

**LEE COUNTY BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

BLUE SHEET NO: 20001052

1. REQUESTED MOTION:

ACTION REQUESTED: Approve and execute new agreement for management and operation of Lee Civic Center Complex with the Southwest Florida and Lee County Fair Association, Incorporated.

WHY ACTION IS NECESSARY: Board must approve all agreements.

WHAT ACTION ACCOMPLISHES: Allows the Southwest Florida and Lee County Fair Association to continue to provide a recreational resource to the citizens of Lee County

2. DEPARTMENTAL CATEGORY: 07 Public Services Divisions
COMMISSION DISTRICT #: -

7A

3. MEETING DATE:

10-31-2000

4. AGENDA

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- TIME REQUIRED: _____

5. REQUIREMENT/PURPOSE

- (Specify)
- STATUTE _____
 - ORDINANCE _____
 - ADMIN. CODE _____
 - OTHER _____

6. REQUESTOR OF INFORMATION

- A. COMMISSIONER: _____
- B. DEPARTMENT: Parks and Recreation
- C. DIVISION: _____
- BY: John Yarbrough, Director

John Yarbrough

7. BACKGROUND:

On January 3, 1996, the Board of County Commissioners approved an agreement for management and operation of the Lee Civic Center Complex. This agreement has been a very beneficial arrangement for both the Fair Association and Lee County. Since the agreement, the Fair Association has spent in excess of \$700,000 in making repairs and improvements.

The Fair Association is now seeking to extend the management agreement to a twenty (20) year term to replace the current agreement of 10 years. This will allow the Fair Association to enter into long range plans for continued improvements.

Please see attached Agreement

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL

DEPARTMENT DIRECTOR	Purchasing	Human Relations	County Administration				OTHER	COUNTY ATTORNEY	COUNTY MANAGER
			OA	OM	Risk	GC			
<i>J. K. ...</i>			<i>RK 10/10</i>	<i>10/11</i>	<i>10/10</i>	<i>10/10</i>	<i>10/10</i>	<i>10/10</i>	<i>10/10</i>

10. COMMISSION ACTION:

- APPROVED AS AMENDED (4-0) (COM. COY-ABSTAINED)
- DENIED
- DEFERRED
- OTHER

RECEIVED BY
COUNTY ADMIN.
10/31/2000
10:31:45 PM
COUNTY ADMIN.
FORWARDED TO:
10/31/00
11:06:11

RECVG.
by CO. ATTY.
10/31/2000
3:15 PM
CO. ATTY.
FORWARDED TO:
10/31/00 9:20 AM

ADMINISTRATIVE AGENDA
October 31, 2000

1. **COUNTY MANAGER**
2. **PLANNING AND CONSTRUCTION**
3. **COUNTY COMMISSIONERS**
4. **COMMUNITY DEVELOPMENT**
5. **HUMAN SERVICES**
6. **INDEPENDENT DIVISIONS**
7. **PUBLIC SERVICE DIVISIONS**

(a)

ACTION REQUESTED:

Approve new agreement for management and operation of Lee Civic Center Complex with the Southwest Florida and Lee County Fair Association, Incorporated.

WHY ACTION IS NECESSARY:

Board must approve all agreements.

WHAT THE ACTION ACCOMPLISHES:

Allows the Southwest Florida and Lee County Fair Association to continue to provide a recreational resource to the citizens of Lee County. (#20001052-Parks and Recreation)

8. **SOLID WASTE-NATURAL RESOURCES**
9. **TRANSPORTATION**
10. **UTILITIES**
11. **COUNTY ATTORNEY**
12. **HEARING EXAMINER**
13. **PORT AUTHORITY**
14. **CONSTITUTIONAL OFFICERS**
15. **COMMUNITY REDEVELOPMENT AGENCY**
16. **VISITOR AND CONVENTION BUREAU**
17. **PUBLIC WORKS DIVISION**

AGREEMENT FOR MANAGEMENT

OF

LEE CIVIC CENTER COMPLEX

WHEREAS, Lee County owns a one-hundred acre tract in North Fort Myers, Florida, containing the Lee Civic Center and other buildings, collectively known as the Lee Civic Center Complex; and

WHEREAS, the Board of County Commissioners of Lee County, Florida, desires to have the Lee Civic Center Complex managed by the Southwest Florida and Lee County Fair Association, Inc., a not-for-profit organization incorporated under Chapter 616, Florida Statutes, and chartered in 1960 by the Circuit Court in Lee County, Florida; and

WHEREAS, the Southwest Florida and Lee County Fair Association, Inc. desires to manage the Lee Civic Center Complex for Lee County;

NOW, THEREFORE, the parties hereto hereby agree as follows:

INITIAL RECITALS

1. The above recitals are hereby incorporated into this Agreement as though fully set forth below.

2. The Lee Civic Center Complex shall be hereafter referred to as "the Complex" and defined as that property (including buildings and all structures) as shown on the map attached as Exhibit "A", incorporated herein by reference.

3. Lee County, acting by and through its duly elected Board of County Commissioners or such other persons as permitted by applicable state law, shall be hereafter referred to as "the County."

4. The Southwest Florida and Lee County Fair Association, Inc., acting by and through its duly elected Board of Directors or such other members as permitted by applicable state law, shall hereafter be referred to as "the Fair Association."

USE OF COMPLEX

5. The County hereby contracts with the Fair Association to manage the Complex for the term hereof (and any extensions as provided under this agreement).

The Fair Association may enter into leases, licenses, contracts, subleases, assignments or other agreements of its choice regarding use, maintenance and/or operation of the Complex, without prior approval by the County. The relationship between the parties shall be that of independent contractors, and nothing herein shall be construed as creating a partnership, joint venture, or any relationship other than independent contractors.

6. The Fair Association shall make a good faith effort to accommodate community groups in their requests for use of the Complex. However, the County shall not expect the Fair Association to subsidize the use of the Complex by community groups.

7. The Civic Center shall be used as an emergency relief center, should Lee County be affected by a major or catastrophic disaster, or if the Governor requests the use of the facility to assist another part of Florida with relief of a major or catastrophic disaster. The purpose of the relief center would be to co-ordinate and promote an efficient flow of donated goods and services entering into the area as a result of a major or catastrophic disaster, or as a center to support another area of the state impacted by a major or catastrophic disaster. As an emergency relief center, the Civic Center would serve one of the following missions: (a) a Regional Relief Center (RRC) as defined by the State Comprehensive Emergency Management Plan; (b) a Volunteer and Donations Staging Area for donated relief resources entering Lee County; (c) a Volunteer and Donations Staging Area supporting another established Regional Center. However, it is understood that the Civic Center would be used to carry out these missions only under the following conditions: (a) The Board of County Commissioners of Lee County has issued a State of Local Emergency, or the County has been affected by a major or catastrophic disaster; and/or (b) the Governor, under Executive Order, requests the use of the Civic Center to assist another area recover from a major or catastrophic disaster. The County agrees to pay all costs associated with the usage under this Paragraph.

8. The Fair Association shall not use the Complex for any unlawful purpose, and shall comply with all lawful rules, regulations and ordinances of governmental

authorities wherein the Complex is located, but only insofar as such ordinances and regulations pertain to the manner in which the Fair Association shall use the Complex.

FINANCIAL TERMS

9. The Fair Association agrees to pay all costs of operation and maintenance of the Complex during the term hereof, unless otherwise provided in this Agreement, and shall pay any applicable sales and use tax levied upon its use and occupancy of the Complex.

10. Both parties acknowledge that the Complex needs certain repairs and improvements, both at this time and in the future, and that there may be some improvements/repairs required which neither party can foresee at this time. The Fair Association shall perform various improvements and repairs to the Complex over the course of this Agreement without penalty from the County.

11. The Fair Association agrees to maintain the Complex in good condition and not to perform any permanent alteration(s) to the Complex without prior discussion and written approval by the County (through its Parks and Recreation staff).

12. The County may inspect the Complex at any reasonable time during the term of this Agreement.

TERM OF AGREEMENT

13. This Agreement shall commence on October 1, 2000, for an initial term of twenty (20) years, subject to the termination provisions specified below. It may be renewed for successive terms of ten (10) years upon mutual agreement. The parties shall commence negotiations of a new agreement, if any, at least six (6) months prior to the end of the current term.

14. This Agreement may be terminated for cause by either party, upon eighteen (18) months notice. The County shall not have the right to terminate this Agreement for the purpose of turning over management of the Complex to a third party or solely because the Fair Association is making a profit. In addition, the Agreement may be terminated at any time by mutual agreement of parties. In the event of such termination, the Fair Association shall return the Complex to the County in the same or better condition than it was received, normal wear and tear excepted.

15. In the event of termination of this Agreement, the Fair Association shall have the right to continue to use the Complex for purposes of staging the Southwest Florida Fair on an annual basis upon mutually determined terms and conditions between the parties.

PRIOR AGREEMENTS AND ADDENDUMS BETWEEN THE PARTIES

16. All prior Agreements and Addendum's between the parties regarding the Complex are hereby terminated and superseded by this Agreement.

INSURANCE

17. Insurance for the Complex shall be provided by the Fair Association in accordance with Exhibit "B," which is attached hereto and hereby incorporated by reference.

18. In the event that the main building at the Complex is destroyed by fire or other casualty to the extent of at least twenty-five (25%) percent of replacement cost, either party shall have the option of terminating this Agreement (or any renewal thereof) by serving written notice upon the other within thirty (30) days from the date of the casualty. In the event that the main building is damaged or partially destroyed by fire or other casualty in the amount of less than twenty-five (25%) of the replacement cost, the County shall restore the premises and, to the extent such cost is not reimbursed to the County by the County's insurance, such non-reimbursed amounts shall be amortized over the remaining length of the Agreement or a ten (10) year period (whichever is longer), and repaid by the Fair Association from profits at the Complex.

INVENTORY

19. An Inventory of all the County equipment and property located at the Complex is attached hereto as Exhibit "C" and hereby incorporated by reference. The Fair Association may use such equipment and property, which shall continue to be the property of the County, and will repair or replace it with comparable equipment or property as deemed necessary. Upon expiration or termination of the Agreement, all equipment and property listed on Exhibit "C" will be returned, if possible, to the County in good condition, normal wear and tear excepted.

INDEMNIFICATION

20. To the extent permitted under Florida statute, the Fair Association shall defend, hold harmless and indemnify the County from and against any and all liability, loss, claims, damages, costs, attorneys fees, and expenses of whatever kind or nature which the County may sustain, incur, or be required to pay either by reason of the loss or improper use of any monies disbursed or to be disbursed hereunder, including but not limited to fraud, defalcation, or dishonesty on the part of any person represented or employed by the Fair Association or by reason of the intentional or negligent act of the Fair Association or its agents, representatives, and/or employees.

21. The County 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 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 the 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 the Section 768.28, Florida Statutes, as it may be amended from time to time.

LOAN

22. On or around January 1998, the County loaned the Fair Association \$200,000.00 for the construction of a multi-purpose agricultural building on the Complex. Subject to the provisions of Paragraph 23, the Fair Association shall repay the loan at the rate of Ten Thousand (\$10,000.00) Dollars per year over a twenty year term, commencing on January 31, 1998 and on January 31 of each succeeding year until the loan is paid in full or is otherwise terminated per the provision of Paragraph 23 below. No interest or other charges shall be imposed by the County.

23. In the event that the Agreement terminates, expires, or is cancelled for any reason by either party prior to repayment in full by the Fair Association, repayment of any outstanding loan amount by the Fair Association shall be deemed automatically waived by the County and the Fair Association shall have no obligation to repay any outstanding principal of this loan.

MISCELLANEOUS PROVISIONS

24. This Agreement may only be modified by a written Agreement signed with the same formality of this Agreement.

25. For purposes of notices hereunder, the respective parties shall be served by certified mail, return receipt requested, at their respective addresses as follows:

FAIR ASSOCIATION: President, Southwest Florida and Lee County Fair Association, Inc., 11831 Bayshore Road, North Fort Myers, FL 33917.

COUNTY: Director, Parks and Recreation Division, P.O. Box 398, Fort Myers, FL 33902.

In the event the contact person for either party changes, the changing party will notify the other party as soon as practicable regarding the identity of the new contact person.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed on this 31st day of October, 2000, by their respective officers or parties thereunto duly authorized.

SOUTHWEST FLORIDA AND LEE
COUNTY FAIR ASSOCIATION, INC.

BY: [Signature]
(SIGNATURE)

TITLE: President

APPROVED AS TO LEGAL FORM:

BY: _____
ATTORNEY FOR FAIR ASSOCIATION

LEE COUNTY
BOARD OF COUNTY COMMISSIONERS

BY: [Signature]
(SIGNATURE)

TITLE: Chairman

APPROVED AS TO LEGAL FORM:

BY: [Signature]
COUNTY ATTORNEY'S OFFICE

Attest:
Charlie Green, Ex-Officio Clerk

By: [Signature]
Deputy Clerk

Exhibit "B"

Insurance Requirements for Southwest Florida and Lee County Fair Association, Inc.

During the term of the attached Agreement, Southwest Florida and Lee County Fair Association, Inc. shall maintain the following insurance coverages:

Commercial General Liability

Coverage shall apply to premises and/or operations, products and/or completed operations, independent contractors, contractual liability pertaining to this Agreement and broad form property damage exposures with minimum limits of \$1,000,000 per occurrence for bodily injury and property damage.

Concession/Liquor Liability

Coverage shall apply to bodily injury, personal injury or property damage for which the Fair Association may be held liable by reason of causing or contributing to the intoxication of any person; the furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages with minimum limits of \$1,000,000 per occurrence.

Certificate of Insurance

A certificate of insurance shall be issued to the Lee County Board of County Commissioners evidencing the above referenced coverages. Said certificate shall be on file and approved by the Lee County Risk Management office. Said coverages shall list Lee County Board Commissioners as additional insured. Coverage granted to the additional insured shall apply on a primary basis with the additional insured's coverage being excess.

All coverages shall provide a 30 day notification clause in the event of cancellation, non-renewal or adverse change.

During the term of the attached Agreement, Lee County and its Board of County Commissioners shall maintain the following insurance coverages:

All Risk Property Damage

Coverage shall apply to all personal property/structures/improvements on the premises as well as any leasehold improvements the Fair Association may make to the premises in an amount equal to 100% of the full replacement cost value.

ACORD**CERTIFICATE OF LIABILITY INSURANCE**DATE (MM/DD/YY)
9/21/00
PRODUCER
 Haas and Wilkerson, Inc.
 PO Box 2946
 Shawnee Mission, KS 66201-1346
 913-432-4400

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE
INSURED
 SW Florida & Lee County Fair Assn., Inc.
 11831 Bayshore Rd.
 Ft. Myers FL 33917

COMPANY A National Fire Insurance
COMPANY B General Star Indemnity Co.
COMPANY C
COMPANY D
COVERAGE
 THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CD LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY	1077168290	9/01/00	9/01/01	GENERAL AGGREGATE \$ 5000000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				PRODUCTS - COMP/OP AGG \$ 1000000
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				PERSONAL & ADV INJURY \$ 1000000
	<input type="checkbox"/> OWNER'S & CONTRACTOR'S PROT				EACH OCCURRENCE \$ 1000000
					FIRE DAMAGE (Any one fire) \$ 500000
					MED EXP (Any one person) \$ 5000
	AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT \$
	<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident) \$
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE \$
	<input type="checkbox"/> HIRED AUTOS				
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$
	<input type="checkbox"/> ANY AUTO				OTHER THAN AUTO-ONLY: \$
					EACH ACCIDENT \$
					AGGREGATE \$
B	EXCESS LIABILITY	1XG372920	9/01/00	9/01/01	EACH OCCURRENCE \$ 1000000
	<input type="checkbox"/> UMBRELLA FORM				AGGREGATE \$ 1000000
	<input checked="" type="checkbox"/> OTHER THAN UMBRELLA FORM				\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATUTORY LIMITS OTHER \$
	THE PROPRIETOR/PARTNERS/EXECUTIVE OFFICERS ARE: <input type="checkbox"/> INCL <input type="checkbox"/> EXCL				EL EACH ACCIDENT \$
					EL DISEASE - POLICY LIMIT \$
					EL DISEASE - EA EMPLOYEE \$
A	OTHER Liquor Liability	1077168290	9/01/00	9/01/01	Each Common Cause \$1,000,000 Aggregate \$1,000,000

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS
 THE CERTIFICATE HOLDER IS NAMED AS ADDITIONAL INSURED ON THE COMMERCIAL GENERAL LIABILITY POLICY BUT ONLY WITH RESPECT TO LIABILITY ARISING OUT OF THE NAMED INSURED'S OPERATIONS.

CERTIFICATE HOLDER
 LEE COUNTY BOARD OF COUNTY COMMISSIONERS (LANDLORD)

CANCELLATION
 SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL endeavor to MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT. BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.
 AUTHORIZED REPRESENTATIVE
Donald R. Allen