

Waiver of Competition Justification

Contract Number C-13488 Project Title: Pero Family Farms, LLC

A. Introduction/Background

Pursuant to Lease Agreement No. C-13488, as amended, (the "Lease") with the District and Palm Beach County (the "County"), Pero Family Farms, LLC, a Florida limited liability company, f/k/a Pero Family Farms, Inc. ("Pero Farms") leases approximately 570.77 acres (the "Premises") as depicted in Exhibit "A" attached hereto and made a part hereof. In August 2002, in accordance with a June 6, 2000 Interlocal Agreement between the District and the County, the District acquired from the County a 60.6% fee interest in and to the Premises. In connection with that acquisition, the Lease was partially assigned to the District. Pursuant to the latest amendment to the Lease, the District, the County and Pero Farms entered into a January 12, 2010 amendment to the Lease whereby the Lease was extended through May 31, 2012. The County, as the District's partner with respect to the Premises, has requested that the District approve and execute the current amendment to extend the Lease through May 31, 2013.

B. Need for Exception to the Standards for Competition

The District's policy on the administration of leases is to competitively bid leases and that any exceptions to the policy must be approved by the Governing Board. With respect to this request to approve the subject extension and waiver of competition, the justifying circumstances are: (1) the District together with the County as its external partner has a single lease covering jointly owned lands and the County has specifically requested that the district approve the extension and (2) the extension period will allow District staff time to determine if the Premises should be recommended for surplus or retained and advertised for a new lease term through the competitive bid process.

C. Preserving Fairness in the Method of Selection

Though the District's normal selection method is not being exercised, the circumstances described in Section B. above do provide fairness. The Lease represents a unique circumstance involving a single lease with the District and its external partner the County as landowners. As the one-year extension period will be used by the District to determine if the Premises should be recommended for surplus or retained and advertised for a new lease term through the competitive bid process, there does not appear to be any evidence that the District has been or will be unfair to any third parties.

D. Preserving Competitive Pricing in the Method of Selection

To establish the lease rate for the subject amendment to the Lease, an appraisal of the current market value lease rates was completed. Based on the acres owned by the District, the District's pro rata share of the annual lease payment for the extension period of June 1, 2012 through May 31, 2013 will be equal to current market value.

E. Conclusion/Summary

The District and the County are the landowners/lessors and Pero Farms is the lessee pursuant to the Lease. The parties desire to extend the Lease for one year from June 1, 2012 through May 31, 2013. The County has specifically requested that the District approve the one year extension. Staff recommends approval of the Waiver of Competition and will request that the Governing Board approves the extension of the Lease.