

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

Blue Sheet No. 20051613

1. ACTION REQUESTED/PURPOSE: Authorize Chairman to sign a five-year lease with the United States Department of Commerce to continue operation of "NOAA Weather Radio" at the Lee County Emergency Operations Center (EOC). Lease provides \$4,250.16 in funding for electricity used by their equipment for the first year with an additional 4% increase in subsequent years.

2. WHAT ACTION ACCOMPLISHES: Provides for NOAA Radio continuous operation from the Lee County EOC.

3. MANAGEMENT RECOMMENDATION: Staff recommends approval.

4. Departmental Category:

C 7B

5. Meeting Date:

11-15-2005

6. Agenda:

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

7. Requirement/Purpose: (specify)

- Statute**
- Ordinance**
- Admin. Code**
- Other**

8. Request Initiated:

Commissioner _____
Department Public Safety
Division Emergency Management

By: Michael C. Bridges, Deputy Director

Michael C. Bridges

9. Background:

Since October 1982, Lee County has housed radio and antenna equipment owned by the United States Department of Commerce (DOC), National Oceanic and Atmospheric Administration (NOAA) at the Emergency Operations Center (EOC). The equipment, commonly known as "NOAA Weather Radio," is used to transmit weather information to the public 24-hours a day from the National Weather Service Office in Ruskin, Florida.

This arrangement is renewed every five years through a lease signed by Lee County and the Department of Commerce. In return for the space in the building and on the radio tower for equipment, Lee County receives funding from the Federal Government to cover the electrical costs for running the equipment. The current lease expired the end of September 2003. Until recently, the DOC had been unable to provide a dedicated point of contact to negotiate a new lease but NOAA did continue to pay for their systems electricity. A new lease has now been negotiated and the attached lease continues this arrangement between the County and the Federal Government through September 2010. Funding to cover electrical costs will be \$4,250.16 for the first year with an additional 4% increase in subsequent years. Recurring maintenance on all related equipment is the Federal Government's responsibility.

Attachment 1: Four copies of the subject lease.

Attachment 2: Letter from U. S. Department of Commerce, NOAA, regarding responsibility for funding electrical power costs.

10. Review for Scheduling:

| Department Director | Purchasing or Contracts | Human Resources | Other | County Attorney | Budget Services | | | | County Manager/P.W. Director |
|--------------------------------|-------------------------|-----------------|-------|---------------------|-----------------|----------------|----------------|----------------|------------------------------|
| <i>11-2-05 Michael Bridges</i> | <i>Cindy Foster</i> | | | <i>Walter Rasch</i> | Analyst | Risk | Grants | Mgr. | <i>11-3-05</i> |
| | | | | | <i>11/3/05</i> | <i>11/3/05</i> | <i>11/3/05</i> | <i>11/3/05</i> | |

11. Commission Action:

- Approved**
- Deferred**
- Denied**
- Other**

| |
|--------------------------------------|
| RECEIVED BY COUNTY ADMIN: |
| 11/3 |
| 2.09 |
| COUNTY ADMIN FORWARDED TO: <i>PP</i> |
| 11-3-05 |
| H: 4:45 pm |

| |
|------------------------------------|
| Rec. by CoAtty |
| Date: 11/3/05 |
| Time: 8:30 AM |
| Forwarded To: <i>cc: [unclear]</i> |
| 11/3/05 |



U.S. GOVERNMENT LEASE FOR REAL PROPERTY



DATE OF LEASE: October 1, 2005

LEASE NO: 066LBF0601

THIS LEASE, under the authority of 40 U.S.C. 490 (h)(1) made and entered into this date by and between,

Lee County Board of County Commissioners

whose address is:

P.O. Box 398
Ft. Myers, FL 33902-0398

hereinafter called the Lessor, and the UNITED STATES OF AMERICA, hereinafter called the Government:

WITNESSETH: The parties hereto for considerations hereinafter mentioned, covenant and agree as follows;

1. The Lessor hereby leases to the Government the following described premises:

Tower space at approximately the 233-foot above ground level and space in the transmitter building, located on the Lee County Emergency Operations Center tower, 2665 Ortiz Avenue, State Road 82, Ft. Myers, Florida 33905

to be used for: a NOAA Weather Radio Antenna System site.

2. TO HAVE AND TO HOLD the said premises with their appurtenances for the term beginning on October 1, 2005 through September 30, 2010, subject to termination rights as may be hereinafter set forth.

3. The Government may terminate this lease at any time by giving at least 60 days notice in writing to the Lessor. Said notice shall be computed commencing with the day after the date of mailing.

4. This lease may be renewed at the option of the Government every five years upon the terms and conditions herein specified. The Government's option shall be deemed exercised and the lease renewed every five years, unless the Government gives the Lessor written notice 30 days prior to the expiration of this lease or any renewal thereof, that it will not exercise its option. Provided, however, that no renewal shall extend this lease for a period more than 20 years from the effective date of this lease. All other terms and conditions of this lease shall remain the same during any renewal term.

5. The following are attached and made a part hereof:

General Clauses, dated 01/22/2002
SFO No. M04-014, dated 01/21/2004, Part III

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date first above written.

LESSOR LEE COUNTY BOARD OF COUNTY COMMISSIONERS

Signature _____ Title _____

UNITED STATES OF AMERICA

Signature Debbie Putney 10/17/05 _____ Real Property Contracting Officer
Debbie Putney

NO-COST TOWER LEASE - GENERAL CLAUSES
(Acquisition of Leasehold Interests in Real Property)

1. 552.270-4 DEFINITIONS (SEP 1999)

The following terms and phrases (except as otherwise expressly provided or unless the context otherwise requires) for all purposes of this lease shall have the respective meanings hereinafter specified:

- (a) "Beneficial Occupancy Date" means the first day of the term.
- (b) "Contract" and "Contractor" means "Lease" and "Lessor", respectively.
- (c) "Contracting Officer" means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.

2. 552.270-6 MAINTENANCE OF BUILDING AND PREMISES - RIGHT OF ENTRY (SEP 1999)

Except in case of damage arising out of the willful act or negligence of a Government employee, Lessor shall maintain the premises, including the building, building systems, and all equipment, fixtures, and appurtenances furnished by the Lessor under this lease, in good repair and condition so that they are suitable in appearance and capable of supplying such heat, air conditioning, light, ventilation, safety systems, access and other things to the premises, without reasonably preventable or recurring disruption, as is required for the Government's access to, occupancy, possession, use and enjoyment of the premises as provided in this lease. For the purpose of so maintaining the premises, the Lessor may at reasonable times enter the premises with the approval of the authorized Government representative in charge.

3. 552.270-7 FIRE AND CASUALTY DAMAGE (SEP 1999)

If the entire premises are destroyed by fire or other casualty, this lease will immediately terminate. In case of partial destruction or damage, so as to render the premises untenable, as determined by the Government, the Government may terminate the lease by giving written notice to the Lessor within 15 calendar days of the fire or other casualty; if so terminated, no rent will accrue to the Lessor after such partial destruction or damage; and if not so terminated, the rent will be reduced proportionately by supplemental agreement hereto effective from the date of such partial destruction or damage. Nothing in this lease shall be construed as relieving Lessor from liability for damage to or destruction of property of the United States of America caused by the willful or negligent act or omission of Lessor.

4. 552.270-8 COMPLIANCE WITH APPLICABLE LAW (SEP 1999)

Lessor shall comply with all Federal, state and local laws applicable to the Lessor as owner or lessor, or both, of the building or premises, including, without limitation, laws applicable to the construction, ownership, alteration or operation of both or either thereof, and will obtain all necessary permits, licenses and similar items at Lessor's expense. The Government will comply with all Federal, state, and local laws applicable to and enforceable against it as a tenant under this lease; provided that nothing in this lease shall be construed as a waiver of any sovereign immunity of the Government. This lease shall be governed by Federal law.

5. 552.270-11 SUCCESSORS BOUND (SEP 1999)

This lease shall bind, and inure to the benefit of, the parties and their respective heirs, executors, administrators, successors, and assigns.

[10/98]

**PART III
DESCRIPTION OF GOVERNMENT SPACE REQUIREMENTS
TERMS OF LEASE**

1. LOCATION

The site must be geographically situated to meet NWS' technical requirements. In this case, the location must be in Fort Myers, Florida.

2. SPECIAL CONDITIONS

- a. Tower space is required at approximately 233-feet above ground level.
- b. Frequency to be used is 162.475 MHz.
- c. Primary power needed is 240 VAC.
- c. Climate controlled space in a transmitter building at the base of the tower, with a temperature range of 40 degrees to 75 degrees.
- d. Emergency/standby power is required.
- e. Access to telephone lines.
- f. Road access to tower.
- g. Five-foot clearance above and below NWS-installed antenna is needed to achieve clear aperture to prevent interference with its broadcast signals.

3. HOLDOVER

If, after expiration of the lease, the Government shall retain possession of the premises, the lease shall continue in force and effect on a month-to-month basis. Rental shall be paid monthly in arrears on a prorated basis at the rate paid during the previous lease term.

4. UTILITIES

The Lessor shall ensure that utilities necessary for operation are available.

5. ACCESS

The site covered by this lease shall be readily and conveniently accessible at all times to authorized personnel for purposes of equipment maintenance, repair, removal or replacement. It is agreed however, that only authorized engineers or employees of the Government, FCC inspectors, or persons under their or Lessor's direct supervision will be permitted to enter said property.

6. GOVERNMENT ACTIVITY

DOC/NOAA shall be responsible for the conduct of the project and will exercise all reasonable precaution to avoid injury to the land and other property on this site. DOC/NOAA agrees to promptly consider and adjudicate any and all claims which may arise out of use of the premises by Government or duly authorized representatives or contractors of Government and to pay for any damage or injury as may be required by Federal law. Such adjudication will be pursued under the Federal Torts Claim Act, 28 U.S.C. 2671 et seq. or such other legal authority as may be pertinent. Government also agrees to consider and adjudicate any claims for damage or injury sustained by Government personnel in the performance of their official duties while on the premises. Such adjudication will be made pursuant to the Federal Compensation Act, 5 U.S.C. 8181 et seq., or other such legal authority as may be pertinent.

7. GOVERNMENT'S RESPONSIBILITY

It is further understood that the Government's equipment, its installation and operation will:

- a. In no way damage the building or tower structure.
- b. Not interfere with the maintenance of the Lessor's tower and the tower lighting system.
- c. Not interfere with the operation of the Lessor's radio equipment. In the event there is interference to the Lessor's equipment, the Lessee will take all commercially available steps necessary to correct and eliminate such interference. If said interference cannot be eliminated within a reasonable period of time, the Lessor reserves the right to cancel the lease and to have the Lessee remove its equipment from the Lessor's property.
- d. Comply with all the applicable rules and regulations of the FCC and electrical codes of the City and/or State concerned. The Lessor assumes no responsibility for the licensing, operations and/or maintenance of the Lessee's radio equipment.



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL WEATHER SERVICE SOUTHERN REGION
819 Taylor Street, Room 10E09
Fort Worth, TX 76102

MEMORANDUM FOR: Lee County Board of County Commissioners
Attn: Michael Bridges
Deputy Director, Division of Public Safety
Lee County, Florida

FROM: Michael A. Mach
NWS, Southern Region

SUBJECT: Approval of Utilities Rate Request
Lee County Emergency Operations Center tower

DATE: October 19, 2005

The National Weather Service (NWS) appreciates the partnership with the Lee County Board of County Commissioners to provide tower space at the height of 233-foot AGL located on the Lee County Emergency Operations Center tower, Ft. Myers, Florida.

It is the NWS understanding that the lease term will be an initial 5-year term effective October 1, 2005, with three 5-year automatic renewals. The NWS approves the request of the Lee County Board of County Commissioners for a monthly utility payment at the current rate of \$354.18 with an additional 4% increase in subsequent years.

The accounting data for this lease is:

14 06 D8M5JWR P14 37 04 04 01 005 2020 9961 0000 2320 0000

If you have any questions or concerns regarding this request, please contact me at 817-978-1100 extension 108 or via e-mail at: mike.mach@noaa.gov.

Regards,

Michael A. Mach

