

SCHOOL BOARD OF PALM BEACH COUNTY

REQUEST TO SUBMIT OFFERS FOR THE LEASING OF SCHOOL BOARD PREMISES 30+/- ACRES- WEST AREA VACANT AGRICULTURAL PARCEL

RELEASE DATE: November 16, 2018

INTRODUCTION

1. This is a Request to Submit Offers (Request) to Lease District-Owned Real Estate, from the School Board of Palm Beach County, Florida (the Board), the governing body for the School District of Palm Beach County, Florida (the District).
 - a. The District has 30+/- acres available for Lease located at 1901 NW 16th Street (S.R. 715), Belle Glade, Florida (the "Premises"). (See attached map Exhibit "A")
2. All terms and conditions of this Request, any addenda, Prospective Lessee's submissions and negotiated terms, are incorporated into the Lease by reference, as set forth herein.

INSTRUCTIONS TO PROSPECTIVE LESSEE

1. All site visits-tour of the Premises will be arranged upon request. Please call Joyell Shaw, Planning and Intergovernmental Relations, 561/ 882-1940 or e-mail Joyell.Shaw@palmbeachschools.org to schedule an appointment.
2. All offers must be delivered to Planning and Intergovernmental Relations, 3661 Interstate Park Road North, Suite 200, Riviera Beach, Florida 33404, Attention: Joyell Shaw or e-mailed to Joyell.Shaw@palmbeachschools.org. This Request shall remain open until December 14, 2018. If no acceptable offer has been received by December 14, 2018, the District is free to continue to accept offers and negotiate with any party that makes a subsequent offer.
3. Hard copy or electronically submitted offers will be accepted.
4. All offers must be signed or electronically signed by an officer or employee having authority to legally bind the Prospective Lessee.
5. Prospective Lessee should become familiar with any local conditions which may, in any manner, affect the Lease requirements. The Prospective Lessee is required to carefully examine the Request terms and become thoroughly familiar with any and all conditions and requirements that may in any manner affect the Lease. No additional allowance will be made due to lack of knowledge of these conditions.
6. Offers not conforming to the instructions provided herein will be subject to disqualification at the sole option of the Board.
7. Any offer may be withdrawn prior to the date and time that offers are opened. Any offer not withdrawn will constitute an irrevocable offer, for a period of 60 days.

AWARD

1. The Board reserves the right to accept or reject any or all offers, without penalty.
2. The Board, through its designee(s), reserves the right to waive any irregularities and technicalities and may, at its sole discretion, request a clarification or other information to evaluate any or all offers.

3. The Board, through its designee(s), reserves the right, before entering into a Lease Agreement, to require Prospective Lessee to submit additional evidence of financial ability to perform and qualifications or any other information the Board may deem necessary.
4. The Board, through its designee(s), reserves the right, prior to the Board's approval, to cancel the Request or portions thereof, without penalty.
5. The Board, through its designee(s), reserves the right to: (1) accept the offer of any Prospective Lessee it deems, at its sole discretion, to be in the best interest of the District; and (2) reject any and/or all offers proposed.
6. The offer with the highest number of points will be ranked first.
7. The Board, through its designee(s), reserves the right to further negotiate any offer, including price and other non-cash considerations, with the highest rated Prospective Lessee. If an agreement cannot be reached with the highest rated Prospective Lessee, the District reserves the right to negotiate and recommend award to the next highest rated Prospective Lessee or subsequent Prospective Lessee until an agreement is reached.
8. Any Prospective Lessee who is adversely affected by the recommended Lease award may address the Board at a regularly scheduled Board meeting. The decision of the Board shall be final and not subject to appeal.

REQUEST INQUIRIES

1. Any questions by the Prospective Lessee concerning this Request to Submit Offer should be submitted to Joyell Shaw, at joyell.shaw@palmbeachschools.org. Joyell Shaw is authorized only to direct prospective Lessee to various portions of the request so they may read and interpret such for themselves. Neither Joyell Shaw, nor any employee of the District is authorized to interpret any portion of the request or give information as to the requirements of the request in addition to that contained in the written document.
2. No verbal or written information which is obtained other than by information in this Request, or by addendum to this Request or by negotiated terms will be binding on the Board.

BENEFICIAL INTEREST AND DISCLOSURE OF OWNERSHIP AFFIDAVIT

If the Prospective Lessee is a partnership, limited partnership, corporation, trust, or other type of entity acting in a representative capacity for others, the Prospective Lessee must provide a Beneficial Interest Affidavit with its offer. This affidavit shall include a list of every "person" (as defined in [Section 1.01\(3\)](#), Florida Statutes, to include individuals, children, firms, associates, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations and all other groups and combinations) holding 5% or more of the beneficial interest in the disclosing entity. The affidavit must be submitted with the offer. This document will be provided with the Agreement as part of the Request to Submit Offers packet.

LOBBYING

1. Prospective Lessees are hereby advised that lobbying is not permitted with any District personnel or Board members related to or involved with this Request until the administration's recommendation for award has been posted. All oral or written inquiries must be directed through the Planning and Intergovernmental Relations Department, attention Joyell Shaw.

2. Lobbying is defined as any action taken by an individual, firm, association, joint venture, partnership, syndicate, corporation, and all other groups who seek to influence the governmental decision of a Board member or District personnel after release of the Request and prior to the posted recommendation on the award of the Lease.
3. Any Prospective Lessee or any individuals that lobby on behalf of Prospective Lessee during the time specified will result in rejection / disqualification of said offer.

DESCRIPTION OF PREMISES: The following described Premises has been declared as "interim" and is available for Lease.

The District has 30+/- acres available for Lease at 1901 NW 16th Street (S.R. 715), Belle Glade, Florida. (See attached map Exhibit "A")

Availability Dates: The Lease shall begin March 1, 2019 and shall not exceed 5 years.

LEASE REQUIREMENTS: The following list of requirements **must** be fulfilled in order for the Lease Agreement to be presented to the Board. The Prospective Lessee is agreeing to the criteria below by submitting an offer. Please address any of these points in your offer if necessary.

1. Terms of Lease. The Prospective Lessee must complete and execute the Lease Agreement attached hereto as Exhibit "B", including the annual rent Prospective Lessee offers to pay. The Lease Agreement is subject to further restriction based on the Prospective Lessee's use. Any proposed modifications to the Lease Agreement must be contained in an executed Lease Addendum submitted with the Lease Agreement.
2. Prospective Lessee must provide a Certificate of Liability Insurance written with a financially sound company acceptable to the Board.
3. Rent is due annually in advance with fifty percent (50%) of the first payment due within five (5) days of approval of the Lease by the Board.
4. Board reserves the right to terminate the Lease for convenience with ninety (90) days' notice to Prospective Lessee.
5. Prospective Lessee is responsible for all permits and licenses.
6. Premises must remain in the same or better environmental condition.
7. No alterations to the Premises without written prior consent from the Lessor.
8. Prospective Lessee is responsible for all utilities, waste removal and maintenance of the Premises.
9. Prospective Lessee is responsible for applicable sales taxes, if any, in addition to base rent.
10. Properly completed Beneficial Interest and Disclosure of Ownership Affidavit.
11. Satisfactory evidence reflecting that the Prospective Lessee has funds available to pay the rent set forth in the Lease.

12. Plan of Use:

- a. Describe the proposed use of the Premises (type(s) of crops to be grown, growing cycle, rotation cycle and agri-chemicals to be used).
- b. Describe how the proposed use meets all land use and zoning requirements.
- c. Describe how compatible the proposed use is with the surrounding properties.

PREPARATION AND SUBMISSION

- 1. In order to maintain comparability and enhance the review process, it is requested that offers be organized in the manner specified below. Please submit your offer in one Document to the Planning and Intergovernmental Relations Department, 3661 Interstate Park Road North, Suite 200, Riviera Beach, Fl. 33401, Attention: Joyell Shaw; or e-mail Joyell.Shaw@palmbeachschools.org. Add any attachments to the end of the document.
 - a. Letter of Transmittal: Provide the date; Prospective Lessee's name, address, telephone number and e-mail address; Provide the names of the persons who will be authorized to make representations for the Prospective Lessee and their titles, addresses, and telephone numbers.
 - b. Table of Contents: Include a clear identification of the material by section and by page number.
 - c. Lease Requirements: Including the completed and executed Lease Agreement. (See Lease Requirements)
 - d. Properly completed Beneficial Interest Affidavit.

OFFER EVALUATION PROCESS:

- 1. District personnel will convene, review and discuss all responsive offers submitted.
- 2. Points will be assigned in the evaluation and recommendation process in accordance with the evaluation criteria listed in Evaluation Criteria (1-4) and rank all responsive offers accordingly.
- 3. The School District reserves the right to negotiate further terms and conditions, including price and non-cash considerations with the highest ranked Prospective Lessee. If a mutually beneficial agreement with the first ranked Prospective Lessee cannot be resolved, the School District reserves the right to enter into negotiations with the next highest ranked Prospective Lessee and continue this process until an agreement is reached.
- 4. The Planning and Intergovernmental Relations Department will prepare and submit an agenda item to the District's Superintendent of Schools.
- 5. The Superintendent will recommend to the Board, the approval of any recommended Lease Agreement.
- 6. The Board will approve or reject any recommended Lease Agreement.

EVALUATION CRITERIA: The following criteria will be used by the evaluators to determine the best offer.

- 1. Monetary Offer, in U.S. Dollars, set forth in the Purchase and Sale Agreement. 60 points maximum
- 2. Financial Stability and Contribution 20 points maximum

- 3. Proposed term of Lease (See Availability Dates) 10 points maximum
- 4. Plan of Use 10 points maximum

CONFLICT OF INTEREST

All Prospective Lessees must disclose the name of any officer, director, or agent who is also an employee of the District. All Prospective Lessees must disclose the name of any District employee who owns, directly or indirectly, any interest in the Prospective Lessees' business or any of its branches.

PUBLIC RECORDS LAW

All offer documents or other materials submitted by the Prospective Lessee in response to this Request will be open for inspection by any person in accord with Chapter [119](#), Florida Statutes.

COST INCURRED IN RESPONDING

All costs directly or indirectly related to offer preparation, representation or clarification shall be the sole responsibility of and be borne by the Prospective Lessee.

INDULGENCE

Indulgence by the Board on any non-compliance by the Prospective Lessee does not constitute a waiver of any rights under this Request.

AGREEMENT

The Request, the Lease Agreement, all attachments, any addendum released, agreement, if applicable, and the corresponding Agreement will constitute the complete agreement between Prospective Lessee and the Board. Should there be any conflict between the terms of the Request, and the terms of the Lease Agreement, the terms of the Lease Agreement shall be final and binding. If Prospective Lessee requires additional Agreement provisions, then Prospective Lessee should include their Addendum as an attachment to the Lease Agreement.

BENEFICIAL INTEREST AND DISCLOSURE AFFIDAVIT

**STATE OF FLORIDA
COUNTY OF PALM BEACH**

Before me, the undersigned authority, personally appeared, _____, ("Affiant") this _____ day of _____, 20____, who, first being duly sworn, as required by law, subject to the penalties prescribed for perjury, deposes and says:

1) Affiant has read the contents of this Affidavit, has actual knowledge of the facts contained herein, and states that the facts contained herein are true, correct and complete.

2) That _____, whose address is _____, has made an offer to Lease the real premises more particularly described in Exhibit "A" attached hereto and made a part hereof (hereinafter called the "Premises"). The following is a list of every "person" (as defined in Section 1.01(3), Florida Statutes) holding 5% or more of the beneficial interest in the disclosing entity: (If more space is needed, attach separate sheet)

<u>Name</u>	<u>Address</u>	<u>Interest</u>
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This affidavit is given in compliance with the provisions of the Solicitation to Lease School Board-owned real premises.

FURTHER AFFIANT SAYETH NOT.

AFFIANT

By:

SWORN TO and subscribed before me this _____ day of _____, 20____ by _____.
Such person(s). (Notary Public must check applicable box):

- is/are personally known to me.
- produced a current driver license(s).
- produced _____ as identification.

(NOTARY PUBLIC SEAL)

Notary Public

(Print, Type or Stamp Name of Notary Public)

AGRICULTURAL LEASE

This Agricultural Lease (the "Lease") is made as of the ____ day of _____, 2019 by and between THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA ("Lessor") whose address is 3661 Interstate Park Road N., Suite 200, Riviera Beach, Florida 33404, and _____ ("Tenant") whose address is _____.

WHEREAS, the Lessor is the owner of land located in Palm Beach County, Florida more particularly depicted and described on Exhibit "A" (the "Premises"); and

WHEREAS, the Tenant is in the business of farming and wishes to lease the Premises for the purpose of farming and the Lessor agrees to lease the Premises in accordance with Sections 1013.15, Florida Statutes, to Tenant.

NOW, THEREFORE, in consideration of the rents, covenants and agreements hereafter reserved and contained on the part of the Tenant to be observed and performed, the Lessor hereby leases to the Tenant, and the Tenant hereby rents from Lessor, the Premises upon the following terms and conditions.

1. TERM OF THE LEASE; BOARD APPROVAL: The term shall be from February 1, 2019 and terminate on January 31, _____ (the "Lease Term").

Prior to the Lessor's entering into this Lease, the terms and conditions must be formally approved by the School Board of Palm Beach County, Florida ("Board Approval") which is tentatively scheduled on or before the February 20, 2019 School Board meeting. The Tenant's execution of this Lease prior to Board approval shall be considered an offer that is irrevocable until sixty (60) days after execution by the Tenant or until Board Approval is sought and denied, whichever is sooner. This Lease shall not be binding on the Lessor before Board Approval. If Board Approval has not been obtained within sixty (60) days after execution of this Lease by the Tenant and the Tenant elects to revoke its offer, all rents paid in advance shall be promptly returned to the Tenant.

2. RENTS: Rent for each 12-month period (each, a "Lease Year") commencing on the first day of the Lease Term shall be due and payable in advance without demand or set-off at Lessor's address above. "Rent" shall be \$ _____ per annum, plus applicable sales tax, payable in advance. This Lease shall be totally net to the Lessor. In addition to the Rent stated above, Tenant shall pay all charges for gas, water, sewer, waste removal, dumpster charges, janitorial services, electricity, telephone, and other utility services used in connection with the Premises during the Lease Term. If the Tenant shall default in any payment, performance, or expenditure other than Rent required to be paid or expended by the Tenant pursuant to this Lease, Lessor may at its option pay the same, and any amount so paid by Lessor shall thereupon become due to Lessor from Tenant with interest at the highest rate allowed by law, upon demand, as "Additional Rent." If any Rent due from Tenant to Lessor hereunder is not received by Lessor on or before the date due, then, in addition to all other rights and remedies available to Lessor under this Lease, Lessor at Lessor's sole option may either: (i) charge Tenant a late fee equal to five percent (5%) of the installment of Rent not paid when due; or (ii) charge interest on the installment of Rent not paid when due at the highest rate allowed by law from the date due until the date received by Lessor in immediately available funds. These provisions shall not limit the Lessor's right to hold Tenant in default for not paying said amounts timely.

3. **USE AND SPECIAL CARE OF PREMISES:**

A. **USE:** The Premises shall be used solely for farming sugar cane and related agricultural uses. No okra, sod or field grown trees shall be cultivated on the Premises. Sweet corn and beans may be cultivated only for normal rotational purposes. All operations conducted on the Premises by the Tenant as incidents of any of the uses specified in this Lease shall be conducted by the Tenant in accordance with the best method of farming and land husbandry practiced in the geographical vicinity of these Premises. All fences, electrical facilities, potable water wells, pumps, pump pads, irrigation pump foundations, water control structures and other improvements existing on the Premises at the beginning of the Lease Term and all governmental licenses and permits associated with or appurtenant to those facilities on the Premises shall be and remain the property of the Lessor upon the expiration or earlier termination of the Lease.

B. **SPECIAL CARE:** If the Tenant uses plastic material for weed or moisture control in its farming operations, all of such plastic material must be removed prior to the end of the Lease term or within thirty (30) days after the associated crop is harvested, whichever is sooner. Plastic material shall not be cut up, turned over or plowed into the soil.

4. **PAYMENT OF TAXES:** The Tenant shall pay any real property taxes, intangible property taxes and personal property taxes, as well as all assessments, including but not limited to pending, certified, confirmed and ratified special assessment liens, accrued or levied with respect to the Premises or this Lease during the Lease Term. Tenant shall pay such taxes and assessments promptly upon receipt of an assessment notice from the taxing authority but no later than their due date, and shall furnish proof of such payment to the Lessor within 30 days of payment. Any penalties or late fees incurred for failure to pay said taxes and assessments shall be the responsibility of the Tenant. Any taxes paid by the Tenant to the Lessor and subsequently found not to be due shall be refunded to the Tenant. Tenant shall be responsible, at its sole expense, for applying for, obtaining, maintaining and monitoring an agricultural classification on the Premises for property tax assessment purposes. Lessor shall cooperate with Tenant to the extent lawful and reasonably necessary to assist Tenant in obtaining and preserving the agricultural classification of the Premises for assessment purposes. Lessor, for purposes of this provision, authorizes its Chief Operating Officer to sign all forms necessary to obtain or preserve the agricultural classification on the Premises, without further action or approval of the School Board.

5. **WASTE, NUISANCE, IMPROPER OR ILLEGAL USE:** The Tenant shall not commit or permit the commission by others of any waste on the Premises; specifically, but not by limitation, the Tenant shall not dig any holes, damage any irrigation ditches, dikes or canals, remove any environmentally protected trees, plant material or other species, or remove any minerals, muck, soil, rock, sod or similar material from the Premises. The Tenant shall keep the Premises free and clear of all noxious weeds and other growth not commonly found or permitted on active productive agricultural land used for purposes intended by the Tenant. The Tenant shall not maintain, commit or permit the maintenance or commission of any nuisance on the Premises. The Tenant shall not use the Premises or permit the use of the Premises by others for any purpose or in any manner whatsoever that would be in violation of any valid and applicable law, ordinance or regulation of any federal, state, county or other governmental body. The Tenant's use of the Premises shall at all times be in full compliance with all federal, state and local environmental laws and regulations pertaining to air and water quality, hazardous materials, waste disposal and pesticide use, including without limitation the Federal Worker Protection Standard Act, air

emissions and other environmental matters and the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

6. HAZARDOUS AND TOXIC MATERIAL, PESTICIDES AND INSECTICIDES: All pesticides, insecticides, herbicides, fungicides, and rodenticide used on or about the Premises shall be only those approved by the U.S. Department of Agriculture and disbursed solely by a licensed pesticide applicator in accordance with government rules and regulations and also in accordance with the manufacturer's directions. No containers in which hazardous, toxic or chemical materials are or have been stored or contained shall be burned, disposed of, deposited or stored on the Premises. Fertilizers, as approved by the U.S. Department of Agriculture and customarily used in similarly located farming areas may be dispersed in a proper manner on or about the land for the crops being grown on the Premises. Tenant shall, in a timely manner and at the expense of the Tenant, correct, repair, remove and replace, decontaminate, reclaim, treat or otherwise make environmentally clean and safe any and all damage to the Premises or contamination of the water or soil resulting from the Tenant's use of the Premises, all in accordance with all governmental standards, including but not limited to, the minimum Guidance Concentrations recommended by the Florida Department of Environmental Protection. The Tenant shall not commit or permit the commission of any hazardous acts on the Premises nor use or permit the use of the Premises in any manner that will increase Lessor's exposure to liability. At the request of the Lessor, the Tenant shall, at his own cost and expense, comply with any and all requirements of Lessor's Risk Management Department. Tenant shall comply with all governmental laws, regulations and similar requirements relating to hazardous or toxic materials used on the Premises. Upon termination of this Lease for any reason, Tenant shall remove all of said materials and return the Premises to an environmentally safe and clean condition. Signage required by the U.S. Department of Agriculture concerning the use of pesticides and insecticides shall be posted on the Premises by the Tenant.

7. MAINTENANCE: The Tenant shall at all times, at Tenant's own cost and expense, keep and maintain the Premises, all improvements, including but not limited to pumps, culverts, irrigation and drainage control structures, on the Premises, and all facilities appurtenant to the Premises in good order and repair and in a safe and clean condition and return all of said property to the Lessor at the end of this Lease term in the same condition as at the commencement of the Lease Term, subject to the Tenant's improvements as required below. Burning on the Premises may be done by the Tenant subject to the written request and authorization by the Lessor. Tenant shall not otherwise knowingly or deliberately set or cause to be set any fire or fires on the Premises.

8. ALTERATIONS AND LIENS: The Tenant shall not make or permit any other person to make any alterations to the Premises or to any improvement thereon or facility appurtenant thereto without the written consent of the Lessor. All improvements made by Tenant during the term of this Lease, including but not limited to, pumps, culverts, irrigation and drainage control structures shall become the property of Lessor at the expiration or termination of the Lease. Pursuant to §713.10, Fla. Stat., Lessor's interest in the Premises shall not be subject to liens arising from Tenant's use of the Premises, or exercise of the rights granted hereunder. The Tenant shall keep the Premises free and clear from any and all liens, claims, and demands for work performed, materials furnished, or operations conducted thereon by or at the request of the Tenant. Tenant shall within ten (10) days of the recording of any lien against the Premises relating to Tenant's use or occupation of the Premises cause such lien to be discharged or transferred to

Tenant shall pay to Lessor the premiums therefore, together with interest at the maximum rate allowed by law, upon demand as Additional Rent.

B. With respect to Tenant's use of the Premises, Tenant shall, in addition to any other obligation to indemnify Board and to the fullest extent permitted by law, protect, defend, indemnify and hold harmless Lessor, its agents, officers, elected officials and employees: (a) from and against all claims, actions, liabilities, losses (including economic losses), and costs arising out of any actual or alleged bodily injury, sickness, disease or death, or injury to or destruction of tangible property including the loss of use resulting there from, or any other damage or loss arising out of, or claimed to have resulted in whole or in part from any actual or alleged negligent act or omission of Tenant, or anyone directly or indirectly employed by Tenant, or of anyone for whose acts Tenant may be liable under this Lease; (b) from any other damage or loss arising out of, or claimed to have resulted in whole or in part from any actual or alleged violation of law, statute, ordinance, governmental administration order, rule or regulation in the performance of any work under this Lease; and (c) from and against claims or actions made by Tenant's contractors or other party performing work for or on behalf of Tenant. Tenant's indemnification obligations hereunder shall not be limited to any limitation on the amount, type of damages, compensation or benefits payable by or for Tenant under workers' compensation acts; disability benefit acts, other employee benefit acts or any statutory bar. Any cost or expenses, including attorney's fees, incurred by Lessor to enforce this provision shall be borne by Tenant. Tenant recognizes the broad nature of this indemnification and hold harmless article, and voluntarily makes this covenant for good and valuable consideration provided by Lessor in support of this indemnification in accordance with the laws of the State of Florida.

C. In the event of loss, damage or injury to the Tenant and/or the Tenant's property, the Tenant shall look solely to any insurance in its favor without making any claim against the Lessor. The Tenant hereby waives any right of subrogation against the Lessor, for loss, damage or injury within the scope of the Tenant's insurance, and on behalf of itself and its insurer, waives all such claims against the Lessor.

12. SUBLEASING AND ASSIGNING: The Tenant shall not sublease, encumber, assign, or otherwise transfer this Lease, any right or interest in this Lease or any right or interest in the Premises or any of the improvements that may now or hereafter be constructed or installed on the Premises, without the express written consent of the Lessor, which may be withheld in the Lessor's absolute discretion. A consent by the Lessor to one assignment, subletting, occupation, or use by another person shall not be deemed to be a consent to any subsequent assignment, subletting, occupation, or use by another person. Any encumbrance, assignment, transfer, or subletting without the prior written consent of the Lessor, whether it be voluntary or involuntary, by operation of law or otherwise, is void and shall, at the option of the Lessor, terminate this Lease.

13. ABANDONMENT BY TENANT: Should the Tenant breach this Lease or abandon the Premises prior to the termination of the term of this Lease, the Lessor may:

A. Continue this Lease in effect by not terminating the Tenant's right to possession of the Premises, in which event the Lessor shall be entitled to enforce all his rights and remedies under this Lease including the right to recover the rent specified in this Lease as it becomes due under this Lease; or

B. Terminate this Lease and recover from the Tenant the amount necessary to compensate the Lessor for all detriment proximately caused by the Tenant's failure to perform its obligations under

this Lease.

14. **DEFAULT:** In the event the Tenant shall (a) fail to make any rental or other payments when due, or (b) be adjudicated bankrupt, or (c) make an assignment for the benefit of its creditors, or (d) have its leasehold estate taken upon execution against the Tenant, or (e) abandon the Premises during the term hereof, or (f) have any receiver appointed in any proceeding commenced against it based upon its insolvency and if such receiver is not discharged within ninety (90) days after appointment, or (g) breach or fail to perform any of the other agreements herein, then the Lessor, in any such event(s), may exercise all such rights and remedies granted under the laws of the State of Florida, federal law and/or common law, including, but not limited to, termination of the Lease by the Lessor.

The remedies for which provision is made in this paragraph shall not be exclusive and may be exercised consecutively and in addition thereto the Lessor may pursue such other remedies as are provided by law in the event of any breach, default or abandonment by the Tenant. In any event, and irrespective of any option exercised by the Lessor, the Tenant agrees to pay and the Lessor shall be entitled to recover all costs and expenses incurred by the Lessor, including reasonable attorneys' fees, in connection with collection of rent or damages or enforcing other rights of the Lessor in the event of a breach, default or abandonment by the Tenant, irrespective of whether or not the Lessor elects to terminate this Lease by reason of such a breach, default or abandonment. The Tenant hereby expressly waives any and all rights of redemption, if any, granted by or under any present or future law in the event the Tenant shall be evicted or dispossessed for any cause, or in the event the Lessor shall obtain possession of the Premises by virtue of the provisions of this Lease, or otherwise.

15. **LESSOR'S RIGHT TO TERMINATE FOR CONVENIENCE:** In the event the Premises is required for any purpose by the Lessor, Lessor shall have the right to terminate this Lease by giving at least Ninety (90) days written notice to Tenant of Lessor's intention to terminate this Lease effective upon the completion of the harvest of the existing crop. In the event of termination for reasons other than the Tenant's default, the Lessor shall return to the Tenant a prorata share of the rental fee paid by the Tenant, based on the ratio of the number of days remaining (as of the effective date of the termination) in the term of this Lease. Tenant further acknowledges, confirms and agrees that Tenant bears all risk of loss, including but not limited to loss of: crop(s) monies, resources, equipment, personal property, fixtures, improvements and other belongings and investments resulting from Lessor's exercise of its rights under this paragraph.

16. **ENFORCEMENT COSTS:** In connection with any litigation arising out of or in any manner relating to this Lease, parties shall bear their own attorneys' fees and costs.

17. **SEVERABILITY:** If any provision (or portion thereof) of this Lease, or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, then the remainder of this Lease, or the application of such provision (or portion thereof) to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and this Lease shall otherwise remain in full force and effect.

18. **NOTICES:** All notices and elections to be given or delivered by or to any party hereunder shall be in writing and shall be (as elected by the party giving such notice) hand delivered by messenger, courier service, or national overnight delivery service, telecopied or

faxed or via email, or alternatively shall be sent by United States Certified Mail, with Return-Receipt Requested. The effective date of any notice shall be the date of delivery of the notice if by personal delivery, courier services, or national overnight delivery service, or on the date of transmission with confirmed answer back if by telecopier, fax or email, if transmitted before 5:00 PM on a business day and on the next business day if transmitted after 5:00 PM or on a non-business day, or if mailed, upon the date which the return receipt is signed or delivery is refused or the notice designated by the postal authorities as non-deliverable, as the case may be. The parties hereby designate the following addresses as the addresses to which notices may be delivered, and delivery to such addresses shall constitute binding notice given to such party:

TENANT:

Name:

Address:

Fax

E-mail

With a copy to:

Name:

Address:

Fax

E-mail

Lessor:

The School District of Palm Beach County
Planning and Real Estate Services Department
Attention: Joyell Shaw
3661 Interstate Park Road N Suite 200
Riviera Beach, Florida 33404
Fax: 561-882-1942
E-mail joyell.shaw@palmbeachschools.org

With a copy to:

The School District of Palm Beach County
Office of General Counsel
Attention: General Counsel
P.O. Box 19239
West Palm Beach, Florida 33416-9239
Fax: 561-434-8105

Any party may from time to time change the address to which notice under this Agreement shall be given such party, upon three (3) days prior written notice to the other parties.

19. HEIRS AND SUCCESSORS, CONDEMNATION: This Lease shall be binding on and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereto, but nothing in this paragraph contained shall be construed as a consent by the Lessor to any assignment of this Lease or any interest therein by the Tenant. The entire award for taking of the Premises in such condemnation proceeding); or the negotiated sum in the event of a conveyance in lieu of complete condemnation including, but not limited to damages for loss

of rental income, shall in its entirety be paid to the Lessor. However, Lessor agrees to make a prorata abatement of rent for the remaining term of the Lease based upon the ratio of acreage taken or transferred to the total acreage of the Premises before the taking or transfer. The Tenant shall have the right to pursue the condemning authority for any separate damages the Tenant should sustain. Lessor shall have no obligation to protect the interests of the Tenant in reference to these proceedings.

20. SUBORDINATION OF LEASE; TRANSFER OF LESSOR'S INTEREST: Lessor shall have the right to sell or otherwise dispose of Lessor's interest in the leased property subject to the terms of this Lease. This Lease is and shall remain subordinate to all mortgages and security interests now, or at any time during the Lease Term, encumbering the Premises. Tenant shall, upon Lessor's or Lessor's successor's request, execute and deliver any document necessary to evidence or confirm the subordination of the Tenant's interest in this Lease to any mortgage or other instrument of security which may hereafter become an encumbrance on the Premises.

21. WAIVER: The waiver by the Lessor of any breach of any of the provisions of this Lease by the Tenant shall not constitute a continuing waiver or a waiver of any subsequent breach by the Tenant either of the same or of another provision of this Lease. In like manner the non-exercise of any right or option granted to the Lessor in any of the provisions of this Lease shall not constitute a forfeiture or loss of said right or option unless a specific expiration date is set forth.

22. RELATIONSHIP BETWEEN PARTIES: Nothing contained in this Lease shall be construed to create the relationship of principal and agent, partnership, joint venture or any other relationship between the parties hereto other than the relationship of Lessor and Tenant.

23. CAPITAL IMPROVEMENTS AND ALTERATIONS:

A. Tenant shall not make any alterations, additions or improvements, whether capital, internal or external, (collectively, "Alterations") in, on or to the Premises or any part thereof without the prior written consent of Lessor, which consent may be withheld in Lessor's sole and absolute discretion.

B. Any Alterations to the Premises, except for Tenant's movable furniture and equipment, shall immediately become Lessor's property and, at the end of the Lease Term, shall remain on the Premises without compensation to Tenant; provided, however, that any such movable furniture and equipment, otherwise belonging to Tenant, but remaining on the Premises at the expiration or other termination of this Lease shall also become the property of Lessor.

C. In the event Lessor consents to the making of any Alterations by Tenant, the same shall be made by Tenant, at Tenant's sole cost and expense, in accordance with the plans and specifications previously approved in writing by Lessor. Tenant shall comply with all applicable laws, including but not limited to Construction Lien Law of the State of Florida, ordinances, regulations, building codes, and obtain all required permits, inspections, and certificates as may be required by all governmental agencies having jurisdiction thereof.

24. PERMITS AND APPROVALS:

A. The Tenant shall obtain all necessary federal, state, local, and other governmental approvals and permits, as well as all necessary private authorizations and permits prior to the effective date and shall maintain same throughout the term of this Lease. Within five (5) days of demand by Lessor to Tenant, Tenant shall submit to Lessor copies of all permits and

authorizations that Tenant is required to obtain pursuant to the provisions of this Lease.

B. The Tenant shall also obtain, and maintain throughout the term of this Lease, any and all applicable permits, including but not limited to Dredge and Fill Permits, Surface Water Management and Water Use Permits. The Tenant shall be responsible for compliance with all permit terms and conditions. Tenant acknowledges that there is no guarantee that Tenant will receive any permits.

25. TENANT'S PROPERTY AT RISK: All of Tenant's personal property, equipment and fixtures located upon the Premises shall be at the sole risk of Tenant and Lessor shall not be liable under any circumstances for any damage thereto or theft thereof. In addition, Lessor shall not be liable or responsible for any damage or loss to property or injury or death to persons occurring on or adjacent to the Premises resulting from any cause, including but not limited to, defect in or lack of repairs to the improvements located on the Premises.

26. MISCELLANEOUS PROVISIONS:

A. **Inconsistencies:** In the event any provisions of this Lease shall conflict, or appear to conflict, the Lease, including all exhibits, attachments and all documents specifically incorporated by reference, shall be interpreted as a whole to resolve any inconsistency.

B. **Governing Law and Venue:** The laws of the State of Florida shall govern all aspects of this Lease. In the event it is necessary for either party to initiate legal action regarding this Lease, venue shall be in the Fifteenth Judicial Circuit for claims under state law and the Southern District of Florida for any claims which are justiciable in federal court.

C. **Amendment:** This Lease may be amended only with the prior written approval of Lessor and Tenant.

D. **Final Agreement:** This Lease states the entire understanding between the Parties and supersedes any written or oral representations, statements, negotiations, or agreements to the contrary. The Tenant recognizes that any representations, statements or negotiations made by Lessor's staff do not suffice to legally bind the Lessor in a contractual relationship unless they have been reduced to writing, authorized, and signed by an authorized representative of Lessor. This Lease shall bind the Parties, their assigns, and successors in interest.

E. **Survival:** The provisions of paragraphs 5, 6, 11 and 14 shall survive the expiration or termination of this Lease. In addition, any covenants, provisions or conditions set forth in this Lease which by their terms bind Tenant or both Lessor and Tenant after the expiration or termination of this Lease, shall survive the expiration or termination of this Lease.

F. **Wavier of Trial by Jury Provision:** AS AN INDUCEMENT TO LESSOR AGREEING TO ENTER INTO THIS LEASE, EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES THE RIGHT EITHER OF THEM MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS LEASE.

G. **Authority:** Each person signing this Lease on behalf of either party individually warrants that he or she has full legal power to execute this Lease on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Lease.

H. **Captions:** The captions, section numbers, article numbers, title and headings appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Lease, nor in any way effect this Lease and shall not be construed to create a conflict with the provisions of this Lease.

I. **Construction:** The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Lease has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

J. **Counterparts:** This Lease may be executed in any number of counterpart copies, each of which shall be deemed an original, but all of which together shall constitute a single instrument.

K. **Dispute Resolution:** As a condition precedent to a party bringing any suit for breach of this Lease, that party must first notify the other party in writing of the nature of the purported breach and seek in good faith to resolve the dispute through negotiation. If the parties cannot resolve the dispute through negotiation, they may agree to a mutually acceptable method of non-binding alternative dispute resolution with a qualified third party acceptable to both parties. The existence of a dispute shall not excuse the parties from performance pursuant to this Lease. This remedy is supplemental to any other remedies available at law.

L. **Equal Opportunity Provision:** The parties agree that no person shall, on the grounds of race, color, sex, national origin, disability, religion, ancestry, marital status, sexual orientation, gender, gender identity or expression be excluded from the benefits of, or be subjected to any form of discrimination under any activity carried out by the performance of this Lease.

M. **Filing:** It is specifically understood and agreed by both parties hereto that a Memorandum of Lease will be recorded with the Clerk of the Court for Palm Beach County, Florida, solely for the purpose of compliance with §713.10, Fla. Stat. Tenant irrevocably appoints the Lessor's Chief Operating Officer as its attorney-in-fact for purposes of executing the Memorandum of Lease and Notice of Termination or Expiration upon the expiration or earlier termination thereof. The costs recording of both the Memorandum of Lease and the Notice of Termination or Expiration shall be borne by Tenant and payable as Additional Rent.

N. **Inspector General:** Tenant agrees and understands that the School District's Office of Inspector General ("Inspector General") shall have immediate, complete and unrestricted access to all papers, books, records, documents, information, personnel, processes (including meetings), data, computer hard drives, emails, instant messages, facilities or other assets owned, borrowed or used by Tenant with regard to the Lease. Tenant's employees, vendors, officers and agents shall furnish the Inspector General with requested information and records within their custody for the purposes of conducting an investigation or audit, as well as provide reasonable assistance to the Inspector General in locating assets and obtaining records and documents as needed for investigation or audit relating to the Lease. Furthermore, Tenant understands, acknowledges and agrees to abide by School Board Policy 1.092.

O. **No Third Party Beneficiaries:** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Lease. None of the parties intend to directly or substantially benefit a third party by this Lease. The parties agree that there are no third party beneficiaries to this Lease and that no third party shall be entitled to assert a claim against any of the parties based upon this Lease. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

P. **Records:** Each party shall maintain its own respective records and documents associated with this Lease in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law.

27. **TIME OF ESSENCE:** Time is expressly declared to be the essence of this Lease.

28. **HOLDING OVER:** Any holding over after the expiration or termination of the Lease Term shall be construed to be a tenancy from month to month, and Tenant hereby agrees to pay to Lessor the same annual Rent as was due during the last year prior to the hold over period, together with the Additional Rent, and such holding over shall otherwise be on the terms and conditions herein specified, so far as applicable. Any holding over without Lessor consent shall constitute a default by Tenant and entitle Tenant to reenter the Premises and collect double the annual Rent herein specified (prorated on a monthly basis), together with the Additional Rent.

29. **ADDITIONAL REQUIREMENTS:**

- A. The Tenant shall not install or permit to be installed pit or vault latrines.
- B. Consistent with Florida Statutes, the Tenant will not discharge nor permit others to discharge firearms on the Premises, nor display or permit others to display firearms in a reckless manner.
- C. The Tenant shall not discharge nor permit others to discharge sewage effluent into the water areas of and surrounding the Premises.
- D. The Tenant shall not install or permit others to install any device or conduct any activities on the Premises which, in the opinion of the Lessor, are contrary to good morals or are otherwise objectionable.
- E. The Tenant shall not engage in any activity on the Premises not expressly authorized in this Lease unless otherwise authorized in writing by the Lessor, including but not limited to conducting mining operations or drilling for oil or gas upon the Premises; removing sand, gravel, or kindred substance from the ground or substantially changing the contour or condition of the Premises.
- F. It is the Tenant's sole duty to provide safe and healthful working conditions to its employees and those of the Lessor on and about the Premises. This Lessor assumes no duty for supervision of the Tenant.
- G. The Lessor may order that the Tenant halt operations under this Lease if a condition of immediate danger to the public and/or Lessor's employees, equipment or property exists. This provision shall not shift responsibility or risk of loss for injuries or damage sustained from the Tenant to the Lessor, and the Tenant shall remain solely responsible for compliance with all safety requirements and for the safety of all persons and property on the Premises.

IN WITNESS WHEREOF, the Lessor and the Tenant have caused this Lease to be executed as of the day and year first above written.

LESSOR:

THE SCHOOL BOARD OF PALM BEACH COUNTY

By: _____
Frank A. Barbieri, Jr., Esq., Chairman

Attest:

Approved as to form and Legal sufficiency

By: _____
Donald E. Fennoy II, Ed.D., Superintendent

Date Approved by School Board: _____

WITNESSES:

TENANT:

Signature

Signature

Printed Name

Printed Name

Signature

Date: _____

Printed Name