

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

Blue Sheet No. 20030658

1. REQUESTED MOTION:

ACTION REQUESTED: Approve change of ownership of lease with Robert Y. Clayton, Inc. to A. Atlantic, Inc. Leased facility is at 13141 McGregor Blvd. and is currently being occupied by Lee County Emergency Medical Services. All other terms and conditions of the lease will remain the same.

WHY ACTION IS NECESSARY: Board must approve all leases and changes to those leases

WHAT ACTION ACCOMPLISHES: Allows the monthly rental checks to be issued to the current owner.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #: 2

C2A

3. MEETING DATE:

06-17-2003

4. AGENDA:

- CONSENT
- _____ ADMINISTRATIVE
- _____ APPEALS
- _____ PUBLIC
- _____ WALK ON
- _____ TIME REQUIRED:

5. REQUIREMENT/PURPOSE:
(Specify)

- STATUTE AC-4-1
- _____ ORDINANCE _____
- _____ ADMIN. CODE _____
- _____ OTHER _____

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER _____
- B. DEPARTMENT Construction & Design
- C. DIVISION Facilities Management
- BY: Richard J. Beck, Director *just*

7. BACKGROUND:

Facilities Management was notified by Robert Y. Clayton that he had sold the facility that we were leasing from him, 13141 McGregor Blvd. in Ft. Myers, to A. Atlantic, Inc. as of April 23, 2003. Upon receipt of that letter and notification from the current landlord that they had in fact purchased the building, Facilities prepared the documentation to have the ownership changed so that all future rental payments would go to the current owner. Lee County Emergency Medical Services currently leases that facility.

Attachments: Letter from Robert Y. Clayton
Letter from current owner Henry J. McCarthy, IV for A. Atlantic, Inc.
Copy of current lease agreement

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
					OA	OM	Risk	GC	
<i>Janner</i> 6-2-03				<i>Kid</i> 6/4/03	<i>CA</i> 6/4/03	<i>Y/S</i> 6/4/03	<i>JR</i> 6/4/03	<i>Y</i> 6/4/03	<i>Janner</i> 6-2-03

10. COMMISSION ACTION:

- _____ APPROVED
- _____ DENIED
- _____ DEFERRED
- _____ OTHER

Rec. by CoAtty
Date: <i>6/3/03</i>
Time: <i>3:40 pm</i>
Forwarded To: <i>Co. Admin. 6/10/03</i>

RECEIVED BY COUNTY ADMIN. <i>CA</i>
<i>6/4/03</i>
COUNTY ADMIN. FORWARDED TO: <i>6/5/03</i>

AK

Robert Y Clayton, Inc.
236 Hidden Bay Dr. #236
Osprey, FL 34229
941-751-3100

April 25, 2003

Lee County Dept of Public Works
Jayne Elwell, Facilities Management
PO Box 398
Fort Myers, FL 33902-0398

RE: EMS Lease for 13141 McGregor Blvd., Unit #10, Fort Myers, FL

Dear Jayne:

I sold Key West Plaza at 13141 McGregor Blvd to All American LLC on ~~August~~ ^{April} 23, 2003. Please send all future checks payable to:

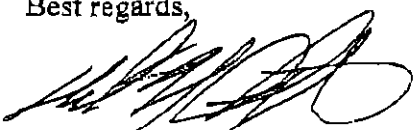
J.C.
R.d.

A Atlantic, Inc.
Attn: Ryan Leffler
ReMax Realty Group
7910 Summerlin Lakes Drive
Fort Myers, FL 33907

If you have any questions please call Ryan Leffler at 239-489-0444.

Thanks for your prompt attention to this matter.

Best regards,



Robert Y Clayton
President

A. ATLANTIC, Inc.

To All Tenants Located in Key West Plaza,

First of all I would like to start by introducing myself as the new building owner, my name is Henry "Jay" McCarthy. I'm sorry I can not do this in person, but when I return in several weeks I will be meeting with each one of you at that time.

My back ground is 25 years as a commercial builder and I have been a landlord for over 18 years. I'm a hands on owner so when you have a problem, you will contact me directly in order to resolve any problems that you might encounter. I live in the area and appreciate the buildings location. I also find the buildings architecture has a lot of character.

When I return, I will meet with each one of you individually. If you have any suggestions or items that you feel are important please feel free to discuss them with me at that time.

I'm looking forward to a long and successful relationship. I'm fully aware that a successful & happy tenant is one that is going to stay for a long time.

During my absence I have assigned the duties of caring for the building too, Ryan Leffler and if you have any questions or needs please call him at 239-489-0444.

I would also appreciate if you could make all future rents checks payable to A. Atlantic, Inc.

With Deepest Regards,

Henry "Jay" McCarthy IV

PS. Mr. Leffler will be making arrangements to pick rent checks for the month of May.


Developers/Builders

8059 Queen Palm Ln # 712
Ft. Myers, Florida 33912

Phone: 239-770-3549
Fax: 239-277-9737
Email: Golfers@gtcinternet.com

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
P.O. BOX 398
FT. MYERS, FL 33902-0398

THIS LEASE AGREEMENT, entered into this 4th, day of September, 2001, between Robert Y. Clayton, Inc., party of the first part, hereinafter called the Lessor, and Lee County, acting by and through the Board of County Commissioners for Lee County, a political subdivision of the State of Florida, party of the second part, hereinafter called the Lessee.

WITNESSETH:

That the Lessor, for and in consideration of the covenants and agreements hereinafter mentioned to be kept and performed by the Lessee, has demised and leased to the Lessee, for the term and under the conditions hereinafter set out, those certain premises in LEE COUNTY, FLORIDA, described as follows:

13141 McGregor Blvd., Unit #10
Ft. Myers, Florida

which shall constitute an aggregate area of 1700 square feet of net rentable space measured in accordance with the American National Standard Z65.1 - 1991 as published by the Building Owners and Managers Association International, at a rate of \$8.00* per square foot per year (*See Miscellaneous Provisions).

I. TERM

TO HAVE AND TO HOLD the above described premises for a term commencing on the 1st day of October, 2001 to and including the 30th day of September, 2006 or upon occupancy, whichever shall first occur. ^{SARASOTA} _{31st}

December

II. RENTALS

The Lessor hereby leases to the Lessee and the Lessee hereby leases from the Lessor the above described premises for the term set out in this lease and the Lessee agrees to pay the Lessor the sum of one thousand one hundred thirty-three dollars and thirty-four cents (\$1,133.34) per month for the rental period described in Article I of this lease. The rent for any fractional part of the first month shall be prorated. The rent shall be payable the month following the month of occupancy in accordance with Section 215.422, Florida Statutes. The rentals shall be paid to the Lessor at: Robert Y. Clayton, Inc., 1650 Pine Tree Lane, #102, Sarasota, Florida 34326.

III. HEATING, AIR CONDITIONING AND JANITOR SERVICES

1. The Lessor agrees to furnish to the Lessee heating and air conditioning equipment and guarantee its good working condition for a period of ninety days from commencement of the lease. The Lessee shall maintain same in satisfactory operating condition at all times for the leased premises during the term of the lease up to \$200 per occurrence. The Lessor agrees to do any repairs or replacements of components over \$200 per occurrence.

2. The Lessee agrees to furnish janitorial services and all necessary janitorial supplies for the leased premises during the term of the lease.

IV. LIGHT FIXTURES

1. a. The Lessor agrees to install in the demised premises light fixtures for the use of the Lessee.

b. The Lessee shall be responsible for replacement of all bulbs, lamps, tubes and starters used in such fixtures for the purpose of furnishing light.

V. MAINTENANCE AND REPAIRS

1. The Lessee shall provide for interior maintenance and repairs, and replacement of interior equipment as may be necessary due to normal usage. The Lessee shall, during the term of this Lease, keep the interior of the demised premises in as good a state of repair as good as it is at the time of the commencement of this lease; reasonable wear and tear and unavoidable casualties expected.

2. The Lessor shall maintain and keep in repair the exterior of the demised premises during the term of this Lease and shall be responsible for the replacement of all windows broken or damaged in the demised premises, except such breakage or damage caused to the exterior of the demised premises by the Lessee, its officers, or agents.

VI. UTILITIES

Unless otherwise indicated, the Lessor should bear the full cost of water service used by the Lessee and shall also bear their proportionate share of the cost for trash pick-up. The Lessee shall bear the full cost of the use of electricity, telephone service and any other services to the space occupied at its own expense.

VII. HANDICAPPED STANDARDS AND ALTERATIONS

1. The Lessor agrees that the demised premises now conform, or that prior to Lessee's occupancy, the said premises shall, at Lessor's expense, be brought into conformance with the requirements of Sections 255.21 and 255.211, Florida Statutes and ADA requirements.

2. That the Lessee shall have the right to make any alterations in and to the demised premises during the term of this lease upon first having obtained the written consent thereto of the Lessor. The Lessor shall not capriciously withhold the consent to any such alterations.

VIII. INJURY OR DAMAGE TO PROPERTY ON PREMISES

That all property of any kind that may be on the premises during the continuancy of this Lease shall be at the sole risk of the Lessee. Except for negligence of the Lessor, the Lessor shall not be liable to the Lessee or any other person for any injury, loss or damage to property or to any person on the premises.

IX. FIRE AND OTHER HAZARDS

1. In the event that the demised premises, or the major part thereof, are destroyed by fire, lightning, storm or other casualty, the Lessor at its option may forthwith repair the damage to demised premises at its own cost and expense. The rental thereon shall cease until the completion of such repairs and the Lessor will immediately refund the pro rata part of any rentals paid in advance by the Lessee prior to such destruction; should the premises be only partly destroyed so that the major part thereof is usable by the Lessee, then the rental shall abate to the extent that the injured or damaged part bears to the whole of such premises and such injury or damage shall be restored by the Lessor as speedily as is practicable and upon the completion of such repairs, the full rental shall commence and the Lease shall then continue the balance of the term.

2. The Lessor shall provide for fire protection during the term of this lease in accordance with the fire safety standards of the State Fire Marshall. The Lessor shall be responsible for maintenance and repair of all fire protection equipment necessary to conform to the requirements of the State Fire Marshall. The Lessor agrees that the demised premises shall be available for inspection by the State Fire Marshall, prior to occupancy by the Lessee, and at any reasonable time thereafter.

3. The Lessor certifies no asbestos was used in the construction of the demised premises or that if asbestos was used, actions have been completed to correct the hazards caused by the use of asbestos.

X. SUITABILITY FOR USE

The Lessor warrants that the premises are fit for the conduct of the governmental business of the Lessee. The Lessor further warrants that the premises are in compliance with all statutes and laws, either federal, state, or local, applicable to the intended use of the premises. The legal interpretation of any such existing statute or law, or the enactment of any new statutes or laws that, in the opinion of the Lessee, result in a material interference with the peaceful entry or occupation of the demised premises, or any portion thereof by the Lessee, at the option of the Lessee, shall automatically void this lease prior to entry and occupation, or entitle the Lessee, after entry and occupation, to wholly terminate this lease by giving seven (7) days notice to the Lessor of the intention to do so.

XI. EXPIRATION OF TERM

At the expiration of the Term, the Lessee will peaceably yield up to the demised premises in good and tenantable repair. It is understood and agreed between the parties that the Lessee shall have the right to remove from the

premises, all personal property of the Lessee and all fixtures, machinery, equipment, appurtenances and appliances placed or installed on the premises by it, provided the Lessee restores the premises to as good a state of repair as they were prior to the removal.

XII. SUBLETTING AND ASSIGNMENT

The Lessee upon the obtaining of the written consent of the Lessor, which written consent shall not capriciously be withheld, shall have the right to sublet all or any part of the demised premises, or to assign all or any part of the demised premises.

XIII. WAIVER OF DEFAULTS

The waiver by the Lessor of any breach of this lease by the Lessee shall not be construed as a waiver of any subsequent breach of any duty or covenant imposed by this lease.

XIV. RIGHT OF LESSOR TO INSPECT

The Lessor, at all reasonable times, may enter into and upon the demised premises for the purpose of viewing the same and for the purpose of making repairs as required under the terms of this lease.

XV. BREACH OF COVENANT

These presents are upon this condition, that, except as provided in this lease, if the Lessee shall neglect or fail to perform or observe any covenant herein contained, which on the Lessee's part is to be performed, and such default shall continue for a period of thirty (30) days after written notice thereof from the Lessor to the Lessee, then the Lessor lawfully may, immediately, or at any time thereafter, without further notice or demand, enter into and upon the demised premises, or any part thereof, and repossess the same as of their former estate and expel the Lessee and remove its effects forcefully, if necessary, without being taken or deemed to be guilty of any manner of trespass and thereupon this demise shall terminate but without prejudice to any remedy which might otherwise be used by the Lessor for arrears of rent or for any breach of the Lessee's covenants herein contained.

XVI. ACKNOWLEDGMENT OF ASSIGNMENT

That the Lessee upon the request of the Lessor shall execute such acknowledgment(s) or any assignment(s), of rentals and profits made by the Lessor to any third person, firm or corporation, provided that the Lessor will not make such request unless required to do so by the Mortgagee under a mortgage(s), executed by the Lessor.

XVII. TAXES, INSURANCE, AND COMMISSIONS

1. Lessor should pay all real estate taxes and fire insurance premiums on the demised premises. Lessee shall not be liable to carry fire insurance on the premises or property of the Lessor or any other personal property which may now or thereafter be placed on the demised premises. The Lessor

shall not be liable for damages or theft to the personal property or fixtures belonging to the Lessee which are located on the rental property.

2. 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 act(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.

3. Lessor agrees, covenants, certifies and warrants to Lessee that no portion of the rent payable pursuant to Article II of this Lease Agreement includes, represents, is based on or is attributable to any commission or fee which is paid or is payable by Lessor as the result of Lessor's having utilized or contracted for the services of any real estate broker, salesman, agent or firm in any aspect of Lessor's dealings or any dealings involving the leasing of the demised premises to Lessee.

4. The Lessor must furnish an appropriate certificate of insurance naming Lee County Board of County Commissioners as Certificate Holder and Additional Insured. The Lessor agrees that the coverage granted to the Additional Insured applies on a primary basis, with the Additional Insured's coverage being excess.

The Lessor shall purchase and maintain Commercial General Liability insurance in the amount of \$100,000 Per Person, \$300,000 Per Occurrence Bodily Injury and \$100,000 Per Occurrence Property Damage, or \$300,000 Per Occurrence Combined Single Limit of Bodily Injury and Property Damage. Coverage shall include Contractual Liability as pertaining to this contract with insurers approved by the County Risk Manager.

The Lessor agrees that this insurance requirements shall not relieve or limit Lessor's liability and that the Lessee does not in any way represent that the insurance required is sufficient or adequate to protect the Lessor's interests or liabilities, but are merely minimums.

XVIII. AVAILABILITY OF FUNDS

The obligations of the Lessee under this lease agreement are subject to the availability of funds lawfully appropriated annually for its purposes by the Board of County Commissioners and/or the availability of funds through contract or grant programs.

XIX. USE OF PREMISES

The Lessee will not make or suffer any 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 such Ordinances of the City and/or County in which the demised premises are located, now or hereinafter made, as may be applicable to the Lessee.

XX. RENEWAL

The Lessee is hereby granted the option to renew this Lease for one, two year renewal period upon the same terms and conditions. If the Lessee desires to renew this lease under the provisions of this Article, it shall give the Lessor written notice thereof three (3) months prior to the expiration of the term provided in Article I of this lease or any applicable renewal period.

XXI. RIGHT TO TERMINATE

The Lessee shall have the right to terminate this lease upon giving six (6) months advance written notice to the Lessor by Certified Mail, Return Receipt Requested. The Lessor shall not have a right to accelerate lease payments for the remainder of the lease duration.

XXII. NOTICES AND INVOICES

All notices required to be served upon the Lessor shall be served by Registered or Certified Mail, Return Receipt Requested, at Robert Y. Clayton 1650 Pine Tree Lane, #102, Sarasota, Florida 34326 and all notices required to be served upon the Lessee shall be served by Registered or Certified Mail, Return Receipt Requested, at the address of the Lessee at P.O.Box 398, Ft. Myers, Florida 33902-0398, Attention: Facilities Management. Invoices should be submitted monthly to Lee County Finance Department, P.O. Box 398, Fort Myers, Florida 33902-0398.

XXIII. CONTACTS

For purposes of this agreement, the County representative shall be Facilities Management and the Lessor's representative shall be Robert Y. Clayton.

XXIV. DEFINITION OF TERMS

(a) The terms "Lease", "Lease Agreement", or "Agreement" shall be inclusive of each other and shall also include any renewals, extensions or modifications of this Lease.

(b) The terms "Lessor" and "Lessee" shall include the heirs, successors and assigns for the parties hereto.

(c) The singular shall include the plural and the plural shall include the singular whenever the context so requires or permits.

XXV. MISCELLANEOUS PROVISIONS

1. After the first year of the initial lease term, and annually thereafter, the rental cost will increase in the amount of the latest increase in the Consumer Price Index, U.S. City Average, All Items, Wage and Clerical Workers, as published by the Bureau of Labor Statistics, Southeastern Regional Office, Atlanta, Georgia.

2. The Lessor has agreed to do renovations to said premises as to Lessee's

recommendations. The renovation costs will be amortized over the initial five year term of the lease agreement. The Lessee will reimburse those cost to the Lessor at an amount of \$200 per month during that period. Should Lessee terminate the lease agreement before the initial term is over, Lessee shall pay to Lessor all remaining renovation costs at that time.


3. In addition to the base rental cost, there will be a charge of \$2.00 per square foot, or \$283.34 per month, for Common Area Maintenance. This charge is subject to change on an annual basis. Lessor must provide Lessee with an annual account of these charges.

XXVI. WRITTEN AGREEMENT


This lease contains the entire agreement between the parties hereto and it may be modified only by a writing, with the approval of the Board of County Commissioners and the agreement to such modification by the Lessor.

IN WITNESS WHEREOF, the LANDLORD and TENANT have caused this Lease Agreement to be executed by their respective and duly authorized officers the day and year first written above.

STATE OF Florida
COUNTY OF Sarasota


LANDLORD


The foregoing instrument was acknowledged before me this 31st day of July, 2001, by Robert Y. Chayton, who is personally known to me, or who has produced _____ as identification and did/did not take an oath.

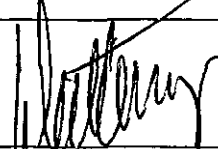

Notary
NANCY T. WEISS
Notary Public, State of Florida
Printed Name exp. Feb. 6, 2003
Comm. No. CC799358

Commission Expires

ATTEST:

CHARLIE GREEN, CLERK


BY: DEPUTY CLERK


CHAIRMAN, LEE COUNTY BOARD OF COUNTY COMMISSIONERS


APPROVED AS TO LEGAL FORM BY COUNTY ATTORNEY'S OFFICE

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY)
09/05/2001

PRODUCER
MITCHELL AGENCY INC
14290 WALSHINGHAM RD
LARGO FL 33774
727-595-2529

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

INSURED
Robert Clayton & Chong Clayton Trustee
1650 Pine Tree Lane
Sarasota FL 34236

INSURER A: Old Dominion Insurance Company
INSURER B:
INSURER C:
INSURER D:
INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR. LTD.	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY	BPG33896	12/07/2000	12/07/2001	EACH OCCURRENCE	\$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				FIRE DAMAGE (Any one fire)	\$ 50,000
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person)	\$ 5,000
					PERSONAL & ADV INJURY	\$ 1,000,000
					GENERAL AGGREGATE	\$ 2,000,000
					PRODUCTS - COMP/OP AGG	\$ 2,000,000
GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJ <input type="checkbox"/> LOC						
	AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT (EA accident)	\$
	<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	\$
	<input type="checkbox"/> HIRED AUTOS					
	<input type="checkbox"/> NON-OWNED AUTOS					
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	\$
	<input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC	\$
					AGG	\$
	EXCESS LIABILITY				EACH OCCURRENCE	\$
	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$
	<input type="checkbox"/> DEDUCTIBLE					\$
	<input type="checkbox"/> RETENTION \$					\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATUTORY LIMITS	OTHER
					E.L. EACH ACCIDENT	\$
					E.L. DISEASE - EA EMPLOYEE	\$
					E.L. DISEASE - POLICY LIMIT	\$
	OTHER					

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS
Property @ 13141 McGregor Blvd., Ft. Myers, FL

CERTIFICATE HOLDER **ADDITIONAL INSURED: INSURER LETTERS:** A

Lee County Board of County Commissioners
P.O. Box 398
Ft. Myers FL 33902-0398
Attn: Facilities Management - Bob Reist

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE
[Signature]