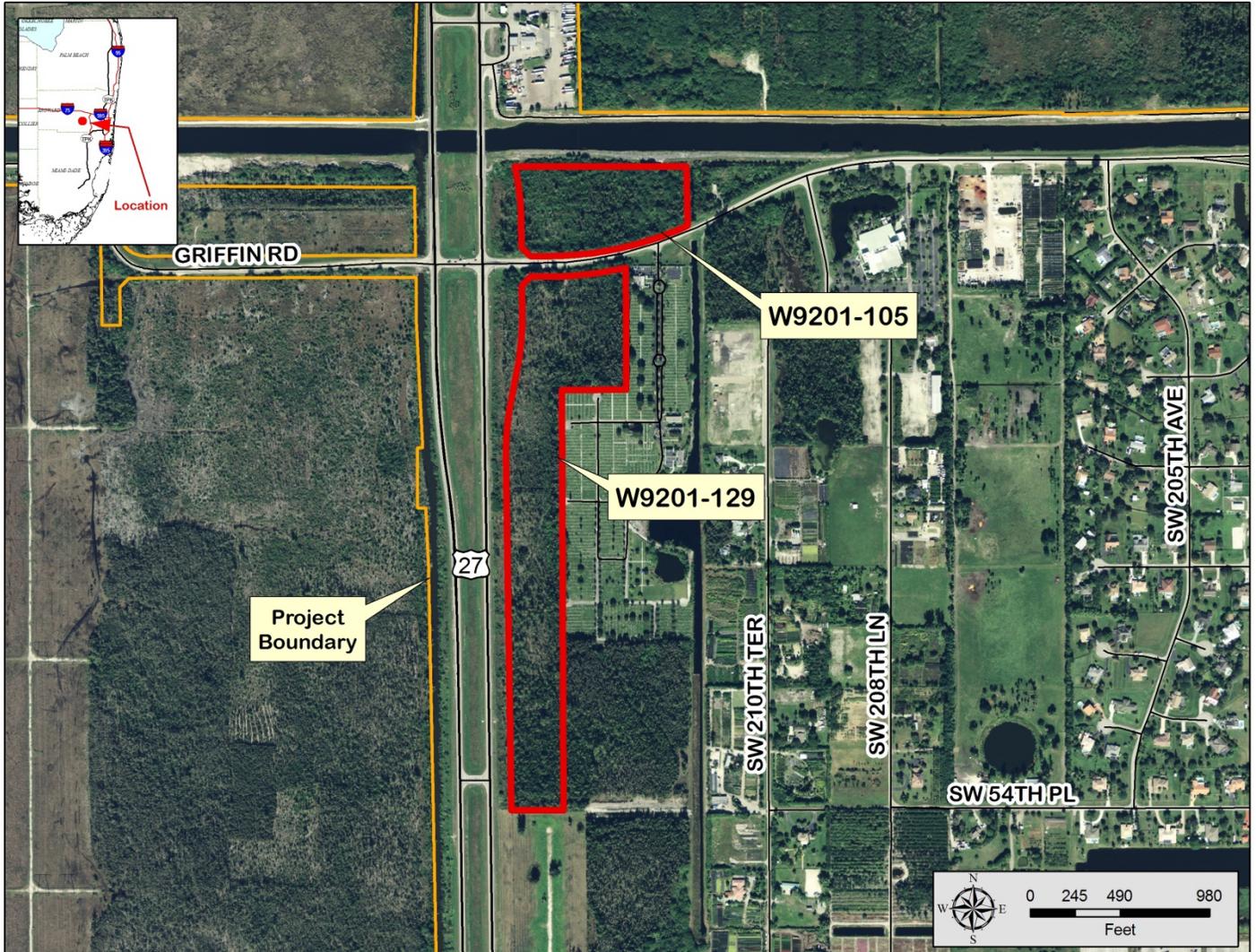
GE322-736 (~2.31 acres)

The 8 1/2 Square Mile Area project included the construction of a levee and a seepage collection canal to allow for greater water flows into the northeastern portion of Everglades National Park. These parcels are isolated tracts that lie outside the project boundary in a rural residential area. The area to the west of the new levee and west of these parcels contains large areas of marsh and wet prairie. The District no longer has an interest in the properties for project purposes, and has no other plans for the properties.

The further evaluation of these tracts will consider the exchange or surplus of the District's fee-simple interest in the sites.

Funding: District

## EXHIBIT A-3 Exchange or Surplus



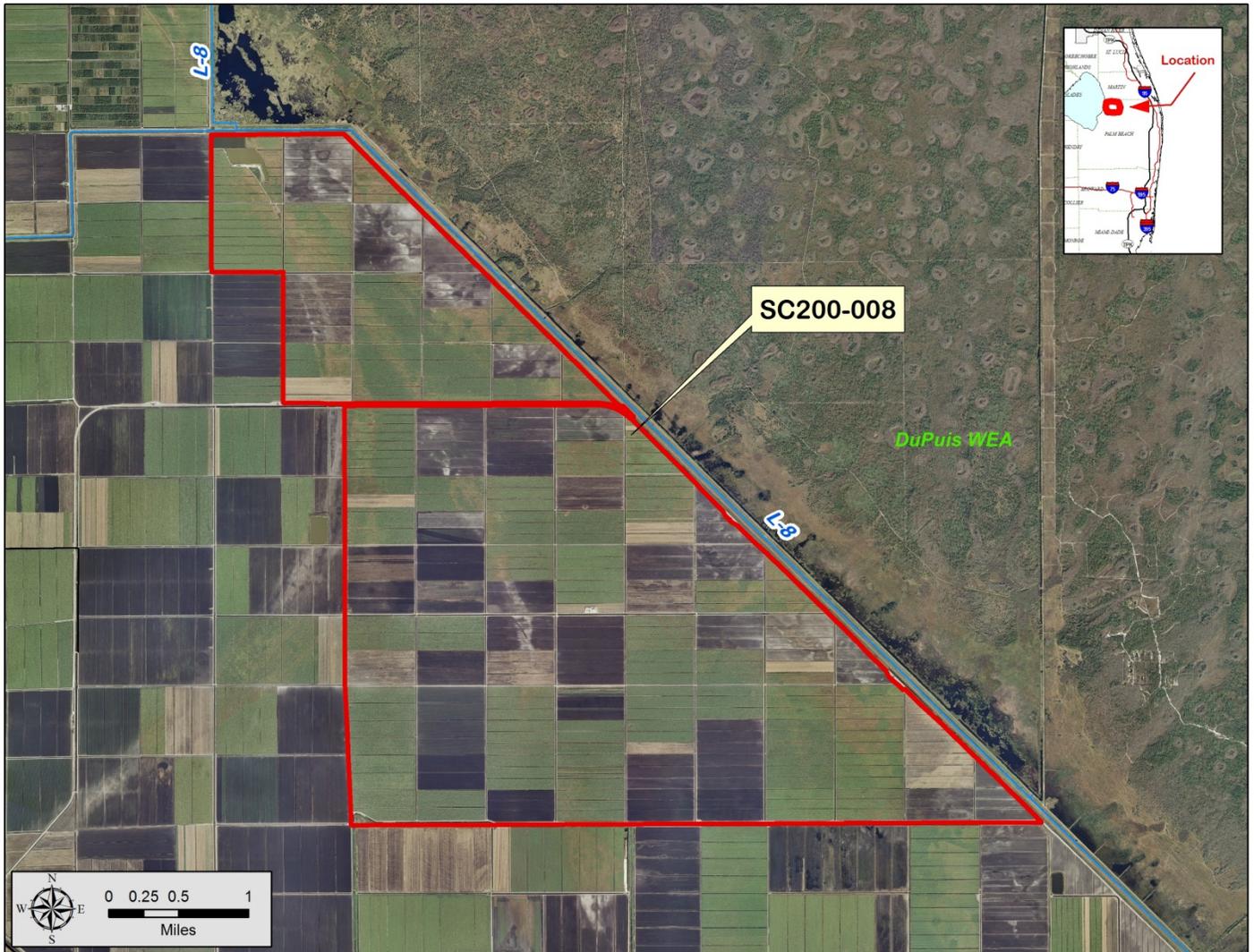
**Broward County**  
**East Coast Buffer – Broward WPA - Griffin Road Parcel**  
**W9201-105 (~9.24 acres)**  
**W9201-129 (~23.41 acres)**

These parcels lie outside the approved project boundary and are not needed for the BCWPA project. The size and location of the Griffin Road parcels are not adequate to support other District initiatives.

The further evaluation of these tracts will consider the exchange or surplus of the District's fee-simple interest in the sites.

Funding: Federal and P-2000

## EXHIBIT A-4 Exchange



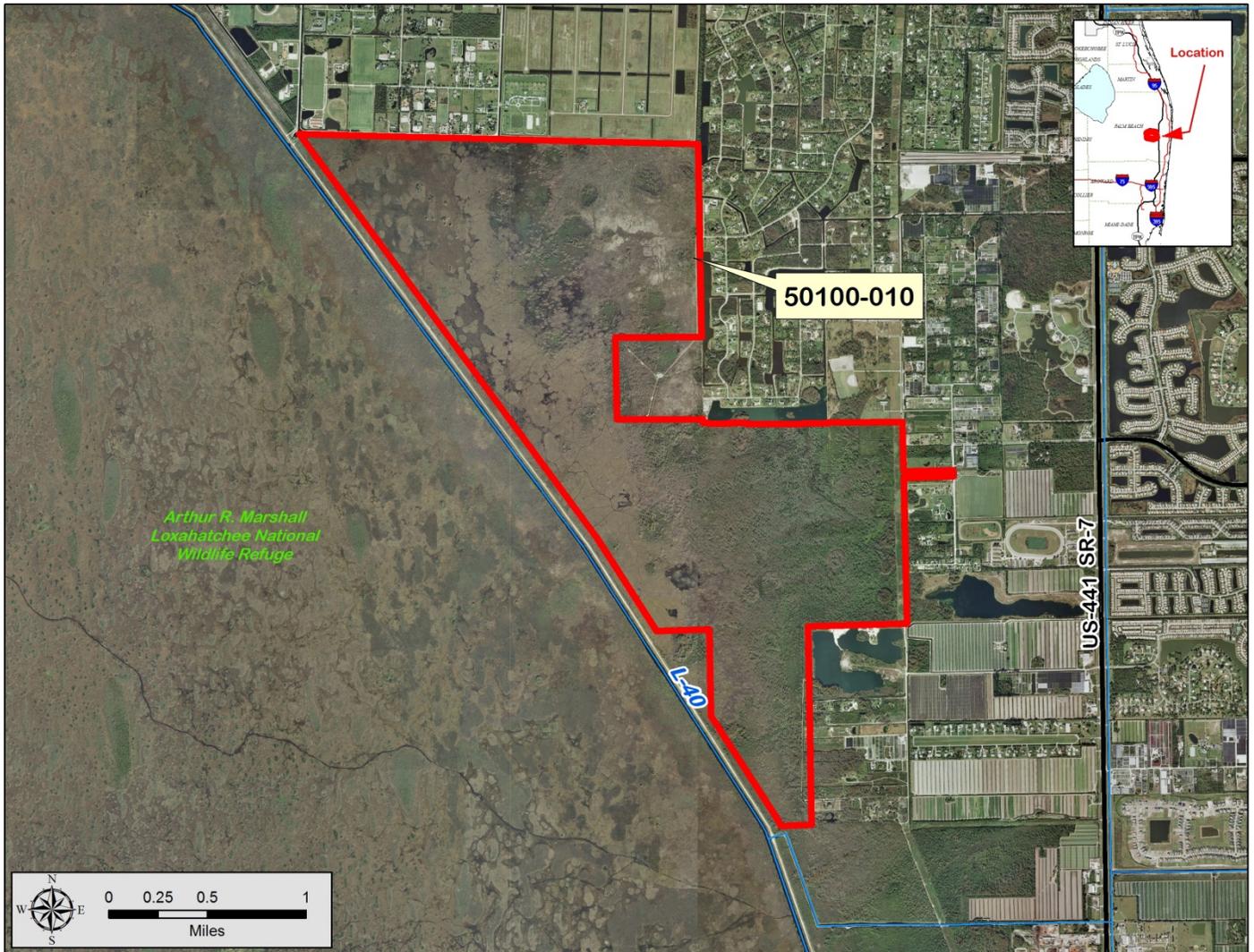
### **Palm Beach County Unassociated Parcels - L-8 Parcel SC100-008 (~8,712.67 acres)**

The EAA L-8 Parcel was purchased by the District in 2010. The parcel is not part of a Restoration Strategies project footprint, but negotiations are in progress for potential exchange of lands suitable for possible expansion of STA-1W project. This parcel is under lease for sugar cane production and provides no significant wildlife habitat and no public use.

The further evaluation of this tract will consider continuing negotiations for an exchange of the District's fee-simple interest in the site for lands needed for the expansion of STA1W stormwater treatment facilities. Those lands will better support the District's core mission objectives.

Funding: District

## EXHIBIT A-5 Exchange



### **Palm Beach County** **50100-010 Strazzulla parcel (~2,585.12 acres)**

The wetlands on this site serve as an important buffer between urban uses and the Loxahatchee wildlife Refuge. The site provides water quality, flood protection, and natural systems management benefits. This area marked a transition from the flatwood-associated wet prairies and the Everglades mosaic. The District has been negotiating a transfer of ownership to the U.S. Fish and Wildlife Service for inclusion in the Refuge. A proposed exchange of lands on terms acceptable to both parties would be beneficial to both the Department of the Interior and to the District's core mission objectives.

The further evaluation of this tract will consider continuing negotiations with the Department of Interior for an exchange of the District's fee-simple interest in the site for lands within the EAA that will better support the District's core mission objectives while ensuring that this property remain in conservation.

Funding: P-2000 and WMLTF

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Dan DeLisi, Chief of Staff

**DATE:** September 12, 2013

**SUBJECT:** Naples - Reclaimed Water System Distribution Expansion – Phase III

### **Agenda Item Description**

This item is to seek District Governing Board authorization to enter into one-year cost-share agreements with the City of Naples, which will provide partial funding to support the construction of Phase III of the City's Reclaimed Water System Distribution Expansion project, an alternative water supply development project.

### **Background**

The Big Cypress Basin Board has been providing financial assistance to the City of Naples for several years to support construction of projects for enhancing alternative water supplies. The funding provided in this agreement is to continue the construction of the City's Reclaimed Water System Distribution Expansion project to provide alternative water supply for irrigation. The scope of work for Phase III includes the installation of approximately 17,000 linear feet of 12" and 8" reclaimed water distribution main, including all associated valves and appurtenances.

The agreement shall commence on October 1, 2013 and terminate on September 30, 2014. Individual projects were identified, scoped and budgeted to fit within the coming fiscal year and staff is confident that this project will be completed within FY14. This item was reviewed and approved by the Big Cypress Basin Board on May 16, 2013.

### **Core Mission and Strategic Priorities**

This program supports the District's core missions of alternative water supply development and improvement of water quality as set forth in the priorities of the 10-Year Strategic Plan. This project will assist the City of Naples in meeting the future demands for alternative water supply.

### **Funding Source**

The total construction cost of the project is estimated to be \$4,500,000. The District's contribution is not to exceed \$1,000,000 in dedicated Big Cypress Basin ad valorem funds, budgeted for FY14.

### **Staff Recommendation**

Staff recommends approval for authorization to enter into a one-year cost-share agreement with the City of Naples for providing partial funding to support construction of Phase III of this project.

If you have any questions, please call me at ext. 6232.

DD/mg

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

**Resolution No. 2013 - 0923**

**A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a one year agreement with the City of Naples in the amount not to exceed \$1,000,000, for the construction of Phase III of the City’s Reclaimed Water System Distribution Expansion project, for which dedicated FY14 Big Cypress Basin ad valorem funds are budgeted; subject to Governing Board approval of the FY14 budget; providing an effective date. (EXO, Dan Delisi, ext. 6232)**

**WHEREAS**, the Governing Board of the South Florida Water Management District deems it necessary, appropriate and in the public interest to authorize entering into a one (1) year cooperative agreement with the City of Naples for the construction of the Reclaimed Water System Distribution Expansion Phase III project, for the not to exceed amount of \$1,000,000, for which dedicated Big Cypress Basin funds are budgeted; subject to Governing Board approval of the FY14 budget; providing an effective date. (Agreement Number 4600002928)

**NOW AND THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:**

**Section 1.** The Governing Board of the South Florida Water Management District hereby authorizes the execution of the Agreement Number 4600002928 with the City of Naples.

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED and ADOPTED** this 12th day of September, 2013.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD

By:

\_\_\_\_\_

Chairman

Attest:

Legal form approved:

By:

\_\_\_\_\_

District Clerk/Secretary

\_\_\_\_\_

Office of Counsel

Print name:

\_\_\_\_\_

## M E M O R A N D U M

**TO:** Governing Board Members

**FROM:** Doug Bergstrom, Director, Administrative Services Division

**DATE:** September 12, 2013

**SUBJECT:** Monthly Financial Statement – July 2013

The attached financial status report is provided for your review. This report provides a high level snapshot of District financial activity and includes revenue collections by source and expenditures by program. Also attached is a summary in the State Program format in compliance with Chapter 373.536(4)(e) F.S., requiring each District to provide a monthly financial statement in the form and manner prescribed by the Department of Financial Services to the District's Governing Board and make such monthly financial statement available for public access on its website. This unaudited financial statement is provided as of July 31, 2013, with 83% of the fiscal year completed.

**Schedule of Sources and Uses** – This financial statement compares revenues received and encumbrances / expenditures made against the District's FY2013 \$622.2 million consumable budget. Encumbrances represent orders for goods and services which have not yet been received.

- As of July 31, 2013, with the fiscal year 83% complete, 90.0% of the District's budgeted operating revenue (excludes fund balance) has been collected. The primary source of operating revenue received to date is taxes. Ad Valorem taxes comprise 68% of the budgeted operating revenues and drive collections based on the annual cycle of the property tax bill. The remaining revenue source is fund balance which represents the amount of prior year residual revenue that is budgeted in the current year and has already been received. Total FY2013 sources collected were 93.7% of budget or \$582.9 million.
- As of July 31, 2013, 99.3% of budgeted Ad Valorem tax revenue and 102.1% of budgeted Agricultural Privilege tax revenue have been collected. Ad Valorem and Agricultural Privilege tax collections peak November through January driven by the mailing of property tax bills in October and the 4% maximum discount available when paid in full by November 30. These taxes are budgeted at a discounted rate of 95% to allow for the discounts property owners may take advantage of through early payment options. Historical ad valorem trends for the past five years through July support an average collection rate of 98.3%. Ad Valorem tax revenue will receive one more boost in receipts during the last quarter when June tax certificates are sold by the county tax collectors for delinquent property tax bills.
- As of July 31, 2013, 32.6% of budgeted intergovernmental revenues have been collected. In addition to reimbursement agreements, intergovernmental revenues include proceeds from the sale of Indian River Lagoon and Everglades license plates. Revenue received through July for the sale of license plates totals \$297K. The bulk of intergovernmental revenue is from reimbursements from the Save Our Everglades Trust Fund, Water Management Lands Trust Fund, and the Florida Fish and Wildlife

Conservation Commission. Reimbursement requests are submitted to the state based on actual expenses incurred and are typically received later in the fiscal year.

- As of July 31, 2013, \$3.6 million or 73% of budgeted Investment Earnings have been realized. The District budgeted \$4.95 million in investment earnings for FY2013 distributed as follows: \$4.59 million in ad valorem funds and \$362K in non-ad valorem funds. Year to date interest earnings in ad valorem funds amount to \$3.0 million or 65.5% of the budgeted amount, while interest earnings in non-ad valorem funds amount to \$610K or 168.5% of the budgeted level. Projected interest earnings in FY2013 in ad valorem funds amount to \$3.5 million which is a shortfall of \$1.1 million. This will be offset by greater than budgeted revenues from USACE reimbursements, surplus sale proceeds, and permit fees. Investment earnings reflect a downward trend over the past years and are representative of lower cash balances, reduced ad valorem tax levies and lower interest rate yields.
- Lease revenue represents amounts collected from leases of real property owned by the District. The timing of revenue received is based on the fee schedules within the agreements – monthly, semi-annual or annual payments – and these varying timing issues impact the collection rate. The District has currently collected \$3.5 million which represents 145.4% of the current year budgeted lease revenue of \$2.4 million. The use of lease revenue collected for lands purchased with State or Federal funds is restricted based on the guidelines in the acquisition or grant.
- Budgeted licenses, permits and fees revenue is from water use permits, environmental resource permits and right of way permits. FY2013 income received totals \$19.4 million and is primarily due to unbudgeted receipts of \$16.7 million from dedicated Lake Belt and Wetland mitigation fees from restoration projects and fees for mining tonnage removed. The balance of receipts includes permit fees \$819K (100.8% of budgeted revenue) and licenses/miscellaneous fees of \$1.8 million (121.8% of budgeted revenue). Based on current trend data, there is a projected surplus in environmental resource permit revenue of \$708K, and there is a projected surplus in water use permits of approximately \$130K.
- Budgeted revenue in the Other category includes \$275K in civil penalties and enforcement fees and \$250K in miscellaneous revenues such as cash discounts, insurance reimbursements, refunds for prior year expenditures, and sale of recycled oil and scrap metal. Fiscal year collections amount to \$667K representing 127% of the budgeted \$525K.
- Sale of District Property represents the sale of real property and land. This is budgeted conservatively at \$250,000 due to the uncertainty involved. FY2013 revenues received total \$483K.
- Self-insurance premiums represent the District's contribution and the contribution from active and retired District employees to the self-funded health benefits program. Also included is the District's contribution to the workers compensation, auto and general liability self-insurance program. Contributions of \$24.0 million received through July equate to 93.4% of the \$25.7 million budget and reflect monthly premiums.

### Expenditure and Encumbrance Status:

As of July 31, 2013, with 83% of the year complete, the District has expended **\$323.1 million or 57.9%** and has encumbered **\$98.8 million or 17.7%** of its non-reserve budget. The District has obligated (encumbrances plus expenditures) **\$421.9 million or 75.7%** of its non-reserve budget.

**Summary of Expenditures and Encumbrances by Program** – This financial statement illustrates the effort to date for each of the District's program areas. Provided below is a discussion of the primary uses of funds by program.

- The **Comprehensive Everglades Restoration Plan Program** has obligated 50.4% and expended 20.6% of their \$124.7 million budget. Principal expenditures include personnel services (\$4.8 million), contractual services (\$3.4 million), operating (\$878K), and capital outlay (\$16.7 million). Contractual services and operating encumbrances (\$7.8 million) and capital outlay encumbrances (\$29.3 million) include the following projects: L-8 Flow Equalization Basin (FEB), C-44 Reservoir/STA Project, CERP Monitoring and Assessment, CERP Water Quality Studies, C-111 Spreader Canal, Southern CREW, Loxahatchee Impoundment Landscape Assessment, Picayune Strand, South Miami Dade Seasonal Operations Study, Biscayne Bay Coastal Wetlands, WCA3 Decentralization and Sheetflow Equalization, CERP Data Management updates, Nubbin Slough STA/Pump Station Repairs, and Modified Water Deliveries & South Dade C-111 Project. Of the \$61.9 million in available balance, \$26.1 million is intended for the Mecca land acquisition, \$4.8 million for indirect costs which typically get posted at year end, and \$20.7 million has been re-budgeted to FY14 for L-8 FEB Pump Station, C-111 South Contract #8, C-44 Reservoir/STA Project, Cost Share with City of WPB on the Loxahatchee Watershed Restoration Project, Southern CREW (Ronto Settlement), CERP Water Quality Studies, C-111 Soil Moisture Study, and Risk Management; \$8 million is deferred to future multi-year spend down plan projects.
- The **Coastal Watersheds Program** has obligated 79.6% and expended 43.2% of their total \$17.9 million budget. Principal expenditures include personnel services (\$2.6 million), contractual services (\$4.5 million), operating (\$91K), and capital outlay (\$451K). Contractual services encumbrances primarily consist of interagency agreements (\$5.3 million) including: St. Lucie River and Indian River Lagoon Initiatives Projects; St. Lucie River License Tag Projects in Martin, St. Lucie, and Palm Beach counties; Loxahatchee River Preservation Initiative Projects; Big Cypress Basin Stormwater Projects; Spanish Creek/Four Corners; Miami Gardens NW 178<sup>th</sup> Dr. Stormwater Retrofit; Miami River Ecosystem Restoration; El Portal Stormwater Improvements; Mirror Lakes/Halfway Pond Rehydration; and Lakes Park Restoration. Remaining contractual encumbrances (\$1 million) include: St. Lucie River and Caloosahatchee River Regulatory Source Controls; Loxahatchee River and St. Lucie River Watershed Research and Water Quality Monitoring; Florida Bay and Coastal Wetlands Project; Lake Trafford Biological Monitoring; Big Cypress Basin Saltwater Network Plan; Big Cypress Basin Real-time Hydrologic Monitoring and Modeling System; public process to development a restoration vision of the Caloosahatchee River and Estuary; refinement of hydrological model for Naples Bay; and Collier County Water Quality Monitoring. Capital outlay encumbrances (\$185K) include environmental assessment and survey and mapping of Duda property and preliminary survey and geo-tech services and preliminary design for the Lake Hicpochee Hydrologic Enhancement project. Of the \$3.6 million in available balance, \$66,586 is for Indian River Lagoon License Tag projects; \$34,556 is SOETF fund balance from a funds swap with state appropriated

funds; \$8,839 is state appropriations for Florida Keys/Florida Bay which will be returned to the State; and \$2.3 million has been re-budgeted to FY14 for Lake Hicpochee Hydrologic Enhancement project, C-43 Water Quality Testing Facility (BOMA), 28<sup>th</sup> Street Culvert Replacement (BCB), Indian River Lagoon Issues Team projects, Mirror Lakes/Halfway Pond Restoration, and modeling efforts in the St. Lucie River and Caloosahatchee River watersheds.

- The **District Everglades Program** has obligated 66.4% and expended 59.9% of their total \$53.0 million budget. Principal expenditures include personnel services (\$14.0 million), contractual services (\$5.2 million), operating (\$6.8 million), and capital outlay (\$5.8 million). Contractual services encumbrances (\$1.4 million) primarily include the operations monitoring, maintenance, and repair of Stormwater Treatment Areas (STA's), Diesel Oxidation Catalyst Installation, STA 1E Exterior Levee Certification, STA Structure Inspection Program, Sulfur Action Plan, and Everglades Regulation Source Control. Operating encumbrances (\$478K) are in support of the overall operations and maintenance of vegetation and exotic plant control of the STA's. Capital outlay encumbrances (\$1.5 million) include work on Everglades Agricultural Area A1 Flow Equalization Basin, and STA1W Expansion, completing Compartment C, G-250S and G-337 Pump Bearing replacement. Of the \$17.8 million in available balance, \$26K is for a cash payment to USACE for S-319, \$1.2 million is for property appraiser and tax collector fees along with STA operations such as fuel, electricity, and chemicals, \$13.7 million is allocated for Restoration Strategies and spend down plan projects of which \$11.7 million is re-budgeted in FY14 for projects such as the A1 Flow Equalization Basin, STA1W Expansion, and the Science Plan.
- The **Kissimmee Watershed Program** has obligated 59.7% and expended 9.4% of their total \$31.4 million budget. Principal expenditures include personnel services (\$1.4 million), contractual services (\$916K), operating (\$27K), and capital outlay (\$587K). Contractual services and operating encumbrances (\$865K) primarily consist of the Kissimmee River Restoration Evaluation (\$111K), Kissimmee Basin Modeling and Operating System (\$520K), the Oak Creek project (\$99K), Rolling Meadows (\$9K), hydrologic monitoring (\$71K), and land acquisition costs and environmental risk assessments (\$55K). Capital outlay encumbrances (\$15.0 million) are primarily for the Kissimmee River Restoration land acquisition cases. Of the \$12.6 million in available balance, \$524 is planned for the current year in such funds as mitigation funds for Rolling Meadows and Kissimmee Basin Hydrologic Monitoring projects, \$3.0 million of authority is being re-directed in the current year for a payment to Department of Emergency Management for FEMA's de-obligation of funds for prior year hurricane expenses. \$5.6 million of the balance has been re-budgeted to FY14: \$3.2 million for external risk management and \$2.4 million in mitigation funds for Rolling Meadows; \$26K for Kissimmee River Restoration Evaluation Program and Kissimmee Basin Modeling and Operations Study; and \$2.8 million is planned for a future year spend down plan obligation in FY15.
- The **Lake Okeechobee Program** has obligated 69.6% and expended 28.7% of their total \$21.4 million budget. Principal expenditures include personnel services (\$3.2 million), contractual services (\$2.4 million), operating (\$371K), and capital outlay (\$154K). Contractual services and operating encumbrances (\$8.7 million) primarily consist of the Dispersed Water Management (DWM) and Florida Ranchland Environmental Services Projects (\$7.9 million), Information Technology Support (\$337K), Northshore Navigation Canal project (\$95K), Lake Okeechobee Watershed

Pre-Drainage Characterization study (\$76K), Phosphorous Source Control project (\$34K), Phosphorus Reduction projects (\$37K), Water Quality Assessments and reporting (\$93K), and Lakeside Ranch STA (\$83K). Capital outlay encumbrances (\$37K) are primarily for the Lakeside Ranch STA. Of the \$6.5 million in available balance, \$309K is planned for current year DWM projects; \$5.1 million is allocated for spend down plan projects of which \$3.8 million of the balance has been re-budgeted to FY14: \$3.0 million for DWM, \$739K for Lemkin Creek, and \$66K for LO Watershed Pre-drainage Characterization project; and \$1.3 million is planned for DWM in future years of the spend down plan.

- The **Land Stewardship Program** has obligated 66.5% and expended 49.2% of their total \$18.2 million budget. Principal expenditures include personnel services (\$3.3 million), contractual services (\$4.5 million), operating (\$882K), and capital outlay (\$246K). Contractual and operating encumbrances (\$2.8 million) include the maintenance of vegetation and exotic plant control, provision of law enforcement services, and management of District owned lands and facilities. Capital outlay encumbrances (\$344K) are primarily for work on the C-139 Annex Mitigation project. Of the \$6.1 million in available balance, \$1.3 million in mitigation funds is for the 8.5 Square Mile Area Mitigation project of which \$100K has been re-budgeted for environmental remediation work and the balance deferred to a future year, and \$954K in mitigation and lease revenue funds is for the C-139 Annex, mitigation projects and land management activities.
- The **Mission Support Program** has obligated 76.5% and expended 69.5% of their total \$51.6 million budget. Principal expenditures include personnel services (\$19.1 million), contractual services (\$5.2 million), operating (\$10.2 million), and capital outlay (\$1.1 million). Contractual services encumbrances (\$2.5 million) include Information Technology consulting services, hardware, software, and systems maintenance for the fiscal year; facilities maintenance and repair services, and audit and legal professional services. Operating encumbrances (\$1.1 million) include utilities, space rental, computer parts and supplies, printing and advertising. Capital outlay encumbrances (\$47K) include computer hardware components; and engineering during construction for the upgrade to the Emergency Operations Center chiller system. Of the \$12.1 million in available budget, the majority is for healthcare and insurance claims, \$300K has been re-budgeted to FY14 to upgrade the chiller system to provide redundant cooling capacity for the IT data center, located within the Emergency Operations Center, and \$200K for retiree healthcare benefits. An additional \$5.7 million is reserved for future retiree healthcare benefits. The balance of the remaining budget will be used for facility and information technology maintenance and projects.
- The **Modeling and Science Support Program** has obligated 84.6% and expended 75.9% of their total \$12.8 million budget. Principal expenditures include personnel services (\$7.5 million), contractual services (\$1.5 million), operating (\$507K), and capital outlay (\$126K). Contractual services and operating encumbrances (\$1.1 million) include technical and peer reviews, computer hardware and software, organic analysis, sediment/water quality sampling, utilities, and equipment rental. Of the \$2.0 million in available balance, \$244K is planned for current year technical review, laboratory parts, supplies, maintenance, and repairs, \$200K is re-budgeted to FY14 for spend down plan modeling support.

- The **Operations and Maintenance Program** has obligated 94.7% and expended 84.5% of their total \$142.0 million budget. Principal expenditures include personnel services (\$44.7 million), contractual services (\$37.0 million), operating (\$28.4 million), and capital outlay (\$9.7 million). Encumbrances for contractual services and capital outlay (\$13.3 million) primarily relate to the O&M capital program for maintenance and repair of existing water management system canals and water control structures including C-41A Canal Bank Stabilization, North Shore Trash Rake Project, Miami B-47 Building Replacement, Hillsboro Canal Bank Stabilization Design, S-193 Navigation Lock Refurbishment, Diesel Oxidation Catalyst Installation, S-5A Hardening and Service Bridge Refurbishment, S-13 Repower and Automation, S-21 Cathodic Protection, Information Technology Shelters, BCB Field Station Design/Build, Central and Southern and Central Flood Control Structure Inspections, L-40 Exterior Levee Certification, East Coast Protective Levee, Central Bridges Repairs/Replacements, project culvert replacements, the SCADA Systems Study, Operations Decision Support System and Vertical Datum-NAVD88. Operating encumbrances (\$1.0 million) are primarily associated with field station daily operations and maintenance including vegetation and exotic plant control for the Central and Southern Flood Control system. Of the \$7.6 million in available balance, \$1.8 million includes funds for health insurance for medical claims, FWC invasive plant fund for aquatic spraying, and expenses related to fuel.
- The **Regulation Program** has obligated 87.1% and expended 84.1% of their total \$25.1 million budget. Principal expenditures include personnel services (\$14.1 million), contractual services (\$1.4 million), operating (\$5.5 million), and capital outlay (\$193K). Contractual services and operating encumbrances (\$546K) include application development, permit scanning and support contractors, computer hardware and software, equipment rental, and fuel. Capital outlay encumbrances (\$207K) consist primarily of the ePermitting enhancement project which saves time and expenses with online filing/searching of permits. Of the \$3.2 million in available balance, \$510K is planned for current year health insurance, \$234K for items including North Oak Mitigation Project, and other operating expenses.
- The **Water Supply Program** has obligated 87.7% and expended 63.6% of their total \$17.5 million budget. Principal expenditures include personnel services (\$4.7 million), contractual services (\$1.2 million), operating (\$5.0 million), and capital outlay (\$235K). Contractual services and operating encumbrances (\$4.2 million) include the Caloosahatchee Rule Making (\$58K), Central Florida Water Initiative (CFWI) (\$401K), WaterSIP grants (\$265K), Lower Floridan Aquifer (LFA) (\$93K), interagency agreements for Alternative Water Supply projects (\$1.7 million), Big Cypress Basin (\$1.4 million), hydrologic data gathering (\$236K), and education/outreach (\$15K). Of the \$2.2 million in available balance, \$495K is planned for current year health insurance, \$126K for LFA Project, \$270K for Hydro-geologic Data, and \$405K is a re-budget to FY14 for CFWI Model, peer reviews, 3D Hydro Model, and Water Conservation.
- **Reserves** of \$65.0 million are held for future transfer to program areas as project needs and requirements are identified by staff and presented to the Governing Board for review. Sixty million dollars (\$60.0 million) of these reserves are designated as economic stabilization reserves, including \$10.0 million for O&M capital projects. Remaining managerial reserves include programmatic balances of \$117K for Everglades, \$100K for Mission Support, \$69K for regulatory support, \$62K for CERP, \$28K for Lake Okeechobee, \$9K for scientific support, \$6K for O&M, and \$5K for Coastal Watersheds. FY13 funds intended for FY14 re-budget were moved to reserves.

Programmatic balances for these re-budget reserves include \$1.3 million for the C-139 Annex Mitigation Restoration Project, \$88K for land and vegetation management, \$1.4 million for Lake Okeechobee Dispersed Water Management Projects, \$65,500 for the Lake Okeechobee Watershed pre-drainage Characterization Project, \$705K for the CERP C-111 Project, \$122K for Indian River Lagoon Issues Team Projects, \$50K for Mirror Lakes, \$60K for a St. Lucie Watershed model upgrade, \$95K for Kissimmee River Littoral Zone Topographic Mapping, \$35K for Kissimmee vegetation mapping, \$50K for the Everglades EFA Source Control Program, \$183K to upgrade the chiller system to provide redundant cooling capacity for the IT data center, located within the Emergency Operations Center, and \$15K for educational outreach (Great Water Odyssey). There was \$3K transferred from District Divisions and District Programs remaining in the emergency reserves to respond to District fuel and electric demands in support of pumping operations.

- **Debt Service** expenses amount to 100% of the total \$42.1 million budget. Debt service principal and interest payments include Land Acquisition Bonds issued through the Water Management Lands Trust Fund and Certificates of Participation. Scheduled debt service payments are structured into a single principal payment and partial payment of interest in October and the balance of interest due was paid in April.

We hope these reports and the associated narrative will aid in understanding the District's financial condition as well as expenditure performance against the approved budget. If you have any questions, please feel free to call Chris Flierl at (561) 682-6078 or Mike Smykowski at (561) 682-6295.

DB/CF/MS  
Attachment

**South Florida Water Management District  
Statement of Sources and Uses of Funds (Unaudited)**

For the month ended: July 31, 2013. Percent of fiscal year completed: 83%

SOURCES	ANNUAL BUDGET	ACTUALS		ACTUALS AS A % OF BUDGET
		THROUGH 7/31/2013	VARIANCE (UNDER) / OVER BUDGET	
Ad Valorem Property Taxes	\$ 268,114,920	\$ 266,302,563	\$ (1,812,357)	99.3%
Agricultural Privilege Taxes	11,352,040	11,593,535	241,495	102.1%
Intergovernmental - Ad Valorem Funds	5,423,928	9,469,537	4,045,609	174.6%
Intergovernmental - Non Ad Valorem Funds	73,312,901	16,163,240	(57,149,661)	22.0%
<b>Intergovernmental Total</b>	<b>78,736,829</b>	<b>25,632,777</b>	<b>(53,104,052)</b>	<b>32.6%</b>
Investment Earnings - Ad Valorem Funds	4,592,000	3,008,145	(1,583,855)	65.5%
Investment Earnings - Non Ad Valorem Funds	362,300	610,437	248,137	168.5%
<b>Investment Earnings Total</b>	<b>4,954,300</b>	<b>3,618,583</b>	<b>(1,335,717)</b>	<b>73.0%</b>
Leases	2,403,736	3,495,084	1,091,348	145.4%
Permit Fees	812,160	818,510	6,350	100.8%
Licenses and Miscellaneous Fees	1,487,150	1,811,771	324,621	121.8%
Mitigation Fees - Lake Belt & Wetlands	105,000	16,729,594	16,624,594	15932.9%
<b>Licenses, Permits and Fees Total</b>	<b>2,404,310</b>	<b>19,359,875</b>	<b>16,955,565</b>	<b>805.2%</b>
Other	525,000	666,855	141,855	127.0%
Sale of District Property	250,000	483,278	233,278	193.3%
Self Insurance Premiums	25,712,821	24,022,972	(1,689,849)	93.4%
<b>SUB-TOTAL OPERATING REVENUES</b>	<b>394,453,956</b>	<b>355,175,522</b>	<b>(39,278,434)</b>	<b>90.0%</b>
Fund Balance	227,722,654	227,722,654	-	100.0%
<b>TOTAL SOURCES</b>	<b>\$ 622,176,610</b>	<b>\$ 582,898,177</b>	<b>\$ (39,278,434)</b>	<b>93.7%</b>

USES	ANNUAL BUDGET	EXPENDITURES	ENCUMBRANCES <sup>1</sup>	REPORTED	% EXPENDED	% ENCUMBERED	% OBLIGATED <sup>2</sup>
				AVAILABLE BUDGET			
CERP	\$ 124,720,010	\$ 25,723,361	\$ 37,105,637	\$ 61,891,012	20.6%	29.8%	50.4%
Coastal Watersheds	17,878,985	7,726,502	6,507,568	3,644,914	43.2%	36.4%	79.6%
District Everglades	52,963,256	31,736,205	3,415,177	17,811,874	59.9%	6.4%	66.4%
Kissimmee Watershed	31,398,776	2,936,240	15,821,378	12,641,158	9.4%	50.4%	59.7%
Lake Okeechobee	21,353,631	6,124,757	8,740,872	6,488,003	28.7%	40.9%	69.6%
Land Stewardship	18,218,956	8,956,403	3,162,356	6,100,197	49.2%	17.4%	66.5%
Mission Support	51,581,836	35,835,106	3,630,198	12,116,533	69.5%	7.0%	76.5%
Modeling & Sci Supp	12,822,994	9,727,101	1,122,377	1,973,515	75.9%	8.8%	84.6%
Ops & Maintenance	141,913,150	119,964,606	14,366,062	7,582,482	84.5%	10.1%	94.7%
Regulation	25,126,690	21,134,243	754,058	3,238,389	84.1%	3.0%	87.1%
Water Supply	17,483,193	11,121,176	4,203,024	2,158,993	63.6%	24.0%	87.7%
Debt Service	42,136,957	42,136,954	-	3	100.0%	0.0%	100.0%
<b>SUB-TOTAL NON-RESERVES USES</b>	<b>557,598,434</b>	<b>323,122,654</b>	<b>98,828,706</b>	<b>135,647,073</b>	<b>57.9%</b>	<b>17.7%</b>	<b>75.7%</b>
Reserves	64,578,177	-	-	64,578,177	0.0%	0.0%	0.0%
<b>TOTAL USES</b>	<b>\$ 622,176,610</b>	<b>\$ 323,122,654</b>	<b>\$ 98,828,706</b>	<b>\$ 200,225,250</b>	<b>51.9%</b>	<b>15.9%</b>	<b>67.8%</b>

<sup>1</sup> Represents unexpended balances of open purchase orders

<sup>2</sup> Represents the sum of expenditures and encumbrances as a percentage of the annual budget

Attachment: Statement of Sources and Uses of Funds\_July\_FY13\_Programmatic (1451 : Monthly

**South Florida Water Management District  
Statement of Sources and Uses of Funds  
For the Month ending July 31, 2013  
(Unaudited)**

	<b>CURRENT BUDGET</b>	<b>ACTUALS THROUGH 7/31/2013</b>	<b>VARIANCE (UNDER) / OVER BUDGET</b>	<b>ACTUALS AS A % OF BUDGET</b>
<b>Sources</b>				
Taxes <sup>1</sup>	\$ 279,466,960	\$ 277,896,098	\$ (1,570,862)	99.4%
Intergovernmental Revenues	78,736,829	25,632,777	(53,104,052)	32.6%
Interest on Invested Funds	4,954,300	3,618,583	(1,335,717)	73.0%
License and Permit Fees	2,404,310	19,359,875	16,955,565	805.2%
Other <sup>2</sup>	28,891,557	28,668,190	(223,367)	99.2%
Fund Balance	227,722,654	227,722,654	-	100.0%
<b>Total Sources</b>	<b>\$ 622,176,610</b>	<b>\$ 582,898,177</b>	<b>\$ (39,278,434)</b>	<b>93.7%</b>

<sup>1</sup> Includes Ad Valorem and Agricultural Privilege Taxes

<sup>2</sup> Includes Leases, Sale of District Property, and Self Insurance Premiums

	<b>CURRENT BUDGET</b>	<b>EXPENDITURES</b>	<b>ENCUMBRANCES<sup>3</sup></b>	<b>AVAILABLE BUDGET</b>	<b>% EXPENDED</b>	<b>% OBLIGATED<sup>4</sup></b>
<b>Uses</b>						
Water Resources Planning and Monitoring	\$ 54,824,257	\$ 36,643,601	\$ 9,632,315	\$ 8,548,341	66.8%	84.4%
Acquisition, Restoration and Public Works	240,653,353	75,155,399	66,254,398	99,243,556	31.2%	58.8%
Operation and Maintenance of Lands and Works	252,706,730	155,778,526	19,784,089	77,144,115	61.6%	69.5%
Regulation	28,923,452	23,942,210	1,105,515	3,875,728	82.8%	86.6%
Outreach	2,766,018	2,214,594	57,011	494,413	80.1%	82.1%
Management and Administration	42,302,801	29,388,324	1,995,379	10,919,098	69.5%	74.2%
<b>Total Uses</b>	<b>\$ 622,176,610</b>	<b>\$ 323,122,654</b>	<b>\$ 98,828,706</b>	<b>\$ 200,225,250</b>	<b>51.9%</b>	<b>67.8%</b>

<sup>3</sup> Encumbrances represent unexpended balances of open purchase orders and contracts.

<sup>4</sup> Represents the sum of expenditures and encumbrances as a percentage of the current budget.

This unaudited financial statement is prepared as of July 31, 2013, and covers the interim period since the most recent audited financial statements.

**South Florida Water Management District**  
 Summary of Uses - Statement of Sources and Uses of Funds (Unaudited)  
 As of: July 31, 2013

	Annual Budget	Expenditures	Encumbrances	Reported Available Budget	% Expended	% Encumbered	% Obligated
<b>CERP</b>							
Personnel Services	\$ 6,627,080	\$ 4,779,462	\$ -	\$ 1,847,618	72.1%	0.0%	72.1%
Contractual Services	18,343,759	3,362,221	7,813,228	7,168,310	18.3%	42.6%	60.9%
Operating	1,179,249	878,371	31,450	269,428	74.5%	2.7%	77.2%
Travel	59,635	27,565	581	31,489	46.2%	1.0%	47.2%
Capital Outlay	93,760,286	16,675,741	29,260,378	47,824,168	17.8%	31.2%	49.0%
CERP Indirect	4,750,000			4,750,000	0.0%	0.0%	0.0%
<b>Total CERP</b>	<b>124,720,010</b>	<b>25,723,361</b>	<b>37,105,637</b>	<b>61,891,012</b>	<b>20.6%</b>	<b>29.8%</b>	<b>50.4%</b>
<b>Coastal Watersheds</b>							
Personnel Services	3,594,908	2,637,932	-	956,976	73.4%	0.0%	73.4%
Contractual Services	12,516,760	4,535,762	6,322,040	1,658,958	36.2%	50.5%	86.7%
Operating	99,100	90,631	387	8,081	91.5%	0.4%	91.8%
Travel	22,198	11,380	404	10,414	51.3%	1.8%	53.1%
Capital Outlay	1,646,020	450,797	184,737	1,010,485	27.4%	11.2%	38.6%
<b>Total Coastal Watersheds</b>	<b>17,878,985</b>	<b>7,726,502</b>	<b>6,507,568</b>	<b>3,644,914</b>	<b>43.2%</b>	<b>36.4%</b>	<b>79.6%</b>
<b>District Everglades</b>							
Personnel Services	16,614,970	13,998,355		2,616,616	84.3%	0.0%	84.3%
Contractual Services	11,263,167	5,178,873	1,396,564	4,687,730	46.0%	12.4%	58.4%
Operating	8,219,366	6,750,723	477,565	991,078	82.1%	5.8%	87.9%
Travel	31,650	15,776	520	15,354	49.8%	1.6%	51.5%
Capital Outlay	16,834,103	5,792,478	1,540,529	9,501,096	34.4%	9.2%	43.6%
<b>Total District Everglades</b>	<b>52,963,256</b>	<b>31,736,205</b>	<b>3,415,177</b>	<b>17,811,874</b>	<b>59.9%</b>	<b>6.4%</b>	<b>66.4%</b>
<b>Kissimmee Watershed</b>							
Personnel Services	2,029,500	1,394,331	-	635,168	68.7%	0.0%	68.7%
Contractual Services	11,331,906	916,215	841,576	9,574,115	8.1%	7.4%	15.5%
Operating	66,163	26,760	23,500	15,903	40.4%	35.5%	76.0%
Travel	19,629	12,424	500	6,704	63.3%	2.5%	65.8%
Capital Outlay	17,951,578	586,510	14,955,801	2,409,267	3.3%	83.3%	86.6%
<b>Total Kissimmee Watershed</b>	<b>\$ 31,398,776</b>	<b>\$ 2,936,240</b>	<b>\$ 15,821,378</b>	<b>\$ 12,641,158</b>	<b>9.4%</b>	<b>50.4%</b>	<b>59.7%</b>

Attachment: Summary Statement of Sources and Uses of Funds\_July\_FY13\_08222013 (1451 : Monthly

**South Florida Water Management District**  
 Summary of Uses - Statement of Sources and Uses of Funds (Unaudited)  
 As of: July 31, 2013

	Annual Budget	Expenditures	Encumbrances	Reported Available Budget	% Expended	% Encumbered	% Obligated
<b>Lake Okeechobee</b>							
Personnel Services	\$ 4,263,312	\$ 3,214,425	\$ -	\$ 1,048,886	75.4%	0.0%	75.4%
Contractual Services	16,254,473	2,385,149	8,626,109	5,243,215	14.7%	53.1%	67.7%
Operating	634,142	370,829	77,832	185,481	58.5%	12.3%	70.8%
Travel	6,356	248	-	6,108	3.9%	0.0%	3.9%
Capital Outlay	195,348	154,105	36,931	4,312	78.9%	18.9%	97.8%
<b>Total Lake Okeechobee</b>	<b>21,353,631</b>	<b>6,124,757</b>	<b>8,740,872</b>	<b>6,488,003</b>	<b>28.7%</b>	<b>40.9%</b>	<b>69.6%</b>
<b>Land Stewardship</b>							
Personnel Services	3,631,548	3,293,187	-	338,361	90.7%	0.0%	90.7%
Contractual Services	11,107,337	4,524,525	2,672,882	3,909,931	40.7%	24.1%	64.8%
Operating	1,254,884	882,415	145,812	226,657	70.3%	11.6%	81.9%
Travel	15,750	10,770	-	4,980	68.4%	0.0%	68.4%
Capital Outlay	2,209,437	245,507	343,662	1,620,268	11.1%	15.6%	26.7%
<b>Total Land Stewardship</b>	<b>18,218,956</b>	<b>8,956,403</b>	<b>3,162,356</b>	<b>6,100,197</b>	<b>49.2%</b>	<b>17.4%</b>	<b>66.5%</b>
<b>Mission Support</b>							
Personnel Services	22,637,231	19,065,251	-	3,571,980	84.2%	0.0%	84.2%
Contractual Services	8,281,420	5,212,388	2,503,177	565,854	62.9%	30.2%	93.2%
Operating	23,425,138	10,206,129	1,050,783	12,168,226	43.6%	4.5%	48.1%
Travel	398,387	268,880	29,610	99,898	67.5%	7.4%	74.9%
Capital Outlay	1,589,661	1,082,457	46,628	460,575	68.1%	2.9%	71.0%
CERP Indirect	(4,750,000)	-	-	(4,750,000)	0.0%	0.0%	0.0%
<b>Total Mission Support</b>	<b>51,581,836</b>	<b>35,835,106</b>	<b>3,630,198</b>	<b>12,116,533</b>	<b>69.5%</b>	<b>7.0%</b>	<b>76.5%</b>
<b>Modeling &amp; Science Support</b>							
Personnel Services	9,038,352	7,528,604	-	1,509,748	83.3%	0.0%	83.3%
Contractual Services	2,901,327	1,546,303	1,009,783	345,242	53.3%	34.8%	88.1%
Operating	718,183	506,901	111,901	99,381	70.6%	15.6%	86.2%
Travel	37,435	19,226	694	17,516	51.4%	1.9%	53.2%
Capital Outlay	127,697	126,067	-	1,630	98.7%	0.0%	98.7%
<b>Total Modeling &amp; Science Support</b>	<b>\$ 12,822,994</b>	<b>\$ 9,727,101</b>	<b>\$ 1,122,377</b>	<b>\$ 1,973,515</b>	<b>75.9%</b>	<b>8.8%</b>	<b>84.6%</b>

Attachment: Summary Statement of Sources and Uses of Funds\_July\_FY13\_08222013 (1451 : Monthly

## South Florida Water Management District

### Summary of Uses - Statement of Sources and Uses of Funds (Unaudited)

As of: July 31, 2013

	Annual Budget	Expenditures	Encumbrances	Reported	%	%	%
				Available Budget	Expended	Encumbered	Obligated
<b>Operations &amp; Maintenance</b>							
Personnel Services	\$ 50,497,471	\$ 44,681,187	\$ -	\$ 5,816,284	88.5%	0.0%	88.5%
Contractual Services	44,434,248	37,022,481	5,605,677	1,806,091	83.3%	12.6%	95.9%
Operating	29,037,266	28,429,968	1,027,374	(420,076)	97.9%	3.5%	101.4%
Travel	160,927	123,882	12,595	24,450	77.0%	7.8%	84.8%
Capital Outlay	17,783,239	9,707,089	7,720,416	355,734	54.6%	43.4%	98.0%
<b>Total Operations &amp; Maintenance</b>	<b>141,913,150</b>	<b>119,964,606</b>	<b>14,366,062</b>	<b>7,582,482</b>	<b>84.5%</b>	<b>10.1%</b>	<b>94.7%</b>
<b>Regulation</b>							
Personnel Services	16,568,145	14,081,029	-	2,487,116	85.0%	0.0%	85.0%
Contractual Services	1,981,509	1,387,282	421,681	172,546	70.0%	21.3%	91.3%
Operating	6,146,117	5,450,435	123,961	571,722	88.7%	2.0%	90.7%
Travel	30,685	22,222	1,458	7,005	72.4%	4.7%	77.2%
Capital Outlay	400,233	193,274	206,959	-	48.3%	51.7%	100.0%
<b>Total Regulation</b>	<b>25,126,690</b>	<b>21,134,243</b>	<b>754,058</b>	<b>3,238,389</b>	<b>84.1%</b>	<b>3.0%</b>	<b>87.1%</b>
<b>Water Supply</b>							
Personnel Services	5,630,817	4,677,728	-	953,089	83.1%	0.0%	83.1%
Contractual Services	6,074,544	1,245,076	4,175,746	653,722	20.5%	68.7%	89.2%
Operating	5,517,507	4,959,900	27,237	530,370	89.9%	0.5%	90.4%
Travel	9,926	3,708	41	6,177	37.4%	0.4%	37.8%
Capital Outlay	250,399	234,764	-	15,635	93.8%	0.0%	93.8%
<b>Total Water Supply</b>	<b>17,483,193</b>	<b>11,121,176</b>	<b>4,203,024</b>	<b>2,158,993</b>	<b>63.6%</b>	<b>24.0%</b>	<b>87.7%</b>
<b>Reserves</b>							
Reserves	64,578,177	-	-	64,578,177	0.00%	0.00%	0.00%
<b>Total Reserves</b>	<b>64,578,177</b>	<b>-</b>	<b>-</b>	<b>64,578,177</b>	<b>0.00%</b>	<b>0.00%</b>	<b>0.00%</b>
<b>Debt Service</b>							
Debt Service	42,136,957	42,136,954	-	3	100.0%	0.0%	100.0%
<b>Total Debt Service</b>	<b>42,136,957</b>	<b>42,136,954</b>	<b>-</b>	<b>3</b>	<b>100.0%</b>	<b>0.0%</b>	<b>100.0%</b>
<b>Grand Total</b>	<b>\$ 622,176,610</b>	<b>\$ 323,122,654</b>	<b>\$ 98,828,706</b>	<b>\$ 200,225,250</b>	<b>51.9%</b>	<b>15.9%</b>	<b>67.8%</b>

Attachment: Summary Statement of Sources and Uses of Funds\_July\_FY13\_08222013 (1451 : Monthly

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**AUTHORITY DELEGATED TO EXECUTIVE DIRECTOR**  
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1. BRIDGETOWN AT THE PLANTATION MASTER DEWATERING  
CENTEX HOMES  
SEC 11-14 TWP 45S RGE 25E

APPL. NO. 130605-18  
PERMIT NO. 36-08010-W  
ACREAGE: 1.00  
LAND USE: DEWATERING

PERMIT TYPE: WATER USE PROPOSED  
WATER SOURCE: WATER TABLE AQUIFER  
ALLOCATION: NOT REQUIRED  
LAST DATE FOR AGENCY ACTION: SEPTEMBER 3, 2013

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1. JONATHANS LANDING AT OLD TRAIL  
JONATHANS LANDING GOLF CLUB INC  
SEC 23-24 TWP 40S RGE 41E

APPL. NO. 091203-11  
PERMIT NO. 43-00221-W  
ACREAGE: 225.00  
LAND USE: GOLF COURSE

PERMIT TYPE: WATER USE RENEWAL  
WATER SOURCE: SURFICIAL AQUIFER SYSTEM AND ON-SITE LAKES  
ALLOCATION: 38.98 MILLION GALLONS PER MONTH  
LAST DATE FOR AGENCY ACTION: SEPTEMBER 25, 2013

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Attachment: IP Issued by ED August 2013 (1486 : Executive Director's Report)

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1. EAST GLADE GROWERS INC  
EAST GLADE GROWERS INC  
SEC 13,31 TWP 56,57S RGE 39,40E

APPL. NO. 061222-22  
PERMIT NO. 13-05379-W  
ACREAGE: 278.00  
LAND USE: AGRICULTURAL

PERMIT TYPE: WATER USE EXISTING/UNPERMITTED  
WATER SOURCE: BISCAYNE AQUIFER  
ALLOCATION: 27.6 MILLION GALLONS PER MONTH  
LAST DATE FOR AGENCY ACTION: SEPTEMBER 9, 2013

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Attachment: IP Issued by ED August 2013 (1486 : Executive Director's Report)

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1. BECK / OVERSTREET PD LAKE SAWYER PROPERTIES INC SEC 26 TWP 23S RGE 27E	APPL. NO. 130410-6 PERMIT NO. 48-02257-P ACREAGE: 79.60 LAND USE: RESIDENTIAL
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PERMIT TYPE: ENVIRONMENTAL RESOURCE (NEW CONSTRUCTION/OPERATION), INCLUDES  
 CONSERVATION EASEMENT TO THE DISTRICT)  
 RECEIVING BODY: RCID WETLAND SYSTEM VIA STORM SYSTEM  
 LAST DATE FOR AGENCY ACTION: AUGUST 20, 2013

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2. MAGNOLIA ESTATES - VILLAGE F P D AND PANTHER VIEW MAGNOLIA ESTATES LLC SEC 5,33 TWP 23,24S RGE 27E	APPL. NO. 130502-1 PERMIT NO. 48-02254-P ACREAGE: 251.89 LAND USE: RESIDENTIAL
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PERMIT TYPE: ENVIRONMENTAL RESOURCE (CONCEPTUAL APPROVAL AND NEW  
 CONSTRUCTION/OPERATION, INCLUDES CONSERVATION EASEMENT TO THE  
 DISTRICT)  
 RECEIVING BODY: HUCKLEBERRY LAKE AND LAKE PANTHER  
 LAST DATE FOR AGENCY ACTION: AUGUST 20, 2013

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Attachment: IP Issued by ED August 2013 (1486 : Executive Director's Report)

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1. HOLOPAW GROVES 1  
CIRCLE Y GROVES LLC  
SEC 33 TWP 27S RGE 32E

APPL. NO. 120426-4  
PERMIT NO. 49-02305-W  
ACREAGE: 650.00  
LAND USE: AGRICULTURAL

PERMIT TYPE: WATER USE EXPIRED/PREVIOUSLY PERMITTED  
WATER SOURCE: UPPER FLORIDAN AQUIFER  
ALLOCATION: 107.04 MILLION GALLONS PER MONTH  
LAST DATE FOR AGENCY ACTION: SEPTEMBER 23, 2013

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Attachment: IP Issued by ED August 2013 (1486 : Executive Director's Report)

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1. WINSTON GUEST  
DUCK PUDDLE SOUTH LP  
SEC 25,36 TWP 43S RGE 40E

APPL. NO. 130529-5  
PERMIT NO. 50-00372-W  
ACREAGE: 174.00  
LAND USE: DIV & IMP  
SECONDARY USER  
AGRICULTURAL

PERMIT TYPE: WATER USE MODIFICATION/RENEWAL  
WATER SOURCE: LOXAHATCHEE GROVES WATER CONTROL DISTRICT  
ALLOCATION: 16.4 MILLION GALLONS PER MONTH  
LAST DATE FOR AGENCY ACTION: AUGUST 27, 2013

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1. FLORIDA GAS TRANSMISSION ST LUCIE COUNTY MASTER  
FLORIDA GAS TRANSMISSION COMPANY, LLC  
SEC TWP 34S RGE 39E

APPL. NO. 130620-1  
PERMIT NO. 56-03295-W  
ACREAGE: 10.00  
LAND USE: DEWATERING

PERMIT TYPE: WATER USE PROPOSED  
WATER SOURCE: WATER TABLE AQUIFER  
ALLOCATION: NOT REQUIRED  
LAST DATE FOR AGENCY ACTION: SEPTEMBER 18, 2013

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