

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

Blue Sheet No. 20051337

1. ACTION REQUESTED/PURPOSE:

Approve lease with DeLaCruz Properties, LLC for 5,600 square feet of space at 3114 Lee Boulevard, Building B, Unit #1 in Lehigh Acres to be utilized by the Tax Collector's office. Lease is for 5 years with one, 5 year renewal period upon the same terms and conditions. Base rental cost is \$18.00 per square foot or \$100,800 per year with CAM cost of \$2.50 per square foot or \$14,000 per year. Annual increases to the base rental cost will be 3%. Lease can be terminated upon giving 3 months written notice to Lessor. Also approve Budget transfer from General Fund Reserves in the amount of \$37,000 to cover the additional cost above their current space lease amount.

2. WHAT ACTION ACCOMPLISHES: Allows Tax Collectors office to expand their offices in Lehigh Acres.

3. MANAGEMENT RECOMMENDATION: Approve

4. Departmental Category:

C2A

5. Meeting Date:

10-11-2005

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*

9. Background:

Two years ago, the Tax Collector's office notified Facilities Management that they needed to expand their offices in Lehigh Acres from the current 2,606 square feet they occupy at Lee Boulevard Plaza. Facilities contacted the current Lessor at Lee Boulevard Plaza for extra space but nothing could be worked out. A new facility was found at 3114 Lee Boulevard, Building B, Unit #1 and a lease negotiated with the owners of the property.

UPON TRANSFER FUNDING WILL BE AVAILABLE IN THE FOLLOWING ACCOUNT STRING:

CB5130500100.504410

Support Budgets/Tax Collector/General Fund/Land & Building Rental

Attachments: Lease Agreements (2)
Transfer Form

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
<i>J. J. ... 9.19.05</i>	N/A			<i>[Signature]</i>	Analyst <i>GA 9/20/05</i>	Risk <i>9/20/05</i>	Grants <i>9/20/05</i>	Def. <i>9/22/05</i>	<i>J. J. ... 9.19.05</i>

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

RECEIVED BY
COUNTY ADMIN: *[Signature]*
9-19-05
2:00
COUNTY ADMIN
FORWARDED TO: *[Signature]*
9.22
4:30

10:55 AM
CO. ATTY.
FORWARDED TO:
[Signature]
9-19-05

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 DeLaCruz Properties 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:

**3114 Lee Boulevard
Building B, Unit #1
Lehigh Acres, Florida 33971**

which shall constitute an aggregate area of 5,600 square feet of net rentable office 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 \$18.00 per square foot per year. The Lessor shall also provide parking spaces at the building for the non-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 upon the first day of the month following the issuance of Lessor's Certificate of Occupancy and continuing in effect for a period of five years from that date.

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 four hundred dollars and no cents (\$8,400.00) 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, and through any renewal periods, 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: 322 Gunnery Road, Suite B, Lehigh Acres, Florida 33971.

III. ADDITIONAL RENT

In addition to the base rental rate, there will be an annual Common Area Maintenance (CAM) charge of \$2.50 per square foot per year, or one thousand one hundred sixty-six dollars and sixty-seven cents (\$1,166.67) per month, for the first year of the initial lease term described in Article I of this lease. It is acknowledged between the Lessor and Lessee that this rate may increase or decrease on an annual basis. Lessor will provide Lessee with a statement of actual costs for Common Area Maintenance on an annual basis.

IV. HEATING, AIR CONDITIONING AND JANITORIAL SERVICES

1. The Lessor agrees to furnish to the Lessee heating and air conditioning equipment. The Lessee agrees to maintain the same in satisfactory operating condition at all times for the leased premises during the term of the lease at the sole expense of the Lessee. Lessor agrees to replace major components or complete replacement of the HVAC system after its warranty period has ended.

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

V. LIGHT FIXTURES

The Lessee agrees to install in the stated premises, suitable light fixtures for the use of the Lessee.

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.

VI. MAINTENANCE AND REPAIRS

The Lessee shall provide for interior maintenance and repairs, and replacement of interior equipment as may be necessary due to normal usage. The Lessee shall, during the term of this Lease, keep the interior 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 excepted.

The Lessor shall maintain and keep in repair the exterior of the stated premises, including the roof and exterior doors, during the term of this Lease 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 Lessee, its officers, or agents.

VII. UTILITIES

Unless otherwise indicated, the Lessee will bear the full cost of water service, sewer service, electric service, telephone service, data service, pest control service and any other services provided to the leased space, at

its own expense. Lessee shall bear its proportionate share of the garbage service through the Common Area Maintenance charges.

VIII. 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.

VIX. 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.

X. 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 Lessor shall provide for fire protection during the term of this lease in accordance with the fire safety standards of the State Fire Marshall. The Lessor 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.

XI. 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.

XII. 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.

XIII. 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.

XIV. 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.

XV. 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.

XVI. 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.

XVII. 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.

XVIII. TAXES, INSURANCE, AND COMMISSIONS

1. Lessor will pay all real estate taxes and fire insurance premiums on the stated premises. Lessee shall not be liable to carry fire insurance on the premises or property of the Lessor or any other personal property of Lessor which may now or thereafter be placed on 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.

2. 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.

3. 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.

4. The Lessor shall purchase and maintain Commercial General Liability insurance in the amount of \$500,000 Per Person, \$1,000,000 Per Occurrence Bodily Injury and \$100,000 Per Occurrence Property Damage, or \$1,000,000 Per Occurrence Combined Single Limit of Bodily Injury and Property Damage. Coverage shall include Contractual Liability as pertaining to this contract with insurers approved by the County Risk Manager.

The Lessor agrees that these insurance requirements shall not relieve or limit Lessor's liability and that the Lessee does not in any way represent that the insurance required is sufficient or adequate to protect the Lessor's interest or liabilities, but are merely minimums.

XIX. 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.

XX. 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.

XXI. RENEWAL

The Lessee is hereby granted the option to renew this Lease for one additional five year period 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.

XXII. RIGHT TO TERMINATE

The Lessee shall have the right to terminate this lease upon giving six (6) 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.

XXIII. NOTICES AND INVOICES

All notices required to be served upon the Lessor shall be served by Registered or Certified Mail, Return Receipt Requested, at 322 Gunnery Road, Suite B, Lehigh Acres, Florida 33971 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, Florida 33971, Attention: Facilities Management. Invoices should be Submitted monthly to Lee County Finance Department, P.O. Box 2238 Fort Myers, Florida 33902.

XXIV. CONTACTS

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

XXV. 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.

XXVI. MISCELLANEOUS PROVISIONS

Lessor agrees to relieve Lessee from the monthly rental payment for a period of three months in lieu of tenant improvement allowances. At the end of the three month period, Lessee will resume paying Lessor the monthly base rental cost and monthly CAM costs as stated on Page 1 of 8 and Page 2 of 8, Section 3 of this Lease.

XXVII. 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.

XXVIII. 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.

THIS SPACE 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.

Melisa DeLaCruz
LESSOR

Shirley L. DeLaCruz
WITNESS

Jaska M. Gonsky
WITNESS

ATTEST:

CHARLIE GREEN, CLERK

CHAIRMAN, LEE COUNTY BOARD OF
COUNTY COMMISSIONERS

BY: DEPUTY CLERK

APPROVED AS TO LEGAL FORM BY
COUNTY ATTORNEY'S OFFICE

(Lease for Dela Cruz Plaza/my documents 2)