

2023 FARMLAND LEASE AGREEMENT North Ottawa #23-01

THIS LEASE is entered into this _____ day of _____, 2022 (the “Effective Date”), by the Bois de Sioux Watershed District, a Minnesota political subdivision (Lessor); and Raguse Family Partnership (Lessee).

RECITALS

WHEREAS, Lessor owns property in Grant, Traverse, Big Stone, and Otter Tail Counties in Minnesota, upon which it operates and owns the North Ottawa multi-purpose impoundment project (“Project”), and desires to lease these properties for the purpose of farming; and

WHEREAS, the Leased Property (defined below) is state bond financed property and is subject to the terms of that certain General Obligation Bond Proceeds Grant Agreement dated 09-29-2010 by and between Lessor and the Department of Natural Resources (“Grant Agreement”); and

WHEREAS, Lessor has determined that Leased Property (defined below) is not currently needed and is not expected to be needed for flood control and desires, in accordance with Minn. Stat. §103D.335, to lease the Leased Property for agricultural purposes, provided that the Leased Property remains subject to use by Lessor as necessary for flood control purposes; and

WHEREAS, this Lease covers the following:

Lessor: Bois de Sioux Watershed District
704 Highway 75 South
Wheaton, MN 56296

Lessee(s): TBD

Legal Description: State of Minnesota, County of Traverse
Legal description contained in Exhibit A (the “Leased Property”)

Tillable Acres: TBD by District
3 Cells without a crop restriction
2 Cells with a small grain or corn silage grain restriction

Term: January 1, 2023 – December 31, 2023
Separate lease agreements for January 1, 2024 – December 31, 2024 and
January 1, 2025 – December 31, 2025 will be coordinated with the lessee, as
terms are dependent upon crop restrictions and acres

Rental Rate: TBD due in full on March 1, 2022

The check is made payable to:
Bois de Sioux Watershed District

WHEREAS, pursuant to Minn. Stat. §103D.335, subd 21, all rent received under this Lease by Lessor shall be retained in a separate project-specific account and used solely for flood control operation, maintenance, and replacement purposes within the Project and, if Lessor determines that the account contains adequate reserves for future operation, maintenance, and replacement, any excess may be used for the construction, operation, maintenance, or replacement of other flood control projects as approved by the Commissioner of the Department of Natural Resources.

NOW THEREFORE, in consideration of the mutual covenants contained in this Lease, and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties agree as follows:

AGREEMENT

1. **Taxes and Special Assessments.** Lessor agrees to pay all property taxes and assessments regarding the Leased Property which are payable during the term of this Lease.
2. **Lessee's Obligations – Use of Premises.** Lessee agrees to the following:
 - a) The Leased Property will be used for the purpose of planting, growing, fertilizing, spraying, and harvesting crops; tilling, disking, or working the land; and for other agricultural purposes. The Leased Property shall not be used for any other purpose without prior written consent of Lessor.
 - b) To control noxious weeds in a reasonable manner such that the weeds do not go to seed and mow all road ditches and approaches. If the roadside ditches, roads, or approaches are damaged, Lessee must repair them to the condition that existed before said damage, at Lessee's sole cost.
 - c) To maintain drainage ditches, where applicable, such that the grade and cross section remains the same as they were when this Lease commenced. Lessee will not cause any area that is not currently designated as a "wetland" area to become a "wetland" area because of lack of ditch maintenance thereby causing water to stand or wetland type vegetation to grow. If the Leased Property contains areas designated as "wetland" or "converted wetland," Lessee will not alter these areas in any manner that will cause Lessor to be in violation of USDA/FSA Swampbuster rules and regulations.
 - d) To maintain section lines for access to the Leased Property where applicable.

- e) To mow and maintain all buffer strips installed pursuant to Lessor's Buffer Rule. If the buffers are damaged by Lessee, Lessee must repair them to the condition that existed before the damage, at Lessee's sole cost.
- f) To post the Leased Property with No Hunting or Trespassing without Permission.
- g) With the exception of normal farming activities, Lessee will not alter, make any addition to, or improve the Leased Property, or any existing improvements or fixtures located on the Leased Property, without Lessor's express written consent.
- h) To authorize the Farm Service Agency and Crop Insurance Agencies to release any and all information related to the farmland owned by said Lessor to Lessor. This includes any production records, acreage reporting records (578 producer prints and associated maps), direct payment history prints, conservation contracts, farm data contained on 156-EZ, GIS land use data, applicable CLU data, and commodity/bushels under loan and payment records. This authorization is in effect for the term of this Lease.
- i) To maintain the Leased Property at Lessee's expense, including all input costs and expenses of the farmland, including, without limitation, all labor, fertilizer, seed, chemical, and equipment costs, reasonable grass and weed control, including in all ditches and otherwise adjacent to all roads adjoining the Leased Property.
- j) At Lessee's own expense, promptly comply with all present and future laws, ordinances, rules, and regulations of all federal, state, county, and municipal governments, and any other applicable governmental entity, and their appropriate departments, commissions, boards, and officers, which may be applicable to the Leased Property, the fixtures and equipment on the Leased Property, and Lessee's use of the Leased Property. Lessee's obligations under this section apply to Lessee's application and storage of fertilizers, herbicides, fungicides, and pesticides, and disposal of empty containers. Lessee will not cause any spillage or discharge of any of the above-described materials (in excess of normal applications) or any other hazardous substance, and in no event will Lessee cause any spillage, leakage, or discharge of any hazardous substance into ground water, surface water, and subsurface soils. Lessee will not cause or permit any contamination of any hazardous substance on, in, or under the Leased Property, including, but not limited to, spillage of petroleum products or vehicle fuels, gasoline, kerosene, and other products used for the purpose of generating power, lubrication, illumination, heating, or cleaning, and Lessee will specifically prevent any spilling, leaking, discharging, or dispensing of any of these products in ground water, surface water, or subsurface soils. Lessee agrees to notify Lessor immediately of any conditions on the Leased Property that may not be in compliance with applicable laws, ordinances, rules, or regulations. Lessee agrees to indemnify, defend, and hold Lessor harmless against any loss or damage arising by reason of Lessee's failure to comply with all applicable laws, ordinances, rules, and regulations, including the environmental compliance provisions of this Lease.

3. **Term.** This Lease commences January 1, 2023, and terminates December 31, 2023. Except as set forth in this Lease or otherwise agreed to in writing, this Lease is not subject to continuation or renewal after the term set forth herein. Notwithstanding anything to the contrary contained herein, Lessor is not required to renew this Lease with Lessee, and may at that time, in its sole option and discretion (i) decide to self-operate the Governmental Program in the Leased Premises, (ii) contract with some other entity to operate the Governmental Program in the Leased Premises, or (iii) determine that the Leased Premises are no longer needed or useful for the operation of the Governmental Program and sell its interest in the Leased Premises.
4. **Rent Due.** The total rent due for the 2023 crop year is TBD, payable on or before March 1, annually. The annual payment or other amounts payable by Lessee to Lessor under this Lease which are not paid five (5) days after the due date will bear interest from the date due to the date paid at the rate of twelve percent (12%) per annum, or the maximum rate of interest permitted by law, whichever is less, and the interest will be paid to Lessor on demand.
5. **Operations on Premises.** All operations conducted on the Leased Property by Lessee as incidents of any of the uses specified in this Lease will be conducted by Lessee in accordance with the best course of husbandry practiced in the geographical vicinity of the Leased Property. Should Lessee fail to take any action required by the best course of husbandry practiced in the geographical vicinity of the Leased Property, or should Lessee fail to conduct any operation undertaken on the Leased Property in accordance with the best course of husbandry practiced in the geographical vicinity of the Leased Property, Lessor may, after serving ten (10) days written notice of such failure on Lessee in the manner provided for service of notices in this Lease, enter the Leased Property and take such action as Lessor may deem necessary to protect Lessor's interest in this Lease and in the Leased Property. Lessee will reimburse Lessor on demand for the costs of any actions taken by Lessor pursuant to the provisions of this paragraph.
6. **Conservation Plan.** If the Leased Property is classified by USDA/FSA as "highly erodible" and a conservation plan is required, Lessee will operate the Leased Property in such a manner as set forth in the conservation plan.
7. **Liens.**
 - a) To secure payment of all rents due and performance of all of Lessee's obligations under this Lease, Lessor holds a crop lien on, and Lessee grants to Lessor a first security interest in all crops grown or to be grown on the Leased Property, products thereof, government program rights arising out of participation of the Leased Property in any government program, and proceeds and contract rights related to such crops, products, and programs during the term of this Lease. Lessee agrees to provide Lessor with a list of elevators or other parties to which Lessee may sell the crops grown on the land and not to sell to anyone without having the Lessor's name included as a payee.

- b) Lessee warrants to Lessor that there are no other security interests in the crops to be raised on the Leased Property.

Lessor warrants to Lessee that there are no outstanding security interests in the cash rent Lessee is to pay to Lessor pursuant to this Lease and that no such security interests will be created during the term of this Lease without prior written notice to Lessee.

8. **Default.** Any default by Lessee in the performance of any covenant or obligation required of Lessee under this Lease, including the timely payment of rent and all other amounts due under this Lease, will qualify as a default. If a default occurs, Lessor may give Lessee written notice of termination of this Lease. Upon Lessor's notice of termination, Lessee will surrender the Leased Premises to Lessor in accordance with all of Lessee's obligations under this Lease. Upon written notice of termination Lessor may reenter the Leased Property, and by due process of law, remove Lessee or any person or persons occupying the Leased Property, and may remove all personal property from the Leased Property without prejudice to any remedy which might otherwise be used for the collection of arrears of rent, or for the preceding breach of covenant or conditions. Under no circumstance will termination of said lease relieve any financial obligation of Lessee unless agreed upon by Lessor. In the event Lessor is forced to commence litigation or otherwise consult an attorney as a result of a default by Lessee under the terms of this Lease, Lessor will be entitled to recover from Lessee its reasonable attorneys' fees, costs, and expenses incurred in the litigation or consultation.
9. **Surrender of the Leased Property.** At the expiration of the term of this Lease or upon sooner termination, Lessee will surrender the Leased Property in as good condition as it was on the commencement of this Lease, including removal of all crop residue. In the event of early termination, Lessor will allow Lessee to harvest crops from the Leased Property but Lessee must do so as soon as reasonably possible so as not to delay the start of construction of the Redpath Impoundment Project. Lessee agrees to work back the Leased Property in a suitable manner as determined by Lessor, including but not limited to, chisel plowing or deep disking. Lessee will work back the Leased Property as soon as reasonably possible after the crop has been harvested; however, the work back period will not exceed thirty (30) days after harvest. Lessee will be solely responsible for the costs of returning the Leased Property to the condition it was in on the commencement of this Lease, natural wear and tear excepted. If Lessee fails to timely return the Leased Property to the condition it was in prior to commencement of this Lease, Lessor will, at its sole discretion, hire the work done. Lessee, at its sole cost and expense, will compensate Lessor for the work done at the most recent CUSTOM FARM WORK RATES established by the North Dakota State University Extension Service. Failure to compensate Lessor for the total work back rate, within thirty (30) days of receipt of the invoice, may result in Lessor drawing on the crop lien previously discussed in section 7 of this Lease. Lessor may exercise discretion in enforcing this section.

10. **Holding Over.** Any holding over after the expiration of the lease term or any extension of the lease term, with the consent of Lessor, will be a tenancy from year to year, on the terms and conditions specified in this Lease, so far as applicable. Lessor is not obligated to consent to the holdover even if there are standing crops on the Leased Property. In the event Lessor, in its sole discretion, does not consent to the holdover and Lessee has not harvested Lessee's crops, Lessor will assume ownership of the standing crops without the need of a bill of sale or any other document transferring ownership of the crops to Lessor after giving Lessee thirty (30) days' written notice to harvest and remove the standing crops. Lessee will not have any recourse or rights to the standing crops thirty (30) days after the expiration of the lease term or any extension thereof. Lessor maintains its first interest in the crop lien previously described in section 7 of this Lease.
11. **Remedies.** If Lessee fails to perform any obligations under this Lease within a reasonable time following request or demand from Lessor, Lessor may perform Lessee's obligations and Lessee will reimburse Lessor for all of Lessor's costs and expenses. Lessor's remedies provided in this Lease are cumulative and not exclusive, and are in addition to any and all other remedies available to Lessor under Minnesota law. Lessee will reimburse Lessor for all of Lessor's other costs and expenses incurred in enforcing, collecting, or attempting to collect under this Lease, or incurred in litigating the terms or validity of this Lease.
12. **Entire Agreement.** This Lease constitutes the complete and entire understanding of the parties concerning the Leased Property. Neither party shall be bound by or be liable for any statements, warranties, guarantees, or representations not set forth in this Lease which may have been made by any broker, agent, employee, or other person representing or purporting to represent a party to this Lease.
13. **Indemnity.** Lessee will release, indemnify, defend, and hold harmless Lessor and Lessor's officers, employees, agents, contractors, and representatives against all liability, claims, demands, actions, causes of action, expenses, losses, or claims for relief as a result of or arising out of: (a) Lessee's use of the Leased Property; (b) any failure by Lessee to perform any covenant required to be performed by Lessee under this Lease; (c) any accident, injury, or damage to person or property from whatever cause while in or on the Leased Property, including any liability for injury to the person or personal property of Lessee, or Lessee's agents, employees, or invitees; (d) failure to comply with any requirements of any governmental authority; and (e) any lien or security interest claimed or filed against the Leased Property, any equipment on the Leased Property, or any materials used in the production, construction, or alteration of any improvement or crops on the Leased Property. Lessee's obligations to release, indemnify, defend, and hold harmless will survive any termination or expiration of this Lease.
14. **Insurance.** During the term of this Lease and any renewal or extension, Lessee, at Lessee's own expense, will insure the Leased Property by insurance companies authorized to do business in Minnesota, with a policy or policies which will include coverage for bodily injury, property damage, and personal injury, with a combined policy limit of at least \$1,000,000 per occurrence and \$250,000 per person. Each policy will name Lessee as the insured and will name Lessor as an additional insured. At least ten (10) days prior to

entering upon the Leased Property in accordance with this Lease, Lessee will deliver to Lessor certificates of insurance certifying that Lessee has obtained the requisite insurance, including endorsements, and that those policies are in full force and effect. Lessee will indemnify, defend, and hold harmless Lessor in excess of the minimum insurance requirements set forth above. Lessee waives all rights against Lessor, and its officers, employees, agents, contractors, and representatives for recovery of damages to the extent the damages are covered, or would be covered, by any of those parties' insurance policies. Lessor's receipt of any certificates, policies, or endorsements required under this Lease will not in any way affect Lessee's duties and obligations to maintain the insurance required under this Lease.

15. **Headings.** The headings of this Lease are inserted only for the purpose of convenient reference. The heading shall not be used to construe or interpret the Lease or to prescribe the scope or intent of the Lease.
16. **Non-Waiver of Breach.** The waiver by any party of a breach of any provision in this Lease shall not operate or be construed as a waiver of any subsequent breach.
17. **Severability.** The invalidity or unenforceability of any particular provision of this Lease shall not affect its other provisions. This Lease shall be construed in all respects as if such invalid or unenforceable provision was omitted.
18. **Modification.** No change or modification of this Lease is valid unless the same is in writing and signed by the parties to this Lease. Lessor may not agree to an amendment to this Lease without first receiving written consent of the Commissioner, Minnesota Management and Budget, or his/her designee.
19. **Notices.** Any and all notices or other communication provided for in this Lease will be by personal delivery or by first-class mail which, unless otherwise designated by a party, shall be addressed as described on first page.
20. **Relationship of the Parties.** It is understood and agreed that the relationship of the parties to this Lease is strictly that of Lessor and Lessee. Lessee is not and shall not be deemed to be any agent, representative, or employee of Lessor.
21. **Binding Effect.** This Lease is binding upon the parties, their heirs, devisees, and legal representatives, except if the land is sold. If Lessor sells any or all of the Leased Property, this Lease expires in the year of the sale. Lessee will be reimbursed for any fall inputs agreed upon by both Lessor and Lessee. Ample time of sale will be given to Lessee to alleviate and additional costs borne by both Lessor and Lessee. The rights and obligations of either party to this Lease may be exercised or satisfied by the party's legal representative.
22. **Governing Law.** This Lease will be construed in accordance with, and governed by, the laws of the state of Minnesota. All claims, disputes, and other matters in question arising out of, or relating to, this Lease, or the breach of this Lease, will be decided by proceedings

instituted and litigated in a court of competent jurisdiction in the county in which the property resides.

23. **Sale of the Leased Property.** This Lease will terminate if Lessor, at Lessor's discretion, sells the Leased Property, or if for any other reason Lessor no longer is able to maintain and operate the Governmental Program (defined below); Lessor will not have any duty to compensate Lessee for any improvements unless agreed upon by both Lessor and Lessee in writing at the time of termination. Nothing in this Lease allows Lessor to sell the Leased Property without first determining, by official action, that the Leased Property is no longer usable or needed to carry out the Project, or without first obtaining the written consent of the Commissioner, Minnesota Management and Budget, or his/her designee.
24. **Statutory Authority for Lease.** Lessor enters into this Lease under authority of Minnesota Statutes §103D.335, subdivision 21. Lessor executes and enters into this Lease as an element of its operation and maintenance of the Project, constructed for flood control, conservation and other purposes under authority of Minnesota Statutes §§103D.205 and 103D.335 ("Governmental Program").
25. **Rights Reserved to Lessor.** Lessor specifically reserves the right of reasonable ingress and egress on the Leased Property, and to enter upon the Leased Property at reasonable times to inspect, conduct engineering, environmental, or other inspections, or to otherwise review the Leased Property or for other reasonable uses that do not interfere with Lessee's use of the Leased Property. Notwithstanding anything to the contrary herein, in accordance with Minn. Stat. §103D.335, subd 21, the Leased Property shall remain subject to use by the Lessor as necessary for flood control purposes during periods where the Leased Property is needed for flood control. In the event that the Leased Property is needed for flood control, Lessor shall provide 24 hours advance notice to Lessee that Lessor intends to use the Leased Property for flood control purposes.
26. **Statutory Termination.**
 - a) Notwithstanding any other provisions of this Lease to the contrary, if the Governmental Program is terminated or changed in response to changes in state law in such a manner as to cause this Lease and the operation of the Leased Property to be inconsistent with the changed Governmental Program, then this Lease shall be terminated by 250 days written notice to Lessee, provided however that Lessor agrees that it will not terminate or change the Governmental Program unless required to do so by applicable State law. Any termination pursuant to this Section 26 will be deemed automatically rescinded and of no force or effect if within said 250 day period (i) the State law requiring the Governmental Program to be terminated or changed is repealed or modified in such a manner as to permit the Governmental Program to continue in a form that does not cause this Lease and the operation of the Leased Property to be inconsistent therewith, or (ii) Lessee conforms its operation of the Leased Property to the changed Governmental Program.

- b) Notwithstanding any other provisions of this Lease to the contrary, if the State law that provides the statutory authority under which Lessor is operating the Governmental Program is repealed or modified in a manner that would prevent Lessor from operating the Governmental Program (“**Repealing or Modifying Law**”), then Lessor and Lessee shall cease the operation of the Leased Property 250 days after written notice described in Section 5(a) above (“**Termination Date**”), if such written notice is given by Lessor and not rescinded. Either Lessor’s or Lessee’s failure to cease operation of the Leased Property on the Termination Date shall be an immediate Default under this Lease without the requirement of notice of such failure and without any cure period; provided, however, if the Repealing or Modifying Law is repealed or modified in such a manner as to reinstate Lessor’s statutory authority to operate the Governmental Program before the Termination Date, then Lessor and Lessee shall no longer be required to cease operation of the Governmental Program.
- c) The parties agree to cooperate in good faith, to the extent permitted by applicable law, to attempt to support the continuation of the Governmental Program and this Lease.
27. **Grant Agreement Prevails.** Whenever there shall exist a conflict between the provisions of this Lease and the Grant Agreement, the Grant Agreement shall prevail.
28. **Counterparts.** This Lease may be signed in counterparts, each of which will be deemed an original, and which taken together will be deemed to be one and the same document.
29. **Recitals.** The recitals on pages 1 and 2 of this Lease are hereby incorporated into this Lease.

IN WITNESS WHEREOF, the parties executed this Lease on the date written above.

[Signatures continue on the following page.]

LESSOR:

Bois de Sioux Watershed District

Linda Vavra, President

ATTEST:

Jamie Beyer, Administrator

DRAFT

LESSEE:

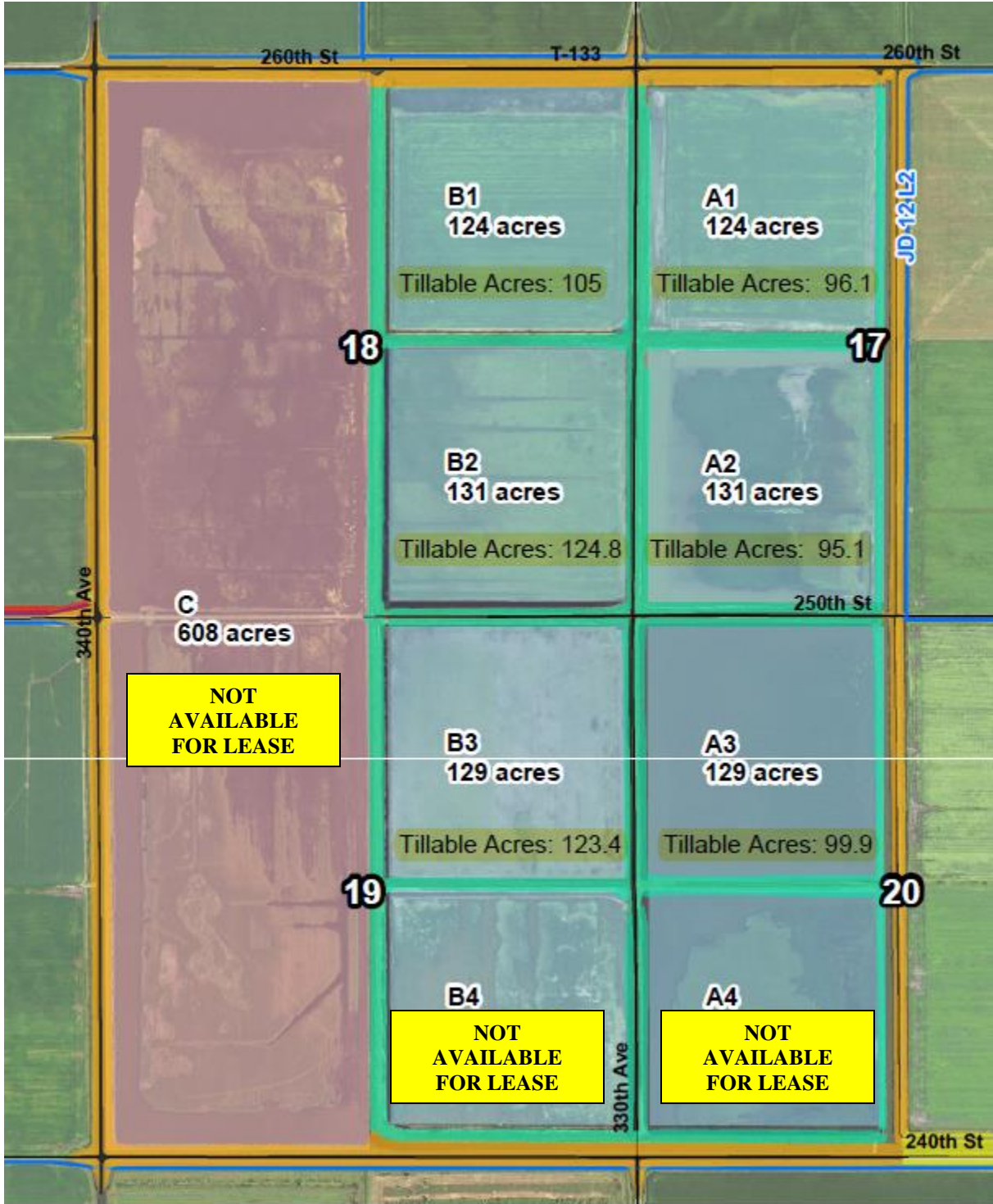
By: _____

Its: _____

DRAFT

EXHIBIT A

**3 CELLS
UNRESTRICTED**



**2 CELLS w/
SMALL
GRAIN/SILAGE
RESTRICTION**