

RESOLUTION NO. 2004-120

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, CANCELING ALL PRIOR AGREEMENTS AND UNDERSTANDINGS, WHETHER WRITTEN OR ORAL, WITH OAK PARK STABLES AND CARRIAGE COMPANY, A FLORIDA CORPORATION ("OAK PARK"); APPROVING A NEW LEASE AGREEMENT WITH OAK PARK FOR THE LEASE AND MAINTENANCE OF THE STABLE AND PADDOCK AREAS LOCATED WITHIN THE ROLLING OAKS OPEN SPACE PARK; PROVIDING FOR THE ESTABLISHMENT OF EQUINE AND EDUCATIONAL PROGRAMS/CLASSES FOR TOWN RESIDENTS; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR AND TOWN ATTORNEY TO ENTER INTO THE LEASE AGREEMENT, IN SUBSTANTIALLY THE SAME FOR AS ATTACHED HERETO AS EXHIBIT "A"; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

WHEREAS, on September 13, 2002, pursuant to Resolution 2002-50, Rhonda Winsor assigned her interest as Tenant under that certain Lease Agreement dated October 11, 2001 ("Lease"), with the Town of Southwest Ranches as Landlord, for the stable located within the 46 acres Rolling Oaks open space park, to Oak Park, (whose full legal name is Oak Park Stable and Carriage Company) and Kathy Ridenour (collectively "Oak Park"); and

WHEREAS, pursuant to Resolution 2004-36, the Town and Oak Park entered into a revised lease with a three year term; and

WHEREAS, Oak Park has utilized the stable facilities and related paddocks at the Rolling Oaks Open Space Park, in compliance with the terms and conditions of the Lease; and

WHEREAS, the Town and Oak Park, due to adverse economic conditions, have mutually agreed to cancel the current lease; and

WHEREAS, the Town Council desires to enter into a new lease with Oak Park, which shall include the establishment of equine and educational programs/classes for Town residents, a child horse camp, and carriage services; and

WHEREAS, the Town attorney has prepared a new Lease Agreement with Oak Park, a copy of which is attached hereto and marked Exhibit "A".

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Southwest Ranches, Florida:

Section 1: The above referenced recitals are true and correct and are incorporated herein by reference.

Section 2: The Town Council hereby cancels all prior agreements and understandings, whether written or oral, with Oak Park.

Section 3: The Town Council approves the establishment of a new Lease Agreement with Oak Park, in substantially the same form as attached hereto as Exhibit "A".

Section 4: The Town Council hereby authorizes the Mayor, Town Administrator, and Town Attorney to enter into a Lease Agreement with Oak Park, in substantially the same form as that attached hereto as Exhibit "A", and to make such modifications, additions and or deletions which they deem necessary and proper to effectuate the intent of this Resolution.

Section 5: This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED by the Town Council of the Town of Southwest Ranches, Florida, this 13th day of September 2004, on a motion by Vice Mayor Aster Knight and seconded by Council Member Don Maines.

Fink	<u>Y</u>	Ayes	<u>5</u>
Knight	<u>Y</u>	Nays	<u>0</u>
Blanton	<u>Y</u>	Absent or	
Maines	<u>Y</u>	Abstaining	<u>0</u>
Nelson	<u>Y</u>		

ATTEST:

Shari Canada
Shari Canada, Town Clerk

Mecca Fink
Mecca Fink, Mayor

Approved as to Form and Correctness:

Gary A. Pollakoff
Gary A. Pollakoff, J.D., Town Attorney

Exhibit "A"
LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into this ____ day of September, 2004, by and between **TOWN OF SOUTHWEST RANCHES**, a Florida municipal corporation, whose address is 6589 S.W. 160 Avenue, Southwest Ranches, Florida 33331, hereinafter referred to as "Lessor", and **OAK PARK STABLE AND CARRIAGE COMPANY, A FLORIDA CORPORATION**, whose address is 17950 S. W. 55 Street, Southwest Ranches, Florida 33331, hereinafter referred to as "Lessee".

WITNESSETH:

WHEREAS, Lessor is the owner in fee simple of that certain tract of land lying and being situated in the Town of Southwest Ranches, Broward County, Florida, more particularly describes as follows:

That portion of the property described as FLORIDA FRUIT LANDS CO. SUB. NO. 1, recorded in Plat Book 2-D, at Page 17, Public Records of Miami-Dade County, Florida, situate, lying and being in Broward County, Florida (the "Property"); and

WHEREAS, Lessee is desirous of leasing a portion of the Property having a common Address of 17630 S.W. 56 Street, Southwest Ranches, Florida, containing stables and living quarters (the "Premises), for use as permitted under this Agreement. (The Premises is further described and depicted in "A" annexed hereto.)

NOW, THEREFORE, in consideration of the mutual covenants, conditions, and agreements herein contained and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby agree as follows:

1. DEMISE: Upon the terms and conditions hereinafter stated, and in consideration of the payment from time to time of the rent hereinafter stipulated, and for and in consideration of the performance by Lessee of the covenants

hereinafter contained by Lessee to be kept and performed, Lessor hereby leases and demises to Lessee the Premises, to have and to hold the Premises for the term of this Lease Agreement upon the terms and conditions herein set forth. The Premises is designated as Parcel A, as depicted in Exhibit "A". Only Parcel A shall be used by Lessee for Lessee's use as permitted hereunder.

2. CONSIDERATION: Lessee, in consideration of demise of the Premise, and for the further consideration herein set out, including, by way of example and not limitation, Lessee's repair and maintenance obligations for Parcels A of the Premises, hereby rents, leases hires the Premises from Lessor, on the terms and conditions hereinafter set out.

3. TERM OF LEASE: The term of this Lease shall be for a period of three (3) years from the commencement date, which commencement date shall be September 1, 2004 (the "Commencement Date"), plus two one year options to renew. The term shall end at 12 o'clock noon on August 31, 2007, ("Termination Date") unless the term shall sooner terminate pursuant to any of the terms, covenants or conditions of this Lease Agreement, pursuant to law, or unless extended as provided hereunder.

A. Option to Extend Lease Term. Lessee may extend the Term for two (2) additional one (1) year periods by providing written notice of its election to do so given to Lessor at least ninety (90) days prior to the Termination Date. The extended Term will be on all of the terms and conditions of the Lease applicable at the Termination Date; however, Tenant will have no further right to extend the Term. ~~and the Base Monthly Rent will be \$_____.~~ Tenant will not have any rights under this Section if (a) an Event of Default exists on the Termination Date or on the date on which Tenant gives its notice, or (b) Tenant exercises its rights less than ninety (90) days before the Termination Date.

4. RENTAL PAYMENTS: Lessee shall pay the rental payments under this Lease Agreement directly to Lessor, on the first (1st) day of each month, in advance, without set-off or deduction, and Lessor may enforce any default in this

Lease Agreement in part or in whole. Said rental payments shall be made in the following manner:

A. For the initial year, rental in the amount of SIX THOUSAND DOLLARS AND NO/100 (\$6,000.00) per annum, payable FIVE HUNDRED DOLLARS AND NO/100 (\$500.00) per month. For the second year of the lease, the rental amount shall be TWELVE THOUSAND DOLLARS AND NO/100 (\$12,000.00) per annum, payable ONE THOUSAND DOLLARS AND NO/100 (\$1,000.00) per month. For the third year of the lease, the rental amount shall be TWELVE THOUSAND SIX HUNDRED DOLLARS AND NO/100 (\$12,600.00) per annum, payable ONE THOUSAND FIFTY DOLLARS AND NO/100 (\$1,050.00) per month.

5. SERVICES TO BE PROVIDED BY LESSEE:

A. Lessee shall provide 400 hours annually of pre-approved equestrian and/or educational programs and/or classes (approximately 8 hours per week) at no charge to Town residents. Lessee shall obtain approval for the equestrian and/or educational programs or classes from the Lessor and said approval shall be at the sole discretion of the Lessor.

B. Lessee shall provide licensed security personnel for the Premises, twenty-four (24) hours per day, three hundred sixty five (365) days a year.

6. MAINTENANCE OF IMPROVEMENTS BY LESSOR:

A. Lessor shall be responsible for (i) replacement of the air conditioner unit in the living quarters; (ii) the initial painting of the building structures located on the Premises; (iii) installing landscaping on the Premises; (iv) resurfacing the circular driveway and asphalt areas, as defined by Lessor.

B. Lessor shall grade the Premises for proper use and drainage, shall provide a grass and sand riding rink, and other basic items necessary to improve the facilities to code required conditions.

C. Lessor shall be responsible for the ongoing structural repairs and improvements of the Premises, (i.e., the stable and living quarters) including the roof, water system, electrical system, and fences, as needed.

7. POSSESSION AND QUIET ENJOYMENT: Lessor shall deliver possession of the Premises to Lessee at the beginning of the term of this Lease, and Lessor does covenant and agree that Lessor is possessed of fee simple title to the said premises, and Lessor covenants and agrees that Lessee shall and may peaceably have, hold and enjoy the Premises for the term aforesaid, provided that Lessee is not in default of any term or provision hereunder, against all persons whomsoever, excepting persons claiming under or through Lessee.

8. MAINTENANCE OF IMPROVEMENTS AND COMPLIANCE WITH LAWS BY LESSEE:

A. Lessee agrees to keep all improvements now existing or hereafter constructed upon the Premises, including but not limited to the improvements provided by Lessor in accordance with paragraph 6A, herein, in good repair and condition and maintain the land surfaces in good, smooth, level and firm condition, including but not limited to maintaining the buildings in a good condition. Lessee agrees that "good condition" and frequency of maintenance shall be as defined by the Lessor.

B. Lessee further agrees not to (i) undertake any action that would be deemed a nuisance to Lessor or any neighboring property owner, or (ii) suffer, permit or commit any waste. If any governmental license(s) or permit(s) shall be required for the proper and lawful conduct of Lessee's business or other activity carried on in the Premises, or if a failure to procure such a license or permit might or would in any way, adversely affect Lessor, then Lessee, at Lessee's sole cost and expense, shall duly procure and thereafter maintain all such license(s) and permit(s) and submit the same for inspection by Lessor. Lessee shall pay when due all license fees, permit fees and charges of a similar nature for the conduct by Lessee of any business or undertaking authorized hereunder to be conducted in or from the Premises.

9. USE OF PREMISES: Lessee covenants and agrees that it will conform to and observe all applicable laws, rules and regulations of all public authorities, boards or officers, relating to said Premises, or the use thereof, and will not during such terms, permit same to be used for illegal or immoral purposes, or make any improper or offensive use thereof. The specific purpose for the use of the Premises is (i) for living quarters in that space specifically provided for living quarters, as reflected in Exhibit "A", (ii) for boarding of up to thirteen (13) horses in the stable and paddocks area, (iii) paddock and grazing area may be used for horse training and children's horse camp, and (iv) Lessee may locate up to two (2) carriages on the Premises. Areas not defined as Parcel A shall not be used by Lessee for any purpose, other than for public park purposes.

10. TAXES AND UTILITY CHARGES: The real property tax for the term of this Lease shall be paid by Lessor. Lessor shall pay all taxes on the real property and improvements, including special improvement liens levied against the real property and improvements which become payable during the term of this Lease.

Lessee shall pay all charges for all utilities, whether they are supplied by a public or private firm, and shall pay them as they become due. Lessee covenants that Lessee will not allow any lien to be filed against the Premises for any reason arising out of Lessee's action or inaction. In the event any lien is filed against any portion of the Property in connection with Lessee's activities, Lessee shall have same discharged of record within twenty (20) days of following the filing of such lien.

11. INSURANCE: Lessee agrees to carry, at Lessee's sole cost and expense, public liability insurance under policy or policies which shall name Lessor and Lessee as the parties insured thereby, and in the limits of not less than \$1,000,000.00 to cover the claim of damage from a single claimant, and not less than \$1,000,000.00 to cover more than a single claim which may arise from a single accident anywhere on the Property, and including property damage

insurance in the sum of \$500,000.00. Such policies or certificates thereof shall be delivered to Lessor herein and will be renewed from time to time so that at all times insurance protection herein requested shall continuously exist. Initial evidence of insurance shall be delivered to Lessor prior to the commencement of this Lease.

Lessee agrees to keep all improvements upon the Premises insured at Lessee's expense, at full replacement costs, in favor of Lessor and Lessee as their respective interest may appear, against loss or damage by fire and extended coverage including windstorm in such amounts as Lessor shall reasonably require from time to time. Lessee shall furnish Lessor with evidence of such insurance and the payment of premiums thereon not less than ten (10) days prior to the date such premiums shall become due. If any sums of money become payable by reason of damage insured against, then that sum shall be made available to Lessor for reconstruction of the improvements.

All policies of insurance required hereunder shall include a provision such that same shall not be canceled or terminated without thirty (30) days' prior written notice to Lessor. Additionally, all such policies of insurance shall contain a provision whereby the carrier of such insurance waives all rights of recovery by way of subrogation against Lessor.

12. RECONSTRUCTION: In the event of destruction or damage to the improvements or any part thereof, Lessor shall have the option, in its sole and absolute discretion, of (i) repairing the damage, or (ii) terminating this Lease. If the Premises is totally destroyed and Lessor elects to replace the Premises, then the rental payable under this Lease shall abate. In the event the Premises are partially destroyed or damaged, and the Lease is not terminated as provided hereunder, then rent shall abate in proportion to the damage. (That is, by way of example, if 30% of the Premises is no longer usable as a result of the damage, then rent shall abate by 30%.) Rent shall return to the amounts provided for under this Lease as the Premises are restored. In the event that Lessor elects to terminate this Lease, then Lessee shall be refunded any pre-paid

rent and this Lease shall be deemed terminated. Should the damage be proximately caused, in whole or in part, by the willful, reckless or negligent conduct of Lessee or its agents, representatives or invitees, then Lessee shall not be entitled to an abatement of rent or refund of pre-paid rent.

13. INSPECTION: Lessor shall inspect the Premises monthly. Inspections are to be conducted by the Town Administrator or any other party designated by the Town Administrator ~~or the Town Council~~. In addition to said monthly inspections, Lessor shall have the right to inspect the Premises at all reasonable times and as often as shall be reasonably necessary for Lessor to be consistently aware of the condition of the Premises.

14. ASSIGNMENT AND SUBLEASE: This Lease shall not be assigned or any portion thereof sublet by Lessee, without the prior written consent of Lessor.

15. LIENS: Lessee shall have no right or authority to make any contract for the improvement of the Premises which would impose or impress a lien upon the real property described in this Lease; provided, however, that Lessee shall not be prohibited from contracting for the improvement of the Premises, but any liens for such improvements shall attach only to Lessee's leasehold interest or to improvements which can be practicably removed by Lessee upon twenty (20) days' notice.

16. PERSONAL PROPERTY OF LESSEE: Upon termination of this Lease for any reason, if there shall be no monetary rental or other payments due from Lessee to Lessor, Lessee shall be entitled to remove all furniture, furnishings, fixtures, and all other items of personal property installed on or brought upon the Premises by Lessee; provided, however, that in the event that such removal shall cause any alteration of the Premises or leave any openings in partitions or walls, then Lessee shall restore the Premises to a good, repaired condition at Lessee's sole cost and expense.

17. DEFAULT: In the event that Lessee shall fail to perform according to the terms and conditions hereof, the following provisions shall apply as stated:

A. If the default by Lessee is other than for the non-payment of rent or other sums of money required to be paid by Lessee, and if such default shall continue for thirty (30) days after written notice thereof by Lessor specifying the default claimed, then Lessor, at its option, may elect and pursue any of the remedies hereinafter provided; provided, however, that if the curing of such default reasonably requires a period of time more than thirty (30) days, then Lessee shall not be deemed in such default as to authorize the pursuit by Lessor of remedies, if within such period of thirty (30) days Lessee commences to cure such default and prosecutes such curative action continuously with promptness and dispatch to completion.

B. There shall be no notice for monetary default. In the event of monetary default, Lessor shall forthwith have the right to pursue all legal remedies available to Lessor.

C. In the event that Lessee shall be adjudicated to be a bankrupt, then this Lease shall immediately terminate upon such adjudication.

D. The remedies available to Lessor shall be that Lessor may elect to terminate this Lease and forthwith resume possession of the Premises; or, Lessor may retake possession of the Premises for the account of Lessee; or, Lessor may sue Lessee for rental payments under this Lease from time to time for rent that has become due for one or more rental periods or after the end of the Lease term; and/or Lessor may terminate this Lease, resume possession of the Premises and accelerate and demand immediate payment of all the rent due under the then current term. These remedies shall be cumulative and shall not preclude the rights of Lessor under the statutes of common law of the State of Florida.

18. MISCELLANEOUS PROVISIONS: Default in any of the covenants of this Lease shall constitute a default of the whole Lease.

A. Time of the Essence. Time is of the essence in every particular of this Lease.

B. Binding on Successors; Notice. Wherever there shall appear in this Lease a reference to Lessee and/or Lessor, such reference shall apply to and be binding upon the heirs, personal representatives, devisees, legatees, successors and assigns of Lessor and Lessee. Any and all notices required or authorized to be given under this Lease shall be deemed complete upon personal delivery to Lessor, or to Lessee, or by facsimile with a copy mailed or hand-delivered to the other party, or upon the posting of such notice in the United States Mail by Certified Mail with return receipt required addressed to Lessor or Lessee as follows:

Lessor: Town of Southwest Ranches
Attn: John Canada, Town Administrator
6589 S. W. 160 Avenue
Southwest Ranches, FL 33331

Lessee: Oak Park Stables and Carriage Company
Attn: Kathy & Lee Ridenour
17630 S.W. 56 Street
Southwest Ranches, FL 33331

The parties may change the address provided above by giving written notice of such change of address according to the terms of this paragraph.

C. Rental Payments. All rental payments shall be made by check in the same manner provided for the service of notices in the next preceding paragraph, except that such rental payments need not be transmitted by Certified Mail, and such rent shall not be deemed paid until Lessor has actually collected proceeds of any such rental check provided Lessor has not unreasonably delayed the deposit of said checks for collection.

D. Gender. Whenever used, the singular shall mean the plural and the plural shall mean the singular, and the use of any gender shall mean and include all genders, all as the context permits or requires.

E. Attorneys' Fees. That in connection with any claims, arbitration, mediation or litigation which may arise out of this Lease Agreement subsequent to the execution hereof, the prevailing party shall be entitled to recover all costs incurred, including reasonable attorneys' fees through all levels of proceeding, including the appellate level.

F. Entire Agreement. That the execution of this Lease Agreement constitutes the entire and complete agreement between the parties hereto and supersedes all prior correspondence, discussion, agreements and understandings between the parties hereto and shall have the effect of settling any and all disputes and differences between Lessor and Lessee.

G. Indemnification. Lessee shall protect, defend, indemnify, hold and save free and harmless Lessor, the Town Council, Lessor's employees and its respective agents, officers, directors, attorneys and representatives, from and against any and all claims, demands, liabilities, fines, suits, actions, proceedings, orders, decrees, obligations and judgments and damages of any kind or nature and from and against any and all costs and expenses, including attorneys' fees, appellate and otherwise, resulting from any cause directly or indirectly relating to the use of the Premises or other portions of the Property.

H. Hazardous Waste. Lessee shall not use or allow the Premises to be used for the Release, storage, use, treatment, disposal or other handling of any Hazardous Substance, The term "Release" shall have the same meaning as is ascribed to it in the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 et seq., as amended ("CERCLA"). The term "Hazardous Substance" means (i) any substance defined as a "hazardous substance" under CERCLA, (ii) petroleum, petroleum products, natural gas liquids, liquefied natural gas, and synthetic gas, and (iii) any other substance or material deemed to be hazardous, dangerous, toxic, or a pollutant under any federal, state or local law, code, ordinance or regulation. Lessee shall be liable to Lessor for any violation of this Section, and shall indemnify, defend and hold

Lessor harmless as a result of any Hazardous Substance brought onto the Property by Lessee, its agents, representatives or invitees.

I. Smoke Free Premises: Lessee acknowledges and agrees that the Premises are classified as a "Smoke-Free" environment. Lessee agrees that in the event Lessee, its agents, servants, licensees and guests violate the Smoke-free rule, that Lessee shall be solely responsible for the cost of any clean-up, including without limitation the cost of removing the smoke smell.

J. Drug Free Environment. Lessee acknowledges that Lessor wishes to promote a Drug Free working environment and Lessee agrees that it will not allow illegal drugs, chemical substances and paraphernalia onto the subject premises. Further, Lessee will not knowingly allow any employee, agent, invitee, guest or other to use or possess any illegal substance on the subject property. Violation of this provision may, in the sole discretion of Lessor, result in termination of this Lease.

K. Radon. 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.

L. Lead Paint Disclosure. Lessor hereby advises Lessee that the Premises may contain lead-based paint that may place young children at risk for developing lead poisoning if ingested. Lead poisoning also poses a particular risk to pregnant women.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by the proper officers, duly authorized, and their corporate seals to be affixed, the day and year first above written.

LESSOR

TOWN OF SOUTHWEST RANCHES

ATTEST:

Shari Canada

Shari Canada, Town Clerk

Mecca Fink

Mecca Fink, Mayor

John Canada
John Canada, Town Administrator

APPROVED AS TO FORM AND CORRECTNESS:

Gary A. Poliakoff

Gary A. Poliakoff, Town Attorney

LESSEE

**Oak Park Stable and Carriage
Company, a Florida corporation**

By: Katharine Ridenour
Title: President

EXHIBIT "A"
Sketch of the Property and Premises

