



CITY OF ORLANDO
COUNCIL AGENDA
ITEM

City Clerk's
Use Only:

I-1

Items Types:
Consent Agenda

For Meeting of:
06/08/2009

☒ Signature Approval
Signature Approval
Alan Oyler

District: None

From: Public Works

Budget Approval
Robert M Visser

Exhibits: ● Yes ○ No

On File (City Clerk) :
● Yes ○ No

Draft Only:
○ Yes ● No

Grant Received by City?: ○ Yes ● No

Subject:

Approving Water Conserv II Lease Agreement with Mid Florida Citrus Foundation, Inc.

Summary: [Please, do not use all caps.]

The Mid Florida Citrus Foundation, Inc. (MFCF) has been providing citrus research in support of the Water Conserv II program and the citrus growers for over twenty years. The MFCF has utilized portions of Water Conserv II property, to conduct research and demonstration on plots of citrus, deciduous fruit and nut trees, forage crops and other crops, under a lease agreement with the City of Orlando and Orange County. The term of the original lease agreement has expired, but the MFCF has continued to conduct research and demonstration on the property under a two-year License Agreement (approved by City Council on March 17, 2008) for over a year.

The City of Orlando and Orange County desire to enter into a Lease Agreement with the MFCF to allow the MFCF to continue to use the Water Conserv II property to conduct research and demonstration. Under the Lease Agreement, the MFCF is responsible for the maintenance, repair and restoration of the property at their expense. The term of the Lease Agreement is five (5) years with an option to renew for a successive five (5) year period. Partially in exchange for the elimination of the cost for a \$40,000 annual research grant paid by the City of Orlando and Orange County and the provision of reclaimed water by the Water Conserv II project, MFCF shall pay \$1.00 per year in rent for the term of the Lease Agreement.

Fiscal & Efficiency Data: [As applicable, cite funding source; original approval date and contract amount, Documentary Number, cumulative change orders, recurring cost, (e.g. operating and maintenance); allocation of any generated revenues; any applicable efficiency data; etc.]

This arrangement will save the City \$40,000 annually as the City will no longer be providing the research grant to MFCF.

Recommended Action:

Authorize the Mayor/Mayor Pro-Tem and City Clerk to execute said Lease Agreement, with the Mid Florida Citrus Foundation, Inc., subject to review and approval by the City Attorney's Office.

Attachments

City Council Meeting: *6-8-09*
Item: *I-1* Documentary: *0608101*



On File

Agenda Item attachment(s) on file in the City Clerks Office.

Note: *All agenda items must be in the City Clerk's office by Noon Friday, six(6) business days prior to the regular Monday City Council meeting.*

Distribution:

General:

David S Sloan/WEM/PWK/Orlando, Laurie J Botts/REM/FIN/Orlando, David P Hopstetter/LEG/EXO/Orlando, Debbie L Owen/PWK/PWK/Orlando, Paul K Deuel/WPO/PWK/Orlando

Signoff:

Contact:

Robert B Cadle/WEM/PWK/Orlando

Accepted By: Dolores Meyer

Minute Notes:

Water Conserv II Lease Agreement with Mid Florida Citrus Foundation, Inc. Approved and authorized the Mayor/Mayor Pro Tem and City Clerk to sign the Lease Agreement with the Mid Florida Citrus Foundation, Inc., subject to review and approval by the City Attorney's Office. The Mid Florida Citrus Foundation, Inc. (MFCF) has been providing citrus research in support of the Water Conserv II program and the citrus growers for over twenty years. The MFCF has utilized portions of Water Conserv II property, to conduct research and demonstration on plots of citrus, deciduous fruit and nut trees, forage crops and other crops, under a lease agreement with the City of Orlando and Orange County. The term of the original lease agreement has expired, but the MFCF has continued to conduct research and demonstration on the property under a two-year License Agreement (approved by City Council on March 17, 2008) for over a year. The City of Orlando and Orange County desire to enter into a Lease Agreement with the MFCF to allow the MFCF to continue to use the Water Conserv II property to conduct research and demonstration. Under the Lease Agreement, the MFCF is responsible for the maintenance, repair and restoration of the property at their expense. The term of the Lease Agreement is five (5) years with an option to renew for a successive five (5) year period. Partially in exchange for the elimination of the cost for a \$40,000 annual research grant paid by the City of Orlando and Orange County and the provision of reclaimed water by the Water Conserv II project, MFCF shall pay \$1.00 per year in rent for the term of the Lease Agreement

"Enhance the quality of life in the City by delivering public services in a knowledgeable, responsive and financially responsible manner."

APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS

JUN 30 2009 JB/CS

**WATER CONSERV II LEASE AGREEMENT WITH
MID FLORIDA CITRUS FOUNDATION, INC.**

THIS WATER CONSERV II LEASE AGREEMENT WITH MID FLORIDA CITRUS FOUNDATION, INC. (the "Lease Agreement"), is entered into as of the date of last execution below by and between the **CITY OF ORLANDO, FLORIDA**, a Florida municipal corporation, whose address is 400 S. Orange Avenue, Orlando, Florida 32801, and **ORANGE COUNTY, FLORIDA**, a charter county and political subdivision of the State of Florida, whose address is 201 South Rosalind Avenue, Orlando, Florida 32801, (hereinafter collectively referred to as the "Lessors") and the **MID FLORIDA CITRUS FOUNDATION, INC.**, a Florida non-profit corporation whose address is 15400 Oakland Avenue, Winter Garden, Florida, 34787 (hereinafter referred to as the "Lessee"). The Lessors and Lessee may also hereinafter be referred to collectively as the "Parties" or individually as a "Party."

WITNESSETH:

WHEREAS, the Lessors are the owner of that certain real property located in Orange County and Lake County, Florida, known as the Water Conserv II site (the "Property"), portions of which are subject to lease; and

WHEREAS, the Lessee is a non-profit corporation engaged in conducting agricultural research, demonstration, and testing on various types of fruit and nut trees and crops having potential for cultivation in Central Florida; and

WHEREAS, the Lessee desires to lease certain lands on the Property from the Lessors, described in **Exhibit "A"** attached hereto and incorporated herein by reference (the "Leased Property"), for the sole purpose of conducting agricultural research, demonstration, and testing on plots of citrus, deciduous fruit and nut trees, forage crops, and other crops having potential for cultivation in Central Florida (the "Lease Use"); and

WHEREAS, the Lessors are willing to lease the Leased Property to Lessee under the terms and conditions stated herein; and

WHEREAS, the Lessee is authorized to enter into this Lease Agreement pursuant to State law and this Lease Agreement is being entered into by the Lessors pursuant to their charters and the authority granted to the Lessors under the home rule provisions of the Florida Statutes; and

WHEREAS, the Lessors hereby make a determination that conducting the agricultural research, demonstration, and testing contemplated by the Lessee herein serves a valid public purpose; and

WHEREAS, the Lessee agrees to pay the costs of installing and maintaining suitable fencing or constructing and maintaining any structures on the Leased Property which are related to the Lease Use and whether installed by the Lessee or Lessors, throughout the term of the Lease Agreement; and

WHEREAS, the Lessee will pay the cost of providing potable water and any other utilities to the Leased Property throughout the term of the Lease Agreement; and

WHEREAS, the Lessee understands and agrees that reclaimed water is being applied to the Leased Property for irrigation and other Water Conserv II program purposes at no cost to Lessee and also agrees that students, faculty, researchers and other authorized representatives of the Lessee will not interfere with or disturb or disrupt the Lessors' reclaimed water application processes, equipment, pipes, valves, fixtures or other infrastructure or devices on said Leased Property; and

WHEREAS, the Parties had previously entered into that certain agreement titled "Water Conserv II License Agreement With Mid Florida Citrus Foundation, Inc." (the "License Agreement") which covers the Leased Property and now desire the Lease herein to supersede that License Agreement upon the Effective Date of this Lease Agreement. Accordingly, the Parties agree to formally terminate the License Agreement as per Section 6 of that agreement upon the Effective Date of this Lease Agreement.

NOW THEREFORE, in consideration of the mutual promises, covenants, terms and conditions set forth herein and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

SECTION 1. PREMISES INCORPORATED. The Lessor and the Lessee agree that each and all of the foregoing premises are incorporated herein and shall

constitute operative provisions and obligations of the Lease Agreement.

SECTION 2. DEMISE. In consideration of the covenants, terms, conditions and agreements hereinafter set forth, the Lessors hereby lease and demise to Lessee, and Lessee hereby hires and leases from the Lessors, the Leased Property, together with all improvements thereon, if any, **SUBJECT, HOWEVER, TO THE FOLLOWING:**

- A. Any state of facts which an accurate survey may show;
- B. Easements, covenants, and restrictions of record, if any;
- C. Present and future zoning law, ordinances, resolutions and regulations of the county in which the Leased Property is located and all present and future ordinances, laws, regulations and orders of all boards, bureaus, commissions and bodies of any local, county, state, or federal sovereigns now or hereafter having or acquiring jurisdiction over or affecting the Leased Property;
- D. Permits, ordinances, orders or requirements, whether or not recorded or noted, of any federal, state, or local departments or authority having jurisdiction against or affecting the Leased Property as the same may exist on the date of the commencement of the term of this Lease Agreement; and

- E. The condition and state of repair of the Leased Property as the same may be on the Effective Date of this Lease Agreement.

This Lease Agreement is accepted and agreed to upon the foregoing and upon the following covenants and conditions, and subject to the following restrictions, to all and everyone of which the Parties consent and each of the Parties hereby expressly covenants and agrees to keep, perform and observe all the terms, covenants and conditions herein contained on its part to be kept, performed and observed.

SECTION 3. TERM OF LEASE AGREEMENT. This Lease Agreement shall be effective on the date of last execution below (the "Effective Date") and, unless extended in accordance with the provisions set forth in this paragraph or terminated in accordance with other provisions in this Lease Agreement, the Leased Property is leased to the Lessee for a term of five (5) years from the Effective Date. The Parties may, upon written mutual consent, renew this Lease Agreement for a successive five (5) year period.

SECTION 4. RENT. During the term of this Lease Agreement, the Lessee shall pay the Lessors an annual rent of One Dollar (\$1.00) due and payable upon the anniversary date of the effective date of this Lease Agreement.

SECTION 5. USE OF LEASED PROPERTY. The Leased Property shall be used and occupied by the Lessee solely for the purpose of conducting the Lease Use

described herein above and activities directly related thereto, unless the Lessors give their prior written consent for other use. Existing fences, gates, culverts, pumps, sprinkler or water application devices, roadway improvements and other fixtures and/or personal property associated with the Lease Use on the Leased Property are permitted to be utilized by the Lessee. However, the Lessee is only permitted to replace pumps, culverts, ditches, roadways, and other items associated with the Lease Use, following prior written consent of the Lessors. Except as specifically provided herein, no additional structures and man-made alterations (i.e. buildings, fencing, berms, wells, borrow pits, etc.) will be placed on or made to the Leased Property without prior written consent of the Lessors. There shall be no dumping or placing of garbage or refuse, non-operable vehicles or agricultural equipment, or building materials on the Leased Property. The Lessee agrees, with respect to the general maintenance of the land and wildlife, to implement and carry on a program of stewardship to promote and maintain said wildlife and land, and upon expiration or termination hereof, to surrender the Property in "better than found" condition. Additionally, no illegal, unlawful, offensive or immoral activities shall take place on the Leased Property.

SECTION 6. MAINTENANCE. The Lessors shall not be required to furnish to the Lessee any facilities or services of any kind whatsoever during the term hereof, such as, but not limited to, water, gas, electricity, light and power. The Lessors shall in no event be required to make any alterations, rebuilding, replacements, changes, additions, improvements, repairs, or maintenance of access to the Leased Property. The Lessee shall, at Lessee's sole cost and expense, keep, maintain and repair the Leased Property,

all improvements thereon and all facilities appurtenant thereto, including fences, swales, private roadways, and private drainage canals, structures and facilities, in good order and repair and in as safe and clean a condition as they were when received by the Lessee from the Lessors, ordinary wear and tear and damage by the elements excepted. The Lessee shall, at Lessee's sole cost and expense, use diligence to put, keep and maintain all portions of the Leased Property and the fences, swales, private roadways and private drainage canals on and adjoining the same in a clean and orderly condition, free of rubbish, trash, debris, and unlawful obstructions. The Lessee also agrees to provide surveillance over the Leased Property. The Lessee's surveillance obligations shall be satisfied by having a representative of the Lessee travel around the perimeter of the Leased Property at least once per week during the term of this Lease Agreement and notifying the proper law enforcement authorities and the Lessors of any trespassers, poachers, and vandals or by such other level of surveillance as the Lessor and Lessee may subsequently mutually agree upon in writing. The Lessee shall secure all gates or fences utilized by Lessee or found open or unsecured during surveillance or use of the Leased Property.

SECTION 7. STANDARD OF CARE IN CONNECTION WITH USE OF CHEMICALS AND OTHER MATERIALS; REQUIRED NOTICE OF SPILLS AND HAZARDOUS SUBSTANCES. During the term of this Lease Agreement:

- A. The Lessee's use of the Leased Property shall remain in compliance with all applicable laws, ordinances, and regulations

relating to public health and safety and protection of the environment (collectively the "Environmental Laws").

- B. The Lessee shall apply for and obtain all governmental permits relating to the Lease Use required by applicable Environmental Laws, and shall keep such permits in full force and effect, and shall comply with such permits.
- C. The Lessee shall use reasonable care, taking all reasonable and prescribed precautions, in connection with the transfer, storage, and mixing and filling of tanks with, fuel, oil, petroleum products and supplies, hazardous materials, chemicals, and other such products, and also in connection with repair or service of equipment utilizing such substances, so that such transport, storage, and mixing, and filling of tanks or equipment and the repair or service of equipment, shall be in accordance with all Environmental Laws, and in accordance with the manufacturer's label for such product and the manufacturer's specifications for such product.
- D. The Lessee shall not permit any employee or invitee, agent, or independent contractor of Lessee to cause or allow any release, generation, manufacture, storage, treatment, transportation, or

disposal of any hazardous substance, as defined below, on, in under, or from the Leased Property.

- E. The Lessee shall comply with all governmental requirements concerning the maintenance and use of storage tanks, and shall immediately report to the Lessors and other appropriate authorities any discharge, release, or leak from such tanks and take such steps are as necessary to prevent or stop such releases, discharges, or leaks.

In the event there is a spill, release, or other discharge of any hazardous substance on, in, under, or from the Leased Property, then, in addition to the provisions of any of the Environmental Laws requiring notice of such spill, release or other discharge, the Lessee shall immediately notify the Lessors of such spill, release, or other discharge. Such notification shall be made by telephone, and, as soon as possible after such spill, release, or other discharge, the Lessee shall also provide a written follow-up emergency notice providing the Lessors with complete information concerning such spill, release or other discharge. It is the intent of the Parties hereto that the provision of this paragraph requiring that the Lessee notify the Lessors of any such spill, release or other discharge shall not be limited to those situations for which notice is required pursuant to the Environmental Laws, so that the Lessee shall be required to notify the Lessors of such release, spill or other discharge even if such a notice is not required under the provisions of such Environmental Laws.

For the purposes of this Lease Agreement, "hazardous substances or materials" shall mean: (i) hazardous substances, as that term is defined by the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, *et. seq.*; (ii) hazardous waste, as that term is defined by the Resource Conservation Recovery Act, 42 U.S.C. Section 6901, *et. seq.*; (iii) any pollutant or contaminant or hazardous, dangerous or toxic chemicals, materials, or substances within the meaning of any Environmental Law; (iv) petroleum or petroleum substances; (v) asbestos in any form or condition; (vi) polychlorinated biphenyls (PCBs) or substances or compounds containing PCBs; and (vii) hazardous substances as that term may be defined by the Florida Statutes, the rules of the Florida Department of Environmental Protection, the rules of the United States Environmental Protection Agency and the rules of the St. Johns River Water Management District.

The Lessee will immediately notify the Lessors, and provide copies upon receipt, of all written complaints, claims, citations, demands, inquiries, reports, or notices relating to any spill, release, or discharge of any hazardous substance on, in, under, or from the Leased Property by the Lessee or any agent, employee, independent contractor or invitee of the Lessee during the term of this Lease Agreement. The Lessee shall promptly cure and have dismissed with prejudice any of those actions and proceedings to the satisfaction of the Lessors. The Lessee shall keep the Leased Property free of any lien imposed pursuant to any Environmental Laws by reason of any activities of the Lessee or any employee, agent, independent contractor or invitee of the Lessee.

During the term of this Lease Agreement, the Lessors, at their sole expense, shall have the right at all reasonable times and from time-to-time to conduct environmental audits or assessments of the Leased Property, and the Lessee shall cooperate in the conduct of those audits. Additionally, within one hundred eighty (180) days of the end of the term of this Lease Agreement, the Lessors may cause to be conducted a Phase II environmental assessment audit at the Lessors' sole cost and expense, the results of which the Lessors shall furnish to the Lessee within ten (10) business days of receipt. If any hazardous substance is detected on, in, or under the Leased Property, which was discharged by the Lessee or any agent, employee, independent contractor or invitee of the Lessee, the Lessee shall immediately undertake to clean up and remediate said hazardous substance as necessary and the fees and expenses of the Lessors' original assessment or audit and any required clean-up and follow-up assessment or audit shall be fully borne by the Lessee and shall be paid on demand of the Lessors. If the Lessee fails to take affirmative action to halt introduction of hazardous materials on the Leased Property and timely clean up a hazardous substance, then the provisions of Section 19 of this Agreement shall apply.

If, during the term of this Lease Agreement, the Lessee shall fail to comply with any of the foregoing provisions in this Section, the Lessors, at their option, may cause the clean-up or remediation of any hazardous substance, spill, release, or discharge on, in, under or from the Leased Property caused by the Lessee or any agent, employee, independent contractor or invitee of the Lessee. The cost of such clean-up or remediation

(including transportation and storage costs) shall be paid by the Lessee to the Lessors, whether or not a court has ordered the clean-up or remediation, and those costs shall become due and payable on demand by the Lessors. The Lessee shall give the Lessors, their agents, employees and independent contractors access to the Leased Property to clean up or remediate such hazardous substances. The foregoing notwithstanding, the Lessors shall have no affirmative obligation to clean up or remediate any hazardous substance unless the release of such hazardous substance was caused by the acts or omissions of the Lessors or any agent, employee or independent contractor of the Lessors. The Lessee's obligation to clean up or remediate (and pay the full costs thereof) any hazardous substance, spill, release, or discharge on, in, under, or from the Leased Property caused by the Lessee or any agent, employee, independent contractor or invitee of the Lessee during the term of this Lease Agreement shall survive the expiration of this Lease Agreement and shall be enforceable by the Lessors.

For Ten Dollars (\$10.00) and other good and valuable consideration, the Lessee hereby agrees, to the extent allowed by state law, to indemnify, defend (with counsel reasonably acceptable to the Lessors and at Lessee's sole cost), and hold the Lessors and Lessors' affiliates, board members, officers, employees, and agents (collectively the "Indemnities"), free and harmless from and against all losses, liabilities, obligations, penalties, claims, litigations, demands, defenses, costs, judgments, suits, proceedings, damages (including consequential damages), disbursements or expenses of any kind (including attorneys' and experts' fees and expenses and fees and expenses incurred in investigation, defending, or prosecuting any litigation, claim or proceeding) that may at

any time be imposed upon, incurred by, asserted, or awarded against the Lessors or any of the Indemnities in connection with, arising from or out of any breach of the provisions of this Section by the Lessee, any violation or claim of violation by the Lessee or any agent, employee, independent contractor or invitee of the Lessee, during the term of this Lease Agreement, of any Environmental Law on, in, from or with respect to the Leased Property, or the imposition of any lien for the recovery of any cost for environmental clean-up or other response cost relating to the release or threatened release of hazardous substances on, in, under or from the Leased Property by the Lessee or any agent, employee, independent contractor or invitee of the Lessee during the term of this Lease Agreement. In any action or proceeding in which the Lessee defends the Lessors under this Section, the Lessors agree to assign to the Lessee any rights to recover attorneys' fees and costs to which the Lessors become entitled through the Lessee's defense of the Lessors under this Section. This indemnification obligation shall continue after expiration of this Lease Agreement for act or occurrences during the term of this Lease Agreement.

SECTION 8. REPRESENTATIONS. The Lessee covenants and warrants that the Lessee has inspected the Leased Property and is fully familiar with its physical condition, and the Lessee takes the Leased Property in its "as is" condition. The Lessee agrees that neither the Lessors, nor the Lessors' agents, have made any representations or warranties whatsoever about or in connection with the Leased Property, its condition and location, or the use to which the Leased Property can be put and that neither the Lessor, nor the Lessors' agents, have made any representations or warranties regarding any

buildings, improvements, fixtures or equipment (if any), on or appurtenant to the Leased Property. The Lessee also agrees that neither the Lessors, nor the Lessors' agents, shall be liable to the Lessee or the Lessee's agents, employees or contractors for any latent or patent defects on the Leased Property or any buildings or improvements thereon.

SECTION 9. COMPLIANCE WITH LAW. Throughout the term of this Lease Agreement, the Lessee, at the Lessee's sole cost and expense, shall promptly comply with all present and future laws, ordinances, orders, rules, regulations and requirements of all federal, state and local governments, departments, commissions, boards and officers, foreseen or unforeseen, ordinary as well as extraordinary, which may be applicable to or affect the Leased Property or any occupants thereof, whether or not such law, ordinance, order, rule, regulation or requirement shall necessitate changes or improvements or interfere with the use and enjoyment of the Leased Property, and whether or not such compliance is required by reason of any condition, event or circumstance existing prior to or after the commencement of the term of this Lease Agreement.

The Lessee shall likewise observe and comply with the requirements of all policies of public liability, fire and all other policies of insurance required to be carried by the Lessee at any time with respect to the Leased Property, whether or not such observance or compliance is required by reason of any condition, event, or circumstance existing prior to or after the commencement of the term of this Lease Agreement, and the Lessee shall, in the event of any violation or attempted violation of the provisions of this

Section take steps, immediately upon knowledge of such violation or attempted violation, to remedy or prevent same as the case may be.

SECTION 10. NUISANCES. The Lessee shall not use or allow the Leased Property to be used for any unlawful purpose or in violation of any law, ordinance or permit covering or affecting the use of the Leased Property or any part thereof or which may constitute a nuisance, public or private, or which may make void or voidable any insurance then in force with respect thereto.

SECTION 11. WASTE OR DAMAGE. The Lessee shall not commit or permit the commission by others of any waste or damage to the Leased Property or any part thereof. Except for routine maintenance upon the Leased Property, the Lessee shall have no right to take or remove any shell, dirt, sand, sod, timber, minerals, or other surface or subsurface materials from the Leased Property. Except as otherwise allowed by applicable permits, the Lessee shall not pump, withdraw, remove, or divert surface water, well water or reclaimed water from the Leased Property.

SECTION 12. RELEASE OF LIABILITY. Except for acts of gross negligence and intentional torts committed by the Lessors or Lessors' agents, employees or independent contractors upon the Leased Property, nothing under the terms of this Lease Agreement or any usage of the Leased Property will render the Lessors or Lessors' agents liable for injury to any persons or for damage to property of the Lessee or any agent, employee, independent contractor or invitee of the Lessee arising from the Lessee's

occupation or use of the Leased Property, and the Lessee hereby releases the Lessors and Lessors' affiliates, board members, directors, officers, employees, and agents, from any and all loss or liability in connection therewith. The Lessee agrees to use and occupy the Leased Property at the Lessee's own risk, and hereby (for the Lessee and all persons claiming under, by or through the Lessee) releases the Lessors and Lessors' agents from all claims and demands of any kind resulting from any accident, damage or injury on or about the Leased Property which is not caused by acts of negligence or intentional torts committed by the Lessors or Lessors' employees, agents or independent contractors. Except as otherwise specified herein, the Lessee agrees that the Lease Use on the Leased Property will be done at its own risk and peril.

SECTION 13. UTILITIES / TAXES. The Lessee shall pay all charges for the establishment for water, gas, electricity, and other utilities furnished to or used by the Lessee on the Leased Property. Additionally, the Lessee shall pay all monthly or recurring charges for the consumption of water, gas, electricity, and other utilities furnished to or used by the Lessee on the Leased Property. The Leased Property is currently tax exempt and the Lessee shall not do anything to jeopardize this tax-exempt status, and if taxes become due as a result of actions of the Lessee, then all taxes, special assessments, if any, all other fees or charges accruing or due with respect to any activity or business conducted by the Lessee on the Leased Property, including all license and permit fees, and including any real property taxes levied against the Leased Property shall be the sole responsibility of the Lessee. The Lessors agree to furnish the Lessee, within fifteen (15) business days after the Lessors' receipt of same, a copy of any notice,

invoice, bill demand, claim, inquiry, or other document the Lessors may receive seeking payment from the Lessee or Lessors for any utility, service, tax, special assessment, activity, user fee, charge, money or other obligation that the Lessors deem the Lessee is obligated to pay under the provisions of this Section 13, or which indicates that any person, entity, authority or agency claims or may attempt to claim any amount of money from the Lessee or Lessors for any utility, service, tax, special assessment, activity, user fee, charge money or other obligation that the Lessors deem the Lessee is obligated to pay under the provisions of this Section 13.

SECTION 14. LESSORS' RIGHT OF ENTRY. The Lessee shall permit the Lessors, and the Lessors' authorized representatives, to enter the Leased Property at all times for the purposes of:

- A. Inspecting and surveying same;
- B. Conducting soil test and analysis;
- C. Performing any work therein that may be necessary by reason of the Lessee's failure to make any repairs or perform any such work or to commence the same for ten (10) days after written notice from the Lessors (or without notice in case of emergency);
- D. Monitoring the Lessee's compliance with the terms of this Lease Agreement;

- E. Performing inspections and monitoring pursuant to the Lessors' regulatory authority;
- F. Conducting any environmentally sensitive lands management activities consistent with the Lessors' Environmentally Sensitive Lands Program;
- G. Undertaking other uses as may be determined by the Lessors, so long as such entry does not unreasonably interfere with the Lessee's Lease Use of the Leased Property as authorized herein;
- H. Conducting the Lessors' reclaimed water program activities on, over, upon or through the Leased Property and making repairs to the Leased Property that are the obligation or choice of the Lessors.

SECTION 15. INSURANCE. The Lessee covenants and agrees to maintain in full force and effect, in such company or self-insurance program as may be approved by and acceptable to the Lessors, which approval and acceptance shall not be unreasonably withheld or delayed, naming the Lessors as additional insureds, throughout the term of this Lease Agreement at the Lessee's sole cost and expense, one or more policies of comprehensive general public liability, automobile liability and property damage

insurance insuring the Lessee and Lessors against claims for personal injury and death and property damage occurring on or about the Leased Property and on and about adjoining private roadways and private drainage canals and structures.

A. Before execution of this Lease Agreement by the Lessors and commencement of the operations and/or occupancy of the Leased Property by the Lessee, and during the duration of this Lease Agreement, the Lessee shall file with the Lessors current certificates of all required insurance or evidence of self insurance on forms acceptable to the Lessors, which shall include the following provisions:

1. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida and acceptable to the Lessors;
2. The certificates shall clearly indicate that the Lessee has obtained insurance of the type, amount and classification as required for strict compliance with this Section;
3. No material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the Lessors.

B. The Lessee shall require and ensure that each of its subcontractors providing services hereunder (if any) procures and maintains, until the completion of the services, insurance of the types and to the limits specified herein.

C. Coverages Required:

1. Workers' Compensation – The Lessee shall provide coverage for its employees with statutory workers' compensation limits, and no less than \$100,000 for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the Lessors and their agents, employees and officials.
2. Commercial General Liability – The Lessee shall provide coverage for all operations including, but not limited to Contractual, Products and Completed Operations, and Personal Injury. The limits shall be not less than \$500,000.00 per occurrence, Combined Single Limits (CSL) or its equivalent. The General Aggregate limit shall either apply separately to this Lease Agreement or shall be at least twice the required occurrence limit.

3. Business Automobile Liability – The Lessee shall provide full coverage for all owned, non-owned and hired vehicles with limits of not less than \$500,000.00, per occurrence, Combined Single Limits (CSL) or its equivalent.
 4. The Lessors shall be specifically included as an additional insured on the general liability policies.
- D. All such insurance required of the Lessee shall be primary to, and not contribute with, any insurance or self-insurance maintained by the Lessors.
- E. Any exceptions to the insurance requirements in this section must be approved in writing by the Lessors.
- F. Compliance with these insurance requirements shall not relieve or limit the Lessee's liabilities and obligations under this Lease Agreement. Failure of the Lessors to demand such certificate or other evidence of full compliance with these insurance requirements or failure of the Lessors to identify a deficiency from evidence provided will not be construed as a waiver of the Lessee's obligation to maintain such insurance.
- G. In the event of the Lessee's failure, in whole or in part, at any time during

the term hereof, to provide such evidence of full insurance compliance thereof in timely fashion, the Lessors, at any time after ten (10) days' prior written notice to the Lessee, shall have the right (but shall not be obligated) to procure such insurance and the Lessee shall pay to the Lessors, upon demand, the costs and expenses thereof.

SECTION 16. LIENS. The Lessee shall have no power to subject the Leased Property or the Lessors' interest in the Leased Property to any construction, mechanic's, laborer's, materialmen's or other liens. If any construction, mechanic's, laborer's, materialmen's or other liens or orders for the payment of money shall be filed against the Leased Property for any building or improvement thereof by reason of or arising out of any labor or material furnished or alleged to have been furnished to or for the Lessee at the Leased Property, or for or by reason of any change, alteration or addition or the cost or expense thereof or any contract relating thereto or for the Lessee at the Leased Property, the Lessee shall cause the same to be cancelled and discharged of record, by bond or otherwise as allowed by law at the sole expense of the Lessee, within five (5) days after written demand thereof. The Lessee shall also indemnify, defend (with counsel reasonably acceptable to the Lessors and at the Lessee's sole cost) and hold the Lessors and Lessors' agents harmless from any action, suit or proceeding which may be brought thereon or for the enforcement of such liens or orders.

SECTION 17. LESSEE'S INDEMNIFICATION OF THE LESSORS. The Lessee shall, to the extent allowed by law, indemnify and save harmless the Lessors and

Lessors' agents against and from all liabilities, obligations, damages, penalties, claims, cost, charges and expenses, including reasonable consultants' and attorneys' fees, which may be imposed upon, incurred by or asserted or claimed against the Lessor or Lessors' agents by reason of any of the following occurrences during the term of this Lease Agreement:

- A. Any work or thing done in, on or about the Leased Property or any part thereof by the Lessee or Lessee's affiliates, employees, agents, permitted sublessees or any other person acting through or on behalf of the Lessee;
- B. Any negligence on the part of the Lessee or any of the Lessee's agents, students, contractors, servants, employees, licensees, or invitees;
- C. Any failure on the part of the Lessee or anyone holding by, through or under the Lessee to perform or comply with any of the covenants, agreements, terms, provisions, conditions or limitations contained in this Lease Agreement on the Lessee's part to be performed or complied with.

If any action or proceeding is brought against the Lessors or Lessors' agents or any claim asserted against the Lessors or Lessors' agents arising from or in any way

relating to anything described in Section 17.A. through C. above, then the Lessee shall, at the Lessee's sole cost and expense, resist or defend such claim or action or proceeding by counsel approved by the Lessors in writing, which approval the Lessors agree not to unreasonably withhold or delay. The covenants contained in this Section shall survive the expiration, cancellation or termination of this Lease Agreement.

SECTION 18. EMINENT DOMAIN. In the event that the entire Leased Property shall be taken under any condemnation or eminent domain proceedings or by purchase under threat of condemnation during the term hereof, or in the event any portion of the Leased Property shall be taken in any such proceeding and the remaining portion shall not be suitable or adequate for the Lease Use, then this Lease Agreement shall terminate on the date of such taking.

If a portion of the Leased Property shall be taken under any condemnation, eminent domain proceedings or by purchase under threat of condemnation during the term hereof, and the remaining portion of the Leased Property not taken or condemned shall be suitable and adequate for the Lease Use then this Lease Agreement shall be and remain unaffected by such condemnation or eminent domain proceedings as to such remaining Leased Property unaffected by such proceedings.

All compensation awarded or paid upon a total or partial taking of the Leased Property, including the value of the leasehold estate created thereby, shall belong to and be the property of the Lessors without any participation by the Lessee; provided,

however, that nothing contained herein shall be construed to preclude the Lessee, at the Lessee's sole cost and expense, from independently prosecuting any claim directly against the condemning authority for loss of business, provided, however, that no such claim shall diminish or otherwise adversely affect the Lessors' award.

SECTION 19. LESSEE DEFAULT. Each one or more of the following events shall be deemed a default by the Lessee and a breach of this Lease Agreement:

- A. A failure to timely pay when due any tax, or assessment, lien or charge required to be paid by the Lessee hereunder;
- B. The Lessee's failure to observe, perform or comply with any of the terms, covenants or conditions in this Lease Agreement;
- C. A determination that the Lessee is without legal authority to enter into or continue to comply with this Lease Agreement;
- D. Failure by the Lessee to maintain required insurance;
- E. The abandonment of the Leased Property by the Lessee--
abandonment being defined as a cessation of the Lessee's Lease Use upon the Leased Property which continues uninterrupted for a period of at least twelve (12) months;

- F. Continuous introduction of hazardous materials onto the Leased Property in violation of Section 7 of this Lease Agreement;
- G. Failure of the Lessee to provide the Lessors with a copy of any research report, or other document resulting from experiments conducted on the Leased Property.

In the event the Lessors consider the Lessee to be in default hereunder, the Lessors shall provide the Lessee written notice (a "Default Notice") specifying in reasonable detail the act or omission alleged to constitute the default. The Lessee, upon receiving a factually correct Default Notice, shall not be considered to be in default hereunder unless (i) the act or omission constituting the default is not cured within ten (10) days following receipt of the Default Notice, or (ii) in the event the act or omission constituting the default is a non-monetary default and is not reasonably susceptible of cure within such ten (10) day period, the Lessee fails to commence, within such ten (10) day period, all actions reasonably calculated to effect cure of such default and/or to diligently and continuously prosecute all such actions to completion such that, in any event, the default is cured within thirty (30) days following the date of receipt by the Lessee of the Default Notice. In the event a default is not cured within the grace periods referred to in the preceding sentence, this Lease Agreement shall expire and terminate, and all rights of the Lessee under this Lease Agreement shall expire and terminate on the

last day of such grace period, whereupon the Lessee shall quit and peacefully surrender the Leased Property to the Lessors within thirty (30) days following the date of such expiration and termination; provided, however, that the Lessee shall remain liable to the Lessors with respect to any obligations and liabilities of the Lessee which, by the express terms of this Lease Agreement, survive any expiration and termination hereof. The Lessors, upon such surrender, or at any time thereafter, may, without further notice, enter upon and re-enter the Leased Property and possess and repossess itself thereof, by force, summary proceeding ejectment, or otherwise, and may dispossess the Lessee and remove the Lessee and all other persons and property from the Leased Property. Also in the event of any such expiration and termination, whether or not the Leased Property or any part thereof shall have been relet, the Lessee shall pay to the Lessors all charges required to be paid by the Lessee up to the date of such expiration and termination of this Lease Agreement.

SECTION 20. LESSORS' DEFAULT. It shall a default by Lessors should Lessors fail to keep, observe or perform any material covenants or agreements herein contained to be kept, observed or performed by Lessors.

In the event Lessee considers the Lessors to be in default hereunder, the Lessee shall provide Lessors written notice (a "Default Notice") specifying in reasonable detail the act or omission alleged to constitute the default. Lessors, upon receiving a factually correct Default Notice, shall not be considered to be in default hereunder unless (i) the act or omission constituting the default is not cured within ten (10) days following receipt of

the Default Notice, or (ii) in the event the act or omission constituting the default is a non-monetary default and is not reasonably susceptible of cure within such ten (10) day period, Lessors fail to commence, within such ten (10) day period, all actions reasonably calculated to effect cure of such default and/or to diligently and continuously prosecute all such actions to completion such that, in any event, the default is cured within thirty (30) days following the date of receipt by the Lessors of the Default Notice. In the event a default is not cured within the grace periods referred to in the preceding sentence, Lessee as its sole and exclusive remedies may terminate this Lease and vacate the Leased Property, which shall be completed and treated for all purposes in the same manner as if that termination date were the same as the last day of the term of this Lease, or in the alternative Lessee may file an action for specific performance of this Lease. No other remedies shall be available for a default by Lessors.

SECTION 21. NO SUBLEASES OR ASSIGNMENT. The terms, covenants and agreements of this Lease Agreement shall be binding upon and inure solely to the benefit of the Lessors, their successors and assigns, and the Lessee. The Lessee is not authorized and shall have no right to sublease, assign, or other transfer, in whole or in part, its interests and obligations under this Lease Agreement.

SECTION 22. LEASE USE PRODUCTS. Any Lease Use products shall be the sole property of the Lessee to dispose of as it sees fit; however, proceeds from the sale of such produce shall be utilized primarily to further the design, implementation and operation of research and demonstration plots on the Leased Property to determine the

best horticultural practices to re-establish and maintain the citrus industry in Central Florida (Orange, Lake and Marion Counties).

SECTION 23. REPORTING. The Lessee shall provide to the Lessors at the addresses hereinafter set forth a copy of any document, correspondence, report, review, or other data resulting from any experiments conducted on the Leased Property. Said documentation shall be provided to the Lessors at or about the same time that it is forwarded to any other person or entity receiving the information.

SECTION 24. TERMINATION. This Lease Agreement may be terminated with or without cause, by either Party giving one hundred twenty (120) days advanced written notice of termination to the other.

SECTION 25. ADVERTISING. The Lessee shall include a reference to the Lessors and this Lease Agreement in any notice, billboard, advertisement, or other announcement of the research or experiments conducted on the Leased Property.

SECTION 26. ENTIRE AGREEMENT/AMENDMENTS. This Lease Agreement sets forth all of the covenants, promises, agreements, conditions, and understandings between the Lessors and the Lessee governing the Leased Property. There are no covenants, promises, agreements, conditions and understandings, whether oral or written, between the Lessors and the Lessee other than those set forth in this Lease

Agreement, and no subsequent alterations, amendments, changes, modifications or additions to this Lease Agreement shall be binding upon the Lessors and the Lessee unless and until reduced to writing and signed by both Parties. This Lease Agreement is non-exclusive and does not convey to the Lessee any real property rights or interests nor any rights or privileges other than those specified herein.

SECTION 27. NOTICES. Any and all notices and demands, approvals, consents, disapprovals, objections, offers or other communications or documents required to be given, delivered or served or which may be given, delivered or served under or by the terms and provisions of this Lease Agreement or pursuant to law or otherwise, shall be in writing and shall be deemed to have been duly given, delivered or served if and when sent registered or certified mail, return-receipt requested, with the proper postage paid thereon and deposited with the United States Postal Service, or delivered by hand or an overnight courier service, such as Federal Express, to the following addresses:

If to Lessee: President
Mid Florida Citrus Foundation, Inc.
15400 Oakland Avenue
Winter Garden, Florida 34787

or to such other address as the Lessee may from time to time designate by written notice to the Lessors.

If to Lessors: Senior Project Manager
Water Conserv II
P.O. Box 783125
Winter Garden, Florida 34778-3125

With copy to: Orange County Utilities Director
9150 Curry Ford Road
Orlando, Florida 32825

Director of Public Works
City of Orlando
400 South Orange Avenue
Orlando, Florida 32801

or to such address as the Lessors may from time to time designate by written notice to the Lessee.

SECTION 28. RECORDING. The Lessee shall not record this Lease Agreement or any memorandum thereof without the prior written consent of or as a requirement of the Lessors and actual recording of this Lease Agreement among the public records of the State of Florida by the Lessee shall constitute a default.

SECTION 29. WAIVER OF SUBROGATION. The Lessee hereby waives any rights it may have against the Lessors to recover for loss or damage to property to the extent that such loss or damage is covered by the Lessee's insurance policies.

SECTION 30. GOVERNING LAWS. The laws of the State of Florida shall govern the validity, performance and enforcement of this Lease Agreement.

SECTION 31. VENUE. Any action at law, suit in equity, or other judicial proceeding for the enforcement of this Lease Agreement or any provision hereof may be instituted and maintained in the Circuit Court in and for Orange County, Florida.

SECTION 32. SEVERABILITY. If any terms or provision of this Lease Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease Agreement, or the application of

such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease Agreement shall be valid and enforced to the fullest extent permitted by law.

SECTION 33. LOSS OR INJURY REPORTING. The Lessee covenants and agrees that in the event the Lessee is notified or has knowledge of any property damage or personal injury which occurs in or about the Leased Property the Lessee shall immediately give written notice thereof to the Lessors, whether or not such loss or injury is covered by insurance carried by the Lessors or Lessee, and that such notice shall specify in reasonable detail:

- A. The time, date and place of such damage or injury;
- B. The names and addresses of persons injured or claiming injury or loss;
- C. The names and addresses of witnesses to the damage or injury;
- D. A full and complete description of the damage or injury together with a detailed report specifying and describing the incident or occurrence of such damage or injury, and the causes thereof to the extent known.

SECTION 34. NON-WAIVER OF LESSORS' REGULATORY POWERS.

Nothing contained in this Lease Agreement shall be construed as a waiver of or contract with respect to the regulatory authority of the Lessors as it now or hereafter exists under applicable laws, rules and regulations.

SECTION 35. NON-WAIVER OF SOVEREIGN IMMUNITY. Nothing contained in this Lease Agreement or in any instruments executed pursuant to the terms of this Lease Agreement shall be construed as a waiver or attempted waiver by the Lessors of its sovereign immunity under the Constitution and laws of the State of Florida; provided, however, that this paragraph shall not be construed as an attempt by the Lessors to negate any partial waiver of sovereign immunity made by the Legislature under the provisions of Section 768.28, Florida Statutes, or any future statute or Act adopted by the Florida Legislature.

SECTION 36. LESSORS' OBLIGATION. The Lessors, upon performance of said covenants, agreements and conditions by the Lessee, hereby covenants that said Lessee shall have the quiet and peaceful enjoyment of the Leased Property, subject to the terms of this Lease Agreement. The Lessors shall be responsible to promptly close and lock any gate through which any agent, employee or independent contractor of the Lessors may pass in the exercise of the Lessors' rights under the Lease Agreement. The Lessors shall bear no financial cost, expense or obligation to Lessee as a result of this Lease Agreement.

IN WITNESS WHEREOF, the Parties have hereunto set their hand and seals as
of the dates indicated below.

COUNTY:

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: Richard T. Crotty

Richard T. Crotty

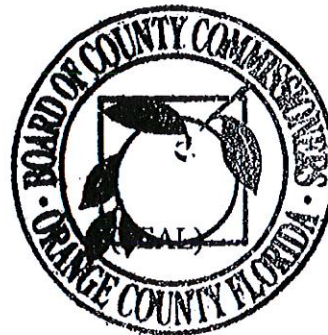
Mayor

ATTEST: Martha O. Haynie, County Comptroller

As Clerk of the Board of County Commissioners

By: Martha O. Haynie
Assistant Deputy Clerk

Date: 6-30-09
PUTC-C-02

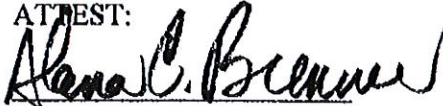


CITY OF ORLANDO, FLORIDA

By: 

Mayor/Mayor Pro Tem

ATTEST:



Alana Brenner, City Clerk

(SEAL)

Alana C. Brenner

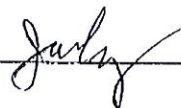
(Print or type name)


C. Clerk

(Title)

APPROVED AS TO FORM AND
LEGALITY

For the use and reliance of the
City of Orlando, Florida only.

 16, 2009



Assistant City Attorney

City of Orlando

LESSEE:

:

Mid Florida Citrus Foundation, Inc.

By: John L. Jackson

Print Name: John L. Jackson

Title: Secretary

ATTEST:

By: Robert B. Cadle

Robert B. Cadle

(Print or type name)

Wastewater Division Manager

(Title)

STATE OF Florida

COUNTY OF Orange

PERSONALLY APPEARED before me, the undersigned authority,
John L. Jackson, [x] well known to me or [] who has produced his/her
N/A as identification, and known by me to be the
Secretary of the MIM Florida
CITRUS FOUNDATION, named above, and
acknowledged before me that he/she executed the foregoing instrument on behalf of said
L65566 as its true act and deed, and that he/she was duly authorized
to do so.

WITNESS my hand and official seal this 7th day of May, 2009.

Gary R. Williams

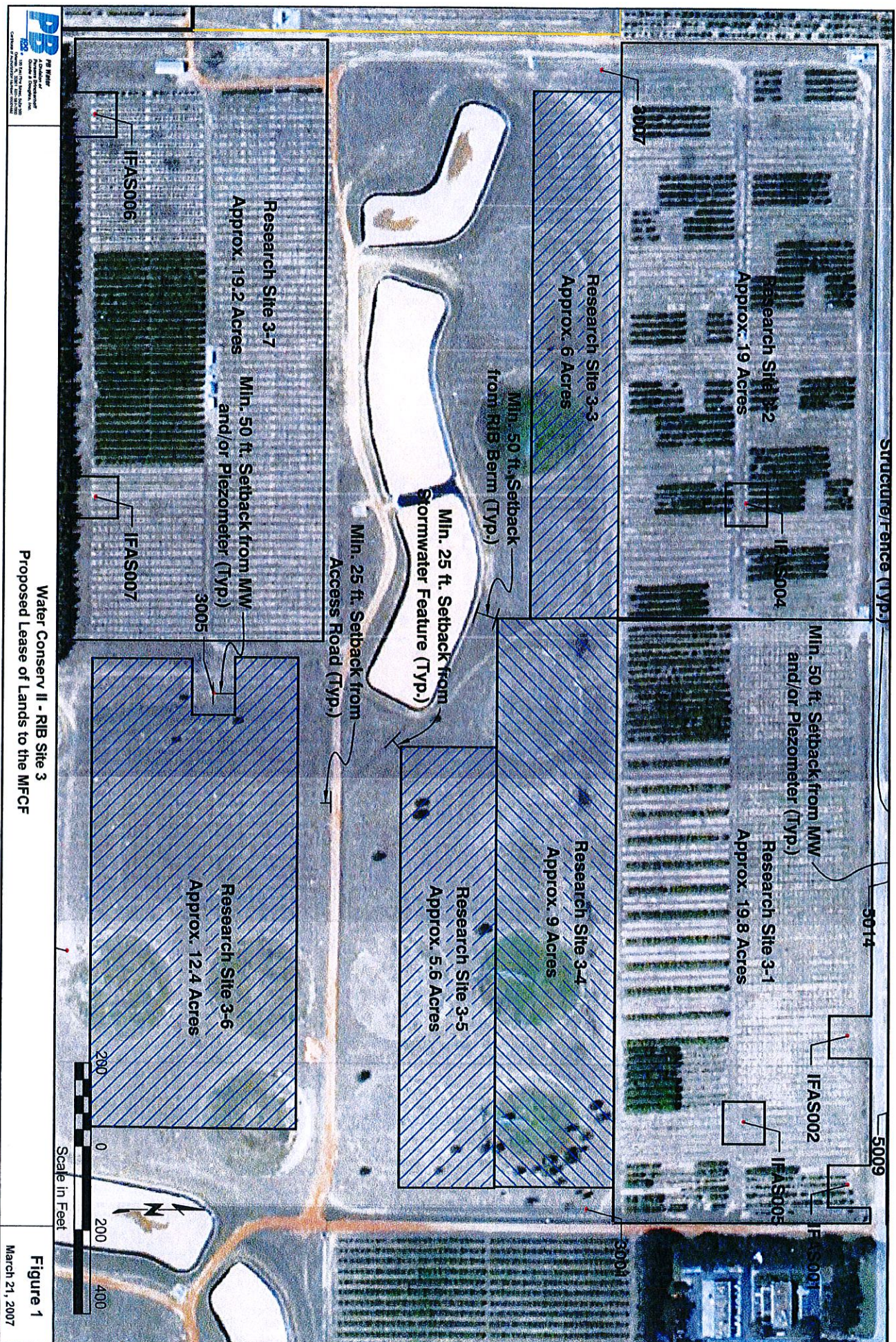
NOTARY PUBLIC

Print Name: _____

My Commission Expires _____

NOTARY PUBLIC - STATE OF FLORIDA
Gary R. Williams
Commission #DD649723
Expires: APR. 22, 2011
THRU ATLANTIC BONDING CO., INC.

EXHIBIT "A"
LEASED PROPERTY DESCRIPTION



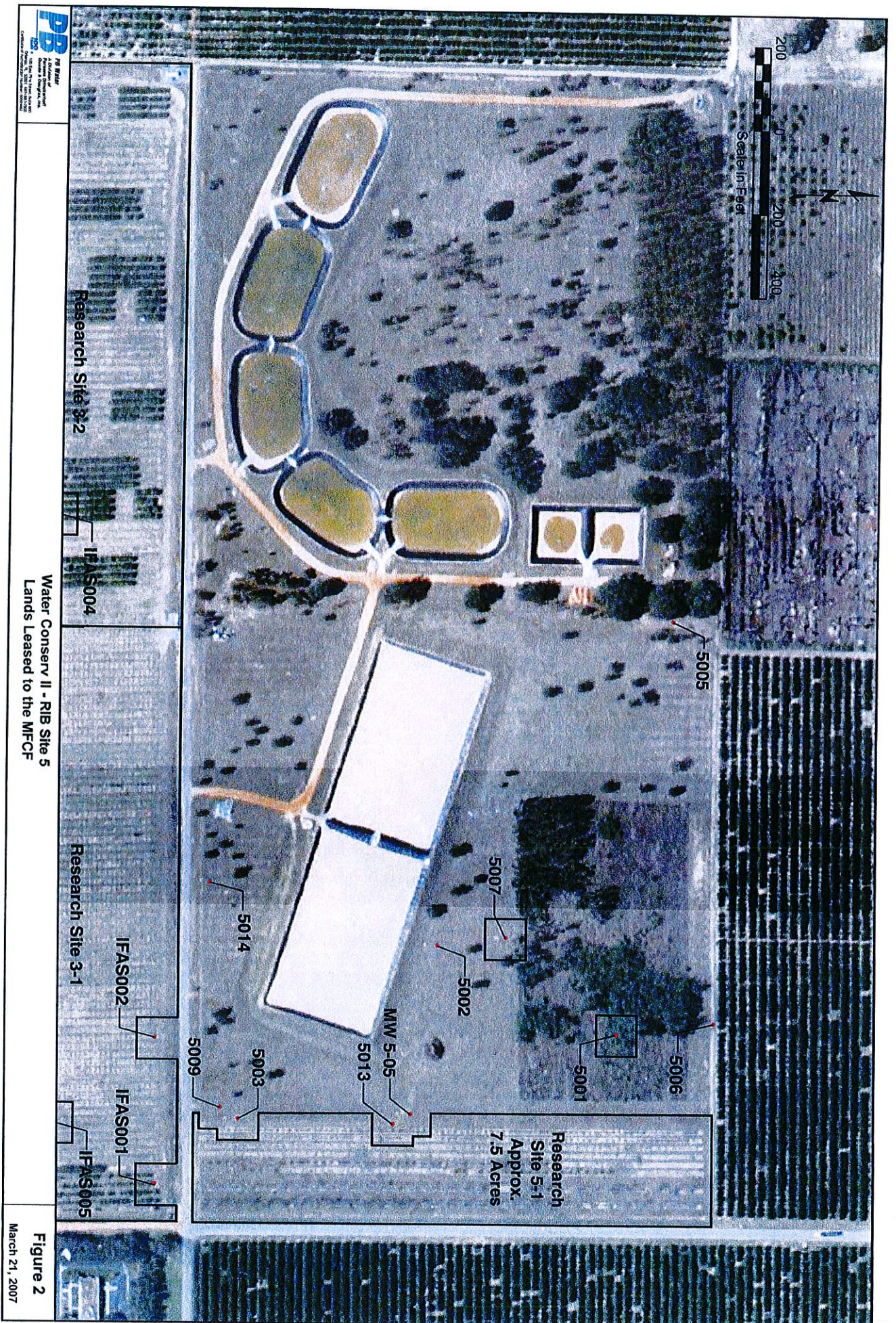


Figure 2
March 21, 2007

