

## LEASE AGREEMENT

THIS LEASE AGREEMENT ("Agreement") is entered into effective this 19<sup>TH</sup> day of SEPTEMBER, 2016 between BREVARD COUNTY, a political subdivision of the State of Florida ("COUNTY") and JONATHAN CECCHI LESSEE ("LESSEE").

For good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

Subject to the following terms and conditions, the COUNTY leases to LESSEE the real property ("Property") described in the attached Exhibit "A".

1. TERM. The term of this Agreement is five (5) years, commencing on the date of execution by COUNTY, unless otherwise terminated as provided herein. Provided that LESSEE has not defaulted or otherwise breached the terms of this Agreement, LESSEE shall have the right to request to renew this lease for two (2) additional five-year (5) successive terms under the same conditions set forth herein. LESSEE shall notify the Natural Resources Management Department (NRMD) Environmental Land Manager (ELM) in writing at least ninety (90) days prior to the expiration of this Agreement that they desire renewal. The NRMD ELM shall approve or deny the renewal request in writing prior to the Agreement's expiration. This Agreement may be terminated by either party upon ninety (90) days written notice to the other party. Upon termination of this Agreement, LESSEE shall have ninety (90) days in which to remove any personal property. Any property not removed within said ninety (90) day period shall automatically become property of the County without further action. In the event the COUNTY sells the subject property to a third party, this Agreement shall survive the sale and LESSEE shall maintain its rights and obligations under this Agreement for any remaining period as approved by the COUNTY.

2. LOCATION AND ACCESS: The PROPERTY consists of approximately 128 acres located south of the South Central Regional Water Reclamation Facility (SCRWTF) situated in Section 18, Township 26 South, Range 36 East, including

- a) Parcel ID# 26-36-18-00-4 (approximately 110.5 acres)

- b) A region of Parcel ID# 26-36-18-00-3 (approximately 17.5 acres)

PROPERTY does NOT have direct access. The County shall allow access through an unimproved maintenance trail intended for use by off-road vehicles. LESSEE may improve this trail at their own expense with the County's prior written approval. LESSEE may alternately, with prior written approval by the County, install a gate at one pre-approved location and clear existing brush, and/or effect additional improvements, in order to gain access through a second trail. Any other site access would require permission of adjacent property owners. Such permission shall be in writing, should the LESSEE secure it, with a copy provided to the County prior to utilization.

3. USE OF PROPERTY: PROPERTY shall be used for cattle grazing. Recreational use of the PROPERTY, including hunting and the use of recreational motor vehicles is prohibited. LESSEE shall make no illegal, improper, immoral, or unlawful use of the property, nor will LESSEE allow the use of the property for any purpose other than that set forth herein. Failure to comply with this provision shall be considered a material default of the agreement.

4. STOCKING RATE: An animal unit (AU) is one (1) bull or one (1) cow with or without one (1) unweaned calf. The maximum stocking rate for the PROPERTY is one (1) AU per four (4) acres in areas used for active grazing. Any portion of the lease used solely for haying operations will be deducted from the overall stocking acreage. The LESSEE may stock any number of animal units below the maximum stocking rate stated. The stocking rate may be increased upon favorable evaluation and written approval by the County.

5. FENCING AND IMPROVEMENTS: Prior to utilizing any section of the PROPERTY, all fences and gates must meet the following criteria.

i) The perimeter of all areas utilized for grazing and/or haying operations must be fenced. The addition or removal of any interior fences within such areas is at the discretion of the LESSEE. The LESSEE will construct new fence where required.

ii) Fences on the east and south perimeters will be constructed of (4) four strands of barbed wire, attached to pressure treated wood or metal fence posts, with post spacing not to exceed (20) twenty feet. Fencing must be a minimum of 48" (forty-eight inches) in height or equal in height to adjacent fencing, whichever is greater. .

iii) Fences on the west and north perimeters are intended to exclude feral hogs from adjacent County-owned properties, and must be constructed of woven wire fencing,

minimum 10 gage top and bottom wires, minimum 12.5 gage filler wires, maximum 6" stay spacing, attached to pressure treated wood or metal fence posts, with post spacing not to exceed (20) twenty feet. Fencing must be a minimum of 48" (forty-eight inches) in height. Any gates existing or constructed along the north or west perimeter must be designed to likewise exclude feral hogs.

iv) The LESSEE will repair and maintain all fences, gates and locks in good condition during the term of this Lease. Locks will be provided by the County. In the event an existing fence on the PROPERTY is damaged or inadequate, the LESSEE will take immediate action to replace or repair it.

v) The LESSEE must obtain the County's prior written approval before constructing any additional interior fences upon the PROPERTY.

vi) The LESSEE will maintain in good repair, any existing improvements upon the property (e.g. working pens, troughs, sheds, and other structures) or any improvements that may be placed upon the PROPERTY during the term of this Lease. Unless otherwise provided herein, the LESSEE may not make improvements to the PROPERTY without the prior written approval of the County.

vii) At the end of the lease term or any renewal, any fencing, gate(s) or other improvements installed by the LESSEE will be deemed the property of the County and will remain with the PROPERTY unless otherwise acknowledged by the County in writing

6. IDENTIFICATION All cattle must bear identification (e.g., ear tags, tattoos, brands, etc.), readily traceable to the LESSEE before their release on the PROPERTY.

7. GENERAL OPERATIONS AND MANAGEMENT The LESSEE will take appropriate measures to prevent overgrazing, pasture degradation, and other environmental impacts to the PROPERTY. Such measures will include but are not limited to the following:

i) LESSEE will conduct all activities in accordance with all applicable rules and regulations. LESSEE further agrees, when practicable, to conduct all activities in accordance with the most recent Water Quality Best Management Practices (BMPs) for Cow/Calf Operations established by the Florida Department of Agriculture and Consumer Services, Office of Agriculture Water Policy (FDACS-OAWP). The FDACS-QAWP Water Quality/Quantity Best Management Practices Manual is available at

<http://www.freshfromflorida.com/Divisions-Offices/Agricultural-Water-Policy/Enroll-in-BMPs/BMP-Rules-Manuals-and-Other-Documents>

Prior to conducting activities on the PROPERTY, LESSEE will demonstrate its intent to implement practicable BMPs by signing a Notice of Intent to Implement Water Quality BMPs for Cow/Calf Operations and submitting it to FDACS-OAWP, with copies to the County:

ii) The County desires the control or eradication of invasive exotic plants within the PROPERTY, including, but not limited to, Cogongrass (*Imperata cylindrica*) and Brazilian Peppertree (*Schinus terebinthifolius*). The LESSEE will be responsible for monitoring for the presence of exotics on the PROPERTY, and may elect to conduct maintenance activities acceptable to the County (e.g. prescribed burns, herbicide application, or mechanical removal) to minimize and limit the spread of exotics onto the PROPERTY. The cost of such maintenance may be deducted from the lease with prior written approval from the County. If LESSEE purchases hay, seed, or other planting materials off-site, the LESSEE agrees to make every practicable effort to ensure that such materials are free of exotics.

iii) The LESSEE will assume responsibility for controlling feral hogs on the PROPERTY. The County may, at its discretion, offer the assistance of volunteer trappers to assist in this effort if acceptable to the LESSEE; but the County will not be responsible for the control. All captured swine must be slaughtered before being removed from the site. County shall conduct a criminal background check on any individuals the LESSEE desires to assist with control efforts. LESSEE shall reimburse the County for cost of all such background checks.

8. QUARANTINE The LESSEE must quarantine all cattle for seven (7) days prior to releasing them on the PROPERTY. The LESSEE will ensure that all cattle are free of exotic seed prior to releasing them on the PROPERTY.

9. HAYING Haying is allowed on the PROPERTY. To ensure that the quality of the hay field is maintained or enhanced, the LESSEE agrees to harvest hay from the pasture(s) at least once a year, but no more than four (4) times annually. The LESSEE will conduct harvesting activities in a manner that will not damage or strip the pasture(s) of

desirable grasses. No additives, such as lime or fertilizer, can be used to enhance hay production.

10.     **WORKS OF THE COUNTY**             The County reserves the right to enter upon the PROPERTY, at such times and places as the County may deem necessary, for the purposes of inspection the PROPERTY, constructing roads and other projects, constructing canals or ditches, and for any matter pertaining to water management or land management activities. The County will be identified in marked vehicles or have ID badge on person.

11.     **ACCESS, PERSONNEL AND VEHICLES**             With the exception of operations by County staff and County-authorized volunteers, only personnel and vehicles utilized or authorized by the LESSEE for use in its cattle grazing and haying operation are allowed on the PROPERTY. The County shall provide access to the PROPERTY through the SCRWTF.

12.     **PROTECTION**             The LESSEE will regularly inspect the PROPERTY for the purpose of detecting wildfires, trespasses, vandalism, etc. on the PROPERTY. Such inspections may include inspecting for downed or damaged fences, open gates and cattle that have strayed from the PROPERTY. LESSEE must immediately notify the County upon the discovery of any wildfire, trespass, or vandalism. LESSEE is responsible for repairing damaged fences, and taking appropriate measures to immediately return stray cattle to the PROPERTY.

13.     **PRESCRIBED BURNING**             Prescribed burning may be conducted by the LESSEE with prior written approval from the County. The LESSEE must disk firebreaks around the interior perimeter of the PROPERTY, at least annually and more frequently if necessary, to protect the Preserve and PROPERTY from damage or destruction by wildfire and ensure that prescribed burns are conducted safely. Firebreaks will be maintained at a minimum width of fifteen (15) feet.

14.     **PROTECTION OF LISTED SPECIES**             During the period of this AGREEMENT the presence on the PROPERTY of Species listed as Endangered, Threatened, or of Special Concern by the United States Fish and Wildlife Service ((USFWS) and/or the Florida Fish and Wildlife Conservation Commission (FFWCC) may require certain actions to ensure protection of these listed species. The LESSEE agrees to coordinate and cooperate with the County during consultations with the USFWS and/or FFWCC to determine the actions

necessary to ensure protection of these listed species. The LESSEE agrees to abide by all protective requirements stipulated by the USFWS and/or FFWCC

15. **HISTORIC PRESERVATION** The LESSEE shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archaeological, architectural or other cultural artifacts, relics, remains or objects of antiquity. In the event such items are discovered on the premises, the LESSEE shall immediately notify the County and protect the site and the material from further disturbance until the County gives clearance to proceed.

16. **PROTECTION OF NATURAL RESOURCES** The LESSEE agrees, with respect to general maintenance of the land and wildlife that the LESSEE will implement and carry on a program of stewardship to promote and maintain said wildlife and land. The LESSEE shall at all times:

- i) Maintain the PROPERTY in good condition and free from washes, gullies, and other erosion which is detrimental to the PROPERTY;
- ii) cut no timber, conduct no mining operations, remove no sand, gravel or kindred substances from the PROPERTY;
- iii) Place no landscape debris, garbage, refuse, or junk on the PROPERTY; and
- iv) Commit no waste of any kind nor in any manner substantially change the contour or condition of the PROPERTY.

17. **CHEMICAL USEAGE** Lessee shall maintain all licenses, permits or authorizations necessary or required in connection with Lessee's use of the PROPERTY, including those pertaining to the use, storage, distribution and disposal of pesticides, herbicides, fertilizers and other chemicals used in accordance with the Cattle Grazing and Hayfield Management Plan and maintenance of the PROPERTY. Lessee will not store or mix any pesticides, herbicides, and other potentially hazardous chemicals on the PROPERTY. Lessee shall handle, distribute, apply, and dispose of all pesticides, herbicides, fertilizers and other chemicals in accordance with all federal, state and local regulations, and in strict accordance with the manufacturer's instructions. Lessee shall be fully responsible for satisfying any reporting requirements imposed by regulatory authorities relative to the use of such chemicals.

18. **RENT:** LESSEE agrees to pay Brevard County RENT for the use and occupancy of the property in accordance with the bid, payable in quarterly installment in

advance. Rent for any portion of a year shall be prorated. Checks shall be made payable to the Board of County Commissioners, Brevard County, Florida, and mailed to Brevard County Natural Resources Management Department, 2725 Judge Fran Jamieson Way, Building A, Room #219, Viera, FL 32940.

19. **UTILITIES:** LESSEE shall pay for all utility charges connected with LESSEE'S use of the property. LESSEE shall arrange for the provision of utilities required for the LESSEE'S use, shall pay for all charges required for connection or extension, if any, and LESSEE shall be responsible for maintenance of all utilities to the extent that LESSEE'S agreement with the utility may require customer responsibility for maintenance. Written approval by the County is required prior to installation or use of utilities.

20. **COMPLIANCE WITH APPLICABLE LAW.** LESSEE shall be allowed to utilize and manage the property in compliance with applicable local, state and federal laws.

21. **ASSIGNMENT.** This Agreement is not assignable.

22. **INDEMNIFICATION.** Except for losses, damages and claims arising out of the acts or omissions of COUNTY or COUNTY'S agents, contractors and employees, LESSEE shall indemnify and hold harmless COUNTY from and against any and all claims arising from LESSEE'S use of the Property, or from the conduct of LESSEE'S business or from any activity, work or things done by Lessee, it's agents, contractors, or assigns, in or about the Property and shall further indemnify and hold harmless COUNTY from and against any and all claims arising from any breach or default in the performance of any obligations on LESSEE'S part to be performed under the terms of this Agreement, or arising from any negligence of the LESSEE, or any such claim or any such action or proceeding brought thereon; and in case any action or proceeding be brought against COUNTY by reason of any such claim, LESSEE, upon notice from COUNTY, shall defend the same at LESSEE'S expense, by counsel acceptable to COUNTY. Likewise, to the extent allowed by law, COUNTY shall indemnify and hold harmless LESSEE from and against any and all claims arising from any activity, work or things done, permitted or suffered by COUNTY in or about the Property to the extent that such claims, damages, losses, or expenses are caused solely by the negligent or wrongful acts of the COUNTY or its employees. Nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of Section 768.28, Florida Statutes. Nothing herein shall be construed as consent to be sued by third parties. The parties acknowledge that valuable consideration has been given for the provisions of this indemnity clause.

23. MAINTENANCE OF PROPERTY. COUNTY shall be responsible for routine maintenance and cleaning of ditches, as necessary. LESSEE shall not alter any existing ditches or change the flow of water across the Property for any reason. LESSEE shall be responsible for all other maintenance of the Property. LESSEE agrees to keep the Property free and clear of any obstruction, rubbish and litter. LESSEE agrees to maintain the Property in the manner and condition as previously maintained and return same to the COUNTY upon termination or expiration in such condition, reasonable wear and tear excepted. Nothing herein shall be construed as consent on the part of LESSEE to any change in the flow of surface water across any other property owned by LESSEE. LESSEE shall not use the property for any purpose other than related agricultural activities.

24. RENT. LESSEE agrees to pay COUNTY rent for the use and occupancy of the Property, the sum of \$110 per acre per year, payable in quarterly installments in advance. Rent for any portion of a year shall be prorated. Checks shall be made payable to the Board of County Commissioners, Brevard County, Florida, and mailed to Brevard County Natural Resources Management Department, 2725 Judge Fran Jamieson Way, Building A, Room 219, Viera, Florida 32940.

25. UTILITIES. LESSEE shall pay for all utility charges connected with LESSEE's use of the Property. LESSEE shall arrange for the provision of utilities required for LESSEE's use, shall pay for all charges required for connection or extension, if any, and LESSEE shall be responsible for maintenance of all utilities to the extent that LESSEE's agreement with the utility may require customer responsibility for maintenance.

26. WARRANTIES. LESSEE accepts the Property for use in its cattle operations, as of the effective date of this Agreement in its existing condition as is, where is, and with all faults, without representation of warranty of any kind, expressed or implied, including, but not limited to, with respect to such matters as title, zoning use, economic feasibility, and soil, environmental and other physical conditions. LESSEE's use of the Property shall be subject to all recorded matters, laws, ordinances, and governmental regulations and orders. LESSEE hereby acknowledges that it has been afforded full opportunity to and has fully investigated such matters to its satisfaction prior to entering into this Agreement, or will investigate such matters fully, and is entering in this Agreement solely upon such investigations. Except as provided within this Agreement, LESSEE acknowledges that the COUNTY has made no representations or warranties to LESSEE as to the conditions of the Property or the suitability of the Property for LESSEE's intended use.



27. INSURANCE. LESSEE further agrees to provide and maintain at all times during the Term of this Agreement without cost or expense of the COUNTY, policies of insurance generally known as Comprehensive Commercial General Liability Policies, insuring LESSEE against any and all claims, demands and causes of action whatsoever for injuries received and damage to the Property in connection with LESSEE's use, occupation, management and control of the Property and improvements thereon. Such policies of insurance shall insure LESSEE in an amount not less than One Million and no/100 Dollars (\$1,000,000.00) per occurrence, to cover any and all claims connected with any accident or occurrence that may arise or be claimed to have arisen against LESSEE. LESSEE shall also obtain property damage insurance insuring LESSEE in an amount not less than One Million and no/100 Dollars (\$1,000,000.00) to cover the claims of any person or persons from a single or specific act that results in alleged damage to Property. This insurance shall provide that the COUNTY shall be entitled to thirty (30) days notice of any changes or cancellation in said policy. LESSEE shall notify the COUNTY immediately in writing of any potentially hazardous condition existing on or about the Property. LESSEE shall provide the described insurance policies with insurers acceptable to the COUNTY. These insurance requirements may not relieve or limit the liability of LESSEE. The COUNTY does not in any way represent that these types or amounts of insurance are sufficient or adequate to protect LESSEE's interest or liabilities, but are merely minimums. A copy of LESSEE's insurance policies shall be provided to the Brevard County Natural Resources Management Department Environmental Land Manager, 2725 Judge Fran Jamieson Way, Building A, Viera, Florida 32940, within ten (10) days of the date of execution of this Agreement. LESSEE agrees and understands that the COUNTY does not and shall not carry liability, theft or fire insurance on the Property to cover LESSEE's interest.

28. TERMINATION FOR DEFAULT. LESSEE understands and agrees that LESSEE's use of the Property is upon the expressed condition that should LESSEE fail or neglect to perform or observe any or all the covenants contained within this Agreement, or fail to make any constructive use of the Property for the purpose designated herein, which failure or neglect continues for a period of thirty (30) days after receipt of written notice, then LESSEE's right to use the Property as contained herein shall, at the option of the COUNTY, become null and void. Time is of the essence in the performance of all covenants and conditions.

29. LITIGATION COSTS; VENUE. In the event of any legal action to enforce the terms of this Agreement, each party shall bear its own attorney's fees and costs.

Any action brought in law or equity to enforce the terms of this Agreement shall be held before a court of competent jurisdiction in and for Brevard County, Florida and any trial conducted shall be non-jury.

30. NOTICE. Any notice required to be given shall be provided to the COUNTY at the Office of the Natural Resources Management Department, 2725 Judge Fran Jamieson Way, Building A, Room 219, Viera, Florida 32940. Notice to LESSEE shall be given at P.O. Box 3462, Cocoa, Florida 32924.

31. ENFORCEMENT. No section or provision of this Agreement shall be deemed to have been waived unless such waiver shall be in writing signed by the COUNTY. The failure of the COUNTY to insist upon the strict performance of the terms of this Agreement, or the failure of the COUNTY to exercise any right, option or remedy set forth in this Agreement shall not be construed as a waiver of any other right, option or remedy the COUNTY may have under this Agreement or as a waiver of a subsequent breach of the terms of this Agreement.

32. GOVERNING LAW. This Agreement shall be governed, interpreted and construed according to the laws of the State of Florida.

33. MODIFICATIONS. This Agreement, together with any exhibits, constitutes the entire agreement between COUNTY and LESSEE and supersedes all prior written or oral understandings. This Agreement and any exhibits may only be amended, supplemented or canceled by a written instrument duly executed by the parties hereto.

19. RIGHT TO AUDIT RECORDS. In performance of this Agreement, LESSEE shall keep books, records, and accounts of all activities related to this Agreement, in compliance with generally accepted accounting procedures. All documents, papers, books, records and accounts made or received by LESSEE in conjunction with this Agreement and the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of LESSEE and shall be retained by LESSEE for a period of three (3) years after termination of this Agreement, unless such records are exempt from section 24(a) of Article I of the State Constitution and Section 119.07(1) Florida Statutes. All records or documents created by or provided LESSEE in connection with this Agreement, are public records and LESSEE agrees to comply with any request for such public records or documents made in accordance with Section 119.07 Florida Statutes.

20. CONSTRUCTION OF AGREEMENT. The parties hereby acknowledge that they fully reviewed this Agreement, its attachments and had the opportunity to consult with legal counsel of their choice, and that this agreement shall not be construed against any party as if they were the drafter of this Agreement.



BOARD OF COUNTY COMMISSIONERS

Natural Resources Management Department  
2725 Judge Fran Jamieson Way  
Building A, Room 219  
Viera, Florida 32940

## Inter-Office Memo

**TO:** The Honorable Jim Barfield, Chairman  
Board of County Commissioners

**THROUGH:** Stockton Whitten, County Manager *[Signature]*  
Virginia Barker, Director, Natural Resources Management Department (NRM) *[Signature]*  
Darcie McGee, Program Manager, Environmental Resources Management (ERM) *[Signature]*

**FROM:** Raleigh T. Berry III, Sr. Environmental Scientist, NRM *[Signature]*

**DATE:** September 22, 2016

**SUBJECT:** Cattle Lease Agreement – Viera Wetlands

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As set forth in the attached Clerk's Memo dated July 13, 2015, the Board of County Commissioners granted authorization to bid and award to the highest bidder, and authorized the Chairman to execute, a Lease Agreement for the purpose of cattle grazing within a 118 acre site adjacent to the Viera Wetlands.

The attached Lease Agreement document has been approved by the County Attorney's Office. The associated Clerk's Memo is included for your review.

We respectfully request your signature on the enclosed original Lease Agreement document.

Once signed, please call Marie Winkler at X52414 for pick up.

Should you have any questions or concerns, please contact Raleigh Berry at X52423.

Thank you.

2 Attachments:

1. Clerk's Memo dated July 12, 2016
2. Lease Agreement



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

July 13, 2016

MEMORANDUM

TO: Virginia Barker, Natural Resources Management Director

RE: Item II.A.7., Permission to Bid, Award, and Execute Lease Agreement for 128± Acres to be Used for Cattle Grazing

The Board of Commissioners, in regular session on July 12, 2016, granted permission to bid and award to the highest bidder; authorized the Chairman to execute a lease agreement for the purpose of cattle grazing; and in accordance with Florida Statute 125.35(1)(a), the Board is expressly authorized to sell and convey any real or personal property and to lease real property belonging to the County, whenever the Board determines that it is to the best interest of the County to do so.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK


*Tammy Rowe*

Tammy Rowe, Deputy Clerk

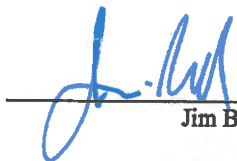
cc: Utility Services Director  
Finance  
Budget

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

ATTEST


  
\_\_\_\_\_  
Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

  
\_\_\_\_\_  
Jim Barfield, Chairman

As approved by the Board November 17, 2015

Reviewed for Legal Form and Content

  
\_\_\_\_\_  
Christine Lepore, Assistant County Attorney

WITNESS

  
\_\_\_\_\_

LESSEE

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

## Exhibit A, Aerial Map



Shown are Property ID# 26-36-18-00-4 which is approximately 110.5 acres  
and a section of Property ID 26-36-18-00-3 which is approximately 17.5 acres.  
The area highlighted in red is excluded from this lease.