

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

Blue Sheet No. 20050506

1. ACTION REQUESTED/PURPOSE:

Approve lease with Realmark Cape Marina, LLC for: 176 square feet of office space, Suite 205, located at 5828 Cape Harbour Drive, Cape Coral, Florida; the non-exclusive use of the boat ramp; and permission to park two trailered boats at the Cape Harbour Marina. This facility will be utilized by the Sheriff's Department. Lease term is for one year with four, one year renewal periods. Lease cost will be \$8,400 per year, plus a CAM cost of \$1,500 per year. Base rental costs may be adjusted, on an annual basis, after the first year, not to exceed 6%. Lease can be terminated by giving the Landlord three months advance written notice.

2. WHAT ACTION ACCOMPLISHES: Allows Sheriff Department to establish a presence in the Cape Coral area while being able to increase Marine response times in Lee County.

3. MANAGEMENT RECOMMENDATION:

4. Departmental Category: 02

C2A

5. Meeting Date: 05-10-2005

6. Agenda:

- Consent
- Administrative
- Appeals
- Public
- Walk-On

7. Requirement/Purpose: (specify)

- Statute
- Ordinance
- Admin. Code AC-4-1
- Other

8. Request Initiated:

Commissioner
Department Construction & Design
Division Facilities Management
By: Richard Beck, Director *RBC*

9. Background:

In January of 2005, the Sheriff's Department requested Facilities Management to negotiate a lease agreement with Realmark Cape Marina, LLC for office space and the right to keep two of their boats on site and use the boat ramps at Cape Harbour Marina, as this location in the Cape would be an ideal center point for their marine operations. This would make their response time to marine calls more efficient to all of Lee County. Previously the response teams were dispatched from Boca Grande. Facilities contacted Realmark and the lease attached was negotiated.

FUNDING WILL BE AVAILABLE IN THE FOLLOWING ACCOUNT STRING:

CG5211600100.504410/503490
Constitutional Officer/Sheriff Support/General Fund

Attachments: 4 Copies of Lease Agreement

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr	
<i>Jamila 4-25-05</i>	N/A			<i>KOS 4/25/05 P.M.</i>	<i>2/24/05</i>	<i>5/1/05</i>	<i>4/28/05</i>	<i>4/27/05</i>	<i>Jamila 4-25-05</i>

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

Rec. by CoAtty
Date: *4/25/05*
Time: *1:30*
Forwarded To: *CG Action 4/25/05*

RECEIVED BY COUNTY ADMIN: *AK*
4-25-05 NP.
4:45
COUNTY ADMIN FORWARDED TO: *AK*
4/28/05
SPM



Rental Agreement

A REALMARK GROUP COMPANY
5828 Cape Harbour Drive, Cape Coral, FL 33914

This Lease Agreement is made this _____ day of _____, 2005 the "Effective Date", by and between Realmark Cape Marina, LLC "Company", Operator of The Marina at Cape Harbour "Marina" 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, "Tenant" whose address is P.O. Box 398, Fort Myers, Florida 33902-0398.

1. Term and Rate. The Tenant hereby contracts with Company to lease the "Premises" commonly known as Suite 205 in the Bosthouse Building at Cape Harbour. The Premises consists of approximately 176 square feet of commercial office space. Tenant shall have a non-exclusive license during the Term of the Lease to use the boat ramp, and to park up to two (2) trailered boats at the Marina in a location to be designated by Company. During the Term of this Lease, so long as Tenant is not in default, Tenant shall enjoy mooring privileges equal to all other Marina tenants.

Base Term. The Base Term of this Lease shall be for a period of one (1) year and shall commence on _____. Provided that Tenant is not in default of this Lease, Tenant shall have four (4) options to renew this Lease. Each renewal Term shall be for a period of one (1) year. The Base Term and any renewals may be collectively referred to herein as the "Term." The Tenant shall pay monthly Rent of \$700, payable to the Company. Company reserves the right to adjust Rent, on an annual basis, after the Base Term with a 30-day written notice of intent provided to Tenant, and during the 30-day period, Tenant shall have the right to terminate the Lease upon written notice to Company prior to the proposed Rent increase. Any annual increase in Rent shall be limited to six (6%) percent of the immediately preceding Rent Term, excluding utilities, which shall be subject to increase without regard to the six (6%) percent limitation. In addition to the foregoing, Tenant shall have the right to terminate this Lease by providing at least three (3) months advance written notice to Company by Certified Mail, Return Receipt Requested. Provided that Tenant is not otherwise in default of this Lease, Rent payments shall not be accelerated in the event of a termination of the Lease pursuant to this provision. Tenant may terminate the Lease upon partial destruction of the Premises by accident or other Act of God rendering the Premises unfit for its intended purpose, by providing Company thirty (30) days advance written notice.

Additional Fees. A fee of \$125 per month will be charged to Tenant for utilities which include water, sewer, electrical, waste removal and common area maintenance costs incurred by the Marina. Tenant shall provide telephone service and equipment. Tenant is exempt from all sales or use taxes, and shall provide Company with a tax exempt certificate from the appropriate governmental entity verifying such exemption, upon execution of this Lease.

2. Payment. Rent on space is DUE and PAYABLE in ADVANCE on the first day of the each and every calendar month during the Term of this Lease. Payments received on the 15th of the month or after, are considered late, and Tenant's account will be charged an additional late fee of \$50.00 plus \$5.00 per day for each day that payment is received after the 15th day of the month, and may cause this Agreement to be terminated pursuant to Paragraph 17 of this Agreement. Tenant shall pay to Company a charge of \$25.00 for each check that is returned to Company unpaid, together with any late fees, if applicable. Checks returned unpaid may be replaced only with a cashier's check or cash. All late fees and other charges due and payable hereunder shall be deemed to be additional rent under this Agreement.

3. Hours of Operation. Specific hours of operation are not required of Tenant.

4. Use of Marina. Tenant acknowledges that the Marina facilities are owned and operated by Company. Tenant acknowledges that this agreement includes a non-exclusive license to use the public areas, which shall commence and terminate on the date designated herein unless sooner terminated as provided herein. Tenant's right under this Agreement is a non-exclusive personal, revocable and unassignable privilege to use the space for the business purpose and is not a grant of an equity interest in the Company's right, title or interest in the Marina Facilities or submerged lands, nor does this Agreement grant any vested or prescriptive right to or easement to use the slips or Marina Facilities.

The Premises shall be used by Tenant solely for the purpose of conducting the business of operating an exclusive crime prevention and law enforcement services. Tenant shall not suffer or permit all or any part of the Premises to be used for any other business or purpose or by any other person without the prior written consent of Company, which consent may be withheld in Company's sole discretion. Tenant will not use or permit the use of the Facility for any unlawful purpose and shall not do or permit any act or thing which would impair the value or usefulness of the Facility or any part thereof or of the Marina or which would constitute a public or private nuisance or waste or which would be a nuisance or annoyance or otherwise cause damage to the Marina or other users of the Marina, or which would invalidate any policies of insurance or increase the premiums thereof, now or hereafter written on the Marina. Tenant agrees to keep the Premises neat and orderly. Tenant acknowledges that in the event Tenant uses the Premises for purposes not expressly permitted herein, the Company may revoke this Agreement pursuant to Paragraph 17.

5. Construction or Improvements at Marina. Company has responsibility or obligation under this Lease to construct any improvements, alterations or additions to the Premises. Tenant may construct improvements, alterations, or additions to the Premises, however, the plans and specifications for such improvements must be approved by Company in writing prior to the commencement of any such construction or improvements. Any and all improvements, changes, alterations, or additions made by Tenant shall be permanent and shall remain in the office space upon the completion or termination of this Lease in absence of a written agreement of the Company to the contrary. Upon the termination of the Lease, any property belonging to the Tenant that the Tenant has failed to remove from the Premises shall forthwith become the property of the Owner and Tenant shall be liable for the cost of the removal thereof.

6. Signage. With Company's approval, Tenant may install a sign on the exterior of the building, which states the name of Tenant. Tenant shall be fully responsible for the cost of said sign. Tenant shall not alter said sign without the prior express written consent of Company. Tenant shall not place, install or erect any other signs on the exterior of the Premises or upon any other part of the Marina property without the prior express written approval of the Company. Tenant shall, upon written notice from the Company, immediately remove any sign in violation of this provision. If Tenant fails to immediately remove said sign or display, Company may cause said sign or display to be removed and the cost of such removal shall be paid by Tenant as additional rent which is immediately due and payable to the Company.

7. Parking. Tenant, its employees, guests, licensees and invitees, shall have the non-exclusive right to use all parking facilities provided within the site for commercial purposes.

8. Risk of Loss. Company shall not be liable for any loss by reason of damage, theft or otherwise to the contents, belongings and personal effects of the Tenant, or Tenant's agents, employees, guests, or visitors located in or about the Premises, or for damage or injury to Tenant or Tenant's agents, employees guests or visitors. Nothing contained in this provision shall relieve Tenant from responsibility for loss, damage, or injury caused by its own negligence or willful conduct. Nothing contained in this provision shall relieve Company from responsibility for loss, damage, or injury caused by Company's negligence or willful conduct.

9. Liability and Indemnity.

Tenant acknowledges and agrees that Tenant has inspected the Premises and has found same to be suitable for Tenant's intended uses thereof. Pursuant to Section 768.28, Florida Statutes, Tenant shall be liable for money damages in tort for any injuries to or loss of property, personal injury, or death caused by the negligent or wrongful act(s) or omission(s) of any official or employee of Tenant 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 limitations as set out in Section 768.28, Florida Statutes, as it may be revised or amended from time to time.

Company shall not be responsible or liable to Tenant for any loss or damage to either the person or property of Tenant that may be occasioned by or through the acts or omissions of any other person or entity, excluding only the willful misconduct of Company's employees, agents and contractors.

Company shall not be responsible or liable for any injury, loss or damage to any person or to any property caused by or resulting from bursting, breakage, leakage, steam, running, backing up, seepage, or the overflow of water or sewage in any part of said Premises or for any injury or damage caused by or resulting from acts of God or the elements, or for injury or damage caused by or resulting from any defect or negligence in the occupancy, construction, operation or use of any of said Premises, building, machinery, apparatus or equipment by any occupant of the Premises other than Company, its employees, agents and contractors.

10. Real Estate Taxes. Company shall be responsible for payment of real estate taxes and assessments.

11. Company's Access To Premises. Company or Company's Agent may enter the Premises after reasonable advance notice to Tenant, during normal business hours, for the purpose of inspecting or repairing the Premises. Company will use reasonable efforts to minimize interference with the operations of Tenant's business.

12. Maintenance.

- A. **Tenant's Required Maintenance.** Tenant shall be responsible for ordinary maintenance and repair of the Premises, including the FF&E and the electrical, mechanical, plumbing & HVAC systems during the Lease Term, with the exception of those items to be maintained by Company. For purposes hereof, ordinary maintenance and repair shall include any repairs not to exceed \$500 per instance. At all times during the Lease Term, Tenant shall:
1. comply with all obligations imposed upon tenants by applicable provisions of building, housing, and health codes;
 2. keep the interior and exterior of the Premises clean and sanitary;
 3. keep all plumbing fixtures in the Premises clean, sanitary and in good repair; and
 4. use and operate in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air conditioning, and other facilities and appliances. Nothing in this section makes Company responsible for any condition created or caused by the negligent or wrongful act or omission of Tenant, or any other person on the Premises with Tenant's consent.
- B. **Company's Required Maintenance.** Company shall be responsible for the maintenance, repair and, if necessary, replacement of the roof, foundation, structural components and exterior of the building, and the parking lot, including paving and striping, landscaping and mowing. Company shall be responsible for replacement of the electrical, mechanical, plumbing and HVAC systems of the building, if necessary, as well as, major repairs of these systems to the extent the cost of any single repair exceeds the amount of \$500.00.
- C. **Tenant is responsible, at its own cost, to replace promptly any and all plate or other glass, with the same kind and quality, in the Premises regardless of amount, which may become damaged or broken due to acts of Tenant or its invitees. Tenant is not responsible for replacing any glass broken as a result of a hurricane or other Act of God.**

13. Insurance.

- A. **Tenant's Insurance.** Tenant shall at all times during the Term of this Lease maintain the following insurance coverage:
1. **Liability Insurance.** Comprehensive general public liability and property damage insurance with combined single limits of not less than \$1 Million;
 2. **Workers Compensation and Employer Liability Coverage.** Worker's compensation and employer liability coverage, as required by law.
- B. **Evidence of Insurance.** All insurance coverage required to be maintained by Tenant hereunder shall be maintained with insurance companies authorized to do business in the State of Florida and otherwise satisfactory to Company. All policies shall name Company as certificate holder and shall require that Company be provided with at least thirty (30) days prior written notice of any modification or cancellation. Tenant shall deliver duplicate original policies or certificates thereof to Company upon execution of this Lease, and thereafter Tenant shall deliver renewal policies or certificates to Company not less than fifteen (15) days prior to the expiration of the policies of insurance. The failure of Tenant either to effect said insurance in the names herein called for or to pay the premiums therefore or to deliver said policies or certificates to Company shall, at Company's option, permit Company to procure the insurance and pay the requisite premiums therefore on behalf of Tenant, which premiums shall be paid to Company by Tenant with the next installment of Rent. Company's procurement or maintenance of such insurance on behalf of Tenant shall not be a waiver of such default.
- C. **Company's Insurance.** Company shall maintain a policy or policies of casualty insurance, including windstorm and flood insurance, covering the full replacement value of the Premises with standard form of extended coverage endorsement and standard form of lender's loss payable endorsement issued to the holders of a mortgage or deed of trust secured by the Premises, together with vandalism, malicious mischief, and sprinkler leakage coverage.
- D. **Waivers of Subrogation.** Requested Section D be stricken Each of the parties hereto waives any and all rights of recovery against the other or against the officers, employees, agents, representatives, invitees, customers, and business visitors of such other party for loss of or damage to such waiving party or its property or the property of others under its control arising from any cause insured against under the standard form of fire insurance policy with all permissible extensions and endorsements covering additional perils, or under another policy of insurance carried by such waiving party in lieu thereof, to the extent of the insurance proceeds paid thereunder. Such waivers shall be effective only so long as the same is permitted by each party's insurance carrier without the payment of additional premium. If obtainable without additional expense, each party shall obtain a waiver of subrogation from its insurance carrier.

14. Casualty Damage. If the Premises are damaged or destroyed other than by wrongful or negligent acts of Tenant, Company shall promptly repair and restore the Premises to the condition they were in prior to the casualty event. In the event that the casualty damage is greater than \$250,000.00 or is expected to require more than ninety (90) days to complete, then either party may terminate the Lease within thirty days after the damage or destruction, and Tenant will immediately vacate the Premises. If Tenant vacates, Tenant shall not be liable for rent that would have been due after the date of termination.

15. Condemnation.

- A. **Total Condemnation.** If the whole of the Premises shall be acquired or taken pursuant to the power of eminent domain by any governmental entity, then this Lease and the term herein shall cease and terminate as of the date of title vesting in the public authority in such proceeding.
- B. **Partial Condemnation.** If any part of the Premises or the parking area, but less than all, shall be acquired or taken pursuant to the power of eminent domain by any governmental entity, and such partial taking shall render that portion not so taken unsuitable for the business of Tenant as determined by Company, then this Lease and the Term herein shall cease and terminate as aforesaid. If such partial taking does not render the Premises unsuitable for the business of Tenant, then this Lease shall continue in effect except that the Rent shall abate and Company shall, upon receipt of the award in condemnation, make all necessary repair or alterations to the building in which the Premises are located or the parking area so as to constitute the portion of the building or parking area not taken a complete architectural unit.
- C. **Compensation.** All compensation awarded or paid upon such a total or partial taking of the Premises shall belong to and be the property of Company without any participation by Tenant. However, Tenant shall be entitled to claim, prove and receive in such condemnation proceedings such award as may be allowed for taking any of Tenant's property, including, but not limited to leasehold improvements and fixtures, relocation costs and loss of Tenant's business. To the extent that the Tenant has a claim in condemnation proceedings, as aforesaid, Tenant may claim from condemning authority, but not from Company, such compensation as may be recoverable by Tenant.

16. Default.

A. Tenant will be in default if any of the following occur:

1. Tenant fails to pay rent when due and the default continues for ten (10) days after delivery of written demand by Company for payment of the rent or possession of the Premises.
2. Tenant fails to perform any other obligation under the Lease and the default continues for more than thirty (30) days after delivery of written notice to Tenant from Company specifying the default; provided, however, that if failure to perform cannot by its nature reasonably be cured within thirty (30) days, Tenant shall not be in default hereunder if Tenant commences curative efforts within thirty (30) days and thereafter diligently continues to cure the failure to perform.

17. Remedies and Defenses.

- A. If Tenant remains on the Premises after expiration or termination of the Lease without Company's permission, Company may recover possession of the Premises in the manner provided for by law. Company also may recover double Rent for the period during which Tenant refuses to vacate the Premises.
- B. If Tenant defaults under the Lease by failing to pay Rent, Company may terminate Tenant's rights under the Lease and Tenant shall vacate the Premises immediately. If Tenant defaults under the Lease for any other reason, Company may terminate Tenant's rights under the Lease and Tenant shall vacate the Premises within 7 days of delivery of the notice of termination.
- C. If Tenant fails to cure a default within the time specified in the notice to Tenant, Company may recover possession of the Premises as provided by law.
- D. In addition to any other manner prescribed by this Lease, at law or in equity, Company shall recover possession of the Premises:
1. in a lawsuit for possession; or
 2. when Tenant has surrendered possession of the Premises to Company.
- E. If Tenant has defaulted under the Lease and Company has obtained a writ of possession, if Tenant has surrendered possession of the Premises to Company, or if Tenant has abandoned the Premises, Company may:
1. treat the Lease as terminated, retake possession for Company's own account, and any further liability of Tenant will be ended;
 2. retake possession of the Premises for Tenant's account. Tenant will remain liable for the difference between Rent agreed to be paid under the Lease and rent Company is able to recover in good faith from a new tenant; or
 3. do nothing, and Tenant will be liable for the Rent as it comes due.
- F. If Company retakes possession of the Premises for Tenant's account, Company must make a good faith effort to re-lease the Premises. Any rent received by Company as a result of the new lease shall be deducted from the Rent due from Tenant. For purposes of this section, "good faith" in trying to re-lease the Premises means that Company shall use at least the same efforts to re-lease the Premises as were used in the initial rental or at least the same efforts as Company uses in attempting to lease other similar property. It does not require Company to give a preference in leasing the Premises over other vacant properties that Company owns or has the responsibility to rent.
- G. Other Remedies. Each party also may have other remedies available at law or in equity.

18. Notices. All notices to be given or to be served upon any party hereto in connection with this Lease must be in writing and shall be hand delivered or sent by Certified U.S. Mail or by overnight delivery service. Notice shall be deemed to have been given and received when personally served; upon delivery of Certified U.S. Mail; and upon delivery when notice is given by overnight delivery service. Notices shall be given to Company and Tenant at the addresses set forth in this Lease. Any party hereto may, at any time, by given three days written notice to the other party, designate a substitute address to which such notice shall be given. Notices delivered after 5:00 p.m. or on Saturday, Sunday or a national holiday, shall be deemed delivered on the next business day. The initial addresses of the parties shall be set forth below:

As to Company: Realmark Cape Harbour Marina, LLC.
1900 Lagoon Lane
Cape Coral, FL 33914
Attn: William J. Stout

With Copy to: Gregg S. Truxton
Bolanos Truxton, PA
12800 University Drive, Suite 350
Fort Myers, FL 33907

As to Tenant: Lee County Board of County Commissioners
P.O. Box 398
Fort Myers, FL 33902-0398

Attention: Facilities Management

19. Subordination. The Lease is subordinate to the lien of any mortgage encumbering the fee title to the Premises from time to time.

20. Liens. Tenant shall not have the right or authority to encumber the Premises or to permit any person to claim or assert any lien for the improvement or repair of the Premises made by Tenant. Tenant shall notify all parties performing work on the Premises at Tenant's request that the Lease does not allow any liens to attach to Company's interest.

21. Emergency Conditions at Marina. In case of storm, fire, emergency or disaster, as determined by Company, it is expected that Tenant will make arrangements for safe storage of Vessels elsewhere. If the Vessels are unattended and Tenant cannot be reached, the Company shall be authorized to move the Vessels, at Tenant's expense, to a safer area to protect the Vessels, property or general welfare. However, under no circumstances, is Company under any obligation to provide this service. Tenant agrees to indemnify and hold Company harmless from any and all liability, loss or damage caused by or to the Vessels which may arise out of failure of the Tenant to move the Vessels, the inability of the Company to reach the Tenant, or by the movement of the Vessels by the Company. In general, the Tenant shall be solely responsible for any emergency measures.

22. Rules and Regulations. The rules and regulations attached to this Agreement are incorporated herein, and may be modified from time to time as deemed appropriate by Company. A current set of rules shall at all times be maintained at the Marina and available to Tenant. The Tenant shall at all times comply with all rules and regulations as they may exist from time to time, and Tenant acknowledges that a violation of said rules shall be considered a default under this Agreement. Tenant acknowledges receipt of a copy of the current rules and regulations of the Marina.

23. Assignment. This Agreement and obligations due may not be assumed, sold, conveyed, transferred, sublet, assigned or otherwise disposed of by Tenant without the prior written consent of Company which may be withheld in the sole discretion of Company.

24. Miscellaneous.

- A. Entire Agreement. This Agreement constitutes the entire agreement by and between parties hereto with respect to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, both written and oral, by and between the parties hereto with respect to such subject matter. No representations, warranties or agreements have been made or, if made, have been relied upon by either party, except as specifically set forth herein. This Lease may not be amended or modified in any way except by a written instrument executed by each party hereto.
- B. Binding Effect. All terms and provisions of this Lease shall be binding upon, inure for the benefit of and be enforceable by and against the parties hereto and their respective personnel or other legal representatives, heirs, successors and permitted assigns.
- C. No Waivers. No waiver by either party shall be effective unless set forth in a written instrument signed by a duly authorized officer or representative of the party to be charged with such waiver. Further, the waiver by either party of the prompt and complete performance, or breach or violation, of any provision of this Lease shall not operate as, nor be construed to be, a waiver of any subsequent breach or violation, and the waiver by either party of the exercise of any right or remedy that it may possess shall not operate as, nor be construed to be, the waiver of such right or remedy by any other party or parties or a bar to the exercise of such right or remedy by such party or parties upon the occurrence of any subsequent breach or violation.
- D. Headings. The article headings in this Lease are for convenient reference only and shall not have the effect of modifying or amending the expressed terms and provisions of this Lease, nor shall they be used in connection with the interpretation hereof.
- E. Pronouns; Gender. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the identity of the personal liability or obligation with respect to same.
- F. Time. Time shall be of the essence. Any reference herein to time periods of less than six (6) days shall in the computation thereof exclude Saturdays, Sundays and legal holidays, and any time period provided herein which shall end on a Saturday, Sunday or legal holiday shall extend to 5:00 p.m. of the next full business day.
- G. Severability. The invalidity of any provision of this Lease shall not affect the enforceability of the remaining provisions of this Lease or any part hereof. In the event that any provision of this Lease shall be declared invalid by a court of competent jurisdiction, the parties agree that such provision shall be construed, to the extent possible, in a manner which would render the provision valid and enforceable, or if the provision cannot reasonably be construed in a manner which would render the provision valid and enforceable, then this Lease shall be construed as if such provision had not been inserted.
- H. Counterparts. This Lease may be executed in any number of counterparts and by the separate parties hereto in separate counterparts, all of which shall be deemed to be an original on one and the same instrument.
- I. Governing Law. This Lease shall be governed by, and construed and interpreted in accordance with, the laws of the State of Florida without regard to principles of conflicts or choice of laws.
- J. Jurisdiction and Venue. Each of the parties irrevocably and unconditionally: (i) agrees that any suit, action or legal proceeding arising out of or relating to this Lease shall be brought in the courts of record of the state of Florida in Lee County; (ii) consents to the jurisdiction of each such court in any suit, action or proceeding; and (iii) waives any objection which it may have to the laying of venue of any such suit, action or proceeding in any of such courts
- K. As required by law, Company make the following disclosure:

"RADON GAS." 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 your county public health unit.

This Lease has been executed by the parties of the dates indicated below:

COMPANY:
Realmark Cape Marina, LLC, a Florida limited liability company

By: *Craig A. Dearden*
Name: Craig A. Dearden
Title: Chief Operating Officer
Date: 4/19/05

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was signed and acknowledged before me this 19 day of April, 2005, by Craig A. Dearden, as Chief Operating Officer of Realmark Cape Marina, LLC, who is personally known to me and who did/did not take an oath.

(stamp or seal)



Jaime Rehmann
Signature of Notary
Jaime Rehmann
Typed or Printed Name

TENANT:
Board of County Commissioners of Lee County, Florida

By: _____
Chairman

Attest: Charlie Green
Clerk of Courts

By: _____
Deputy Clerk

Approved as to Form:

By:  _____
Office of the County Attorney