



Interoffice Memorandum

REAL ESTATE MANAGEMENT ITEM 1

**DATE:** June 21, 2018

**TO:** Mayor Teresa Jacobs  
and the  
Board of County Commissioners

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

**FROM:** Jeffrey Maduro, Sr. Acquisition Agent  
Real Estate Management Division *JM*

**CONTACT PERSON:** Paul Sladek, Manager

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

**ACTION REQUESTED:** APPROVAL AND EXECUTION OF FACILITY USE AGREEMENT BETWEEN GRAND CYPRESS ORLANDO LLC AND ORANGE COUNTY AND DELEGATION OF AUTHORITY TO THE REAL ESTATE MANAGEMENT DIVISION MANAGER TO EXERCISE RENEWAL OPTIONS AND FURNISH NOTICES REQUIRED OR ALLOWED BY THE FACILITY USE AGREEMENT, IF NEEDED

**PROJECT:** Sheriff's Mounted Patrol – Grand Cypress Equestrian Center  
1 Equestrian Drive, Orlando, Florida, 32836  
Lease File #4037  
  
District 1

**PURPOSE:** To continue to provide existing horse barn facilities for the Sheriff's Mounted Patrol.

**ITEM:** Facility Use Agreement  
Cost: \$7,500 per month  
Size: 11 stalls and related facilities  
Term: Until May 31, 2019  
Options: Two, 12-month extensions

**BUDGET:** Account No.: 0001-043-0201-3620

**APPROVALS:** Real Estate Management Division  
Orange County Sheriff's Office  
Risk Management Division

**REMARKS:** Orange County currently leases horse barn facilities at the Grand Cypress Equestrian Center under a Facility Use Agreement approved by the Board of County Commissioners on February 10, 2015 (the "Prior Facility Use Agreement").

This action will continue to provide the Sheriff with sufficient stalls, storage, parking, and training areas until a permanent horse barn facility is constructed; provided, however, that Grand Cypress Orlando LLC may terminate the Facility Use Agreement upon 180 days' notice to Orange County.

Except for an increase in the monthly rent, all other terms and conditions of this new Facility Use Agreement are materially consistent with the Prior Facility Use Agreement.

Project: Grand Cypress Equestrian Center (1 Equestrian Dr.)  
Lease No.: 4037

APPROVED  
BY ORANGE COUNTY BOARD  
OF COUNTY COMMISSIONERS

JUL 10 2018

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**GRAND CYPRESS ORLANDO LLC  
and  
ORANGE COUNTY, FLORIDA**

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**FACILITY USE AGREEMENT**

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THIS FACILITY USE AGREEMENT (the "Agreement"), made and entered into by and between Grand Cypress Orlando LLC ("Owner"), a Florida limited liability company, and Orange County, a charter county and political subdivision of the State of Florida ("County").

WITNESSETH:

1. *Facility.* Owner, in consideration of the payments to it by County of the rents herein contained, which receipt is hereby acknowledged, does hereby grant to the County use of the facilities, within property located at 1 Equestrian Drive, Orlando, Florida (the "Facility") as is more particularly described and shown in Exhibit "B", attached hereto and thereby made a part of this Agreement.

a. *Improvements to Leased Facility.* County accepts the Facility "As is".

2. *Term.* County may occupy and make use of the Facility for a period of twelve (12) months commencing on June 1, 2018 (the "Initial Term"). Following the Initial Term, the term of this Agreement may be extended, for up to two (2) terms of twelve (12) months each ("Extension Term"), provided that County and Owner agree in writing as to the terms of such extension, including but not limited to the rent payable (the Initial Term together with any Extension Terms, shall be collectively referred to herein as the "Term"). The Manager of County's Real Estate Management Division shall have the authority to approve any Extension Terms.

3. *Rent.* As rent for the use and occupancy of the Facility during the Term, County shall pay to Owner, the rental rate identified hereinafter, in advance on the first day of each calendar month throughout the term in lawful money of the United States of America. Rent for the Initial Term shall be seven thousand five hundred dollars (\$7,500) dollars per month. Rent for any Extension Terms shall be at a rate mutually agreeable to the parties.

a. *Sales and Use Taxes.* County represents to Owner that its rights of tenancy and occupancy under this Agreement are exempt from the imposition of Florida State sales and use taxes. County shall furnish to Owner satisfactory proof of such exemption, and County shall

not be liable for payment of such taxes for so long as the exemption is in effect.

4. *Insurance.* County shall maintain “all-risk” property insurance, including furniture, fixtures and equipment, for the full replacement value of such property. Likewise, Owner shall maintain “all-risk” property insurance, covering the building and other related structures and its personal property for the full replacement value of such property and any income in connection therewith. Notwithstanding anything stated to the contrary herein, Owner hereby agrees to waive and release County from all claims related to or arising out of damage to its respective property, howsoever caused, to the extent the claim or damage is covered by its respective insurance, whether or not said insurance was in effect as required. Owner also agrees to require its respective insurance carrier to provide a waiver of subrogation in favor of County.

a. County shall procure and maintain at its expense throughout the Term or any early occupancy of the Facility, the following insurance policy(ies):

i. General liability insurance in an amount not less than one million dollars (\$1,000,000) to cover the County, Owner, and any others designated by Owner against liability for injury and/or death of any persons, or persons and for damage to personal property occasioned by or arising out of any construction, condition, use or occupancy of the Facility.

ii. Fire/casualty and extended coverage insurance in an amount not less than one million dollars (\$1,000,000) to cover the full replacement value of County’s furniture, equipment, supplies and any other property owned, leased, held or possessed by it. Said general liability policies shall carry the name of the County as the named insured and County shall provide Owner with a certificate of insurance prior to the start of the Initial Term and shall exhibit receipts showing payment of premiums on request from Owner. Such policy shall further provide that the insurer shall not cancel, alter or allow expiration or other termination thereof without at least thirty (30) days prior written notice from such insurer to Owner.

b. In lieu of the insurance required above, permission is hereby granted to County to self-insure with limits as stipulated in F.S. 768.28 and provide a certificate of insurance evidencing its insurance or self-insurance.

5. *Use of Facility.* County may use the Facility as a barn for the boarding of horses and for related activities. County may at its discretion, use the Facility for other related governmental purposes, with the prior written consent of Owner which shall not be unreasonably withheld or delayed. County agrees to abide by the conditions set forth in Exhibit “A” Special Provisions, attached hereto and thereby made a part of this Agreement.

6. *Utilities.* Owner shall be responsible for the cost of County’s use of water and electricity at the Facility; County shall be solely responsible for all other utilities used at the Facility including but not limited to waste removal, phone and cable.

7. *Care of Facility.* Owner shall maintain the Facility and shall be responsible for all related operating expenses, to include, but not be limited to the maintenance of the building

envelope and interior improvements, operating systems repair and replacement, landscaping and grounds maintenance, real estate, property and ad valorem taxes and insurance.

8. *Common Areas.* County shall have access to the common areas as described in Exhibit "B", located within and around the buildings of which the Facility are a part.

9. *Parking.* Owner hereby grants to County use of the twelve (12) parking spaces located on the East side of the Facility. Said parking to be available to County's employees at all times during which the County operates at the Facility. No vehicle abandoned or disabled or in a state of non-operation or disrepair shall be left upon the property of the Owner, and County shall enforce this restriction against their employees, agents, visitors, licensees, invites, contractors, and customers.

10. *Interruption of Service.* Owner does not warrant that any services to be provided by Owner, or any third party, will be free from interruption due to causes beyond Owner's reasonable control. In the event of temporary interruption of services or unavoidable delays in the making of repairs by a third party, the same shall not be deemed an eviction or disturbance of County's use and possession of the Facility nor render Owner liable to County for damages. Unavoidable delays shall be deemed to include delays in the performance of any of the obligations of this Agreement resulting from acts of God, strikes, lockouts, or other disturbances, acts of civil disobedience, orders of any kind of the government of the State of Florida, or the United States of America or any of their departments, agencies or officials, or any civil, or military authority, or any other act not within the control of the party whose performance is interfered with, and which, by reasonable diligence, such party is unable to prevent.

11. *Compliance with Laws and Regulations.* County shall comply with all Federal, State, County, and City laws, ordinances, and rules, and regulations affecting, or respecting the use or occupancy of the Facility by the County or the business at any time thereon transacted by the County, and County shall comply with all reasonable rules currently in effect or which may be hereafter adopted by Owner for the protection, welfare, and orderly management of the Facility and its visitors or occupants.

12. *Warranty of Quiet Enjoyment.* County, upon keeping and performing the covenants of this Agreement to be performed by County, shall peacefully and quietly hold, occupy, and enjoy said Facility during said Term without any let, hindrance, or molestation by Owner, or any persons lawfully claiming under Owner.

13. *Eminent Domain.* If the whole or any part of the property of which the Facility is a part, shall be taken by any public authority under the power of eminent domain, so that the County cannot continue to operate at the Facility, then the Term of this Agreement shall cease as of the day possession is taken by such public authority. The amount awarded for any taking under the power of eminent domain shall belong solely to and be solely the property of the Owner.

14. *Waiver.* No waiver of any of the covenants and agreements herein contained or of any breach thereof shall be taken to constitute a waiver of any other subsequent breach of such

**Project:** Grand Cypress Equestrian Center (1 Equestrian Dr.)  
**Lease No.:** 4037

covenants, and agreements, or to justify, or authorize the non-observance at any time of the same or of any other covenants and agreements hereof.

15. *Notices.* All payments and notices required under this Agreement to be given to Owner may be given to:

Grand Cypress Orlando LLC  
1 North Jacaranda Street  
Orlando, Florida, 32836-6699  
Attention: David Pace, COO

or at such other place as Owner may designate in writing.

Any such notice to be given to County under this Agreement shall be given to:

Orange County Real Estate Management Division  
Attn: Manager  
400 East South Street, 5<sup>th</sup> Floor  
Orlando, Florida 32801

with copies to:

County Attorney  
Orange County Administration Center  
201 South Rosalind Avenue, 3<sup>rd</sup> Floor  
Orlando, Florida 32801

or at such other place as County may designate in writing. All notices shall be in writing, and shall be sent by certified mail, national overnight carrier, postage prepaid, or by personal delivery.

16. *Fixtures and Alterations.* County shall not, without Owner's prior written consent, attach any fixtures in or to the Facility, or change, alter, or make additions to the Facility, nor attach, or affix any article hereto, nor permit any annoying sound device, overload any floor, or deface the Facility. Such prior written consent shall not be unreasonably withheld.

17. *Redelivery of Facility.* County shall, on the expiration of this Agreement, deliver the Facility in as good order and condition as it now is or may be put by Owner, reasonable use and ordinary wear and tear thereof, and damage by fire, or other unavoidable casualty, condemnation, or appropriation excepted, and County shall promptly surrender all keys to the Facility to Owner.

18. *Access to Facility.* County shall have unlimited access to the Facility. Owner, however, shall have no liability to County, its employees, agents, invitees, or licensees for losses due to theft or burglary, unless caused by the negligent acts or omissions of the Owner or its authorized agent, or for damages done by unauthorized persons on the Facility, and neither shall Owner be required to insure against any such losses. Owner shall not at any time be liable for

damage to any property in, or upon the Facility which results from power surges, or other deviations from the constancy of electrical service, or from gas, smoke, water, rain, ice, or snow which issues, or leaks from, or forms upon any part of the Facility. County shall cooperate fully in Owner's efforts to maintain security within the Facility, and shall follow all regulations promulgated by Owner with respect thereto.

19. *Signs.* County shall not install or locate signs in the windows and doors of the Facility, or any other part of the Facility, or grounds without first securing Owner's written consent. Any signs installed by County with Owner's permission shall be maintained in good repair, and shall be removed, and any building or grounds damage therefrom restored by County at County's expense.

20. *Indemnification.* To the fullest extent permitted by law, each party to this Agreement shall be solely responsible for all claims, including but not limited to, suits, actions, legal, or administrative proceedings, claims, demands, damages, liabilities, interest, attorney's fees, costs, and expenses of whatsoever kind or nature, arising out of its acts, errors, and omissions in connection with this Agreement, or the acts, errors, and omissions of anyone acting under its direction, control, or on its behalf, and accordingly, each party shall, defend, indemnify, and hold harmless the other party, its agents, employees, and officers, at all times from and against any and all liability, loss, or expense arising from said claims to the extent allowed by law. However, nothing contained herein shall constitute a waiver by County of its sovereign immunity, or the provision of Section 768.28, Florida Statutes.

21. *Intentionally left blank.*

22. *Intentionally left blank.*

23. *Owner's Right of Entry.* Owner and Owner's authorized representatives shall have the right to enter the Facility at any time for any reason.

24. *Cleanliness of Facility.* County will not improperly or unlawfully store, handle, release, or dispose of any refuse, trash or hazardous materials or contaminants in the Facility or in or around the buildings of which the Facility form a part. County shall immediately notify Owner and appropriate governmental agencies and authorities having jurisdiction if a release of such materials occurs, and shall take complete corrective action to clean and remove the material and restore the Facility in compliance with procedures established by such authorities, and shall provide appropriate evidence of compliance.

25. *Holdover.* If the County remains in the Facility beyond the expiration of the Term or earlier termination of this Agreement the holdover tenancy shall be converted to a month-to-month tenancy and County shall pay to Owner rent in the amount of one hundred twenty five percent (125%) of the amount set forth above in the manner set forth above.

26. *Radon Gas - Notice to Prospective Tenant.* Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and

state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your County Public Health Unit, pursuant to Section 404.056(8), Florida Statutes.

27. *Mold - Notice to Prospective Tenant.* County agrees to hold Owner harmless to the fullest extent possible under F.S. 769.28 in the event any mold contaminants are discovered on the property. County understands mold is a naturally occurring microbe and that mold should pose no health threat unless concentrated at high levels in the living environment. The Owner agrees that in the event mold contamination is discovered, the condition will be reported immediately to the County.

28. *Governing Law.* The Laws of the State of Florida shall govern the validity, performance, and enforcement of this Agreement.

29. *Severability.* If any clause or provision of this Agreement is illegal, invalid, or unenforceable under present or future laws, the remainder of this Agreement shall not be affected thereby, and in lieu of each clause or provision of this Agreement which is illegal, invalid or unenforceable, there shall be added as a part of this Agreement a clause or provision as nearly identical to the said clause or provision as may be legal, valid, and enforceable.

30. *Early Termination.* Owner and County understand that the funding for this Agreement is provided by Federal, State, and other sources and agree to allow for its early termination with sixty (60) days prior written notice should said funding be discontinued for any reason prior to the expiration date herein specified. County understands that Owner's intended use for the Facility may change at some time in the future, and agrees to allow for early termination by Owner with one hundred eighty (180) days prior written notice.

31. *Recording.* This Agreement may not be recorded.

32. *Entire Agreement.* Exhibit "A" and "B" are hereby incorporated into this Agreement as attached hereto. This document and its Exhibits "A" and "B" constitute the entire Agreement between the parties and supersedes all prior agreements, oral or written. No waiver, modification, additions, or addenda to this Agreement shall be valid unless in writing and signed by the Owner and County. In the event of a conflict between the provisions of Exhibit "A" or "B" and this Agreement, the terms and conditions of Exhibits "A" and "B" shall control.

*[signature page and exhibits follow]*



Project: Grand Cypress Equestrian Center (1 Equestrian Dr.)  
Lease No.: 4037

IN WITNESS WHEREOF, Owner and County have hereunto executed this Agreement as of the day and year last written.

Signed, sealed, and delivered  
in the presence of:

OWNER

**GRAND CYPRESS ORLANDO LLC,**  
a Florida limited liability company

By: LWP Florida LLC,  
a Delaware limited liability company,  
its Manager



Print Name: Michael Iwuc



Print Name: Melissa Sassaris

By: 

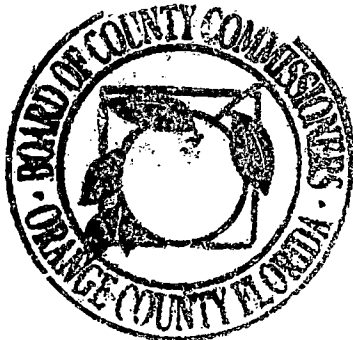
Print Name: **David Pace**

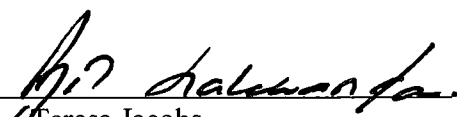
Title: **COO**

Date: 5/31/18

COUNTY

**ORANGE COUNTY, FLORIDA**  
By: Board of County Commissioners



By: 

Teresa Jacobs  
Orange County Mayor

Date: 7.10.18

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

By: 

Deputy Clerk

**Katie Smith**

Date: \_\_\_\_\_

## **Sheriff's Mounted Patrol**

### **EXHIBIT "A"**

#### **SPECIAL PROVISIONS**

- Grand Cypress Orlando, LLC ("GCO") to be responsible for facility maintenance.
- Orange County ("COUNTY") to be responsible for damages other than normal wear and tear.
- GCO shall approve all signage in its sole discretion. CR535 signage will be added at GCO's expense to indicate "Grand Cypress Equestrian Center, home of the Orange County Sheriff's Mounted Patrol."
- It is understood that the Grand Cypress Equestrian Center ("GCEC") is part of Grand Cypress Resort and is open to the public, guests, visitors, and other lessees of the GCEC. GCO will continue to use GCEC for resort guests, training, shows, and special events (both day and night); accordingly, COUNTY will provide daily cleaning and upkeep of the facility, in accordance with the general standards and conditions of Grand Cypress Resort. Further, COUNTY acknowledges and agrees that, due to the public and nonexclusive nature of the facility, GCO shall have no responsibility for the actions or inactions of the public, its guests, visitors, or other lessees of the GCEC.
- Employees and invitees of COUNTY shall exhibit conduct and appearance normally expected of GCO's employees at all times.
- The COUNTY may hold special events at the GCEC subject to prior notice, approval, and coordination with GCO.
- Use of non-exclusive Facility property will be with prior approval by GCO's designated representative.
- The access road to the eastside of the GCEC will be open during normal business hours and padlocked after hours. Both GCEC and COUNTY will utilize their own lock.
- Any press releases will be with joint approval.
- Additional stalls may be added to this Agreement at the rate of five hundred dollars (\$500) per month per stall.
- COUNTY will provide a list of approved staff and contractors to have access to the GCEC, subject to GCO approval which will not be unreasonably withheld.

## **Sheriff's Mounted Patrol**

### **EXHIBIT "B"**

County shall be entitled to Exclusive use of the following:

- // stalls (with floor pads, automatic watering system, and misting system)
- 1 office area (second floor 2 bedroom apartment)
- 1 Tack Room
- Dumpster Pad (County to supply dumpster and service)
- 2 restrooms
- one-half (1/2) of the hay barn

County shall be entitled to shared use of the following:

- Feed Storage Room
- Hay Storage area
- Vet and Ferrier areas
- Horse Washing area
- Training Room
- Paddock areas
- Covered Training Ring
- Vehicle Parking area (County may have use of up to 12 spaces East of the Facility for vehicles and trailers)
- Laundry Room

Not included in this Agreement:

- Feed
- Hay
- Sawdust or other materials for stall floors
- Lock for entry gate

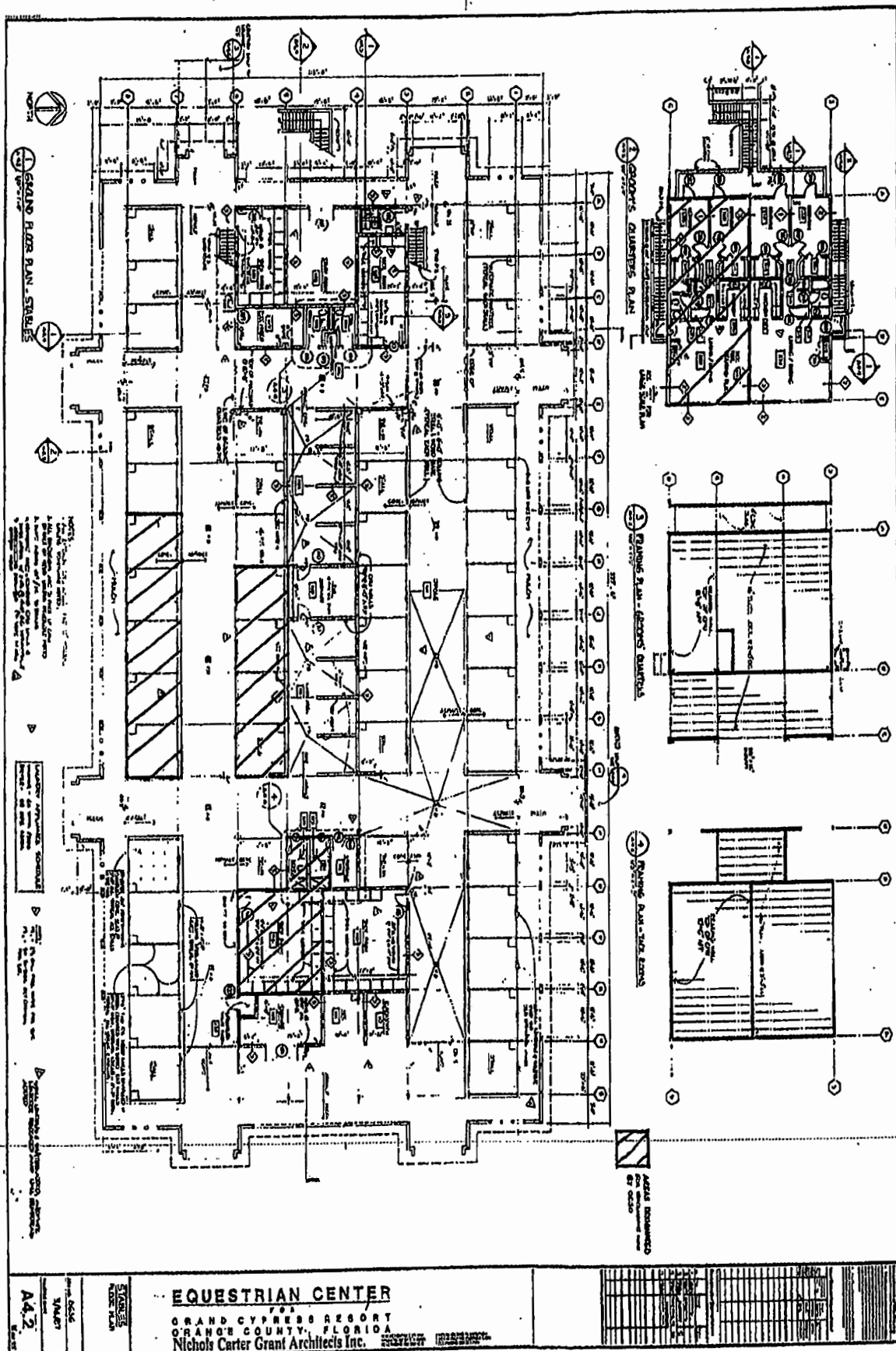


Exhibit "B"

The site plan illustrates the layout of the Equestrian Center. Key features include:

- Buildings:** A large rectangular building on the left, a central long building with multiple entrances, and a smaller building on the right. A parking area is located between the large building and the central building.
- Parking Areas:** Several parking lots are shown, including a large one on the left and a smaller one on the right.
- Roads:** The plan shows a main road on the left, a road on the right, and a road at the bottom labeled "GOLF COURSE ROAD".
- Other Features:** A "GOLF COURSE ROAD" is shown at the bottom. A "GOLF COURSE ROAD" is also shown on the right side. A "GOLF COURSE ROAD" is also shown on the right side.

The plan includes a north arrow pointing towards the top right. A scale bar is located at the bottom left, indicating a distance of 100 feet. A legend at the bottom right defines symbols for "Site Plan" and "North".