



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

229

F.3.

11/19/2019

Subject:

Approval, Re: Resolution and Lease with the Bit and Spur Club of Central Brevard, Inc. (District 1)

Fiscal Impact:

Approval of this action will result in revenue in the amount of five hundred dollars annually to the Central Area Parks Operations budget 0016 R30192

Dept/Office:

Parks and Recreation

Requested Action:

It is requested the Board of County Commissioners approve and authorize the Chair to execute the Resolution and Lease with the Bit and Spur Club of Central Brevard, Inc. It is further requested the Parks and Recreation Department Director be authorized to execute subsequent renewals upon County Attorney's Office and Risk Management approval.

THIS ACTION REQUIRES A SUPER MAJORITY VOTE.

Summary Explanation and Background:

The County acquired this approximate seventeen-acre parcel of land on Friday Road in Cocoa in 1993. Prior to this acquisition the previous owner allowed the Bit and Spur Club of Central Brevard, Inc. (Club) to utilize the property for equestrian activities.

The County has partnered with the Club since January 1994 to provide a common ground for families to come together to educate and preserve a way of life and love for horses through equestrian activities.

The Club has developed numerous permanent facilities over their long-term usage of this parcel including a lighted show ring, announcer building, a restroom facility, screened-in pavilion, bleachers and a stabilized parking area.

The Brevard County Utilities Department will construct a lift station on this parcel utilizing approximately one thousand square feet of property. The Parks and Recreation Department and the Club have both approved of the lift station construction.

If approved, the new contract with the Club will grant use of this parcel for a term of two years with a renewal option of a subsequent two years and an additional one-year term. The Club will pay rent to the County in the amount of five hundred dollars per year with the option, at the Parks and Recreation Director's discretion, to increase the rent by a maximum of three percent annually of the previous year's rent.

Adoption of the Resolution confirms the leased space on Friday Road by the Bit and Spur Club of Central Brevard, Inc. and will serve the public interest, will serve a public purpose, and constitutes a service that could be provided by the local government. The Resolution and Lease have been reviewed and approved by Risk Management and the County Attorney's Office.

Brevard County Code of Ordinances, Chapter 2, Section 2-241 through Section 2-251, establishes procedures for the sale, leasing, and donation of real property. It requires the intent and County Code to be published on the County Internet Website at least five days prior to the public meeting and also requires a supermajority vote by the Board.

Clerk to the Board Instructions:

Please call Melissa at 321-305-9125 when the contract is ready for pick up.



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

November 20, 2019

M E M O R A N D U M

TO: Mary Ellen Donner, Parks and Recreation Director

RE: Item F.3., Resolution and Lease with Bit and Spur Club of Central Brevard, Inc. for Lease of Real Property Located on Friday Road in Cocoa

The Board of County Commissioners, in regular session on November 19, 2019, adopted and authorized the Chair to execute Resolution No. 19-229, and approved and authorized the Chair to execute Lease with Bit and Spur Club of Central Brevard, Inc. for lease of real property located on Friday Road in Cocoa; and authorized you to execute subsequent renewals upon County Attorney's Office and Risk Management approval. Enclosed are a fully-executed Resolution and an executed Lease.

Upon execution by Bit and Spur Club of Central Brevard, please return a fully-executed Lease to this office for inclusion in the official minutes.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

Encls. (2)

cc: Contracts Administration
Finance
Budget

**BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS**

INITIAL CONTRACT REVIEW AND APPROVAL FORM

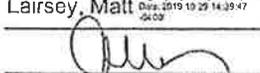
SECTION I - GENERAL INFORMATION

1. Contractor: Bit and Spur Club of Central Brevard, Inc.	
2. Fund/Account #:	3. Department Name: Parks and Recreation
4. Contract Description: Lease	
5. Contract Monitor: Denise Hayes/Melissa Renninger	7. Contract Type:
6. Dept/Office Director: Mary Ellen Donner	LEASE/RENTALS

SECTION II - REVIEW AND APPROVAL TO ADVERTISE

COUNTY OFFICE	APPROVAL		SIGNATURE	DATE
	YES	NO		
User Agency	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

SECTION III - REVIEW AND APPROVAL TO EXECUTE

COUNTY OFFICE	APPROVAL		SIGNATURE	DATE
	YES	NO		
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Renninger, Melissa <small>Digitally signed by Renninger, Melissa Date: 2019.10.11 10:52:15 -0400</small>	10/11/2019
Risk Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Lairsey, Matt <small>Digitally signed by Lairsey, Matt Date: 2019.10.29 14:35:47 -0400</small>	10/29/2019
County Attorney	<input checked="" type="checkbox"/>	<input type="checkbox"/>		10/30/2019

SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

CM DATABASE REQUIRED FIELDS	Complete ✓
Department Information	<input type="checkbox"/>
Department	<input type="checkbox"/>
Program	<input type="checkbox"/>
Contact Name	<input type="checkbox"/>
Cost Center, Fund, and G/L Account	<input type="checkbox"/>
Vendor Information (SAP Vendor #)	<input type="checkbox"/>
Contract Status	<input type="checkbox"/>
Contract Title	<input type="checkbox"/>
Contract Type	<input type="checkbox"/>
Contract Amount	<input type="checkbox"/>
Storage Location (SAP)	<input type="checkbox"/>
Contract Approval Date	<input type="checkbox"/>
Contract Effective Date	<input type="checkbox"/>
Contract Expiration Date	<input type="checkbox"/>
Contract Absolute End Date (No Additional Renewals/Extensions)	<input type="checkbox"/>
Material Group	<input type="checkbox"/>
Contract Documents Uploaded in CM database (Initial Contract Form with County Attorney/ Risk Management Approval; Signed/Executed Contract)	<input type="checkbox"/>
"Right To Audit" Clause Included in Contract	<input type="checkbox"/>
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	<input type="checkbox"/>

Resolution Number 2019- 229

A Resolution of the Board of County Commissioners of Brevard County, Florida, Pursuant to Section 125.35, Florida Statutes and Section 2-247 of the Brevard County Code of Ordinances, authorizing the lease of real property to a Not for Profit Corporation organized under the laws of the State of Florida; and providing for an effective date.

Whereas, Bit and Spur Club of Central Brevard, Inc. a 501(c)(3) tax exempt Not For Profit Corporation organized under the laws of the State of Florida (hereinafter referred to as "Contractor") has applied to the **Board of County Commissioners of Brevard County, Florida**, a political subdivision of the State of Florida (hereinafter referred to as "County") to lease the County public park known as **Bit and Spur Arena** located at 757 Friday Road, Cocoa, Florida 32926 (hereinafter referred to as the "Park");

Whereas, the Contractor desires to operate and maintain the Park for the benefit and enjoyment of the population of Brevard County; and

Whereas, the County finds that the Contractor's proposed use of the **Park** will promote public health, safety or welfare, will serve the public interest, will serve a public purpose, constitutes a service that could be provided by the local government, and is compatible with the County purposes for which the Park was constructed.

Now, Therefore, Be it Resolved by the Board of County Commissioners of Brevard County, Florida, that:

1. The recitals set forth hereinabove are true and correct in all respects and are incorporated herein by reference as if set forth herein verbatim.
2. Bit and Spur Arena is a County owned Park and was constructed for the purpose of public programs and services.
3. The County has determined that this portion of the Park is not needed by the County.
4. The Contractor shall operate and maintain the Park providing a common ground for families to come together to educate and preserve a way of life and a love for horses and community through equestrian activities.
5. The County shall enter into a lease with the Contractor beginning on the date of the Board approval of the Lease for a term of two years with the option to renew for an additional two year term and a subsequent renewal for an additional one year term.
6. The consideration for the lease shall be Five Hundred Dollars per year.

7. This Resolution shall take effect immediately upon its adoption. No obligation to Lease the Park to the Contractor shall arise until the Lease is executed by both parties.
8. In the event the Contractor fails to comply with the Lease, then the Park shall immediately revert to the County which shall thereafter have the right to reenter and repossess the property.

Done, Ordered, and Adopted this 19th day of November, 2019.

Attest:

**Board of County Commissioner
of Brevard County, Florida**



Scott Ellis, Clerk

By: 
BRYAN ANDREW LOBER, CHAIR

As approved by the Board on November 19, 2019.

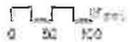
Bit and Spur Club Property



2012 Aerial

Brevard County Parks and Recreation

2725 Judge Fran Jamieson Way
Viera, FL 32940



DISCLAIMER: This map is intended for display purposes only and is not intended for any legal representation.



Brevard County
Parks and Recreation Department



Lease

Bit and Spur Club of Central Brevard, Inc.

757 Friday Road, Cocoa, Florida 32926

\$500 Per Year

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Lease



This Contract made and entered into by and between the **Board of County Commissioners of Brevard County, Florida**, a political subdivision of the State of Florida, hereinafter referred to as "County", and **Bit and Spur Club of Central Brevard, Inc.**, a 501(c)(3) tax exempt Not For Profit Corporation organized under the laws of the State of Florida, hereinafter referred to as "Contractor".

Whereas, the County is the owner, lessee, or authorized administrator of certain real property located in Brevard County, Florida, commonly known as Bit and Spur Arena, hereinafter referred to as "Park", located at 757 Friday Road Cocoa, Florida 32926; and

Whereas, the County desires to lease certain buildings, structures, grounds, equipment and facilities, located within the Park; and

Whereas, the Contractor has a desire in providing a common ground for families to come together to educate and preserve a way of life and a love for horses and community through equestrian activities; and

Whereas, the County has an interest in allowing programs and services to be provided to the citizens of the County; and

Whereas, the County may provide parks, preserves, playgrounds, recreation areas, and other recreational and cultural facilities and programs pursuant to Section 125.01(1)(f), Florida Statutes; and

Whereas, the approved public recreation programs provided by the Contractor are of a nature that could be provided by local, state or other governmental entity; and

Whereas, the County has by Resolution determined that these programs and services provided will promote public health, safety or welfare, will serve the public interest, will serve a public purpose, constitute a service that could be provided by local government, and are compatible with the County purposes for which the Park was constructed.

Witnesseth:

Now therefore, in consideration of the covenants herein contained, it is mutually agreed between the parties as follows:

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

Section 1. Leased Property.

The County hereby leases to the Contractor and the Contractor hereby leases from the County an approximately 17.58-acre parcel of land (attached hereto as **Exhibit "A"**). The Park includes all improvements to the leased real property, whether constructed before or after the date of the Contract, and all fixtures, furniture, equipment and supplies, if any, placed on the leased property by the County. Use of other Parks and/or facilities by the Contractor must have prior approval of the Area Manager and are subject to the fees and charges outlined in the Brevard County Parks and Recreation Department Fee Schedule adopted by the Board of County Commissioner and in effect at the time of requested use.

Section 2. Representation by Contractor.

The Contractor represents that it is a Florida Not For Profit Contractor under the laws of Florida as described in Section 501(c)(3) of the Internal Revenue Code as amended, and is exempt from federal income tax pursuant to Section 501(a) of said Code.

Section 3. Term.

This Contract shall be effective from the date of the last signature for a period of two years. It is hereby mutually agreed and understood that the Contractor may request renewal of this Contract for an additional two-year term and a subsequent renewal for an additional one-year term. Each Contract renewal will be subject to renegotiation, including the contracted monthly rent. The County will notify the Contractor, in writing, ninety days prior to the expiration of the Contract as to its intent to negotiate a contract renewal.

Section 4. Rent.

The rent for the Park shall be five hundred dollars per year plus all applicable sales tax, due by the tenth day of January each year and payable in advance by the Contractor. If the term of this Contract commences on any day other than the first day of the year, the Contractor shall pay in advance pro-rata rent for the first year. Pro-rata rent shall be the number of days from the commencement date of this Contract to the end of the year, multiplied by the daily rental charge. The daily rental charge shall be five hundred dollars divided by the number of days in the applicable year. It is hereby mutually agreed and understood that the rent may be increased, at the Parks and Recreation Director's discretion, annually by a maximum of three percent of the previous year's rent. Checks shall be made payable to the Brevard County Board of County Commissioners and mailed to the Parks and Recreation Department, Central Area Parks Operations, 840 Forrest Avenue, Cocoa, Florida 32922.

Section 5. Americans with Disabilities Act Compliance.

The County and Contractor shall conform to current requirements of the Americans with Disabilities Act (ADA) in the performance of this Contract, and shall not cause or place in the Park and/or Park any condition causing the Park and/or Park to become non-compliant. The parties shall work together to cure any known violations of the ADA that may occur.

Section 6. Alterations, Changes and Additions.

Any improvements, structural changes, alterations, or repairs to the Park by the Contractor must be requested in writing to the County, and mutually agreed upon by the County and the Contractor, with written permission granted by the Parks and Recreation Director or designee, prior to any actual work. Said request shall state the party responsible for funding such improvements. The plans, specifications, and location for all improvements, structures, landscaping, and facilities made by the Contractor to the Park shall be submitted in writing to and approved by the Parks and Recreation Director or designee prior to the construction or installation of such improvement, structure, landscaping or Park. It is hereby mutually agreed and understood that any building, structure, or Park located thereon and permanently attached thereto shall become the property of the fee simple title holder. If the Park requires closure for an extended period of time, it shall be requested by Contractor thirty days in advance.

Section 7. Assignment for Occupation by Other Persons.

Contractor agrees not to assign the Park and/or Park, any part thereof, or any right or privilege connected therewith, without first obtaining the County's written consent, which consent the County may withhold in its sole discretion. Consent on one occasion by the County shall not be consent to a subsequent assignment, or occupation by other persons. Contractor's unauthorized assignment or license to occupy shall be void, and shall terminate the Contract at the County's option. Contractor's interest in this Contract is not assignable by operation of law, nor is any assignment of its interest herein, without the County's written consent.

Section 8. Attorney's Fees.

In the event of any legal action to enforce the terms of this Contract each party shall bear its own attorney's fees and costs.

Section 9. Background Investigation Check.

The Contractor and any employees, contractors, subcontractors, agents, representatives and volunteers and other persons providing a public recreation program shall be screened at a High Level (Level One). The County shall bear the cost of the background screening of the Contractor. The Contractor shall bear the cost of background screening for any employees, contractors, subcontractors, agents, representatives, and volunteers providing a public recreation program.

The Contractor shall not and shall not allow any employees, contractors, subcontractors, agents, representatives or volunteers to work unsupervised with at risk populations prior to such person successfully completing a High Level (Level One) background screening.

The Director may deny the Contractor and/or deny the Contractor the ability to utilize a staff member, volunteer or any other person providing a public recreation program based on the results of the background screening, at the Director's discretion. The Director shall abide by Brevard County's policy, Administrative Order AO-05, in determining if a person shall be disqualified from working/volunteering at the park.

Upon completion of the initial background screening, a re-screening at the same Level will occur at a minimum of every five years.

High Level (Level One) Background screening includes the following:

- A. Brevard County Clerk of Courts, Brevard Electronic Court Application
- B. Fingerprinting (Florida Department of Law Enforcement and National Federal Bureau of Investigations Criminal check through Volunteer & Employee Criminal History System)
- C. Department of Juvenile Justice check on individuals under the age of 18 when applicable and allowed in lieu of fingerprinting
- D. National Sex Offender Public Website
- E. Reference Checks
- F. Prior employment check
- G. Education/Licensing verification (case-by-case)
- H. Driver's license check (case-by-case)
- I. Drug Testing (case-by-case)

Section 10. Copyright.

No reports, data, programs or other materials produced, in whole or in part, for the benefit and use of the County under this Contract shall be subject to copyright by the Contractor in the United States or any other country.

Section 11. Construction of Contract.

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

Section 12. County's Entry for Inspection and Maintenance.

The County reserves the right to enter the Park and/or Park at reasonable times to inspect, to perform required maintenance and repair, or to make additions or alterations to any part of the Park and/or Park or performing other duties as required by the terms of this Contract, rules, regulations, ordinances or laws of the appropriate governmental units, and Contractor agrees to permit the County to do so. The County may, in connection with such alterations, additions, or repairs, erect scaffolding, fences, and similar structures, post relevant notices, and place moveable equipment without incurring liability to Contractor for disturbance of quiet enjoyment of the Park and/or Park, or loss of occupation thereof, unless done so in an unreasonable, willful, or negligent manner.

Section 13. Default.

The Contractor understands and agrees that this Contract is made upon the express condition that should the Contractor fail or neglect to perform or observe any or all of the covenants herein contained, or fail to make any constructive use, for the purposes designated herein, of the Park, for a period of thirty days, this Contract shall at the option of the County, become null and void upon thirty days written notice to the Contractor. The occurrence of one or more of the following events shall constitute a default by the Contractor under this Contract:

- A. Abandonment of the Park.
- B. Failure or refusal to pay any amount of rent or any other monetary obligation owed by the Contractor hereunder, when due, where such failure continues for a period of five days after written notice thereof from the County to the Contractor.
- C. Failure of the Contractor to observe or perform any other covenant, obligation or condition of this Contract, where such failure shall continue after written notice thereof from the County to the Contractor. If the nature of the default is such that more than thirty days are reasonably required for its cure, then the Contractor shall not be deemed to be in default if the Contractor shall commence such cure within said thirty-day period and thereafter diligently prosecute such cure to completion, which completion shall not occur no later than thirty days from the date of such notice from the County.
- D. Any waiver by the County of a breach of covenant of this Contract by the Contractor shall not be construed as a waiver of subsequent breach of the same covenant. No breach for a covenant of this Contract shall be deemed to have been waived by the County unless the waiver is in writing signed by the County.
- E. Upon occurrence of one or more of the foregoing events of default, the County Manager, or designee, as hereby specifically delegated this authority by the Board of County Commissioners of Brevard County, Florida, may elect to terminate this Contract.
- F. The County shall in no event be charged with default in any of its obligations hereunder unless and until the County shall have failed to perform contractual obligations thirty days after written notice to the County by the Contractor specifically describing such failure. If the County fails to perform any of its contractual obligations under this Contract and such failure is not cured within thirty days (or such additional time as is reasonably required to correct any such default) of receipt of written notice of default, the Contractor's sole legal remedy for said default is to, terminate this Contract upon written notice to the County.

Section 14. Dissolution.

In the event the Contractor is dissolved or becomes inactive, all liabilities, and obligations owed to the County at that time shall be discharged in accordance with Chapter 617, Florida Statutes. Any County assets or equipment held by the Contractor upon condition requiring return must be

returned in accordance with such requirements and the requirements of Chapter 617, Florida Statutes.

Section 15. Emergencies.

In the case of a general emergency as declared by the County, the County retains the right to immediately resume occupation, management, and maintenance of the Park, to use the Park to meet any emergency needs for the period of that emergency and a reasonable period of time thereafter as deemed necessary by the County. Contractor will be provided as much notice as is practicable depending on how suddenly the need arises and shall be provided an estimate of how long the need will continue. The County shall not be responsible for any damages, including but not limited to, loss of property or income created by the use of the Park and/or Park by agencies which support the emergency response and recovery such as the Red Cross, Federal Emergency Management Agency and others. The County and Contractor shall work directly with such support agencies to recover the cost of restoration, lost equipment, and supplies used. During the period in which the County or other governmental or non-governmental agency occupies or manages the Park, Contractor occupancy and any duties or obligations hereunder will be suspended. Any maintenance, damage, restoration, or repair to the Park and/or Park necessitated during any suspension of Contractor's occupancy under this Contract will be the responsibility of and at the expense of the County. Repairs, rehabilitation, restoration or maintenance, the need for which arises as a result of such emergency suspension of Contractor's occupancy, shall all be diligently completed by the County, at the expense of the County, prior to Contractor reoccupying the Park. As used herein, an "emergency" will be defined as a period of civil unrest or riot, a period during which the military needs the Park and/or Park for a period of time relating directly to defense of the nation and a likely attack of the nation, a period during which weather such as a hurricane or tornado is likely to cause damage to the community and the Park and/or Park, is needed for public shelter, distribution of emergency supplies such as food or water, or other related event, or any other circumstance designated by the Brevard County Emergency Operations Center, "E.O.C." as an emergency.

Section 16. Entire Contract.

This Contract, together with any Exhibits, constitutes the entire Contract between the County and Contractor and supersedes all prior written or oral understandings. This Contract and any Exhibits may only be amended, supplemented or canceled by a written instrument duly executed by both parties hereto. As of the Effective Date of this Contract, all authority, permission, and right, express or implied, heretofore granted or inferred to be granted by the County to Contractor to operate Park shall be terminated, and Contractor shall cease operating any Park other than as permitted by this Contract.

Section 17. E-Verify.

- A. The Contractor shall utilize the United States Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by Contractor during the term of the Contract; and

- B. The Contractor shall expressly require any subcontractors performing work or providing services pursuant to this Contract to likewise utilize the United States Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term; and
- C. The Contractor agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its subcontractors as provided above, and to make such records available to the County consistent with the terms of the Contractor's enrollment in the program. This includes maintaining a copy of proof of the Contractor's and subcontractors' enrollment in the E-Verify Program.
- D. The Contractor shall comply with the terms of this section is made an express condition of this Contract and the County may treat a failure to comply as a material breach of this Contract.
- E. A contractor who registers with and participates in the E-Verify program may not be barred or penalized under this section if, as a result of receiving inaccurate verification information from the E-Verify program, the contractor hires or employs a person who is not eligible for employment.
- F. Nothing in this section may be construed to allow intentional discrimination of any class protected by law.

Section 18. Fees and Charges.

The Contractor may establish reasonable membership dues, registration fees, admission fees or donations to help defray the expenses of the Contractor. The fee schedule shall be submitted to the Parks and Recreation Director. Said fee schedule shall be subject to approval at the Parks and Recreation Director's discretion.

Section 19. Florida Public Records Law.

Pursuant to Section 119.0701 Florida State Statutes, a request to inspect or copy public records relating to this Contract must be made directly to the County. If the County does not possess the requested records, the County shall immediately notify the Contractor of the request and the Contractor must provide the records to the County or allow the records to be inspected or copied within twenty-four (24) hours (not including weekends and legal holidays) of the request so the County can comply with the requirements of Sections 119.07 Florida State Statute. The Contractor may also provide a cost estimate to produce the requested documents consistent with the policy set forth in Brevard County Administrative Order AO-47, incorporated herein by this reference. A copy of AO-47 is available upon request from the County's public records custodian designated below.

If the Contractor fails to provide the requested public records to the County within a reasonable time, the Contractor may face civil liability for the reasonable cost of enforcement incurred by the party requesting the records and may be subject to criminal penalties. Sections 119.0701, 119.110 Florida State Statutes. The Contractor's failure to comply with public records requests is

considered a material breach of this Contract and grounds for termination.

Should the County face any legal action to enforce inspection or production of the records within the Contractor's possession and control, the Contractor agrees to indemnify the County for all damages and expenses, including attorney's fees and costs. The Contractor shall hire and compensate attorneys to represent the Contractor and County in defending such action. The Contractor shall pay all costs to defend such action and any costs and attorney's fees awarded pursuant to Section 119.12 Florida State Statutes.

If the Contractor has questions regarding the application of Chapter 119, Florida Statutes, to the Contractor's duty to provide public records relating to this Contract, contact the custodian of public records at (321) 633-2046.

Section 20. Force Majeure.

Neither party shall be responsible for damages or delays in performance caused by acts of God, strikes, lockouts or other events constituting force majeure beyond the reasonable control of the parties. Despite the foregoing, Contractor shall timely pay all rent due as otherwise provided herein.

Section 21. Governing Law.

This Contract shall be deemed to have been executed and entered into within the State of Florida and this Contract, and any dispute arising hereunder, shall be governed, interpreted and construed according to the laws of the State of Florida.

Section 22. Illegal, Unlawful, or Improper Use.

Contractor shall make no unlawful, improper, immoral, or offensive use of the Park and/or Park nor will the Contractor use the Park or allow the use of the Park for any purpose other than that hereinabove set forth. Failure of Contractor to comply with this provision shall be considered a material breach of this Contract and subject same to immediate termination by the County, where upon the County shall be entitled to immediately re-enter and retake possession of the Park and terminate this Contract.

Section 23. Indemnification.

Contractor shall indemnify and hold harmless the County and its employees from all claims, damages, losses, and expenses, including attorney's fees, arising out of or associated with the use, occupation, management or control of the Park or any improvements or any furniture, furnishings, equipment and fixtures utilized in connection with the Park by Contractor unless such claims, damages, expenses, or losses are caused solely by acts of the County, its employees, or other persons not a party to this Contract acting on the County's request. Contractor agrees that it will, at its own expense, defend any and all such actions, suits, or proceedings which may be brought against the County in connection with Contractor's use, occupation, management or control of said Park and that it will satisfy, pay and discharge any

and all judgments that may be entered against the County in such action or proceeding. Nothing contained herein shall constitute a waiver by the County of its sovereign immunity or the provisions of Section 768.28, Florida Statute.

Section 24. Independent Contractor.

Contractor shall perform the services under this Contract as an independent contractor and nothing contained herein shall be construed to be inconsistent with this relationship or status. Nothing in this Contract shall be interpreted or construed to constitute Contractor or any of its agents or employees to be the agent, employee or representative of the County.

Section 25. Insurance.

Contractor agrees to provide and maintain at all times during the term of this Contract, without cost or expense to the County, policies of insurance insuring the Contractor against any all claims, demands and causes of action whatsoever for injuries received and damages to property in connection with the use, occupation, management or control of the Park and any improvement thereon. Contractor will procure and maintain, at its own expense and without cost to the County, the following types of insurance. The policy limits required are to be considered minimum amounts. These policies shall be issued by responsible insurance companies and in form acceptable to the County, and the County shall be added on to the policies as an additional insured

- A. General Liability.** The General Liability Insurance shall be issued by responsible insurance companies and in a form acceptable to the County, protecting and insuring against all the foregoing with combined single limits of not less than One Million dollars for Bodily Injury and Property Damage and Products & Completed Operation; Fire Legal Liability in the amount of Three Hundred Thousand dollars; and Sexual Abuse and Molestation coverage in the amount of One Million dollars.
- B.** All personal property housed or placed at the leased Park shall be at the risk of the Contractor, whether owned by the County or the Contractor, and the County shall not be liable for any loss or damage to the personal property of the Contractor or others located thereon for any cause whatsoever. The Contractor agrees and understands that the County does not and shall not carry liability, theft or fire insurance on said property to cover the Contractor's interest therein.
- C.** The Contractor shall retain title to all personal property purchased by the Contractor and placed at the Park, unless otherwise agreed to by the parties. The Contractor will obtain approval from the Area Manager prior to placing any personal property or equipment at the Park. All personal property belonging to the Contractor will be marked in a manner consistent with the character of the property.

Section 26. Insurance Certificates.

Contractor shall provide the County with Certificates of Insurance on all policies of insurance and renewals thereof in a form acceptable to the County. Said certificates shall provide that the Brevard County Board of County Commissioners is an additional insured and loss payee, and

that the County shall be notified in writing of any reduction, cancellation or substantial change of policy or policies at least thirty days prior to the effective date of said action with the exception of ten days for non-payment. All insurance policies shall be issued by responsible companies who are acceptable to the County and licensed and authorized under the laws of the State of Florida.

Section 27. Licenses, Permits, and Taxes.

Contractor agrees to secure and maintain all licenses and permits required to operate and to pay any and all applicable sales or use tax, or any other tax or assessment which shall be imposed or assessed by any and all governmental authorities, in connection with the business or operation conducted under this Contract, and to meet all federal, state, county and municipal laws, ordinances, policies and rules. Any such licenses and permits shall be maintained and posted, if required, at appropriate places at the Park within thirty days of the execution of this Contract by both parties.

Section 28. Modifications.

No modification of this Contract shall be binding on the County or Contractor unless reduced to writing and signed by a duly authorized representative of County and Contractor.

Section 29. Music Performance.

Contractor shall not use, play or perform copyrighted music, or allow such to be used, played or performed, without appropriate licensing or other permission. Contractor shall be solely responsible for obtaining appropriate licensing or permission to use, play or perform copyrighted music. The use or performance of copyrighted music without appropriate licensing or other permission shall constitute a breach of this Contract. Contractor agrees to indemnify and hold harmless the County from damages for unauthorized use or performance of copyrighted music.

Section 30. No Use that Increases Insurance Risk.

Contractor shall not use the Park and/or Park in any manner, even in its use for the purposes for which the Park is leased, that will increase the risk covered by insurance on the building where the Park is located, so as to increase the rate of insurance on the Park and/or Park, or to cause cancellation to any insurance policy covering the building. Contractor further agrees not to keep at the Park, or permit to be kept, used, or sold thereon, anything prohibited by the policy of fire insurance covering the Park. Contractor shall comply, at its own expense, with all requirements of insurers necessary to keep in force the fire and public liability insurance covering the Park.

Section 31. No Waiver of Covenants or Conditions.

The failure of either party to insist on strict performance of any covenant or condition hereof, or to exercise any option herein contained, shall not be construed as a waiver of such covenant, condition, or option in any other instance. This Contract cannot be changed or terminated orally.

Section 32. Notice.

Notice under this Contract shall be given to the County at Brevard County Parks and Recreation: **Central Area Parks Operations, 840 Forrest Avenue, Cocoa, Florida 32922.** Notice shall be given to Contractor by mailing written notice, postage prepaid to **Bit and Spur Club of Central Brevard, Inc., Cary Pond, President, 2934 Colchester Drive, Cocoa, Florida 32926.** Notice shall be effective upon receipt or five days from mailing, whichever even occurs first.

Section 33. Obligations of the Contractor.

A. General:

1. The Contractor shall use the Park to provide Equestrian Activities.
2. The Contractor may allow groups and individuals use of the Park for Equestrian Activities.
3. Scheduling, reserving and collection of fees shall be the responsibility of the Contractor.
4. Contractor shall operate the Park without regard to race, color, religious creed, national origin, ancestry, age, gender, marital status or disability.
5. If Contractor wishes to add additional furnishings they must be approved by the Parks and Recreation Department Parks and Recreation Director or designee, prior to installation.
6. Contractor shall maintain a "No-Smoking" policy. The use of sustained flames is strictly prohibited inside the Park.
7. Signage shall be approved by the Department Parks and Recreation Director or designee, and shall be in compliance with all federal, state, county and municipal laws, ordinances, policies and rules.
8. Advertisements shall be in good taste commensurate with an acceptable family-orientated environment. Advertising of other businesses not related to the operation of the Park are prohibited.
9. All contractors and subcontractors must be licensed, insured and meet all federal, state, county and municipal laws, ordinances, policies and rules.
10. Contractor shall maintain a high level of public relations that promotes a highly favorable family-orientated atmosphere. Conduct said events and activities in a manner which is courteous and fair to the public.
11. Contractor shall maintain a public website and Contractor contact point which will be updated regularly. All correspondence must be answered within 48 hours of receipt. Contractor contact information shall be posted on the website.
12. Contractor may request any person violating any applicable law, rule or regulation to leave the Park. If a patron remains in the Park after such request the Contractor shall immediately notify local law enforcement.

13. Contractor shall immediately report to the County any accident or incident requiring emergency response.

14. Contractor shall cooperate fully with County officials in all matters relating to the Park.

B. Repairs and Maintenance:

1. Contractor accepts the Park as of the execution of the Contract in its existing condition, where is, and with all faults, without representation or warranty of any kind, express 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 subject to all recorded matters, laws, ordinances and governmental regulations and orders. Contractor hereby acknowledging that it has been afforded full opportunity to and has fully investigated such matters to its satisfaction prior to entering into this Contract or will investigate such matters fully and is entering into the lease based solely upon such investigations. Except as provided herein, Contractor acknowledges that neither County nor any representations or warranties to Contractor as to the condition of the Park or the suitability of the Park for Contractor's intended use.
2. Contractor shall be responsible for and bear the cost of all necessary pest control, maintenance, and repairs to the Park.
3. Contractor shall keep the Park clean, sanitary, free of litter, rubbish, or any obstacles that are generated by the Contractor.
4. The Contractor shall maintain said property in its present condition, ordinary wear and tear excepted.
5. The Contractor is responsible for any damage to the Park, or any improvements, furnishings, equipment and fixtures utilized in connection therewith arising out of or connected with the Contractor's use, occupation, management or control of the Park.
6. The Contractor shall be responsible for maintenance and repairs due to vandalism unless such vandalism is due to Contractor's negligence.

Section 34. Partial Destruction of Premises.

Partial destruction of the Park shall not render this Contract void, or terminate it except as herein provided. If the Park is partially destroyed during the term of this Contract, County may endeavor to make repairs, providing the County has the fiscal means to do so, and when such repairs can be made in conformity with local, state, and federal laws and regulations, within ninety days of the partial destruction. If the repairs cannot be so made in ninety days and the County does not elect to make them within a reasonable time, either party hereto has the option to terminate this Contract. If the Park is more than one-third destroyed, County or Contractor may at its option terminate this Contract, giving ninety-day notice to the other party.

Section 35. Public Entity Crimes.

A person or affiliate who had been placed on the convicted Contractor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a

public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on Leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of Category Two for a period of thirty-six months from the date of being placed on the convicted Contractor list.

Section 36. Responsibility.

The Contractor's President shall be responsible for ensuring the Contractor is abiding by the terms of this Contract. The Area Manager shall be responsible for assuring the contents of this Contract are properly applied.

Section 37. Reverter and Right of Re-Entry and Repossession.

Notwithstanding any provisions of this Contract to the contrary, in the event the Park is not used or ceases to be used for the public purposes set forth herein, the Contract shall immediately cease and the Park shall revert to the County which shall thereafter have the right to re-enter and repossess the Park.

Section 38. Right to Audit Records.

In the performance of this Contract, the Contractor shall keep books, records, and accounts of all activities related to this Contract in compliance with generally accepted accounting procedures. All documents, papers, books, records and accounts made or received by the Contractor in conjunction with this Contract and the performance of this Contract shall be open to inspection during regular business hours by an authorized representative of the County. The Contractor shall retain all documents, books and records for a period of five (5) years after termination of this Contract, unless such records are exempt from section 24(a) of Article I of the State Constitution and chapter 119, Florida Statutes. All records or documents created by or provided to the Instructor by the County in connection with this Contract are public records subject to Florida Public Records Law, Chapter 119, Florida Statutes. All records stored electronically must be provided to the County in a format compatible with the information technology systems of the County.

The Contractor shall ensure that public records which are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Contract and following termination of the Contract if the Contractor does not transfer the records to the public agency. In lieu of retaining all public records upon termination of this Contract, the Contractor may transfer, at no cost to the County, all public records in possession of the Contractor. If the Contractor transfers all public records to the County upon termination of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

The Contractor shall prepare an annual financial statement and shall submit same to the Parks and Recreation Parks and Recreation Director, or designee, no later than January 31st of each

calendar year.

Section 39. Severability.

If any provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

Section 40. Statutes, Laws, Rules and Regulations.

The Contractor's use of the Park will be in accordance with all applicable laws, rules, regulations, policies and procedures approved by the Department and/or the Brevard County Board of County Commissioners. The County reserves the right to disapprove any and all activities held at the Park, which may be in conflict with the Department's and/or the County's Policies and Administrative Orders, and agrees to furnish the Contractor with a copy of such rules, regulations, policies, procedures, and amendments thereto.

It shall be the Contractor's responsibility to be aware of and comply with all laws, statutes, ordinances, fire codes, rules, orders, regulations and requirements of all local, state, and federal agencies as applicable. Contractor shall provide to the County written evidence of current satisfactory health inspections at all times.

Section 41. Successors in Interest.

This Contract and the covenants and conditions hereof apply to and are binding on the heirs, successors, legal representatives, and assigns of the parties.

Section 42. Supervision.

The Contractor shall be solely responsible for the proper safety, supervision training and equipping of all participants. The Contractor shall provide and administer adequate personnel to supervise all activities sponsored or sanctioned by the Contractor, which shall take place at the Park.

Section 43. Surrender of Premises.

Contractor shall surrender the Park to the County at the end of the Contract term in generally the same condition as when Contractor took possession, allowing for county-approved changes and modifications agreed to by the parties over time, reasonable wear and tear, damages by acts of God, including fire and storm. On or before the date of surrender, Contractor shall remove all business signs or symbols placed on the Park by Contractor and restore the portion of the Park on which they were placed in the same condition as before placement.

Section 44. Termination for Convenience.

Either party may terminate this Contract for their own convenience upon providing sixty day written notice to the other party. In the event of a termination for convenience, the parties agree that the only termination damages payable by either party will be prorated rent due to the County up to the date of termination.

Section 45. Unauthorized Alien Workers.

Brevard County will not intentionally award publicly-funded contracts to any Contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e)(Section 274A(e) of the Immigration and Nationality Act "INA"). The County shall consider the employment by Contractor of unauthorized aliens a violation of Section 274A (e) of the INA and such violation shall be grounds for unilateral cancellation of this Contract by the County.

Section 46. Utilities.

The Contractor shall be responsible for and pay all utilities at the Park.

Section 47. Venue.

Venue for any legal action brought by any party to this Contract to interpret, construe or enforce this Contract shall be in court of competent jurisdiction in and for Brevard County, Florida, and any trial shall be non-jury.

(remainder of page left intentionally blank)

In Witness Whereof, the parties have hereunto set their hands and seals on the day and year written herein below.

Attest:

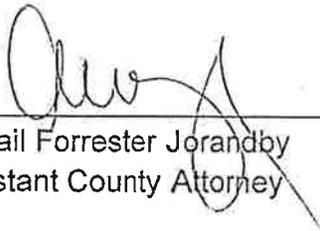
Board of County Commissioners
of Brevard County, Florida

By: 
Scott Ellis, Clerk

By: 
BRYAN ANDREW LOBER, CHAIR

Reviewed for Legal Form and Content:

As Approved by the Board on November 19, 2019.


Abigail Forrester Jorandby
Assistant County Attorney

Witness:

Bit and Spur Club of Central Brevard, Inc.

Date

By: _____
Cary Pond, President Date

Witness:

Date

State of Florida
County of Brevard

The foregoing instrument was acknowledged this _____ day of _____ by _____ who personally appeared before me or provided as form of identification and who affirms that he/she signed the instrument voluntarily for the purpose expressed in it.

Signature of Notary of Public

Name of Notary of Public
(print, type or stamp)
My Commission Expires: _____

Exhibit "A"

LEGAL DESCRIPTION

PARCEL # 901

PARENT PARCEL ID#: 24-35-27-00-5
 PURPOSE: LEASE PARCEL

EXHIBIT "A"
 SHEET 1 OF 2
 NOT VALID WITHOUT SHEET 2 OF 2
THIS IS NOT A SURVEY
SEE SURVEYORS NOTE #1

LEGAL DESCRIPTION: LEASE PARCEL 901 (BY SURVEYOR)

A PARCEL OF LAND BEING A PORTION OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3327, PAGE 4672 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND ALSO BEING LOCATED WITHIN THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 24 SOUTH, RANGE 35 EAST, BREVARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

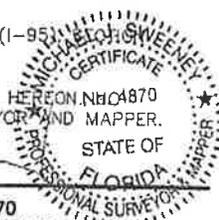
COMMENCE AT THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 27, TOWNSHIP 24 SOUTH, RANGE 35 EAST; THENCE NORTH 89° 58' 21" WEST ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 27 FOR A DISTANCE OF 65.00 FEET TO THE SOUTHWEST CORNER OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 1571, PAGE 97, SAID POINT ALSO BEING THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE CONTINUE NORTH 89° 58' 21" WEST ALONG SAID SOUTH LINE FOR A DISTANCE OF 1264.41 FEET TO A POINT ON THE WEST LINE OF THE EAST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 27; THENCE NORTH 00° 21' 54" EAST ALONG SAID WEST LINE FOR A DISTANCE OF 600.01 FEET TO A POINT ON THE SOUTH LINE OF A FLORIDA POWER AND LIGHT EASEMENT AS DESCRIBED IN OFFICIAL RECORDS BOOK 539, PAGE 184; THENCE SOUTH 89° 58' 21" EAST ALONG SAID SOUTH LINE FOR A DISTANCE OF 1279.33 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF FRIDAY ROAD; THENCE SOUTH 00° 21' 29" WEST ALONG SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF 538.62 FEET; THENCE DEPARTING SAID WEST RIGHT OF WAY LINE, RUN NORTH 89° 35' 15" WEST FOR A DISTANCE OF 34.49 FEET; THENCE SOUTH 00° 24' 56" WEST FOR A DISTANCE OF 36.63 FEET; THENCE SOUTH 89° 58' 21" EAST FOR A DISTANCE OF 19.54 FEET TO THE NORTHWEST CORNER OF SAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 1571, PAGE 97; THENCE SOUTH 00° 21' 29" WEST ALONG THE WEST LINE OF THE AFORESAID DESCRIBED LANDS FOR A DISTANCE OF 25.00 FEET TO THE POINT OF BEGINNING,

CONTAINING 765,983 SQUARE FEET (17.58 ACRES), MORE OR LESS.

UNLESS OTHERWISE INDICATED, ALL PUBLIC RECORDS REFER TO THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA. THE ABOVE DESCRIBED LANDS IS SUBJECT TO ALL EASEMENTS, RIGHTS OF WAY, COVENANTS, AND RESTRICTIONS OF RECORD. THIS SURVEYOR DID NOT PERFORM A SEARCH OF THE PUBLIC RECORDS; NO TITLE OPINION IS EXPRESSED OR IMPLIED.

SURVEYOR'S NOTES:

1. THIS SKETCH IS NOT A SURVEY BUT ONLY A GRAPHIC DEPICTION OF THE LEGAL DESCRIPTION SHOWN HEREIN.
2. BEARINGS SHOWN HEREON ARE SPECIFICALLY BASED ON THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 27 AS BEING NORTH 00° 21' 29" EAST AS DETERMINED BY THEIR COORDINATE VALUES PER SAID FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE 0901.
3. REFERENCE MATERIAL:
 - a. FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP OF STATE ROAD NO. 520, SECTION 70100-2575, DATED 12/14/00.
 - b. FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP OF STATE ROAD NO. 9 (I-95), SECTION 70220, DATED 5/20/2005.
4. ONLY RIGHTS OF WAY AND EASEMENTS SHOWN ON APPLICABLE RECORD PLATS ARE INDICATED HEREON. NO OWNERSHIP AND ENCUMBRANCE REPORT OR OTHER INFORMATION WAS FURNISHED TO THE SURVEYOR AND MAPPER.



PREPARED FOR:
 BREVARD COUNTY
 BOARD OF COUNTY COMMISSIONERS

MICHAEL J. SWEENEY, PSM 4870
 PROFESSIONAL SURVEYOR & MAPPER
 NOT VALID UNLESS SIGNED AND SEALED

PREPARED BY: BREVARD COUNTY PUBLIC WORKS SURVEYING AND MAPPING DIVISION
ADDRESS: 2725 JUDGE FRAN JAMIESON WAY, SUITE A220, VIERA, FLORIDA 32940
PHONE: (321) 633-2080



DRAWN BY: MRC	CHECKED BY: MJS	PROJECT NO. 19-02-038		SECTION 27 TOWNSHIP 24 SOUTH RANGE 35 EAST
		REVISIONS	DATE	
DATE: 10/17/2019	SHEET: 1 OF 2			

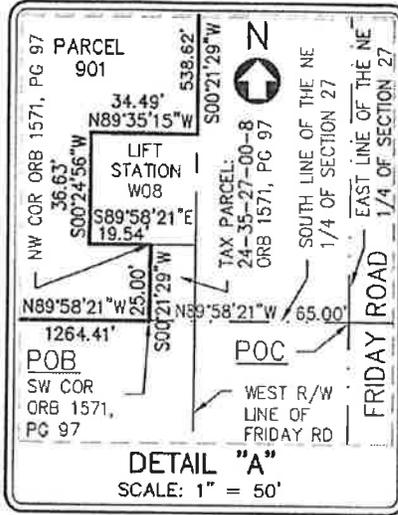
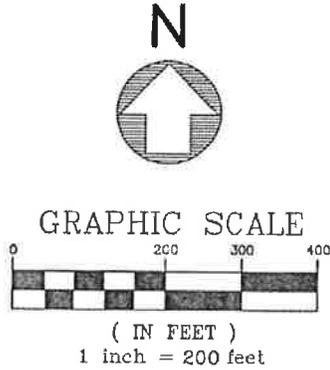
SKETCH OF DESCRIPTION

PARCEL # 901

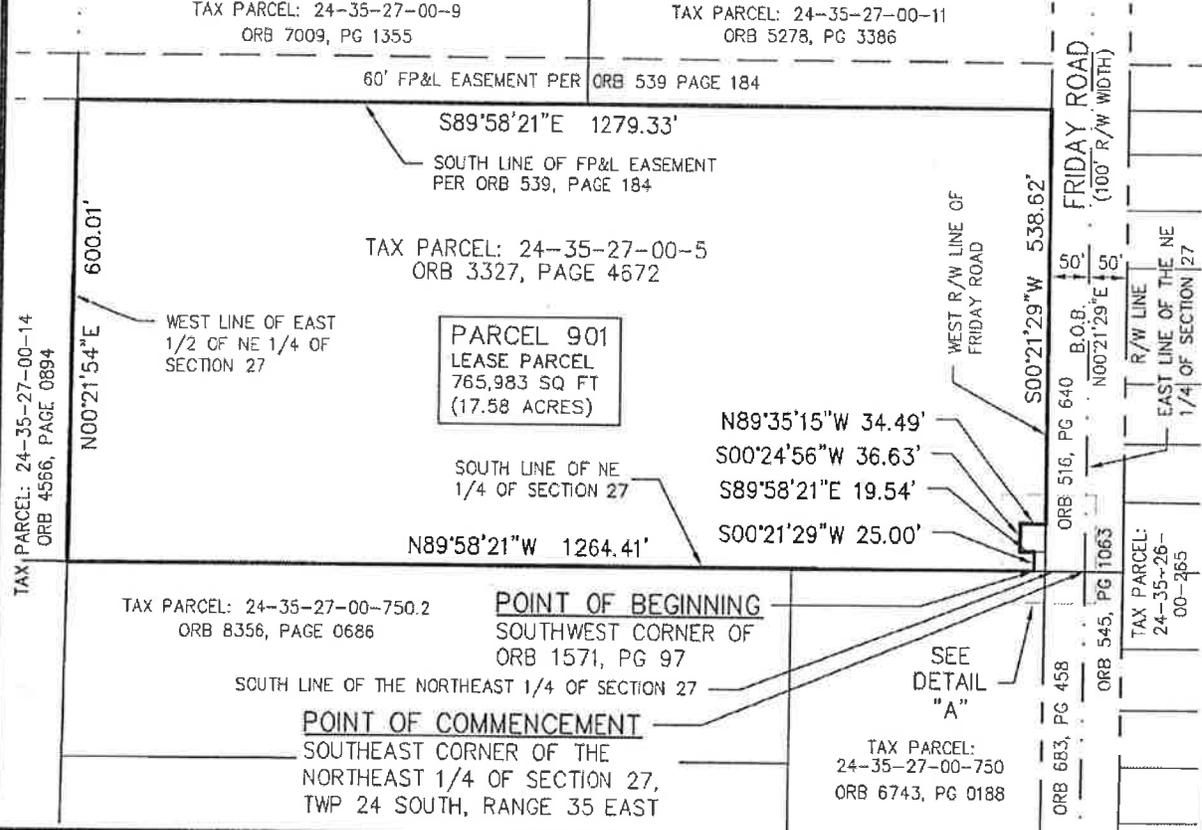
PARENT PARCEL ID#: 24-35-27-00-5
 PURPOSE: LEASE PARCEL

EXHIBIT "A"

SHEET 2 OF 2
 NOT VALID WITHOUT SHEET 1 OF 2
THIS IS NOT A SURVEY
 SEE SURVEYORS NOTE #1



ABBREVIATIONS	
B.O.B.	= BASIS OF BEARING
COR	= CORNER
FP&L	= FLORIDA POWER & LIGHT
ID	= IDENTIFICATION
NE	= NORTHEAST
NW	= NORTHWEST
N/F	= NOW OR FORMERLY
ORB	= OFFICIAL RECORD BOOK
PG	= PAGE
POB	= POINT OF BEGINNING
POC	= POINT OF COMMENCEMENT
R/W	= RIGHT OF WAY
SO FT	= SQUARE FEET
SW	= SOUTHWEST
TWP	= TOWNSHIP



PREPARED BY: BREVARD COUNTY PUBLIC WORKS
 SURVEYING AND MAPPING DIVISION
 ADDRESS: 2725 JUDGE FRAN JAMIESON WAY, SUITE A220,
 VIERA, FLORIDA 32940
 PHONE: (321) 633-2080

SCALE: 1" = 200'
 PROJECT NO.: 18-02-036

SECTION 27
 TOWNSHIP 24 SOUTH
 RANGE 35 EAST

PUBLIC NOTICE
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

As provided in Brevard County Code Section 2-249, notice is hereby given that the Board of County Commissioners will hold a public meeting at 5:00 p.m. on November 12, 2019 at the Brevard County Government Center Board Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida. At the meeting the Board will consider Resolution and Contract with Bit and Spur Club of Central Brevard, Inc. for the property located at 757 Friday Road, Cocoa, Florida 32926. Any person objecting to the Agreement may submit written objections to the county manager's office or may appear and speak in objection at the meeting. Additional information may be obtained by contacting Mary Ellen Donner, Parks and Recreation Department Director at (321) 633-2046.

If a person desires to appeal any decision made by this Board with respect to any matter considered at this meeting or hearing, such a person will need a record of this proceeding and that, for such purposes, such person may need to ensure that a verbatim record of this proceeding is made, at his/her own expense, which record includes testimony and evidence on which any such appeal is to be based.

In accordance with the Americans with Disabilities Act and Section 286.26, F.S., persons needing accommodations or an interpreter to participate in the meeting should notice County Administration no later than 48 hours prior to the public meeting at 321-633-2012.