



Interoffice Memorandum

July 19, 2023

TO: Mayor Jerry L. Demings
-AND-
County Commissioners

FROM: Ed Torres, M.S., P. E., LEED AP, Director
Utilities Department

A handwritten signature in blue ink, appearing to read "Ed Torres", is placed to the right of the "FROM:" line.

SUBJECT: **BCC AGENDA ITEM – Consent Agenda
August 8, 2023, BCC Meeting
First Amendment to Water Conserv II Lease Agreement
Contact Person: Mark Ikeler, P.E., Manager
Utilities Water Reclamation Division
407-254-9705**

Orange County FFA Alumni, Inc. (FFA) is a not-for-profit corporation that is a promoter and supporter of the agricultural educational program in Orange County Public Schools. Orange County (County) and the City of Orlando (City) entered into a Lease Agreement with the FFA in 2014 and renewed the Lease Agreement with the First Renewal in 2017 to allow the FFA to use approximately 80 acres of Water Conserv II property for hay production. Under the Lease Agreement, the FFA is responsible for the maintenance, repair, and restoration of the property at their expense.

The 2017 First Renewal extended the Lease Agreement for a three-year term with an automatic three-year extension that expires August 19, 2023. The County, City, and FFA desire to amend the Lease Agreement to extend the term for another three-year term with an automatic three-year extension, revise the insurance provisions, and adjust the reclaimed water rate to current standards.

The County Attorney's Office and Risk Management Division have reviewed the amendment and finds it acceptable as to form. Utilities Department staff has reviewed the amendment and recommends approval.

Action Requested: **Approval and execution of First Amendment to Water Conserv II Lease Agreement by and amongst the City of Orlando, Florida, Orange County, and the Orange County FFA Alumni, Inc. to extend the Lease Agreement term, revise insurance provisions, and adjust the reclaimed water rate to current standards.**

District 1.

BCC Mtg. Date: August 8, 2023

FIRST AMENDMENT
TO
WATER CONSERV II LEASE AGREEMENT

THIS FIRST AMENDMENT TO WATER CONSERV II LEASE AGREEMENT (the "Amendment") is entered into by and amongst the CITY OF ORLANDO, FLORIDA, a Florida municipal corporation, whose address is 400 South Orange Avenue, Orlando, Florida 32801, and ORANGE COUNTY, a charter county and political subdivision of the State of Florida, whose address is 201 South Rosalind Avenue, Orlando, Florida 32801, (hereinafter the City of Orlando and Orange County are collectively referred to as "Lessor"), and the ORANGE COUNTY FFA ALUMNI, INC., a Florida non-profit corporation, whose address is P.O. Box 193, Oakland, Florida 34761 (hereinafter referred to as the "Lessee"). The Lessor and Lessee may also be referred to as a "Party" or the "Parties".

WITNESSETH THAT:

WHEREAS, the Parties entered into a lease agreement entitled "City of Orlando Florida, and Orange County, Florida and Orange County FFA Alumni, Inc. Water Conserv II Lease Agreement" (the "Original Agreement") with a latest execution date of August 19, 2014; and

WHEREAS, the Parties entered into a First Renewal of the Original Agreement on August 1, 2017 (the "First Renewal," and collectively with Original Agreement, the "Agreement"); and

WHEREAS, the Parties desire to amend the Agreement as more particularly set forth below.

NOW, THEREFORE, in consideration of the aforesaid premises, which are hereby made a part of this Amendment, and other good and valuable consideration, receipt of which is hereby acknowledged, the Parties hereby agree as follows:

1. This Amendment shall be effective on the latest date that the Parties have executed this Amendment.
2. The Parties hereby agree to extend the term of the Agreement for an additional three-year term, commencing on August 19, 2023, and terminating on August 19, 2026.
3. The Parties agree that the Agreement shall automatically renew for one additional three-year term unless one of the Parties provides the other Parties a notice of non-renewal no later than May 19, 2026.

4. Section 13.C.i. of the Agreement is hereby amended to increase the volume charge for reclaimed water from a rate of thirty-one cents per thousand gallons to a rate of thirty-nine cents per thousand gallons.

5. The Agreement is hereby amended to replace Exhibit "A" attached to the Original Agreement with Exhibit "A" attached to this Amendment.

6. The Agreement is hereby amended to replace Exhibit "B" attached to the Original Agreement with Exhibit "B" attached to this Amendment.

7. This Amendment may be executed in two or more counterparts, each of which shall be deemed to be an original but all of which, taken together, constitute one and the same agreement.

8. Except as amended by this Amendment, all other terms and conditions of the Agreement are hereby ratified and confirmed and remain in full force and effect.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the Parties have executed this Amendment on the dates set forth below by their duly authorized representatives.

LESSOR:

City of Orlando, Florida

By: *Fathy Sleeb*
Mayor/Mayor Pro Tem

Date: 09/25/23

ATTEST:

By: *SMH*
City Clerk

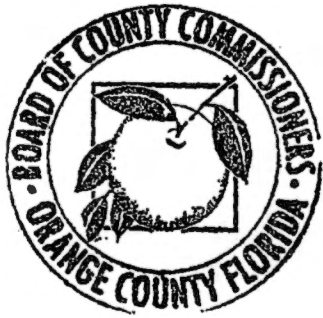
(SEAL)

APPROVED AS TO FORM AND LEGALITY

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

September 23, 2023

Mi Bushi
Assistant City Attorney
City of Orlando



LESSOR:

Orange County, Florida

By: Board of County Commissioners

By: *Jerry L. Demings*
for Jerry L. Demings
Orange County Mayor

Date: August 8, 2023

Attest: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: *Jennifer Jan-Linzy*
Deputy Clerk

LESSEE:

Orange County FFA Alumni, Inc.
a Florida non-profit corporation

By: John Delker

Print Name: John Delker

Title: President

Date: 7-12-2023

Signed, sealed and delivered
In the presence of:

Witness: [Signature]
Print Name: Jacqueline Stough

Witness: [Signature]
Print Name: Megan Tolan

STATE OF Florida
COUNTY OF Orange

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this 12 day of July, 2023, by John Delker, who is President of the Orange County FFA Alumni, Inc., a Florida non-profit corporation, and who is personally known to me or has produced _____ as identification.

(Notary Seal)

[Signature]
Notary Public, State of Florida

Print Name: Amy E Stotler

My Commission Expires: 5/7/2026

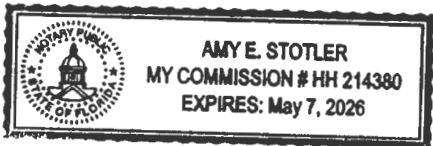


Exhibit "A"

CITY OF ORLANDO and ORANGE COUNTY are fee simple owners of the property described below.

NW 1/4--LESS W 33 FT & LESS S 33 FT FOR RD R/WS & LESS E 33 FT OF SE 1/4 OF NW 1/4 & LESS S 33 FT OF E 33 FT OF NE 1/4 OF NW 1/4 FOR RD R/W--N 1/2 OF NE 1/4--LESS S 33 FT FOR RD R/W-- ORB 1626 PGS 1475 1485 ORB 3195 PG 2260

The property contains the Leased Premises, of which is an area approximately 80 acres located at Five Mille Rd Clermont Florida 37411 as outlined in yellow.



Exhibit "B"

Insurance.

A. Lessee agrees to maintain on a primary basis and at its sole expense, at all times throughout the duration of this Lease Agreement the following types of insurance coverage with limits and on forms (including endorsements) as described in this Lease Agreement. These requirements, as well as the County's review or acceptance of insurance maintained by Lessee, are not intended to, and shall not in any manner, limit or qualify the liabilities or obligations assumed by Lessee under this Lease Agreement.

B. Lessee shall require and ensure that each of its sub-contractors/consultants providing services under this Lease Agreement (if any) procures and maintains until the completion of their respective services, insurance of the types and to the limits specified in this Lease Agreement.

C. Lessee shall have in force the following insurance coverage, and will provide Certificates of Insurance to the County prior to commencing operations under this Lease Agreement, or prior to executing any renewals of this Lease Agreement, to verify such coverage:

1. **Commercial General Liability** - Lessee shall maintain Commercial General Liability insurance in an amount not less than \$1,000,000 per occurrence and \$2,000,000 aggregate coverage, to cover the Lessee, the County, the City and any others designated by the County against liability for all operations including but not limited to contractual, products and completed operations, injury and/or death of any persons and for damage to personal property occasioned by or arising out of any construction, condition, use, or occupancy of the Leased Premises. Additionally, Lessee agrees to endorse the County as an Additional Insured with CG 2026 Additional Insured endorsement or its equivalent to all commercial general liability policies. The additional insured shall be listed in the name of Orange County Board of County Commissioners. Lessee's policy shall specifically cover potential animal bites.

2. **All-risk property insurance** in an amount not less than the full replacement value of Lessee's furniture, equipment, supplies, and any other property owned, leased held, or possessed by it.

3. **Workers' Compensation** - Lessee shall maintain coverage for its employees with statutory workers' compensation limits, and no less than \$100,000 each incident of bodily injury or disease for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the County if services are being provided at County facilities. Elective exemptions as defined in Florida Statute 440 will be considered on a case-by-case basis. Any Agency using an employee leasing arrangement shall complete the Leased Employee Affidavit.

4. **Sexual abuse and molestation coverage** with limits of not less than \$100,000 per occurrence shall also be included. The General Aggregate limit shall either apply separately to this Lease Agreement or shall be at least twice the required occurrence limit.

5. **Business Automobile Liability** - Lessee shall maintain coverage for all owned; non-owned and hired vehicles issued on the most recent version of the ISO form as filed for use in

Florida or its equivalent, with limits of not less than \$1,000,000 per occurrence. In the event Lessee does not own automobiles, Lessee shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

6. **Professional Liability** – Lessee shall provide the County with proof of professional liability insurance for any individual providing professional services (i.e., veterinary, medical, counseling, etc.) on the Leased Premises. This Professional Liability Coverage with limits of not less than \$1,000,000 per occurrence.

D. When a deductible exceeds \$100,000, the County reserves the right to request a copy of Lessee's most recent annual report or financial statement. For policies written on a "Claims-Made" basis, Lessee agrees to maintain a retroactive date prior to or equal to the effective date of this Lease Agreement. In the event the policy is cancelled, non-renewed, switched to occurrence form, or any other event which triggers the right to purchase a Supplemental Extended Reporting Period ("SERP") during the life of this Lease Agreement, Lessee agrees to purchase the SERP with a minimum reporting period of not less than two years. Purchase of the SERP shall not relieve BTN of the obligation to provide replacement coverage.

E. Insurance carriers providing coverage required in this Lease Agreement must be authorized or eligible to conduct business in the State of Florida and must possess a current A.M. Best's Financial Strength Rating of A- Class VIII or better.

F. Any request for an exception to these insurance requirements must be submitted in writing to the County for the approval of the County's Risk Management Division.

G. All such coverages shall be primary and contributory with any insurance or self-insurance maintained by the County. Lessee shall provide current certificates of insurance evidencing all required coverage's prior to commencing any operation. Lessee shall notify the County in writing, not less than 30 days prior to any material change or non-renewal of any of the coverage's required in this Lease Agreement, and such insurance provider shall be required to notify the County no less than 30 days prior to any cancellation of any insurance coverage.

H. Lessee shall require and ensure that all of its contractors, sub-contractors and service providers providing services in or through the Facility shall secure and maintain insurance of the types and limits required in this Lease Agreement, for the duration of the Lease and any extensions of the Lease Agreement.

I. Lessee shall provide to the County current certificates of insurance evidencing all required coverage prior to execution and commencement of any operations/services provided under this Lease Agreement. In addition to the certificate(s) of insurance, Lessee shall also provide copies of the additional insured and the waiver of subrogation endorsements as required above. For continuing service contracts, renewal certificates shall be submitted upon request by either the County or its certificate management representative. The certificates shall clearly indicate that Lessee has obtained insurance of the type, amount and classification as required for strict compliance with this insurance section. No material change or cancellation of the insurance shall be effective without 30 days prior written notice to the County. The certificate holder shall read:

Orange County, Florida
Attention: Risk Management Division
109 E Church Street, Suite 200
Orlando, Florida 32801