18. 2009-304 A Resolution of the Governing Board of the South Florida Water Management District authorizing eminent domain proceedings for the acquisition of certain lands consisting of 7.66 acres, more or less, in Miami-Dade County, Florida, which are part of the Biscayne Bay Coastal Wetlands Comprehensive Everglades Restoration Plan (CERP) Project for which dedicated (Florida Forever Trust Fund) funds are available in managerial reserves; providing an effective date. (Bob Schaeffer, ext. 2985)

See supporting document: <a\_lr\_104\_sd.pdf See resolution document: ca\_lr\_104\_rd.pdf

See supporting document: <a href="mailto:ca\_Ir\_104\_ExhA\_legal.pdf">ca\_Ir\_104\_ExhA\_legal.pdf</a>
See supporting document: <a href="mailto:ca\_Ir\_104\_ExhAA\_map.pdf">ca\_Ir\_104\_ExhAA\_map.pdf</a>

See supporting document: ca\_lr\_104\_ExhB.pdf

### LAND ACQUISITION EXECUTIVE SUMMARY

**PROJECT:** Biscayne Bay Coastal Wetlands

COUNTY: Miami-Dade SIZE: 7.66 acres

PURPOSE: Authorize Eminent Domain for the acquisition in fee simple of

lands in the Biscayne Bay Coastal Wetlands, CERP Project

**OWNER:** Cutler Properties, LC - Tract No. TA500-133

APPRAISED VALUE: To Be Determined

**HIGHLIGHTS:** This land is located in Miami-Dade County and required for the Biscayne Bay Coastal Wetlands CERP Project (Project). The District has been unsuccessful in negotiating the voluntary purchase of this tract.

**CONSIDERATIONS:** The Project will provide for redistribution of freshwater runoff from the watershed into Biscayne Bay, away from the canal discharges that exist today, and provide a more natural and historic overland flow through existing and or improved coastal wetlands. By rehydrating these coastal wetlands with freshwater runoff from the watershed the project goals and objectives are met while providing for additional flood protection in the C-100 Basin.

**FISCAL IMPACT:** The final condemnation settlement cost of the subject lands is unknown at this time. An appraisal for Tract No. TA500-133 is currently in progress. The costs are to be funded through Florida Forever Trust Funds.

**RECOMMENDATION:** That the Governing Board of the South Florida Water Management District authorize eminent domain proceedings for the acquisition of land interests containing 7.66 acres, more or less, in Miami-Dade County, Biscayne Bay Coastal Wetlands CERP Project and approve funding with Florida Forever Trust Funds.

Governing Board Members March 12, 2009 Page Two

Prepared by: _	Robert A. Schaeffer Lead Professional-Acquisition Land Acquisition Department	Date
Reviewed by:	Ruth P. Clements Director	Date
	Land Acquisition Department	
Approved by:		
	Kenneth G. Ammon, P.E. Deputy Executive Director Everglades Restoration Resource Area	Date
Resolution and	Мар	
Persons and en	utities for conflict check:	

Tract Number	Owners Name	Fee Acres	Appraised Value
TA500-133	Cutler Properties, LC	7.66	TBD
Total		7.66	TBD

Cutler Properties, LC, Milagros Sanchez, Olga De Los Santos, Ralph Desens

#### SOUTH FLORIDA WATER MANAGEMENT DISTRICT 1 2 RESOLUTION NO. 2009 – 3 4 A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER 5 MANAGEMENT DISTRICT AUTHORIZING EMINENT DOMAIN PROCEEDINGS FOR 6 THE ACQUISITION OF CERTAIN LANDS CONSISTING OF 7.66 ACRES, MORE OR 7 LESS, IN MIAMI-DADE COUNTY, FLORIDA, WHICH ARE PART OF THE BISCAYNE 8 BAY COASTAL WETLANDS COMPREHENSIVE EVERGLADES RESTORATION PLAN 9 (CERP) PROJECT FOR WHICH DEDICATED (FLORIDA FOREVER TRUST FUND) 10 FUNDS ARE AVAILABLE IN MANAGERIAL RESERVES; PROVIDING AN EFFECTIVE 11 DATE. 12 13 WHEREAS, the Biscayne Bay Coastal Wetlands Comprehensive Everglades Restoration Plan 14 (CERP) Project (hereinafter "Project") will provide for redistribution of freshwater runoff from the watershed 15 16 into Biscayne Bay, away from the canal discharges that exist today; and, WHEREAS, the Project will provide a more natural and historic overland flow through existing and or 17 improved coastal wetlands; and 18 WHEREAS, by rehydrating these coastal wetlands with freshwater runoff from the watershed the 19 project goals and objectives are met while providing for additional flood protection in the C-100 Basin; and 20 21 WHEREAS, the Florida Legislature in Section 373.139(2), Florida Statutes, has empowered and authorized the Governing Board of the South Florida Water Management District to acquire fee title to lands 22 by eminent domain for the purposes of flood control and water storage; and 23 WHEREAS, the diversion of canal discharges through the subject property and the overall coastal 24 wetland system will reduce the capacity demand on the regional flood control system and provide dynamic 25 water storage for additional flood protection; and 26 WHEREAS, the Florida Legislature has declared in Section 373.139(1), Florida Statutes, that the 27 acquisition of real property for the objective of the protection and conservation of water and water related 28 resources is necessary for the public health and welfare and constitutes a public purpose for which public 29 funds may be expended; and 30 31 WHEREAS, the District has been unsuccessful in negotiating the voluntary purchase of approximately 7.66 acres, located in Miami-Dade County, Florida; and 32 WHEREAS, on April 6, 2005, the owner of the property described in Exhibit "A" attached hereto, 33 applied for an Environmental Resource Permit (Application Number 050406-1) pursuant to Part IV of Chapter 34 373, Florida Statutes pertaining to the said described property and to additional adjacent property. As 35 required by Subsection 373.414(1), Florida Statutes, the proposed activities must "not be inconsistent with 36 the objectives of the district." 37 NOW, THEREFORE, BE IT RESOLVED, by the Governing Board of the South Florida Water 38 Management District that the acquisition by the District of these lands located in Miami-Dade County 39 which are part of the Biscayne Bay Coastal Wetlands CERP Project consisting of approximately 7.66 40 acres, more or less, as more particularly described in attached Exhibit "A" (hereinafter "the described 41

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property") and as shown on the map attached hereto as Exhibit "AA", subject to those interests listed on

attached Exhibit "B", is found by the Governing Board of the District to be necessary to implement the Biscayne Bay Coastal Wetlands CERP Project and is in the public interest and for a public purpose. The fee parcel is referred to as SFWMD Tract No. TA500-133, consisting of 7.66 acres, more or less, in Miami-Dade County

**BE IT FURTHER RESOLVED** by the Governing Board of the South Florida Water Management District that a flow way, one hundred feet in width, as shown on Exhibit "A", is necessary to demonstrate that the activities proposed in Application Number 050406-1 "will not be inconsistent with the objectives of the district". The Governing Board has determined that no further demonstration of consistency pursuant to Section 373.414(1), Florida Statutes is necessary.

**BE IT FURTHER RESOLVED** by the Governing Board of the South Florida Water Management District that a Legal Officer of the District is hereby authorized, instructed, and directed forthwith to acquire by eminent domain the fee parcel in fee simple, to institute or cause to be instituted eminent domain proceedings as may be necessary pursuant to Chapters 73 and 74, Florida Statutes, to avail the District of all eminent domain powers and procedures authorized by Florida Statute and by rule of court, and to accomplish the acquisition described herein, including the authority to negotiate the acquisition of the described property subject to the approval of the Governing Board.

**BE IT FURTHER RESOLVED** that the Governing Board of the South Florida Water Management District approves utilization of Florida Forever Trust funds.

PASSED and ADOPTED this	day of, 2009.
ATTEST:	
Bv <sup>.</sup>	
By:	
	SOUTH FLORIDA WATER MANAGEMENT DISTRICT
	BY ITS GOVERNING BOARD
(0 1 0 1)	
(Corporate Seal)	
	D. a
	By: Chair
Approved as to form:	Glall
Approved as to form.	
Bv:	
By:Office of Counsel	

### Exhibit "A"

### TRACT # TA500-133

A strip of land located in Sections 2 and 3, Township 56 South, Range 40 East, Miami-Dade County, Florida; 100 feet wide lying 50 feet on each side of the following described line:

Commence at the Northwest corner of said Section 2:

Thence, North 88°10'53" East along the north line of said Section 2, a distance of 592.80 feet;

Thence, South 02°30'56" West, a distance of 50.14 feet to a point on the northerly boundary of Cutler Properties, LC, as recorded in Official Record Book 22016 Page 4515, Miami-Dade County, Florida and the **Point of Beginning**;

Thence, continuing South 02°30'56" West, a distance of 163.30;

Thence, South 03°30'26" East, a distance of 177.76 feet;

Thence, South 08°46'37" West, a distance of 161.84 feet;

Thence, South 50°51'28" West, a distance of 103.80 feet;

Thence, South 32°19'30" West, a distance of 179.25 feet;

Thence, South 16°19'03" West, a distance of 203.78 feet;

Thence, South 54°04'23" West, a distance of 278.13 feet;

Thence, South 86°52'05" West, a distance of 93.52 feet to a point on the west line of said Section 2;

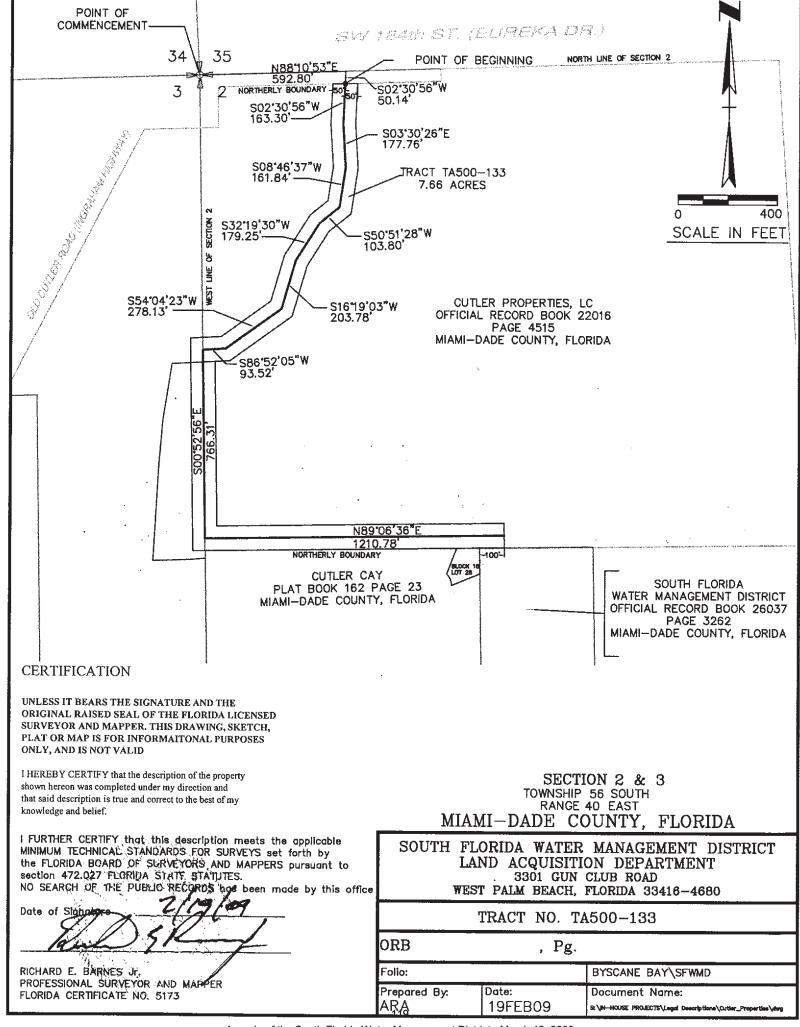
Thence, South 00°52'56" East along said west line of said Section 2, a distance of 766.31; Thence, North 89°06'36" along a line 50 feet north of and parallel to the northerly boundary of Cutler Cay, a distance of 1210.78 feet, and the end of the described line. Said end point lies 100 ft easterly of the northerly projection of the east line of lot 28, block 18 of said Cutler Cay as measured at right angles from the north line of said Cutler Cay.

The sidelines of said strip are to be prolonged or shortened to intersect at angle points.

Containing 7.66 Acres, more or less.

The bearings shown hereon are based on the Florida State Plane Coordinate System, East Zone, NAD83, and are based on the North line of Section 2, said line bears North 88°10'53" East and all bearings are relative thereto.

This legal description is not valid unless accompanied by a description sketch.



# **Biscayne Bay Coastal Wetlands**



For copies of this map (\ads.fwmd.gov/DFSRoot\data\aa\_gislarc\_data\maps\proj\bbcw\am\lGB\_TA500-133\_CutlerPropertiesLC.mxd)\which was produced on 2/23/2009 by JLS, contact the GIS Section

### RESOLUTION EXHIBIT "B"

TRACT NUMBER: TA500-133

**PROPERTY TAX FOLIO NUMBER(S):** 3660020000120;3660030010013;

3660020000050; 3660020000020; 3660020000010; 3660020000040; 3660020000030; 3660020000060

### INTERESTS TO BE CONDEMNED:

Owners of Record: Cutler Properties, LC

2009 Real Estate Taxes are no yet due and payable. 2008 Real Estate Taxes are unpaid and delinquent. All prior years are shown as paid.

### Real Property Taxes and Assessments:

Ian Yorty
Tax Collector
Miami-Dade County
140 W. Flagler Street
Room 101
Miami, FL 33130

Mortgage in favor of Mellon United National Bank, recorded in Official Records Book 23752, page 3795, re-recorded in Official Records Book 23869, page 13 and modified in Official Records Book 26621, page 150.

Mortgage in favor of Mellon United National Bank, recorded in Official Records Book 26621, page 155.

Collateral Assignment and Security Agreement in favor of Mellon United National Bank, recorded in Official Records Book 23752, page 3809, re-recorded in Official Records Book 23869, page 27.

Uniform Commercial Code Financing Statement in favor of Mellon United National Bank, recorded in Official Records Book 23752, page 3814, re-recorded in Official Records Book 23869, page 32.

All recording information refers to the Public Records of Miami-Dade County, Florida.

### **INTEREST NOT TO BE CONDEMNED:**

None

19. 2009-305 A Resolution of the Governing Board of the South Florida Water Management District advising the Department of Environmental Protection of the proposed acquisition of land interests containing 7.66 acres, more or less, in Miami-Dade County, Florida, which are part of the Biscayne Bay Coastal Wetlands CERP Project, and requesting the release of funds from Florida Forever Trust Fund for acquisition of such land interests; providing an effective date. (Bob Schaeffer, ext. 2985)

See resolution document: ca\_lr\_105\_rd.pdf

See supporting document: <a href="mailto:ca\_lr\_105\_ExhA\_legal.pdf">ca\_lr\_105\_ExhA\_legal.pdf</a> See supporting document: <a href="mailto:ca\_lr\_105\_ExhA\_map.pdf">ca\_lr\_105\_ExhA\_map.pdf</a>

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#### SOUTH FLORIDA WATER MANAGEMENT DISTRICT

### RESOLUTION NO. 2009 -

A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT ADVISING THE DEPARTMENT OF ENVIRONMENTAL PROTECTION OF THE PROPOSED ACQUISITION OF LAND INTERESTS CONTAINING 7.66 ACRES, MORE OR LESS, IN MIAMI-DADE COUNTY, FLORIDA, WHICH ARE PART OF THE BISCAYNE BAY COASTAL WETLANDS CERP PROJECT, AND REQUESTING THE RELEASE OF FUNDS FROM FLORIDA FOREVER TRUST FUND FOR ACQUISITION OF SUCH LAND INTERESTS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the South Florida Water Management District (hereinafter, the "District") has an active program underway to acquire land interests for the Biscayne Bay Coastal Wetlands CERP Project;

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

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

(1) It does hereby advise the Secretary of the Department of Environmental Protection of its intent to acquire fee title to 7.66 acres, more or less of land in Miami-Dade County, Florida, for the Biscayne Bay Coastal Wetlands CERP Project. Pursuant to a Resolution adopted by the District's Governing Board at its March 12, 2009 meeting, the District will file condemnation notices to acquire the parcel described below.

Owner	Tract No.	Acres
Cutler Properties, LC	TA 500-133	7.66
Totals		7 66

The legal interest to be acquired is the fee simple estate. The lands are described in Exhibit "A" and as shown on a location map Exhibit "AA", both of which are attached hereto and made a part hereof.

- (2)The lands being acquired have been reviewed for the presence of State Sovereignty submerged lands and the District has taken reasonable measures to avoid paying for sovereignty lands.
- This request for funds is consistent with the District's Five Year Plan of acquisition or the South Florida Water Management District Florida Forever Work Plan as contained in Chapter 6A, Volume II

of the South Florida Environmental Report, and last updated during a public hearing on January 13, 2009, and filed with the Legislature and the Department of Environmental Protection.

- (4) The funds requested shall be used only for the acquisition costs and pre-acquisition/ associated costs and expenses of the described lands.
- (5) To the extent possible, the lands being acquired shall be maintained in an environmentally acceptable manner.
- (6) Should the District dispose of any or all of the interests acquired hereunder, all revenues derived therefrom will be used to acquire other lands for water management, water supply and the conservation and protection of water resources, within the boundaries of a CERP component.
- (7) Acquisition of this land furthers the Florida Forever goals set forth in (1) Section 259.105 (4)(a) Florida Statutes (i.e. enhance the coordination and completion of land acquisition projects as measured by the number of shared acquisition projects among Florida Forever funding partners and partners with other funding sources, including local governments and the Federal Government) and (2) Section 259.105 (4)(d) Florida Statutes (i.e. ensure that sufficient quantities of water are available to meet the current and future needs of natural systems and the citizens of the state, as measured by the quantity of water made available through the water resource development component of a district water supply plan for which a water management district is responsible).
- (8) An environmental assessment will be completed and the findings will be addressed prior to acquisition.
- (9) The lands shall be managed for multiple-use purposes where compatible with the resource values of and management objectives for such lands as set forth in Section 259.105(5), Florida Statutes.
- (10) The Resolution to condemn these lands was approved by the Governing Board of the District, after appropriate notice, on March 12, 2009.
  - (11) The District will utilize funds from the Florida Forever Trust Fund.
- (12) The Executive Director or the designee of the Executive Director is hereby authorized to request the release of funds for all acquisition costs and pre-acquisition/associated costs and expenses for all lands identified in this Resolution.
  - (13) This Resolution shall take effect immediately upon adoption.

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67	PASSED and ADOPTED this	day of		, 2009.
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71	Legal Form Approved:			
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74	By:			
75	By: Office of Counsel			
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77				
78			SOUTH FLO	RIDA WATER MANAGEMENT DISTRICT,
79			BY ITS GOVI	ERNING BOARD
30	(Corporate Seal)			
31				
32			By:	
33				Chair
34				
35	ATTEST:			
36				
37	Ву:			
38	District Clerk/Secretary			

### Exhibit "A"

### TRACT # TA500-133

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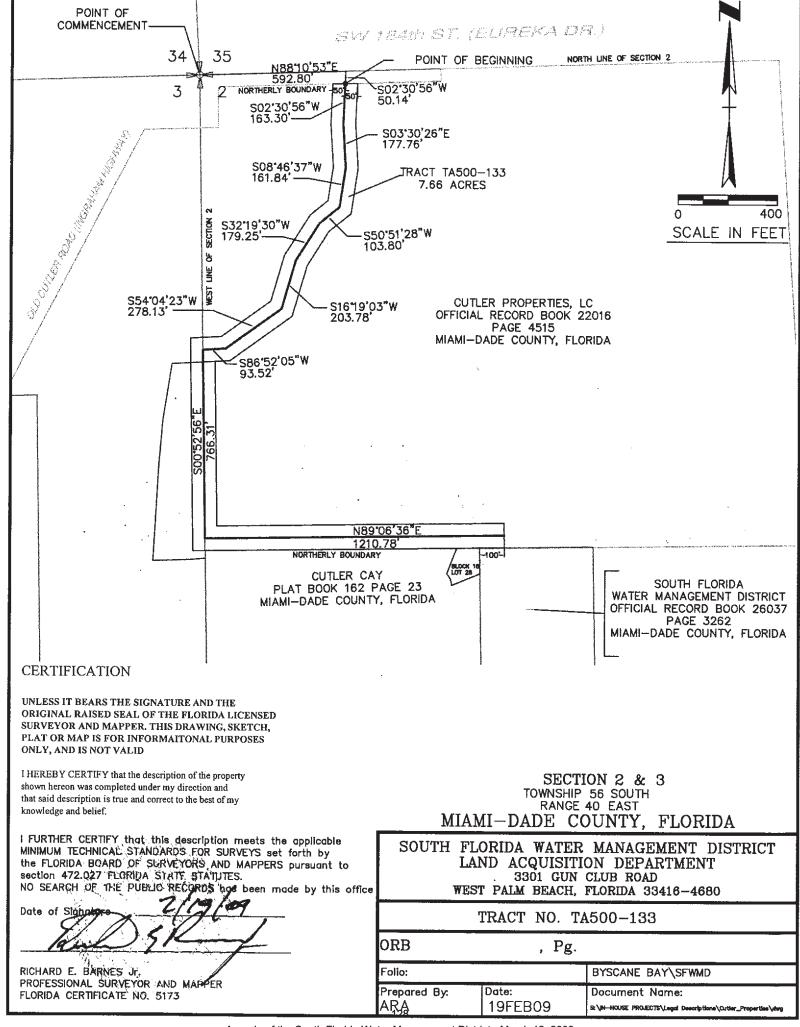
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# **Biscayne Bay Coastal Wetlands**



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