

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

Blue Sheet No. 20031345

1. REQUESTED MOTION:

ACTION REQUESTED: Approve lease with Commercial Net Lease Realty, Inc. for 53,827 sq.ft. of space in the facility located at 13180 South Cleveland Avenue, in Ft. Myers and a transfer of \$440,100 from General Fund Reserves. Lease will be for 5 years at a cost of \$8.50 per sq. ft. or \$457,529.50 per year, with an option to purchase between the first 24 to 36 months on the initial term. If the option is not taken, lease can be renewed for an additional 5 years under the same terms and conditions except that rental cost will increase to \$9.35 per sq. ft. or \$503,282.45 per year. There will be no CAM charges during the initial or any renewal term. Lease can be terminated by giving six months advance written notice.

WHY ACTION IS NECESSARY: Board must approve all lease agreements and transfers from Reserves.

WHAT ACTION ACCOMPLISHES: Allows Supervisor of Elections to relocate the Elections Center to a larger facility to accommodate the various functions that it is now having to perform such as training of approximately 3,000 poll workers, storage of the new voting computers, and offices for 14 full time personnel.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #: 5

C15J

3. MEETING DATE:

11-25-2003

4. AGENDA:

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

5. REQUIREMENT/PURPOSE:
(Specify)

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

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
- B. DEPARTMENT *Supervisor of Elections*
- C. DIVISION

BY: *Philinda Young, Sup. of Elections*

Philinda Young

7. BACKGROUND:

In January of 2003, the Supervisor of Elections requested that Facilities Management look at their current location to expand. The expansion was needed because of the State now offering the early voting process, the new computerized voting machines and training facilities, including 7 more ADA bathroom facilities to accommodate the nearly 3,000 poll workers that would be attending the training courses there. This facility is 25,004 square feet and located at 3040 Fowler Street. After much deliberation and planning it was finally decided that renovations of this nature would far exceed what Facilities felt was justified to budget for a building the County did not own. Facilities was given a price of 4.1 million dollars to purchase, however, that was not granted in the budget requests. Elections then asked Facilities to try to locate a larger location that was centrally located. The facility at 13180 was located and was determined that it could be renovated and be ready to move into before the major elections of 2004, and, in addition, the Landlord agreed to give the County an allowance of \$250,000 to do the renovations that they needed. Facilities will continue to utilize the Fowler Street location to relocate the County's Records Center, as its current location at 1953 Hough Street is now at capacity. When the Records Center is relocated to Fowler Street, the County can then sell the Hough Street property.

UPON TRANSFER, FUNDING WILL BE AVAILABLE IN THE FOLLOWING ACCOUNT STRING:

CF5132600100.504310/4410

Constitutional Officers/Supervisor of Elections/Support to Supervisor of Elections/General Fund/Electric/Land & Bldg. Rental

Attachments: 4 Original Lease Agreements
Budget Transfer

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>Jaundt</i> <i>11/12/03</i>	N/A			<i>KLE</i> <i>11/13/03</i>	<i>OA</i> <i>11/13/03</i>	<i>OM</i> <i>11/13/03</i>	<i>Risk</i> <i>11/13/03</i>	<i>GC</i> <i>11/13/03</i>
								<i>Jaundt</i> <i>11/12/03</i>

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
Date: *11/13/03*
Time: *8:35 am*
Forwarded To:
C. Anderson
11/13/03

RECEIVED BY
COUNTY ADMIN: *CA*
11/13/03
10:15 am SLT
COUNTY ADMIN
FORWARDED TO:
11/13/03
C

REQUEST FOR TRANSFER OF FUNDS

FUND NAME: General DATE: 11/10/03 BATCH NO. _____
 FISCAL YEAR: 04 FUND #: 00100 DOC TYPE: YB LEDGER TYPE: BA
 TO: Supervisor of Elections Support to Supervisor of Elections
 (DIVISION NAME) (PROGRAM NAME)

NOTE: PLEASE LIST THE ACCOUNT NUMBER BELOW IN THE FOLLOWING ORDER:
 FUND #-DEPT/DIV #-PROGRAM #-OBJECT CODE #-SUBFUND #-PROJECT#-COST CENTER #.
 (EXAMPLE: BB5120100100.503450)

ACCOUNT NUMBER	OBJECT NAME	DEBIT
CF5132600100.504410	Land and Building Rental	\$375,100
CF5132600100.504310	Electric	65,000
TOTAL TO:		\$ 440,100

FROM: <u>Non-Departmental</u>	<u>Reserves</u>	
(DIVISION NAME)	(PROGRAM NAME)	
ACCOUNT NUMBER	OBJECT NAME	CREDIT
GC5890100100.509910	Reserves for Contingency	\$ 440,100
TOTAL FROM:		\$ 440,100

EXPLANATION: To provide additional budget to cover additional lease costs at new facility, per Bluesheet #20031345.

Handwritten: BCC Chair 11/13/03

Signature 11-12-03
 DIVISION DIRECTOR SIGNATURE DATE

DBS: APPROVAL DENIAL

APPROVAL DENIAL

CO. ADMIN.: APPROVAL DENIAL

BCC APPROVAL DATE _____

Signature 11-12-03
 DEPARTMENT DIRECTOR SIGNATURE DATE

Signature 11-13-03
 OPERATIONS ANALYST SIGNATURE DATE

Signature 11/13/03
 BUDGET OPERATIONS MANAGER SIGNATURE DATE

CO. ADMIN. SIGNATURE DATE

BCC CHAIRMAN SIGNATURE

BA NO: _____ AUTH CODE _____ TRANS DATE _____

**FACILITY LEASE AGREEMENT BETWEEN LEE COUNTY
AND COMMERCIAL NET LEASE REALTY INC.**

THIS LEASE AGREEMENT ("Lease") is entered into effective as of the ____ day of _____, 2003 ("Commencement Date"), between COMMERCIAL NET LEASE REALTY, INC., a Maryland Corporation, doing business in the State of Florida, hereinafter called the "Landlord", and LEE COUNTY, acting by and through the Board of County Commissioners for LEE COUNTY, a political subdivision and Charter County of the State of Florida, hereinafter called the "Tenant"; collectively Landlord and Tenant are hereinafter called the "Parties".

WITNESSETH

A. Landlord, for and in consideration of the covenants and agreements herein to be kept and performed by the Tenant, desires to lease to the Tenant, for the term and under the conditions set forth, the property owned by Landlord, described as follows:

All of that certain building located at 13180 South Cleveland Avenue, Fort Myers, Lee County, Florida containing an aggregate area of 53,827 square feet of net rentable office space as more fully described on the attached Exhibit "A" and by reference incorporated herein ("Property").

B. The rent and terms of this Lease are set forth below.

NOW THEREFORE, in consideration for the Property to be leased and the obligations, covenants and agreements set forth, the Parties agree as follows:

I. TERM

1.1 This Lease is for an initial term of five (5) years commencing on the Commencement Date (as defined above) and shall expire (terminate) at 11:59 p.m. on the date immediately preceding the fifth (5th) anniversary of the Commencement Date.

Any reference to "Lease term" or the "term" shall mean the initial five (5) year term plus any extension or renew of this Lease term pursuant to Tenant's Right to Renewal (as defined

below) or as otherwise agreed to in writing between Landlord and Tenant.

1.2 This Lease may be renewed and extended one (1) time by Tenant for an additional five (5) year period upon (i) the Tenant not being in default; and (ii) Tenant giving Landlord not less than sixty (60) days prior written notice of Tenant's intention to so extend the Lease term ("Tenant's Right to Renewal"). Such extension of the Lease term shall be on the same terms and conditions as set forth herein, except that the rent shall be increased from \$8.50 per square foot to \$9.35 per square foot for an annual rent for the Property of FIVE HUNDRED THREE THOUSAND TWO HUNDRED EIGHTY TWO AND 45/100 DOLLARS (\$503,282.45) and a monthly rent of FORTY ONE THOUSAND NINE HUNDRED FORTY AND 20/100 DOLLARS (\$41,940.20) payable to Landlord on the first day of each month as otherwise set forth herein. Time shall be of the essence with respect to the exercise of Tenant's Right to Renewal.

1.3 Provided that (i) Tenant is not in default under this Lease and (ii) more than 24 months have expired from the Commencement Date and (iii) this right is exercised no later than 36 months from the Commencement Date, Tenant may give Landlord written notice of Tenant's intention to purchase the Property ("Right to Purchase"). Upon the exercise by Tenant of its Right to Purchase, within ten (10) days from Landlord's receipt of notice of Tenant's Right to Purchase, the Parties shall meet and in good faith attempt to negotiate a comprehensive purchase and sale agreement covering the Property at a purchase price acceptable to both Parties. If: (i) Tenant fails to exercise its Right to Purchase within 36 months from the Commencement Date or (ii) within forty-five (45) days after Landlord is in receipt of Tenant's exercise of its Right to Purchase, Landlord and Tenant have failed to execute a binding purchase and sale agreement acceptable to both parties, the Right to Purchase shall automatically and immediately terminate and be without further force or effect and Landlord shall be free thereafter to sell the Property subject to the Lease but free of the Tenant's Right to Purchase. During the period that the Right to Purchase is in force Landlord will not (i) sell the Property or, (ii) enter into any contract for sale of the Property with anyone other than Tenant except upon first bringing to Tenant the terms and conditions upon which Landlord is willing to sell the Property to any third-party offeror ("Third-Party Offer"). During the term of the Right to Purchase, upon receipt of any Third-Party Offer that Landlord is willing to accept, Landlord shall deliver a copy of such Third-

Party Offer to Tenant. Upon Tenant's receipt of any Third-Party Offer from Landlord, Tenant shall have ten (10) days to agree to purchase the Property ("Tenant Acceptance Period") on the same terms as said Third-Party Offer or at the end of said Tenant Acceptance Period the Right to Purchase shall terminate and Landlord may sell the Property on terms equal to or better than those set forth in the Third-Party Offer. However, if Landlord, for any reason, fails to sell the Property on terms equal to or better than the Third-Party Offer within said ninety (90) day period from the end of the Tenant Acceptance Period, then Tenant's Right to Purchase under this Lease shall automatically be reinstated without any further action being required and Landlord must thereafter give Tenant written notice of any future Third-Party Offer received by Landlord prior to any sale of or execution of any contract to sell the Property during the period that the Right to Purchase remains in force. Time shall be of the essence with respect to this Section 1.3 and the Right to Purchase.

II. GRANT OF LEASE AND RENT

2.1 Landlord leases the Property to Tenant and Tenant leases the Property from Landlord for the term and on the terms and conditions set forth in this Lease.

2.2 Tenant agrees to pay the Landlord as rent for the Property during the initial Lease term the sum of FOUR HUNDRED FIFTY-SEVEN THOUSAND FIVE HUNDRED TWENTY-NINE AND 50/100 DOLLARS (\$457,529.50) per annum (computed at \$8.50 per square foot on 53,827 square feet for the Property) payable to Landlord in equal monthly installments in the amount of THIRTY-EIGHT THOUSAND ONE HUNDRED TWENTY-SEVEN AND 46/100 (\$38,127.46) ("Base Rent"). Base Rent together with all other sums from time to time payable by Tenant under this Lease are hereinafter referred to as "rent". All rents shall be paid when due. Time shall be of the essence with respect to the payment of rent. The rent for any fractional part of the first month shall be prorated. Rent shall be paid to the Landlord on the first day of each calendar month throughout the Lease term by Tenant. The rent shall be paid to the Landlord at:

Commercial Net Lease Realty Inc.
450 South Orange Avenue, Suite 900
Orlando, Florida 32801
Attn: Property Administration

III. HEATING, AIR CONDITIONING AND JANITORIAL SERVICES

3.1 The Landlord agrees to furnish heating and air conditioning equipment for the building at the Property (“HVAC”). Tenant agrees to maintain the HVAC equipment in satisfactory operating condition during the Lease term at the sole expense of the Tenant. Should the HVAC units need replacement during this Lease term, such will be done at the expense of the Landlord.

3.2 The Tenant agrees to furnish all janitorial services and supplies for the Property during the term of this Lease and to keep the building in a clean and safe condition.

IV. LIGHT FIXTURES

The Tenant shall be responsible for the maintenance, repair and replacement of the light fixtures, bulbs, lamps, tubes and starters for the purpose of furnishing sufficient light at the Property.

V. MAINTENANCE AND REPAIRS

5.1 Except for Landlord’s obligations for replacement of HVAC units pursuant to Section 3.1 above, the Tenant shall provide for the maintenance, repairs and replacement of:

(a) interior building systems and utility systems for electrical, water, plumbing, sewer, gas, HVAC; (b) fire-sprinklers and (c) security equipment, as may be necessary for the Property due to normal usage and operation. The Tenant shall, during the term of this Lease, keep the interior of the Property in as good a state of repair it is at the time of the commencement of this Lease; reasonable wear and tear and unavoidable casualties excepted.

5.2 The Tenant shall maintain and keep in good condition and repair the exterior of the Property, including, without limitation, the roof, all walls, columns and supports of the building, the parking lot (including patching, paving and striping) and landscaping, during the term of this Lease, except that Landlord shall be responsible for the replacement of all exterior windows broken or damaged in the Property, except such breakage or damage caused to the exterior windows of the Property by the Tenant, its officers, or agents.

5.3 Landlord agrees (i) to repair, patch, seal and/or pave and re-stripe the parking lot, at its own expense, as necessary before occupancy by Tenant or (ii) to increase the amount of the Improvement Allowance (as defined in Section 25.2 sufficient to cover Tenant's costs for Tenant to perform all parking lot repairs, patching, sealing and/or repaving. Prior to the execution of this Lease, Tenant shall furnish Landlord with a written estimate of Tenant's cost for materials and labor to repair satisfactorily the parking lot with a detailed breakdown of the work which Tenant intends to perform. Within fifteen (15) days from Landlord's receipt of Tenant's estimate, Landlord shall furnish Tenant written notice as to whether Landlord will do the parking lot repairs (including all repairs, patching, sealing, paving and restriping as is necessary) for the parking lot or increase the Improvement Allowance by the amount of Tenant's estimate for Tenant to do said work. Upon completion of the parking lot repairs, Tenant shall thereafter maintain and repair the parking lot at Tenant's sole expense.

VI. UTILITIES

Unless otherwise indicated, the Tenant will bear the full cost of all water service used by the Tenant and the cost for garbage pick-up, use of electricity, telephone services provided to or at the Property or any other utility or service consumed by Tenant at the Property.

VII. HANDICAPPED STANDARDS AND ALTERATIONS

7.1 Tenant agrees that any alterations or improvements made by it to the Property and its use of the Property will comply with all applicable accessibility laws, including, but not

limited to the requirements of Sections 255.21 and 255.211, Florida Statutes and the American's With Disabilities Act of 1990, as such may be revised.

7.2 The Tenant shall have the right to make reasonable alterations in and to the Property during the term of this Lease upon first having obtained the written consent of the Landlord. The Landlord shall not unreasonably withhold consent to any such alterations. It shall be reasonable for Landlord to withhold its consent for any alteration which: (i) alters the exterior appearance of the building, (ii) penetrates the roof unless Tenant uses contractors approved by Landlord that will preserve all roof warranties, (iii) impacts materially the location or operation of any utility system or building system (including but not limited to plumbing, sewer lines, electrical, HVAC, gas, lighting, fire sprinkler, or security), (iv) effects, relocates or materially alters exterior building entrances, exits or windows or other openings, or (v) negatively impacts or relocates any structural element of the building or the roof. If Tenant relocates any demising- interior walls, doors or openings, Tenant shall furnish as built plans to Landlord of the alterations upon the completion of each such alteration by Tenant.

VIII. INJURY OR DAMAGE TO PROPERTY ON PREMISES

Any property of Tenant which is placed on the Property leased by Tenant shall be so placed at the sole risk of the Tenant. Except for the negligence of the Landlord causing damage to Tenant's Property, the Landlord shall not be liable to the Tenant or any other person for any injury, loss or damage to such Property or to any person on the Property. Tenant shall maintain sufficient property insurance coverage to protect its Property from loss, damage, theft and casualty during the term of this lease.

IX. FIRE AND OTHER HAZARDS

9.1 In the event that the Property, or a major part thereof, is destroyed by fire, lightning, storm or other casualty, the Landlord will repair the damaged Property at its own cost and expense. If as a result of such casualty, the Property is inaccessible to and/or cannot be used by Tenant, then rent shall abate from the date of the casualty until the completion of

such repairs by Landlord and the Landlord will immediately refund the pro rata part of any rent paid in advance by the Tenant prior to such casualty damage or destruction. Should the Property be only partly destroyed so that the same is usable by the Tenant, then the rent shall abate to the extent that the damaged part bears to the whole of such Property. All damage shall be restored by the Landlord as rapidly as is practicable using the proceeds from Landlord's property insurance and upon the completion of such repairs, the full rent shall commence and the Lease shall then continue the balance of the term. If such casualty occurs during the last eighteen (18) months of the Lease term and the Landlord estimates that repairs will take more than one hundred eighty (180) days to complete then either party, at their option, may terminate this Lease unless Tenant's Right to Renewal has not previously been exercised and Tenant elects to exercise its Right to Renew for an additional five (5) year term (in which event Landlord shall restore the Property) as required by this Lease. Landlord will not have any obligation to expend more than the proceeds of its property insurance to repair and reconstruct the Property. Landlord agrees that such Property has full replacement value coverage.

9.2 The Tenant will provide for fire protection and maintenance and repairs to all fire-sprinkler lines at the Property during the term of this Lease. The Tenant will be responsible for maintenance, repair and replacement of all fire protection equipment necessary to conform to the requirements of the State Fire Marshall. Landlord and Tenant agree that the Property will be available for inspection by the State Fire Marshall prior to occupancy by the Tenant, and at any reasonable times thereafter.

9.3 The Landlord certifies that to the best of its knowledge, no asbestos containing material was used in the construction of the Property. However, Tenant may inspect and sample the Property to determine that the building does not contain asbestos or asbestos containing materials.

X. SUITABILITY FOR USE

Subject to how Tenant uses the Property and the alterations and improvements that Tenant will make to the Property, to the best of Landlord's knowledge, the Property is in compliance with all statutes and laws, either federal, state, or local. Tenant has fully

inspected the Property and is satisfied that the Property is satisfactory for and complies with all applicable laws, rules and regulations and recorded title restrictions with respect to Tenant's intended use of the same.

XI. EXPIRATION OF TERM

At the expiration of the Term of this Lease, unless such term is renewed and extended pursuant to Tenant's Right to Renewal, the Tenant will peaceably yield up the Property in good and tenant able repair promptly at the end of the Lease term and shall remove all of Tenant's property prior to the end of the Lease term. It is understood and agreed between the Parties that the Tenant shall have the right to remove from the Property, all personal property of the Tenant and all fixtures, machinery, equipment, appurtenances and appliances placed or installed on the Property by it, provided the Tenant restores the Property to as good a state of repair as they were prior to the removal and completes all such work prior to expiration of the Lease term.

XII. SUBLETTING AND ASSIGNMENT

The Tenant, upon the obtaining of the written consent of the Landlord, which written consent shall not unreasonably be withheld, shall have the right to sublet all or any part of the Property, or to assign this Lease to any person or entity which will occupy the Property for a lawful purpose.

XIII. WAIVER OF DEFAULTS

The waiver by the Landlord of any breach of this Lease by the Tenant shall not be construed as a waiver of any subsequent breach of any duty or covenant imposed by this Lease.

XIV. RIGHT OF LANDLORD TO INSPECT

The Landlord, at reasonable times, may enter into and upon the Property for the purpose of inspecting and viewing the same or for the purpose of making HVAC replacements or the repair of broken glass as may be required by Landlord under the terms of this Lease.

XV. BREACH OF COVENANT

These presents are made upon the condition that, except as provided in this Lease, if the Tenant shall neglect or fail to perform or observe any covenant herein contained, which on the Tenant's part is to be performed, and such default shall continue for a period of thirty (30) days after written notice thereof from the Landlord to the Tenant, then the Landlord lawfully may, immediately, or at any time thereafter, without further notice or demand, terminate this Lease without prejudice to any remedy which might be used by the Landlord for arrears of rent or for any breach of the Tenant's covenants herein contained or for removal of Tenant from the Property.

XVI. ACKNOWLEDGMENT OF ASSIGNMENT

The Tenant, upon the request of the Landlord, shall execute within ten (10) days of any request such acknowledgment(s) or any assignment(s), of rentals and profits made by the Landlord to any third person, firm or corporation, provided that the Landlord will not make such request unless required to do so by the Mortgagee under a mortgage(s), executed by the Landlord.

XVII. TAXES, INSURANCE, AND COMMISSIONS

17.1 Landlord will pay all real estate taxes on the Property and property insurance premiums for coverage on the Property. Tenant shall not be liable to carry property insurance on the Property or property of the Landlord (Landlord's real or personal property). The Landlord shall not be liable for damages or theft to the personal property or fixtures belonging to the Tenant which are located on the Property.

17.2 The Tenant 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.

17.3 Landlord agrees, covenants, certifies and warrants to Tenant 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 amortization of any leasing commission or fee which is paid or is payable by Landlord as the result of Landlord's having utilized or contracted for the services of any real estate broker, salesman, agent or firm in any aspect of Landlord's dealings or any dealings involving the leasing of the Property to Tenant. Landlord has used a leasing broker and is paying its leasing broker a commission, however, such commission will not be paid from any rents received from the Tenant.

17.4 The Landlord shall purchase and maintain Commercial General Liability insurance in an amount of not less than \$500,000.00 Per Person, \$1,000,000.00 Per Occurrence Bodily Injury and \$100,000.00 Per Occurrence Property Damage, or \$1,000,000.00 Per Occurrence Combined Single Limit of Bodily Injury and Property Damage. Coverage shall include Contractual Liability as pertaining to this Lease with insurers licensed to conduct business in the State of Florida.

The Landlord agrees that these insurance requirements shall not relieve or limit Landlord's liability and that the Tenant does not in any way represent that the insurance required is sufficient or adequate to protect the Landlord's interest or liabilities, but are merely minimums. Landlord shall notify Tenant of the name of its insurance carrier for Commercial General Liability Coverage for purposes of notification of the County Risk Manager.

XVIII. AVAILABILITY OF FUNDS

The obligations of the Tenant under this Lease are subject to the availability of funds lawfully appropriated annually for this purpose by the Board of County Commissioners and/or the availability of funds through contract or grant programs, the failure of which shall permit Tenant to terminate this Lease.

XIX. USE OF PREMISES

19.1 The Tenant will at all times comply with all applicable laws, rules and regulations for the Property and all recorded title restrictions for the Property and shall not make or suffer any unlawful, improper or offensive use of the Property, nor make any use thereof or bring thereon any materials that would increase the risk of fire or explosion or the cost of property insurance for the Property, or make any use or occupancy thereof contrary to the laws of the State of Florida, or to Ordinances of the City, as applicable and/or County in which the Property is located, now or hereinafter made, as may be applicable to the Tenant and/or the Property.

19.2 Except for prepackaged manufactured products containing Hazardous Materials (which are (i) consistent with Tenant's business [such as office and cleaning supplies], (ii) kept and stored in quantities reasonable for Tenant's business and (iii) used, stored and disposed of in strict compliance with all applicable laws, rules or regulations governing Hazardous Materials), Tenant shall at all times from and after the Commencement Date keep the Property free of Hazardous Materials (as hereinafter defined), and neither Tenant nor any of its employees, agents, invitees, licensees, contractors or subtenants (if permitted) shall use, generate, manufacture, refine, treat, process, produce, store, deposit, handle, transport, release, or dispose of Hazardous Materials in, on or about the Property or into the groundwater thereof, in violation of any federal, state or municipal law, decision, statute, rule, ordinance or regulation currently in existence or hereafter enacted or rendered. Tenant shall give Landlord prompt written notice of any claim received by Tenant from any person, entity, or governmental agency that a release or disposal of Hazardous Materials has occurred on the Property or the groundwater thereof. Tenant

shall from time to time pay all costs for the Property or Landlord (whenever incurred) arising out of or in any way related to the following matters when caused by Tenant, its employees, contractors or agents: (i) the release, use, storage, treatment, transportation, transfer, manufacture, refinement, handling, production, disposal or threatened release of any Hazardous Materials, on, over, under, from or affecting the Property or the air, soil, water vegetation, buildings, personal property, persons or animals thereon (collectively a "Release"); (ii) any personal injury (including wrongful death) or property damages (real or personal) arising out of or related to such Release; (iii) any lawsuit brought or threatened, settlement reached or governmental order relating to such Release; (iv) any violation of or liability pursuant to environmental laws which is based upon or in any way related to such Release; and/or (v) the breach of any warranty, representation or covenant by Tenant contained in this Section. This Section and Tenant's obligations hereunder shall survive the termination of this Lease and is not limited or otherwise affected by Landlord's knowledge of any matter. As used herein, the term "Hazardous Materials" shall mean and be defined as any and all toxic or hazardous substances, chemicals, materials or pollutants, of any kind or nature, which are regulated, governed, restricted or prohibited by any federal, state or local law, decision, statute, rule, or ordinance currently in existence or hereafter enacted or rendered, and shall include (without limitation), all oil, gasoline and petroleum based substances. Landlord's cost to be paid by Tenant in connection with any Release caused by Tenant, its employees, contractors or agents shall include, but are not limited to (i) reasonable attorney fees, (ii) environmental consultants, test borings and wells, laboratory tests, (iii) clean-up and remediation costs and (iv) governmentally imposed fines or penalties for the same.

Tenant shall not discharge or permit to be discharged from the Property any Hazardous Materials or any sewage other than that which is normal waste water for the business conducted by Tenant on, in or from the Property. Any sewage which is produced or generated in connection with the use or operation of the Property shall be handled and disposed of by Tenant as required by and in compliance with all applicable local, state and federal laws, ordinances and rules or regulations.

19.3 Landlord's interest in the Property shall not be subjected to liens of any nature by reason of Tenant's construction, alteration, renovation, repair, restoration, replacement or reconstruction of any improvements on or in the Property, or by reason of any other act or omission of Tenant (or of any person claiming by, through or under Tenant) including, but not limited to, mechanics' and materialmen's liens. All persons dealing with Tenant are hereby placed on notice that such persons shall not look to Landlord or to Landlord's credit or assets (including Landlord's interest in the Property) for payment or satisfaction of any obligations incurred in connection with the construction, alteration, renovation, repair, restoration, replacement or reconstruction thereof by or on behalf of Tenant. Tenant has no power, right or authority to subject Landlord's interest in the Property to any mechanic's or materialmen's lien or claim of lien. If a lien, a claim of lien or an order for the payment of money shall be imposed against the Property on account of work performed, or alleged to have been performed, for or on behalf of Tenant, Tenant shall, within thirty (30) days after written notice of the imposition of such lien, claim or order, cause the Property to be released therefrom by the payment of the obligation secured thereby or by furnishing a bond or by any other method prescribed or permitted by law. If a lien is released, Tenant shall thereupon establish the release as a matter of record by recording or filing it in the appropriate office of land records of Lee County and shall furnish Landlord with a copy of same.

19.4 Tenant hereby acknowledges and agrees that the Property is included within the Cypress Trace Development of Regional Impact, State DRI No. 7-8384-45, which was adopted by the Lee County Board of County Commissioners on April 8, 1985 and amended on October 10, 1988 and on October 21, 1996 (the "DRI"). Tenant shall at all times comply with the DRI and restrictions governing the same. Tenant shall have no right or authority to seek or file any proposed amendment to the DRI without the prior written approval of the Landlord. Provided that Tenant's rights hereunder shall not be impaired, the Landlord shall have the right during the term of the Lease to further modify or amend the DRI without Tenant's consent.

XX. RENEWAL

Tenant shall comply strictly with Section 1.2 above for any exercise of Tenant's Right to Renewal to extend the term of this Lease.

XXI. RIGHT TO TERMINATE

The Tenant shall have the right to terminate this Lease upon giving six (6) months advance written notice to the Landlord by Certified Mail, Return Receipt Requested, all postage prepaid, if another County owned facility or property becomes available that can better suit the County's rental needs. The Landlord will not have any right to accelerate the Lease payments for the remainder of the Lease term; provided, however, Tenant shall promptly pay to Landlord the Early Termination Fee required pursuant to Section 25.3 below.

XXII. NOTICES AND INVOICES

All notices required to be served upon the Landlord shall be served by Registered or Certified Mail, Return Receipt Requested, at 450 South Orange Avenue, Suite 900, Orlando, Florida 32801 Attention Vice President Asset Administration with a copy to Lowndes, Drosdick, Doster, Kantor & Reed, P.A., 450 South Orange Avenue, Suite 800, Orlando, Florida 32801 Attention Christopher Tessitore, Esquire and all notices required to be served upon the Tenant shall be served by Registered or Certified Mail, Return Receipt Requested, at the address of the Tenant at Lee County Facilities Management, 1500 Monroe Street, 4th Floor, Fort Myers, Florida 33901.

XXIII. CONTACTS

For purposes of this agreement, the County representative shall be Facilities Management and the Landlord's representative shall be Property Administration at the respective addresses set forth in Article XXII above.

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 "Landlord" and "Tenant" 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.
- (d) Commencement Date shall be the date first set forth on page 1 of this Lease. The payment of rent commences on and delivery of possession by Landlord to Tenant shall commence and occur on the Commencement Date.

XXV. MISCELLANEOUS PROVISIONS

25.1 Tenant is not responsible for the payment of use tax, sales tax or property tax. Provided, however, if pursuant to the laws of the State of Florida Tenant ever becomes liable for any use tax, sales tax or property tax associated with the rent, the Property or Tenant's use or occupancy of the Property or its payment of rent to Landlord, Tenant agrees to pay the same and to pay all sales taxes on rent to Landlord with the monthly installments of rent.

25.2 Landlord agrees to reimburse Tenant for any costs of improvements, repairs or renovation to the Property up to and not exceeding \$250,000.00 ("Improvement Allowance"). Such reimbursement will be done on a cost reimbursement basis with the Tenant submitting an invoice for payment to Landlord based on actual costs for renovations, alterations and improvements to the Property incurred by Tenant. Landlord will reimburse Tenant for such costs within sixty (60) days of receiving such invoice.

25.3 In the event that the Tenant exercises its right to early termination under Articles XVIII or XXI and such termination is not related to the purchase of the Property by the Tenant in accordance with Section 1.3 above, the Tenant will pay the Landlord a fee ("Early Termination Fee") for early termination based upon the following formula:
the amount of the Improvement Allowance paid by Landlord to Tenant under Section 25.2

above, divided by 5 (total term of Lease), multiplied by the number years or partial year(s) remaining on the Lease term at the time of early termination. For example: if the Improvement Allowance paid to Tenant equals \$250,000 (cost of renovations, improvements/alterations) such sum shall be divided by 5 (total term of the Lease; the resulting quotient shall be multiplied by the number of Lease years and/or partial Lease years remaining in the Lease term at the time of early termination; for example purposes if two (2) full years remain on the Lease term the then resulting quotient shall be multiplied times the number of full years plus any partial year remaining under the Lease term (in the current example 2 years remaining) and the resulting product equals a \$100,000 fee for 2 years early termination.

25.4 Pursuant to Florida Statutes Sections 404.056(8), Landlord and Tenant are hereby notified of the following: 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 the County public health unit.

25.5 The captions and headings in this Lease have been inserted herein only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of, or otherwise affect, the provisions of this Lease.

25.6 If any provision of this Lease shall be deemed to be invalid, it shall be considered deleted therefrom and shall not invalidate the remaining provisions of this Lease.

25.7 The agreements, terms, provisions, covenants and conditions contained in this Lease shall be binding upon and inure to the benefit of Landlord and Tenant and, to the extent permitted herein, their respective successors and assigns.

25.8 This Lease shall be governed by, and construed in accordance with, the laws of the State of Florida.

25.9 At either party's option, a short form memorandum of this Lease may be recorded or filed among the appropriate land records of Lee County. Tenant shall pay the recording costs associated therewith. In the event of a discrepancy between the provisions of this Lease and such short form memorandum thereof, the provisions of this Lease shall prevail.

25.10 This Lease may be executed in counterparts by the parties hereto and each shall be considered an original, but all such counterparts shall be construed together and constitute one Lease between the parties hereto.

25.11 Upon any default by Tenant under this Lease, Landlord, at its option but without being required to do so, may cure such default and on written demand to Tenant, Tenant shall promptly reimburse Landlord the costs incurred by Landlord to cure Tenant's default.

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 Landlord.

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

WITNESSES:

LANDLORD:

Signed, sealed and delivered in the presence of:

COMMERCIAL NET LEASE REALTY, INC., a Maryland corporation

Kella Schauble

Name Kella Schauble

By: Julian E. Whitehurst

Name: Julian E. Whitehurst

Title: Executive Vice President

Liz Kohlmyer

Name Liz Kohlmyer

[signatures continued on next page]

WITNESSES:

Signed, sealed and delivered in the presence of:

Name

Name

WITNESSES:

Signed, sealed and delivered in the presence of:

Name

Name

TENANT:

LEE COUNTY BOARD OF COUNTY COMMISSIONERS

By: _____

Name: _____

CHAIRMAN

ATTEST:

CHARLIE GREEN, CLERK

DEPUTY CLERK

APPROVED AS TO LEGAL FORM:

COUNTY ATTORNEY'S OFFICE

EXHIBIT A
LEGAL DESCRIPTION

A tract or parcel of land lying in the Northeast Quarter (NE 1/4) of Section 23, Township 45 South, Range 24 East, Lee County, Florida, described as follows:

From the Southeast corner of said fraction of a section, run S. 89 degrees 08' 16" W. along the South line of said fraction of a section for 131.82 feet to the West right of way line of State Road 45 (U.S. 41-Tamiami Trail); thence run N. 1 degrees 16' 00" W. for 95.00 feet to the intersection of the North right of way line of Cypress Lake Drive, with the West right of way line of State Road 45 (U.S. 41-Tamiami Trail); thence run S. 89 degrees 08' 16" W. along said North right of way line for 1095.00 feet to a Point of Curvature: thence run Westerly along said North right of way line, along the arc of a curve to the left of radius 1860.00 feet (delta angle of 6 degrees 56' 42" chord distance of 225.32 feet for 225.46 feet; thence run N. 1 degree 16'00" W. (parallel with said West right of way line) for 1276.23 feet to the point of beginning.

From said point of beginning continue N. 1 degree 16' 00" W. 469.92 feet; thence run N. 89 degrees 08' 16" E. (parallel with the South line of said fraction of a section) for 1320.00 feet to the West right of way line of State Road 45 (U. S. 41- Tamiami Trail); thence run S. 1 degrees 16' 00" E. along said West right of way line for 381.27 feet; thence run S. 88 degrees 44' 00" W. for 188.00 feet; thence run S. 1 degrees 16' 00" E. 144.33 feet; thence run S. 88 degrees 44' 00" W; for 711.97 feet; thence run N. 1 degree 16' 00" W. for 65.00 feet; thence run S. 88 degrees 44' 00" W. for 420.00 feet to the point of beginning.

Together with an easement for ingress and egress over and across the following described property:

A tract of parcel of land lying in the Northeast Quarter (NE 1/4) of Section 23, Township 45 South, Range 24 East, Lee County, Florida, described as follows:

From the Southeast corner of said fraction of a section, run S 89 degrees 08' 16" W. along the South line of said fraction of a section for 131.82 feet to the West right of way line of State Road 45 (V.S. 41-Tamiami Trail); thence run N 1 degree 16' 00" W. for 95.00 feet to the intersection of the North right of way line of Cypress Lake Drive with the West right of way line of State Road 45 (V.S. 41- Tamiami Trail); thence continue N 1 degree 16' 00" W. along said West right of way line for 1281.23 feet to the point of beginning.

From said point of beginning continue N 1 degree 16' 00" W. for 70.00 feet; thence run S. 88 degrees 44' 00" W for 188.00 feet; thence run S 1 degree 16' 00" E for 70.00 feet; thence run N 88 degrees 44' 00" E for 188.00 feet to the point of beginning.

ACORD CERTIFICATE OF LIABILITY INSURANCE

OP ID CH
CNLCOMM

DATE (MM/DD/YYYY)
11/05/03

PRODUCER
J Rolfe Davis Insurance
P.O. Box 945255
Maitland FL 32794-5255
Phone: 407-691-9600

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.

INSURED
Commercial Net Lease Realty Inc. & Commercial Net Lease Realty Services, Inc. etal
450 S Orange Ave, Ste 900
Orlando FL 32801

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Travelers Insurance Cos.	01205
INSURER B: National Surety Corporation	
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 ADDL I.T.R	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A		GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	Y6607496A263TIL03	05/01/03	05/01/04	EACH OCCURRENCE \$ 1000000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100000 MED EXP (Any one person) \$ 5000 PERSONAL & ADV INJURY \$ 1000000 GENERAL AGGREGATE \$ 2000000 PRODUCTS - COMP/OP AGG \$ 2000000
A		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	Y810914K6334TIL03	05/01/03	05/01/04	COMBINED SINGLE LIMIT (Ea accident) \$ 1000000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
A		EXCESS/UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$	CUP914K6346TIL03	05/01/03	05/01/04	EACH OCCURRENCE \$ 500000 AGGREGATE \$ 500000 \$ \$ \$
B		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER	W15WZP80914264	05/01/03	05/01/04	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 500000 E.L. DISEASE - EA EMPLOYEE \$ 500000 E.L. DISEASE - POLICY LIMIT \$ 500000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

RE: 13180 S Cleveland Ave, Ft. Myers, FL *as required by Florida Statute.


CERTIFICATE HOLDER

LEECOUN
Lee County
c/o Commercial Net Lease Realt

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10* 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



ACORD

CERTIFICATE OF PROPERTY INSURANCE

DATE (MM/DD/YY)

11/05/03

PRODUCER

J Rolfe Davis Insurance
P.O. Box 945255
Maitland FL 32794-5255

Jeff, Steve & Pete
Phone: 407-691-9600

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.

COMPANIES AFFORDING COVERAGE

COMPANY A Travelers Ind. Co. of Illinois

COMPANY B

COMPANY C

COMPANY D

INSURED

Commercial Net Lease Realty Inc. & Commercial Net Lease Realty Services, Inc.
450 S Orange Ave, Ste 900
Orlando FL 32801

COVERAGE

THIS IS TO CERTIFY THAT 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. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Table with columns: CO LTR, TYPE OF INSURANCE, POLICY NUMBER, POLICY EFFECTIVE DATE (MM/DD/YY), POLICY EXPIRATION DATE (MM/DD/YY), COVERED PROPERTY, LIMITS. Includes rows for Property, Inland Marine, Boiler & Machinery, and Other coverages.

LOCATION OF PREMISES/DESCRIPTION OF PROPERTY

*except as required by Florida Statute.

SPECIAL CONDITIONS/OTHER COVERAGES

Replacement Cost Coverage on Building and "No Co-Insurance" applies.
Deductible \$250,000 and Terrorism Coverage included.

CERTIFICATE HOLDER

LEECOUN

Lee County
c/o Commercial Net Lease Realt

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 10* DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Handwritten signature of authorized representative.

RE: 13180 S Cleveland Ave., Ft. Myers, FL, Lee County, FL 33907