

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

Blue Sheet No. 20061237

1. ACTION REQUESTED/PURPOSE:

Approve lease with TAL, LLC for the facility located at 5710 Zip Drive, Ft. Myers, Florida. This facility is 7,500 square feet. Lease cost is \$14.14 per square foot or \$106,050.00 per year with a 3% annual increase. Lease is for five years with two, five year options to renew under the same terms and conditions. Lease can be terminated by giving Lessor nine months advance written notice. Also, approve transfer from reserves in the amount of \$289,800 for the Transportation Trust and Utility Operating Fund.

2. WHAT ACTION ACCOMPLISHES:

Allows the Department of Transportation Inspectors to remain in the same vicinity as the offices they now occupy in the Enterprise Parkway DOT offices in the Billy Creek Commerce Center while easing the overcrowded conditions in that building.

3. MANAGEMENT RECOMMENDATION: Approve

4. Departmental Category: C9A

5. Meeting Date: ~~_____~~ **OCT 24 2006**

6. Agenda:

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

7. Requirement/Purpose: (specify)

- Statute
- Ordinance
- Admin. Code
- Other

8. Request Initiated:

Commissioner All
 Department Transportation
 Division Administration
 By: Scott Gilbertson

9. Background

Approximately one year ago, the Department of Transportation came to Facilities Management to request their assistance in finding a building for offices for the Inspectors. The Inspectors were increasing their staff, which was causing overcrowding in their current offices on Enterprise Parkway in the Billy Creek Commerce Center, and it would be several years before an addition to that building could be built. Facilities found the 5710 Zip Drive building in the Billy Creek Commerce Center and negotiated the attached lease agreement.

FUNDING WILL BE AVAILABLE IN THE FOLLOWING ACCOUNT STRING:

PF 5411917500.50.4410 - \$105,920
 PF 5411948700.50.4410 - \$ 25,000
 PD 5411017500.50.4410 \$158,880

Attachments: Lease Agreements (4)
 Budget Transfer Sheets

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>S. Gilbertson</i> Date <u>10/2/06</u>			<i>10-3-2006</i>	<i>10/6/06</i>	<i>RK 10/9</i>	<i>WJS 10/9/06</i>	<i>10/9/06</i>	<i>10/9/06</i>	<i>J. Lavender</i> Date

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

RECEIVED BY
 COUNTY ADMIN:
10/6/06 4:30pm
 COUNTY ADMIN
 FORWARDED TO: RL
10/10/06 2:30pm

Rec. by CoAtty
 Date: 10/6/06
 Time: 3:45pm
 Forwarded To:
4:30pm
10/6/06

REQUEST FOR TRANSFER OF FUNDS

FUND NAME: Lee County Utilities Ops DATE: 09/29/06 BATCH NO. _____

FISCAL YEAR: 05/06 FUND #: 48700 DOC TYPE: YB LEDGER TYPE: BA

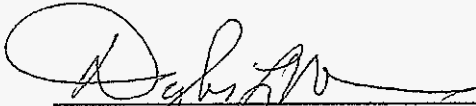

TO: Construction/Utility Inspectors Operating Budget
 (DIVISION NAME) (PROGRAM NAME)

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

ACCOUNT NUMBER	OBJECT NAME	DEBIT
PF5411948700.504410	Land, Building, Parking Rental	\$ 25,000
TOTAL TO:		\$ 25,000

ACCOUNT NUMBER	OBJECT NAME	CREDIT
GC5890148700.509910	Reserve for Contingencies	\$ 25,000
TOTAL FROM:		\$ 25,000

EXPLANATION: To adjust operating budget for the Construction/Utility Inspectors program.

DIVISION DIRECTOR SIGNATURE DATE DBS: APPROVAL <u>X</u> DENIAL _____ APPROVAL _____ DENIAL _____ CO. ADMIN.: APPROVAL _____ DENIAL _____	<div style="text-align: right; margin-bottom: 10px;">  10-3-2006 DEPARTMENT DIRECTOR SIGNATURE DATE </div> <div style="text-align: right; margin-bottom: 10px;">  10/9/06 OPERATIONS ANALYST SIGNATURE DATE </div> <div style="text-align: right; margin-bottom: 10px;"> BUDGET OPERATIONS MANAGER SIGNATURE DATE </div> <div style="text-align: right; margin-bottom: 10px;"> CO. ADMIN. SIGNATURE DATE </div> <div style="text-align: right; margin-bottom: 10px;"> BCC CHAIRMAN SIGNATURE </div>
BCC APPROVAL DATE _____	BCC CHAIRMAN SIGNATURE _____

REQUEST FOR TRANSFER OF FUNDS

FUND NAME: Transportation Trust DATE: 09/08/06 BATCH NO. _____

FISCAL YEAR: 2006 FUND #: 17500 DOC TYPE: YB LEDGER TYPE: BA

TO: Engineering Services/Traffic Various
 (DIVISION NAME) (PROGRAM NAME)

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

ACCOUNT NUMBER	OBJECT NAME	DEBIT
PF5411917500.504410	Land and Building Rental	\$ 105,920
PD5411017500.504410	Land and Building Rental	158,880
TOTAL TO:		\$ 264,800

FROM: Non-Departmental Reserves
 (DIVISION NAME) (PROGRAM NAME)

ACCOUNT NUMBER	OBJECT NAME	CREDIT
GC5890117500.509910	Reserve for Contingencies	\$ 264,800

TOTAL FROM: \$ 264,800

EXPLANATION:

Budget appropriation needed to cover lease of new building and renovation costs for Inspectors, Traffic and Utilities' Inspectors

 DIVISION DIRECTOR SIGNATURE DATE

DBS: APPROVAL DENIAL _____

APPROVAL _____ DENIAL _____

CO. ADMIN.: APPROVAL _____ DENIAL _____

BCC APPROVAL DATE _____

 DEPARTMENT DIRECTOR SIGNATURE DATE

 OPERATIONS ANALYST SIGNATURE DATE

 BUDGET OPERATIONS MANAGER SIGNATURE DATE

 CO. ADMIN. SIGNATURE DATE

 BCC CHAIRMAN SIGNATURE

BA NO: _____ AUTH CODE: _____ TRANS DATE: _____

REV. 05/93

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

THIS LEASE AGREEMENT, entered into this _____, day of _____, 20____, between TAL, LLC, hereinafter called the 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, hereinafter called the Lessee.

WITNESSETH:

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

**5710 Zip Drive
Ft. Myers, Florida 33905**

which shall constitute an aggregate area of 7,500 square feet of net rentable office/warehouse space measured in accordance with the American National Standard Z65.1 - 1991 as published by the Building Owners and Managers Association International, at a rate of \$14.14 per square foot per year. The Lessor shall also provide parking spaces at the building for the exclusive use of the Lessee as part of this Lease Agreement.

I. TERM

TO HAVE AND TO HOLD the above described premises for a term commencing on the 1st day of November, 2006 to and including the 31st day of October, 2011.

II. RENT

The Lessor hereby leases to the Lessee and the Lessee hereby leases from the Lessor the above described premises for the term set out in this lease and the Lessee agrees to pay the Lessor the sum of Eight Thousand Eight Hundred Thirty Seven Dollars and Fifty Cents (\$8,837.50) per month for the first year of the rental period described in Article I of this lease. The rent for any fractional part of the first month shall be prorated. Beginning the second year of the initial term, and annually thereafter, the base rental cost will increase by 3%. Rent shall be paid to the Lessor on the first day of each month of occupancy by the Lessee, for the term of the lease. The rent shall be paid to the Lessor at: 5807 Staysail Ct., Cape Coral, FL 33914.

III. HEATING, AIR CONDITIONING AND JANITORIAL SERVICES

1. The Lessor has furnished to the Lessee heating and air conditioning equipment in the office areas only of the stated premises. Lessee shall maintain same in satisfactory operating condition at all times for the stated premises, including replacement, during the term of the lease at the sole expense of the Lessee.

2. If heating and air conditioning equipment is needed in the warehouse portion of the stated premises during the term of this lease and any renewals thereof, this equipment will be provided by the Lessee at Lessee's sole expense. Lessee shall maintain the heating and air conditioning equipment in good working condition, reasonable wear and tear expected, at the Lessee's sole expense, including replacement, and return the same in good working condition at the termination of this lease.

3. Lessee will be required to show documentation preventative maintenance service, of no less than a quarterly basis, on the heating and air conditioning equipment in the stated premises during the term of this lease and any renewals periods thereof.

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

IV. LIGHT FIXTURES

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

V. MAINTENANCE AND REPAIRS

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

The Lessee shall maintain and keep in repair the exterior of the stated premises, including the roof, landscaping and parking lot during the term of this Lease and any renewal periods thereof, and shall be responsible for the replacement of all windows broken or damaged in the stated premises, except such breakage or damage caused to the exterior of the stated premises by the Lessor, its officers, or agents.

VI. UTILITIES

Unless otherwise indicated, the Lessee will bear the full cost of water service, garbage pick up, sewer and electrical service used by the Lessee. Lessee shall bear the full cost of telephone services, data services, pest control services, fire extinguisher service, and any other services provided to the stated premises, at its own expense.

VII. HANDICAPPED STANDARDS AND ALTERATIONS

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

2. The Lessee shall have the right to make reasonable alterations in and to the stated premises during the term of this lease upon first having obtained the written consent from the Lessor. The Lessor shall not unreasonably withhold consent to any such alterations.

VIII. INJURY OR DAMAGE TO PROPERTY ON PREMISES

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

IX. FIRE AND OTHER HAZARDS

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

2. The Lessee shall provide for fire protection during the term of this lease in accordance with the fire safety standards of the State Fire Marshall. The Lessee 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 stated premises shall be available for inspection by the State Fire Marshall, prior to occupancy by the Lessee, and at any reasonable times thereafter.

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

X. SUITABILITY FOR USE

The Lessor warrants that the premises are fit for the conduct of the governmental business of the Lessee. The Lessor further warrants that the

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 stated 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.~~

XI. EXPIRATION OF TERM

At the expiration of the Term, the Lessee will peaceably yield up the stated premises in good and tenantable repair. It is understood and agreed between the parties that the Lessee shall have the right to remove from the premises, all personal property of the Lessee and all fixtures, machinery, equipment, appurtenances and appliances placed or installed on the premises by it, provided the Lessee restores the premises to as good a state of repair as they were prior to the removal.

XII. SUBLETTING AND ASSIGNMENT

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

XIII. WAIVER OF DEFAULTS

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

XIV. RIGHT OF LESSOR TO INSPECT

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

XV. BREACH OF COVENANT

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

but without prejudice to any remedy which might otherwise be used by the Lessor for arrears of rent or for any breach of the Lessee's covenants herein contained.

XVI. ACKNOWLEDGMENT OF ASSIGNMENT

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

XVII. TAXES, INSURANCE, AND COMMISSIONS

1. The Lessee is self-insured, self administered and purchases excess liability insurance to protect against major losses. In addition, Lessee is self insured for Automobile and General Liability under Florida Statute 768.28, which limits Lessee's liability to \$100,000 per person and \$200,000 per incident.

2. Lessor will pay all real estate taxes on the stated premises. Lessee shall be liable for any casualty damage to the stated premises in an amount no less than 80% of the insurable replacement value of the stated premises and naming the Lessor as loss payee. Lessee shall be liable to carry fire insurance on any personal property of Lessee which may now or thereafter be placed on or in the stated 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.

3. 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.

4. 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 stated premises to Lessee.

XVIII. AVAILABILITY OF FUNDS

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

XIX. USE OF PREMISES

The Lessee will not make or suffer any unlawful, improper or offensive use of the premises or make any use or occupancy thereof contrary to the laws of the State of Florida, or to Ordinances of the City, as applicable and/or County in which the stated premises are located, now or hereinafter made, as may be applicable to the Lessee.

XX. RENEWAL

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

XXI. RIGHT TO TERMINATE

The Lessee shall have the right to terminate this lease upon giving nine (9) 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.

XXII. NOTICES AND INVOICES

All notices required to be served upon the Lessor shall be served by Registered or Certified Mail, Return Receipt Requested, at 5807 Staysail Court, Cape Coral, FL 33914 and all notices required to be served upon the Lessee shall be served by Registered or Certified Mail, Return Receipt Requested, at the address of the Lessee at P.O. Box 398, Ft. Myers, FL 33902-0398, Attention: Facilities Management. Invoices should be submitted monthly to Lee County Finance Department, P.O. Box 2238 Fort Myers, Florida 33902.

XXIII. CONTACTS

For purposes of this agreement, the County representative shall be Facilities Management and the Lessor's representative shall be David Zorn.

XXIV. DEFINITION OF TERMS

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

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

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

XXV. MISCELLANEOUS PROVISIONS

In the event that Lessor wishes to enter into negotiations to sell the stated premises, Lessor shall provide notice to Lessee prior to offering the stated premises to third parties.

XXVI. WRITTEN AGREEMENT

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

XXVII. OWNERSHIP

Lessor covenants and warrants that they are the owner (s) of the property that is the subject of this Lease, and as such are lawfully seized and possessed of the said described real property, have good and lawful right, power and sufficient interest to convey a leasehold in same, and that the described real property is free from any other leases or encumbrances that would otherwise interfere with the direct relationship between Lessor and Lessee herein.

THE REMAINDER OF THIS SPACE IS INTENTIONALLY LEFT BLANK

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

[Signature]
TAL, LLC

STATE OF FLORIDA

COUNTY OF LEE

The foregoing instrument was acknowledged before me this 6 day of October 2006 by Anthony Leebler SR, who is personally known to me or who has produced _____ as identification and did/did not take an oath.

[Signature]
Notary

Annmarie Faiman
Printed Name of Notary



Annmarie Faiman
Commission #DD277470
Expires: Dec 25, 2007
Bonded Thru
Atlantic Bonding Co., Inc.

Commission Expires

ATTEST:

CHARLIE GREEN, CLERK

TAMMARA HALL, CHAIRWOMAN, LEE COUNTY
BOARD OF COUNTY COMMISSIONERS

BY: DEPUTY CLERK

APPROVED AS TO LEGAL FORM BY
COUNTY ATTORNEY'S OFFICE