



Interoffice Memorandum

REAL ESTATE MANAGEMENT ITEM 2

**DATE:** February 7, 2020

**TO:** Mayor Jerry L. Demings  
and the  
Board of County Commissioners

**THROUGH:** Paul Sladek, Manager *PS*  
Real Estate Management Division

**FROM:** Alex Feinman, Leasing Program Manager *AF*  
Real Estate Management Division

**CONTACT PERSON:** Paul Sladek, Manager

**DIVISION:** Real Estate Management  
Phone: (407) 836-7090

**ACTION REQUESTED:** Approval and execution of Lease Agreement for Fernwood Park Boathouse by and between Town of Windermere and Orange County, Florida, delegation of authority to the Environmental Protection Division to enter into Slip Modification Agreements, and delegation of authority to the Real Estate Management Division to exercise renewal options and furnish notices, required or allowed by the lease, as needed

**PROJECT:** Fernwood Boathouse – FWC Boathouse at Windermere  
232 West 7th Avenue, Windermere, Florida 34786  
Lease File #4015  
  
District 1

**PURPOSE:** To continue to provide facilities for the County to conduct its jurisdictional law enforcement and environmental protection related activities on the Butler Chain of Lakes.

**ITEM:** Lease Agreement for Fernwood Park Boathouse  
Cost: \$1 per year  
Size: Two boat slips and associated trailer parking  
Term: 5 years  
Options: One, 5-year renewal

**BUDGET:** Account No.: 1096-068-2435-3620

**APPROVALS:** Real Estate Management Division  
County Attorney's Office  
Environmental Protection Division  
Risk Management Division

**REMARKS:** County currently leases two boat slips and associated trailer parking for the Environmental Protection Division from the Town of Windermere under a lease approved by the Board on July 12, 2005. The facilities are used for County to conduct its jurisdictional law enforcement and environmental protection related activities on the Butler Chain of Lakes.

This Lease Agreement creates a new 5-year term, provides for one additional 5-year term, and updates the repair and maintenance responsibilities.

The terms and conditions of this Lease Agreement are materially consistent with the terms and conditions of the prior lease.

APPROVED  
BY ORANGE COUNTY BOARD  
OF COUNTY COMMISSIONERS  
FEB 25 2020

**TOWN OF WINDERMERE, FLORIDA**  
*and*  
**ORANGE COUNTY, FLORIDA**

**LEASE AGREEMENT**  
*for*  
**FERNWOOD PARK BOATHOUSE**

THIS LEASE AGREEMENT (this “Lease”) is made effective as of the first day of the Initial Term (hereinafter defined) and entered by and between the TOWN OF WINDERMERE, a municipal corporation duly organized and existing under the laws of the State of Florida (“Town”), and ORANGE COUNTY, FLORIDA, a charter county and political subdivision of the State of Florida (“County”). The County and the Town may be referred to in this Lease Agreement individually as a “Party” or collectively as the “Parties.”

**WITNESSETH:**

**WHEREAS**, the Town is the owner of a boathouse and associated docks and improvements located on the shore of Lake Butler (collectively, the “Boathouse”);

**WHEREAS**, the Boathouse is located in Fernwood Park, which is also owned by the Town and is located at 232 West 7<sup>th</sup> Avenue, Windermere, Florida 34786 (Parcel ID 17-23-28-9336-10-000) (the “Park”);

**WHEREAS**, the Town desires to lease the Town’s Boathouse and the land surrounding the Boathouse as shown on **Exhibit “A”** attached hereto and incorporated herein (collectively, the “Property”) to the County on the terms and conditions set forth in this Lease Agreement, and the County desires to lease the Property from the Town on the terms and conditions set forth in this Lease Agreement; and

**NOW, THEREFORE**, for and in consideration of the sum of Five Dollars (\$5.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. The Town hereby leases the Property to the County for a term of five (5) years (the “Initial Term”). The Initial Term will commence on July 12, 2020 and will thereafter expire on July 11, 2025. The Town hereby grants the County an option to extend this Lease (the “Option”) for an additional five (5) year term (the “Extension Term”), upon payment of a rental rate of one (\$1.00) dollar per year payable in advance. The Lease will automatically extend for the Extension Term unless the County delivers written notice to the Town of its election not to exercise the Option no later than sixty (60) days prior to the expiration of the Initial Term. The Town may terminate the County’s Option by delivering written notice of the Town’s termination of the Option to the County no later than one hundred and eighty (180) days prior to the expiration of the Initial Term.

2. The County agrees to use the Property solely for the purpose of conducting its jurisdictional law enforcement and environmental protection related activities on the Butler Chain of Lakes.

3. The County will repair and maintain the Boathouse except for the Slip (as defined below). The County will obtain the Town's approval prior to conducting any repairs and maintenance. The Town agrees to reimburse the County for its proportionate share of the costs of repair and maintenance of the Boathouse. The Town's proportionate share will be calculated as a percentage, the numerator of which will be one, and the denominator of which will be the aggregate number of slips in the Boathouse. As of the Initial Term of this Lease, the aggregate number of slips in the Boathouse is three (3). Notwithstanding the foregoing, if a repair of the Boathouse is necessary as a result of the negligence of a Party (the "**Negligent Party**"), the Negligent Party must repair the Boathouse at the Negligent Party's sole cost and expense within 30 days after the damage occurs. If the Negligent Party fails to repair the Boathouse by the foregoing deadline, the other Party may repair the Boathouse and the Negligent Party must reimburse the other Party for all costs incurred in connection with the repair.

4. The Town hereby grants the County a license over, through and across the Park for ingress, egress and to and from the Property and West 7<sup>th</sup> Avenue. The County agrees to use the Property in accordance with applicable laws.

5. During this Lease, the County will pay for all utility services provided to the Boathouse.

6. The Town reserves the right to exclusive use of and access to the easternmost boat slip in the Boathouse as shown on Exhibit "A" (the "**Slip**"). The designation of the Slip may be changed from time to time by the Parties by written agreement executed by both Parties (the "Slip Modification Agreement"). The County's Manager of the Environmental Protection Division is hereby delegated the authority to enter into Slip Modification Agreements. The Town will repair and maintain the Slip at its sole cost and expense.

7. Neither Party may make any alterations, additions, or improvements to the Boathouse ("**Alterations**") without the prior written consent of the other Party. The Party performing the Alteration (the "**Performing Party**") must provide a copy of the plans and specifications for the Alteration to the other Party for its review and approval with its request for consent to the Alteration or as soon as possible thereafter. No Alteration may be commenced until the Performing Party obtains the written approval of the plans and specifications for the Alteration from the other Party. All Alterations must be done promptly and in a good and workmanlike manner and in compliance with all laws, ordinances, orders, rules, regulations and requirements of all federal, state, and local governments and agencies. The Performing Party must pay all costs incurred in connection with the Alteration.

8. To the extent allowable by law, each Party agrees to defend, indemnify, and hold the other Party, its officials and employees harmless from all claims, actions, losses, suits and judgments, fines, liabilities, costs and expenses (including attorney's fees) each attributable to its own negligent acts or omissions or those of its officials and employees acting within the scope of

Project: Fernwood Boathouse – FWC Boathouse at Windermere  
Lease File #4015

their employment and arising from performance under this Lease Agreement. The foregoing is not intended to constitute an agreement by any Party to assume any liability for the acts, omissions and/or negligence of any other party. Nothing in this Lease Agreement is intended to act as a waiver of any Party's sovereign immunity, and, notwithstanding anything in this Lease Agreement to the contrary, under no circumstances may any Party be liable to the other Party under any contract, negligence, strict liability, or other legal or equitable theory for any amounts in excess of those limits per claim and per occurrence set forth for tort liability in Section 768.28 of the Florida Statutes, which limits are hereby made applicable to all manner of claims against any Party related to this Lease Agreement and are not confined to tort liability.

9. The County, upon keeping and performing the covenants of this Lease, may peacefully and quietly hold, occupy, and enjoy the Property during the Initial Term and Extension Term without any let, hindrance, disturbance, or molestation by the Town or any persons lawfully claiming under the Town.

10. All notices permitted or required by this Lease will be given by hand delivery or sent by certified mail, return receipt requested, addressed as follows:

To Town:

Town of Windermere Manager  
614 Main Street, Suite A  
Windermere Florida 34876

To: County:

Orange County Board of County Commissioners,  
c/o Manager / Real Estate Management Division  
Post Office Box 1393,  
Orlando, Florida 32802

with copies to:

Orange County Attorney  
Post Office Box 1393  
Orlando, Florida 32802-139

and

Orange County Environmental Protection Division  
3165 McCrory Place, Suite 200  
Orlando Florida 32803

11. In the event a Party deems it necessary to take legal action to enforce any provision of this Lease, venue will be in the Circuit Court of the Ninth Judicial Circuit in Orange County, Florida.

12. This Lease constitutes the entire agreement between the Parties and supersedes all

Project: Fernwood Boathouse – FWC Boathouse at Windermere  
Lease File #4015

prior agreement, oral or written. No waiver, modification, additions, or addenda to this Lease will be valid unless in writing and signed by both Parties.

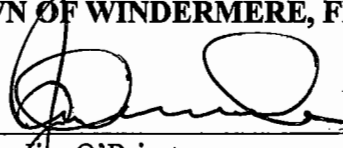
13. If either Party (the “**Defaulting Party**”) defaults in the performance of its obligations under this Agreement and fails to cure such default within twenty (20) days after receipt of written notice of default from the other Party (the “**Non-Defaulting Party**”), the Non-Defaulting Party may terminate this Agreement.

Project: Fernwood Boathouse – FWC Boathouse at Windermere  
Lease File #4015

IN WITNESS WHEREOF, the Parties have caused this Lease Agreement to be executed by their respective duly authorized representatives as of the dates indicated below.

**TOWN OF WINDERMERE, FLORIDA**

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

  
Jim O'Brien  
Mayor

Date: December 18 2019

ATTEST: Dorothy Burkhalter  
as Town Clerk for the Town of  
Windermere

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

  
Dorothy Burkhalter

ADOPTED THIS \_\_\_\_\_ DAY OF FEB 25 2020, 2019

**ORANGE COUNTY, FLORIDA**

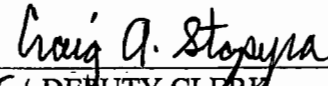
By: The Board of County Commissioners

By:   
Jerry L. Demings, County Mayor

Date: 2/25/2020

ATTEST: Phil Diamond, County Comptroller  
as Clerk of the Board of County Commissioners

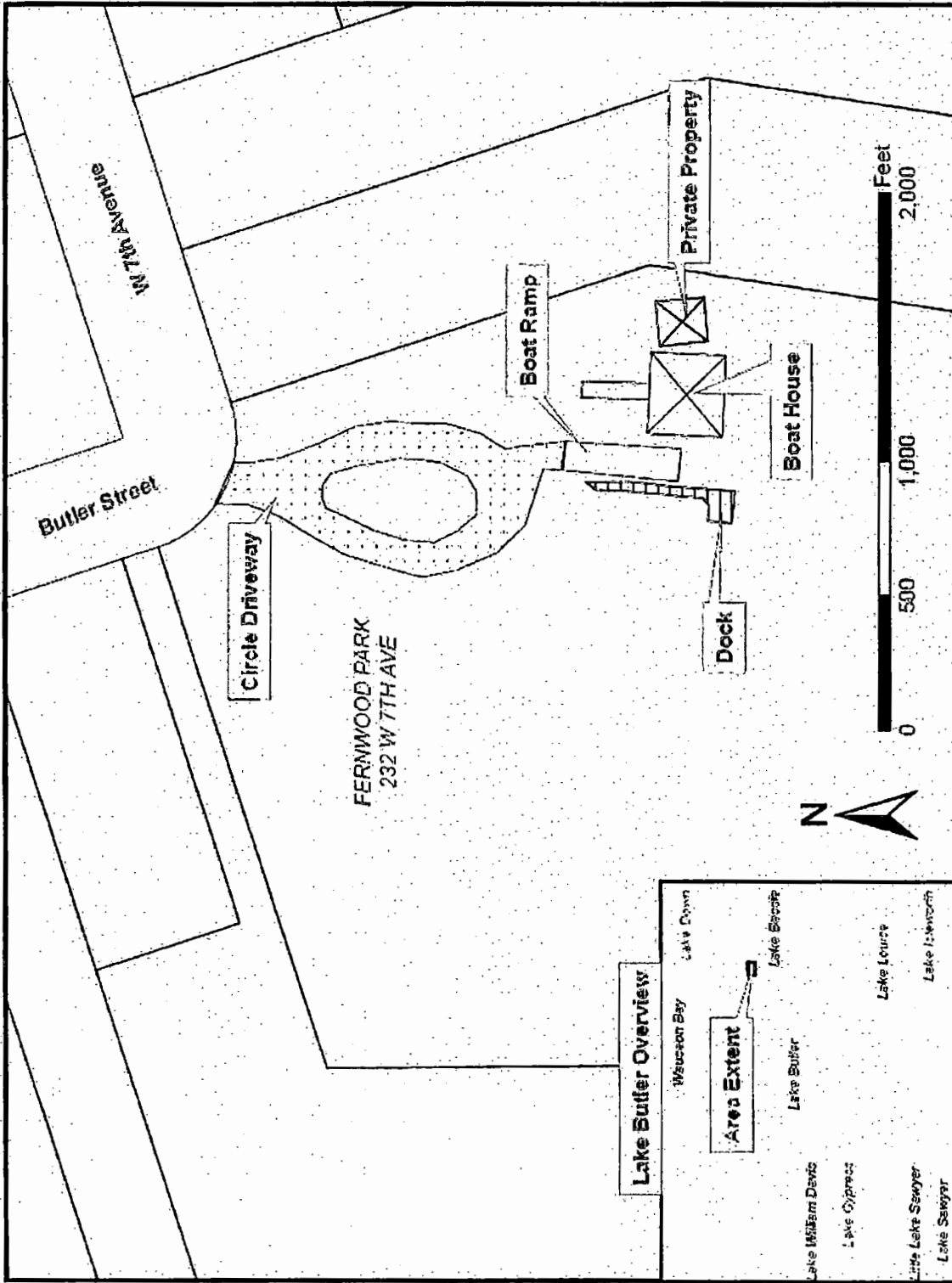
By: \_\_\_\_\_

  
for DEPUTY CLERK

Date: FEB 25 2020



EXHIBIT "A"  
PROPERTY



Date: 7/15/2019  
Not a survey. Locations are approximate. For informational purposes only.



