



**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

| Fiscal Years                            | 2009             | 2010  | 2011  | 2012  | 2013  |
|---|------------------|-------|-------|-------|-------|
| Capital Expenditures                    | _____            | _____ | _____ | _____ | _____ |
| Operating Costs                         | _____            | _____ | _____ | _____ | _____ |
| External Revenues                       | _____            | _____ | _____ | _____ | _____ |
| Program Income (County)                 | _____            | _____ | _____ | _____ | _____ |
| In-Kind Match (County)                  | _____            | _____ | _____ | _____ | _____ |
| NET FISCAL IMPACT                       | <u>See below</u> | _____ | _____ | _____ | _____ |
| # ADDITIONAL FTE POSITIONS (Cumulative) | _____            | _____ | _____ | _____ | _____ |

Is Item Included in Current Budget? Yes \_\_\_\_\_ No X  
 Budget Account No.: Fund \_\_\_\_\_ Department \_\_\_\_\_ Unit \_\_\_\_\_ Object \_\_\_\_\_  
 Program \_\_\_\_\_

**B. Recommended Sources of Funds/Summary of Fiscal Impact**

There is no fee associated with this Lease, however there will be costs associated with managing the land. Those funds will come from the Natural Areas Fund as allocated for the Loxahatchee Slough Natural Area. The amount of funds needed for land management and public use infrastructure will be included in the Board-approved Management Plan for the Loxahatchee Slough Natural Area.

**C. Department Fiscal Review:** *JH*

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and /or Contract Administrator Comments:**  
*The net fiscal impact is indeterminable at this time.*

*at will hit 11.6.08*      *11/5/08*      *11/4/08*      *11/17/08*  
 OFMB      Contract Administrator

**B. Legal Sufficiency:**

*James Brubaker 11/17/08*  
 Assistant County Attorney

**This item complies with current County policies.**  
*At the time of our review, the lease was not executed.*

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

**ORIGINAL**

460001390

**LEASE AGREEMENT  
BETWEEN THE  
SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
AND  
PALM BEACH COUNTY, FLORIDA**

This **LEASE AGREEMENT ("LEASE")**, is entered into this \_\_\_\_\_ day of 2008, by and between "the parties," the **SOUTH FLORIDA WATER MANAGEMENT DISTRICT**, a public corporation of the State of Florida., with its principal office at 3301 Gun Club Road, West Palm Beach, Florida 33406, and whose mailing address is Post Office Box 24680, West Palm Beach Florida 33416-4680, (the "**LESSOR**"), and **PALM BEACH COUNTY**, a political subdivision of the State of Florida, with its principal office at 301 N. Olive Ave., West Palm Beach Florida, 33401 (the "**LESSEE**").

**WITNESSETH:**

WHEREAS, the **LESSOR** is empowered to enter into contracts with public agencies, private corporations or other persons, pursuant to Section 373.083(1), Florida Statutes; and

WHEREAS, the **LESSOR** holds title to certain real property in Palm Beach County, Florida legally described in Exhibit "A" attached hereto and incorporated by reference, and hereinafter called the "**PROPERTY**", and

WHEREAS, the **LESSEE** desires to manage the **PROPERTY** which contains 256.94 acres, more or less; and

WHEREAS, the **LESSEE** represents to **LESSOR** that it is qualified to manage such lands; and

WHEREAS, the **LESSOR** has declared the **PROPERTY** available for lease to **LESSEE**, pursuant to the terms and conditions set forth herein; and

WHEREAS, the Board of County Commissioners of Palm Beach County, Florida approved this **LEASE** at its \_\_\_\_\_, 2008 meeting.

NOW THEREFORE, in consideration of the duties, responsibilities, obligations and covenants herein contained to be kept and performed by the **LESSEE**, the **LESSOR** does hereby lease to the **LESSEE** the **PROPERTY** in accordance with the following terms, conditions, covenants and provisions:

1. **DESCRIPTION OF PROPERTY:** The **PROPERTY** is situated in Palm Beach County, in the State of Florida and is more particularly described in Exhibit "A" attached hereto and made a part hereof.
2. **TERM:** The initial term of this **LEASE** shall be for a period of fifty (50) years, commencing on the final date of execution by both parties (the "Effective Date"), unless sooner terminated pursuant to the provisions of this **LEASE**. Unless terminated sooner, this lease shall expire on \_\_\_\_\_, 2058.
3. **PURPOSE:** This **LEASE** is to provide for management of the natural and historical resources of the **PROPERTY**, including but not limited to restoration by the **LESSEE** of natural habitats and hydrologic restoration to improve sheet flow drainage patterns, subject to the receipt by the **LESSEE** of any and all applicable permits and authorizations, including without limitation any and all permits required by the Florida Department of Environmental Protection ("FDEP") and the U.S. Army Corps of Engineers (the "Corps") in conjunction with such restoration activities; provided, however, that the **LESSEE** shall obtain written approval from the **LESSOR** prior to applying for any permits or authorizations from the FDEP or the Corps in conjunction with the restoration of the **PROPERTY**. As the property owner, the signature of the **LESSOR** on any permit application is required and shall suffice as the necessary written approval.
4. **QUIET ENJOYMENT AND RIGHT OF USE:** **LESSEE** shall have the right of ingress and egress to, from and upon the **PROPERTY** for all purposes necessary for the full quiet enjoyment by said **LESSEE** of the rights conveyed herein.
5. **UNAUTHORIZED USE:** **LESSEE** shall, through its agents and employees, prevent the unauthorized use of the **PROPERTY** or any use thereof not in conformance with this **LEASE**.
6. **MANAGEMENT PLAN:** **LESSEE** with the assistance of the **LESSOR** shall prepare a management plan for the **PROPERTY** (the "Management Plan") within two (2) years of the Effective Date of this **LEASE**. During its development, the Management Plan shall be submitted to **LESSOR** for review and comment. The **PROPERTY** shall not be developed or physically altered in any way other than what is necessary for security and maintenance of the **PROPERTY** (including exotic plant and animal control and the application of prescribed fire) without the prior written approval of **LESSOR**, which consent shall not be unreasonably withheld, until the Management Plan is adopted (by the **LESSEE** utilizing the **LESSEE**'s standard management plan approval process). The Management Plan shall emphasize the original management concept as approved by **LESSOR** at the time of acquisition which established water resource protection as the primary public purpose for which the **PROPERTY** was acquired. The Management Plan shall provide the basic guidance for all management and maintenance activities, and shall identify any public use facilities and passive recreational activities permitted on the **PROPERTY**. Any management, maintenance and passive recreational activities that could adversely affect the water resource protection and/or natural resource values of the **PROPERTY** shall not be permitted, except as permitted in the adopted Management Plan. The Management Plan shall be reviewed jointly by the **LESSEE** and

**LESSOR** at least every ten (10) years during the term of this **LEASE**. **LESSEE** shall not use or alter the **PROPERTY** except as provided for in the adopted Management Plan without the prior written approval of the **LESSOR**. The Management Plan prepared under this **LEASE** shall identify management strategies for exotic plant and animal species control/eradication, if present. The deliberate introduction of exotic species is prohibited, except when specifically authorized by the adopted Management Plan.

7. **RIGHT OF INSPECTION:** **LESSOR** or its duly authorized agents shall have the right at any and all times to inspect the **PROPERTY** and the works and operations thereon of **LESSEE**, in any matter pertaining to this **LEASE**.

8. **LIABILITY/INSURANCE:** The **LESSOR** shall have no liability for personal injury, bodily injury and property damage attributable to the negligent or willful acts or omissions of the **LESSEE** and its officers, employees, servants, contractors, subcontractors, invitees, representatives and agents. Without waiving the right to sovereign immunity as provided by Section 768.28, Florida Statutes, the **LESSEE** acknowledges to be self-insured for General Liability and Automobile Liability under Florida's sovereign immunity statute with monetary waiver limits of \$100,000 Per Person and \$200,000 Per Occurrence; or such limits that may change and be set forth by the legislature. The **LESSEE** acknowledges to be self-insured for Worker's Compensation & Employer's Liability insurance in accordance with Florida Statute, Chapter 440. When requested, the **LESSEE** agrees to provide a Certificate of Insurance evidencing self-insurance and/or sovereign immunity status, which the **LESSOR** agrees to recognize as acceptable for the above mentioned coverages. The **LESSEE** and the **LESSOR** further agree that nothing contained herein shall be construed or interpreted as (1) denying to either party any remedy or defense available to such party under the laws of the State of Florida or any political subdivision thereof; (2) the consent of the State of Florida, the **LESSEE**, or their agents and agencies to be sued; or (3) a waiver of sovereign immunity of the State of Florida or its agents and agencies or any political subdivision thereof beyond the waiver provided in Section 768.28, Florida Statutes.

In the event the **LESSEE** contracts any part or all of the work hereunder to any third party, the **LESSEE** shall require each and every contractor and subcontractor to identify the **LESSOR** as an additional insured on all insurance policies as required by the **LESSEE**. Any contract awarded by the **LESSEE** for work under this **LEASE** shall include a provision whereby the **LESSEE**'s contractor and subcontractor agree to defend, indemnify, and pay on behalf, save and hold the **LESSOR** harmless from all damages or injuries arising in connection with the performance of **LESSEE**'s contract or subcontract or from the activities of the contractor and subcontractor and their officers, employees, servants, subcontractors, invitees, representatives and agents either on or adjacent to the **PROPERTY**.

9. **EASEMENTS:** Except for any easements which exist as of the Effective Date of this lease, all easements including, but not limited to, utility easements are expressly prohibited without the prior written approval of **LESSOR**, which approval shall not be unreasonably withheld. Any easements executed after the date of this **LEASE**, which are not approved in writing by **LESSOR**, shall be void and without legal effect.

10. **SURRENDER OF PROPERTY:** Upon termination or expiration of this **LEASE**, **LESSEE** shall surrender the **PROPERTY** to **LESSOR**. In the event no further use of the **PROPERTY** or any part thereof is needed, written notification shall be made to the Land Stewardship Division, SFWMD, Box 24680 West Palm Beach, FL 33461, at least six (6) months prior to the release of all or any part of the **PROPERTY**. Notification shall include a legal description, this **LEASE** number and an explanation of the release. The release shall only be valid if approved by **LESSOR** through execution of a release of lease instrument with the same formality as this **LEASE**. Said release will not be unreasonably withheld, conditioned, or delayed. Upon release of all or any part of the **PROPERTY** from this **LEASE** or upon expiration or termination of this **LEASE**, all permanent improvements made or installed by **LESSEE**, including both physical structures and modifications to the **PROPERTY**, shall become the property of **LESSOR**, unless **LESSOR** gives written notice to **LESSEE** to remove any or all such improvements at the expense of **LESSEE**. The decision to retain any improvements upon termination of this **LEASE** shall be at **LESSOR's** sole discretion. Prior to surrender of all or any part of the **PROPERTY**, a representative of **LESSOR** shall perform an on-site inspection and the keys to any buildings on the **PROPERTY** shall be turned over to **LESSOR**. If the **PROPERTY** and improvements located thereon do not meet all conditions set forth in paragraphs 11 and 14 herein, **LESSEE** shall pay all costs necessary to meet the prescribed conditions.

11. **UTILITY FEES:** **LESSEE** shall be responsible for the payment of all charges for the furnishing of gas, electricity, water and other public utilities to the **PROPERTY** and for having all utilities turned off when the **PROPERTY** are surrendered.

12. **ASSIGNMENT:** This **LEASE** shall not be assigned in whole or in part without the prior written consent of **LESSOR**. Any assignment made either in whole or in part without the prior written consent of **LESSOR** shall be void and without legal effect.

13. **PLACEMENT AND REMOVAL OF IMPROVEMENTS:** All buildings, structures, improvements, and signs shall be constructed at the expense of **LESSEE**. Removable equipment placed on the **PROPERTY** by **LESSEE** which does not become a permanent part of the **PROPERTY** shall remain the property of **LESSEE** and may be removed by **LESSEE** upon termination of this **LEASE**.

14. **MAINTENANCE OF IMPROVEMENTS:** **LESSEE** shall maintain the **PROPERTY** and any improvements located thereon, in a state of good condition, working order and repair including, but not limited to, keeping the **PROPERTY** free of trash or litter, maintaining all planned improvements as set forth in the approved Management Plan, meeting all building and safety codes in the location situated and maintaining any and all existing roads, canals, ditches, culverts, risers and the like in as good condition as the same may be at the date of this **LEASE**, reasonable wear and tear excepted; provided, however, that all removal, closure, etc., of the above improvements shall be acceptable when the proposed activity is consistent with the goals of conservation, protection, and enhancement of the natural and historical resources within the **PROPERTY** and with the approved Management Plan.

15. **ENTIRE UNDERSTANDING:** This **LEASE** sets forth the entire understanding between the Parties and shall only be amended with the prior written approval of **LESSOR and LESSEE**.

16. **TERMINATION:** If either party fails to fulfill its obligations under this **LEASE** in a timely and proper manner, the other party shall have the right to terminate this **LEASE** by giving written notice of any deficiency. The party in default shall then have thirty (30) calendar days from receipt of notice to correct the deficiency. If the defaulting party fails to correct the deficiency within this time, the non-defaulting party shall have the option to terminate this **LEASE** at the expiration of the thirty (30) day time period. Notwithstanding the foregoing, if the default can not reasonably be cured within such thirty (30) day period and the defaulting party commences to cure such default within such thirty (30) day period and thereafter diligently pursues such cure to completion and completes such cure within ninety (90) days from receipt of notice to correct the deficiency, the non-defaulting party shall not be entitled to terminate this lease.

Provided the **LESSEE** has not expended capital funding for restoration activities or the development of public use facilities on the **PROPERTY**, either party may terminate this **LEASE** with or without cause at any time for convenience upon one hundred eighty (180) calendar days prior written notice to the other party. In the event either party elects to terminate this **LEASE** as provided in this paragraph, the performance of work under this **LEASE** may be terminated by either party in accordance with this clause in whole, or from time to time in part. Any such termination shall be effected by delivery to the other party of a Notice of Termination specifying the extent to which performance of work under the **LEASE** is terminated, and the date upon which such termination becomes effective.

In the event a dispute arises which the parties cannot resolve between themselves, the Parties shall have the option to submit to non-binding mediation. The mediator or mediators shall be impartial, shall be selected by the parties, and the cost of the mediation shall be borne equally by the parties. The mediation process shall be confidential to the extent permitted by law.

17. The **LESSEE** shall maintain records and the **LESSOR** shall have inspection and audit rights as follows:

a. Maintenance of Records: The **LESSEE** shall maintain all financial and non-financial records and reports directly or indirectly related to the negotiation or performance of this **LEASE** including supporting documentation for any service rates, expenses, research or reports. Such records shall be maintained and made available for inspection for a period of five (5) years from the expiration or earlier termination of this **LEASE**.

b. Examination of Records: The **LESSOR** or its designated agent shall have the right to examine in accordance with generally accepted governmental auditing standards all records directly or indirectly related to this **LEASE**. Such examination may be made only within five years from the date of expiration or earlier termination of this **LEASE** and upon reasonable notice, time and place.

c. Extended Availability of Records for Legal Disputes: In the event that the **LESSOR** should become involved in a legal dispute with a third party arising from performance under this **LEASE**, the **LESSEE** shall extend the period of maintenance for all records relating to the **LEASE** until the final disposition of the legal dispute, and all such records shall be made readily available to the **LESSOR**.

18. **NO WAIVER OF BREACH:** The failure of any party to this **LEASE** to insist in any one or more instances upon strict performance of any one or more of the covenants, terms and conditions of this **LEASE** shall not be construed as a waiver of such covenants, terms and conditions, but the same shall continue in full force and effect, and no waiver of any party of any one of the provisions hereof shall in any event be deemed to have been made unless the waiver is set forth in writing, signed by all Parties.

19. **PROHIBITIONS AGAINST LIENS OR OTHER ENCUMBRANCES:** Fee title to the **PROPERTY** is held by **LESSOR**. **LESSEE** shall not do or permit anything which purports to create a lien or encumbrance of any nature against the real property contained in the **PROPERTY** including, but not limited to, mortgages or construction liens against the **PROPERTY** or against any interest of **LESSOR** therein.

20. **DAMAGE TO THE PROPERTY:** (a) **LESSEE** shall not do, or suffer to be done, in, on or upon the **PROPERTY** or as affecting said **PROPERTY**, any act that is not in accordance with the Management Plan or is not in compliance with any permits or authorizations obtained in conjunction with the restoration of the **PROPERTY** which may result in damage or depreciation of the environmental value of the **PROPERTY** or any part thereof. (b) **LESSEE** shall not generate, store, produce, place, treat, release or discharge any contaminants, pollutants or pollution, including, but not limited to, hazardous or toxic substances, chemicals or other agents on, into, or from the **PROPERTY** in any manner not permitted by law.

For the purposes of this **LEASE**, "hazardous substances" shall mean and include those elements or compounds defined in 42 USC Section 9601 or which are contained in the list of hazardous substances adopted by the United States Environmental Protection Agency (EPA) and the list of toxic pollutants designated by the United States Congress or the EPA or defined by any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance, material, pollutant or contaminant. "Pollutants" and "pollution" shall mean those products or substances defined in Chapters 376 and 403, Florida Statutes, and the rules promulgated thereunder, all as amended or updated from time to time. In the event of **LESSEE**'s failure to comply with this paragraph, **LESSEE** shall, at its sole cost and expense, promptly commence and diligently pursue any legally required closure, investigation, assessment, cleanup, decontamination, remediation, restoration and monitoring of (1) the **PROPERTY**, and (2) all off-site ground and surface waters and lands affected by **LESSEE**'s such failure to comply, as may be necessary to bring the **PROPERTY** and affected off-site waters and lands into full compliance with all applicable federal, state or local statutes, laws, ordinances, codes, rules, regulations, orders and decrees, and to restore the damaged property to the condition existing immediately prior to the occurrence which caused the damage. **LESSEE**'s obligations set forth in this paragraph shall survive the termination or expiration of this **LEASE**.



Nothing herein shall relieve **LESSEE** of any responsibility or liability prescribed by law for fines, penalties and damages levied by governmental agencies, and the cost of cleaning up any contamination caused directly by **LESSEE's** activities or facilities. Upon discovery of a release of a hazardous substance or pollutant, or any other violation of local, state or federal law, ordinance, code, rule, regulation, order or decree relating to the generation, storage, production, placement, treatment, release or discharge of any contaminant, **LESSEE** shall report such violation to all applicable governmental agencies having jurisdiction, and to **LESSOR**, all within the reporting periods of the applicable governmental agencies. Notwithstanding the foregoing, **LESSEE** shall not be responsible or liable in any manner for any hazardous substances on the **PROPERTY** which were present prior to the execution of this **LEASE** regardless of the date of discovery.

21. **PAYMENT OF TAXES AND ASSESSMENTS:** **LESSEE** shall assume full responsibility for and shall pay all liabilities that accrue to the **LEASE** or to the improvements thereon, including any and all drainage and special assessments or taxes of every kind and all mechanic's or materialman's liens which may be hereafter lawfully assessed and levied against the **PROPERTY**, if applicable, as a result of **LESSEE** actions.

22. **NON-DISCRIMINATION:** No party shall hereto discriminate against any individual because of that individual's race, color, religion, sex, national origin, age, handicap, gender identity or expression, or marital status with respect to any activity occurring within the **PROPERTY** or upon lands adjacent to and used as an adjunct of the **PROPERTY**.

23. **COMPLIANCE WITH LAWS:** The Parties agree that this **LEASE** is contingent upon and subject to **LESSEE** obtaining all applicable permits and complying with all applicable permits, regulations, ordinances, rules, and laws of the State of Florida or the United States or of any political subdivision or agency of either, including without limitation any and all permits required by the FDEP and the Corps in conjunction with the restoration activities referenced in paragraph 3 of this **LEASE**.

24. **TIME:** Time is expressly declared to be of the essence of this **LEASE**.

25. **GOVERNING LAW:** The laws of the State of Florida shall govern all aspects of this **LEASE**. In the event it is necessary for either party to initiate legal action regarding this **LEASE**, venue shall be in the Fifteenth Judicial Circuit for claims under state law and in the Southern District of Florida for any claims which are justiciable in federal court.

26. **SECTION CAPTIONS:** Articles, subsections and other captions contained in this **LEASE** are for reference purposes only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this **LEASE** or any provisions thereof.

27. **PROJECT MANAGEMENT/NOTICE:** The parties shall direct all technical matters arising in connection with the performance of this **LEASE**, other than invoices and notices, to the attention of the respective Project Managers specified below for attempted resolution or action. The Project Managers shall be responsible for overall coordination and oversight relating to the performance of this Agreement. The **LESSEE** shall direct all administrative matters,

including invoices and notices, to the attention of the **LESSOR's** Project Manager specified below.

All formal notices between the parties under this **LEASE** shall be in writing and shall be deemed received if sent by hand delivery or certified mail, return receipt requested, to the respective addresses specified below. The parties shall also provide a copy of all notices to the other party's Project Manager. All notices required by this **LEASE** shall be considered delivered upon receipt. Should either party change its address, written notice of such new address shall promptly be sent to the other party.

All correspondence to the **LESSOR** under this **LEASE** shall reference the **LESSOR's** Contract Number.

**LESSEE:** Richard E. Walesky, Director/ Project Manager  
Department of Environmental Resources Management  
2300 Jog Road North, 4<sup>th</sup> Floor  
West Palm Beach, FL 33411

With a copy to:  
Director  
Property and Real Estate Management Division  
2633 Vista Parkway  
West Palm Beach, FL 33411

**LESSOR:** Director, Land Stewardship Division, Project Manager  
South Florida Water Management District  
P. O. Box 24680  
West Palm Beach, FL 33416-4680

With a copy to:  
Procurement Department  
Pamela Stillwell  
South Florida Water Management District  
P. O. Box 24680  
West Palm Beach, FL 33416-4680

28. **LESSEE'S PROPERTY AT RISK:** All of **LESSEE's** personal property, equipment, and fixtures located upon the **PROPERTY** shall be at the sole risk of the **LESSEE** and the **LESSOR** shall not be liable under any circumstances for any damage thereto or theft thereof unless the damage or theft is due to the negligent acts or negligent omissions of the **LESSOR** or its employees acting within the scope of their employment and then only to the extent such damage or theft is directly caused by such negligent acts or negligent omissions. Nothing contained herein shall be construed, or is intended to expand the waiver of either party's sovereign immunity as limited by Section 768.28, Florida Statutes, or the liability of either party beyond that currently provided in Section 768.28, Florida Statutes.

29. NO REPRESENTATION OR WARRANTY.

**THE LESSOR MAKES NO REPRESENTATION OR WARRANTY AS TO THE CONDITION OF THE PROPERTY AND THE LESSEE ACCEPTS THE PROPERTY IN ITS "AS IS", "WHERE IS" AND "WITH ALL FAULTS" CONDITION.**

30. EXISTING INTEREST IN LEASED PROPERTY: Pursuant to Section 373.099, Florida Statutes, the **LESSOR** does not warrant or represent that it has title to the **PROPERTY**. The **LESSEE's** occupancy of the **PROPERTY** shall be subject to the rights of others, including but not limited to easements, restrictions, reservations, and other encumbrances affecting the **PROPERTY** which have been disclosed to **LESSEE** by copy of the Owner's Policy of Title Insurance issued by Fidelity National Title Insurance Company (Policy Number FL2187-10-2005174-2008.2710609-75193137) to the **LESSOR** in conjunction with the **LESSOR's** acquisition of the **PROPERTY**.

31. MISCELLANEOUS PROVISIONS:

a. Invalidity of Lease Provision: Should any term or provision of this **LEASE** be held, to any extent, invalid or unenforceable, as against any person, entity or circumstance during the term hereof, by force of any statute, law or ruling of any form of competent jurisdiction, such invalidity shall not affect any other term or provision of this **LEASE**, to the extent that the **LEASE** shall remain operable, enforceable and in full force and effect to the extent permitted by law.

b. Inconsistencies: In the event any provisions of this **LEASE** shall conflict, or appear to conflict, the **LEASE**, including all exhibits, attachments and all documents specifically incorporated by reference, shall be interpreted as a whole to resolve any inconsistency.

c. Final Agreement: This **LEASE** states the entire understanding between the parties hereto and supersedes any written or oral representations, statements, negotiations, or agreements to the contrary. The parties recognize that any representations, statements or negotiations made by the other party's staff do not suffice to legally bind such other party in a contractual relationship unless they have been reduced to writing, authorized, and signed by an authorized representative of such other party. This **LEASE** shall bind the parties, their assigns, and successors in interest.

d. Survival: The provisions of paragraphs 20 and 31(e) shall survive the expiration or earlier termination of this **LEASE**. In addition, any covenants, provisions or conditions set forth in this **LEASE** which by their terms bind the **LESSEE** or the **LESSOR** after the expiration or earlier termination of this **LEASE**, shall survive the expiration or earlier termination of this **LEASE**.

e. Waiver of Trial by Jury Provision: As an inducement to the **LESSOR** agreeing to enter into this **LEASE**, the **LESSOR** and **LESSEE** hereby waive trial by jury in any action or proceeding brought by one party against another party pertaining to any matter whatsoever

arising out of or in any way connected with this **LEASE** or the **LESSEE's** occupancy of the **PROPERTY**.

f. The **LESSEE**, its employees, subcontractors or assigns, shall comply with all applicable federal, state, and local laws and regulations relating to the performance of this **LEASE**. The **LESSOR** undertakes no duty to ensure such compliance, but will attempt to advise the **LESSEE**, upon request, as to any such laws of which it has present knowledge.

g. The **LESSEE**, by its execution of this **LEASE**, acknowledges that neither it, nor any of its suppliers, subcontractors, or consultants who shall perform work which is intended to benefit the **LESSOR** is a convicted vendor or, if the **LESSEE** or any affiliate of the **LESSEE** has been convicted of a public entity crime, a period longer than 36 months has passed since that person was placed on the convicted vendor list. The **LESSEE** further understands and accepts that this **LEASE** shall be either void by the **LESSOR** or subject to immediate termination by the **LESSOR**, in the event there is any misrepresentation or lack of compliance with the mandates of Section 287.133, Florida Statutes. The **LESSOR**, in the event of such termination, shall not incur any liability to the **LESSEE** for any work or materials furnished.

h. The **LESSEE** shall be responsible and liable for the payment of all of its FICA/Social Security and other applicable taxes resulting from this **LEASE**.

i. The **LESSEE** has not employed or retained any person, other than a bona fide employee working solely for the **LESSEE**, to solicit or secure this **LEASE**. Further the **LESSEE** has not paid or agreed to pay any person, other than a bona fide employee working solely for the **LESSEE**, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the awarding or making of this **LEASE**. For breach of this provision, the **LESSOR** may terminate this **LEASE** without liability and, at its discretion, deduct or otherwise recover the full amount of such fee, commission, percentage, gift, or other consideration.

j. The **LESSEE** shall allow public access to all project documents and materials in accordance with the provisions of Chapter 119, Florida Statutes. Should the **LESSEE** assert any exemptions to the requirements of Chapter 119 and related Statutes, the burden of establishing such exemption, by way of injunctive or other relief as provided by law, shall be upon the **LESSEE**.

## 32. RELATIONSHIP BETWEEN THE PARTIES:

a. The **LESSEE** shall be considered an independent contractor and neither party shall be considered an employee or agent of the other party. Nothing in this **LEASE** shall be interpreted to establish any relationship other than that of independent contractor between the parties and their respective employees, agents, subcontractors, or assigns during or after the performance on this **LEASE**. Both parties are free to enter into contracts with other parties for similar services.

b. It is the intent and understanding of the parties that this **LEASE** is solely for the benefit of the **LESSEE** and the **LESSOR**. No person or entity other than the **LESSEE** or the

**LESSOR** shall have any rights or privileges under this **LEASE** in any capacity whatsoever, either as third-party beneficiary or otherwise.

c. The **LESSEE** shall not assign, delegate, sublease or otherwise transfer its rights and obligations as set forth in this **LEASE** without the prior written consent of the **LESSOR**. Any attempted assignment in violation of this provision shall be void.

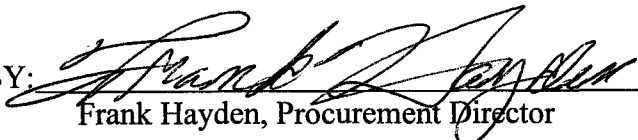
d. The **LESSEE** shall not pledge the **LESSOR's** credit or make the **LESSOR** a guarantor of payment or surety for any **LEASE**, debt, obligation, judgement, lien, or any form of indebtedness.

e. The **LESSOR** assumes no duty with regard to the supervision of the **LESSEE** and the **LESSEE** shall remain solely responsible for compliance with all safety requirements and for the safety of all persons and property at the **PROPERTY**.

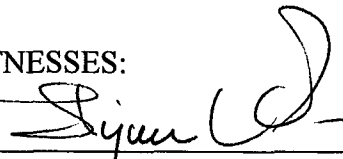
f. This **LEASE** is subject to and contingent upon the availability of funding by the parties and does not obligate future appropriations for the obligations created herein.

IN WITNESS WHEREOF, the parties have caused this LEASE to be executed on the day and year first above written.

**LESSOR**  
**SOUTH FLORIDA WATER MANAGEMENT**  
**DISTRICT**

BY:   
Frank Hayden, Procurement Director SM

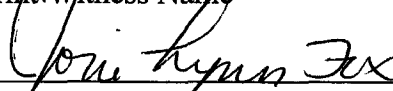
WITNESSES:



Signature

Alejandro Quintana

Print Witness Name

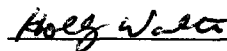


Signature

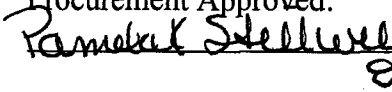
Joni Lynn Fox

Print Witness Name

Office of Counsel Approved:

 Date: 11-2-08

Procurement Approved:

 Date: 10/3/08  
SM

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of NOVEMBER, 2008, by Frank Hayden and \_\_\_\_\_, as DIRECTOR PRESENT of the South Florida Water Management District, on behalf of the corporation, who is personally known to me.

Janice H. Johansen  
Notary Public, State of Florida

Print/Type Notary Name

Commission Number: \_\_\_\_\_

Commission Expires: \_\_\_\_\_

NOTARY PUBLIC-STATE OF FLORIDA  
Janice H. Johansen  
Commission # DD574784  
Expires: AUG. 29, 2010  
BONDED THRU ATLANTIC BONDING CO., INC.

LESSEE

PALM BEACH COUNTY, FLORIDA BY ITS  
BOARD OF COUNTY COMMISSIONERS

BY: \_\_\_\_\_  
Chair

ATTEST:

SHARON R. BOCK, Clerk &  
Comptroller

APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY

BY: \_\_\_\_\_  
Deputy Clerk

BY: Sharon Bock  
ASSISTANT COUNTY ATTORNEY

APPROVED AS TO TERMS AND CONDITIONS

By: Richard E. Walesky  
Richard E. Walesky, Director Environmental Resources Management

**Exhibit "A"**  
**Tract No. DA-100-019**

A parcel of land lying in Sections 5 and 6, Township 42 South, Range 42 East, Palm Beach County, Florida, being more particularly described as follows:

The North 400.00 feet of the South 450.00 feet of said Sections 5 and 6 lying Westerly of the West Right-of-Way line of the C-18 Canal as described in Deed Book 1146, Page 477, Public Records of Palm Beach County, Florida, and lying Easterly of the following described line:

Commencing at the Southwest corner of said Section 6, thence South 88°31'50" East, along the South line of the Southwest quarter of said Section 6, a distance of 1213.05 feet; thence North 01°28'10" East, departing from said South line, a distance of 50.00 feet to the POINT OF BEGINNING; thence North 08°42'17" West, a distance of 93.47 feet; thence North 08°41'03" West, a distance of 77.85 feet; thence North 08°42'24" West, a distance of 235.07 feet to the point of terminus of the herein described line.

AND

A parcel of land lying in Section 6, Township 42 South, Range 42 East, within the municipal limits of the city of Palm Beach Gardens, Palm Beach County, Florida, and being more particularly described as follows:

That portion of Section 6, Township 42 South, Range 42 East, lying Southerly and Westerly of the following described line and Northerly of the North Right-of-Way line of P.G.A. Boulevard as described in Official Record Book 879, page 549 and as shown in Road Plat Book 6, Pages 110 to 112, inclusive:

Commencing at the Southwest corner of said Section 6; thence North 01°50'41" East, along the West line of said Section, a distance of 1,050.02 feet to a point on a line 1,000.00 feet North of and parallel with the North Right-of-Way line of P.G.A. Boulevard and the POINT OF BEGINNING of the herein described line.

Thence South 88°31'49" East, departing said Section line, a distance of 1,006.26 feet; thence South 23°12'28" East, a distance of 80.31 feet; thence South 08°42'31" East, a distance of 770.52 feet; thence South 08°41'03" East, a distance of 77.85 feet; thence South 08°42'17" East, a distance of 93.47 feet; thence South 01°28'11" West, a distance of 50.00 feet to a point on the South line of said Section and the Point of Terminus of the herein described line.

LESS AND EXCEPTING THEREFROM the Right-of-Way of P.G.A. Boulevard and the Right-of-Way of State Road 7.

AND



A parcel of land located in Section 1, Township 42 South, Range 41 East, within the municipal limits of the City of Palm Beach Gardens, Palm Beach County, Florida, and being more particularly described as follows:

Beginning at the intersection of the North Right-of-Way line of P.G.A. Boulevard and the Northeast Right-of-Way line of the Beeline Highway; thence South 88°31'49" East, along said North Right-of-Way line, a distance of 939.59 feet to a point on the West Right-of-Way line of State Road 7; thence North 01°50'28" East, along said West Right-of-Way line, a distance of 668.27 feet; thence South 88°29'35" West, a distance of 746.28 feet; thence South 39°25'54" West, a distance of 630.95 feet to a point on said Northeast Right-of-Way line of the Beeline Highway; thence South 53°39'33" East, along said Northeast Right-of-Way line, a distance of 230.95 feet to the POINT OF BEGINNING of the herein described parcel.

AND

A parcel of land lying in Sections 1 and 2, Township 42 South, Range 41 East, within the municipal limits of the city of Palm Beach Gardens, Palm Beach County, Florida, and being more particularly described as follows:

Commencing at the intersection of the North Right-of-Way line of P.G.A. Boulevard and the Northeast Right-of-Way line of the Beeline Highway; thence North 53°39'33" West, along said Northeast Right-of-Way line of the Beeline Highway, a distance of 230.95 feet to the POINT OF BEGINNING of the herein described parcel of land:

Thence North 39°25'54" East, a distance of 630.95 feet; thence North 88°29'33" East, a distance of 746.28 feet; thence North 01°50'28" East, a distance of 331.75 feet; thence North 88°31'49" West, a distance of 632.01 feet; thence North 53°39'33" West, a distance of 6,085.22 feet; thence South 36°22'07" West, a distance of 1,000.00 feet; thence South 53°39'33" East, along the said Northeast Right-of-Way line of the Beeline Highway, a distance of 6,168.82 feet to the POINT OF BEGINNING of the herein described parcel.

Containing 256.94 acres, more or less.

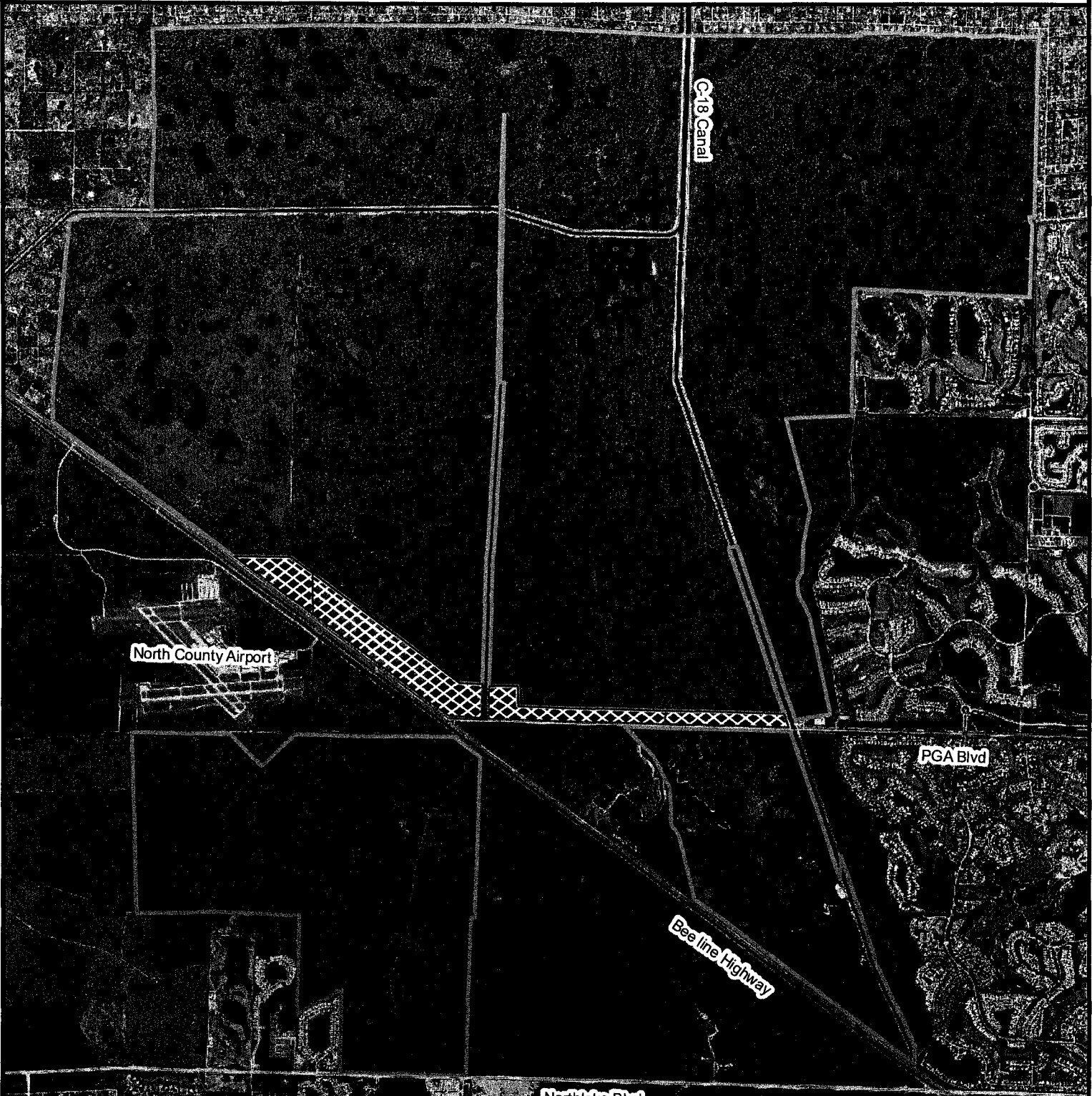
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Folio's 52424206000005010  
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ORB 10993, Page 1817

R:\Legals\lox\100-019.lgl  
February 12, 2004  
Revised: February 23, 2004  
Revised: February 24, 2004  
Revised: March 10, 2004

LEGAL DESCRIPTION  
March 10, 2004



Tract no. DA-100-019  
Location Map



North County Airport



C-18 Canal

PGA Blvd

Bee Line Highway

Northlake Blvd

**Legend**

-  Tract DA-100-019
-  Natural area boundary