

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

Blue Sheet No. 20070546

1. ACTION REQUESTED/PURPOSE: Approve the License and Use Agreement between Lee County and Lee Memorial Health System for the use of the County building located at 5170 Orange Grove Boulevard, North Fort Myers used for senior programs. This License and Use Agreement is retroactive from October 1, 2006 through September 30, 2008 with an additional two year renewal.

2. FUNDING SOURCE: n/a

3. WHAT ACTION ACCOMPLISHES: To continue to provide a senior program at this facility. Lee Memorial senior program, known as the Share Club, includes wellness, educational and social programs.

4. MANAGEMENT RECOMMENDATION: Approve

5. Departmental Category: // CIIC		6. Meeting Date: 04.17.07
7. Agenda: <input checked="" type="checkbox"/> Consent Administrative <input type="checkbox"/> Appeals Public <input type="checkbox"/> Walk-On	8. Requirement/Purpose: (specify)	
	<input type="checkbox"/> Statute	9. Request Initiated: Commissioner Department Parks & Recreation Division
	<input type="checkbox"/> Ordinance	
	<input type="checkbox"/> Admin. Code	By: John Yarbrough <i>John Yarbrough</i>
<input checked="" type="checkbox"/> Other		

10. Background:

Since May 1996, the North Fort Myers Senior Center operations were contracted with the National Association of Senior Friends and later with H2U at Southwest Florida Regional Medical Center for the use of the North Fort Myers Senior Center for senior programs. Since Lee Memorial Health System has taken over Southwest Florida Regional Medial Center, the license and use agreement with H2U at Southwest Florida Regional Medical Center is null and void. This new agreement outlines similar responsibilities for Lee Memorial Health System and Lee County as the past agreements.

No funding is required.

11. 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>4/3/07</i>				<i>W. J. ...</i>	<i>DEA 4/14/07</i>	<i>4/14/07</i>	<i>4/14-07</i>	<i>4/14/07</i>	<i>[Signature]</i>

12. Commission Action:

- Approved
- Deferred
- Denied
- Other

Rec. by CoAtty
Date: 4/13/07
Time: 3:00 pm
Forwarded To:

RECEIVED BY COUNTY ADMIN: <i>[Signature]</i>
<i>4/14 9am</i>
COUNTY ADMIN FORWARDED TO: <i>[Signature]</i>
<i>4/14 4:36pm</i>

LICENSE AND USE AGREEMENT

This Agreement is made and entered into this _____ day of _____ 2007 between the Board of County Commissioners of LEE COUNTY, a political subdivision and charter county of the STATE OF FLORIDA hereinafter referred to as the "COUNTY", and Lee Memorial Health System, a special district created by the laws of Florida, hereinafter referred to as "LEE MEMORIAL".

WITNESSETH

The COUNTY and LEE MEMORIAL in consideration of the mutual promises contained herein agree on to the following:

BACKGROUND

1. The COUNTY owns a building located at 5170 Orange Grove Boulevard, North Fort Myers, Florida 33903 previously used for senior programs associated with a program which is no longer provided in Lee County. LEE MEMORIAL is a provider of a senior program, known as The Share Club, which includes wellness, educational and social programs. The COUNTY and LEE MEMORIAL wish to assess whether the LEE MEMORIAL program can effectively meet the needs of all of the parties utilizing this location. Therefore, the COUNTY and LEE MEMORIAL agree to enter into this agreement for the purpose of such an assessment.
2. In consideration for the mutual covenants and conditions conferred herein and with good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged. COUNTY hereby licenses the use of the building to LEE MEMORIAL, a special district of the State of Florida.

USE OF FACILITIES

3. LEE MEMORIAL may use the building located 5170 Orange Grove Boulevard, North Fort Myers, Florida 33903 for a period beginning October 1, 2006 and ending on September 30, 2008 unless terminated earlier or extended in accordance with the terms herein. The parties understand and agree that the use of facilities does not include the pool and surrounding area located on the site. The pool and surrounding area shall remain the COUNTY's sole responsibility, including the operation, maintenance and repair of such area.
4. The COUNTY agrees to permit LEE MEMORIAL to assume full usage and management of the building including the day to day operations to run senior programs as described for the public.

5. LEE MEMORIAL will offer the participants of the center a full range of senior programming.

OPTION TO RENEW/TERMINATION

6. This agreement may be renewed for additional two year periods upon written agreement of the parties sixty (60) days prior to expiration of the current term unless the agreement is renewed, in writing, by the COUNTY and LEE MEMORIAL, it will be deemed expired.
7. Amendments or changes to this Agreement must be made upon written agreement of the parties in manner similar to this Agreement.
8. This Agreement may be terminated by either party upon ninety (90) days written notice to the other party.

FINANCIAL RESPONSIBILITY

9. Except as otherwise set forth in this agreement, LEE MEMORIAL will assume financial responsibility for the day-to-day operations of the center including, but not limited to, salaries and benefits for LEE MEMORIAL employees, telephone, electric, water and sewer, trash and garbage, operating supplies, insurance and any other operating expenses.

INSURANCE

10. Insurance shall be provided by LEE MEMORIAL in accordance with the requirements set forth herein. A certificate of insurance shall be provided with the following limits:

Workers' Compensation: LEE MEMORIAL shall maintain coverage of worker's compensation in accordance with a self-administered, self-insured program established pursuant to Chapter 440, Florida Statutes.

Commercial General Liability: Coverage shall apply to premises and/or operations, products, and/or completed operations with minimum limits of \$1,000,000.00 per occurrence for bodily injury and property damage. LEE COUNTY BOARD OF COUNTY COMMISSIONERS, ITS OFFICERS AND EMPLOYEES SHALL BE INCLUDED AS AN ADDITIONAL INSURED TO THE GENERAL LIABILITY.

All Risk Property Damage Insurance: Coverage shall apply to structures included within the use agreement, contents and personal property on the premises as well

as any leasehold improvements in an amount equal to 100% of the full replacement cost value.

Certificate of Insurance: Said certificate shall also provide a thirty (30) day notification clause in the event of cancellation, non-renewal or adverse change. In the event the insurance coverage expires prior to the completion of the project, a renewal certificate shall be on file with the COUNTY at least fifteen (15) days prior to the expiration date. Within ten (10) days of the execution of Agreement, LEE MEMORIAL will provide a certificate of insurance to Lee County Risk Management P.O. Box 398, Fort Myers, FL 33902-0398.

PROPERTY CONDITION/PROTECTION/IMPROVEMENTS

11. LEE MEMORIAL accepts the property in the described condition as follows: Premises are in a condition suitable for the intended purpose use of conducting senior programs.
12. The COUNTY agrees to enhance the current landscaping. The COUNTY and LEE MEMORIAL will work cooperatively to develop enhancements acceptable to both parties. Thereafter, LEE MEMORIAL shall maintain the landscaping and grounds for the purpose of maintaining the building in an attractive condition.
13. The COUNTY will be responsible for regular maintenance.
14. The COUNTY will be responsible for regular fire extinguisher service.
15. The COUNTY will be responsible for regular pest control service.
16. The COUNTY will maintain the parking lot.
17. The COUNTY will be responsible for all repairs from normal wear and tear. The COUNTY will be responsible for major repairs.
18. The COUNTY will be responsible for maintenance and repair of AC units in the building.
19. LEE MEMORIAL shall use reasonable efforts to protect the building from damage, and shall surrender it in the same condition (except for normal wear) as received.
20. The COUNTY may make improvements to the building at its discretion and such improvements shall become part of the realty when made and shall remain with the building upon expiration of this Agreement.

21. LEE MEMORIAL may make improvements to the building. Any permanent improvements must be requested and approved in writing by Lee County Parks and Recreation with the understanding that said permanent improvements will remain with the building upon expiration. All improvements must meet current building, ADA, safety regulations and codes and must be approved by the Facilities Management Director prior to execution of the project.
22. LEE MEMORIAL may make non-permanent improvements to the building but it must be understood that any such improvements must be removed from the building or they will remain with the building upon expiration unless otherwise agreed to by both parties.

INSPECTION OF PROMISES

23. The COUNTY, or their designee, shall have the right to inspect the building at any reasonable time during the duration of the Agreement.

INDEMNIFICATION

24. COUNTY will be liable for money damages in tort for any injuries to or loses of property, personal injury, or death caused by the negligent or wrongful act(s) or omission(s) of any official or employee of the COUNTY while acting within the scope of the official's or employee's office or employment under circumstances in which a private person would be held liable in accordance with the general laws of the State of Florida, subject to the limitations of \$100,000.00 or any claim or judgment, or portions thereof, which when totaled with all other claims or judgment, or portions thereof, which when totaled with all other claims or judgments paid by the COUNTY arising out of the same incident or occurrence, does not exceed the sum of \$200,000.00, as set out in Section 768.28, Florida Statutes, as it may be revised or amended from time to time.

(Balance of Page Intentionally Left Blank)

IN WITNESS WHEREOF, the COUNTY and LEE MEMORIAL have cased this Agreement to be executed on the day and year first above written.

ATTEST:

Charlie Green, Clerk

Board of County Commissioners
of Lee County, Florida

By: _____
Deputy Clerk

By: _____
Chair

Lee Memorial Health System

Witnesses:

Travis Hay
marjory may
Print Name

By: *CB Akum*
Vice President of Post Acute Care Services
Lee Memorial Health System

Lee Maxwell
Lee Maxwell
Print Name

Approved as to Legal Form

By: _____
Lee County Attorney's Office