
**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Lease Agreement #4363 with the Board of Trustees of the Internal Improvement Fund of the State of Florida for the Seminole County Midway Regional Stormwater and Recreational Facility (IFAS Site)

DEPARTMENT: Public Works

DIVISION: Engineering

AUTHORIZED BY: Gary Johnson

CONTACT: Mark Flomerfelt

EXT: 5709

MOTION/RECOMMENDATION:

Approve and authorize the Chairman to execute the attached Lease Agreement #4363 with the Board of Trustees of the Internal Improvement Fund of the State of Florida for the Seminole County Midway Regional Stormwater Recreational Facility (IFAS Site).

District 5 Brenda Carey

Jerry McCollum

BACKGROUND:

This lease is for a 65 acre parcel of land formerly used by the University of Florida Institute of Food and Agriculture Services (IFAS). The property is located at 2700 Celery Avenue in Sanford, Florida, and includes approximately 20 acres north and 45 acres south of Celery Avenue. The site includes Property Tax Identification Numbers: 29-19-31-300-0170-0000, 32-19-31-300-0080-0000, and 32-19-31-300-008A-0000.

The project will construct on this property a regional stormwater facility to serve the Midway Drainage Basin and provide flood attenuation and water quality treatment prior to discharging to Lake Monroe.

IFAS is currently concluding a clean-up operation and removal actions conducted at the site have been found to meet required "Removal Action Goals". (See attached Removal Action Report for details).

The proposed design will consist of four wet detention ponds and has been reviewed and permitted by the St. Johns River Water Management District. The annual cost of the lease will be a yearly administrative fee of \$300.

The St. Johns River and Lake Monroe are listed on the Florida Department of Environmental Protection's Section 303(d) list as impaired water bodies. This project is anticipated to remove 41%, 52%, and 64%, respectively, of the nitrogen, phosphorus, and total suspended solids which currently discharge to Lake Monroe through this site. The ponds are sized to provide additional treatment capacity (approximately 157 acres) for potential future basin needs as funds become available.

Funding for construction of Phase 1 is provided under Capital Improvement Project #241701 by two Stormwater Management Cost-Share Agreements #SI433AA for \$400,000 and #SJ456AA for \$2,200,000. In addition, \$245,840 of County funding is budgeted under Capital Improvement Project #241801.

STAFF RECOMMENDATION:

Staff recommends the Board approve and authorize the Chairman to execute the attached Lease Agreement #4363 with the Board of Trustees of the Internal Improvement Fund of the State of Florida for the Seminole County Midway Regional Stormwater and Recreational Facility – (IFAS Site).

ATTACHMENTS:

1. Location Map
2. Project Site Map
3. Lease Agreement
4. Summary - Midway Facility
5. SJRWMD Cost-Share Agmt #SI433AA
6. SJRWMD Cost-Share Agmt #SJ456AA

Additionally Reviewed By:

- Budget Review (Fredrik Coulter, Lisa Spriggs)
- County Attorney Review (Matthew Minter)



**MIDWAY REGIONAL STORMWATER
& RECREATIONAL FACILITY**

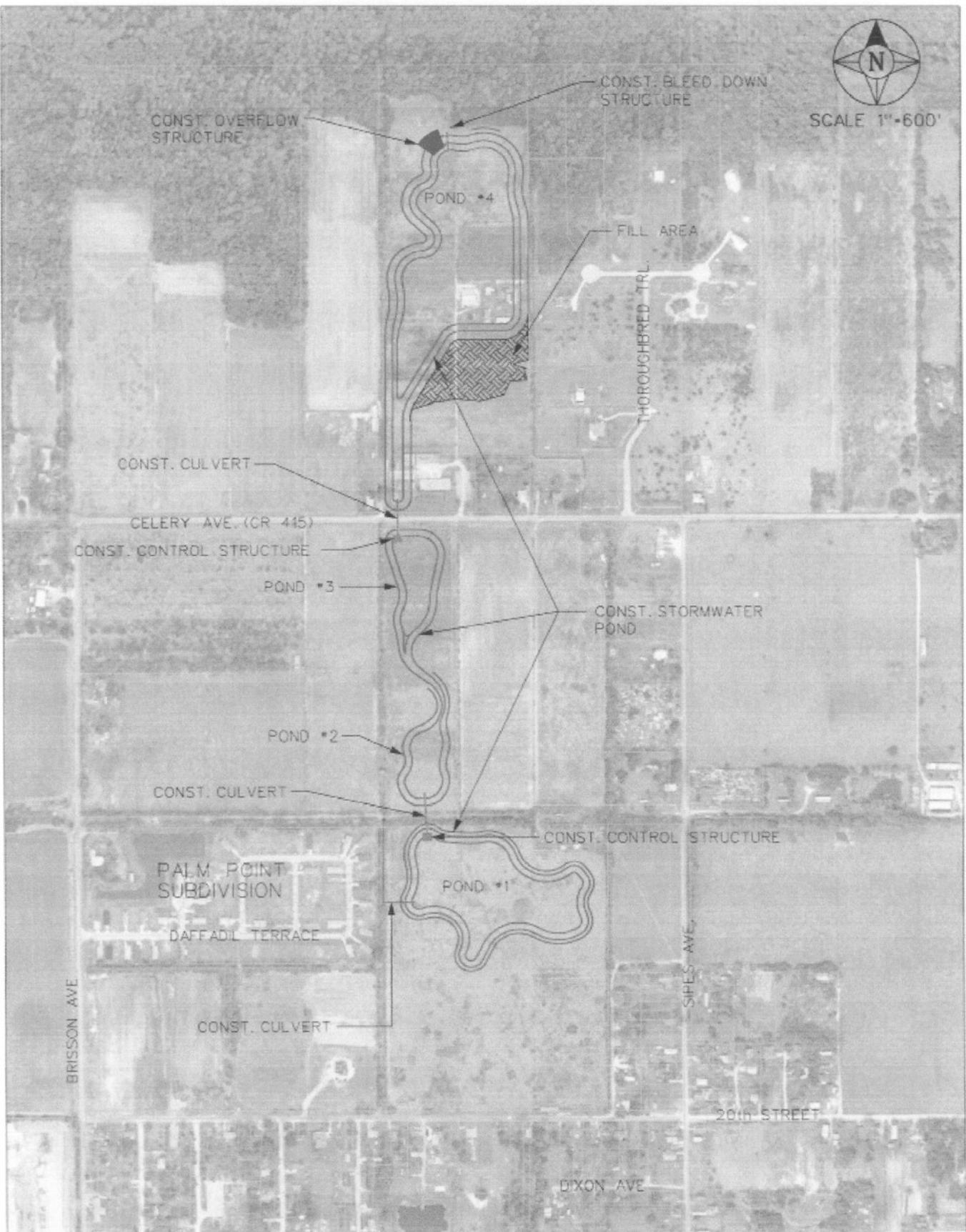
LOCATION / VICINITY MAP

**FIGURE
1.1**

Project No.
22001.10



SCALE 1"=600'



MIDWAY REGIONAL STORMWATER & RECREATIONAL FACILITY

PROJECT SITE MAP

FIGURE 5.1

Project No. 22001.10

OAL1

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT
TRUST FUND OF THE STATE OF FLORIDA

LEASE AGREEMENT

Lease Number 4363

THIS LEASE AGREEMENT, made and entered into this _____ day of _____ 20__, between the BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA hereinafter referred to as "LESSOR", and SEMINOLE COUNTY, FLORIDA, hereinafter referred to as "LESSEE."

LESSOR, for and in consideration of mutual covenants and agreements hereinafter contained, does hereby lease to said LESSEE the lands described in paragraph 2 below, together with the improvements thereon, and subject to the following terms and conditions:

1. DELEGATIONS OF AUTHORITY: LESSOR'S responsibilities and obligations herein shall be exercised by the Division of State Lands, Department of Environmental Protection.
2. DESCRIPTION OF PREMISES: The property subject to this lease, is situated in the County of Seminole, State of Florida and is more particularly described in Exhibit "A" attached hereto and hereinafter referred to as the "leased premises".
3. TERM: The term of this lease shall be for a period of 50 years commencing on _____ and ending on _____, unless sooner terminated pursuant to the provisions of this lease.

4. PURPOSE: The LESSEE shall manage the leased premises only for the establishment and operation of a public park, storm water facility, public works storage yard and an environmental study center, along with other related uses necessary for the accomplishment of this purpose as designated in the Management Plan required by paragraph 8 of this lease.

5. QUIET ENJOYMENT AND RIGHT OF USE: LESSEE shall have the right of ingress and egress to, from and upon the leased premises for all purposes necessary to the full quiet enjoyment by said LESSEE of the rights conveyed herein.

6. UNAUTHORIZED USE: LESSEE shall, through its agents and employees, prevent the unauthorized use of the leased premises or any use thereof not in conformance with this lease.

7. ASSIGNMENT: This lease shall not be assigned in whole or in part without the prior written consent of LESSOR. Any assignment made either in whole or in part without the prior written consent of LESSOR shall be void and without legal effect.

8. MANAGEMENT PLAN: LESSEE shall prepare and submit a Management Plan for the leased premises, in accordance with subsection 18-2.021(4), Florida Administrative Code, within twelve months of the effective date of this lease. The Management Plan shall be submitted to LESSOR for approval through the Division of State Lands. The leased premises shall not be developed or physically altered in any way other than what is necessary for security and maintenance of the leased premises without the prior written approval of LESSOR until the

Management Plan is approved. LESSEE shall provide LESSOR with an opportunity to participate in all phases of preparing and developing the Management Plan for the leased premises. The Management Plan shall be submitted to LESSOR in draft form for review and comments within ten months of the effective date of this lease. LESSEE shall give LESSOR reasonable notice of the application for and receipt of any state, federal or local permits as well as any public hearings or meetings relating to the development or use of the leased premises. LESSEE shall not proceed with development of said leased premises including, but not limited to, funding, permit application, design or building contracts, until the Management Plan required herein has been submitted and approved. Any financial commitments made by LESSEE which are not in compliance with the terms of this lease shall be done at LESSEE'S own risk. The Management Plan shall emphasize the original management concept as approved by LESSOR on the effective date of this lease which established the primary public purpose for which the leased premises are to be managed. The approved Management Plan shall provide the basic guidance for all management activities and shall be reviewed jointly by LESSEE and LESSOR at least every five years. LESSEE shall not use or alter the leased premises except as provided for in the approved Management Plan without the prior written approval of LESSOR. The Management Plan prepared under this lease shall identify management strategies for exotic species, if present. The introduction of exotic species is prohibited, except when specifically authorized by the approved Management Plan.

9. EASEMENTS: All easements including, but not limited to, utility easements are expressly prohibited without the prior written approval of LESSOR. Any easement not approved in writing by LESSOR shall be void and without legal effect.
10. SUBLEASES: This agreement is for the purposes specified herein and subleases of any nature are prohibited, without the prior written approval of LESSOR. Any sublease not approved in writing by LESSOR shall be void and without legal effect.
11. RIGHT OF INSPECTION: LESSOR or its duly authorized agents, representatives or employees shall have the right at any and all times to inspect the leased premises and the works and operations of LESSEE in any matter pertaining to this lease.
12. PLACEMENT AND REMOVAL OF IMPROVEMENTS: All buildings, structures, improvements, and signs shall be constructed at the expense of LESSEE in accordance with plans prepared by professional designers and shall require the prior written approval of LESSOR as to purpose, location and design. Further, no trees, other than non-native species, shall be removed or major land alterations done without the prior written approval of LESSOR. Removable equipment and removable improvements placed on the leased premises by LESSEE which do not become a permanent part of the leased premises will remain the property of LESSEE and may be removed by LESSEE upon termination of this lease.
13. INSURANCE REQUIREMENTS: During the term of this lease LESSEE shall procure and maintain policies of fire, extended coverage, and

liability insurance coverage. The extended coverage and fire insurance coverage shall be in an amount equal to the full insurable replacement value of any improvements or fixtures located on the leased premises. The liability insurance coverage shall be in amounts not less than \$100,000 per person and \$200,000 per incident or occurrence for personal injury, death, and property damage on the leased premises. Such policies of insurance shall name LESSOR, the State of Florida and LESSEE as additional insureds. LESSEE shall submit written evidence of having procured all insurance policies required herein prior to the effective date of this lease and shall submit annually thereafter, written evidence of maintaining such insurance policies to the Bureau of Public Land Administration, Division of State Lands, State of Florida Department of Environmental Protection, Mail Station 130, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000. LESSEE shall purchase all policies of insurance from a financially-responsible insurer duly authorized to do business in the State of Florida. Any certificate of self-insurance shall be issued or approved by the Insurance Commissioner, State of Florida. The certificate of self-insurance shall provide for casualty and liability coverage. LESSEE shall immediately notify LESSOR and the insurer of any erection or removal of any building or other improvement on the leased premises and any changes affecting the value of any improvements and shall request the insurer to make adequate changes in the coverage to reflect the changes in value. LESSEE shall be financially responsible for any loss due to failure to

obtain adequate insurance coverage and the failure to maintain such policies or certificate in the amounts set forth shall constitute a breach of this lease.

14. LIABILITY: Each party is responsible for all personal injury and property damage attributable to the negligent acts or omissions of that party and the officers, employees and agents thereof. Nothing herein shall be construed as an indemnity or a waiver of sovereign immunity enjoyed by any party hereto, as provided in Section 768.28, Florida Statutes, as amended from time to time, or any other law providing limitations on claims.

15. PAYMENT OF TAXES AND ASSESSMENTS: LESSEE shall assume full responsibility for and shall pay all liabilities, as permitted by Florida Statutes, that accrue to the leased premises or to the improvements thereon, including any and all ad valorem taxes and drainage and special assessments or taxes of every kind and all mechanic's or materialman's liens which may be hereafter lawfully assessed and levied against the leased premises.

16. NO WAIVER OF BREACH: The failure of LESSOR to insist in any one or more instances upon strict performance of any one or more of the covenants, terms and conditions of this lease shall not be construed as a waiver of such covenants, terms or conditions, but the same shall continue in full force and effect, and no waiver of LESSOR of any of the provisions hereof shall in any event be deemed to have been made unless the waiver is set forth in writing, signed by LESSOR.

17. TIME: Time is expressly declared to be of the essence of this lease.

18. NON-DISCRIMINATION: LESSEE shall not discriminate against any individual because of that individual's race, color, religion, sex, national origin, age, handicap, or marital status with respect to any activity occurring within the leased premises or upon lands adjacent to and used as an adjunct of the leased premises.

19. UTILITY FEES: LESSEE shall be responsible for the payment of all charges for the furnishing of gas, electricity, water and other public utilities to the leased premises and for having all utilities turned off when the leased premises are surrendered.

20. MINERAL RIGHTS: This lease does not cover petroleum or petroleum products or minerals and does not give the right to LESSEE to drill for or develop the same, and LESSOR specifically reserves the right to lease the leased premises for purpose of exploring and recovering oil and minerals by whatever means appropriate; provided, however, that LESSEE named herein shall be fully compensated for any and all damages that might result to the leasehold interest of said LESSEE by reason of such exploration and recovery operations.

21. RIGHT OF AUDIT: LESSEE shall make available to LESSOR all financial and other records relating to this lease, and LESSOR shall have the right to either audit such records at any reasonable time or require the submittal of an annual independent audit by a Certified Public Accountant during the term of this lease. This right shall be continuous until this lease expires or is terminated. This lease may

be terminated by LESSOR should LESSEE fail to allow public access to all documents, papers, letters or other materials made or received in conjunction with this lease, pursuant to the provisions of Chapter 119, Florida Statutes.

22. CONDITION OF PREMISES: LESSOR assumes no liability or obligation to LESSEE with reference to the condition of the leased premises. The leased premises herein are leased by LESSOR to LESSEE in an "as is" condition, with LESSOR assuming no responsibility for the care, repair, maintenance or improvement of the leased premises for the benefit of LESSEE.

23. COMPLIANCE WITH LAWS: LESSEE agrees that this lease is contingent upon and subject to LESSEE obtaining all applicable permits and complying with all applicable permits, regulations, ordinances, rules, and laws of the State of Florida or the United States or of any political subdivision or agency of either.

24. NOTICE: All notices given under this lease shall be in writing and shall be served by certified mail including, but not limited to, notice of any violation served pursuant to Section 253.04, Florida Statutes, to the last address of the party to whom notice is to be given, as designated by such party in writing. LESSOR and LESSEE hereby designate their address as follows:

LESSOR: Department of Environmental Protection
Division of State Lands
Bureau of Public Land Administration, M. S. 130
3900 Commonwealth Boulevard,
Tallahassee, Florida 32399-3000

LESSEE: Seminole County, Florida

Road Operations and Stormwater Divisions
520 West Lake Mary Boulevard, Suite 200
Sanford, Florida 32773

25. BREACH OF COVENANTS, TERMS, OR CONDITIONS: Should LESSEE breach any of the covenants, terms, or conditions of this lease, LESSOR shall give written notice to LESSEE to remedy such breach within sixty days of such notice. In the event LESSEE fails to remedy the breach to the satisfaction of LESSOR within sixty days of receipt of written notice, LESSOR may either terminate this lease and recover from LESSEE all damages LESSOR may incur by reason of the breach including, but not limited to, the cost of recovering the leased premises and attorneys' fees or maintain this lease in full force and effect and exercise all rights and remedies herein conferred upon LESSOR.

26. DAMAGE TO THE PREMISES: (a) The parties acknowledge that the leased premises include areas which were contaminated and the subject of an ongoing hazardous waste clean up program administered by the Florida Department of Environmental Protection, Division of Waste Management, Bureau of Waste Cleanup (FDEP). LESSOR agrees that LESSEE is not responsible for the environmental conditions of the leased premises, including the existing contamination of ground water, as same exist upon commencement of this lease. From and after the date that LESSEE takes possession of the leased premises, LESSOR shall not generate, produce, treat, release, or discharge any contaminants, pollutants, or pollution, or cause by its action or in action, the occurrence of same, including but not limited to hazardous or toxic substances, chemicals or other agents on, into, or from the leased premises or any adjacent lands or waters in any manner not permitted

by law. Furthermore, Lessee is not responsible for the continued monitoring or clean up of the site under the FDEP clean up plan. LESSOR's obligations set forth in this paragraph shall survive the termination or expiration of this lease. (b) From and after the date that LESSEE takes possession of the leased premises, Lessee shall not generate, store, produce, place, treat, release or discharge any contaminants, pollutants or pollution, including, but not limited to, hazardous or toxic substances, chemicals or other agents on, into, or from the leased premises or any adjacent lands or waters in any manner not permitted by law. For the purposes of this lease, "hazardous substances" shall mean and include those elements or compounds defined in 42 USC Section 9601 or which are contained in the list of hazardous substances adopted by the United States Environmental Protection Agency (EPA) and the list of toxic pollutants designated by the United States Congress or the EPA or defined by any other federal, state or local statute, law, ordinance, code, rule, regulation, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance, material, pollutant or contaminant. "Pollutants" and "pollution" shall mean those products or substances defined in Chapters 376 and 403, Florida Statutes, and the rules promulgated thereunder, all as amended or updated from time to time. In the event of LESSEE'S failure to comply with this paragraph, LESSEE shall, at its sole cost and expense, promptly commence and diligently pursue any legally required closure, investigation, assessment, cleanup, decontamination,

remediation, restoration and monitoring of (1) the leased premises, and (2) all off-site ground and surface waters and lands affected by LESSEE'S failure to comply, as may be necessary to bring the leased premises and affected off-site waters and lands into full compliance with all applicable federal, state or local statutes, laws, ordinances, codes, rules, regulations, orders, and decrees, and to restore the damaged property to the condition existing immediately prior to the occurrence which caused the damage. LESSEE'S obligations set forth in this paragraph shall survive the termination or expiration of this lease. This paragraph shall not be construed as a limitation upon the obligations or responsibilities of LESSEE as set forth herein. Nothing herein shall relieve LESSEE of any responsibility or liability prescribed by law for fines, penalties and damages levied by governmental agencies, and the cost of cleaning up any contamination caused directly or indirectly by LESSEE'S activities or facilities. Upon discovery of a release of a hazardous substance or pollutant, or any other violation of local, state, or federal law, ordinance, code, rule, regulation, order or decree relating to the generation, storage, production, placement, treatment, release, or discharge of any contaminant, LESSEE shall report such violation to all applicable governmental agencies having jurisdiction, and to LESSOR, all within the reporting periods of the applicable governmental agencies.

27. ENVIRONMENTAL AUDIT: At LESSOR'S discretion, LESSEE shall provide LESSOR with a current Phase I environmental site assessment

conducted in accordance with the Department of Environmental Protection, Division of State Lands' standards prior to termination of this lease, and if necessary a Phase II environmental site assessment.

28. SURRENDER OF PREMISES: Upon termination or expiration of this lease, LESSEE shall surrender the leased premises to LESSOR. In the event no further use of the leased premises or any part thereof is needed, LESSEE shall give written notification to LESSOR and the Bureau of Public Land Administration, Division of State Lands, Department of Environmental Protection, Mail Station 130, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000, at least six months prior to the release of any or all of the leased premises. Notification shall include a legal description, this lease number, and an explanation of the release. The release shall only be valid if approved by LESSOR through the execution of a release of lease instrument with the same formality as this lease. Upon release of all or any part of the leased premises or upon termination or expiration of this lease, all improvements, including both physical structures and modifications to the leased premises shall become the property of LESSOR, unless LESSOR gives written notice to LESSEE to remove any or all such improvements at the expense of LESSEE. The decision to retain any improvements upon termination or expiration of this lease shall be at LESSOR'S sole discretion. Prior to surrender of all or any part of the leased premises a representative of the Division of State Lands, Department of Environmental Protection shall perform an on-site inspection and the keys to any building on the leased premises

shall be turned over to the Division. If the improvements do not meet all conditions as set forth in paragraphs 19 and 35 herein, LESSEE shall pay all costs necessary to meet the prescribed conditions.

29. BEST MANAGEMENT PRACTICES: LESSEE shall implement applicable Best Management Practices for all activities conducted under this lease in compliance with paragraph 18-2.018(2)(h), Florida Administrative Code, which have been selected, developed, or approved by LESSOR or other land managing agencies for the protection and enhancement of the leased premises.

30. PROHIBITIONS AGAINST LIENS OR OTHER ENCUMBRANCES: Fee title to the leased premises is held by LESSOR. LESSEE shall not do or permit anything to be done which purports to create a lien or encumbrance of any nature against the real property contained in the leased premises including, but not limited to, mortgages or construction liens against the leased premises or against any interest of LESSOR therein.

31. PARTIAL INVALIDITY: If any term, covenant, condition or provision of this lease shall be ruled by a court of competent jurisdiction, to be invalid, void, or unenforceable, the remainder shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

32. ARCHAEOLOGICAL AND HISTORIC SITES: Execution of this lease in no way affects any of the parties' obligations pursuant to Chapter 267, Florida Statutes. The collection of artifacts or the disturbance of archaeological and historic sites on state-owned lands is prohibited unless prior authorization has been obtained from the Department of

State, Division of Historical Resources. The Management Plan prepared pursuant to Chapter 18-2, Florida Administrative Code, shall be reviewed by the Division of Historical Resources to insure that adequate measures have been planned to locate, identify, protect and preserve the archaeological and historic sites and properties on the leased premises.

33. SOVEREIGNTY SUBMERGED LANDS: This lease does not authorize the use of any lands located waterward of the mean or ordinary high water line of any lake, river, stream, creek, bay, estuary, or other water body or the waters or the air space thereabove.

34. ENTIRE UNDERSTANDING: This lease sets forth the entire understanding between the parties and shall only be amended with the prior written approval of LESSOR.

35. MAINTENANCE OF IMPROVEMENTS: LESSEE shall maintain the real property contained within the leased premises and any improvements located thereon, in a state of good condition, working order and repair including, but not limited to, keeping the leased premises free of trash or litter, maintaining all planned improvements as set forth in the approved Management Plan, meeting all building and safety codes in the location situated and maintaining any and all existing roads, canals, ditches, culverts, risers and the like in as good condition as the same may be on the effective date of this lease.

36. GOVERNING LAW: This lease shall be governed by and interpreted according to the laws of the State of Florida.

37. SECTION CAPTIONS: Articles, subsections and other captions contained in this lease are for reference purposes only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this lease or any provisions thereof.

38. ADMINISTRATIVE FEE: LESSEE shall pay LESSOR an annual administrative fee of \$300 pursuant to subsection 18-2.020(8), Florida Administrative Code. The initial annual administrative fee shall be payable within thirty days from the date of execution of this lease agreement and shall be prorated based on the number of months or fraction thereof remaining in the fiscal year of execution. For purposes of this lease agreement, the fiscal year shall be the period extending from July 1 to June 30. Each annual payment thereafter shall be due and payable on July 1 of each subsequent year.

39. SPECIAL CONDITIONS: The following special conditions shall apply to this lease.

(1) LESSEE agrees that FDEP shall have the right of ingress and egress to from and upon the leased premises to conduct testing, ground water monitoring, wetlands restoration, and environmental restoration.

(2) LESSEE agrees to submit all development plans to the State of Florida Department of Environmental Protection, Division of State Lands, Bureau of Public Land Administration for review and approval before development begins.

(3) LESSEE agrees to place any material removed from the ditch areas located on and immediately adjacent to the site either within

the boundaries of the leased premises or will dispose of the ditch materials in a manner approved by FDEP. For soils and sediments removed from the leased premises, LESSEE agrees to develop an agreement, to be included in the management plan, for review and approval by FDEP.

(4) LESSEE agrees to install and maintain fencing around the leased premises to prevent trespassing.

IN WITNESS WHEREOF, the parties have caused this lease to be executed on the day and year first above written.

BOARD OF TRUSTEES OF THE INTERNAL
IMPROVEMENT TRUST FUND OF THE
STATE OF FLORIDA

Witness

Print/Type Name

Witness

Print/Type Name

By: _____ (SEAL)
GLORIA C. NELSON, OPERATIONS AND
MANAGEMENT CONSULTANT MANAGER
BUREAU OF PUBLIC LAND
ADMINISTRATION, DIVISION OF STATE
LANDS, STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

"LESSOR"

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by Gloria C. Barber, as Operations and Management Consultant Manager, Bureau of Public Land Administration, Division of State Lands, State of Florida Department of Environmental Protection, as agent for and on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida. He is personally known to me.

Notary Public, State of Florida

Print/Type Notary Name

Commission Number:

Commission Expires:

Approved as to Form and Legality

By: _____

DEP Attorney
SEMINOLE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISSIONERS

By: _____

Witness

Print/Type Name

Print/Type Name

Witness

Title:

Print/Type Name

(OFFICIAL SEAL)

ATTEST: _____
County Administrator and Ex-Officio
Clerk of the Board of County
Commissioners of Seminole
County

"LESSEE"

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____
day of _____ 20____ by _____ and
_____, as _____ and
_____ respectively, on behalf of the
Board of County Commissioners of Seminole County, Florida. They are
personally known to me.

Notary Public, State of Florida

Print/Type Notary Name

Commission Number:

Commission Expires:

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY

MARYANNE MORSE, Clerk to the
Board of County Commissioners
in and for Seminole County,
Florida.

Carlton D. Henley, Chairman

Date: _____

For Use and Reliance of Seminole
County Only. Approved as to Legal
Form and Sufficiency.

As authorized for execution by
the Board of County Commissioners
at their August 28, 2007 regular
meeting.

County Attorney

STATE OF FLORIDA
COUNTY OF SEMINOLE

The foregoing instrument was acknowledged before me this _____
_____ day of _____ 2007, by _____
and _____, as _____
and _____ respectively, on behalf of the Board
of County Commissioners of Seminole County, Florida. They are
personally known to me.

Notary Public, State of Florida

Print/Type Notary Name

Commission Number:

Commission Expires:

EXHIBIT "A"

LEGAL DESCRIPTION OF THE LEASED PREMISES

All those certain lands known as University of Florida Experiment Station properties as described in deeds from The State Board of Education to the Trustees of the Internal Improvement Trust Fund and recorded in Official Records Book 833, Pages 120-122, and Official Records Book 833, Pages 126-128, Public Records of Seminole County, Florida.

**Removal Action Report
Central Florida Research and Education Center**

**Institute of Food and Agricultural Sciences
University of Florida
2700 Celery Road
Sanford, Seminole County, Florida**

Prepared for

Site Investigation Section
Florida Department of Environmental Protection
2600 Blair Stone Road
Tallahassee, Florida

FDEP Site Number:	038SL
Completion Date:	September 18, 2006
Contract Number:	HW507
Prepared by:	LFR Inc.
LFR Project Number:	004-11130-12



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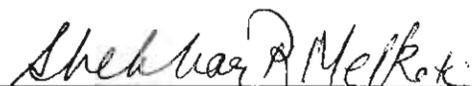
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- 6A Proposed Area of Excavation, Building 7010 Area
- 6B Area of Soil Excavation, Building 7010 Area
- 6C Area of Soil Excavation and Confirmatory Sampling Locations, Building 7010 Area

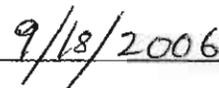
- 7A Proposed Area of Excavation, Building 7029 Area
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CERTIFICATION

Hydrogeologic and geologic information, conclusions, and recommendations in this document have been prepared under the supervision of and reviewed by a LFR Inc. Florida Professional Geologist.



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Date

1.0 INTRODUCTION

LFR Inc. (LFR) has prepared this Removal Action Report for the Florida Department of Environmental Protection (FDEP) to describe recent remedial activities that were conducted at the University of Florida's Institute of Food and Agricultural Sciences (IFAS) Central Florida Research and Education Center (CFREC) located at 2700 Celery Avenue, Sanford, Florida ("the Site"; Figure 1).

The work was performed as part of the FDEP State-Owned Lands Cleanup under Hazardous Waste Site Cleanup Services Contract Number HW507 and Task Assignment Number SL18L; the FDEP Site Investigation Section site number is 038SL. Remedial actions at the Site were conducted between February and June 2005. This report describes the remedial activities, presents the results of confirmation samples, and provides recommendations for future actions at the Site.

2.0 BACKGROUND

The CFREC facility is located in Seminole County, south of Lake Monroe, approximately 2 miles east of Sanford on State Road 415 (Celery Avenue). The Site is located in Section 29, Township 19 South, Range 31 East and is approximately centered at latitude 28°48.140' North and longitude 81°14.075' West.

The CFREC facility was established in 1933 and consisted of approximately 20 buildings on 65 acres of land, with most of the facility devoted to field crops (e.g., celery). Figure 2 is a site map of the CFREC facility. The buildings include offices, laboratory facilities, maintenance barns, greenhouses, and storage facilities. Research activities include cultivar evaluations, plant-nutrition studies, pest management, and studies of control measures for plant disease, insects, weeds, and nematodes. Programs dealing with reclamation of wastewater and biomass production using aquatic plants and management of aquatic insect pests were also present. The facility began agricultural-research operations in 1933, with subsequent expansions and facility improvements in the 1940s, 1950s, and 1970s. Operations at the facility were terminated in 2000, and the facility is currently abandoned.

Numerous site assessments and remedial activities were undertaken by FDEP to facilitate transfer of the Site to Seminole County. Seminole County plans to use the Site for public-recreational activities (baseball and soccer fields, tennis courts, walking/bike paths, and park areas) and for the construction of a stormwater system that will eventually drain to the north into Lake Monroe. Information concerning the conceptual design of the proposed stormwater system is presented in Professional Engineering Consultants, Inc. (2001). Seminole County had also planned to construct a public school at the southern portion of the Site. Reportedly, plans for the construction of the public school have been cancelled.

3.0 PREVIOUS SITE INVESTIGATIONS

Previous site investigations at the Site have historically focused upon numerous areas of concern (AOCs), typically designated by the nearest building on the CFREC facility. The AOCs were associated with a variety of previous research and agricultural uses, including pesticide/herbicide storage, disposal and mix/rinse activities, laboratories, waste storage, vehicle maintenance and fueling and, as such, were thought to be more likely to be affected. These AOCs, where previous site investigations were historically focused upon, generally include, from south to north (Figure 2):

- Pump House Area near buildings 7021, 7022, and 7023
- Greenhouse Area near buildings 7003 through 7007
- Building 7001
- Buildings 7008 and 7009
- Building 7010
- Building 7029
- Building 7011
- Buildings 7012 and 7017
- former Pesticide Burial/Dump Area (PBDA), located to the extreme north of the Site
- surface-water drainage ditches

The following is a brief summary of previous environmental assessment activities:

W. B. Ennis (1985)

In 1985, IFAS conducted a Preliminary Assessment (PA; Ennis 1985) and identified nine AOCs related to pesticide and hazardous-chemical handling, storage, and disposal at the facility. Since 1985, the nine initial AOCs have been addressed to varying degrees and three additional areas were added for a total of 12 AOCs.

Environmental Science and Engineering, Inc. (1986 to 1996)

Environmental Science and Engineering (ESE; now MACTEC Engineering and Consulting, Inc. [MACTEC]) conducted a site investigation (ESE 1986) and contamination assessment (ESE 1989) that documented the occurrences of various pesticides and hazardous chemicals in soil and groundwater at the facility. ESE (1996) prepared a Contamination Assessment Addendum Work Plan to further assess affected soil and groundwater at each AOC.

Harding ESE (2001 to 2003)

Harding ESE (now MACTEC; 2001) reported on additional assessment activities conducted in accordance with the 1996 ESE work plan. Harding ESE (2002) conducted further site assessments to delineate the horizontal and vertical extent of affected soil and groundwater previously identified at various AOCs.

MACTEC (2003)

- MACTEC (2003a) conducted a program-overview site visit.
- MACTEC (2003b) reported groundwater-sampling analytical results.
- MACTEC (2003c) conducted a statistical evaluation to determine sufficient characterization of arsenic levels in non-point source soils, such that the significantly affected areas associated with point sources could be identified.
- MACTEC (2003d) conducted soil-sampling activities to evaluate the extent and magnitude of arsenic and copper contamination in the non-point source areas of the Site, including drainage ditches. During this sampling event, MACTEC also performed an evaluation and testing of a rapid on-site field test kit for arsenic analysis.
- MACTEC (2003e) conducted irrigation ditch soil sampling associated with the non-point source-area sampling described above (MACTEC 2003d).

LFR (2003 to 2004)

- LFR (2003a) prepared a Removal Action Work Plan to address data-gap sampling and remediation of affected soil and/or groundwater at the Greenhouse Area near buildings 7003 through 7007.
- LFR (2003b) prepared a Pre-Removal Action Summary Report to address the excavation and transport of affected soils at the Greenhouse Area.
- LFR (2003c) prepared a Removal Action Work Plan to address data-gap sampling and remediation of affected soils at the Pump House Area near buildings 7021, 7022, and 7023.
- LFR (2004a) prepared an addendum to Pre-Removal Action Summary Report to further define the proposed area of soil excavation at the Greenhouse Area.
- LFR (2004b) prepared a Removal Action Work Plan to address data-gap sampling and soil-removal activities at buildings 7001, 7008/7009, 7010, 7011, 7012/7017, and 7029.
- LFR (2004c) prepared a Pre-Removal Action Summary Report to identify and describe soil excavation, transport, and disposal activities at the Pump House Area.
- LFR (2004d) prepared a Pre-Removal Action Summary to identify proposed areas of soil excavation near buildings 7001, 7008/7009, 7010, 7011, 7012/7017, and 7029.

- LFR (2004e) prepared a Removal Action Work Plan to summarize proposed removal of affected soil and sediment from the former PBDA.
- LFR (2005a) prepared a draft Sampling and Analysis Plan to describe supplemental surface-soil sampling within the ditches, background surface-soil sampling, and a well survey. FDEP is currently reviewing the plan.

4.0 REMOVAL ACTIONS

This section describes the removal action objectives and goals, soil and groundwater quality, and the removal actions conducted at the Site. The volume of soil excavated and results of confirmation soil-sampling locations at each AOC are also discussed.

Only a qualitative discussion of historical sampling is presented below in order to familiarize the reader with the issues that were affecting the soil and/or groundwater quality at each AOC where removal actions were undertaken. Detailed analytical results of past soil and/or groundwater sampling are presented and discussed in detail in the various contamination assessment reports and/or removal action work plans identified in Section 3.0 above.

4.1 Removal Action Objectives and Removal Action Goals

The removal action objectives for the Site were to eliminate the direct human-health exposure potential and the groundwater-leaching potential. Based on the horizontal and vertical extent of affected soils, excavation and off-site disposal of affected soils was identified as the most cost-effective remedy for the Site. The excavated areas were backfilled with certified clean soil that was brought in from an off-site source. In addition to the "clean certification" provided by the source pit, representative samples of the backfill soils were also collected and analyzed for target chemicals at a FDEP-approved laboratory. The representative backfill soils were analyzed for contaminants of interest, which typically included metals (including arsenic and copper) and organochlorine pesticides (OCPs). Additionally, representative samples of backfill soil for the PBDA area were also analyzed for volatile organic compounds (VOCs), polynuclear aromatic hydrocarbons (PAHs), total organic carbon (TOC), and sieve analyses.

Backfill to the original grade surface was initially proposed for the entire Site, with the exception of northern-central area near buildings 7011 and 7012. In the area near buildings 7011 and 7012, backfilling was proposed to 2 feet below ground surface (bgs; LFR 2004d), as Seminole County was planning to construct a stormwater-retention pond. However, as it became apparent that Seminole County's plans for the construction of the stormwater-retention pond were not imminent, FDEP, during removal activities, requested that this area also be backfilled to grade surface to prevent water ponding/stagnation.

Historical sampling activities at the Site since 1985 have indicated that soil and groundwater at the Site are affected primarily by metals (typically arsenic and copper) and OCPs. Low levels of VOCs and PAHs were also detected in the PBDA area soil samples. The Removal Action Goals (RAGs) that were used to guide the extent of the removal actions were the Chapter 62-777, Florida Administrative Code (FAC; FDEP 1999) residential direct-exposure soil cleanup target levels (SCTLs), groundwater-leachability SCTLs, and/or groundwater cleanup target levels (GCTLs). (It should be noted that the FDEP Chapter 62-777, FAC, SCTLs and GCTLs that were as used as RAGs, were subsequently revised by FDEP in April 2005. The SCTLs and GCTLs of many contaminants detected at the Site changed—most notably, the arsenic direct-exposure SCTL changed from 0.8 milligram per kilogram [mg/kg] to 2.1 mg/kg, and the copper residential direct-exposure SCTL changed from 110 mg/kg to 150 mg/kg.)

The FDEP (1999) SCTLs and GCTLs were used as RAGs for all contaminants of interest, excepting arsenic, which was based on site-specific data. Due to the widespread detection of arsenic in the surface soil at the CFREC facility, FDEP tasked MACTEC (2003d) to collect and analyze surface-soil samples (0 to 2 feet bgs) for arsenic from throughout the CFREC facility. Based on these concentrations, the 95% Upper Confidence Level (UCL) for arsenic in the surface soil was calculated to identify a minimum concentration at which detected arsenic from the facility was not considered significantly elevated. The 95% UCL calculated for the entire facility station was 4.1 mg/kg. Because the FDEP (1999) commercial/industrial direct-exposure SCTL for arsenic (3.7 mg/kg) was comparable to the 95% UCL of 4.1 mg/kg, FDEP established 3.7 mg/kg as the RAG for arsenic at the CFREC facility.

Due to the detection of elevated concentrations of arsenic in groundwater at the Pump House Area, a site-specific groundwater-leachability SCTL for arsenic was calculated using the Synthetic Precipitation Leaching Procedure (SPLP). The site-specific groundwater-leachability SCTL was calculated to be 3.43 mg/kg (LFR 2004c) and was used as the RAG for the removal of arsenic-affected soil at the Pump House Area only.

Subsequent to the review and approval of the various removal action work plans prepared by LFR for the Site, the St. Johns River Water Management District (SJRWMD) requested (approved by FDEP) additional volumes of soil based on surface-water leachability SCTLs, also be excavated and disposed of off site.

4.2 Site Preparation

LFR initiated the removal actions at the Site on February 28, 2005. Big Bend Environmental Services, Inc. (BBES), a certified environmental remedial contractor, was contracted by LFR to conduct soil excavation, demolish various buildings and sheds, dispose of excavated media off site, and backfill the excavations. MACTEC was contracted by LFR to oversee the removal actions at the former PDBA, including removal of non-native/intrusive vegetation, removal of affected soils/sediments, and re-planting of vegetation. Environmental Conservation Laboratories, Inc. (ENCO) of

Orlando, Florida, was subcontracted for analytical services. Health and safety monitoring was conducted by LFR personnel.

Site-preparation activities included clearing; grubbing; marking the areas of excavation; demolishing the various buildings, pole-barns, and sheds; removing and/or re-locating fences; and abandoning all monitoring wells (except MW-9 and MW-10, located in the south right-of-way along 20th Street, south of the Pump House Area).

At the former PBDA, desirable plants and trees were marked by a MACTEC biologist. Subsequently, exotic and intrusive plants and trees were cut down using a chain saw. Vegetation cut from above the ground (e.g., tree trunks, limbs) was permitted to be burned at the Site. However, the root bases (root balls) were disposed of off site along with the affected sediments.

Underground utilities in the areas of excavation were marked by a professional subcontractor. Concrete pads at various AOCs and sediment and water from the evaporation ponds were removed and disposed of off site. The evaporation ponds were also demolished for off-site disposal.

Prior to transporting certified clean soil to the Site for backfilling excavated areas, representative soil samples were collected at the source pit and analyzed for the various contaminants of interest. Based on the analytical results, which were either below detection limits or below the RAGs, appropriate volumes of soil were transported to the Site and staged at strategic locations for backfilling.

Representative sediment samples from the wetlands were also collected and analyzed for physical parameters, such as total organic carbon, grain size distribution (sieve analyses), and compaction characteristics (Proctor test). The results were used to prepare soil for backfilling that closely matched the wetlands sediments.

4.3 Soil Excavation

BBES conducted the soil excavation with LFR and MACTEC (under subcontract to LFR) oversight; LFR collected the confirmation samples. A track hoe and/or back hoe was used to perform much of the excavation. The excavated materials were then transferred to a front-end loader and transported to the nearest staging area. The excavated soil was placed at temporary staging areas that were constructed near each excavation site to facilitate better access for transport trucks. The staging areas for affected soil were constructed using 3.0-millimeter plastic sheeting. Subsequently, soil-hauling trucks were used to transport the affected soil to a Class I landfill.

Building debris, bricks, concrete from the evaporation pond/associated concrete pads, sumps, drains pipes, and other debris from demolished buildings were staged in roll-off bins and later transported and disposed of off-site as construction and debris (C&D) waste.

After excavation was completed, LFR collected confirmatory soil samples as proposed from the side walls and the base of each excavation. To facilitate backfilling, samples were analyzed on three-day, five-day, or seven-day turnaround times. After review of the analytical results and confirming that the extent of the excavation met the proposed RAGs, the excavated areas were backfilled with clean-certified soil. The confirmation samples were typically analyzed for one or more of the following:

- arsenic, copper, and lead using United States Environmental Protection Agency (EPA) Method 6010
- mercury using EPA Method 7421
- OCPs using EPA Method 8081
- PAHs using EPA Method 8270
- VOCs using EPA Method 8260

The excavated soil from each AOC was transported and disposed of off site at a Class I landfill; the building debris was disposed of off-site as C&D waste. The backfilled areas were graded to match current site conditions, but not compacted to any geotechnical standards. Subsequent to backfilling, each area was seeded with grass.

The analytical results of the confirmation samples are summarized in Tables 1 through 10. The detailed analytical results as provided by ENCO, including sample chain-of-custody forms, will be included on a compact disc (CD) and provided to FDEP separately. The CD will also include the daily field notes, analytical results of samples collected during health and safety monitoring (discussed below), waste manifests, and analytical results of representative samples of soil (which were either below detection limits or below RAGs) used to backfill excavated areas.

4.4 Health and Safety Monitoring Summary

LFR observed and implemented health and safety guidelines, procedures, and requirements as specified in the Health and Safety Plan for Soil Excavation Activities at Sanford (LFR 2005b).

4.4.1 Site Safety Officer

The designated Site Safety Officer (SSO) for the Site was Spencer Mitchell (LFR) or his representative. The SSO's duties included:

- conducting daily tailgate safety meeting before each day's activities began
- communicating unforeseen or unusual conditions at the Site to the Project Manager and implementing suitable safety precautions
- limiting access at the Site to authorized personnel
- conducting site-safety inspections at the start of each day's activities

4.4.2 Air Monitoring

LFR conducted dust and air monitoring periodically (approximately every 30 minutes) during each day's activities using a mini-Real-time Aerosol Monitor (mini-RAM) and an organic vapor analyzer (OVA). The action levels for inhalation of chemicals of concern and dust were not exceeded at any time during the excavation. Proper protective equipment and procedures were also observed whenever danger from dermal contact and incidental ingestion were inherent.

LFR also conducted personal air monitoring for select metals and OCPs for the person with the highest potential for exposure to target compounds. In addition to this, LFR conducted compound-specific air monitoring at site boundaries to evaluate potential off-site migration of airborne contaminants. The soil-excavation areas selected for monitoring included the former PBDA, Building 7023, buildings 7011 and 7012, buildings 7003 through 7007, buildings 7008 and 7009, Building 7010, and Building 7029. The air samples collected from the air-monitoring pumps were analyzed by a certified industrial hygienist at DataChem Laboratories Inc. in Cincinnati, Ohio. The results from the monitoring were as follows:

- The metals selected for analysis were copper, lead, arsenic, and mercury using EPA Methods 6010 and 7471. Metals were not detected in the samples.
- OCPs were analyzed using EPA Method 8081; no OCPs were detected.

Copies of the daily tailgate safety meetings and other relevant health and safety documents recorded during the active project period, as well as laboratory results of air-monitoring samples, will be included on the CD.

Removal actions conducted at each AOC are described below.

4.5 Pump House Area

The Pump House Area (Figure 3A) is located at the southern boundary of the CFREC facility; it included buildings 7021, 7022, and 7023 (Figure 2). Building 7023 was the Floridan-Aquifer-well pump house, and Building 7021 was a former vehicle/tractor shed; both buildings were reported to be former agrochemical-storage buildings (Harding ESE 2002). Mixing and loading of agrochemicals reportedly occurred near the pump house. Building 7022 was apparently an outhouse with no plumbing. The three buildings were constructed of steel siding with corrugated steel roofs. The buildings were located at the southern boundary of the facility, just to the north of 20th Street with no other IFAS buildings near them; however, residential homes are located to the south of 20th Street.

Most recent soil-sampling data from the February and March 2004 (LFR 2004c) sampling events indicated that concentrations of arsenic, toxaphene, and dieldrin exceeded the most conservative FDEP SCTLs (FDEP 1999; 0.8 mg/kg [residential direct exposure], 1.0 mg/kg [residential direct exposure], and 0.004 mg/kg

[groundwater-leachability], respectively); the sampling depths ranged up to 3 feet bgs. Arsenic concentrations (ranging from 0.82 to 98 mg/kg) exceeding the residential direct-exposure SCTL were detected in 37 samples throughout the Pump House Area. Arsenic was above the commercial/industrial direct-exposure SCTL (3.7 mg/kg) near Building 7023. Previous soil sampling by Harding ESE (2002) detected copper in numerous soil samples at concentrations ranging up to 390 mg/kg, exceeding the copper SCTL of 110 mg/kg (FDEP 1999).

Toxaphene concentrations (ranging from 1.1 to 4.9 mg/kg) exceeded the SCTL of 1 mg/kg in 11 samples throughout the Pump House Area. The highest concentrations of toxaphene were detected around Building 7023. Dieldrin concentrations (ranging from 0.0054 to 0.036 mg/kg) exceeded the groundwater-leachability SCTL of 0.004 mg/kg in three samples.

Arsenic concentrations (ranging from 10 to 930 micrograms per liter [$\mu\text{g/l}$]) were detected above the GCTL of 10 $\mu\text{g/l}$ (FDEP 2005) in 13 of the 15 shallow-depth monitoring wells (LFR 2004c). Arsenic was below detection limits (10 $\mu\text{g/l}$) in the five deeper wells. OCPs were not detected in groundwater.

4.5.1 Proposed Removal Action Goals for the Pump House Area

Arsenic, toxaphene, copper, dieldrin, and 4,4'-dichlorodiphenyltrichloroethane (DDT) were the primary contaminants detected at the Pump House Area. Copper, dieldrin, and 4,4'-DDT were each detected to be above the former residential direct-exposure SCTLs in the surface soil (0 to 2 feet); these chemicals were detected at locations surrounded by or coexisting with areas where toxaphene and arsenic concentrations exceeded the respective SCTLs. Although dieldrin exceeded the groundwater-leachability SCTL of 0.004 mg/kg in numerous soil samples, groundwater-leachability potential was assumed to be minimal as dieldrin was not detected in groundwater. The RAGs were based on arsenic and toxaphene detections.

The RAGs proposed (LFR 2004c) for the Pump House Area included:

- removal of arsenic-affected soil to concentrations to below the site-specific groundwater-leachability SCTL of 3.43 mg/kg
- removal of toxaphene-affected soils to concentrations below the residential direct-exposure SCTL of 1 mg/kg (FDEP 1999)

4.5.2 Removal Actions at the Pump House Area

The proposed removal actions for the Pump House Area included:

- demolishing and off-site disposal of buildings 7021, 7022, and 7023

- properly abandoning 13 out of the 15 monitoring wells (Monitoring wells MW-9 and MW-10, located along the south right-of-way on 20th Street, were to be preserved for future groundwater monitoring.)
- excavating and disposing of soil from ground surface to a depth of approximately 1 to 2 feet bgs at much of the Pump House Area, and from ground surface to 4 feet bgs in a smaller area surrounding Building 7023
- collecting a sufficient number of confirmatory samples for analysis to confirm that RAGs are met
- backfilling the excavated area with certified clean soil and compacting with the excavator bucket to the existing grade
- hydro-seeding the area for grass

Figures 3A, 3B, and 3C show the originally proposed footprint of excavation, the actual area excavated, and the confirmatory sampling analytical results, respectively. Analytical data are also summarized in Table 1. With the exception of samples 006 (1 to 2 feet bgs) and 009 (0 to 1 foot bgs), target analytes were either below detection limits, below the RAGs, or below applicable SCTLs. In samples 006 and 009, arsenic was detected at 5.1 mg/kg and 20 mg/kg, respectively, above the proposed RAG of 3.43 mg/kg. Sample 006 was collected in the ditch; sample 009 was collected just north of the ditch, near the fence. In the vicinity of sample 006 location, excavation depth was extended to 2 feet bgs. Near sample 009 location, excavation was extended to 5 feet in the westerly direction and to a depth of 2 feet bgs.

The volume of affected soil excavated and transported off site from the Pump House Area was 1,216 cubic yards (yds³; 1,946 tons). The originally proposed volume was 938 yds³ (1,500 tons); an additional 144 yds³ (230 tons) was subsequently requested by SJRWMD.

4.6 Greenhouse Area

The Greenhouse Area (Figure 4A) consists of an approximately 180-foot by 60-foot area that included buildings (greenhouses) 7003 through 7007 (each approximately 28 feet long by 17 feet wide). Each greenhouse was constructed of a concrete-block lower wall with a glass-framed upper wall, and a glass-framed, gabled-roof. The interior of each greenhouse consisted of a central concrete walkway and gravel floor. The Greenhouse Area is surrounded by laboratory-area buildings 7001 and 7002 to the east and north, respectively. To the west and south, the Greenhouse Area is surrounded by a residence and Celery Avenue, respectively (Figure 2).

Soil-analytical data from the Greenhouse Area showed arsenic, mercury, and copper in the 0 to 2 feet bgs samples at concentrations exceeding their most conservative FDEP (1999) SCTLs (0.8 mg/kg [arsenic residential direct exposure], 2.1 mg/kg [mercury groundwater-leachability], and 110 mg/kg [copper residential direct exposure]). At 0 to 1 foot bgs or 1 to 2 feet bgs, arsenic, copper, and mercury were detected at concentrations of up to 9.9 mg/kg, 300 mg/kg, and 450 mg/kg, respectively, exceeding

the respective SCTLs in numerous samples. In the 2-to-3-foot-bgs soil samples (LFR 2004a), arsenic was detected in three samples collected south of Building 7007 at concentrations ranging from 5.5 to 64 mg/kg; however, only one sample (arsenic concentration of 64 mg/kg) exceeded the FDEP (1999) groundwater-leachability SCTL of 29 mg/kg.

Neither arsenic, copper, nor mercury concentrations were detected in the groundwater samples at the Greenhouse Area above the FDEP (1999) GCTLs.

4.6.1 Proposed Removal Action Goals for the Greenhouse Area

The proposed RAGs for the Greenhouse Area included:

- elimination of the direct-exposure potential to the arsenic- and copper-affected soils (The site-specific 95% UCL of 3.7 mg/kg and the [FDEP 1999] residential direct-exposure SCTL of 110 mg/kg were the RAGs for arsenic and copper, respectively.)
- elimination of groundwater-leaching potential for mercury detected in the soils (The groundwater-leachability SCTL of 2.1 mg/kg was adopted as the RAG for mercury.)

4.6.2 Removal Actions at the Greenhouse Area

The removal actions for the Greenhouse Area included:

- demolishing and off-site disposal of buildings (greenhouses) 7003 through 7007
- properly abandoning the six monitoring wells
- excavating and disposing of soil from 0 to 2 feet bgs throughout much of the Greenhouse Area
- excavating and disposing of soil from ground surface to 3 feet bgs in a smaller area, south of Building 7007, to address the localized elevated arsenic levels detected between 2 to 3 feet bgs
- collection a sufficient number of confirmatory samples for analysis to confirm that RAGs are met
- backfilling the excavated area with certified clean soil and compacting with the excavator bucket to the existing grade
- seeding the area for grass

Figures 4A, 4B, and 4C show the footprint of proposed area of excavation, actual excavated area, and confirmatory sampling results, respectively. Table 2 presents the analytical results of the soil-confirmation samples. Arsenic and mercury were below the RAGs in the confirmation samples. Copper was detected in a few samples along the western boundary of the Greenhouse Area in confirmatory samples 007, 008, 009, 017,

and 018 at concentrations ranging from 130 to 190 mg/kg. Based on these copper detections, excavation in the southwest corner was extended by approximately 20 feet to the south; confirmatory sample 020 exhibited copper at 99 mg/kg. Along the western boundary, in the vicinity of sample 009, where copper concentration (160 mg/kg) was above the RAG, soil was excavated to the fence line. Off-site sampling to address the copper detections above the RAG in samples 008 and 009 will be addressed by LFR (2005a), as part of the Ditch and Background Sampling.

The actual volume of affected soil excavated from the Greenhouse Area was 819 yds³ (1,310 tons); the originally proposed volume was 400 yds³ (640 tons).

4.7 Building 7001

Building 7001 is located near the facility's main entrance on Celery Road (Figure 2) and previously housed the main administrative offices for the facility, a kitchen, four laboratories, and a film-developing darkroom. There is one 750-gallon septic tank and three concrete-bottomed laboratory sand sumps (Sand Sumps A, B, and C; each 3 feet in diameter and 8 feet in depth) located north of Building 7001. The sumps reportedly drained the laboratories (and probably the darkroom) within the building and are connected to a sewer line that runs to the west (ESE 1996). The septic tank was reported to accept only sanitary waste and has not been investigated.

Previous investigations at this area (Ennis 1985, ESE 1986, Harding ESE 2001 and 2002, MACTEC 2003b, and LFR 2004b) focused on the evaluation of the three sumps as potential sources that could have affected the soil and groundwater. Water and sediment samples were collected from the sumps, and monitoring wells were installed near the sumps and Building 7001 to evaluate groundwater quality. The samples were analyzed for OCPs, organophosphorus pesticides (OPPs), VOCs, chlorinated herbicides (CHs), Base/Neutral Acid Extractable compounds (BNAs), Resource Conservation and Recovery Act (RCRA) metals, and copper. A sample for analysis using the toxicity characteristic leaching procedure (TCLP) was collected from sediment at each sump and analyzed for the above constituents and also for corrosivity, ignitability, and reactivity.

With the exception of low levels of cadmium in one sump, water samples were below detection limits for the various chemicals analyzed. In the sediment samples, OCPs, OPPs, PAHs, and metals were detected in elevated concentrations. The sediments were characterized as hazardous due to corrosivity. The contents of the three sumps were removed and the interior surfaces cleaned (Harding ESE 2002).

Earlier monitoring well sampling in this area (Harding ESE (2002) and MACTEC (2003b) had detected various organic chemicals and metals slightly above respective GCTLs. Subsequent monitoring-well sampling by LFR (2004b) indicated only barium and 1,2-dichloropropane, but at levels below their GCTLs.

With the exception of monitoring well abandonment, no other removal actions were conducted at this area. The contents of the three sumps had been removed in 2002.

4.8 Buildings 7008 and 7009 Area

Building 7008 was a small, covered shade house with an unpaved floor, and Building 7009 was a small, uncovered research greenhouse with an unpaved floor. The two buildings (Figure 5A) are located next to one another and are located west-northwest of Building 7001, along the western boundary of the CFREC facility (Figure 2).

Soil sampling (Harding ESE 2001, LFR 2004b, and LFR 2004d) in this area (samples were analyzed for OCPs, OPPs, BNAs, CHs, and metals) indicated that the soil, from 0 to 2 feet bgs, was affected with arsenic at concentrations in excess of the FDEP (1999) residential direct-exposure SCTL of 0.8 mg/kg; a few soil samples exceeded the proposed arsenic cleanup goal (site-specific 95% UCL) of 3.7 mg/kg for the CFREC facility. The most recent groundwater sampling by LFR (2004d) of the four shallow-depth (15 feet bgs) monitoring wells in this area did not detect arsenic above the GCTL of 10 $\mu\text{g/l}$.

4.8.1 Proposed Removal Action Goal for Buildings 7008 and 7009 Area

The proposed RAG for buildings 7008 and 7009 included elimination of the direct-exposure potential to the arsenic-affected soils. The site-specific 95% UCL of 3.7 mg/kg was established as the RAG for arsenic.

4.8.2 Removal Actions at Buildings 7008 and 7009 Area

The removal actions for the buildings 7008 and 7009 area included:

- demolishing and off-site disposal of the buildings 7008 and 7009
- properly abandoning the three monitoring wells
- excavating and disposing of soil from 0 to 2 feet bgs
- collecting a sufficient number of confirmatory samples for analysis to confirm RAGs are met
- backfilling the excavated area with certified clean soil and compacting with the excavator bucket to the existing grade
- seeding the area for grass

Figures 5A, 5B, and 5C show the footprint of proposed area of excavation, actual excavated area, and confirmatory sampling results, respectively. Table 3 presents the analytical results of the soil-confirmation samples. Twenty-nine soil-confirmation samples were collected from the base or side walls of the excavation to confirm the

arsenic RAG of 3.7 mg/kg was met. Arsenic concentration (up to 9.6 mg/kg) exceeded the RAG in numerous soil samples (002, 004, 007, 008, 012, 017, 023, 026, and 027). At these sample locations, excavation was expanded laterally or vertically. The maximum vertical depth of excavation was to 2 feet bgs, as elimination of potential direct exposure was the remedial goal. Additional sidewall confirmatory samples (028, 033, 031, and 030) were collected; arsenic concentration in the confirmatory samples were below the RAG.

In samples 023 and 027, arsenic was detected at 3.9 mg/kg and 6.9 mg/kg, respectively, exceeding the RAG of 3.7 mg/kg. Additional confirmatory samples to the west (and off-site) will be collected by LFR during Ditch and Background Sampling (LFR 2005a).

The actual volume of affected soil excavated from buildings 7008 and 7009 area was approximately 96 yds³ (154 tons); the originally proposed volume was 45 yds³ (72 tons).

4.9 Building 7010 Area

Building 7010 is located directly north of Building 7001 in the central portion of the CFREC facility (Figure 2) and consists of several vehicle bays and former storage areas for equipment and chemicals (ESE 2002). In addition, two agrochemical mix/rinse areas were identified just to the north of the building (ESE 1986).

Soil and groundwater sampling (Ennis 1985, Harding ESE 2001 and 2002, LFR 2004b and 2004d) detected arsenic, copper, dieldrin, and toxaphene above respective SCTLs and were the primary contaminants affecting the soil and groundwater quality. Copper and OCP concentrations in soil generally decreased with depth, from 0 to 2 feet bgs. However, arsenic concentrations in soil varied and showed an increase with depth (from 0 to 3 feet bgs) in a few locations in this area. Groundwater samples were below detection limits for arsenic, copper, and OCPs.

4.9.1 Proposed Removal Action Goals for Building 7010 Area

The proposed RAGs for Building 7010 included:

- elimination of the direct-exposure potential to the arsenic-, copper-, and OCP- (primarily dieldrin and toxaphene) affected soils (The site-specific 95% UCL of 3.7 mg/kg was established as the RAG for arsenic. For copper-, dieldrin-, and toxaphene-affected soils, the FDEP [1999] residential direct-exposure SCTLs of 110 mg/kg, 0.07 mg/kg, and 1 mg/kg, respectively, were set as the RAGs.)
- removal of arsenic-affected soil to the top of the water table (between 3 and 4 feet bgs) at selected locations, where arsenic concentrations showed an increase below 2 feet bgs (A site-specific groundwater-leachability SCTL for arsenic in this area could not be calculated due to poor correlation of SPLP sampling results.)

4.9.2 Removal Actions at Building 7010 Area

The removal actions for the Building 7010 area included:

- properly abandoning the four monitoring wells
- excavating and disposing of arsenic-, copper-, and/or OCP-affected soil from 0 to 2 feet bgs to meet residential direct-exposure SCTLs
- excavating and disposing of arsenic-affected soil to the water table (usually 3 to 4 feet bgs) at a few locations, where arsenic concentrations showed an increase with depth
- collecting a sufficient number of confirmatory samples for analysis to confirm RAGs are met
- backfilling the excavated area with certified clean soil and compacting with the excavator bucket to the existing grade
- seeding the area for grass

Figures 6A, 6B, and 6C show the footprint of proposed area of excavation, actual excavated area, and confirmatory sampling results, respectively. Table 4 presents the analytical results of soil-confirmation samples. Excavation was to 1 foot bgs over much of excavation area. At selected locations, where arsenic concentrations showed an increase with depth, soil was excavated to 2 feet bgs. Twenty-nine soil-confirmation samples were collected and analyzed for copper, arsenic, and OCPs. Arsenic concentrations were below the proposed RAG of 3.7 mg/kg in all samples. With the exception of sample 012, copper concentrations were below the proposed RAG of 110 mg/kg. Excavation was expanded in the area of sample 012, as the copper concentration at 130 mg/kg was below the current residential direct-exposure SCTL of 150 mg/kg.

Dieldrin concentrations exceeded the FDEP (1999) groundwater-leachability SCTL of 0.004 mg/kg in a number of samples; however, concentrations were below the proposed direct-exposure RAG of 0.07 mg/kg. Groundwater-leachability potential of dieldrin was assumed to be minimal as it was not detected in the groundwater.

The base of excavation near sample 001 (in the southwest corner of excavation area) was visibly stained and emitted strong odors. Sample 001 exhibited dieldrin and 4,4'-DDE at 0.042 mg/kg and 3.3 mg/kg, respectively. The FDEP (1999) residential direct-exposure SCTL for 4,4'-DDE was 3.3 mg/kg. The excavation near 001 was extended to the west by 10 feet. The additional confirmation soil sample collected (029) was below RAGs for target analytes.

The actual volume of affected soil excavated from the building 7010 area was approximately 324 yds³ (518 tons); the originally proposed volume was 144 yds³ (230 tons).

4.10 Building 7029 Area

Building 7029 is located in the central portion of the CFREC facility, along the western border of the facility (Figure 2). The building was used for chemical storage and had a concrete mix/rinse pad located to the east (Figure 7A). Located to the north of the building was a subdivided (two sections), 5-foot-deep, fully enclosed, concrete-lined evaporation pond with concrete side walls and a wood covering; a concrete pad that may have been used to mix/rinse agrochemicals is located to the east of the pond. The evaporation pond served as an impoundment for discharges from the various drains from Building 7029 and the building's associated mix/rinse pad.

Numerous soil and groundwater samples were collected and analyzed for VOCs, BNAs, OCPs, OPPs, CHs, and RCRA metals during the course of various investigations (Harding ESE 2001, MACTEC 2003, and LFR 2004b and 2004d). In the soil samples, several VOCs, pesticides, and metals were detected; however, arsenic, copper, and dieldrin were the only contaminants that exceeded respective SCTLs. Arsenic was detected in numerous soil samples above applicable residential direct-exposure SCTLs between the Building 7029 and the ditch located along the western property boundary. Copper exceeded the residential direct-exposure SCTL in the samples collected to the north of the evaporation pond. Generally, concentrations of metals decreased from the 0-to-1-foot interval to the 1-to-2-foot interval. Groundwater analytical results were below detection limits or below applicable GCTLs, with the exception of arsenic, which slightly exceeded the GCTL of 10 $\mu\text{g}/\text{l}$.

Although dieldrin concentrations exceeded the groundwater-leachability SCTL in four soil samples (0 to 1 foot bgs) near the concrete pad associated with the evaporation pond, it was not detected in the groundwater. Dieldrin was not considered to be a chemical of concern at this area as its concentration was well below the residential direct-exposure SCTL of 0.07 mg/kg.

Sediment and water samples were also collected from the two sections of the evaporation pond and analyzed for VOCs, BNAs, OCPs, OPPs, CHs, RCRA metals, and TCLP (Harding ESE 2002). Several VOCs, pesticides, BNAs, and metals were detected at elevated concentrations in the sediment samples. Water samples collected from the pond exhibited pesticides and arsenic, but at relatively low concentrations. Analytical results of water collected from the two sections of the pond were comparable to each other; however, sediment samples varied significantly. Sediment samples analyzed for TCLP were below hazardous-waste characteristics.

4.10.1 Proposed Removal Action Goals for Building 7029 Area

The proposed RAGs for the Building 7029 area included elimination of the direct-exposure potential to the arsenic- and copper-affected soils. The site specific 95% UCL of 3.7 mg/kg was established as the RAG for arsenic. For copper-affected soils, the FDEP (1999) residential direct-exposure SCTL of 110 mg/kg was set as the RAG.

4.10.2 Removal Actions at Building 7029 Area

The removal actions at the Building 7029 area included:

- properly abandoning the monitoring wells and piezometers
- excavating soil from 0 to 2 feet bgs and off-site disposal of arsenic and copper; at the one location (west of Building 7029), where arsenic concentrations increase with depth from the 0-to-2-foot interval, removal of soil to 3 feet bgs
- demolishing and disposing of the evaporation pond and associated concrete pads at Building 7029
- removing and disposing of the water and sediments from the evaporation pond at Building 7029 as non-hazardous waste
- collecting a sufficient number of confirmatory samples for analysis to confirm RAGs are met
- backfilling the excavated area with certified clean soil and compacting with the excavator bucket to the existing grade
- seeding the area for grass

Figures 7A, 7B, and 7C show the footprint of proposed area of excavation, actual excavated area, and confirmatory sampling results, respectively. Soil was excavated to 1 foot bgs in an area to the north the evaporation pond. Much of the area to the south, east, and west of the Building 7029 and evaporation pond was excavated to 2 feet bgs. One small area to the west of Building 7029 was excavated to 3 feet bgs as arsenic concentrations were elevated at depth. Thirty soil-confirmation samples were collected and analyzed for arsenic (samples to the south and west of Building 7029) or copper (samples to the north of the evaporation pond). Table 5 presents the analytical results; data are also summarized on Figure 7C. Arsenic exceeded the RAG of 3.7 mg/kg in only two samples—020 (3.8 mg/kg) and 028 (4.2 mg/kg). At these locations, additional soil was removed to a depth of 2 feet bgs. Copper exceeded the RAG of 110 mg/kg in numerous samples at concentrations ranging from 120 to 200 mg/kg. Additional soil was excavated until confirmation-sampling results indicated copper concentrations to be below the RAG.

Sample 001 (200 mg/kg) and 022 (170 mg/kg) both exceeded the RAG for copper. Off-site sampling will be conducted to the west by LFR (2005a) as part of the Ditch and Background Sampling to evaluate off-site sediment quality in this area.

The actual volume of affected soil excavated from the Building 7029 area was approximately 456 yds³ (730 tons); the originally proposed volume was 63 yds³ (100 tons).

4.11 Building 7011 Area

Building 7011 is located north-northeast of Building 7001 at the north-central portion of the CFREC facility (Figure 2). Building 7011 was used as a barn with a former agrochemical mix/rinse area reportedly located to the northwest of the building (Figure 8A).

Extensive soil and groundwater sampling was conducted in a series of phased site investigations at this area since 1986 (ESE 1986, Harding ESE 2001 and 2002, MACTEC 2003b, and LFR 2004b and 2004d). During the course of these investigations, soil and groundwater samples were analyzed for a variety of contaminants, including VOCs, PAHs, BNAs, total recoverable petroleum hydrocarbons (TRPHs), OCPs, OPPs, CHs, metals, and TCLP. Although several contaminants were detected, only dieldrin, arsenic, and copper consistently exceeded the applicable FDEP (1999) SCTLs. Dieldrin concentrations in numerous soil samples exceeded both the FDEP (1999) residential direct-exposure and groundwater-leachability SCTLs. Arsenic exceeded both the residential and commercial/industrial direct-exposure SCTLs, and copper concentrations exceeded the residential direct-exposure SCTL. Dieldrin and arsenic were also detected in numerous groundwater samples above applicable GCTLs.

4.11.1 Proposed Removal Action Goals for Building 7011

The proposed RAGs for the Building 7011 area included:

- elimination of groundwater-leaching potential of dieldrin and arsenic, and elimination of direct-exposure potential to arsenic- and copper-affected soils
- the FDEP (1999) groundwater-leachability SCTL of 0.004 mg/kg as the RAG for dieldrin; the site-specific 95% UCL of 3.7 mg/kg was established as the RAG for arsenic; and for copper-affected soils, the FDEP (1999) residential direct-exposure SCTL of 110 mg/kg was used as the RAG (Additionally, to address groundwater-leaching potential of arsenic, soil removal was proposed to 3 feet bgs at locations where arsenic concentrations in the soil increased with depth [from the 0-to-2-foot interval].)

4.11.2 Removal Actions at Building 7011 Area

The removal actions for the Building 7011 area included:

- properly abandoning the monitoring wells and piezometers
- excavating dieldrin-affected soil until concentrations are below the FDEP (1999) groundwater-leachability of SCTL of 0.004 mg/kg, or to the top of the water table (approximately 3 feet bgs)

- excavating arsenic- and copper-affected soil until arsenic and copper concentrations are below 3.7 mg/kg and 110 mg/kg, respectively
- excavating soil to top of water table (approximately 3 feet bgs) at locations where arsenic concentrations increased with depth from 0 to 2 feet bgs
- removing and disposing of empty concrete boxes that were located to the northeast of Building 7011
- collecting a sufficient number of confirmatory samples for analysis to confirm RAGs are met
- backfilling the excavated area with certified clean soil and compacting with the excavator bucket to the existing grade
- seeding the area for grass

Figures 8A, 8B, and 8C show the footprint of proposed area of excavation, actual excavated area, and confirmatory sampling results, respectively. Soil was excavated to a maximum of depth of 4 feet bgs; a vast majority of the area was excavated to 2 and 3 feet bgs. Figure 8B shows the lateral and vertical extent of the excavation. Seventy soil-confirmation samples were collected and analyzed for arsenic, copper, and/or OCPs (Figure 8C).

Table 6 summarizes the analytical results, which are also presented on Figure 8C. Arsenic exceeded the RAG of 3.7 mg/kg in numerous samples at concentrations ranging between 4.8 and 145 mg/kg. At these sampling locations, the soil-excitation footprint was expanded laterally and to a maximum depth of 3 feet bgs (top of the water table). Dieldrin concentrations exceeded both the groundwater-leachability SCTL of 0.004 mg/kg and residential direct-exposure SCTL of 0.07 mg/kg in numerous soil samples. Due to widespread detection of dieldrin in numerous confirmation samples, the decision of whether to excavate further was based on groundwater quality. Three monitoring wells (CGW-MW001, CGW-MW002, and CGW-MW003) were installed; each well was 1 inch in diameter and was completed to 15 feet bgs with 10 feet of pre-packed screen material. The wells were sampled and analyzed for OCPs, arsenic, and copper (Table 7). As dieldrin or other OCPs were not detected in any of the groundwater samples, the groundwater-leachability potential for dieldrin to impact groundwater quality was assumed to be minimal. As such, additional soil was not excavated in areas where dieldrin exceeded groundwater-leachability SCTL. However, where dieldrin exceeded the residential direct-exposure SCTL of 0.07 mg/kg (samples 004, 027, 035, 071, 072, 74, and 075), soil was excavated to 2 feet bgs or greater to eliminate the direct-exposure potential. The three monitoring wells were also sampled for arsenic and copper; only arsenic was detected in one well CGW-MW003 at 13 $\mu\text{g/l}$, slightly above the current GCTL of 10 $\mu\text{g/l}$ (Table 7).

During excavation activities, an unmarked irrigation well located to the northeast of Building 7011 and east of CGW-MW001 (near sample 027), was damaged by the bulldozer. The unused irrigation well was below grade, and was neither visible nor identified on any site plans/drawings. Due to artesian conditions, groundwater was flowing out through the damaged top at an approximate flow rate of 10 to 15 gallons

per minute (gpm). On-site contractors were able to temporarily minimize the flow until a licensed well driller was subcontracted to abandoned the well (48 hours later).

The actual volume of affected soil excavated from the Building 7011 area was approximately 3,240 yds³ (5,184 tons); the originally proposed volume was 2,450 yds³ (3,920 tons).

4.12 Buildings 7012 and 7017 Area

Building 7012 is located in the north-central portion of the CFREC, east of Building 7011 (Figure 2). The building was used as an office, research laboratory, and chemical and equipment storage. Three former greenhouses were located to the south of Building 7012, and foundations of three other former greenhouses were located east of the building (Figure 9A). A former mix/rinse area was reported to be south of the building (ESE 2002). A 600-gallon septic tank and a laboratory sand sump with concrete bottom are located to the north of the building and flow into sewer lines that run to the west. Building 7017 is located approximately 120 feet to the west of Building 7012 and was reportedly used for agrochemical storage (Arenberg 2004).

Significant soil- and groundwater-quality assessment has been conducted in this area since 2001 (Harding ESE 2001 and 2002, MACTEC 2003b, and LFR 2004b and 2004d). Analyses of soil and groundwater samples typically included VOCs, BNAs, OCPs, OPPs, CHs, and metals. Arsenic, copper, and dieldrin were the primary contaminants that exceeded the respective FDEP (1999) SCTLs in numerous soil samples. Arsenic exceeded the residential and commercial direct-exposure SCTL of 0.8 mg/kg and 3.7 mg/kg, respectively. Copper concentrations were above the residential direct-exposure SCTL of 110 mg/kg. Dieldrin concentrations exceeded both groundwater-leachability SCTL (0.004 mg/kg) and residential direct-exposure SCTL (0.07 mg/kg). Other contaminants such as toxaphene, 4,4'-DDT, beta-BHC, 4,4'-DDD, dinoseb, 1,2-dichloropropane, chlordane, lead, alpha-BHC, 4,4'-DDE, and barium were also detected above respective SCTLs in a limited number of soil samples. However, these contaminants were detected in localized areas or from single samples; these areas/sample locations were surrounded by larger areas affected by commonly detected contaminants (arsenic, dieldrin, and copper).

In the groundwater samples, arsenic and dieldrin were the primary contaminants that were detected above respective GCTLs.

4.12.1 Proposed Removal Action Goals for Buildings 7012 and 7017 Area

The proposed RAGs for the buildings 7012 and 7017 area included:

- elimination of groundwater-leaching potential of dieldrin and arsenic, and elimination direct-exposure potential to arsenic- and copper-affected soils
- the FDEP (1999) groundwater-leachability SCTL of 0.004 mg/kg as the RAG for dieldrin; the site-specific 95% UCL of 3.7 mg/kg was established as the RAG for arsenic; and for copper-affected soils, the FDEP (1999) residential direct-exposure SCTL of 110 mg/kg was used as the RAG (Additionally, to address leaching-to-groundwater potential of arsenic, soil removal was proposed to 3 feet bgs at locations where arsenic concentrations in the soil increased with depth [from the 0-to-2-foot interval].)

4.12.2 Removal Actions at Buildings 7012 and 7017 Area

The removal actions for the buildings 7012 and 7017 area included:

- properly abandoning the monitoring wells and piezometers
- excavating dieldrin-affected soil until concentrations are below the FDEP (1999) groundwater-leachability of SCTL of 0.004 mg/kg, or to maximum of depth 4 feet bgs (top of the water table)
- excavating arsenic- and copper-affected soil until arsenic and copper concentrations are below 3.7 mg/kg and 110 mg/kg, respectively
- excavating soil to 3 or 4 feet bgs at locations where arsenic concentrations increased with depth from 0 to 2 feet bgs
- demolishing and disposing of associated buildings 7017, 7018, concrete pads, 7027, 7013, 7030, and the pole-barn
- collection a sufficient number of confirmatory samples for analysis to confirm RAGs are met
- backfilling the excavated area with certified clean soil and compacting with the excavator bucket to the existing grade
- seeding the area for grass

Figures 9A, 9B, and 9C show the footprint of proposed area of excavation, actual excavated area, and confirmatory sampling results, respectively. As shown on Figure 9B, the maximum depth of excavation was 3 feet bgs. Seventy-one soil-confirmation samples were collected and analyzed for arsenic, copper, or OCPs. Table 8 summarizes the analytical results; Figure 9C shows the sample locations and analytical results. Arsenic exceeded the RAG of 3.7 mg/kg in samples 083 (22 mg/kg), 034 (15 mg/kg), and 004 (6.9 mg/kg). At these sample locations, soil was excavated to 3 feet bgs. Copper exceeded the RAG of 110 mg/kg in five samples (023, 081, 022, 034, and 026) at concentrations ranging from 120 to 220 mg/kg; at these locations,

copper-affected soil was excavated to 2 feet bgs. Dieldrin concentrations exceeded the groundwater-leachability RAG of 0.004 mg/kg in numerous samples at concentrations ranging from 0.0046 to 0.95 mg/kg. At most of these locations (excepting samples 081, 038, and 032), soil was excavated to 3 feet bgs. Additional sampling (to the east of 081) will be conducted by LFR (2005a) as part of the Ditch and Background Sampling effort. No additional excavation is recommended at sample locations 038 and 032, where dieldrin concentrations only slightly exceeded the groundwater-leachability RAG of 0.004 mg/kg; in sample 038 and 032 dieldrin was detected at 0.0075 and 0.006 mg/kg, respectively.

The actual volume of affected soil excavated from the building 7012 and 7017 area was approximately 1,777 yds³ (2,843 tons); the originally proposed volume was 994 yds³ (1,590 tons).

4.13 Former Pesticide Burial/Dump Area

The former PBDA is approximately 1 acre in size and is located at the extreme northern portion of the Site, just south of Lake Monroe (Figure 2). Due to its location near the lake and its low elevation, the area is frequently flooded. The former PBDA contains no buildings but had the remains of several small, plastic wading pools located above the ground at the southwestern part of the area. The pools were used for agricultural studies (Harding ESE 2001), and several were cracked and broken, while others contained standing water (presumably from rainfall).

The wetland area of concern is located immediately to the north of the PBDA, beginning at or near the tree line (Figure 10A), and is part of a larger wetland (estimated to be greater than 3,000 acres) that borders Lake Monroe and the Monroe Canal (MACTEC 2004). The wetland area of concern is approximately 0.55 acre in size and can be identified as a hardwood swamp with hydric soil. The former PBDA ranges in land elevation from approximately 5 feet above National Geodetic Vertical Datum (NGVD) to the north (nearest the lake) to approximately 8 feet above NGVD to the south. A drainage ditch runs along the eastern edge of the wetland area of concern (Figures 2 and 10A). The remnants of the plastic test pools were located within the wetland area of concern.

Site-investigation activities were conducted by ESE (1986 and 1985), Harding ESE (2001 and 2002), and MACTEC (2003b). In August 2004, LFR collected three additional sediment samples to further delineate sediment quality at the northern end of wetlands area of concern (LFR 2004e).

Soil and groundwater samples collected during the various above-referenced investigations were typically analyzed for VOCs, BNAs, OCPs, OPPs, CHs, polychlorinated biphenyls, and metals. Analytical results indicated arsenic, copper, benzo(a)pyrene, toxaphene, and dieldrin concentrations in numerous samples to be above their most conservative FDEP (1999) SCTLs in soil samples collected from 0 to 2 feet bgs. Arsenic was above both the residential (0.8 mg/kg) and

commercial/industrial direct-exposure (3.7 mg/kg) SCTLs; copper was above the residential direct-exposure SCTL (110 mg/kg); benzo(a)pyrene exceeded the residential direct-exposure SCTL (0.1 mg/kg); toxaphene was above the residential direct-exposure SCTL (1 mg/kg); and dieldrin was detected above the groundwater-leachability and residential direct-exposure SCTLs (0.004 mg/kg and 0.07 mg/kg, respectively).

Composite sediment and water samples from numerous plastic wading pools were collected and analyzed for volatile organic aromatic compounds, OCPs, OPPs, CHs, BNA compounds, copper, and metals. The composite-sediment samples from the pools exhibited copper, arsenic, and heptachlor concentrations above applicable FDEP (1999) SCTLs. Copper exceeded the residential direct-exposure SCTL of 110 mg/kg; arsenic was above the commercial/industrial direct-exposure SCTL (3.7 mg/kg), and heptachlor was detected above the residential direct-exposure SCTL (0.2 mg/kg). The composite-water samples collected from the pools were below detection limits for the parameters analyzed.

In the groundwater samples from the three monitoring wells installed, only cadmium and DEHP slightly exceeded the FDEP (1999) GCTLs of 5 µg/l and 6 µg/l, respectively.

In the three sediment samples collected by LFR (2004e) from 0 to 1 foot bgs to delineate the northern boundary of sediments affected by the PBDA, only heptachlor and heptachlor epoxide were detected above residential direct-exposure SCTLs (0.2 mg/kg and 0.1 mg/kg, respectively), and heptachlor was detected above its commercial/industrial direct-exposure SCTL (0.9 mg/kg).

Because these wetland sediments may also be within the regulatory limits of Florida Inland Waters, the sediment concentrations were compared to threshold effects concentration (TEC) and probable effects concentration (PEC) guidelines for freshwater sediments (FDEP 2003). Generally, sediment concentrations for metals, PAHs, and pesticides detected at the wetland area of the former PBDA were above the TECs but below the PECs. Only concentrations of arsenic (PEC of 33 mg/kg), copper (PEC of 150 mg/kg), lead (PEC of 130 mg/kg), DEHP (PEC of 2.6 mg/kg), dieldrin (PEC of 0.062 mg/kg), and heptachlor epoxide (PEC of 0.016 mg/kg) exceeded the respective PECs.

A Wetlands Mitigation Plan was prepared by MACTEC (under contract with LFR) as part of the Environmental Resources Permit (ERP; MACTEC 2004) attachment to address the wetland portion of the former PBDA. This attachment included a wetland description, an outline for removal of understory plants and undersirable trees, an outline to preserve the wetland sediments while performing removal, a Vegetative Planting Plan for post-excavation replanting of the wetland at the former PBDA, and an ERP application. Several of the recommendations made in that report are included in the Removal Action Work Plan (LFR 2004e).

4.13.1 Proposed Removal Action Goals for the Former Pesticide Burial/Dump Area

The proposed RAGs for the former PBDA and wetlands area include:

- elimination of direct-exposure potential to arsenic-, copper-, benzo(a)pyrene-, and toxaphene-affected soils; and elimination of direct-exposure and groundwater-leaching- potential of dieldrin
- the FDEP (1999) residential direct-exposure SCTLs were established as the RAGs for copper, benzo(a)pyrene, heptachlor, heptachlor epoxide, dieldrin, and toxaphene (110 mg/kg, 0.1 mg/kg, 0.1 mg/kg, 0.2 mg/kg, and 0.07 mg/kg, respectively). The site-specific 95% UCL of 3.7 mg/kg was established as the RAG for arsenic.

Even though dieldrin exceeded both its groundwater-leachability SCTL (0.004 mg/kg) and residential direct-exposure SCTL (0.07 mg/kg), the dieldrin residential direct-exposure SCTL of 0.07 mg/kg was established as the RAG because the groundwater-leachability SCTL (0.004 mg/kg) was exceeded in only one sample and dieldrin was not detected in groundwater. The groundwater-leaching potential of dieldrin was assumed to be minimal.

The chemicals above the PECs were addressed during the sediment removal either by the soil excavated to the human-health SCTL (which is lower than or approximately the same as the PEC [e.g., arsenic, copper, and dieldrin]), or the soil excavated to below the PEC concentration from the 0-to-1-foot interval (where it was detected in the sediment [e.g., DEHP, lead, and heptachlor epoxide]).

4.13.2 Removal Actions at the Former Pesticide Burial/Dump Area

The removal actions for the PBDA included:

- abandoning the three monitoring wells
- removing non-native/intrusive vegetation to allow soil/sediment excavation
- removing and disposing of plastic wading pools and other debris off site
- excavating soil from 0 to 2 feet bgs to remove soil with concentrations above RAGs for arsenic, copper, lead, DEHP, benzo(a)pyrene, heptachlor, heptachlor epoxide, dieldrin, and toxaphene
- collecting an adequate number confirmation soil samples for analysis to confirm RAGs are met
- backfilling with organic-rich soil and grade the wetlands area to its previous condition before excavation
- implementing the Vegetative Planting Plan approved by the SJRWMD
- conducting semiannual monitoring of the planted vegetation for three years

Figures 10A, 10B, and 10C show the footprint of proposed area of excavation, actual excavated area, and confirmatory sampling results, respectively. The analytical results are summarized in Table 9 and data are shown on Figure 10C. Soil/sediments were excavated to 1 foot bgs and 2 feet bgs; a majority of the area was excavated to 0 to 1 foot bgs. Approximately 97 soil-confirmation samples were collected and analyzed for arsenic, copper, OCP, and/or PAHs to confirm RAGs were met. PAHs were detected in only one sample (027) at concentrations slightly exceeding the RAGs; OCPs were below the RAGs. Arsenic and copper concentrations exceeding their respective RAGs were detected in numerous samples. At a majority of these sample locations, where arsenic and copper exceeded the RAGs, additional soil was excavated laterally and vertically, to a maximum depth of 2 feet bgs.

Approximately 1,454 yds³ (2,326 tons) of affected soil/sediments was excavated for off-site disposal; the originally proposed volume was 694 yds³ (1,110 tons). After backfilling to grade with clean certified hydric soil/sediment, the area was re-planted with wetlands vegetation. MACTEC is presently conducting monthly monitoring and anticipates preparing an annual report in June 2006.

In May 2005, during field activities, a second pesticide burial/dump area (PBDA2) was encountered to the south of the former PBDA as shown on Figure 11. The area contained plastic wading pools and other debris similar to those encountered in the former PBDA. Soil excavation was conducted to a maximum depth of 4 feet bgs. Eight soil-confirmation samples were collected and analyzed for metals, OCPs, OPPs, VOCs, and PAHs (Table 10). With the exception of the arsenic detected at 10.1 mg/kg in sample 001, no other target contaminants were detected above the SCTLs. At sample location 001, soil was excavated to 4 feet bgs. Total volume excavated from this area for off-site disposal was 359 yds³ (574 tons).

4.14 Removal Action Summary

The total volume of soil excavated from all AOCs for off-site disposal was 9,741 yds³ (or 15,585 tons); the original volume proposed was 5,728 yds³ (or 9,162 tons). The additional volume resulted from as the extent of excavation was expanded laterally and/or vertically as indicated by the analytical results of confirmation soil samples. Approximately 514 yds³ (or 822 tons) of soil was also removed from the Pump House, Building 7029, and other areas to address surface water-leachability criteria as required by the SJRWMD.

A review of the analytical results of the soil-confirmation samples indicated that the removal actions conducted at the Site have met the RAGs of eliminating the direct-exposure and/or leachability-to-groundwater potentials at the various AOCs. The soils affected by point sources associated with past historical operations at the various buildings have been excavated and disposed of off-site. Clean soil was transported to Site and used to backfill the excavations to original grade. Low levels of copper or arsenic at concentrations slightly exceeding the RAG may still be present in small localized areas, especially adjacent to ditches (for example near sample 095 at the

PBDA area, near sample 081 at the buildings 7012 and 7017 area, or near sample 001 at the building 7020 area). As indicated above, the soil/sediment quality in ditches is being evaluated separately (LFR 2005a).

4.15 Surface-Water Ditches

Prominent surface-water drainage ditches traverse the Site from south to north, paralleling much of the east and west boundaries. There are other ditches on Site that also traverse in the east-west direction. The soil/sediment in these ditches is reportedly affected with arsenic and copper, whose concentrations exceed the current SCTLs (MACTEC 2003e). LFR (2005a) prepared a draft Sampling and Analysis Plan that describes field-sampling activities to address supplemental surface soil, background surface soil, and a well survey. The results of the supplemental and background soil sampling will be evaluated with MACTEC (2003e) data to identify whether soil/sediments within the ditches pose potential risks and what removal actions may be necessary to mitigate the risks.

5.0 GROUNDWATER MONITORING

To evaluate post-excavation groundwater quality, groundwater monitoring may be required at the Pump House, Building 7011, and Buildings 7012/7017 areas. However, because of Seminole County impending plans for re-use of the Site for storm water conveyance, LFR recommends that a groundwater monitoring plan detailing well locations, construction details, analytical parameters and sampling frequency be developed subsequent to construction activities.

6.0 SUMMARY AND CONCLUSIONS

This report presents a description of soil-removal actions conducted at various AOCs at the Site. These AOCs included (from south to north): the Pump House, the Greenhouse, buildings 7008 and 7009, Building 7010, Building 7029, Building 7011, buildings 7012 and 7017, and the PBDA area. The removal actions were conducted by LFR between February and June 2005 on behalf of FDEP, pursuant to the Task Assignment Number SL18L.

The purpose of the removal actions was to eliminate direct-exposure and/or groundwater-leaching potential of arsenic, copper, and OCPs (primarily dieldrin and toxaphene). Other chemicals were also detected slightly above the SCTLs in the soils at the Site, but these were either in small, localized areas or were co-mingled with arsenic, copper, and OCPs. The FDEP (1999) residential direct-exposure or groundwater-leachability SCTLs were established as the RAGs for copper, OCPs, and other chemicals detected (at the Greenhouse Area, the current residential direct-exposure SCTL was the RAG for copper).

The removal actions at various AOCs included abandoning of monitoring wells; demolishing of buildings, concrete pads, evaporation ponds, sheds, or pole-barns; soil excavation; collection and analyses of soil-confirmation samples; and backfilling to grade with certified-clean soil and seeding grass. Clean hydric soils were used to backfill the wetlands portion of the PBDA area. After backfilling, the wetlands area was contoured to its previous elevations and planted with wetlands vegetation. The excavated soil from each AOC was transported and disposed of off site as non-hazardous (based on TCLP analysis) at a Class I landfill; the building debris was disposed of as C&D waste. The removal actions are summarized in Table 11.

The total volume of soil excavated from all AOCs for off-site disposal was 9,741 yds³ (or 15,585 tons); the original volume proposed was 5,728 yds³ (or 9,162 tons).

A review of the soil-confirmation sample analytical results indicated that the removal actions conducted at the Site have met the RAGs of eliminating the direct-exposure and/or leachability-to-groundwater potentials at the various AOCs. The soil affected by point sources associated with past historical operations at the various buildings have been excavated and disposed of off site. Low levels of copper or arsenic at concentrations slightly exceeding the current SCTL of 150 mg/kg and 95% UCL of 3.7 mg/kg, respectively, may still be present in small localized areas, especially adjacent to ditches. The soil/sediment quality in ditches is being evaluated separately (LFR 2005a).

Groundwater monitoring is recommended for the Site. Reportedly, Seminole County plans to use the Site for construction of stormwater ponds and storm water control. LFR recommends installing and sampling monitoring wells subsequent to construction activities by Seminole County.

REFERENCES

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- . 1989. Contamination Assessment Report for the Central Florida Research and Education Center (CFREC). Prepared for the Institute of Food and Agricultural Sciences, Gainesville, Florida.

- . 1996. Contamination Assessment Addendum Work Plan for the IFAS Central Florida Research and Education Center (CFREC), Sanford, Florida. Prepared for the Institute of Food and Agricultural Sciences, Gainesville, Florida.
- Florida Department of Environmental Protection. 1999. Florida Administrative Code. Chapter 62-777. May.
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- . 2002. Supplemental Addendum Contamination Assessment Report and Interim Remedial Action Completion Report for the Central Florida Research and Education Center (CFREC). Prepared for the Institute of Food and Agricultural Sciences, Gainesville, Florida.
- LFR Inc. 2003a. Removal Action Work Plan, Central Florida Research and Education Center, Greenhouse Area (Buildings 7003 through 7007), Florida Institute of Food and Agricultural Sciences, University of Florida, State Road 415, Sanford, Seminole County, Florida. July 29.
- . 2003b. Pre-Removal Action Summary Report for the Excavation and Transport of Soils in the Greenhouse Area at the Institute of Food and Agricultural Sciences, Central Florida Research and Education Center, Sanford, Florida. October 24.
- . 2003c. Removal Action Work Plan, Central Florida Research and Education Center, Buildings 7021, 7022, and 7023 (Pumphouse Area), Florida Institute of Food and Agricultural Sciences, University of Florida, State Road 415, Sanford, Seminole County, Florida. December 23.
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- . 2004b. Removal Action Work Plan, Central Florida Research and Education Center, Buildings 7001, 7008/7009, 7010, 7011, 7012, and 7029, Florida Institute of Food and Agricultural Sciences, University of Florida, Sanford, Seminole County, Florida. May 12, 2004.

- . 2004c. Pre-Removal Action Summary Report for the Excavation and Transport of Soils in the Pumphouse Area at the Institute of Food and Agricultural Sciences, Central Florida Research and Education Center, Sanford, Florida. August 23.
 - . 2004d. Pre-Removal Action Summary Report Central Florida Research and Education Center, Buildings 7001, 7008/7009, 7010, 7011, 7012/7017, and 7029, Institute of Food and Agricultural Sciences University of Florida, Sanford, Seminole County, Florida. September 23.
 - . 2004e. Removal Action Work Plan, Central Florida Research and Education Center, Former Pesticide Burial/Dump Area, Institute of Food and Agricultural Sciences University of Florida, Sanford, Seminole County, Florida. November 23.
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**STORMWATER MANAGEMENT COST-SHARING AGREEMENT
BETWEEN THE
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
AND SEMINOLE COUNTY FOR THE SEMINOLE COUNTY MIDWAY REGIONAL
STORMWATER AND RECREATIONAL FACILITY - PHASE 1**

THIS AGREEMENT is entered into by and between the GOVERNING BOARD of the ST. JOHNS RIVER WATER MANAGEMENT DISTRICT ("the District"), whose address is 4049 Reid Street, Palatka, Florida 32177, and SEMINOLE COUNTY ("County"), whose address is 520 West Lake Mary Boulevard, Suite 200, Sanford, Florida 32773.

WITNESSETH THAT:

WHEREAS, the waters of the State of Florida are among its basic resources and it has been declared to be the policy of the Legislature to promote the conservation, development, and proper utilization of surface and ground water; and

WHEREAS, pursuant to Chapter 373, Florida Statutes, the District is responsible for the management of water resources within its geographical area, and proper management of stormwater is necessary to protect the public health, safety and welfare and extend the life of surface and ground water resources; and

WHEREAS, the District's Governing Board has established the Stormwater Management Projects Cost-Share Program ("the Program") to support stormwater management efforts that contribute toward the improvement of water quality by achieving pollutant load reduction goals (PLRGs) or total maximum daily load (TMDL) allocations for identified priority pollutants. The District may also consider projects that protect or preserve water quality in designated Surface Water Improvement and Management (SWIM) water bodies; and

WHEREAS, County has applied for and is qualified to participate in the Program, and the parties have agreed to jointly fund the stormwater management project ("the Project"), which is described as follows:

The project watershed currently drains to Lake Monroe, which is included on the Section 303(d) list of impaired water bodies for nutrients and dissolved oxygen. The Midway Regional Stormwater Facility will remove pollutants through a series of meandering interconnected wet detention ponds prior to reaching Lake Monroe. The design will incorporate a recreational component including a trailhead connecting to a future trail project in the area. Pollutant load reduction will therefore also be encouraged by educating the local public through the use of educational kiosks along the pedestrian/bike trail around the facility. It is expected that this project will serve as a component of the future TMDL Implementation Plan.

NOW, THEREFORE, in consideration of the aforesaid premises, which are hereby made a part of this Agreement, and the payments herein specified, which the District agrees to make, County agrees to furnish and deliver all materials, to do and perform all work and labor required to be furnished and delivered, done and performed for the Seminole County Midway Regional Stormwater and Recreational Facility - Phase 1, Contract #SI433AA ("the Work"). County agrees to complete the Work in conformity with this Agreement. This Agreement consists of the following documents, including all modifications incorporated therein before their execution: Agreement; EXHIBIT "A" - County's Program Application.

ARTICLE I - TERM, SCHEDULE AND TIME OF PERFORMANCE

A. **Term.** The term of this Agreement shall be from the Effective Date to the Completion Date.

1. **Effective Date.** The Effective Date of this Agreement shall be the date upon which the last party to this Agreement has dated and executed the same; provided, however, that in the event a date other than the aforesaid is set forth below in this section, that date shall be the Effective Date.

In lieu of the aforesaid Effective Date, the Effective Date of this Agreement shall be N/A

2. **Completion Date.** The Completion Date of this Agreement shall be upon satisfactory completion of the stormwater management project and subsequent cost reimbursement to County; or twenty-four (24) months from the Effective Date, whichever comes first, unless extended by mutual written agreement of the parties. All Work under this Agreement shall be completed for use no later than the Completion Date.
3. **Time is of the Essence.** The Commencement Date and Completion Date are essential conditions hereof. In addition, time is of the essence in execution of this Agreement by County. If County fails to execute this Agreement within sixty (60) days of receipt, the Project shall be removed from the District's list of approved cost-share projects and the District shall seek to provide funding to other stormwater management projects that have been approved by the Governing Board.

ARTICLE II - STATEMENT OF WORK AND DELIVERABLES

A. **Deliverables.** County shall fully implement the Project, as described in County's Program Application, attached as Exhibit "A." County is responsible for the professional quality, technical accuracy, and timely completion of the Project. Both workmanship and materials shall be of good quality. Unless otherwise specifically provided for herein, County shall provide and pay for all materials, labor, and other facilities and equipment as are necessary for the completion of the Project. The District shall provide the professional and technical support necessary to properly address all aspects of the Agreement. The District's project manager shall make a final acceptance inspection of the Project when completed. The parties may at any time agree in the form of a written amendment to make changes to the Project within the general scope of this Agreement.

B. **Progress Reports.** When requested, County shall submit progress reports to the District's project manager in a form approved by the project manager. The progress report shall provide an updated progress schedule with each payment request, taking into account all delays, changes in the nature of the Work, etc. In addition to hard copies, all written deliverables (reports, papers, analyses, etc.) shall be submitted in machine readable form in formats consistent with the District's standard software products. The District's standard office automation products include the Microsoft® Office Suite (Word, Excel, Access, and PowerPoint). Other formats may be accepted if mutually agreed upon by the District's Project Manager and chief information officer. Timely submittal of progress reports shall be a condition precedent to payment of invoices.

ARTICLE III - COMPENSATION AND COST-SHARE

- A. **District Funding.** For satisfactory completion of the Project, the District agrees to reimburse County a sum in the amount not to exceed \$400,000 (the "Total Compensation"). Work eligible for reimbursement must have started after execution of this Agreement. If, at the completion of the Project, County's actual expenditure is less than the amount stated in the Project Budget, the District's obligation shall be reduced proportionately. Reimbursement shall be made no later than 30 days after receipt of an invoice, as provided below. If County fails to satisfactorily implement the Project, County shall not be eligible for any reimbursement.
- B. **County Funding.** County shall obligate monies to fund the Project. County shall be responsible for any additional funding in excess of the anticipated total project cost of \$4,266,485.
- C. **Invoicing Procedure.** One invoice shall be submitted to the St. Johns River Water Management District, Director, Division of Financial Management, 4049 Reid Street, Palatka, Florida 32177. County shall submit one invoices based upon the actual portion of the Work performed and shall bill as per the Project Budget included in Exhibit "A" County's Program Application, attached hereto and by reference made a part hereof.

All payment requests submitted by the County shall include the following information:

1. Contract number, SI433AA.
2. County's name and address (include remit address if necessary)
3. Name of District's Project Manager
4. Name of County's Project Manager
5. Cost data (utilize the appropriate method for payment request per the contract)
 - (a) Supporting documentation and copies of invoices if cost reimbursable; or
6. Progress Report (as per contract requirements)
7. Diversity Report (The report shall include company names for all W/MBEs and amounts spent with each at all levels. The report will also denote if there were no W/MBE expenditures.)

The above information and reports shall be submitted by the County and approved by the District as a condition precedent to payment. Payment requests that do not correspond to the Project Budget or other requirements of this paragraph will be returned to the County without action within twenty (20) business days of receipt and shall state the basis for rejection of the invoice. Payments for construction (design-build) contracts shall be made within twenty-five (25) business days of receipt of an invoice that conforms to this Article. Payments for all other contracts shall be made within forty-five (45) days of receipt of an invoice that conforms to this Article.

- D. **Forfeiture of Final Payment.** County shall submit the final invoice to the District not later than 90 days after the Completion Date. COUNTY'S FAILURE TO SUBMIT THE FINAL INVOICE TO THE DISTRICT WITHIN THE TIME FRAME ESTABLISHED HEREIN SHALL BE A FORFEITURE OF ANY REMAINING AMOUNT DUE UNDER THE AGREEMENT.
- E. **Release.** Upon the satisfactory completion of the Work, the District will provide a written statement to County accepting all deliverables. Acceptance of the final payment shall be considered as a release in full of all claims against the District pursuant to this Agreement.

ARTICLE IV - LIABILITY AND INSURANCE

- A. Each party to the Agreement is responsible for all personal injury and property damage attributable to the negligent acts or omissions of that party and the officers, employees, and agents thereof. In addition, each party is subject to the provisions of Section 768.28, Fla. Stat., as amended. Nothing in this Agreement shall be construed as a waiver of sovereign immunity by any party hereto.
- B. Each party shall also acquire and maintain throughout the term of this Agreement such general liability, automobile insurance, and workers' compensation insurance as required by their current rules and regulations.

ARTICLE V - FUNDING CONTINGENCY

- A. This Agreement is at all times contingent upon availability of funding in future years, which may include a single source or multiple sources. Agreements extending for more than one fiscal year are subject to annual appropriation of funds, in the sole discretion and judgment of the parties for each succeeding year. Should the Project not be approved for funding in succeeding years, the party not approving the Project shall so notify the other party, and this Agreement shall be deemed terminated for convenience five days after receipt of such notice, or within such additional time as the notifying party may allow.
- B. In the event the District is notified at any time that funds from an external funding source will not be available, or are no longer available, in whole or in part, the District shall so notify County and this Agreement, upon the election of the District, shall be deemed terminated for convenience five days after receipt of such notice or within such additional time as the District may allow.

ARTICLE VI - PROJECT MANAGEMENT

- A. **Project Managers.** The project managers shall be responsible for overall coordination, oversight, and management of the Work. The parties agree to the following persons being designated as project manager:

DISTRICT

David Watt, Project Manager
 St. Johns River Water Management District
 4049 Reid Street
 Palatka, Florida 32177
 (386) 329-4435
 E-mail: dwatt@sjrwmd.com

COUNTY

Ed Torres Project Manager
 Seminole County
 520 West Lake Mary Boulevard, Suite 200
 Sanford, FL 32773
 (407) 665-5715
 E-mail: etorres@seminolecountyfl.gov

- B. **District Project Manager.** The District's Project Manager shall have sole and complete responsibility to transmit instructions, receive information, and communicate District policies and decisions regarding all matters pertinent to performance of the Project. The District's project manager shall have the authority to approve minor deviations in the Project that do not affect the Total Compensation or the Completion Date. The District's Project Manager and, as appropriate, other District employees, shall meet with County when necessary in the District's judgment to provide decisions regarding performance of the Work, as well as to review and comment on reports.

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- C. **Change in Project Manager.** Either party to this Agreement may change its project manager by providing not less than three working days prior written notice of the change to the other party.
- D. **Supervision.** County shall provide efficient supervision of the Project, using its best skill and attention.
- E. **Notices.** All notices to each party shall be in writing and shall be either hand-delivered or sent via U.S. certified mail to the respective party's project manager at the names and addresses specified above. All notices shall be considered delivered upon receipt. Should either party change its address, written notice of the new address shall be sent to the other parties within five business days. Except as otherwise provided herein, notices may be sent via e-mail or fax, which shall be deemed delivered on the date transmitted and received.

ARTICLE VII - MISCELLANEOUS PROVISIONS

- A. **Termination.** Either party may terminate this Agreement at any time by giving the other party 30 days written notice prior to the date of termination. Upon termination by the District, the District shall reimburse County for all allowable costs incurred prior to the date of termination.
- B. **Interest of County.** County certifies that no officer, agent, or employee of the District has any material interest, as defined in Chapter 112, Fla. Stat., either directly or indirectly, in the business of County to be conducted hereby, and that no such person shall have any such interest at any time during the term of this Agreement.
- C. **Independent Contractor.** County is an independent contractor. Neither County nor County's employees are employees of the District. County shall have the right to control and direct the means and methods by which the Work is accomplished. County may perform services for others, which solely utilize its facilities and do not violate any confidentiality requirements of this Agreement. County is solely responsible for compliance with all labor and tax laws pertaining to it, its officers, agents, and employees, and shall indemnify and hold the District harmless from any failure to comply with such laws. County's duties with respect to itself, its officers, agents, and employees, shall include, but not be limited to: (1) providing Workers' Compensation coverage for employees as required by law; (2) hiring of any employees, assistants, or subcontractors necessary for performance of the Work; (3) providing any and all employment benefits, including, but not limited to, annual leave, sick leave, paid holidays, health insurance, retirement benefits, and disability insurance; (4) payment of all federal, state and local taxes income or employment taxes, and, if County is not a corporation, self-employment (Social Security) taxes; (5) compliance with the Fair Labor Standards Act, 29 U.S.C. §§ 201, et seq., including payment of overtime in accordance with the requirements of said Act; (6) providing employee training for all functions necessary for performance of the Work; (7) providing equipment and materials necessary to the performance of the Work; and (8) providing office or other facilities for the performance of the Work. In the event the District provides training, equipment, materials, or facilities to meet specific District needs or otherwise facilitate performance of the Work, this shall not affect any of County's duties hereunder or alter County's status as an independent contractor.
- D. **Non Lobbying.** Pursuant to Section 216.347, Fla. Stat., as amended, the County hereby agrees that monies received from the District pursuant to this Agreement will not be used for the purpose of lobbying the Legislature or any other state agency.

- E. **Civil Rights.** Pursuant to Chapter 760, Fla. Stat., County shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, age, handicap, or marital status.
- F. **Audit: Access to Records.** County agrees that the District or its duly authorized representatives shall, until the expiration of three years after expenditure of funds hereunder, have access to examine any of County's books, documents, papers, and other records involving transactions related to this Agreement. County shall preserve all such records for a period of not less than three years. Payment(s) made hereunder shall be reduced for amounts charged that are found on the basis of audit examination not to constitute allowable costs. County shall refund any such reduction of payments. All required records shall be maintained until an audit has been completed and all questions arising from it are resolved. County will provide proper facilities for access to and inspection of all required records.
- G. **Release of Information.** Records of County that are made or received in the course of performance of the Work may be public records that are subject to the requirements of Chapter 119, Fla. Stat. In the event County receives a request for any such records, County shall notify the District's project manager within three workdays of receipt of such request. Each party reserves the right to cancel this Agreement for refusal by the other party to allow public access to all documents, papers, letters, or other material related hereto and subject to the provisions of Chapter 119, Fla. Stat., as amended.
- H. **Royalties and Patents.** Unless expressly provided otherwise herein, County shall pay all royalties and patent and license fees necessary for performance of the Project and shall defend all suits or claims for infringement of any patent rights and save and hold the District harmless from loss on account thereof, provided, however, that the District shall be responsible for all such loss when the utilization of a particular process or the product of a particular manufacturer is specified by the District. If County at any time has information that the process or article so specified is an infringement of a patent, it shall be responsible for such loss unless it promptly provides such information to the District. County hereby certifies to the District that the Work to be performed pursuant to this Agreement does not and will not infringe on any patent rights.
- I. **Diversity.** The District is committed to the opportunity for diversity in the performance of all procurements, and expects its prime vendors (contractors and suppliers) to make good faith efforts to ensure that women and minority-owned business enterprises (W/MBE) are given the opportunity for maximum participation, as the prime, second- and lower-tier participants. The District will assist its vendors (contractors and suppliers) by sharing information on W/MBEs to encourage their participation.
- J. **Governing Law.** This Agreement shall be construed and interpreted according to the laws of the state of Florida.
- K. **Venue.** In the event of any legal proceedings arising from or related to this Agreement, venue for such proceedings, if in state court, shall be in Duval County, Florida, and if in federal court, shall be in the Middle District of Florida, Duval Division.
- L. **Attorney's Fees.** In the event of any legal or administrative proceedings arising from or related to this Agreement, including appeals, each party shall bear its own attorney's fees.
- M. **Waiver of Right to Jury Trial.** In the event of any civil proceedings arising from or related to this Agreement, County hereby consents to trial by the court and waives its right to seek a jury trial in such proceedings, provided, however, that the parties may mutually agree to a jury trial.

- N. Construction of Agreement. This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that both parties, have contributed substantially and materially to the preparation hereof.
- O. Entire Agreement. This Agreement, upon execution by County and the District, constitutes the entire agreement of the parties. The parties are not bound by any stipulations, representations, agreements, or promises, oral or otherwise, not printed or inserted herein. County agrees that no representations have been made by the District to induce County to enter into this Agreement other than as expressly stated herein. This Agreement cannot be changed orally or by any means other than written amendments referencing this Agreement and signed by all parties.
- P. Separate Counterparts. This Agreement may be executed in separate counterparts, which shall not affect its validity.

IN WITNESS WHEREOF, the St. Johns River Water Management District has caused this Agreement to be executed on the day and year written below in its name by its executive director, and County has caused this Agreement to be executed on the day and year written below in its name by its duly authorized representatives, and, if appropriate, has caused the seal of the corporation to be attached.

ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT

SEMINOLE COUNTY

By: Kirby B. Green III
Kirby B. Green III, Executive Director

By: _____

Typed Name and Title

Date: 8/18/05

Date: _____

APPROVED BY THE OFFICE
OF GENERAL COUNSEL

Stanley J. Niego
Stanley J. Niego, Sr. Assistant General Counsel

Attest: _____

Typed Name and Title

Attachment: Exhibit "A" – County's Program Application

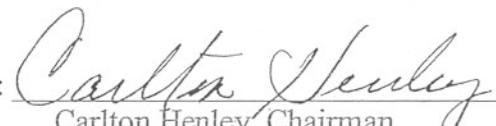
Accepted By:

ATTEST



MARYANNE MORSE
Clerk to the Board of County
Commissioners of Seminole County, Florida

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

By: 

Carlton Henley, Chairman
Board of County Commissioners

Date: 8/11/05

As authorized for execution by the
Board of County Commissioners at their
8-9, 2005 regular meeting.

Agreement Between
The St. Johns River Water Management District
And Seminole County
For the Seminole County Midway Regional Stormwater and Recreational Facility – Phase I
Contract #SI433AA

**COST SHARE AGREEMENT BETWEEN
THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
AND SEMINOLE COUNTY
FOR LAKE MONROE RESTORATION - MIDWAY REGIONAL STORMWATER FACILITY**

THIS COST SHARE AGREEMENT is entered into by and between the GOVERNING BOARD of the ST. JOHNS RIVER WATER MANAGEMENT DISTRICT ("the District"), whose address is 4049 Reid Street, Palatka, Florida 32177, and SEMINOLE COUNTY ("County"), a political subdivision of the State of Florida, whose address is 1101 East First Street, Sanford, Florida 32771.

WITNESSETH THAT:

WHEREAS, the District is a special taxing district created by the Florida Legislature and given those powers and responsibilities enumerated in Chapter 373, Fla. Stat., whose geographical boundaries encompass Seminole County; and

WHEREAS, the District has determined that its needs will be best served by entering into a Cost Share Agreement for services that can be provided by County (hereafter "the Work").

NOW THEREFORE, in consideration of the payments herein specified, and which the District agrees to make, County agrees to furnish and deliver all materials, to do and perform all work and labor required to be furnished and delivered, done and performed for Lake Monroe Restoration - Midway Regional Stormwater Facility, Contract #SJ456AA. County agrees to complete the Work in conformity with this Agreement and all attachments and other items specifically incorporated by reference are part of this Agreement as fully and with the same effect as if set forth herein.

This Agreement consists of the following documents, including all modifications incorporated therein before their execution: Agreement; Exhibit "A" - Statement of Work; Exhibit "B" - Comptroller's Memorandum; and all attachments hereto.

ARTICLE I - TERM, SCHEDULE AND TIME OF PERFORMANCE

- A. **Term.** The term of this Agreement shall be from the Effective Date to the Completion Date.
 - 1. **Effective Date.** The Effective Date of this Agreement shall be the date upon which the last party to this Agreement has dated and executed the same; provided, however, that in the event a date other than the aforesaid is set forth below in this section, that date shall be the Effective Date.
 - 2. **Completion Date.** The Completion Date of this Agreement shall be no later than twenty-eight (28) months from the Effective Date hereof, unless extended by mutual written agreement of the parties. All Work under this Agreement shall be completed for use no later than the Completion Date.

- B. **Schedule of Work.** County shall commence the Work:
 - Within fifteen (15) days after the Effective Date; or
 - Upon the issuance of a Notice to Proceed by the District; or
 - Within fourteen (14) days of issuance of a Work Order by the District; or

Within three (3) months after execution of the lease with the Florida Department of Environmental Protection for the Midway Regional Stormwater Facility site; or

On _____ (insert specific date).

This date shall be known as the "Commencement Date." County shall prosecute the Work regularly, diligently, and uninterruptedly so as to complete the Work ready for use in accordance with the Statement of Work and the time stated for completion therein. The time stated for completion shall include the final cleanup of the premises, as applicable. A fifteen (15) day period has been included in the allotted time for completion to allow for mailing of this Agreement and County's submission of any required submittals. County will not be allowed to commence the Work until any required submittals are received and approved.

- C. **Time is of the Essence.** The Commencement Date and Completion Date are essential conditions hereof. In addition, time is of the essence for each and every aspect of this Agreement. Where additional time is allowed for the completion of the Work, the new time limit shall also be of the essence.

ARTICLE II - STATEMENT OF WORK AND DELIVERABLES

- A. **Deliverables.** The Work is specified in the attached Statement of Work. County shall deliver all products and deliverables as stated therein. County is responsible for the professional quality, technical accuracy, and timely completion of the Work. Both workmanship and materials shall be of good quality. County shall, if required, furnish satisfactory evidence as to the kind and quality of materials provided. Unless otherwise specifically provided for herein, County shall provide and pay for all materials, labor, and other facilities and equipment as are necessary for the performance of the Work. The District's Project Manager shall make a final acceptance inspection of the deliverables when they are completed and finished in all respects in accordance herewith. The parties may at any time agree in the form of a written amendment to make changes within the general scope of this Agreement to the Work to be provided hereunder. Neither party shall unreasonably withhold consent to any such amendment.
- B. **Progress Reports.** County shall submit monthly progress reports to the District's Project Manager in a form approved by the project manager. The progress report shall provide an updated progress schedule, taking into account all delays, changes in the nature of the Work, etc. In addition to hard copies, all written deliverables (reports, papers, analyses, etc.) shall be submitted in machine-readable form in formats consistent with the District's standard software products. The District's standard office automation products include the Microsoft® Office Suite (Word, Excel, Access, and PowerPoint). Other formats may be accepted if mutually agreed upon by the District's Project Manager and chief information officer. Timely submittal of progress reports shall be a condition precedent to payment of invoices.
- C. **Ownership.** All deliverables are the property of the District, including Work that has not been accepted by the District, when County has received compensation, in whole or in part, for the performance of the Work. All specifications and copies thereof furnished by the District are District property. They shall not be used on other work and, with the exception of the original plans and specifications, shall be returned to the District upon request after expiration or termination of this Agreement. Any source documents or other documents, materials, reports, or accompanying data developed, secured, or used in the performance of this Agreement are District property and shall be safeguarded by County. The original documents or materials, excluding proprietary materials, as outlined in the Statement of Work, shall be provided to the District upon

the expiration or termination of this Agreement, or upon request. County shall include language in all subcontracts that so provides.

- D. **County Computer Codes.** If the existing computer codes required for the development of a model selected by County and necessary for use in completing the Work are deemed proprietary by the County, then County grants to the District and its assignees a non-exclusive license to use the proprietary computer model codes and agrees to indemnify and hold the District harmless from all costs, damages, and expenses, including attorney's fees, arising from any claim, right, or suit over the proprietary interests in the computer codes developed for the Work. Documentation of County's proprietary rights shall be provided to the District upon request. County's computer codes may be public records subject to the provisions of Section 119.07, Fla. Stat. If a third party seeks access to this proprietary information, the District shall notify County in writing of the request in order to give County the right to protect its proprietary interest. Nothing in this Agreement shall be construed as a waiver of sovereign immunity by any party hereto, and each party is subject to the provisions of Section 768.28, Fla. Stat., as amended.
- E. **District Computer Codes.** County shall not be entitled to claim any proprietary right to computer codes that are developed by County in fulfilling the requirements of the Work, which shall be considered "work for hire" under applicable copyright and/or patent law. Such computer codes, which constitute a Deliverable hereunder, are the sole and exclusive property of the District. The District may copyright or patent such computer codes in its own name to the full extent authorized by law.

ARTICLE III - COMPENSATION

- A. **Amount of Funding.** For satisfactory performance of the Work, the District agrees to pay County a sum in the amount not to exceed \$2,200,000 (the "Total Compensation").
- B. **In-Kind Services.** Through this Cost Share Agreement, County agrees to provide \$1,081,485 in the form of matching funds and in-kind services for this project. In the event project costs exceed this amount, County shall be responsible for providing and/or securing from other sources any additional funding required to complete the project.
- C. **Invoicing Procedure.** All invoices shall be submitted to the St. Johns River Water Management District, Director, Division of Financial Management, 4049 Reid Street, Palatka, Florida 32177. County shall submit quarterly itemized invoices based upon the actual portion of the Work performed and shall bill as per the budget contained in Exhibit A, attached hereto and by reference made a part hereof. The invoices shall be submitted in detail sufficient for a proper pre-audit and post-audit review and shall comply with the document requirements described in the Comptroller's Memorandum, dated October 7, 1997, attached hereto and made a part hereof as Exhibit B to this Agreement.

All payment requests submitted by County shall include the following information:

1. Contract number
2. County's name and address (include remit address if necessary)
3. Name of District's Project Manager
4. Name of County's Project Manager
5. Cost data (utilize the appropriate method for payment request per the contract)
 - (a) Supporting documentation and copies of invoices if cost reimbursable
 - (b) Deliverables submitted and approved
 - (c) Project completion documentation
 - (d) Summary Sheet of all quarterly invoice costs and associated explanation for the costs

6. Progress Report (as per contract requirements)
7. Diversity Report (The report shall include company names for all women and minority-owned business enterprises (W/MBEs) and amounts spent with each at all levels. The report will also denote if there were no W/MBE expenditures.)

The above information and reports shall be submitted by County and approved by the District as a condition precedent to payment. Payment requests that do not correspond to the Project Budget or other requirements of this paragraph will be returned to County without action within twenty (20) business days of receipt and shall state the basis for rejection of the invoice. Payments for construction contracts shall be made within twenty-five (25) business days of receipt of an invoice that conforms to this Article. Payments for all other contracts shall be made within forty-five (45) days of receipt of an invoice that conforms to this Article.

- D. **Payments.** The District shall pay County one hundred percent (100%) of each approved invoice.
- E. **Payments Withheld.** The District may withhold or, on account of subsequently discovered evidence, nullify, in whole or in part, any payment to such an extent as may be necessary to protect the District from loss as a result of: (1) defective Work not remedied; (2) failure of County to make payments when due to subcontractors or suppliers for materials or labor; (3) the District's determination that the Work cannot be completed for the remaining or unpaid funds; (4) failure to maintain adequate progress in the Work; (5) damage to another contractor; or (6) any other material breach of this Agreement. Amounts withheld shall not be considered due and shall not be paid until the ground(s) for withholding payment have been remedied.
- F. **Forfeiture of Final Payment.** County shall submit the final invoice to the District not later than 90 days after the District provides a written statement to County accepting all deliverables. COUNTY'S FAILURE TO SUBMIT THE FINAL INVOICE TO THE DISTRICT WITHIN THE TIME FRAME ESTABLISHED HEREIN SHALL BE A FORFEITURE OF ANY REMAINING AMOUNT DUE UNDER THE AGREEMENT.
- G. **Travel.** In the event the cost schedule for the Work includes travel costs, travel expenses must be submitted on District or State of Florida travel forms. The District shall pay County all travel expenses pursuant to the District's Administrative Directive 2000-02. Travel expenses shall not be considered additional compensation, but shall be drawn from the amount provided in the project budget.
- H. **Release.** Upon the satisfactory completion of the Work, the District will provide a written statement to County accepting all deliverables. Acceptance of the final payment shall be considered as a release in full of all claims against the District, or any of its members, agents, and employees, arising from or by reason of the Work done and materials furnished hereunder.

ARTICLE IV - LIABILITY AND INSURANCE

- A. Each party to the Agreement is responsible for all personal injury and property damage attributable to the negligent acts or omissions of that party and the officers, employees, and agents thereof. In addition, each party is subject to the provisions of Section 768.28, Fla. Stat., as amended. Nothing in this Agreement shall be construed as a waiver of sovereign immunity by any party hereto.
- B. Each party shall also acquire and maintain throughout the term of this Agreement such general liability, automobile insurance, and workers' compensation insurance as required by their current rules and regulations.

ARTICLE V - FUNDING CONTINGENCY

This Agreement is at all times contingent upon funding, which may include a single source or multiple sources, including, but not limited to: (1) ad valorem tax revenues appropriated by the District's Governing Board; (2) annual appropriations by the Florida Legislature, or (3) appropriations from other agencies or funding sources. Agreements that extend for a period of more than one (1) year are subject to annual appropriation of funds, in the sole discretion and judgment of the District's Governing Board, for each succeeding year. Should the Work provided for hereunder not be approved, in whole or in part, for funding by an external funding source, or the Governing Board in succeeding years, the District shall so notify the County, and this Agreement shall be deemed terminated for convenience in accordance with **TERMINATION FOR CONVENIENCE** five (5) days after receipt of such notice, or within such additional time as the District may allow.

ARTICLE VI - PROJECT MANAGEMENT

- A. **Project Managers.** The Project Managers shall be responsible for overall coordination, oversight, and management of the Work. The parties agree to the following persons being designated as Project Manager:

DISTRICT

Regina Lovings, Project Manager
 St. Johns River Water Management District
 4049 Reid Street
 Palatka, Florida 32177
 386-329-4819
 E-mail: rlovings@sjrwmd.com

COUNTY

Mark Flomerfelt, Project Manager
 Seminole County Public Works Division
 177 Bush Loop
 Sanford, Florida 32773
 407-665-5569
 E-mail: mflomerfelt@seminolecountyfl.gov

- B. **District Project Manager.** The District's Project Manager shall have sole and complete responsibility to transmit instructions, receive information, and communicate District policies and decisions regarding all matters pertinent to performance of the Work. The District's Project Manager shall have the authority to approve minor deviations in the Work that do not affect the Total Compensation or the Completion Date. County shall not make changes authorized by the District's Project Manager without issuance of a Change Order or a District's Supplemental Instructions (DSI) form (see Attachment 1) and approval by County. All supplemental instructions shall be incorporated into the Agreement. The District's Project Manager and, as appropriate, other District employees, shall meet with County when necessary in the District's judgment to provide decisions regarding performance of the Work, as well as to review and comment on reports.
- C. **Change in Project Manager.** Either party to this Agreement may change its project manager by providing not less than three (3) working days prior written notice of the change to the other party. The District reserves the right to request County to replace its project manager if said manager is unable to carry the Work forward in a competent manner or fails to follow instructions or the specifications, or for other reasonable cause.
- D. **Supervision.** County shall provide efficient supervision of the Work, using its best skill and attention.
- E. **Notices.** All notices to each party shall be in writing and shall be either hand-delivered or sent via U.S. certified mail to the respective party's project manager at the names and addresses specified

above. All notices shall be considered delivered upon receipt. Should either party change its address, written notice of the new address shall be sent to the other parties within five (5) business days. Except as otherwise provided herein, notices may be sent via e-mail or fax, which shall be deemed delivered on the date transmitted and received.

ARTICLE VII - TERMINATIONS

- A. **Termination for Default.** This Agreement may be terminated in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given: (1) not less than ten (10) calendar days written notice delivered by certified mail, return receipt requested, and (2) an opportunity to consult with the other party prior to termination and remedy the default.
- B. **Termination for Convenience.** This Agreement may be terminated in whole or in part in writing by the District, provided County is given: (1) not less than thirty (30) calendar days written notice by certified mail, return receipt requested, of intent to terminate, and (2) an opportunity for consultation prior to termination.
- C. If termination for County's default is effected by the District, any payment due to County at the time of termination shall be adjusted to cover all services, materials, and costs, including prior commitment incurred by the District, up to the termination date. If termination for the District's default is effected by County, or if termination for convenience is effected by the District, an equitable adjustment shall provide for payment of all services, materials, and costs, including prior commitment incurred by County, up to the termination date.
- D. Upon receipt of a termination action under paragraphs "A" or "B" above, County shall:
 - 1. Promptly discontinue all affected work (unless the notice directs otherwise), and
 - 2. deliver or otherwise make available all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by County in performing this Agreement, whether completed or in process.
- E. Upon termination under Paragraphs "A" or "B" above, the District may take over the Work or may award another party a contract to complete the Work. County's shall provide the District with any licenses to enter real property interests owned by County necessary for completion of the Work.
- F. If, after termination for failure of County to fulfill contractual obligations, it is determined that County had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of District. In such event, the adjustment of compensation shall be made as provided in Paragraph "C" of this section.

ARTICLE VIII - MISCELLANEOUS PROVISIONS

- A. **Assignment and Subcontracts.** County shall not sublet, assign, or transfer any Work, in whole or in part, or assign any moneys due or to become due hereunder, which involves more than fifteen percent (15%) of the total cost of the Work, to any one contractor, without the prior written consent of the District. As soon as practicable after signing this Agreement, but in no event not less than ten (10) calendar days prior to the effective date of any such subcontracts, County shall notify the District's Project Manager in writing of the names of such subcontractors. County shall not employ any such subcontractors until they are approved in writing by the

District, which approval shall not be unreasonably withheld. Upon receipt of such consent, when a written work product is involved, County shall cause the names of the firm(s) responsible for such portions of the Work to appear thereon. County shall provide the District with an executed copy of any such subcontracts within ten (10) calendar days after the effective date of the subcontract. Neither District approval of a subcontractor nor any other provision of this Agreement shall create a contractual relationship between any subcontractor and the District.

County shall be responsible for the fulfillment of all Work elements included in the subcontracts and shall be responsible for the payment of all monies due under any subcontract. County shall be as fully responsible to the District for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as it is for its own acts and omissions. County shall hold the District harmless from any liability or damages arising under or from any subcontract to the extent allowed by law. Nothing herein shall create any contractual relationship between any subcontractor and the District. Further, nothing in this Agreement shall be construed as a waiver of sovereign immunity by any party hereto, and each party is subject to the provisions of Section 768.28, Fla. Stat, as amended.

- B. **Interest of County.** County certifies that no officer, agent, or employee of the District has any material interest, as defined in Chapter 112, Fla. Stat., either directly or indirectly, in the business of County to be conducted hereby, and that no such person shall have any such interest at any time during the term of this Agreement.
- C. **Independent Contractor.** County is an independent contractor. Neither County nor County's employees are employees of the District. County shall have the right to control and direct the means and methods by which the Work is accomplished. County may perform services for others, which solely utilize its facilities and do not violate any confidentiality requirements of this Agreement. County is solely responsible for compliance with all labor and tax laws pertaining to it, its officers, agents, and employees, and shall indemnify and hold the District harmless from any failure to comply with such laws. County's duties with respect to itself, its officers, agents, and employees, shall include, but not be limited to: (1) providing Workers' Compensation coverage for employees as required by law; (2) hiring of any employees, assistants, or subcontractors necessary for performance of the Work; (3) providing any and all employment benefits, including, but not limited to, annual leave, sick leave, paid holidays, health insurance, retirement benefits, and disability insurance; (4) payment of all federal, state and local taxes income or employment taxes, and, if County is not a corporation, self-employment (Social Security) taxes; (5) compliance with the Fair Labor Standards Act, 29 U.S.C. §§ 201, et seq., including payment of overtime in accordance with the requirements of said Act; (6) providing any necessary employee training for performance of the Work; (7) providing equipment and materials necessary to the performance of the Work; and (8) providing office or other facilities for the performance of the Work. In the event the District provides training, equipment, materials, or facilities to meet specific District needs or otherwise facilitate performance of the Work, this shall not affect any of County's duties hereunder or alter County's status as an independent contractor. Nothing in this Agreement shall be construed as a waiver of sovereign immunity by any party hereto, and each party is subject to the provisions of Section 768.28, Fla. Stat., as amended.
- D. **Non Lobbying.** Pursuant to Section 216.347, Fla. Stat., as amended, County hereby agrees that monies received from the District pursuant to this Agreement will not be used for the purpose of lobbying the Legislature or any other state agency.
- E. **Civil Rights.** Pursuant to Chapter 760, Fla. Stat., County shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, age, handicap, or marital status.

- F. **Audit: Access to Records.** County agrees that the District or its duly authorized representatives shall, until the expiration of three (3) years after final expenditure of funds hereunder, have access to examine any of County's books, documents, papers, and other records involving transactions related to this Agreement. County shall preserve all such records for a period of not less than three (3) years. Payment(s) made hereunder shall be reduced for amounts charged that are found on the basis of audit examination not to constitute allowable costs. County shall refund any such reduction of payments. All required records shall be maintained until any audit, commenced within three (3) years of final expenditure of funds hereunder, has been completed and all questions arising from it are resolved. County will provide proper facilities for access to and inspection of all required records.
- G. **Release of Information.** Records of County that are made or received in the course of performance of the Work may be public records that are subject to the requirements of Chapter 119, Fla. Stat. In the event the County receives a request for any such records, County shall notify the District's Project Manager within three (3) workdays of receipt of such request. Each party reserves the right to cancel this Agreement for refusal by the other party to allow public access to all documents, papers, letters, or other material related hereto and subject to the provisions of Chapter 119, Fla. Stat., as amended.
- H. **Royalties and Patents.** Unless expressly provided otherwise herein, County shall pay all royalties and patent and license fees necessary for performance of the Work and shall defend all suits or claims for infringement of any patent rights and save and hold the District harmless from loss on account thereof, provided, however, that the District shall be responsible for all such loss when the utilization of a particular process or the product of a particular manufacturer is specified by the District. If County at any time has information that the process or article so specified is an infringement of a patent, it shall be responsible for such loss unless it promptly provides such information to the District. Nothing in this Agreement shall be construed as a waiver of sovereign immunity by any party hereto, and each party is subject to the provisions of Section 768.28, Fla. Stat., as amended.
- I. **Diversity.** The District is committed to the opportunity for diversity in the performance of all procurements, and encourages its prime vendors (contractors and suppliers) to make good faith efforts to ensure that women and minority-owned business enterprises (W/MBE) are given the opportunity for maximum participation, as the second- and lower-tier participants. The District will assist its vendors (contractors and suppliers) by sharing information on W/MBEs to encourage their participation.
- J. **Governing Law.** This Agreement shall be construed and interpreted according to the laws of the state of Florida.
- K. **Venue.** In the event of any legal proceedings arising from or related to this Agreement, venue for such proceedings, if in state court, shall be in Duval County, Florida, and if in federal court, shall be in the Middle District of Florida, Jacksonville Division.
- L. **Attorney's Fees.** In the event of any legal or administrative proceedings arising from or related to this Agreement, including appeals, each party shall bear its own attorney's fees.
- M. **Conflicting Provisions.** If any provision hereof is found to be in conflict with the General Conditions, Special Conditions, or any attachments hereto, the terms in the body of this Agreement shall prevail.

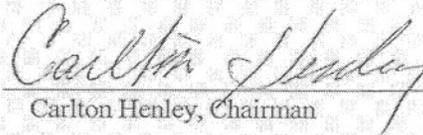
- N. **Waiver of Right to Jury Trial.** In the event of any civil proceedings arising from or related to this Agreement, County hereby consents to trial by the court and waives its right to seek a jury trial in such proceedings, provided, however, that the parties may mutually agree to a jury trial.
- O. **Construction of Agreement.** This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that both parties, have contributed substantially and materially to the preparation hereof.
- P. **Entire Agreement.** This Agreement, upon execution by County and the District, constitutes the entire agreement of the parties. The parties are not bound by any stipulations, representations, agreements, or promises, oral or otherwise, not printed or inserted herein. County agrees that no representations have been made by the District to induce County to enter into this Agreement other than as expressly stated herein. This Agreement cannot be changed orally or by any means other than written amendments referencing this Agreement and signed by all parties.
- Q. **Separate Counterparts.** This Agreement may be executed in separate counterparts, which shall not affect its validity.

IN WITNESS WHEREOF, the St. Johns River Water Management District has caused this Agreement to be executed on the day and year written below in its name by its executive director, and County has caused this Agreement to be executed on the day and year written below in its name by its duly authorized representatives, and, if appropriate, has caused the seal of the corporation to be attached.

ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

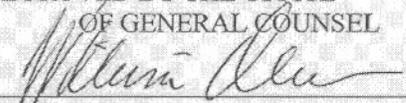
By: 
Kirby B. Green III, Executive Director

By: 
Carlton Henley, Chairman

Date: 7/5/06

Date: 6-27-06

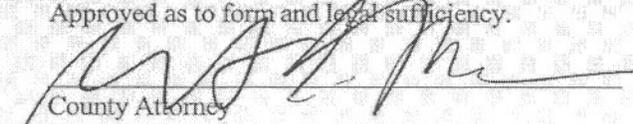
APPROVED BY THE OFFICE
OF GENERAL COUNSEL


Stanley J. Niego, Sr. Assistant General Counsel

As authorized for execution by the Board of County Commissioners at their June 27, 2006 regular meeting.

Attest: 
Maryanne Morse, Clerk to the Board of County Commissioners of Seminole County, Florida

For the use and reliance Seminole County only.
Approved as to form and legal sufficiency.


County Attorney
Date: 6-27-06

Documents attached:

- Exhibit A — Statement of Work
- Exhibit B — Comptroller's Memorandum
- Attachment 1 — District's Supplemental Instructions Form (sample)

EXHIBIT "A" – STATEMENT OF WORK
THE MIDDLE BASIN INITIATIVE:
Lake Monroe Watershed Plan Implementation

Lake Monroe Restoration – Midway Regional Stormwater Facility

I. Introduction/ Background

Water quality and flooding problems are inherent within the Lake Monroe sub-basin. Much of the basin was developed before current stormwater regulations and requirements and there is direct discharge of untreated stormwater to Lake Monroe, and thus, the St. Johns River. Seminole County Master Planning efforts resulted in targeting areas for treatment of flows to the lake and river. Seminole County in coordination with the St. Johns River Water Management District completed the Final Design for the Construction of the Midway Regional Stormwater Facility in 2005. Based on the Master Plan, the final design will result in retrofit and improvement in the surface water quality and quantity issues of the watershed.

The project area watershed currently drains into Lake Monroe, which is included on the Section 303(d) list of impaired water bodies for nutrients and dissolved oxygen. Records indicate that total nitrogen and total phosphorus concentrations in the lake have been increasing in recent years. The objective of the proposed project is to reduce the pollutant load to the lake including nutrients, suspended solids, organic matter, and metals and contribute to the improvement of the receiving waters in Lake Monroe and downstream in the St. Johns River.

II. Project Description

A 22-acre regional stormwater facility consisting of two to four wet detention ponds will be constructed to reduce pollutant loads to Lake Monroe and reduce flooding along Celery Avenue. The Midway Regional Stormwater Facility will remove pollutants through a series of meandering interconnected wet detention ponds. Currently, the farm ditches serve as the stormwater conveyance system and discharge directly into wetlands adjacent to Lake Monroe. This facility will divert the existing ditches into the stormwater pond system treating the water prior to entering the wetlands and Lake Monroe. The project is to construct the stormwater facility including the ponds, control and diversion structures, berms, and culverts. A future, unfunded phase could include a recreational aspect, with a park, trail, and trailhead. It is also envisioned to include an educational/environmental aspect that would be several educational kiosks with explanations of stormwater pollution and removal.

III. Objectives

Objective 1: Provide stormwater treatment to a 22-acre site along Celery Avenue by constructing two to four wet detention ponds to serve as a Regional Stormwater Facility.

Objective 2: Retrofit the existing drainage infrastructure in the vicinity of the project area and construct facility to accommodate additional drainage areas for future retrofits and provide treatment for areas without any existing forms of treatment facilities.

IV. Scope of Work

Construction of two to four wet detention ponds are to be completed with associated infrastructure on the 22-acre site owned by the state of Florida. The major tasks include material testing, construction engineering and inspection, and construction of the ponds.

V. Task Identification

1. Material testing
2. Construction Engineering and Inspection
3. Construction

VI. Time Frames and Deliverables

1. Project construction to be completed in accordance with Article I, A.2 of the Cost Share Agreement.
2. Provide monthly Progress Reports (the first week of each month).
3. Submit quarterly invoice with a Summary Sheet describing basis for costs (submittal the last week of each quarter).
4. Provide at least three (3) days advance notification to District's Project Manager of project related meetings.

VII. Budget

Total Budget By Task

	Task	District Funding	Matching Funds	Source of Funds
1	Material testing	\$5,000*	See below	SJRWMD
2	Engineering and Inspection	\$75,000*		SJRWMD
3	Construction	\$2,120,000*		SJRWMD
	Total	\$2,200,000		
	Project Total	\$2,200,000		

1) * Funding can be transferred between tasks as needed and agreed upon between SJRWMD and Seminole County.

Project matching funds

Amount	Source	Description Status
\$2,500,000	FDEP	Site Cleanup - complete
\$265,485	Seminole Co.	Design & Permitting -Complete
\$250,000	Seminole Co.	Building Demolition – pending lease
\$50,000	Seminole Co.	Monitoring
\$166,000	Seminole Co.	Project Administration - In-kind
\$250,000 (estimate)	Seminole Co.	Site O & M (5 years)
\$100,000 (estimate)	Seminole Co.	Midway Basin Study - Complete
\$3,581,485	Total	

Contract Amount: \$2,200,000

Note: Originally \$1,000,000 was set aside in planning the current budget to construct this project. Seminole County Schools planned to use part of the 22-acre parcel to construct an elementary school. The school construction plans included one of the treatment ponds. Due to concerns with contaminated soils at the site, the school construction site was relocated. As a result, costs for the entire project increased and \$2,200,000 is now needed for this project.

Pursuant to reference note (1) to the project budget above, any internal funding transfers between tasks shall require the issuance of a District Supplemental Instructions Form (DSI) (see Attachment 1) which shall be approved by the District and County.

EXHIBIT "B"

Comptroller Contract Payment Requirements
Department of Banking and Finance, Bureau of Auditing Manual (10/07/97)
Cost Reimbursement Contracts

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.) Supporting documentation must be provided for each amount for which reimbursement is being claimed indicating that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved contract budget should be reimbursed.

Listed below are examples of types of documentation representing the minimum requirements:

- (1) Salaries: A payroll register or similar documentation should be submitted. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.
- (2) Fringe Benefits: Fringe Benefits should be supported by invoices showing the amount paid on behalf of the employee (e.g., insurance premiums paid). If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown.
- Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.
- (3) Travel: Reimbursement for travel must be in accordance with Section 112.061, Florida Statutes, which includes submission of the claim on the approved State travel voucher or electronic means.
- (4) Other direct costs: Reimbursement will be made based on paid invoices/receipts. If nonexpendable property is purchased using State funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with Department of Management Services Rule 60A-1.017, Florida Administrative Code, regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in Section 273.02, Florida Statutes, for subsequent transfer to the State.
- (5) In-house charges: Charges which may be of an internal nature (e.g., postage, copies, etc.) may be reimbursed on a usage log which shows the units times the rate being charged. The rates must be reasonable.
- (6) Indirect costs: If the contract specifies that indirect costs will be paid based on a specified rate, then the calculation should be shown.

Pursuant to 216.346, Florida Statutes, a contract between state agencies including any contract involving the State University system or the State Community College system, the agency receiving the contract or grant moneys shall charge no more than 5 percent of the total cost of the contract or grant for overhead or indirect cost or any other cost not required for the payment of direct costs.

ATTACHMENT 1 — DISTRICT'S SUPPLEMENTAL INSTRUCTIONS (sample)

Date: _____; Contract Number: SJ456AA

Contract name: Lake Monroe Restoration – Midway Regional Stormwater Facility

To: _____

From: _____; Project Manager

The Work shall be carried out in accordance with the following Supplemental Instructions, issued in accordance with the Agreement. The District's Project Manager, by issuance of these instructions, has determined that they will not result in a change in the Total Compensation or the Completion Date. Prior to proceeding in accordance with these instructions, please indicate your acceptance hereof as provided below and return to the District's Project Manager.

1. Contractor's supplemental instructions:

2. Description of Work to be changed:

3. Description of supplemental instruction requirements:

Approved: _____ Date: _____
District Project Manager

Contractor approval: (choose one of the items below):

Approved: _____ Date: _____

(It is agreed that these instructions shall not result in a change in the Total Compensation or the Completion Date.)

Approved: _____ Date: _____
(Contractor agrees to implement the Supplemental Instructions as requested, but reserves the right to seek a Change Order in accordance with the requirements of the Agreement.)

Acknowledged: _____ Date: _____
Madeline Northcutt, Contracts Administrator

cc: Financial Management