

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, a water management district organized and existing under the laws of the State of Florida,

Plaintiff,

v.

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT OF FLORIDA, IN AND FOR PALM BEACH COUNTY, FLORIDA

CASE NO. 2008-CA-031975

THE STATE OF FLORIDA, AND THE TAXPAYERS, PROPERTY OWNERS AND CITIZENS WITHIN THE JURISDICTION OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT, INCLUDING NONRESIDENTS OWNING PROPERTY OR SUBJECT TO TAXATION THEREIN AND OTHERS CLAIMING ANY RIGHTS, TITLE OR INTEREST IN THE CERTIFICATES OF PARTICIPATION HEREIN DESCRIBED, OR TO BE AFFECTED IN ANY WAY THEREBY,

Defendants.

COPY  
ORIGINAL RECEIVED FOR FILING  
MAY 13 2009  
SHARON R. BOCK  
CLERK & COMPTROLLER  
DIVISION

**SECOND SUPPLEMENT TO COMPLAINT FOR VALIDATION**

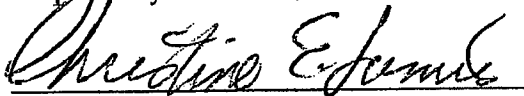
Plaintiff, the SOUTH FLORIDA WATER MANAGEMENT DISTRICT (the "District"), files its Second Supplement to Complaint for Validation which supplements the Complaint for Validation and exhibits filed October 14, 2008 and the Supplement to Complaint with exhibit filed November 13, 2008 pursuant to Rule 1.190, Fla. R. Civ. P. and the Court's order entered April 16, 2009 granting leave to file an amended or supplemental pleading and alleges as new and additional facts as follows:

1. As permitted by the Act, specifically Section 373.584, Florida Statutes, at an open, public and duly noticed meeting on May 13, 2009, the Governing Board adopted an Amended and Supplemental resolution to Governing Board Resolutions No. 2008-1027 and 2008-1109,

("Second Supplemental Resolution, 2009-500A") which reflects recent negotiations that have transpired between Plaintiff and United States Sugar Corporation since the filing of the Complaint and first Supplement relative to the purchase of U.S. Sugar land, an option to buy land and a lease agreement leasing lands back to U.S. Sugar. A copy of the Second Supplemental Resolution, 2009-500A is attached hereto as **Exhibit "A-2"** along with its Exhibit, the Amended and Restated Agreement for Sale and Purchase with attachments and incorporated by reference herein.

2. The Complaint for Bond Validation, its attached Exhibits and the first Supplement to Complaint and attached exhibit are hereby incorporated herein by reference as if fully set forth herein. **Exhibit A** of the Complaint for Validation is supplemented by **Exhibit A-1** (Resolution 2008-1109) and **Exhibit A-2** (Resolution 2009-500A). The Complaint is further supplemented to allege that the Certificates will be payable from basic lease payments to be made by the District under the initial lease Schedule related to the lease of the US Sugar Lands or other lands it currently owns. The Complaint for Bond Validation remains the same in all other respects and it is the intent of this supplemental pleading that it merely supplements the facts as stated and that it does not supersede the Complaint for Validation and its Exhibits and the Supplement to the Complaint and Exhibit.

Respectfully submitted,



**Randall W. Hanna, Esq.**

Florida Bar No. 398063

**Christine E. Lamia, Esq.**

Florida Bar No. 745103

BRYANT MILLER OLIVE P.A.

101 North Monroe Street, Suite 900

Tallahassee, Florida 32301

Dexter W. Lehtinen, Esq.  
Lehtinen Riedi Brooks Moncarz, P. A.  
7700 N. Kendall Drive, Suite 303  
Miami, FL 33156  
Facsimile: (305) 279-5082  
Attorneys for Dexter W. Lehtinen and  
Miccosukee Tribe of Indians of Florida

Maureen Hackett, Esquire  
(for all of the served State Attorneys)  
State Attorney for 15<sup>th</sup> Judicial Circuit  
401 N. Dixie Highway  
West Palm Beach, FL 33401  
Facsimile: (561) 355-7281

I. William Spivey, II, Esq.  
Courtney M. White, Esq.  
Greenberg Traurig, P.A.  
450 S. Orange Avenue, Suite 650  
Orlando, FL 32801  
Facsimile: (407) 420-5909  
Attorneys for United States Sugar Corp.

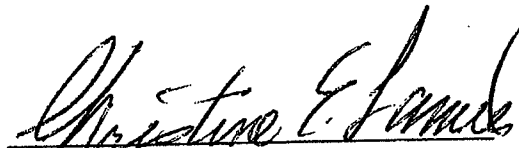
J. Michael Huey, Esq.  
Peter Antonacci, Esq.  
GrayRobinson, P.A.  
P.O. Box 11189  
Tallahassee, FL 32302-3189  
Facsimile: (850) 577-3311

Thomas J. Wilkes, Esq.  
Heather M. Blom-Ramos, Esq.  
GrayRobinson, P.A.  
P.O. Box 3068  
Orlando, FL 32802-3068  
Facsimile: (407) 244-5690  
Attorneys for Christopher Shupe, Miller  
Couse, Carey Soud, John Ahern, John C.  
Perry, Sr., and Concerned Citizens of the  
Glades, Inc.

E. Thom Rumberger, Esq.  
Noah D. Valenstein, Esq.  
Rumberger, Kirk & Caldwell, P.A.  
P.O. Box 10507  
Tallahassee, FL 32303  
Facsimile: (850) 222-8783  
Attorneys for National Audubon Society

Richard A. Jarolem, Esq.  
Casey Ciklin Lubitz Martens & O'Connell  
515 N. Flagler Dr., Suite 1800  
West Palm Beach, FL 33401  
Facsimile: (561) 820-0389  
Attorneys for Casey Ciklin, et al.

Philippe C. Jeck, Esq.  
Andrew P. Speranzini, Esq.  
790 Juno Ocean Walk, Suite 600  
Juno Beach, FL 33408-1121  
Facsimile: (561) 747-4113  
Attorneys for Intervenor Jupiter Island  
Garden Club, Inc.

  
Christine E. Lamia



# SOUTH FLORIDA WATER MANAGEMENT DISTRICT

STATE OF FLORIDA

COUNTY OF PALM BEACH

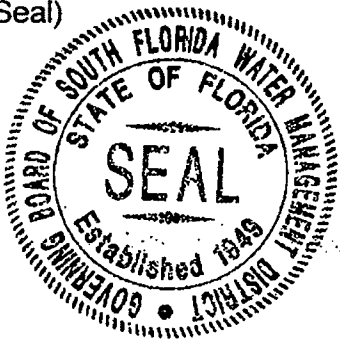
## CERTIFICATE

I, **JACQUELINE W. MCGORTY**, Secretary to the Governing Board of the **SOUTH FLORIDA WATER MANAGEMENT DISTRICT**, do hereby certify that the attached is a true and correct copy of SFWMD Resolution No. 2009-500A, duly adopted by the Governing Board of said District on the 13<sup>th</sup> day of May, A. D., 2009.

I **FURTHER CERTIFY** that said Resolution has not been revoked, modified, or changed in any way and is at the date of this Certification in full force and effect.

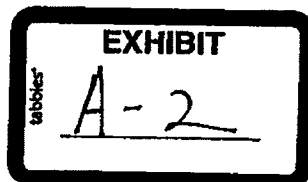
**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the seal of the Governing Board, this 13th day of May, A. D., 2009.

(Seal)



A handwritten signature in black ink, appearing to read "Jacqueline W. McGorty".

Jacqueline W. McGorty  
Secretary to Governing Board



RESOLUTION NO. 2009- 500A

A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT FURTHER AMENDING AND SUPPLEMENTING RESOLUTION 2008-1027 WHICH AUTHORIZED, AMONG OTHER THINGS, THE LEASE-PURCHASE FINANCING AND REFINANCING OF THE COSTS OF THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE DISTRICT'S CAPITAL PROJECTS, PROGRAMS AND WORKS, INCLUDING THE ACQUISITION OF THE ASSETS OF UNITED STATES SUGAR CORPORATION, IN THE MANNER DESCRIBED THEREIN; AUTHORIZES THE EXECUTION AND DELIVERY OF AN AMENDED AND RESTATED AGREEMENT FOR SALE AND PURCHASE AMONG THE GOVERNING BOARD AND UNITED STATES SUGAR CORPORATION AND ITS AFFILIATES; PROVIDING FOR OTHER MATTERS RELATED THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Resolution 2008-1027 duly adopted on October 9, 2008 by the Governing Board of the South Florida Water Management District (the "District"), as amended and supplemented by Resolution 2008-1109 duly adopted by the District on November 13, 2008 authorized establishing a master lease purchase program (the "Lease Purchase Program") in order to finance and refinance certain capital projects, programs and works through the issuance of both fixed rate and variable rate certificates of participation ("Certificates") evidencing undivided proportionate interests in basic lease payments, which the District, as Lessee, will make pursuant to the Master Lease Purchase Agreement, to be issued in one or more series pursuant to Section 373.584, Florida Statutes, and all other applicable provisions of law, including, particularly, all powers and authority of municipalities to issue bonds under state law (collectively, the "Act"); and

WHEREAS, as part of its water resource development program related to the Everglades ecosystem which is known as the "River of Grass Acquisition Project," on December 16, 2008 the District approved an Agreement for Sale and Purchase with United States Sugar Corporation and certain related entities (collectively, "US Sugar") in order to provide for the current acquisition of certain lands and improvements that will substantially alter the manner and approach to restoring, protecting and preserving the Everglades ecosystem; and

WHEREAS, undertaking the acquisition of the lands and improvements from US Sugar as part of the River of Grass Acquisition Project, was previously found to serve a public purpose as set forth in the Resolution 2008-1027; and

WHEREAS, the District has considered further negotiations with US Sugar to currently purchase certain land and improvements together with the right to purchase additional lands

(collectively the "US Sugar Lands") in the future owned by US Sugar pursuant to the terms and provisions of an Amended and Restated Agreement for Sale and Purchase (the "Amended Agreement") presented to the District for its approval at this meeting; and

WHEREAS, pursuant to the Act the District may issue revenue bonds to finance the undertaking of any capital or other project for the purpose of Chapter 373, Florida Statutes; and

WHEREAS, the District reaffirms its intention to establish the Lease Purchase Program in order to finance and refinance certain capital projects, programs and works, which includes land upon which such capital projects, programs and works may be located in the future, through the issuance of the Certificates, which are included in the definition of "bond" within the meaning of Section 373.584(4)(a) Florida Statutes; and

WHEREAS, pursuant to Section 373.584(4)(b) Florida Statutes, the term "project" means a governmental undertaking approved by the District and includes all property rights, easements, and franchises relating thereto and deemed necessary or convenient for the construction, acquisition or operation thereof, and embraces any capital expenditure which the Governing Board shall deem to be made for a public purpose; and

WHEREAS, the District reaffirms and finds that entering into the Amended Agreement and undertaking the acquisition of the US Sugar Lands from US Sugar along with the Leaseback Agreement which is part and parcel to the Amended Agreement as a component of the River of Grass Acquisition Project, will serve a paramount public purpose by providing greater opportunities to restore the ecosystem as more fully described in the Staff Report attached as Exhibit A to Resolution 2008-1027; and

WHEREAS, acquisition of the US Sugar Lands is a governmental undertaking and a project within the meaning of Section 373.584(4)(b) Florida Statutes and is a component of the River of Grass Acquisition Project which has been previously approved by the District; and

WHEREAS, in order to finance the cost of the initial project under the Lease Purchase Program which is the acquisition of the US Sugar Lands the District intends to cause a series of the Certificates to be issued and sold the proceeds of which sale will be used to pay the costs to acquire the US Sugar Lands and the related costs of issuing the series of Certificates; and

WHEREAS, the Certificates will be payable from basic lease payments to be made by the District under the initial lease Schedule related to the lease of the US Sugar Lands or other lands it currently owns; and

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

**SECTION 1. Recitals.** The recitals set forth above are adopted as the findings of the District and are incorporated herein.

**SECTION 2. Authorization of Amended and Restated Agreement for Sale and Purchase.** The Governing Board hereby authorizes and approves the Amended Agreement in substantially the form attached hereto. The Chair or Vice Chair of the Governing Board is hereby authorized to execute and deliver the Amended Agreement with such changes as the Chair or Vice-Chair deems necessary and approves when executing the same, with such execution to constitute conclusive evidence of such officer's approval and the District's approval of any changes therein from the form of Amended Agreement attached hereto.

**SECTION 3. Authority for this Resolution.** This Resolution is adopted pursuant to the provisions of the Act for the purpose of correcting the record created by Resolution 2008-1027 and Resolution 2008-1109 (the "Prior Resolutions") and, except as modified and supplemented hereby, the provisions of Prior Resolutions shall remain in full force and effect. In the event of conflicts between the Prior resolutions and this Resolution, the terms of this Resolution shall control.

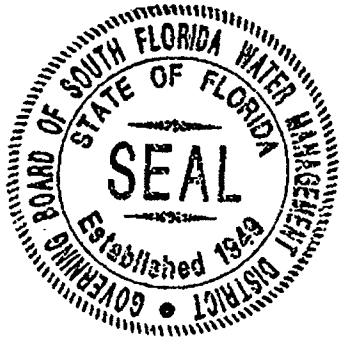
**SECTION 4. Severability of Invalid Provisions.** If any one or more of the provisions of this Resolution should be deemed contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such provisions shall be null and void and shall be deemed separate from the remaining provisions, and shall in no way affect the validity of any of the other provisions of this Resolution.

**SECTION 5. Effective Date.** This Resolution shall take effect upon its passage in the manner provided by law.

[The remainder of this page intentionally left blank]

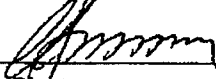
Resolution No 2009-500A

PASSED AND ADOPTED this 13<sup>th</sup> day of May, 2009.



(SEAL)

SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
by its Governing Board

  
\_\_\_\_\_

Chair

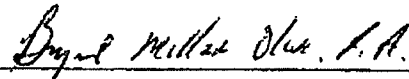
ATTEST:

  
\_\_\_\_\_

Secretary

Legal Form Approved:

BRYANT MLLIER OLIVE, Counsel to  
SOUTH FLORIDA WATER MANAGEMENT DISTRICT

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

Date: May 13<sup>th</sup>, 2009