

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

**Blue Sheet No. 20050945**

**1. ACTION REQUESTED/PURPOSE:**

Approve the Occupational License Agreement with LEMAE, Inc., setting forth the methodology for assessing the occupational license as a fleamarket.

**2. WHAT ACTION ACCOMPLISHES:**

Benefits the small business entrepreneur who is selling goods and services at the North Side Fleamarket.

**3. MANAGEMENT RECOMMENDATION:**

Tax Collector and County Attorney's Office recommend approval.

**4. Departmental Category:**

*C12A*

**5. Meeting Date:**

*08-02-2005*

**6. Agenda:**

**7. Requirement/Purpose: (specify)**

**8. Request Initiated:**

<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Statute
<input type="checkbox"/> Administrative	<input checked="" type="checkbox"/> Ordinance <u>95-22</u>
<input type="checkbox"/> Appeals	<input type="checkbox"/> Admin. Code
<input type="checkbox"/> Public	<input checked="" type="checkbox"/> Other <u>Resolution</u>
<input type="checkbox"/> Walk-On	<u>No. 94-07-14</u>

Commissioner \_\_\_\_\_  
 Department County Attorney  
 Division General Services  
 By: \_\_\_\_\_  
Scott S. Coovert  
 Assistant County Attorney

**9. Background:**

LEMAE, Inc. is the owner of the North Side Fleamarket. LEMAE has requested an arranged payment for the fleamarket. As a fleamarket, LEMAE has all types of businesses that use their space, some permanently and some for only a day or so. In order to accommodate the fleamarket business, LEMAE prefers to hold an "umbrella" occupational license for all of the vendors that use their space.

In determining the appropriate methodology with LEMAE the best approach is to calculate the daily average number of vendors who conduct business at the North Side Fleamarket during the preceding 12 month period. This average number shall be computed by adding the number of vendors in occupancy on the first market day of each calendar month and then dividing by 12.

This Agreement provides for a fluctuation of vendors during the course of the business year, depending on the time of year and the general market conditions. Each year the fleamarket will follow this methodology, who will submit to the Tax Collector payment in accord with this Agreement.

ATTACHMENT: (3) Occupational License Agreement Between Lee County and LEMAE, Inc.

**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.	
N/A	N/A	N/A	N/A		<i>RK 4/23</i>	<i>08/23/05</i>	<i>11/23/05</i>	<i>11/23/05</i>	<i>S 11/105</i>

**11. Commission Action:**

- Approved
- Deferred
- Denied
- Other

CO. ATTY.  
FORWARDED  
TO CO. ADMIN.  
*10/23/05*

~~CO. ADMIN.  
FORWARDED TO  
COUNTY ADMIN.  
RECEIVED BY~~

RECEIVED BY  
COUNTY ADMIN:  
*6-23-05*  
*3:25*  
COUNTY ADMIN  
FORWARDED TO: *11*

**OCCUPATIONAL LICENSE AGREEMENT  
BETWEEN LEE COUNTY AND LEMAE, INC.**

This Agreement made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by and between LEE COUNTY, a political subdivision and Charter County of the State of Florida, acting by and through its Board of County Commissioners ("Lee County") and LEMAE, INC., a Florida corporation (hereinafter referred to as "LEMAE").

**WITNESSETH:**

**WHEREAS**, Lee County has enacted Ordinance Number 95-23, more commonly known as the Lee County Occupational License Tax Ordinance ("Ordinance"); and

**WHEREAS**, the purpose of this Ordinance is to grant the privilege of engaging in managing any business, profession, or occupation within the jurisdiction of Lee County by means of a local occupational license; and

**WHEREAS**, pursuant to this Ordinance, Lee County has levied an occupational license tax; and

**WHEREAS**, upon payment of this tax by any business, profession or occupation, Lee County will issue an occupational license thereto; and

**WHEREAS**, LEMAE is a business located within the jurisdiction of Lee County and is subject to the Lee County Occupational License Tax Ordinance; and

**WHEREAS**, LEMAE is the type of business known as a fleamarket wherein numerous vendors market their wares; and

**WHEREAS**, the exact number of vendors fluctuates substantially during the course of each business year depending on the time of year and general market conditions as well as the fact that a number of the subject vendors are transient in nature and may occupy vendor space at Lame for a very short period of time; and

**WHEREAS**, LEMAE desires to hold an "umbrella" occupational license for all of the businesses that use their space, in order to accommodate the transient nature of some of the businesses who occupy space; and

**WHEREAS**, since there is no provision in the Ordinance to accommodate an equitable payment of an occupational license tax under these circumstances, an agreement between the parties will benefit both the County and LEMAE.

**NOW, THEREFORE**, in consideration of the mutual agreements herein contained and other consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Due to the variable nature of the number of vendors at LEMAE during the course of the year, the parties hereto have determined that the most equitable way to calculate an occupational license tax for LEMAE is to utilize a number which is equal to the daily average number of vendors who conducted business at LEMAE during the preceding 12 month period. This average number shall be computed by adding the number of vendors in occupancy on the first market day of each calendar month and then dividing by 12.
2. Further, LEMAE has less than 40 employees and, as a result, will pay \$30.00 per occupational license pursuant to the Ordinance.
3. Therefore, the total occupational license tax to be charged to LEMAE on a yearly basis will be \$30.00 multiplied by the daily average number of vendors as described in Paragraph One above.
4. LEMAE will provide the Tax Collector's Office a letter each quarter for the first two (2) years and then annually thereafter, simultaneous with payment of the occupational license tax, which verifies the daily average number of vendors at LEMAE for the preceding year.
5. In addition to the occupational license tax LEMAE will also pay, if applicable, the Small Quantity Generator Notification and Verification Surcharge pursuant to Lee County Resolution No. 94-07-14.
6. This Agreement will inure to the benefit of and will be binding upon the heirs, successors, and assigns of the parties.
7. Any amendments to this Agreement will only be valid if done in writing and signed by both parties hereto, or their heirs, successors or assigns.
8. This Agreement, its validity and interpretation, will be governed by the laws of the State of Florida.
9. In the event that Lee County Ordinance No. 95-23 and/or Lee County Resolution No. 94-07-14 are either amended or repealed then this Agreement will be modified so as to be consistent with said amendment or repeal.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first written above.

Judy Jones  
Witness Signature

Judy Jones  
Printed Name

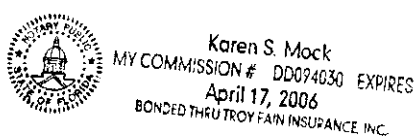
Shado Jones  
Witness Signature

SHADO JONES  
Printed Name

LEMAE, INC.  
By: [Signature]  
Ben Jones, President

STATE OF FLORIDA  
COUNTY OF Duval

The foregoing instrument was signed and acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 2005, by Ben Jones who produced the following as identification [ID] or is personally known to me, and who did/did not take an oath.  
[stamp or seal]



[Signature]  
[Signature of Notary]  
[Signature]  
[Typed or Printed Name]

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