

1. REQUESTED MOTION:

ACTION REQUESTED: Approve lease with Gulf Care, Inc. d/b/a Gulf Coast Village for two units in a multi-family housing facility located at 152 and 154 S.E. 13th Street in Cape Coral, Florida to be utilized by Lee County Emergency Medical Services. Lease cost will be \$1,300 per month or \$15,600 per year with no CAM. Lease will be for 1 year with the option to renew for an additional 1 year period. Lease cost will increase 5% upon the renewal. Lease can be terminated by giving 3 months advance written notice to the Lessor.

WHY ACTION IS NECESSARY: Board must approve all lease agreements.

WHAT ACTION ACCOMPLISHES: Allows Emergency Medical Services crews to remain in the same proximity of Cape Coral Fire Station #4, where they are now housed, while a new fire station is being built. EMS crews will then relocate to the new fire station when it is finished (approximately 2 years). Having a temporary location close to the fire station is needed to meet with EMS' response time reliability criteria.

2. DEPARTMENTAL CATEGORY:
 COMMISSION DISTRICT #: 4

C7C

3. MEETING DATE:

12-16-2003

4. AGENDA:

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

5. REQUIREMENT/PURPOSE:
 (Specify)

- STATUTE
- ORDINANCE
- ADMIN. CODE AC4-1
- OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
- B. DEPARTMENT Public Safety
- C. DIVISION EMS
- BY: John Wilson, Director
- FOR

7. BACKGROUND:

Currently, EMS station #22 is operating out of the Cape Coral Fire Station #4 in Cape Coral. The fire station has become over crowded and is scheduled to be rebuilt very soon. EMS crews needed to find living quarters for the crews that work out of that station in that area. A multi-family housing unit, owned by Gulf Care, Inc. d/b/a/ Gulf Coast Village, was found at 152 and 154 S.E. 13th St and Facilities Management was asked to negotiate the lease. EMS and Gulf Coast Village applied for and received a Special Exception Use Permit to allow EMS to operate out of the multi-family units and have their ambulance park there. The new fire station will take approximately 2 years to rebuild, at which time, EMS will relocate back to the fire station. An EMS station needs to stay in this area of Cape Coral to meet current response time reliability criteria.

FUNDING WILL BE AVAILABLE IN THE FOLLOWING ACCOUNT STRING:

KF5260100100.504410

Independent Divisions/Public Safety/Emergency Response/General Fund/Land & Building Rental

Attachments: 2 Original Lease Documents

Special Exception Approval Document & Letter from City of Cape Coral

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services 12/4/03				G County Manager
					OA	OM	Risk	GC	
12-4-03 M. Wilson	N/A N/Ace	NA	NA	12/4/03	12/4/03	12/4/03	12/4/03	12-4-03	12-4-03

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
 Date: 12/4/03
 Time: 10:30am
 Forwarded To:
 Budget
 12/4/03 10:30am

RECEIVED BY
 COUNTY ADMIN: PM
 12/4/03
 10:30am 5CT
 COUNTY ADMIN
 FORWARDED TO: X
 12/4/03

**LEASE AGREEMENT BETWEEN LEE COUNTY AND GULF CARE, INC FOR
EMERGENCY MEDICAL SERVICES STATION**

THIS LEASE made this _____ day of _____ 2003, between GULF CARE, INC. d/b/a GULF COAST VILLAGE herein referred to as "Lessor" 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, herein referred to as "Lessee".

Lessee desires to rent from Lessor certain property, located in Lee County, Florida. The parties herein desire to have a lease defining the terms of same. In consideration of the mutual covenants contained herein, the parties agree as follows:

1. DESCRIPTION OF PREMISES, TERMS OF LEASE AND RENT.

A. Premises:

Lessee wishes to lease from Lessor the following premises:
152 and 154 SE 13th Street
Cape Coral, FL 33991

B. Terms: The Lessor hereby leases to the Lessee and the Lessee hereby leases from the Lessor the above described premises for the term of one(1) years or twelve (12) months commencing January 15, 2004 and ending January 14, 2005.

Lessee shall have the **option to renew** the lease for an additional one (1) year term. Lessee must give Lessor at least 90 days written notice prior to the end of the current term indicating a desire to exercise said option. The rent shall increase during the optional terms at the rate of 5% per annum.

C. Rent: Lessee agrees to pay the Lessor a total of \$ 15,600.00 for one year according to the following schedule: \$ 1,300.00 per month in monthly installments. The rent shall be payable on the first day of each month during the term of this lease, and shall be payable at Gulf Coast Village or at such other address as directed by the Lessor. The rent for any fractional part of the first month shall be prorated and paid upon occupancy.

The rent shall be paid to the Lessor without notice or demand and without abatement, deduction or set off. Failure to pay by the fifth of the month shall be deemed a default and entitle the Lessor to accelerate the remaining payments and to all remedies entitled under this lease and under Florida law. The late fee shall be \$10.00 per day for any late payments accepted by Lessor after five (5) days. Late fees shall be considered additional rent for all purposes herein.

2. TAXES, INSURANCE, AND COMMISSIONS.

A. Lessor will 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 of Lessor 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.

B. The Lessee 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 omissions(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.

C. 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.

D. Lessor is currently self-insured and carries no liability premises and casualty insurance from an independent carrier. Lessor uses a third party to administer any claims and has available reserves to satisfy those claims as necessary. Lessor shall indemnify and hold the Lessee harmless for any injuries and/or property damages caused by Lessor's negligence and/or intentional acts including Lessor's failure to properly maintain portions of the premises under its responsibility as described elsewhere in this Agreement.

The Lessor agrees that these 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 interest or liabilities, but are merely minimums.

3. USE OF PREMISES. Unless other uses are specifically stated and authorized herein, the premises shall be used and occupied by Lessee for the purpose of residential occupancy and

for EMS vehicles and usage (business and governmental purposes). The premises shall not be occupied or used for any illegal purpose nor in violation of any valid regulation of any governmental body nor in any manner which would injure the reputation of the building, nor in any manner to create any nuisance or trespass, nor in any manner to invalidate or to increase premium rate for any policy of insurance carried on the building or covering its operation or to violate the terms thereof.

The Lessor further warrants that the stated 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) calendar days notice to the Lessor of its intention to do so.

4. **UTILITIES.** Unless otherwise indicated, the Lessee will bear the full cost of all utilities including but not limited to: water service, electricity, cable, garbage, telephone, gas and any other services from third party sources.

5. **LESSOR'S REPAIRS.**

A. The Lessor has the duty to maintain the common areas, including exterior walls and shell, the roof and landscaping.

B. Lessor shall make all its necessary repairs and alterations to the building and real estate in order to keep said premises in a good condition. Lessor shall make repairs on a timely basis.

C. Lessor may enter the premises at all reasonable times upon reasonable notice to make such repairs and alterations to the premises or any property or equipment located thereon as Lessor shall desire, deem necessary or be required to do so by any governmental authority or judicial order. Lessor may enter the premises at any time for emergency purposes.

D. Lessee agrees to report immediately in writing to Lessor any defective condition in or about premises or building to Lessee to which it has knowledge thereof.

6. **REPAIRS BY LESSEE.** Lessee shall during the term of this lease and any renewal or extension thereof, at its sole

expense, keep the interior of the space leased in good order and repair as it is at the time and date of the commencement of this lease, reasonable wear and tear excepted. If any damage shall be caused by the Lessee, its agents, employees, or invitees, Lessor may, at its option, repair such damage and bill Lessee for the expense whether caused to the building or Lessees thereof, without repair or replacement of all glass (including plate glass on exterior walls), the exterior doors, inside partitions, interior doors, electrical systems, plumbing systems, windows, interior ceiling, HVAC-heating and air conditioning units (whether located inside or outside), and any other interior improvements.

7. **INSURANCE.** The Lessee will furnish a certificate of insurance naming the Lessor Certificate Holder. The Lessee's insurance shall not be less than One Hundred Thousand and no/100 (\$100,000.00) Dollars for any one person killed or injured, Three Hundred Thousand and no/100 (\$300,000.00) Dollars for any one accident, subject to the limitations as set out in Section 768.28, Florida Statutes, as it may be revised or amended from time to time. Lessee shall be responsible for carrying insurance on its inventory and personal property and Lessor shall not be liable in any way whatsoever for said insurance or any damages or losses to said inventory, fixtures or personal property of Lessee.

8. **ACCIDENTAL DAMAGE OR INJURY.** Lessor shall not be liable for any damage to property or any injury to persons, sustained by Lessee or others, caused by conditions or activities on the demised premises. Lessee shall indemnify Lessor against all claims arising therefrom and shall be liable for injury to persons caused by conditions that it is aware of and/or responsible to repair. Lessor shall indemnify and hold Lessee harmless against any and all claims for damage to property or any injury to person(s) caused by a condition that Lessor is responsible to repair.

9. **CASUALTY DAMAGE OR INJURY.** If, during the term hereof, the demised premises or any part thereof, be rendered untenable by public authority, or by fire, or the elements, or other casualty, a proportionate part of the rent herein reserved (whether paid in advance or otherwise) shall be abated and suspended, according to the extent of such untenability, until the premises are again made tenantable and restored to their former condition by the Lessor; and if the premises or a substantial part thereof are thereby rendered untenable and so remain for a period of ninety (90) day, either party may at their option, terminate this Lease by written notice to the other.

10. **WASTE.** Lessee shall not cause or allow any undue waste on the premise and shall comply with all applicable laws and ordinances respecting the use and occupancy of the premises

relating to matters not covered elsewhere in this Lease, provided that Lessee shall not be required to make any alterations, additions or improvements to the premises in order to conform with the Lease.

11. **ALTERATIONS, ADDITIONS OR IMPROVEMENTS.** Lessee shall not make any alterations, additions or improvements on or to the premises without first obtaining the written consent of Lessor, said consent shall not be withheld unreasonably; and all alterations, additions and improvements that shall be made shall be at the sole expense of Lessee and shall become the property of Lessor and shall remain on and be surrendered with the premises as a part thereof at the termination of this Lease without disturbance, molestation or injury. Nothing contained in this provision shall prevent Lessee from removing all office machines, equipment and trade fixtures customarily used in the business of Lessee.

Lessee agrees not to suffer or permit any lien of any mechanic or materialman to be placed or filed against the property or premises. In case any such lien shall be filed, Lessee shall immediately satisfy and release such lien of record of any kind whatsoever, whether created by act or Lessee, operation of law or otherwise, to attach to or be placed upon Lessor's title or interest in the premises, and any and all liens and encumbrances created by Lessee shall be attached to Lessee's interest only.

12. **ACCESS TO PREMISES.** The Lessor, or any of his agents shall have the right to enter said premises to review property at reasonable times with notice (oral or in writing) or without notice in cases of emergency, to examine the same, and/or as frequently as necessary, to make such repairs, additions or alterations as may be deemed necessary for the safety, comfort, or preservation thereof, or of said building (all at Lessee's expense and/or on account for Lessee), or to exhibit said premises, and to put or keep upon the doors or windows thereof a notice "FOR RENT" at any time within sixty (60) days before the expiration of this lease. The right of entry shall likewise exist for the purpose of removing placards, signs, fixtures, alterations, or additions, which do not conform to this agreement, or to the rules and regulations of the building; however in the event that there is a violation of this provision, Lessor shall notify Lessee in writing and give Lessee a reasonable time to cure.

13. **ADVERTISEMENTS.** Any signs or symbols placed in the windows or doors of the premises shall be so placed on the understanding and agreement that Lessee shall remove these signs or symbols at the termination of the tenancy herein created and repair any damage or injury to the premises caused thereby. If not so removed by Lessee, then Lessor may have the signs or

symbols removed at the expense of the Lessee. All signs must be approved by the Lessor in writing prior to their placement.

14. **SALES, ASSIGNMENTS AND SUBLEASES.** Lessee shall not assign this Lease, sell, or sublet the premises leased herein, or any part thereof or interest therein, without the prior written consent of Lessor, which will not be unreasonably withheld. This Lease shall not be assigned by operation of law. If consent is once given by Lessor to the assignment of the Lease or sublease of the premises or any interest therein, Lessor shall not be barred from subsequently refusing to consent to any further assignment or sublease. Any attempt to sell, assign or sublet without the consent of Lessor shall be deemed as a default by Lessee, entitling Lessor to reenter pursuant to paragraph 17 if Lessor so elects.

15. **QUIET ENJOYMENT.** If Lessee performs the terms of this Lease, Lessor will warrant and defend Lessee in the enjoyment and peaceful possession of the premises during the term hereof without any interruption by Lessor or any person rightfully claiming under it.

16. **REMEDIES OF LESSOR UPON BREACH BY LESSEE.**

A. In the event:

(i) Lessee defaults in the payment of rent and does not cure the default five (5) days after written demand;

(ii) Lessee defaults in the prompt and full performance of any other provision of this lease, or fails to comply with any of the rules and regulations now or hereafter established for the government of the building, and does not cure the default within twenty (20) days after written demand by Lessor that the default be cured or with respect to a default which cannot reasonably be cured within twenty (20) day period or fails to diligently conclude such cure thereafter;

(iii) Lessee shall not allow any lien to be placed on the premises nor on any property of the Lessor a resulting from any action or inaction of the Lessee.

Notwithstanding the foregoing, Lessor shall be obligated to give notice of default in payment of rent and Lessee shall have the aforesaid five (5) day grace period in which to cure such default, any subsequent default entitling Lessor immediately to exercise any one or more of the remedies it may have at law or as hereinafter provided upon default by Lessee.

Also in the event of default of the Lessee as listed above, the Lessor may instead of electing to terminate the lease,

may elect to accelerate the lease payments, and declare the entire unpaid balance due and payable. Acceleration of the unpaid balance shall not preclude the Lessor from taking possession as provided by law and re-renting the premises for the Lessee's account in order to mitigate damages.

B. Upon any default by Lessee in the payment of rent under this agreement, if Lessor enters into possession of the premises, Lessor covenants to use reasonable efforts to mitigate damages, by re-letting the premises, unless the Lessor otherwise notifies the Lessee in writing, any retaking of possession of the premises by Lessor shall be for the account of the Lessee, with the Lessee responsible for the full rent and other obligations reduced by whatever Lessor collects on re-letting the premises.

C. Upon termination of this lease, whether by lapse of time or otherwise, or upon any termination of Lessee's right to possession of the premises without termination of the lease, Lessee shall surrender and vacate the premises immediately and deliver possession thereof to Lessor in a clean, good and tenable condition, ordinary wear and tear excepted.

D. All rights and remedies of Lessor under this paragraph 16, elsewhere of this lease and under Florida Law shall be distinct, separate and cumulative and none shall exclude any other right or remedy of Lessor set forth in this lease or allowed by law.

17. **INSOLVENCY OR BANKRUPTCY.** If the Lessee shall become insolvent or if bankruptcy proceedings shall be begun by or against the Lessee, before the end of said term the Lessor is hereby irrevocably authorized at its option to forth-with cancel this lease, as for a default. Lessor may elect to accept rent from such receiver, trustee, or other judicial officer during the term of their occupancy in their fiduciary capacity without effecting Lessor's rights as contained in this lease, but no receiver, trustee or other judicial officer shall ever have any right, title or interest in or to the above described property by virtue of this contract.

18. **TERMINATION AND SURRENDER.** Lessee shall surrender the premises within five (5) days from receipt of notice of termination of this Lease, or on the last day of the term of the Lease. Lessor shall have the right to place and maintain on the premises "For Rent" or "For Sale" signs during the last sixty (60) days of the term of this Lease. Lessee shall, at the expiration of this Lease, surrender the keys to the premises to Lessor.

19. **REMOVAL OF PERSONAL PROPERTY.** Lessee shall have the right to remove all personal property, trade fixtures

and office equipment, whether attached to the premises or not, provided that these items can be removed without serious damage to the building or premises. All holes or damages to the building or premises caused by removal of any items shall be restored or repaired by Lessee promptly.

20. **HOLDING OVER.** Any holding over at the expiration of this Lease with the consent of Lessor shall be on a month-to-month basis, which tenancy may thereafter be terminated as provided by the laws of the State of Florida. During any holdover tenancy, Lessee shall pay the same rate of rental on a monthly basis as is in effect at the time of the termination of this Lease and shall be bound by all the terms and conditions of this lease. During any holdover tenancy, without the Lessor's consent, Lessee shall pay double the rate of rent on a monthly basis.

21. **INTEREST OF SUCCESSORS.** The covenants and agreements of this Lease shall be binding on the successors and assigns of Lessor and on the successors and assigns of Lessee but only to the extent herein specified.

22. **NOTICES.** Except where otherwise required by statute, all notices given pursuant to the provisions hereof may be sent by certified mail, postage prepaid, to the last known mailing address of the party for whom the notice is intended.

23. **COSTS OF LITIGATION.** If any legal action is instituted to enforce this Lease, or any part thereof, the prevailing party shall be entitled to recover reasonable attorney's fees and court costs from the other party.

24. **ACKNOWLEDGEMENT BY LESSEE.** The Lessor retains all rights to disapprove any future lease by Lessee, however, Lessor may not be unreasonable in its approval of said future lease.

25. **UPKEEP.** Lessee must keep leased premises clean at all times, including around the leased premises (front and rear entrances) and a closed trash container shall be kept inside the premises.

26. **CONDITION OF PREMISES.** Lessee must leave floors clean upon vacating premises. Lessee hereby covenants with the Lessor he will not place any nails in the floors of the leased premises and will keep the interior and exterior free from any holes of any kind. Lessee shall not glue carpeting to the floors of the leased premises. All signs must be approved by Lee County.

27. **LICENSES AND PERMITS.** Lessee is responsible for and will pay for all licenses, permits and will comply with all governmental regulations to conduct their business to obtain Certificate of Use and to obtain required permits to make any alterations or improvements which are approved by Lessor.

28. **GOVERNMENT COMPLIANCE.** That the Lessee shall promptly execute and comply with all statutes, ordinances, rules, orders, regulations and requirements of the Federal, State and City Government and of any and all their Departments and Bureaus applicable to said premises for the correction, prevention, and abatement of nuisances or other grievances, in, upon, or connected with said premises during said term.

29. **LESSEE'S OBLIGATIONS.** The prompt payment of the rent for said premises upon the dates names, and the faithful observance of the rules and regulations printed upon this lease, and which are hereby made apart of his covenant, and of such other and further rules or regulations as may be hereafter made by the Lessor, are the conditions upon which the lease is made and accepted and any failure on the part of the Lessee to comply with the terms of said lease, or any of said rules and regulations now in existence, or which may be thereafter prescribed by the Lessor, shall at the option of the Lessor, work a forfeiture of this contract, and all of the rights of the Lessee hereunder, and thereupon the Lessor, his agents or attorneys, shall have the right to enter said premises, and remove all persons therefrom forcibly or otherwise, and the Lessee thereby expressly waives any and all notice required by law to terminate tenancy, and also waives any and all legal proceedings to recover possession of said premises, and expressly agrees that in the event of a violation of any of the terms of this lease, or of said rules and regulations, now in existence, or which may hereafter be made, said Lessor, his agent or attorneys, may immediately re-enter said premises and dispossess Lessee without legal notice of the institution of any legal proceedings whatsoever.

30. **ABANDONMENT.** If the Lessee shall abandon or vacate said premises before the end of the term of this lease, or shall suffer the rent to be in arrears, the Lessor may, at his option, forthwith cancel this lease or he may enter said premises as the agent of the Lessee, by force or otherwise, without being liable in any way therefor, and let the premises with or without any furniture that may be therein as the agent of the Lessee, at such price and upon such terms and for such duration of time as the Lessor may determine, and receive the rent therefor, applying the same to the payment of the rent due by these presents, and if the full rental herein provided shall not be released by Lessor over

and above the expenses to Lessor in such re-letting, the said Lessee shall pay any deficiency, and if more than the full rental is released Lessor will pay over to said Lessee the excess of demand.

31. **DAMAGES.** It is expressly agreed and understood by and between the parties to this lease, that the Lessor shall not be liable for any damage or injury by water, which may be sustained by the said Lessee or other person or for any other damage or injury resulting from the carelessness, negligence, or improper conduct on the part of any other Lessee or agents, or employees, or by reason of the breakage, leakage, or obstruction of the water, sewer or soil pipes, or other leakage in or about the said building. Lessee shall indemnify Lessor and hold Lessor harmless for same herein. However, Lessor shall be responsible for any damages that result from the Lessor's intentional acts or negligence.

32. **CUMULATIVE RIGHTS:** The rights of the Lessor under the foregoing shall be cumulative, and failure on the part of the Lessor to exercise promptly any rights given hereunder shall not operate to forfeit any of the said rights.

33. **ADDITIONAL CHARGES AS RENT.** It is further understood and agreed between the parties hereto that any charges against the Lessee by the Lessor for services or for work done on the premises by order of the Lessee or otherwise accruing under this Agreement shall be considered as rent due and shall be included in any lien or claim for rent due and unpaid.

34. **EMINENT DOMAIN.**

A. In the event the hold or any substantial part of the building or the premises shall be taken or condemned for any public or quasi-public use or purpose, the is lease shall terminate as of the date of the taking of possession by the condemning authority, and rent shall be apportioned as of said date.

B. In the event less than a substantial part of the building or the premises shall be taken or condemned for any public or quasi-public use or purpose, or if any adjacent property or street shall be condemned or improved in such manner as to require the use of any part of the premises or of the building, then at the election of Lessor expressed by delivery of written notice to Lessee within ninety (90) days after said date of taking, condemnation or improvement, this lease shall terminate as of said date without any payment to Lessor, other than apportioned rent, therefore. Otherwise, an appropriate adjustment in rent shall be made to reflect the taking.

C. Lessor shall be entitled to receive the entire award from any taking or condemnation without any payment to Lessee, and Lessee hereby assigns to Lessor Lessee's interest, if any, in such award; provided, however, Lessee shall be entitled to receive any award or portion of an award specifically designated as being compensation for Lessee's movable trade fixtures, improvements and installed by Lessee, and/or Lessee's relocation expenses.

35. DAMAGE BY FIRE OR OTHER CASUALTY.

A. If the building or the premises are made substantially untenable by fire or other casualty, Lessor may elect either to:

(i) terminate this lease as of the date of such fire or other casualty by delivery of notice of termination to Lessee within sixty (60) days after said date;

(ii) Not terminate this lease in the event Lessor shall proceed with due diligence to repair, restore or rehabilitate the building or the premises, other than leasehold improvements made by Lessee, at Lessor's expense.

B. If the premises or the building are damaged by fire or other casualty, but are not made substantially untenable, then Lessor shall proceed with due diligence to repair and restore the building or the premises, other than leasehold improvements made by Lessee.

C. If all or any part of the premises are rendered substantially untenable by fire or other casualty and this lease is not terminated, rent shall abate for all of said part of the premises which are untenable on a per diem basis from and after the date of the fire or other casualty and until the premises are repaired and restored. Substantially untenable means that the Lessee is totally unable to carry on the ordinary course of his business.

D. In the event of a fire or other casualty, the rent shall abate only in the event that the fire or other casualty is caused through no fault of the Lessee.

E. 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 times thereafter.

F. 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.

36. **RIGHTS OF RECOVERY.** Lessor and Lessee agree to have all fire and extended coverage and material damage insurance which may be carried with respect to the premises or to the property located therein endorsed with a clause substantially as follows: "This insurance shall not be invalidated should the insured waive in writing prior to a loss any and all rights or recovery against any part for loss occurring to the property described herein." Lessee hereby waives all claims for recovery from any loss or damage to them or to any policies to the extent of the proceeds collected under such insurance policy.

37. **MORTGAGEE'S RIGHTS.** Lessee agrees that this lease and the rights of Lessee shall be and are hereby made subject and subordinate to any loan, deed or mortgage to the full extent of all debts and charges secured thereby and to any renewals or extensions of any part thereof and to any loan deed or mortgage which any owner of the building or property may hereafter, at any time, elect to place on the building and Lessee agrees upon request to hereafter execute any paper or papers which counsel for Lessor may deem necessary to accomplish that end. In the event of foreclosure pursuant to any such loan deed, Lessee agrees to attorn to the purchaser pursuant to any foreclosure sale, and Lessee shall thereafter remain bound pursuant to the terms of this lease as if a new and identical lease between such purchaser, as Lessor, and Lessee as Lessee, has been entered into for the remainder of the term hereof.

38. **TRANSFER OF LESSOR'S INTEREST.** Lessee acknowledges that Lessor has the right to transfer its interest in the land and building and in this lease, and Lessee agrees that in the event of any such transfer Lessor shall automatically be released from all liability under this lease and Lessee agrees to look solely to such transferee for the performance of Lessor's obligations hereunder. Lessee further acknowledges that Lessor may assign its interest in this lease to a mortgage lender as additional security and agrees that such an assignment shall not release Lessor from his obligations hereunder and that Lessee shall continue to look to Lessor for the performance of its obligations hereunder.

39. **LESSOR'S TITLE.** Lessor's title is and always shall be paramount to the title of Lessee. Nothing herein contained shall empower Lessee to do any act which can, shall or may encumber the title of Lessor.

40. **ESTOPPEL CERTIFICATE.** Lessee shall from time to time,

upon not less than seven (7) days prior written request by Lessor, deliver to Lessor or third party at Lessor's request a statement in writing certifying:

A. That the lease is unmodified and in full force and effect, or if there have been modifications, that the lease as modified is in full force and effect;

B. The dates to which rent and other charges have been paid;

C. That Lessor is not in default under any provision of this lease, or if in default, a detailed description thereof.

If the Lessee fails to timely issue the requested estoppel certificate, the Lessee shall be liable for the damages caused to the Lessor, including but not limited to damages on the loss of a potential purchaser, and damages on the loss of a potential financing or refinancing of the property.

41. **SEVERABILITY.** If any term or condition of this lease shall be held to be invalid, illegal or unenforceable, it shall in no way affect the validity or enforceability of the remaining terms and conditions of this lease.

42. **RIDER.** All riders, exhibits, and guaranty forms attached to this lease at the time of execution by Lessor and Lessee are made a part hereof and are incorporated herein by reference.

43. **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.

44. **RIGHT TO TERMINATE.** The Lessee shall have the right to terminate this lease upon giving three (3) months advance written notice to the Lessor by Certified Mail, Return Receipt Requested. The Lessor will not have any right to accelerate the lease payments for the remainder of the lease duration.

45. **ADDITIONAL.**

A. All of the representation, agreements and obligations of Lessor and Lessee are contained herein, and no modification, waiver or amendment of the provisions of this lease shall be binding upon Lessor or Lessee unless in writing and signed by Lessor and Lessee or by a duly authorized agent of Lessor and

Lessee.

B. No rights to light or air over any property, whether belonging to Lessor or to any other person, are granted to Lessee by this lease.

C. No waiver of any default by Lessor or Lessee hereunder shall be implied from any failure by Lessor or Lessee to take any action on account of such default, whether or not such default persists or is repeated, and no express waiver shall effect any default, other than the default specified in such waiver and then only for the time and to the extent herein stated.

D. Each provision hereof shall be binding upon and inure to the benefit of Lessor and Lessee and their respective heirs, assigns, executors, administrators, legal representatives and successors.

E. The terms "lease", "lease agreement" or "agreement" shall be inclusive of each other, also to include renewals, extensions or modifications of the lease. Words of any gender used in this lease shall be held to include any other gender, and words in the singular shall be held to include the plural and the plural to include the singular, when the same requires. The paragraph headings and titled are not part of this lease and shall have no effect upon the construction or interpretation of any part hereof.

F. No waiver of any covenant or condition of this lease by either Lessor or Lessee shall be deemed to imply or constitute a continuing waiver of this same covenant or condition or any other covenant or condition of this lease.

G. The terms "Lessor" and "Lessee" as used in this lease include the successors and assigns of the original parties and the heirs, legal representatives, successors and assigns of the respective persons who, from time to time, are Lessor and Lessee, whenever the content of the lease or any addendum so requires or admits.

H. 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.

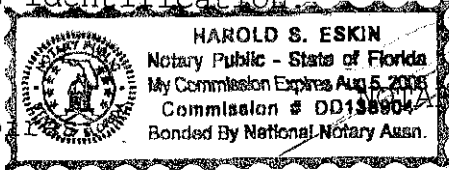
I. This lease instrument shall not be recorded by the Lessee without the execution and acknowledgement of an appropriate private memorandum or short form of this lease, and only with Lessor's prior written consent.

46. **NOTICES**, as required herein shall be provided to:
Lessee at: _____
and _____ to _____ Lessor _____ at:
1333 Santa Barbara Blvd, Cape Coral, FL 33991
IN WITNESS WHEREOF, the parties have executed this Lease at
_____, the day and year first above
written.

Richard C. Heath, Pres/CEO
Lessor

STATE OF FLORIDA
COUNTY OF LEE

The Foregoing instrument was acknowledged and sworn to before
me this 14 day of Dec 2003, by
who are personally known to me or who has produced
_____ as identification.

My Commission Expires _____
 **HAROLD S. ESKIN**
Notary Public - State of Florida
My Commission Expires Aug 5, 2006
Commission # 00138904
BONDED BY NATIONAL NOTARY ASSN.
NOTARY PUBLIC

Attest:

Charlie Green, Clerk

Chairman, Lee County Board of
Commissioners

By: Deputy Clerk

Approved as to Legal Form By
County Attorney's Office

This document prepared by:
HAROLD S. ESKIN, P.A.
1420 SE 47th Street
Cape Coral, FL 33904
(239) 549-5551
FL BAR NO. 0558435

GULF\LEECTY.LSE



October 3, 2003

LEE COUNTY
RECEIVED

03 OCT 13 AM 9:36

COMMUNITY DEVELOPMENT CENTER
FOURTH FLOOR

City of Cape Coral

Department of Community Development

Capt. G. David Wheaton
EMS Operations
Lee County Emergency Medical Services
P O Box 398
Fort Myers, FL 33902-0398

RE: Special Exception – Government Use, Group II, Emergency Medical Services
Station in Residential Multi-Family (R3) zoning
SE 03-00400017
Unit 24, Block 1069 Lots 26-27
Address: 152-154 SE 13th Street

Dear Captain Wheaton:

This is to inform you that your Special Exception request has been **approved** with comments by the Cape Coral Planning & Zoning Commission/Local Planning Agency sitting as the Board of Zoning Adjustment and Appeals at the meeting held on September 3, 2003 per Resolution No. SE 19-2003.

Please be advised that a Special Exception Use that is discontinued for more than one year will be considered abandoned. A building permit or Certificate of Use must be obtained within one year from the date on which a Special Exception was granted or a Special Exception is considered abandoned.

If applicable, please bring a copy of this approval when applying for your permit.

Sincerely,

Norma A. Núñez
Zoning Assistant

/nan

Encl: Res.

C: Linda Slack

RESOLUTION SE 19 - 2003

A RESOLUTION PURSUANT TO THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS, ARTICLE VIII, ADMINISTRATION, SECTION 8.3, PUBLIC HEARINGS, AND SECTION 8.8, SPECIAL EXCEPTIONS, AND THE CITY OF CAPE CORAL COMPREHENSIVE PLAN, GRANTING A SPECIAL EXCEPTION USE FOR A GOVERNMENT USE, GROUP II-FACILITIES, EMERGENCY MEDICAL SERVICES STATION, IN A MULTI-FAMILY RESIDENTIAL (R-3) ZONE ON REAL PROPERTY DESCRIBED AS LOTS 26 AND 27, BLOCK 1069, UNIT 24, CAPE CORAL SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 14, PAGES 63 TO 77 INCLUSIVE, IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; PROPERTY IS LOCATED AT 152 SE 13TH STREET; PROVIDING AN EFFECTIVE DATE.

WHEREAS, an application by GULF CARE, INC. has been submitted and reviewed by the Planning and Zoning Commission, the City of Cape Coral, and has been presented to the City of Cape Coral Board of Zoning Adjustment and Appeals at a Public Hearing for Special Exception.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING ADJUSTMENT AND APPEALS OF THE CITY OF CAPE CORAL, FLORIDA:

Section 1. That the City of Cape Coral Board of Zoning Adjustment and Appeals, having specifically considered the recommendations of the City of Cape Coral Planning and Zoning Commission, Local Planning Agency, the City of Cape Coral Planning Division of the Department of Community Development, and the presentation made at the Public Hearing, the criteria set forth in the City of Cape Coral Land Use and Development Regulations, Article VIII, Administration, Section 8.3, Public Hearings, and Section 8.8, Special Exceptions, the City of Cape Coral Comprehensive Plan and the application materials submitted with Application SE 03-00400017, hereby grants A SPECIAL EXCEPTION USE FOR A GOVERNMENT USE, GROUP II-FACILITIES, EMERGENCY MEDICAL SERVICES STATION IN A MULTI-FAMILY RESIDENTIAL (R-3) ZONE for the below-described property:

LEGAL DESCRIPTION: LOTS 26 AND 27, BLOCK 1069, UNIT 24, CAPE CORAL SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 14, PAGES 63 TO 77 INCLUSIVE, IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

PROPERTY LOCATED AT: 152 SE 13TH STREET.

Section 2. The applicant shall meet the following terms and conditions:

1. The special exception use shall terminate when the construction of Cape Coral Fire Station # 4 is complete.
2. EMS emergency vehicles exiting the site are prohibited from employing their sirens until they enter Santa Barbara Boulevard.

Section 3. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE BOARD OF ZONING ADJUSTMENT AND APPEALS OF THE CITY OF
CAPE CORAL AT ITS REGULAR SESSION THIS 3rd DAY OF September, 2003.

Ralph Ruocco
RALPH RUOCCO, CHAIRMAN
BOARD OF ZONING ADJUSTMENT
AND APPEALS

ATTESTED TO AND FILED IN MY OFFICE THIS 17th DAY OF September, 2003.

Bonnie J. Vent
BONNIE J. VENT, CITY CLERK

APPROVED AS TO FORM:

Dolores D. Menendez
DOLORES D. MENENDEZ
CITY ATTORNEY
SE034-17