

1 SOUTH FLORIDA WATER MANAGEMENT DISTRICT

2 RESOLUTION NO. 2010- \_\_\_\_\_

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4 A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA  
5 WATER MANAGEMENT DISTRICT AMENDING SUBSECTIONS 1 AND 2 OF  
6 SECTION 140-10, DISTRICT POLICY CODE, REGARDING ADMINISTRATION  
7 OF AGRICULTURAL LEASES TO MAKE CERTAIN REVISIONS; PROVIDING  
8 FOR INCLUSION IN THE DISTRICT POLICY CODE, PROVIDING FOR  
9 SEVERABILITY; PROVIDING AN EFFECTIVE DATE.  
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11 WHEREAS, the Governing Board of the South Florida Water Management District (Governing  
12 Board) had previously adopted Section 140-10, District Policy Code, to address the administration of  
13 agricultural leases of District lands; and

14 WHEREAS, the Governing Board has determined that it is necessary, appropriate and in the  
15 public interest to amend the District Policy Code relating to the administration of agricultural leases by  
16 revising the existing Section 140-10, District Policy Code, to (i) update the requirement that the  
17 District's Chief Appraiser review and approve appraisals of market rent to require such appraisals to  
18 be obtained, reviewed and approved by the District, (ii) require lessees to agree to an appraisal of the  
19 market rent prior to each renewal term rather than an appraisal for the first year of the renewal term  
20 and during every fourth year as a condition of renewing an existing agricultural lease, and (iii) require  
21 lessees to agree to annual adjustments based on the CPI index or appropriate agricultural commodity  
22 index instead of an annual CPI index or agricultural commodity index escalation.

23 NOW THEREFORE, BE IT RESOLVED by the Governing Board of the South Florida Water  
24 Management District:

25 **Section 1.** The Governing Board of the South Florida Water Management District hereby adopts  
26 the following amendments to the District Policies Code:

27 Section 140-10. Administration of Agricultural Leases.

28 The following policies shall apply to the administration of agricultural leases of District land:

29 (1) *New Leases, Reservations, and Leasebacks (collectively "Leases").*

30 a. All leases should be standardized.

31 b. The amount of rent paid to the District shall be based on either an appraisal obtained,  
32 reviewed and approved by the ~~District's Chief Appraiser~~District, or the competitive bid process.  
33 Revenue may be based on either a flat dollar value based upon acreage or percentage of gross sales  
34 actually received by the lessee from the harvesting of the crop.

35 c. Lease terms should be consistent with crop cycles.

36 d. Lease term length should extend to the date of project certification.

37 e. Leases shall be competitively bid when time permits. In those circumstances where  
38 competition is not possible, a Waiver of Competition, pursuant to Procurement Policy will be approved  
39 by the Governing Board.

40 f. Crop sales or land uses requiring occupancy of the property for less than 12 months may be  
41 contracted through a license agreement based upon written quotes.

42 g. Governing Board approved waivers of competition are not required for license agreements  
43 referenced in section 140-10(1)f above.

44 (2) *Renewal of Existing Leases.*

45 a. An existing lease may be renewed and the competitive bid process may be waived if the  
46 existing lessee meets the following conditions:

47 1. Lessee agrees to an appraisal obtained, reviewed and approved by the District's Chief  
48 ~~Appraiser-District~~ to establish market rent prior to each renewal term for the first year of the renewal  
49 ~~term and every fourth year of the term;~~ and

50 2. Lessee agrees to an annual adjustment based on the CPI index or appropriate agricultural  
51 ~~commodity index (if available) escalation~~ for the other years of the term; and

52 3. Lessee has received satisfactory evaluations from the Lease Project Manager; and

53 4. Lessee agrees to any modifications to the lease terms and conditions as determined by  
54 District staff in their discretion.

55 5. Authority to approve renewals of leases that are consistent with these policies is hereby  
56 delegated to the Executive Director. Notice shall be provided to the Governing Board after a lease  
57 has been renewed pursuant to this section.

58 b. The existing lessee shall have ten business days from receipt of the renewal terms to accept  
59 such terms by delivering written notice of lessee's acceptance to the District by certified mail.  
60 District's failure to receive delivery of written acceptance within the ten business days shall be  
61 deemed a rejection of the terms.

62 (6) *Exceptions.* The Governing Board hereby delegates authority to the Land Resources and  
63 Construction Committee to approve exceptions to the policy.

64 **Section 2.** Inclusion of Section 1 of this Resolution in the District Policy Code is authorized and  
65 directed.

66 **Section 3.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this  
67 resolution is for any reason held to be unconstitutional or invalid or ineffective by any court of  
68 competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining  
69 portions of this Resolution.

70 **Section 4.** This Resolution shall take effect immediately upon adoption.

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73 **PASSED** and **ADOPTED** this \_\_\_\_\_ day of September, 2010.

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**SOUTH FLORIDA WATER MANAGEMENT  
DISTRICT, BY ITS GOVERNING BOARD**

By: \_\_\_\_\_  
Chairman

**ATTEST:**

By: \_\_\_\_\_  
District Clerk/Secretary

**Approved as to form:**

By: \_\_\_\_\_  
Office of Counsel