

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

Blue Sheet No. 20041612

1. REQUESTED MOTION:

ACTION REQUESTED: Approve the Lease Agreement between San Carlos Park Fire Protection and Rescue Service District and Lee County for use of certain District Facilities

WHY ACTION IS NECESSARY: The Board must approve the Lease Agreements.

WHAT ACTION ACCOMPLISHES: Allows Lee County Emergency Medical Services (EMS) to lease facilities from the District in order to house ambulances and crews. The location of the leased facility will help EMS improve response times to emergency calls.

2. DEPARTMENTAL CATEGORY:

COMMISSION DISTRICT #

C12A

3. MEETING DATE:

12-14-2004

4. AGENDA:

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

5. REQUIREMENT/PURPOSE:

(Specify)

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER _____
- B. DEPARTMENT _____
- C. DIVISION General Services
- BY: _____
- Andrea R. Fraser
- Assistant County Attorney

7. BACKGROUND:

Previously, the Board approved an Agreement with San Carlos Park for housing of Emergency Medical Services (EMS) vehicles in case of emergency. This Agreement expands on the prior Agreement allowing for leasing of premises for the housing of the crew and ambulances continuously instead of only on an emergency basis. These Agreements help defray the cost of EMS operations by housing crews in fire stations. This Agreement is also consistent with other Agreements entered into with other fire districts.

→ Funds are available in: KF5260100100.504410. P.M.

ATTACHMENT: (4) Original Lease Agreements Between San Carlos Park Fire Protection & Rescue Service District & Lee County

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
<i>J. Welton</i>	<i>N/A</i> N/A	N/A	N/A	<i>Andrea Fraser</i>	OA <i>12/1/04</i>	OM <i>12/1/04</i>	RISK <i>12/1/04</i>	GC <i>12/1/04</i>	<i>[Signature]</i>

10. COMMISSION ACTION:

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

RECEIVED BY COUNTY ADMIN: <i>RK</i>
<i>12/1/04</i>
<i>10M</i>
COUNTY ADMIN FORWARDED TO: <i>PR</i>
<i>12/2/04</i>
<i>3PM</i>

**LEASE AGREEMENT BETWEEN
SAN CARLOS PARK FIRE PROTECTION & RESCUE
SERVICE DISTRICT & LEE COUNTY**

THIS LEASE AGREEMENT is entered into this 10th day of November, 2004, between **LEE COUNTY**, a political subdivision and Charter County of the State of Florida, hereinafter referred to as "County", and **SAN CARLOS PARK FIRE PROTECTION & RESCUE SERVICE DISTRICT**, an Independent Special Taxing District and political subdivision of the State of Florida, created and operating pursuant to Chapter 2000-397, Laws of Florida, hereinafter referred to as "District", collectively the "Parties".

WITNESSETH:

The District, in consideration of the mutual covenants contained herein, hereby leases to County, for the terms and under the conditions hereinafter set out, those certain premises in LEE COUNTY, FLORIDA, described in Exhibit "A", which is attached hereto and hereby incorporated herein.

1. FEE/FEE PAYMENT

- A. The fee for the leased premises shall be paid by the County to the District based on an annual common area maintenance fee in the amount of Eighteen Thousand Four Hundred and Ninety-Two Dollars (\$18,492.00) per year for the use of Stations 1 and 3 at Two Dollars (\$2.00) per square foot. The square footage is broken down in Exhibit "A". The District reserves the right to increase the fee annually with written notice to the County by February 1 of each year this Agreement is in effect. Any change

in Exhibit "A" must be provided by written notice by the County to the District 30 days prior to October 1. The fee shall change accordingly based on the square footage utilized.

- B. The fee will be payable on October 1st of each year this Agreement is in effect, except 2004. In 2004, the first payment will be due upon execution of this Agreement.
- C. Fee payments shall be paid to the District at the following address: San Carlos Park Fire District, 19591 Ben Hill Griffin Parkway, Fort Myers, Florida 33913, or by electronic transfer as directed by the District.

2. **PERSONNEL AND EQUIPMENT**

The County will house an ambulance and a two-to-three person crew at the locations subject to the terms and conditions of this Lease and described in Exhibit "A".

3. **MAINTENANCE AND REPAIRS**

The District will provide for any required maintenance and repairs, including repairs or replacement of any equipment as may be necessary due to normal usage.

The County will keep the premises in as good a state of repair as it is at the time of the commencement of this Lease, reasonable wear and tear and unavoidable casualties excepted.

4. **UTILITIES**

The District will bear the full cost of any water service, trash pick-up, use of electricity, and any other services provided to the leased premises. The County will pay for their individual telephone service lines.

5. **USE OF PREMISES**

- A. The premises will be used and occupied by the County for the business purposes of housing emergency vehicles and staff. The premises may not be used for the purposes of carrying out any private business, profession, or trade of any kind, or for purposes other than for public use by the County solely for Public Safety/Emergency Medical Services purposes, or by the County for other public purposes consistent with the nature of the premises.
- B. The County will not make unlawful, improper or offensive use of the premises or any use or occupancy thereof contrary to the laws of the State of Florida, or to the Ordinances of the County where the premises are located.

6. **INJURY OR DAMAGE TO PROPERTY ON PREMISES**

- A. All property that may be placed on the premises by the County during the continuancy of this Lease will be at the sole risk of the County.
- B. The District will pay any insurance premiums required on the premises as set forth. The County is not obligated to carry fire insurance for the premises, nor the property of the District. The County is not liable for injury, loss, damage or theft to persons, property or fixtures belonging to the District located on the leased property unless caused by willful, intentional or negligent acts of the County, its employees, contractors or invitees.

7. **FIRE AND OTHER HAZARDS**

If the premises, or the major part thereof, are destroyed by fire, lightning, storm or other casualty the District may repair the damage at its own cost and expense, but nothing contained herein obligates the District to do so.

8. **SUITABILITY FOR USE**

The County stipulates that it has examined the premises, including the grounds and any buildings and improvements, and that they are, at the time of this Lease, in good order, good repair, safe, clean, and in usable condition, and suitable for the County's intended use.

9. **TERM**

The term of this Lease shall extend continuously and uninterrupted from the date of execution by the District for a period of five years and shall be automatically renewed each October 1 after the initial five-year period unless terminated in writing by either party.

10. **EXPIRATION OF TERM**

At the expiration of the term of this Lease, the County will peaceably yield the premises in good and tenantable repair. It is understood and agreed upon by the Parties that the County has the right to remove its personal property from the premises upon its departure.

11. **SUBLETTING AND ASSIGNMENT**

The County may not assign this Lease, or sublet or grant any concession or license to use the premises or any part of the premises during the term of this Lease.

12. **WAIVER OF DEFAULTS**

The waiver by the District of any breach of this Lease by the County will not be construed as a waiver of any subsequent breach(es) of any duty or covenant imposed by this Lease.

13. **RIGHT OF DISTRICT TO INSPECT**

The District, at any reasonable times, may enter into and upon the leased premises for the purpose of viewing the premises and for the purpose of making any repairs required under the terms of this Lease, with or without any prior notice to the County.

14. **LIABILITY**

Subject to Section 768.28, Fla. Stat., the County will indemnify and save the District harmless from all claims or demands, including an allowance for reasonable attorney's fees incurred by the District in the defense thereof, for injuries to person(s) or damage to property arising out of the County's negligent use of the premises asserted by or on behalf of the County's employees, agents, or invitees, and from any and all injury or damage by and any of them to the premises.

15. **AVAILABILITY OF FUNDS**

The obligations of the County under this Lease Agreement are subject to the availability of funds lawfully appropriated annually for its purposes by the Board of County Commissioners. If funds are not available when due to District and County is unable to pay District, then all obligations under this Agreement will be

suspended until County pays District. If County cannot pay District within 60 days of the due date of October 1, then County must vacate the premises as described in Exhibit "A" 30 days thereafter.

16. HOLDOVER BY COUNTY

If the County remains in possession of the premises with the consent of the District after the natural expiration of this Lease, a new tenancy from month to month will be created between the District and the County. The new tenancy will be subject to all terms and conditions of this Lease Agreement, but will be terminable on thirty (30) days written notice served by either the District or the County on the other Party.

17. RIGHT TO TERMINATE

The County or the District has the right to terminate this Lease upon giving one (1) year advance written notice to the County or the District by Certified Mail, Return Receipt Requested. The District may not accelerate Lease payments for the remainder of the Lease's duration. Notice will be effective when received by the Parties.

18. NOTICES AND INVOICES

All notices required to be served upon the County will be served by Certified Mail, Return Receipt Requested, at the Lee County Emergency Medical Services, Post Office Box 398, Fort Myers, Florida 33902; all notices required to be served upon the District will be served by Certified Mail, Return Receipt Requested, at San Carlos Park Fire Protection and Rescue Service District, 19591 Ben Hill Griffin Parkway, Fort Myers, Florida, 33913.

19. **DEFINITION OF TERMS**

- A. The terms “Lease”, “Lease Agreement”, or “Agreement” will be inclusive of each other and also includes renewals and extensions of modifications of this Lease.
- B. The terms “District” and “County” includes the heirs, or successors in interest to the Parties hereto.
- C. The singular will include the plural and the plural will include the singular whenever the context so requires or permits.

20. **QUIET ENJOYMENT**

The District covenants that upon performing the covenants contained in this Lease Agreement, the County may peacefully and quietly have, hold, and enjoy the premises for the agreed term.

21. **WRITTEN AGREEMENT**

This Lease contains the entire Agreement between the Parties hereto. It may be modified only by Resolution approved by the Board of County Commissioners and with the agreement to such modification by the District.

This lease agreement does not supplant any other existing agreements between the Parties, but augments any and all other agreements for the use of the property.

22. **APPLICABLE STATE LAW**

This Lease Agreement shall be interpreted pursuant to the laws of the State of Florida and the United States, when applicable.

23. **TITLE**

This Agreement shall not be construed to grant any ownership or vesting of title in the County. Title to the property described in Exhibit "A" shall remain with the District, its successors and assigns, at all times during this Agreement.

24. **PREVAILING PARTY**

In the event of any dispute between the Parties arising out of the terms of this agreement which results in litigation in any court of competent jurisdiction, the prevailing party, as evidenced by a final, unappealed order of court granting the relief requested, shall be entitled to its attorneys' fees and costs.

25. **SOVEREIGN IMMUNITY**

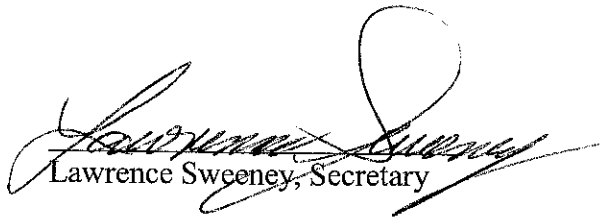
The Parties agree that by execution of this Agreement, no Party will be deemed to have waived its statutory defense of sovereign immunity, or increased its limits of liability as provided by Florida Statutes.

26. **SEVERABILITY**

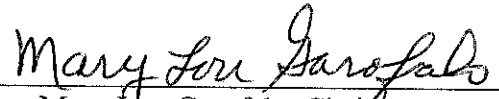
If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

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

ATTEST:



Lawrence Sweeney, Secretary

SAN CARLOS PARK FIRE PROTECTION AND RESCUE SERVICE DISTRICT

By: 
Mary Lou Garofalo, Chairperson

(SEAL)

APPROVED AS TO FORM:

By: 
Terry E. Lewis, District Attorney

ATTEST: CHARLIE GREEN
CLERK OF COURTS

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO FORM:

By: _____
Office of the County Attorney

EXHIBIT "A"

SAN CARLOS PARK FIRE DISTRICT - FIRE STATION #1

11,000 SQUARE FEET +/-

ASSIGNED: 4,972 Sq. Ft. x \$2.00/Sq. Ft. = \$9,944

San Carlos Park #7 Unrec
BLK 36 DB 315 PG 140
Lots 1 through 8

NW Corner of Sanibel Blvd. and Matanzas Road
8013 Sanibel Blvd.
Fort Myers, FL 33912

SAN CARLOS PARK FIRE DISTRICT - FIRE STATION #2

5,000 SQUARE FEET +/-

NOT ASSIGNED: 2,152 Sq. Ft.

Part of the South Third (S 1/3) of the East Half (E 1/2) of the Southeast Quarter (SE 1/4) of Section 1, Township 46 South, Range 24 East, Lee County, Florida, being more particularly described as follows:

Commence at the Southeast corner of said Section 1; thence run S 89°10'57" W along the South line of said Section 1 for 1292.98 feet to the East right-of-way line of Island Park Road; thence run N 0°21'08" W along said East line, being 30 feet East of and parallel to the West line of said East Half (E 1/2), for 779.18 feet to the point of beginning; thence continue N 0°21'08" W along said East line for 100.00 feet to the North line of the South Third (S 1/3) of the East Half (E 1/2) of the Southeast Quarter (SE 1/4) of said Section 1; thence run N 89°08'39" E along said North line for 200.00 feet; thence run S 0°21'08" E for 100.00 feet; thence run S 89°08'39" W for 200.00 feet to the point of beginning. Subject to easements, reservations and restrictions of record and taxes for the current and all subsequent years.

SAN CARLOS PARK FIRE DISTRICT - FIRE STATION #3

23,368 SQUARE FEET +/-

ASSIGNED: 4,274 Sq. Ft. x \$2.00/Sq. Ft. = \$8,548

All that part of Section 23, Township 46 South, Range 25 East, Lee County, Florida, being more particularly described as follows:

Commencing at the Southeast corner of said Section 23; thence along the South line of said Section 23, N89°44'39" W 501.52 feet to the East right-of-way line of Ben Hill Griffin Parkway; thence along said East right-of-way line, N00°49'43" W 603.03 feet; thence continue Northwesterly, 1403.69 feet along the arc of a circular curve concave to the Southwest, having a radius of 1475.00 feet, through a central angle of 54°31'33" and being subtended by a chord which bears N28°05'29" W 1351.32 feet; thence continue, N55°21'16" W 1684.71 feet to the point of beginning of the parcel herein described; thence continue Northwesterly, 376.43 feet along the arc of a circular curve concave to the North, having a radius of 2725.00 feet, through a central angle of 07°54'54" and being subtended by a chord which bears N51°23'49" W 376.13 feet; thence N42°33'38" E 30.59 feet; thence S59°16'15" E 92.63 feet; thence N38°37'17" E 462.00 feet; thence S55°21'16" E 246.58 feet; thence S34°38'44" W 523.47 feet to the point of beginning of the parcel herein described.

Parcel contains 3.23 acres, more or less; subject to easements, restriction, reservations and rights-of-way of record; bearings are based on the South line of Section 23, Township 46 South, Range 25 East, Lee County, Florida, being N89°44'39" W.