

50-2

Agenda Item #:

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: July 21, 2015 [] Consent [X] Regular
[] Ordinance [] Public Hearing

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to: A) approve a Fourth Amendment to Lease Agreement with Bedner Farm, Inc. (R-2001-0582) of 262 acres in the Ag Reserve; and

B) adopt a Resolution finding that an extension of the Lease Agreement with Bedner Farm, Inc. for 10 years until 2043 is in the best interest of the County.

Summary: On April 17, 2001, the Board approved a contract with Bedner Farm, Inc. to acquire approximately 262 acres in the Ag Reserve (R-2001-0582). Simultaneous with the closing, the County leased the property back to Bedner Farm for a term of ten (10) years at an initial rental rate of \$550/acre/year. The First Amendment approved on May 15, 2007 extended the term for twelve (12) years to 2023 (R-2007-0827). The Third Amendment approved on February 4, 2014 extended the term for ten (10) years until 2033 (R-2014-0190). Bedner Farm is operated by the Bedner family which wants to ensure that the younger members of the family will have the ability to continue farming. The Bedners are concerned about incremental changes to the land use and zoning regulations for the Ag Reserve, and the potential impact of such changes on the Bedners' ability to continue farming and have requested the County extend their Lease. Extending the Lease will provide the Bedners the legal right to farm as long as it remains economically viable to do so. This Fourth Amendment to Lease Agreement provides Bedner Farm, Inc. ten (10) additional options to extend the term of the Lease, each for a period of one (1) year. If all options are exercised, the term would be extended to 2043. Rent is currently \$500/acre/year and will be periodically adjusted to fair market value as determined by appraisal. The Resolution finds that the extension of the Bedner Lease is in the best interests of the County based upon the following facts: 1) a major element of the Ag Reserve Acquisition Program was to ensure continued agricultural operations in the Ag Reserve; 2) continuity of farming operations assists in preserving agricultural operations in the Ag Reserve; 3) the extension of the Bedner Lease will maintain continuity of existing farming operations; and 4) the County will receive fair market value rent as determined by appraisal during the extensions. (PREM) District 5 (HJF)

Background and Policy Issues: The County bought 262 acres in the Ag Reserve from Bedner Farm, Inc. for \$9,854,757 on June 26, 2001. The initial term of the Lease, as approved on June 19, 2001, commenced upon closing.

Continued on Page 3

Attachments:

- 1. Location Maps
- 2. Fourth Amendment to Lease Agreement
- 3. Resolution

Recommended By: ACH Amy Wolf 7/10/15
Department Director Date
Approved By: [Signature] 7/15/15
County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2015	2016	2017	2018	2019
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>_____*</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget: Yes _____ No _____

Budget Account No: Fund _____ Dept _____ Unit _____ Object _____
 Program _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

* Fiscal Impact occurs beyond 2019. Rent is established by appraisal and may be adjusted periodically.

C. Departmental Fiscal Review: _____ *7-10-15*

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

[Signature]
 OFMB *6/15/15*
7/13/15

[Signature]
 Contract Development and Control
7-15-15 *Butcher* *7/15/15*

B. Legal Sufficiency:

[Signature] *7/16/15*
 Assistant County Attorney

C. Other Department Review:

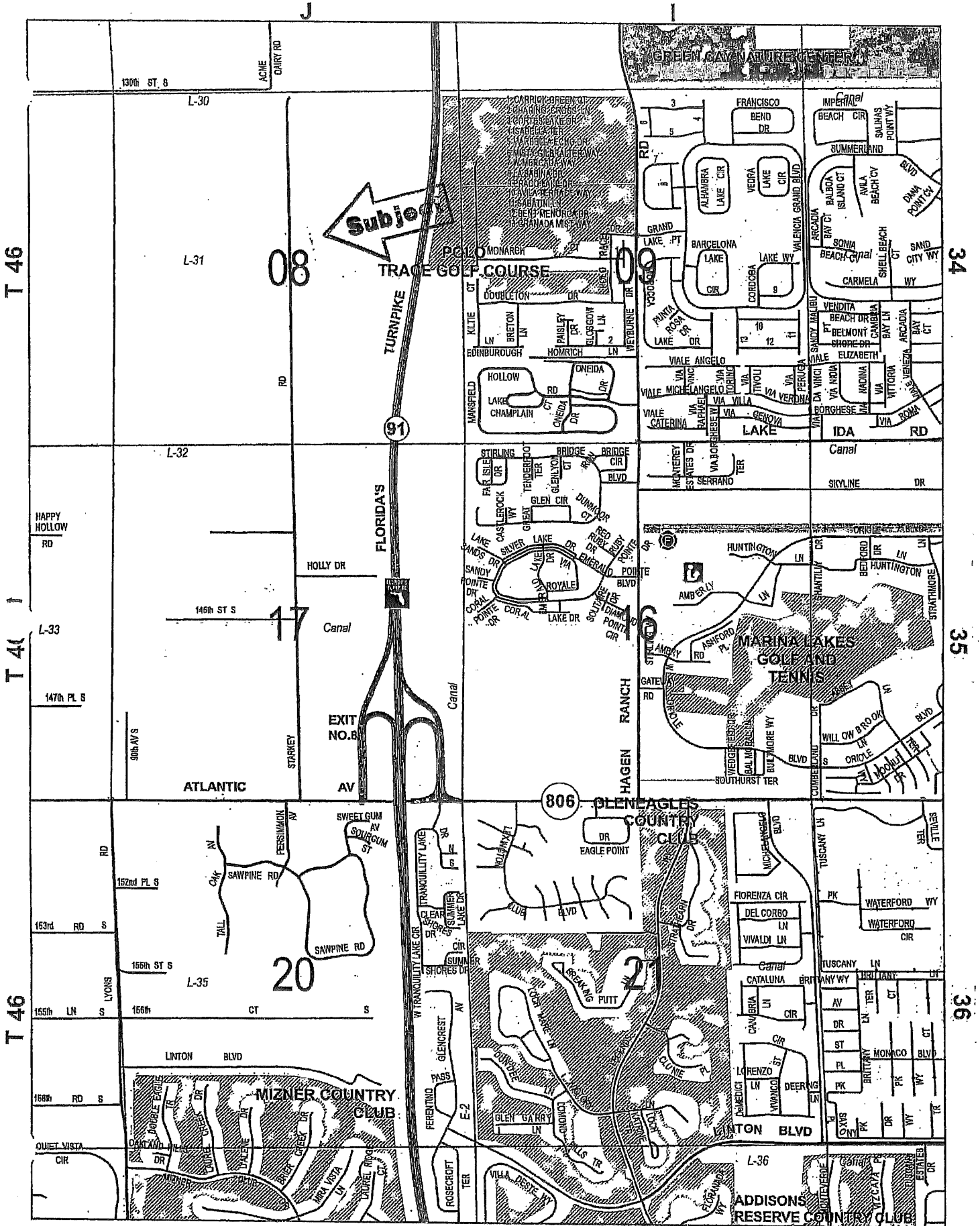
 Department Director

This summary is not to be used as a basis for payment.

Background and Policy Issues Continued: In 2007, the Board approved a First Amendment extending the Lease for twelve (12) years until 2023 (R-2007-0827). In 2010, the Board approved a Second Amendment (R-2010-0083) reducing the rent from \$550/acre to \$500/acre as part of an overall rental reduction for all County leases in the Ag Reserve in response to the recession. A recent appraisal indicated that fair market rents in the Ag Reserve remain at \$500/gross acre. In 2014, the Board approved a Third Amendment (R-2014-0190) extending the term for ten (10) years until 2033.

The Bedners' current lease runs through 2033 (18 years from now) which arguably is sufficient for the Bedners' planning purposes. In addition, extending the Bedners' Lease now removes the future option to do an RFP to allow those farmers who do not currently have land in the Ag Reserve an opportunity to bid. However, this is a unique situation in that the Bedners sold their land to the County on the condition that they have the right to continue farming. Continuity in farming operations assists in preserving agricultural operations in the Ag Reserve. Extension of their lease will both ensure that the Bedners have a long term right to farm and inhibit changes that could otherwise impact the Bedner Farm land. As rent during the extension will continue to be subject to adjustment based upon appraisals, the County will always receive fair market rent.

Florida Statutes Section 286.23 requires that a Disclosure of Beneficial Interest be obtained when a property held in a representative capacity is leased to the County, but does not require such Disclosure when the County leases property to a tenant. Since the Statute does not require the Disclosure and since this is an amendment to the Lease Agreement for which a Disclosure was already provided, Staff did not request a new Disclosure. Previous disclosures identified Stephen W. Bedner (33-1/3%), Charles Bedner (33-1/3%) and Bruce Bedner (33-1/3%) as holding interests in Bedner Farm, Inc.

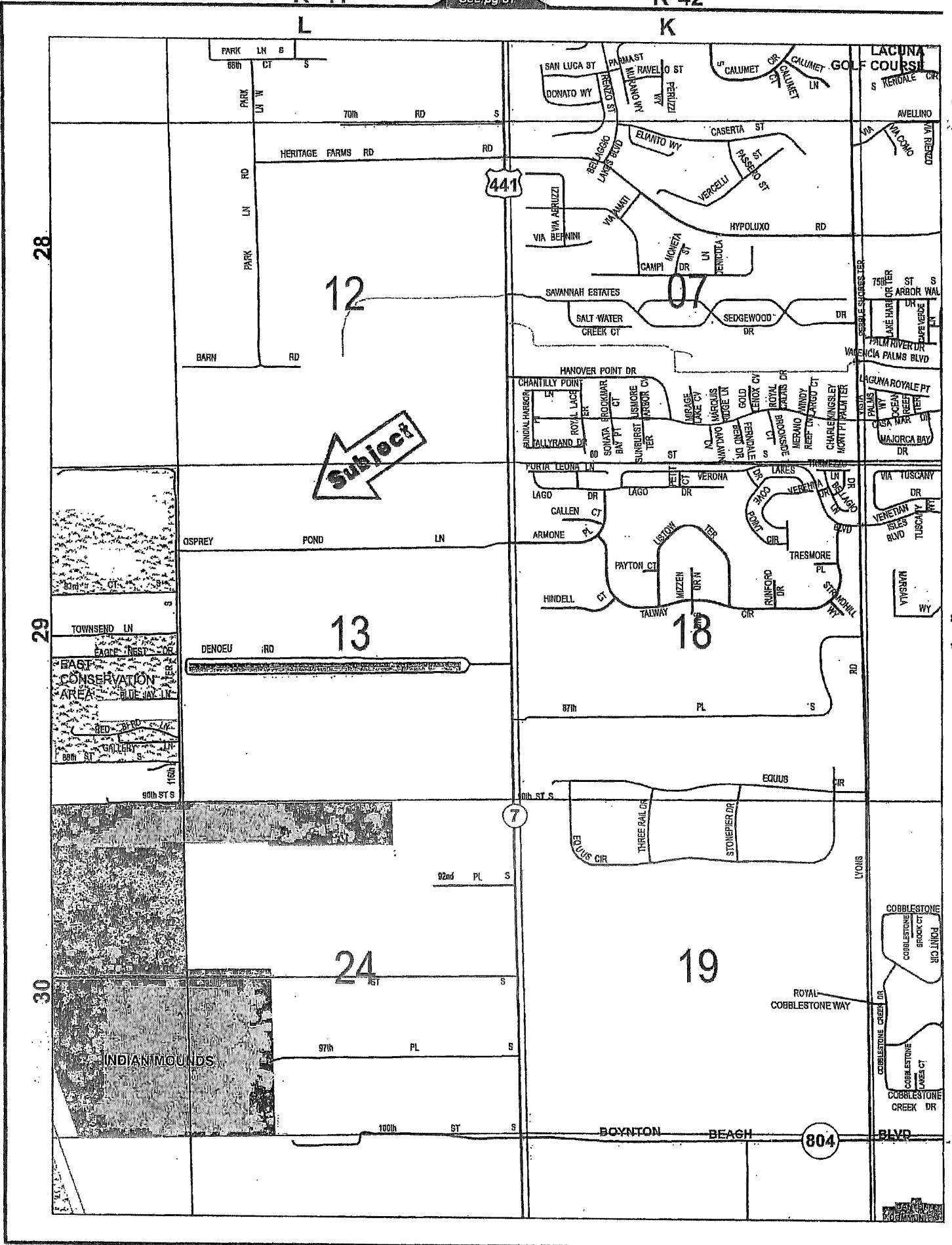


LOCATION MAP

"A"

Attachment 1
Page 1 of 2

Handwritten signature or initials.



LOCATION MAP

"B"

Attachment 1

Page 2 of 2

II

FOURTH AMENDMENT TO LEASE AGREEMENT

THIS FOURTH AMENDMENT TO LEASE AGREEMENT (R2001-0582) (the “Fourth Amendment”) entered into as of _____ by and between PALM BEACH COUNTY, FLORIDA, a political subdivision of the State of Florida, hereinafter referred to as “County” and BEDNER FARM, INC. (a Florida corporation), with offices located at 14186 Starkey Road, Delray Beach, FL 33446 (EIN: #59-1784981) hereinafter referred to as “Tenant”.

WITNESSETH

WHEREAS, County and Tenant entered into a Lease Agreement dated June 26, 2001, which was approved under Resolution No. 2001-0582 on April 17, 2001 (the “Lease”), pursuant to which Tenant leases approximately 262 acres (the “Premises”) as legally described in the Lease; and

WHEREAS, County and Tenant entered into a First Amendment to Lease Agreement (R2007-0827) on May 15, 2007 (the “First Amendment”), extending the term of the Lease for twelve (12) years; and

WHEREAS, County and Tenant entered into a Second Amendment to Lease Agreement (R2010-0083) on January 12, 2010 (the “Second Amendment”), which reduced the rent, revised the method for adjusting rent, and provided for documentation of Tenant’s crop yields; and

WHEREAS, County and Tenant entered into a Third Amendment to Lease Agreement (R2014-0190) on February 4, 2014, (the “Third Amendment”), extending the term of the Lease for ten (10) years; and

WHEREAS, the Lease term prior to this Fourth Amendment expires May 31, 2033; and

WHEREAS, Tenant is concerned about incremental changes to the land use and zoning regulations for the Ag Reserve and the potential impact of such changes on the Tenant’s ability to continue farming and wants to ensure that the younger members of Tenant’s family will have the ability to continue farming and has requested a ten (10) year extension of the Lease term; and

WHEREAS, the parties wish to modify this Lease on the terms and conditions set forth herein.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, as well as other good and valuable considerations, the receipt of which is hereby acknowledged by both parties, County and Tenant agree as follows:

- 1 The foregoing recitals are true and correct and incorporated herein by reference.

2. Section 1.03 Option to Renew, is hereby amended as follows:

The words "...for nine (9) successive periods..." in the first sentence are revised to state "...for forty-one (41) successive periods...". All the rest and remainder of Section 1.03 is unchanged and remains in full force and effect.

3. Except as modified by this Fourth Amendment, the Lease remains unmodified and in full force and effect in accordance with the terms thereof.

4. This Fourth Amendment is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners and shall become effective only when signed by all parties and approved by the Palm Beach County Board of County Commissioners.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have set their hands and seals to this Fourth Amendment as of the date written above.

Signed, sealed and delivered
in the presence of:

ATTEST:

SHARON R. BOCK,
Clerk and Clerk & Comptroller

COUNTY

PALM BEACH COUNTY, a political
subdivision of the State of Florida

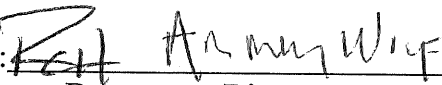
By: _____
Deputy Clerk


By: _____
Shelley Vana, Mayor


APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:


APPROVED AS TO TERMS
AND CONDITIONS:

By: 
Assistant County Attorney

By: 
Department Director


Witness
Adalberto Rodriguez
Printed Name

TENANT
BEDNER FARM, INC.
By: 
Printed Name: Charles Bedner
Title: pres


Witness
Amanda Nassar
Printed Name

Seal

Attachment 3
Resolution w/Exhibit
Fourth Amendment to Lease Agreement
5 pages inclusive

RESOLUTION NO. 2015-

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AUTHORIZING AN EXTENSION OF THE LEASE WITH BEDNER FARM, INC.; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Bedner Farm, Inc., a Florida corporation (“BFI”), pursuant to a Lease Agreement dated June 26, 2001 (R2001-0582), as amended, leases 262 acres of land from Palm Beach County in the Ag Reserve for agricultural purposes;

WHEREAS, BFI has requested that County extend the term of the Lease for ten (10) years by granting BFI ten (10) successive options to extend the term of the Lease, each for a period of one (1) year; and

WHEREAS, the Board of County Commissioners of Palm Beach County hereby finds that a major element of the Ag Reserve Acquisition Program was to ensure continued agricultural operations in the Ag Reserve; continuity of farming operations assists in preserving agricultural operations in the Ag Reserve; extension of the Lease maintains continuity of existing farming operations; and the County will receive fair market value rent as determined by appraisal during the extensions of the Lease, and it is therefore in the best interest of the County to extend the Lease to preserve agricultural production on the property.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

Section 1. Recitals

The foregoing recitals are true and correct and incorporated herein by reference.

Section 2. Authorization to Extend the Term of the Lease

The Board of County Commissioners of Palm Beach County shall grant BFI ten (10) successive options to extend the term of the Lease, each for a period of one (1) year, pursuant to the Fourth Amendment to Lease attached hereto and incorporated herein by reference, with rent during said extended term being adjusted to Fair Market Value as determined by appraisal.

Section 3. Conflict with Federal or State Law or County Charter.

Any statutory or Charter provisions in conflict with this Resolution shall prevail.

Section 4. Effective Date.

The provisions of this Resolution shall be effective immediately upon adoption hereof.

The foregoing Resolution was offered by Commissioner _____

who moved its adoption. The Motion was seconded by Commissioner _____,

and upon being put to a vote, the vote was as follows:

- Commissioner Shelley Vana, Mayor
- Commissioner Mary Lou Berger, Vice Mayor
- Commissioner Hal R. Valeche
- Commissioner Paulette Burdick
- Commissioner Steven L. Abrams
- Commissioner Melissa McKinlay
- Commissioner Priscilla A. Taylor

The Mayor thereupon declared the Resolution duly passed and adopted this _____ day of _____, 2015.

PALM BEACH COUNTY, a political
subdivision of the State of Florida
BOARD OF COUNTY COMMISSIONERS

SHARON R. BOCK
CLERK & COMPTROLLER

By: _____
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: 
Assistant County Attorney

APPROVED AS TO TERMS
AND CONDITIONS

By: 
Department Director