

**Lee County Board Of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20060230

1. ACTION REQUESTED/PURPOSE: Approve and execute agreement between Lee County and the Estero Island Historical Society for Lease of Land at Matanzas Pass Preserve.

2. WHAT ACTION ACCOMPLISHES: Board approval is required for agreements.

3. MANAGEMENT RECOMMENDATION: Approve and execute agreement.

4. Departmental Category: # C I I A		5. Meeting Date: 03-14-2006
6. Agenda: <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input type="checkbox"/> Public <input type="checkbox"/> Walk-On	7. Requirement/Purpose: (specify)	
	<input type="checkbox"/> Statute	
	<input type="checkbox"/> Ordinance	
	<input type="checkbox"/> Admin. Code	
	<input checked="" type="checkbox"/> Other	
		8. Request Initiated: Commissioner _____ Department <u>Parks and Recreation</u> Division _____ By: <u>John Yarbrough</u> <i>(Signature)</i>

9. Background:
At the November 15, 1995, Lee County Board of County Commissioners meeting, the Board approved contract #C-961135 with the Estero Island Historic Society. The purpose of the contract was to allow the Estero Island Historic Society to use the property adjacent to the Matanzas Pass Preserve to locate a historic building to be used as a museum. At the September 12, 2000 Board meeting, the Board extended this contract until September 2005. Since the expiration of this contract September 22, 2005, two historic buildings are now located at this site. The Sandcastle Kindergarten and the Pink Palace continue to educate citizens and visitors on the significance and importance of its "Old Florida" heritage.

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
<i>ccm</i> <i>2-27-06</i>				<i>(Signature)</i>	<i>3/1/06</i>	<i>3/1/06</i>	<i>3/1/06</i>	<i>3/1/06</i>	<i>HS for W/H/H</i> <i>3/1/06</i>

11. Commission Action:
 Approved
 Deferred
 Denied
 Other

RECEIVED BY
COUNTY ADMIN:
<i>2-28-06</i>
<i>10:20</i>
COUNTY ADMIN
FORWARDED TO:
<i>3/7/06</i>
<i>4:30 PM</i>

Rec. by CoAtty
Date: <i>2/28/06</i>
Time: <i>8:25 AM</i>
Forwarded To:

**AGREEMENT BETWEEN LEE COUNTY
AND ESTERO ISLAND HISTORICAL SOCIETY FOR LEASE OF LAND
AT MATANZAS PASS PRESERVE**

THIS AGREEMENT is made this _____ day of _____, 2006 by and between Lee County, a political subdivision of the State of Florida and Charter County, by and through its **BOARD OF COUNTY COMMISSIONERS**, hereinafter called the "LESSOR" and the **ESTERO ISLAND HISTORICAL SOCIETY**, a not-for-profit corporation, whose business address is Post Office Box 2815, Fort Myers Beach, FL 33932, hereinafter called the "LESSEE", collectively the "Parties", hereto.

WITNESSETH:

WHEREAS, it is the goal of Lee County to identify, preserve and protect cultural and historic sites, buildings, and artifacts important in capturing the history of the local area; and

WHEREAS, it is the policy of Lee County to educate its citizens and visitors on the significance and importance of its "Old Florida" heritage; and

WHEREAS, the Estero Island Historical Society has been leasing the property described in Exhibit "A" from Lee County since September 22, 1995 and has demonstrated its interest and capability in presenting the history of the Sandcastle Kindergarten (1921) and the Pink Palace (1960) to the visitors and residents of Lee County by preserving the buildings as museums at Lee County's Matanzas Pass Preserve; and

WHEREAS, the Estero Island Historical Society wishes to continue leasing the property described in Exhibit "A" from Lee County as their current lease expired on September 22, 2005; and

WHEREAS, Lee County is committed to the continued existence of the historic museum at the Fort Myers Beach site, for visitors interested in "Old Florida" to explore; and

WHEREAS, the Estero Island Historical Society has made a formal request to lease a portion of the property at the Matanzas Pass Preserve site to use as a museum facility; and

WHEREAS, the Lee County Board of County Commissioners finds that such use serves a valuable public purpose in educating its citizens and visitors on the history of Lee County.

NOW, THEREFORE, the Lessor, in consideration of the mutual covenants contained herein, hereby leases to the Lessee, for the term and under the conditions hereinafter set out, a portion of those certain premises in LEE COUNTY, FLORIDA, described in Exhibit "A", which is attached hereto and hereby incorporated herein.

SECTION I: PURPOSE

It is the purpose and intent of this Lease Agreement to define the terms and conditions for use of that certain portion of real property described in Exhibit "A".

SECTION II: OBLIGATIONS OF THE LESSOR

- A. The Lessor owns the Matanzas Pass Preserve. The Lessor agrees to lease, for one (\$1.00) dollar due annually, a portion of such real property (Exhibit "A") for a term of thirty (30) years to the Lessee, beginning on September 22, 2005 and ending on September 22, 2035. Such portion now contains two

historic structures, the "Sandcastle Kindergarten" and the "Pink Palace" which are owned by the Lessee. Lessee shall use the property as a historic museum and for no other purpose.

- B. The Lessor agrees to cooperate with the Lessee in granting such drainage, electric, telephone, potable water, sanitary sewer, access, or other easements, across property owned by the Lessor, as may be necessary to operate the museums.

SECTION III: OBLIGATIONS OF THE LESSEE

- A. The Lessee will continue to provide all of the required funding for the restoration, preservation and maintenance of the buildings.
- B. The Lessor is not responsible for any costs involved in restoring, preserving or maintaining the buildings.
- C. The Lessee will not make unlawful, improper or offensive use of the premises or any use or occupancy thereof contrary to the laws of the State of Florida, or to the Ordinances of the County.

SECTION IV: MAINTENANCE AND REPAIRS

- A. Lessee shall maintain and keep the premises in good condition.
- B. Lessee agrees to maintain and preserve the historic character of the structures in accordance with the Secretary of the Interior's Standards for Rehabilitation, as they may be promulgated from time to time.

- C. Any loss and/or damage to the homes during the term of this Lease Agreement shall be at the Lessee's expense. In no event shall the Lessor be responsible for replacing or repairing the premises should destruction occur.
- D. The Lessee will be responsible for adequate security, security lights, and any security system it deems necessary to protect its property from vandalism.

SECTION V: UTILITIES

The Lessee will bear the full cost of any water and/or wastewater service(s) used by the Lessee and will also bear the cost for trash pick-up, use of electricity, telephone services, and any other utility services provided to the Lessee.

SECTION VI: ASSIGNMENT

No assignment, delegation, transfer or novation of this Agreement or part hereof, shall be made, unless approved by the Lessor and Lessee, in writing.

SECTION VII: OWNERSHIP

Lessee represented that it is the legal owner of the "Sandcastle Kindergarten" and the "Pink Palace".

SECTION VIII: HANDICAPPED STANDARDS AND ALTERATIONS

- A. The Lessee may make alterations to the premises during the term of this Lease only with the written consent of the Lessor and with the advance review and approval of the Lee County Historic Preservation Board. Lessee agrees that the Lee County Historic Preservation Board, its agents and its designees, have the right to inspect the buildings at all reasonable times

upon reasonable notice in order to ascertain whether these conditions are being met.

- B. Any signs or advertising to be used in connection with the premises leased will be first submitted to the Lessor and not used without the written approval of Lessor.

SECTION IX: INJURY OR DAMAGE TO PROPERTY ON PREMISES

- A. All property that may be constructed, placed or located on the premises by the Lessee during the continuance of this Lease will be at the sole risk of the Lessee, except for any property owned by Lessor.
- B. The Lessee will pay any insurance premiums as required on the property it owns. The Lessor will not be liable for injury, loss, damages or theft to persons or property or fixtures belonging to the Lessee located on the leased property.
- C. The Lessee shall procure and maintain in force liability insurance, including coverage for personal injury, death, property damage and any other losses, expenses and attorney fees in the amounts specified in the attached Exhibit "B". Lessor shall be named as an additional insured on the insurance policy to indemnify the Lessor for claims resulting from the use of the property.

SECTION X: RIGHT TO TERMINATE

Either Party shall have the right to terminate this Lease for good cause, upon the giving of one (1) year written notice to the other Party by certified mail. Upon termination, Lessee shall return the property to its original condition.

SECTION XI: LIABILITY

- A. The Lessee shall defend, hold harmless and indemnify the County from and against any and all claims, actions, damages, liability, cost and expense, including those arising from bodily injury, death and/or property damage or any other lawful expense, including but not limited to attorney's fees and court costs, brought by third parties arising from the acts or omissions of the Lessee, its agents, employees, contractors or during the Lessee's use of the County's property.

- B. The County will be liable for money damages in tort for any injuries to or losses of property, personal injury, or death caused by the negligent or wrongful acts(s) or omission(s) of any official or employee of the County while acting within the scope of the official's or employee's office or employment under circumstances in which a private person would be held to be liable in accordance with the general laws of the State of Florida, subject to the limitations as set out in section 768.28, Florida Statutes, as it may be revised or amended from time to time.

IN WITNESS WHEREOF, the parties hereto have set their hands on the day, month and year first above written.

ATTEST: CHARLIE GREEN
CLERK OF COURTS

ESTERO ISLAND HISTORICAL SOCIETY

BY: _____
Deputy Clerk

BY: John F. Matthews Ph.D.
President

APPROVED AS TO FORM:

BY: [Signature]
Counsel to Historical Society

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

witness (1) [Signature]
Print Josephine C. Hughes

BY: _____
Chairwoman

witness (2) [Signature]
Print A. J. BASSETT

APPROVED AS TO FORM:

BY: _____
Office of the County Attorney



Bean, Whitaker, Lutz & Kareh, Inc.

13041 McGregor Boulevard
Fort Myers, Florida 33919-5910
email – fmoffice@bwk.net
(Ph) 239-481-1331 (Fax) 239-481-1073

Description of a Parcel of Land
Lying in
Section 19, Township 46 South, Range 24 East
Town of Fort Myers Beach, Lee County, Florida
(Historical Society Lease Parcel)

A parcel of land situated in the State of Florida, County of Lee, Town of Fort Myers Beach, Section 19, Township 46 South, Range 24 East, being a part of Lots 38, 39, 40, 41, 42, 43 and 44, Block J, Winkler Subdivision as recorded in Plat Book 8 at Page 45, Public Records, and further described as follows:

Commencing at the northwesterly most corner of Lot 48 of said Block J; thence S25°17'00"W along the westerly line of Lots 48, 47, 46 and 45 for 100 feet to the northwest corner of Lot 44, Block J of said subdivision; thence S57°35'30"E for 40.31 feet to a point on the westerly line of a parcel described in Official Record Book 2599 at Page 784; thence S26°43'00"E along said westerly line for 30.00 feet to the Point of Beginning; thence S14°17'00"W along said westerly line for 66.02 feet to a point on a non-tangent curve concave to the southwest having a radius of 65.00 feet and to which point a radial line bears N32°32'32"E, said point also being the southwest corner of said parcel; thence southeasterly along said curve and the southwesterly line of said parcel through a central angle of 46°44'28" for 53.03 feet to a point of tangency; thence S10°43'00"E along the southwesterly line of said parcel for 50.00 feet to the southeast corner of said parcel; thence N25°17'00"E along the east line of said parcel and west line of Bay Road (50 feet wide) for 131.53 feet; thence N64°43'00"W along a line 1.53 feet north of and parallel with the north line of Lot 43, Block J of said Winkler Subdivision for 86.36 feet to the Point of Beginning.

Containing 6,953 square feet, more or less.

Subject to easements, restrictions, reservations and rights-of-way (recorded and unrecorded, written and unwritten).

Bearings are based on the westerly line of Bay Road (the easterly line of said Block J) as bearing N25°17'00"E.

Bean, Whitaker, Lutz & Kareh, Inc. (LB 4919)

Scott C. Whitaker, P.S.M. 4324

38088_DESC1

1/24/06

PRINCIPALS:
WILLIAM E. BEAN, PSM, CHAIRMAN
SCOTT C. WHITAKER, PSM, PRESIDENT
JOSEPH L. LUTZ, PSM
AHMAD R. KAREH, PE, MSCE, VICE PRESIDENT

CONSULTING ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS

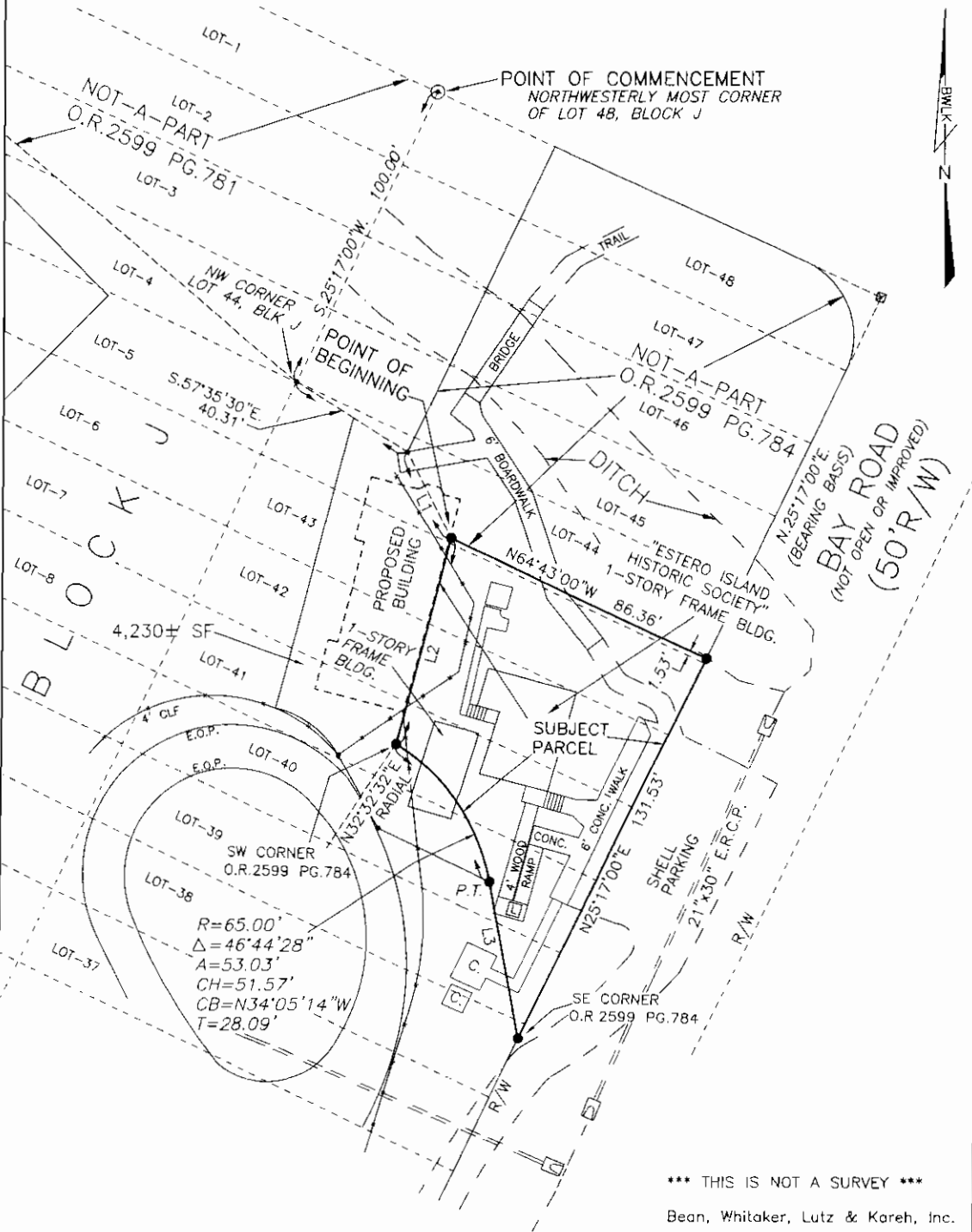


EXHIBIT "A"
PAGE 1 of 2

ASSOCIATES:
TRACY N. BEAN, AICP
CHARLES D. KNIGHT, PSM
W. BRITT POMEROY, JR., PSM
STEPHEN H. SKORUPSKI, PSM
ELWOOD FINEFIELD, PSM
JAMES A. HESSLER, PSM
JAMES R. COLEMAN, PSM
RUDOLF A. NORMAN, PE

SKETCH TO ACCOMPANY DESCRIPTION

OF A PARCEL OF LAND
 LYING IN
 SECTION 19, TOWNSHIP 46 SOUTH, RANGE 24 EAST,
 TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA.



*** THIS IS NOT A SURVEY ***
 Bean, Whitaker, Lutz & Kareh, Inc.

Scott C. Whitaker
 SCOTT C. WHITAKER, R.L.S.
 Florida Certificate No. 4324

LINE	BEARING	DISTANCE
L1	S26°43'00"E	30.00
L2	S14°17'00"W	66.02'
L3	S10°43'00"E	50.00'

P.T. = POINT OF TANGENCY

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, AND RIGHTS-OF-WAY (WRITTEN AND UNWRITTEN, RECORDED AND UNRECORDED).

HISTORIC SOCIETY-LEASE PARCEL

Bean, Whitaker, Lutz & Kareh, Inc. (LH 4919)
 CIVIL ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS
 13041-1 MOOREGORD BOULEVARD, FORT MYERS, FLORIDA 33919-0910 (239) 481-1331

SK38088.DWG

DATE	PROJECT NO.	DRAWN BY	SCALE	SHEET	FILE NO (S-T-R)
01-24-08	38088	CNA	1" = 40'	1 OF 1	19-46-24

EXHIBIT "B"

1. **Minimum Insurance Requirements**

Risk Management in no way represents that the insurance required is sufficient or adequate to protect the vendor's interest or liabilities, but are merely minimums.

- a. **Commercial General Liability** - Coverage shall apply to premises and/or operations, products and/or completed operations, independent contractors, contractual liability, and broad form property damage exposures with minimum limits of:

\$500,000 bodily injury per person (BI)
\$500,000 bodily injury per occurrence (BI)
\$100,000 property damage (PD) or
\$500,000 combined single limit (CSL) of BI and PD

- b. **Building Coverage** - The Lessee shall provide building insurance. Coverage shall be "**Special Form**" with limits equal to 100% of the replacement value of the structure(s), building(s) or addition(s).

2. **Verification of Coverage:**

- a. Ten (10) days prior to the commencement of any work under this contract a certificate of insurance will be provided to the Risk Manager for review and approval. The certificate shall provide for the following:

i. ***"Lee County, a political subdivision and Charter County of the State of Florida, its agents, employees, and public officials" will be named as an "Additional Insured" on the General Liability policy.***

ii. ***"Lee County" will be named as "Loss Payee" on the building insurance policy.***

iii. Lee County will be given thirty (30) days notice prior to cancellation or modification of any stipulated insurance. Such notification will be in writing by registered mail, return receipt requested and addressed to the Risk Manager, Post Office Box 398, Fort Myers, Florida 33902.