

AGENDA ITEM SUMMARY

Meeting Date: June 21, 2016

[X] Consent

[] Regular

[] Ordinance

[] Public Hearing

Department: _____

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to receive and file: a notice of exercise of the 1st five (5) year extension option under the Lease with Floral Acres, L.L.C., (R2011-1787) for Floral Acres' continued nursery use of approximately 20 acres in the Ag Reserve at an annual rental rate of \$20,000/year (\$1,000/acre).

Summary: The Lease currently expires on June 30, 2016. Exercising this first option will extend the term to June 30, 2021. The annual rental rate is currently \$20,000/year (\$1,000/acre). Pursuant to the Lease, Floral Acres has the right to exercise the first two (2) of its 5-year options and the Board has no discretionary authority to deny the exercise of the option. There remain four (4) 5-year extension options, the final three (3) extension options are subject to approval by the Board of County Commissioners in its sole discretion. PREM will continue to have administrative responsibility for this Lease. **(PREM) District: 5 (HJF)**

Background and Justification: Staff issued an RFP to lease the 215 acre Amestoy property in June 2010. The RFP divided the property into 2 parcels (195 acres and 20 acres) and offered the parcels for lease either together or separately. T&D Cattle Company and Exotics, Inc., proposed leasing the 195 acre parcel for row crops and Floral Acres proposed leasing the 20 acre parcel for nursery use. On July 19, 2011, Staff recommended, and the Board approved, the proposals of T&D Cattle Company and Exotics and Floral Acres. On November 15, 2011, (R2011-1787), the Board approved the lease with Floral Acres. On March 27, 2012, Staff, under the delegated authority provided for in the Lease, entered into a Memorandum of Rental Commencement (Attachment 4) confirming the Rental Commencement Date as March 1, 2012. On May 10, 2016 Staff contacted Floral Acres inquiring on the delivery of its option election request which was due 90 days prior to the current terms expiration date. In response Staff received a scan of Floral Acres notice dated February 15, 2016, which had been mailed to an incorrect address. State Statutes do not require a Disclosure of Beneficial Interests be obtained when the County leases property to a tenant. Staff confirmed there has been no changes in ownership since the Disclosure submitted in 2011 (Attachment 5) which identifies Patrick Rosacker and Arthur A. Rosacker, III, as each holding a 50% interest in Floral Acres.

Attachments:

1. Location Map
2. Budget Availability Statement
3. Extension option request letter dated February 15, 2016
4. Memorandum of Rental Commencement
5. 2011 Disclosure of Beneficial Interest

Recommended By:

Department Director

5/21/14
Date

Approved By:

County Administrator

6/8/16
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2016	2017	2018	2019	2020
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	<u>(\$5,000.00)</u>	<u>(\$20,000.00)</u>	<u>(\$20,000.00)</u>	<u>(\$20,000.00)</u>	<u>(\$20,000.00)</u>
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>(\$5,000.00)</u>	<u>(\$20,000.00)</u>	<u>(\$20,000.00)</u>	<u>(\$20,000.00)</u>	<u>(\$20,000.00)</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget: Yes X No _____

Budget Account No: Fund 1222 Dept 800 Unit 8011 Object 6225
Program _____

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

Fixed Assets Number **n/a**

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

Sherry Br

OFMB 504 5125 5125 5125

Contract Development and Control

B. Legal Sufficiency:

Legal Sufficiency:
27 Jul 6/6/16
 Assistant County Attorney

C. Other Department Review:

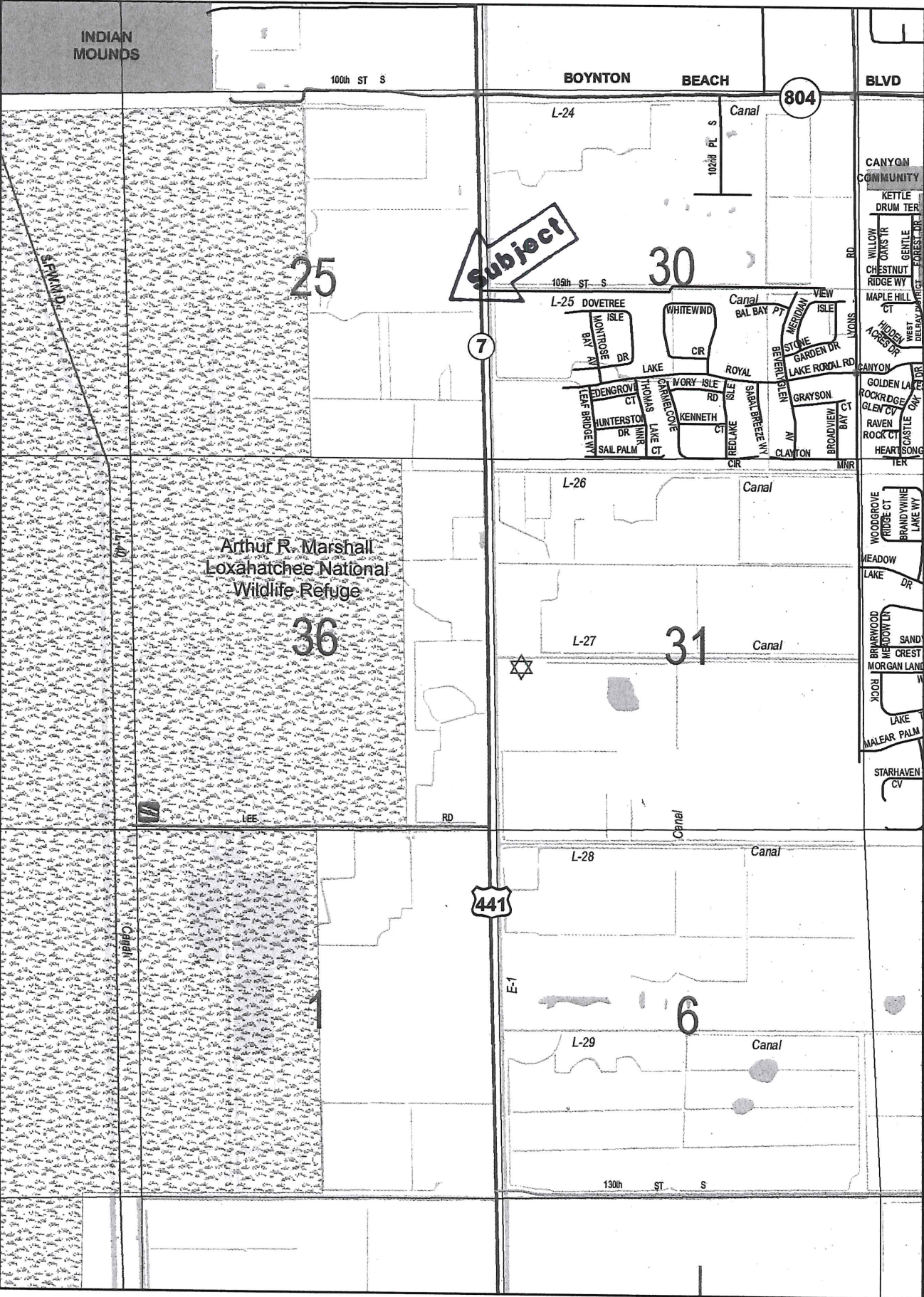
Department Director

This summary is not to be used as a basis for payment.

TWP 45

TWP 45

TWP 46



RNG 41

See pg 107

RNG 42

LOCATION MAP

Attachment 1
1 pg



BUDGET AVAILABILITY STATEMENT

REQUEST DATE: 5/11/2016 REQUESTED BY: Richard C. Bogatin PHONE: 561.233.0214
Property Specialist / PREM FAX: 561.233.0210

PROJECT TITLE: Amestoy Floral Acres Renewal Option 1 of 5 PROJECT NO.: 2016-5.00

Fiscal Years	2016	2017	2018	2019	2020
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	(\$5,000.00)	(\$20,000.00)	(\$20,000.00)	(\$20,000.00)	(\$20,000.00)
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County	_____	_____	_____	_____	_____
NET FISCAL IMPACT	(\$5,000.00)	(\$20,000.00)	(\$20,000.00)	(\$20,000.00)	(\$20,000.00)
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

*** By signing this BAS your department agrees to these staff costs and your account will be charged upon receipt of this BAS by FD&O. Unless there is a change in the scope of work, no additional staff charges will be billed.*

BUDGET ACCOUNT NUMBER

FUND: 1222 DEPT: 800 UNIT: 8011 REVENUE SOURCE: 6225
SUB OBJ:

IS ITEM INCLUDED IN CURRENT BUDGET: YES X NO _____

IDENTIFY FUNDING SOURCE FOR EACH ACCOUNT: (check all that apply)

- ☐ Ad Valorem (source/type: _____)
☐ Non-Ad Valorem (source/type: _____)
☐ Grant (source/type: _____)
☐ Park Improvement Fund (source/type: _____)
☐ General Fund ☐ Operating Budget ☐ Federal/Davis Bacon
☐ _____ ☐ _____ ☐ _____

SUBJECT TO IG FEE? YES _____ NO _____

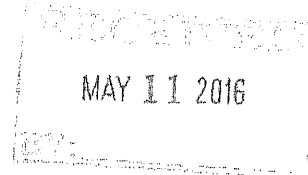
Department: Environmental Resources Management

BAS APPROVED BY: Sue Neary DATE: 5/12/16



February 15, 2016

Palm Beach County
Board of County Commissioners
Property & Real Estate Management
Attn: Ross Hering, Director
3200 Belvedere Road, Building 1169
West Palm Beach, FL 33406-1544



Re: Lease Agreement (R2011-1787) Dated November 15, 2011 between Palm Beach County as "County" and Floral Acres, L.L.C. as "Tenant"

Dear Mr. Hering:

Pursuant to and in conjunction with the above referenced Lease, more specifically, **Section 1.03 Option to Extend** of same, please accept this letter as our notice to exercise our right and option to extend the term of this Lease from June 30, 2016 through June 30, 2021. This option to renew is the 1st of five (5), five (5) year options being exercised.

Respectfully,

Patrick Rosacker
President
Floral Acres, LLC

Mailing Address: Floral Acres LLC • P.O. Box 480519 • Delray Beach, FL 33448
Physical Address: 12440 US HWY 441/SR 7 • Boynton Beach, FL 33473
Tel: (561) 498-2855 • Fax: (561) 498-0952 • www.FloralAcresLLC.com

Attachment 3
1 pg

MEMORANDUM OF RENTAL COMMENCEMENT DATE

THIS MEMORANDUM OF RENTAL COMMENCEMENT DATE ("Memorandum") made and entered into this 27 day of March, 2012, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida ("County"), and **FLORAL ACRES, L.L.C.**, a Florida limited liability company ("Tenant").

WITNESSETH:

WHEREAS, County and Tenant entered into that certain Lease Agreement dated November 15, 2011 (R2011-1787) ("Lease"), by which County agreed to lease to Tenant the real property depicted as Parcel #1 in Exhibit "A" to the Lease (the "Premises"); and

WHEREAS, Section 2.01 of the Lease provides that the Tenant shall commence paying Rent on the date when both the water use permit and ~~the amount of the annual Rent~~ modifications to the Permits (as that term is defined in the Lease) have been obtained, or the nursery use commences, whichever date shall occur first (the "Rental Commencement Date"); and

WHEREAS, Section 2.01 of the Lease also provides that the parties shall enter into a Memorandum of Rental Commencement Date confirming in writing the Rental Commencement Date of the Lease and the amount of the prorated Rent due initially; and

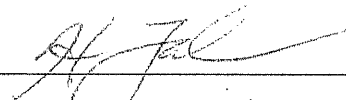
WHEREAS, County delegated the authority to execute the Memorandum to the Director of County's Property & Real Estate Management Division.

NOW, THEREFORE, the parties hereby agree as follows:

1. The foregoing recitals are true and correct and incorporated herein by reference. Terms not defined herein shall have the same meaning ascribed to them in the Lease.
2. Pursuant to the requirements set forth in Section 2.01 of the Lease, the parties confirm that the Rental Commencement Date of the Lease shall be March 1, 2012.
3. Pursuant to the requirements set forth in Section 2.01 of the Lease, Tenant has, concurrent with the execution of this Memorandum, delivered to County the first semi-annual payment in the amount of \$6,666.67, which payment is a prorated amount that covers the period from the Rental Commencement Date through June 30, 2012.
4. This Memorandum shall not be recorded in the Public Records of Palm Beach County, Florida.

IN WITNESS WHEREOF, County and Tenant have executed this Memorandum or have caused the same to be executed as of the day and year first above written.

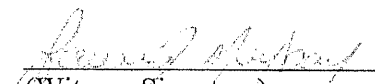
APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: 
Assistant County Attorney

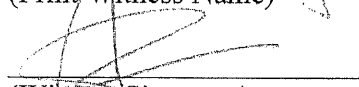
COUNTY:
PALM BEACH COUNTY, a political subdivision
of the State of Florida

By: 
Ross C. Hering, Director
Property & Real Estate Management Division

WITNESSES:

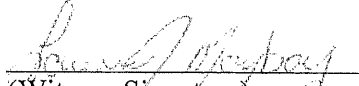

(Witness Signature)

LOUISE J. MAYDAY
(Print Witness Name)

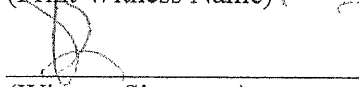

(Witness Signature)

Arthur A. Rosacker
(Print Witness Name)


WITNESSES:


(Witness Signature)

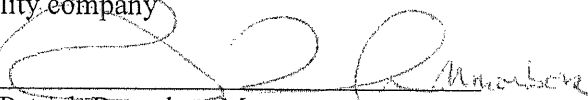
LOUISE J. MAYDAY
(Print Witness Name)


(Witness Signature)

Arthur A. Rosacker
(Print Witness Name)

By: 
Arthur A. Rosacker, III, Manager

TENANT:
FLORAL ACRES, L.L.C., a Florida limited
liability company

By: 
Patrick Rosacker, Manager

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A/K/A EXHIBIT "D"
TO LEASE

TENANT'S DISCLOSURE OF BENEFICIAL INTERESTS

TO: PALM BEACH COUNTY CHIEF OFFICER, OR HIS OR HER OFFICIALLY
DESIGNATED REPRESENTATIVE

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared PATRICK ROSACKER, hereinafter referred to as "Affiant", who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the Manager (position - i.e. president, partner, trustee) of Floral Acres, L.L.C., a Florida limited liability company (name and type of entity - i.e. ABC Corporation, XYZ Limited Partnership), (the "Tenant") which entity is the lessee of the real property depicted on the attached Exhibit "A" (the "Property").

2. Affiant's address is: P.O. Box 480519
Delray Beach, FL 33448

3. Attached hereto, and made a part hereof, as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent (5%) or greater beneficial interest in the Tenant and the percentage interest of each such person or entity.

4. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

5. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete, and will be relied upon by Palm Beach County relating to its lease of the Property.

FURTHER AFFIANT SAYETH NAUGHT.

Patrick Rosacker, Affiant
Patrick Rosacker

The foregoing instrument was sworn to, subscribed and acknowledged before me this 23rd day of August, 2011, by Patrick Rosacker, Manager [] who is personally known to me or [X] who has produced R226-676-69-211-0 as identification and who did take an oath.

Florida DL

Elizabeth L Barr
Notary Public

Elizabeth L Barr
(Print Notary Name)

NOTARY PUBLIC
State of Florida at Large

My Commission Expires: July 5, 2015



Attachment 5
1 of 3

EXHIBIT "A"
TO TENANT'S DISCLOSURE OF BENEFICIAL INTERESTS

PROPERTY

PARCEL #1

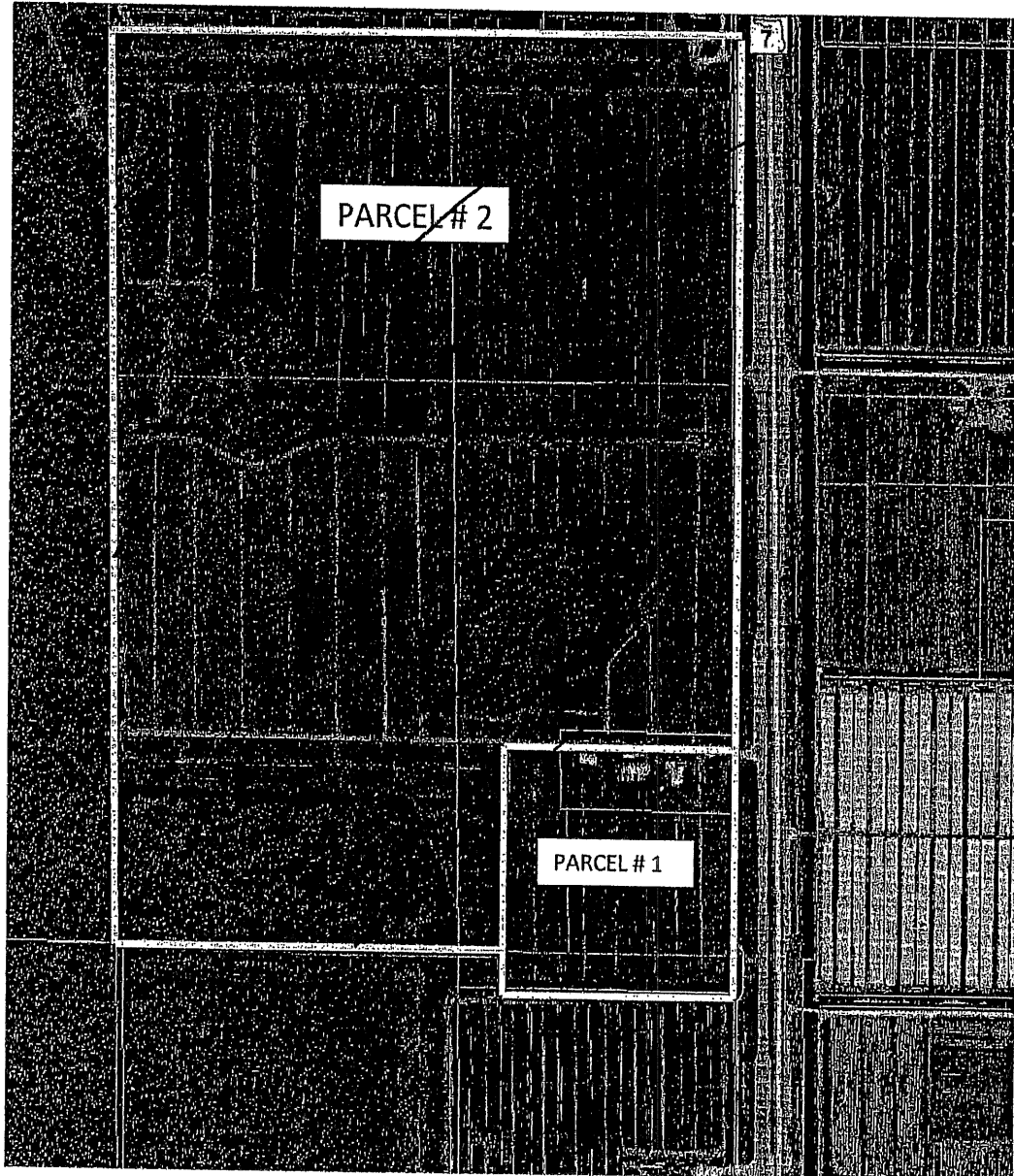


EXHIBIT "B"
TO TENANT'S DISCLOSURE OF BENEFICIAL INTERESTS

**SCHEDULE TO BENEFICIAL
INTERESTS**

Tenant is only required to identify five percent (5%) or greater beneficial interest holders. If none, so state. Tenant must identify individual interest holders. If, by way of example, Tenant is wholly or partially owned by another entity, such as a corporation, Tenant must identify such other entity, its address and percentage interest, as well as such information for the individual interest holders of such other entity.

NAME	ADDRESS	PERCENTAGE OF INTEREST
Patrick Rosacker		50%
	P.O. Box 480519	
	DeRay Beach, FL 33448	
Arthur A. Rosacker, III		50%
	P.O. Box 480519	
	DeRay Beach, FL 33448	