

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY

Meeting Date: April 20, 2021 [ ] Consent [X] Regular  
[ ] Ordinance [ ] Public Hearing

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

A) adopt a Resolution authorizing a Sixth Amendment to the Lease Agreement with Theodore W. Winsberg and Gertrude K. Winsberg (R99-842D) extending the term for six months to November 1, 2021 at a rental of One Dollar (\$1.00); and

B) approve a Sixth Amendment to the Lease Agreement with Theodore W. Winsberg and Gertrude K. Winsberg.

Summary: In 1996, the County purchased 175 acres of property from the Winsbergs for the development of the Water Utilities Department’s Green Cay Wetlands Water Reclamation project. The property is located off Hagen Ranch Road between Boynton Beach Boulevard and Atlantic Avenue. The Board approved the original Lease Agreement in May of 1999 (R99-842D), which allowed the Winsbergs to continue to farm the property until the Water Utilities Department (WUD) was ready to construct its project. Over time, as WUD constructed phases of the Water Reclamation Project, the area leased to the Winsbergs was reduced. The Winsbergs currently lease approximately 60 acres. This Sixth Amendment will extend the term for six (6) months to November 1, 2021 and add the e-verify provision. The County will continue to have the right to terminate this Lease Agreement upon 120 days notice. The rental rate for this extension period will be \$1. WUD supports the extension and will continue to have administrative responsibility for this Lease Agreement. All other terms of the Lease Agreement remain in full force and effect. (Property & Real Estate Management) District 5 (HJF)

Background and Policy Issues: The Lease Agreement was approved in May of 1999 (R99-842D) and amended by the First Amendment dated June 19, 2001 (R2001-0937), the Second Amendment dated

(Continued on Page 3)

Attachments:

- 1. Location Map
- 2. Resolution
- 3. Sixth Amendment
- 4. Budget Availability Statement

Recommended By: [Signature] 3/16/21  
Department Director Date  
Approved By: [Signature] 3/29/21  
County Administrator Date

**II. FISCAL IMPACT ANALYSIS**

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

Fiscal Years	2021	2022	2023	2024	2025
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	(\$1.00)	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	<u>(\$1.00)</u>	_____	_____	_____	_____
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____
<b>Is Item Included in Current Budget:</b>		Yes _____		No _____	
<b>Does this item include the use of federal funds?</b>		Yes _____		No _____	
Budget Account No:	Fund <u>4000</u>		Dept <u>720</u>	Unit <u>4200</u>	<u>RSRC 6999</u>
			Program _____		

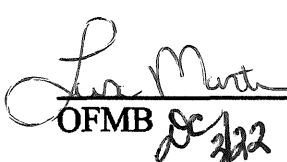
**B. Recommended Sources of Funds/Summary of Fiscal Impact:**


Fixed Assets Number N/A

**C. Departmental Fiscal Review:** 

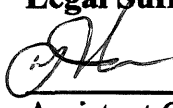
**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Development Comments:**

 3/23/21  
 OFMB DC 3/22 8x 3/23 UM  
3/23

 3/25/21  
 Contract Development and Control  
B-24-21 TW

**B. Legal Sufficiency:**

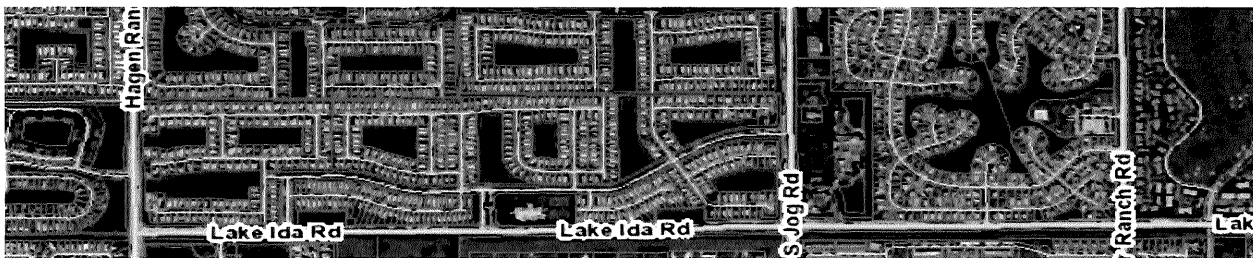
 3/26/2021  
 Assistant County Attorney

**C. Other Department Review:**

  
 Department Director

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

**Background and Policy Issues Continued:** April 13, 2004 (R2004-0649), the Third Amendment dated April 18, 2006 (R2006-0666), the Fourth Amendment to Lease Agreement dated April 15, 2008 (R2008-0629) and the Fifth Amendment dated May 5, 2020 (R2020-0510). The WUD Green Cay phase 2 project will be commencing on or about November 1, 2021 on the remaining 60+ acres at Green Cay. One of the principal concepts is to increase water supply sustainability and availability for WUD's Water Treatment Plant #3 (WTP 3) which is diagonally across Jog Road. Green Cay phase 2 is envisioned to include 8 new potable water wells, along with the required raw water transmission mains to be placed on the phase 2 site as part of the expansion. A new County Park (Green Cay Park), with a large lake system would be built as part of the expansion to recharge the groundwater aquifer supplying these 8 new wells. The property contains deed restrictions limiting the use of the property to construction of a wetland treatment and/or groundwater recharge facility, or for wildlife habitat, Passive Park, or open space use for the aesthetic and educational public benefit. This restriction precludes the County from leasing the property to others for farming, or using the parcel for affordable housing. This will be the last extension supported by WUD. Approval of this Sixth Amendment will extend the term through November 1, 2021, and add the e-verify provision.



LOCATION MAP



Attachment #2  
Resolution w/Exhibit A  
6 Pages

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AUTHORIZING A SIX-MONTH EXTENSION OF A LEASE OF CERTAIN REAL PROPERTY TO THEODORE W. AND GERTRUDE K. WINSBERG, AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Theodore W. and Gertrude K. Winsberg, husband and wife (“Tenant”), have made application to the Board of County Commissioners of Palm Beach County requesting that Palm Beach County extend the lease of certain real property owned by Palm Beach County and leased to Tenant for use by Tenant for agricultural and farming purposes (R 99-842D dated May 18, 1999); and

**WHEREAS**, Tenant was the original owner of the Property and sold the Property to the County in 1996 under a Real Estate Purchase and Sales Contract (R96-1547D); and

**WHEREAS**, a portion of the consideration given by County to Tenant was that Tenant would be permitted to lease back the Property for farming purposes for the sum of \$1.00 per year until the occurrence of certain events; and

**WHEREAS**, the deed restrictions contained in the conveyance of the Property limits the use of the Property to a wetland treatment and/or groundwater recharge facility, or for wildlife habitat, passive park, or open space use for the aesthetic and educational public benefit, which precludes the County from leasing the Property to others for farming or other purposes; and

**WHEREAS**, by virtue of its presence on the Property, Tenant has provided site security, repairs, maintenance and performed other obligations which have benefited the County and which the County would have otherwise been obligated to provide at its expense; and

**WHEREAS**, the Board of County Commissioners of Palm Beach County hereby finds that such real property will not be needed for County purposes during the term of the Lease extension, Tenant is the only person capable of reasonably utilizing the Property due to the deed restriction and the extension of the Lease is in the best interests of the County.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:**

**Section 1. Recitals**

The foregoing recitals are true and correct and incorporated herein by reference.

**Section 2. Authorization to Lease Real Property**

The Board of County Commissioners of Palm Beach County shall lease to Theodore W. and Gertrude K. Winsberg, pursuant to the Sixth Amendment to Lease attached hereto as Exhibit "A" and incorporated herein by reference, for an additional term of six (6) months and an annual rental of One Dollar and no/100 (\$1.00), the real property identified in such Lease for the use identified above.

**Section 3. Conflict with Federal or State Law or County Charter**

Any statutory or Charter provisions in conflict with this Resolution shall prevail.

**Section 4. Effective Date**

The provisions of this Resolution shall be effective immediately upon adoption hereof.

The foregoing resolution was offered by Commissioner \_\_\_\_\_ who moved its adoption. The Motion was seconded by Commissioner \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

Commissioner Dave Kerner, Mayor  
Commissioner Robert S. Weinroth, Vice Mayor  
Commissioner Maria G. Marino  
Commissioner Gregg K. Weiss  
Commissioner Maria Sachs  
Commissioner Melissa McKinlay  
Commissioner Mack Bernard

The Mayor thereupon declared the resolution duly passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

PALM BEACH COUNTY, a political  
subdivision of the State of Florida  
BOARD OF COUNTY COMMISSIONERS

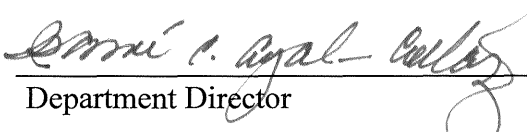
JOSEPH ABRUZZO  
CLERK & COMPTROLLER

By: \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO  
LEGAL SUFFICIENCY

By:   
Assistant County Attorney

APPROVED AS TO TERMS  
AND CONDITIONS

By:   
Department Director

G:\PREM\PM\In Lease\Winsberg Property Water\Sixth Amendment 2021\Resolution HF Approved 2-11-21.docx



**EXHIBIT A to Resolution  
SIXTH AMENDMENT TO LEASE AGREEMENT**

**THIS SIXTH AMENDMENT** is made and entered into \_\_\_\_\_ by and between Palm Beach County, a political subdivision of the State of Florida (“County”) and Theodore W. Winsberg and Gertrude K. Winsberg (“Tenant”).

**WITNESSETH:**

**WHEREAS**, County and Tenant entered into a Real Estate Purchase and Sales Contract (“Agreement”) dated October 1, 1996 (R96-1547D), as amended, wherein Tenant agreed to sell and County agreed to purchase property described in Exhibit “A” to the Contract; and

**WHEREAS**, County and Tenant agreed that a portion of the consideration to be given by County to Tenant for such sale and purchase would be that Tenant would be permitted to lease back the Premises for farming purposes for the sum of One Dollar (\$1.00) per year until the occurrence of certain events; and

**WHEREAS**, the deed restriction contained in the conveyance of the property limits the use of the property to a wetland treatment and/or groundwater recharge facility, or for wildlife habitat, passive park, or open space use for the aesthetic and educational public benefit, which precludes County from leasing the property to others for farming or any other purposes; and

**WHEREAS**, County and Tenant entered into a Lease Agreement dated May 18, 1999 (R99-842D), as amended by the First Amendment To Lease Agreement dated June 19, 2001 (R2001-0937), the Second Amendment To Lease Agreement dated April 13, 2004 (R2004-0649), the Third Amendment To Lease Agreement dated April 18, 2006 (R2006-0666), the Fourth Amendment to Lease Agreement dated April 15, 2008 (R2008-0629), and the Fifth Amendment to Lease Agreement dated May 5, 2020 (R2020-0511) (the “Lease”);

**WHEREAS**, in addition to Tenant providing covered storage for County materials, and performing other functions which have benefited County and which are beyond the obligations of Tenant, Tenant has relieved County of having to provide security for the Premises by virtue of Tenant’s presence on the site; and

**WHEREAS**, the design and construction of the wetlands restoration project have not yet been completed; and

**WHEREAS**, the Term of the Lease currently expires on May 1, 2021; and

**WHEREAS**, the parties wish to amend the Lease to approve a six (6) month extension of the Term of the Lease and incorporate certain language required by County.

**NOW, THEREFORE**, in consideration of premises and mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, 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 as ascribed to them in the Lease.

2. Article I, Section 1.02 of the Lease is hereby deleted in its entirety and replaced with the following:

The term of this Lease shall commence on the Effective Date, as hereinafter defined (“Commencement Date”), and shall expire on November 1, 2021 (“Term”), unless terminated earlier in accordance with the provisions of this Lease.

3. Article XII is hereby amended to add the following:

**Section 12.20 E-Verify – Employment Eligibility**

Tenant warrants and represents that it is in compliance with section 448.095, Florida Statutes, as may be amended, and that (1) is registered with the E-Verify System (E-Verify.gov), and beginning January 1, 2021, uses the E-Verify System to electronically verify the employment eligibility of all newly hired workers; and (2) has verified that all of the Tenant’s subcontractors/subconsultants performing the duties and obligations of this Agreement are registered with the E-Verify System, and beginning January 1, 2021, use the E-Verify System to electronically verify the employment eligibility of all newly hired workers.

Tenant shall obtain from each of its subcontractors/subconsultants an affidavit stating that the subcontractor/subconsultant does not employ, contract with, or subcontract with an Unauthorized Alien, as that term is defined in section 448.095(1)(k), Florida Statutes, as may be amended. Tenant shall maintain a copy of any such affidavit from a subcontractor/subconsultant for, at a minimum, the duration of the subcontract and any extension thereof. This provision shall not supersede any provision of this Agreement, which requires a longer retention period.

County shall terminate this Agreement if it has a good faith belief that Tenant has knowingly violated Section 448.09(1), Florida Statutes, as may be amended.

If County has a good faith belief that Tenant’s subcontractor/subconsultant has knowingly violated Section 448.09(1), Florida Statutes, as may be amended, County shall notify Tenant to terminate its contract with the subcontractor/subconsultant and Tenant shall immediately terminate its contract with the subcontractor/subconsultant.

If County terminates this Agreement pursuant to the above, Tenant shall be barred from being awarded a future contract by County for a period of one (1) year from the date on which this Agreement was terminated. In the event of such contract termination, Tenant shall also be liable for any additional costs incurred by County as a result of the termination.

4. Except as set forth herein, the Lease remains unmodified and in full force and effect, and County and Tenant hereby ratify, confirm, and adopt the Lease as amended hereby.

5. This Sixth Amendment is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners, and shall become effective only when signed by all parties and approved by the Palm Beach County Board of County Commissioners.

**THE REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY**

**IN WITNESS WHEREOF**, the parties have duly executed this Fifth Amendment as of the day and year first written above.

Signed in the presence of:

**TENANT:**

\_\_\_\_\_  
Witness (as to both)

\_\_\_\_\_  
Theodore W. Winsberg

\_\_\_\_\_  
Print Witness Name

\_\_\_\_\_  
Witness (as to both)

\_\_\_\_\_  
Gertrude K. Winsberg

\_\_\_\_\_  
Print Witness Name

**ATTEST:**

**COUNTY:**

**JOSEPH ABRUZZO  
CLERK & COMPTROLLER**


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

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Dave Kerner, Mayor

APPROVED AS  
~~TO~~ LEGAL SUFFICIENCY

APPROVED AS TO TERMS  
AND CONDITIONS

  
\_\_\_\_\_  
Assistant County Attorney

\_\_\_\_\_  
Isamí Ayala-Collazo, Director  
Facilities Development & Operations

Attachment #3  
6<sup>th</sup> Amendment 2 copies  
3 Pages Each

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**WITNESSETH:**

**WHEREAS**, County and Tenant entered into a Real Estate Purchase and Sales Contract (“Agreement”) dated October 1, 1996 (R96-1547D), as amended, wherein Tenant agreed to sell and County agreed to purchase property described in Exhibit “A” to the Contract; and

**WHEREAS**, County and Tenant agreed that a portion of the consideration to be given by County to Tenant for such sale and purchase would be that Tenant would be permitted to lease back the Premises for farming purposes for the sum of One Dollar (\$1.00) per year until the occurrence of certain events; and

**WHEREAS**, the deed restriction contained in the conveyance of the property limits the use of the property to a wetland treatment and/or groundwater recharge facility, or for wildlife habitat, passive park, or open space use for the aesthetic and educational public benefit, which precludes County from leasing the property to others for farming or any other purposes; and

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**WHEREAS**, in addition to Tenant providing covered storage for County materials, and performing other functions which have benefited County and which are beyond the obligations of Tenant, Tenant has relieved County of having to provide security for the Premises by virtue of Tenant’s presence on the site; and

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**NOW, THEREFORE**, in consideration of premises and mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, 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 as ascribed to them in the Lease.
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4. Except as set forth herein, the Lease remains unmodified and in full force and effect, and County and Tenant hereby ratify, confirm, and adopt the Lease as amended hereby.

5. This Sixth Amendment is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners, and shall become effective only when signed by all parties and approved by the Palm Beach County Board of County Commissioners.

**THE REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY**

**IN WITNESS WHEREOF**, the parties have duly executed this Fifth Amendment as of the day and year first written above.

Signed in the presence of:

Sylvia Winsberg Jameson  
Witness (as to both)

Sylvia Winsberg Jameson  
Print Witness Name

Sylvia Winsberg Jameson  
Witness (as to both)

Sylvia Winsberg Jameson  
Print Witness Name

**TENANT:**  
Theodore W. Winsberg  
Theodore W. Winsberg

Gertrude K. Winsberg  
Gertrude K. Winsberg

**ATTEST:**

**COUNTY:**

**JOSEPH ABRUZZO  
CLERK & COMPTROLLER**

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

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Dave Kerner, Mayor

APPROVED AS  
~~TO~~ LEGAL SUFFICIENCY

[Signature]  
Assistant County Attorney

APPROVED AS TO TERMS  
AND CONDITIONS

[Signature]  
Isami Ayala-Collazo, Director  
Facilities Development & Operations

Attachment #4  
BAS  
1 Page



# BUDGET AVAILABILITY STATEMENT

REQUEST DATE: February 16, 2020    REQUESTED BY: Richard C. Bogatin    PHONE: 561-233-0214  
 FAX: 561-233-0210

9PROJECT TITLE:    Winsberg Farm Lease Amendment #6    PROJECT NO.:2021-5.003

Fiscal Years	2021	2022	2023	2024	2025
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	(\$1.00)	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	<u>(\$1.00)</u>	_____	_____	_____	_____
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____

*\*\* 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: 4000    DEPT: 720    UNIT: 4200    OBJ: RSRC 6999    SUB OBJ:

ENCUMBRANCE NUMBER:

IS ITEM INCLUDED IN CURRENT BUDGET: YES  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: WATER UTILITIES

BAS APPROVED BY: In Est    DATE: 2/17/21