

1 SOUTH FLORIDA WATER MANAGEMENT DISTRICT

2
3 RESOLUTION NO. 2010 - _____

4
5 A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA
6 WATER MANAGEMENT DISTRICT REQUESTING THE RELEASE OF FUNDS
7 FROM THE FLORIDA FOREVER TRUST FUND BY THE DEPARTMENT OF
8 ENVIRONMENTAL PROTECTION IN CONNECTION WITH AN AGREEMENT
9 WITH WESTGATE RESORTS, LTD. FOR THE KISSIMMEE RIVER
10 RESTORATION AND HEADWATERS REVITALIZATION PROJECT IN POLK
11 COUNTY, WHEREBY THE DISTRICT WILL PAY WESTGATE A MAXIMUM OF
12 \$135,720 TO FORMULATE AN ENGINEERING SOLUTION TO ADDRESS
13 FLOODING AND DRAINAGE IMPACTS TO CERTAIN WESTGATE
14 PROPERTY; PROVIDING AN EFFECTIVE DATE.
15

16 WHEREAS, the South Florida Water Management District has an active program
17 underway to acquire land interests and finance the cost of improvement of land, water areas and
18 related property interests for the Kissimmee River Restoration and Headwaters Revitalization
19 Project ("Project");

20 WHEREAS, Westgate Resorts, LTD. ("Westgate") is the owner of certain property in
21 Polk County (the "Westgate Property") that will be impacted by increased water levels as part of
22 the implementation of the Project;

23 WHEREAS, a District Levee (the "Levee") located on District lands adjacent to the
24 Westgate Property has had a current impact on the drainage of the Westgate Property and may
25 have the potential future effect of causing pooling of water on portions of the Westgate Property
26 affected by the increased water levels;

27 WHEREAS, Westgate has acknowledged that it is technically feasible to establish an
28 engineering solution (the "Engineering Solution") involving modifications to the Levee and the
29 Westgate Property that, if properly implemented, would mitigate against the aforementioned
30 increased water levels, drainage impacts and pooling of water;

31 WHEREAS, the Agreement between Westgate and the District (the "Agreement") that is
32 the subject of this Resolution is the vehicle to allow Westgate to manage and oversee the
33 development of an Engineering Solution.

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

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

39 (1) It does hereby advise the Secretary of the Department of Environmental Protection
40 of its intent to enter into an agreement with Westgate Resorts, LTD. ("Westgate") in connection

41 with the Project in Polk County, whereby the District will pay Westgate a maximum of \$135,720 to
42 formulate an engineering solution to address flooding and drainage impacts with respect to certain
43 Westgate property. The land areas within which the removal and relocation will occur is depicted
44 on location map Exhibit "A", which is attached hereto and made a part hereof. The District has
45 identified the land areas and the matter associated with the agreement and the \$135,720
46 expenditure as Tract Nos. 19100-418 and 19100-420.

47 (2) The District staff has determined that the maximum \$135,720 cost is an accurate
48 and reasonable expenditure for the work associated with the subject agreement.

49 (3) Since there is no acquisition of lands or land interests, the requirements that there
50 be a review for the presence of State Sovereignty submerged lands and that the District take
51 reasonable measures avoid paying for sovereignty lands are not applicable.

52 (4) This request for funds is consistent with the District's Five Year Plan of acquisition
53 or the South Florida Water Management District Florida Forever Work Plan, as contained in
54 Chapter 6A, Volume II of the South Florida Environmental Report, and last updated during a
55 public hearing on January 14, 2010, and filed with the Legislature and the Department of
56 Environmental Protection.

57 (5) The subject of this Resolution related to the request for release of funds from the
58 Florida Forever Trust Fund Acquisition furthers the Florida Forever goals set forth in (1) Section
59 259.105 (4)(a) Florida Statutes (i.e. enhance the coordination and completion of land acquisition
60 projects as measured by the number of shared acquisition projects among Florida Forever
61 funding partners and partners with other funding sources, including local governments and the
62 Federal Government) and (2) Section 259.105 (4)(d) Florida Statutes (i.e. ensure that sufficient
63 quantities of water are available to meet the current and future needs of natural systems and the
64 citizens of the state, as measured by the quantity of water made available through the water
65 resource development component of a district water supply plan for which a water management
66 district is responsible), and the complies with the Section 215.618 Florida Statutes requirements
67 to finance the cost of acquisition and improvement of land, water areas, and related property
68 interests and resources, in urban and rural settings, for the purposes of restoration,
69 conservation, recreation, water resource development, or historical preservation, and for capital
70 improvements to lands and water areas that accomplish environmental restoration, enhance
71 public access and recreational enjoyment, promote long-term management goals, and facilitate
72 water resource development.

73 (6) The funds requested shall be used only for the costs associated with the
74 agreement described herein.

75 (7) Since there is no acquisition of lands or land interests, the requirement that to the

76 extent possible, the lands being acquired shall be maintained in an environmentally acceptable
77 manner is not applicable.

78 (8) Since there is no acquisition of lands or land interests, the requirement that should
79 the District dispose of any or all of the interests acquired hereunder, all revenues derived
80 therefrom will be used to acquire other lands for water management, water supply and the
81 conservation and protection of water resources is not applicable.

82 (9) Since there is no acquisition of lands or land interests, the requirement that an
83 environmental assessment be completed is not applicable.

84 (10) Since there is no acquisition of lands or land interests, the requirement that the
85 lands shall be managed for multiple-use purposes where compatible with the resource values of
86 and management objectives for such lands as set forth in Section 259.105(5), Florida Statutes is
87 not applicable.

88 (11) The Resolution to approve the subject agreement was approved by the Governing
89 Board of the District on July 15, 2010.

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

91 (13) The Executive Director or the designee of the Executive Director is hereby
92 authorized to request the release of funds for all costs and expenses for the matter described and
93 identified in this Resolution.

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

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96 **PASSED** and **ADOPTED** this _____ day of _____, 2010.

97
98 **ATTEST:**

99
100
101 By: _____
102 District Clerk/Secretary

103
104 **SOUTH FLORIDA WATER MANAGEMENT**
105 **DISTRICT, BY ITS GOVERNING BOARD**

106
107 (Corporate Seal)

108
109 By: _____
110 Chair

111 **Legal Form Approved:**

112
113 By: _____
114 Office of Counsel