

LAND ACQUISITION EXECUTIVE SUMMARY

PROJECT: Everglades Agricultural Area (“EAA”)
PURPOSE: Lease Renewals
CONTRACT NOS: OT050802 (New Hope Sugar Company)
4600001039 (Okeelanta Corporation)

TRACTS: V6-100-104 (New Hope)
D7-100-152 (Okeelanta)

REQUEST: Approval of amendments to Contract OT050802 with New Hope Sugar Company and Contract 4600001039 with Okeelanta Corporation, both subsidiaries of Florida Crystals, to extend the applicable lease terms by two years from March 31, 2009 to March 31, 2011, and add an additional tract to Contract OT050802.

BACKGROUND:

The District has been leasing certain lands to New Hope Sugar Company (Contract OT050802) and Okeelanta Corporation (Contract 4600001039) since 2006 and 2007, respectively, for sugar cane farming. A 950-acre parcel within the lands leased under the Contract OT050802 is identified as Parcel 2 of Tract V6-100-004. The total of 763.44 acres leased under Contract 4600001039 is identified as Tract D7-100-152. Both parcels are located within the general footprint of the EAA lands acquired by the District in the March 1999 Talisman Sugar Corporation (“Talisman”) acquisition and exchange transaction. In connection with the Talisman transaction, virtually all of the lands acquired by the District were and have been continuously leased by various sugar farming entities. Those leases contain certain lease terms and formulas for determining rent rates for the sugar cane lands owned by the District. The original rent rate formula was established based on the District’s ability to terminate those leases on a short term basis of less than three (3) years. Upon the commencement of Contract OT050802 and Contract 4600001039, the lease terms and rent rates were made consistent with the District’s other sugar cane lands leased pursuant to the Talisman leases. The current rent being paid under both Contracts is \$59.10 per planted acre. That rate is calculated from a base rate that is adjusted and will be adjusted pursuant to the U.S. Department of Labor Producer Price Index for raw cane sugar. Currently, both leases expire March 31, 2009. The District’s Policy Code for administration of Agricultural Leases (Section 140-10) recognizes that existing leases may be renewed under certain circumstances without a competitive bid process. Generally, the competitive bid process may be waived if the renewal is at a market rent subject to annual adjustments based on an agricultural commodity index and future District appraisal review. In this instance, the rent for both Contracts is subject to the commodity index for raw cane sugar and an appraisal review process.

In addition, staff has determined that the lease duration for the subject lands should be two (2) years. Such a short term lease restricts the ability of any other new sugar cane farmer to adequately plant, cultivate, and harvest the subject lands. The current rent has therefore been determined by staff to be at least equal to a reasonable market rent. Therefore, the waiver of competition complies with District policy.

Also at the time of the Talisman transaction, certain tracts that were to be acquired by the District were identified as having environmental contaminants. The District deferred accepting a fee title conveyance of those tracts until clean up had occurred. The remaining contaminated tracts have now been cleaned up and have been conveyed to the District. One of those tracts, identified as Deferred Parcel T-6 and also known as Tract No. V6-100-039, is a one acre parcel located in the aforementioned Parcel 2 and within which there is a pump station used in connection with a number of other lands also leased by New Hope Sugar Company for sugar cane farming. Under the lease renewal, the Parcel 2 lands will now include Deferred Parcel T-6. Additionally, the renewal will reflect the fact that even at the March 31, 2011 termination of the lease for Parcel 2, New Hope will retain the use of and the access to the pump station on Deferred Parcel T-6 as long as New Hope is still leasing other adjacent District lands for sugar cane farming.

RECOMMENDATION: That the Governing Board of the South Florida Water Management District approve the execution of an amendment to Contract OT050802 with New Hope Sugar Company, as to Parcel 2 of the Contract, and Contract 4600001039 with Okeelanta Corporation to revise the termination language and extend the term by two years from March 31, 2009 to March 31, 2011, and with respect to Parcel 2 of Contract OT050802, add a one acre tract owned by the District and allow for New Hope Sugar Company's continued use of and access to said tract as long as New Hope Sugar Company is still leasing other adjacent District lands for sugar cane farming.

Prepared by: _____
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Date

Reviewed by: _____
Ruth P. Clements
Director
Land Acquisition

Date

Governing Board Members
February 12, 2009
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Approved by: _____
Kenneth G. Ammon, P.E.
Deputy Executive Director
Everglades Restoration Resource Area

_____ Date

Conflict Check: See attached