

**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM**

**SUBJECT:** Lease of Real Property By Seminole County to Seminole Community College for Public Safety Training Center

**DEPARTMENT:** Administrative Services **DIVISION:** Support Services

**AUTHORIZED BY:** SA Steve Howard, Director **CONTACT:** mcl Meloney Lung, Manager **EXT.** 5256

Agenda Date <u>1/23/07</u>	Regular <input type="checkbox"/>	Consent <input type="checkbox"/>	Work Session <input type="checkbox"/>	Briefing <input checked="" type="checkbox"/>
	Public Hearing – 1:30 <input type="checkbox"/>	Public Hearing – 7:00 <input type="checkbox"/>		

**MOTION/RECOMMENDATION:** Staff is seeking direction on the \$200,000 request from SCC for Phase I driving track and the additional amendments to the lease.

**BACKGROUND:**

On December 12, 2006, staff presented a request from Seminole Community College (SCC) for assistance in the construction of the Phase I driving track portion of the training facility in the amount of \$200,000. The Board directed staff to amend the lease with additional terms and conditions.

On January 9, 2007, the Board discussed the \$200,000 donation and reiterated some of their concerns. The County Manager's Office spoke with representatives from SCC and requested they address the Board's concerns. Below is a comparison of differences in the recommendations between BCC staff and SCC.

BCC Staff recommendations	SCC's recommendations
Section 7 – Prohibited Activities - places more detailed compliance from Seminole County Land Development Code (lighting, parking, buffers, noise, etc)	The college is already required by this section of the existing lease to comply with Federal, State and County laws and regulation. There is no need to add details of regulations in the Amendment. The College may consider adding some restrictions on reporting as long as the College has broader rights as to use of the property for education uses without the need for BCC prior approval.

Reviewed by:	_____
Co Atty:	_____
DFS:	_____
Other:	_____
DCM:	_____
CM:	<u>Co</u>
File No. <u>BASSS01</u>	

<b>BCC Staff recommendations</b>	<b>SCC's recommendations</b>
<p>Section 11 – Maintaining the Premises – requires SCC to adopt and abide by the most current established Best Management Practices published by the Florida Department of Environmental Protection Hazardous Waste Compliance Assistant Program and report the testing results.</p>	<p>The College contends that Best Management Practices is an additional requirement in the lease for the College to adhere and another set of regulations. The College is already responsible to operate within the laws of State and County. EPA regulations apply to the site as well and the College complies as required. The amendment adds a requirement to send reports to the County. There is no need to add details of regulations in the Amendment.</p>
<p>In exchange for one-time \$200,000 payment, SCC agrees to construct Phase I of the driving track. In addition, SCC will provide quarterly written updates until project completion. The expected completion date is June 1, 2008 and in the event the Phase I portion is not completed, SCC will return the \$200,000 within 30 days of notice of non-compliance from the County. In this event, this shall be considered a breach of the lease and the County may exercise termination.</p>	<p>State rules for administration of the Matching Fund Program require any donation to be free of contractual consideration. The BCC should consider the donation exclusively for the project and can even require that funds be returned if not matched by the State or if not used before some timeframe (suggested 18 months). Any relationship between the funds and the waiver of user fees is not permitted. SCC is suggesting a separate action from BCC on the donation.</p>
<p>Waiver of usage fees for Seminole County BCC and Seminole County Sheriff's Office</p>	<p>As stated above, the \$200,000 cannot be tied to waiver of fees. Waiver or reduction of some fees can come with changes to the lease. However, there needs to be a certain amount of fees assessed in order to maintain and supervise the facilities over time. The amount waived needs to be appropriate in light of the other considerations in the Amendment. SCC suggests that the waiver of fees be attached to a waiver of the remaining lease payments by the College. An alternative can be made for waiver of fees from some period of time, through separate agreement, in exchange for \$400,000 (the value of the unmatched program).</p>

Attached is a copy of the staff recommended 3<sup>rd</sup> Amendment which appeared on the January 9, 2007 agenda. Also attached is SCC's written response to the 3<sup>rd</sup> Amendment. Staff is seeking direction on the above recommendations.

**THIRD AMENDMENT TO LEASE OF REAL PROPERTY BY SEMINOLE COUNTY TO  
SEMINOLE COMMUNITY COLLEGE FOR LAW ENFORCEMENT TRAINING CENTER**

**THIS THIRD AMENDMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and is to that certain Agreement made and entered into on the 12<sup>th</sup> day of November, 1991, between **SEMINOLE COUNTY**, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as "COUNTY" and **SEMINOLE COMMUNITY COLLEGE**, a public community college existing and operating under the laws of the State of Florida, whose address is 100 Weldon Boulevard, Sanford, Florida 32773-6199, hereinafter referred to as "SCC".

**W I T N E S S E T H:**

**WHEREAS**, COUNTY and SCC entered into the above-referenced Lease on November 12, 1991, as amended on June 21, 1994, and December 12, 1994, for the purpose of leasing COUNTY property to SCC for use as a Law Enforcement Training Center; and

**WHEREAS**, the above referenced Lease provides that all amendments shall be in writing and executed in the manner of a lease; and

**WHEREAS**, the parties desire to amend the Lease so as to enable both parties to continue to enjoy the mutual benefits it provides,

**NOW, THEREFORE**, in consideration of the mutual understandings and agreements contained herein, the parties agree to amend the Lease as follows:

1. *Section 6 of the Lease is hereby amended to read:*

**SECTION 6. USE OF THE LEASED PROPERTY:** SCC shall use the property for operation of a Law Enforcement Training Center. SCC may erect on the property such buildings as it may desire for the operation of a Law Enforcement Training Center so long as such buildings are in conformity with federal, state, and local laws, ordinances, and regulations,

particularly land development regulations. The education and training for SCC's EMS/Fire Rescue and Criminal Justice Program and other law enforcement agency personnel shall take place at the Center. Any other use of the property shall require the prior approval of the Seminole County Board of County Commissioners.

2. *Section 7 of the Lease is hereby amended to read:*

**SECTION 7. PROHIBITED ACTIVITIES.** SCC shall not permit others to use the property for any purpose or in any manner which is prohibited by the laws or regulations of the United States, the State of Florida, or COUNTY. Although exempt by state and federal regulations from complying with local zoning and development regulations, SCC shall specifically comply with all COUNTY code requirements under Chapter 30 of the Seminole County Land Development Code, outdoor lighting standards (Ordinance 2004-2), and tree and arbor regulations (Ordinance 2004-3), as well as any subsequent updates to these ordinances. Any improvements shall require a site plan that is compliant with requirements of Chapter 40 of the Seminole County Land Development Code. These shall include, but not be limited to, lighting, parking, buffers, noise, and other requirements for any activities and/or construction associated with the allowed uses.

3. *Section 11 of the Lease is hereby amended to read:*

**11. MAINTAINING THE PREMISES; TAXES:**

(a) SCC shall have the responsibility of maintaining the property and any improvements made upon it in accordance with the laws and regulations of the United States, the State of Florida, or COUNTY.

(b) SCC shall pay, on a current basis, any taxes, special assessments, and fines which may be levied and assessed on the leased premises during the term of this Lease and subsequent to the Lease termination which arise from the use of the property by SCC, its

assignees or subleasees for which SCC is not otherwise exempt from paying pursuant to state or federal law.

(c) SCC agrees to adopt and abide by the most current established Best Management Practices (BMPs) published by the Florida Department of Environmental Protection Hazardous Waste Compliance Assistant Program relating to gun range management as recommended by the State. SCC shall provide COUNTY with a copy of the BMPs to be used and copies of all documentation related to compliance, including but not limited to, documentation of the physical and operational characteristics of the range; evaluation of existing environmental conditions; control and contain lead bullets, bullet fragments, and residue; prevention of migration of lead to ground and surface waters; removal of lead for recycling; documentation activities; and maintenance of records. Documentation shall be provided to COUNTY on an annual basis, upon execution of this lease, and annually on the anniversary date as well as upon request of COUNTY. If SCC fails to comply with BMPs and/or fails to provide COUNTY with documentation of compliance, a written notice will be sent by COUNTY to SCC, and SCC will have thirty (30) days to respond and/or comply. Should the failure not be resolved, COUNTY will take action to resolve the compliance issue and invoice SCC for all costs associated with the correction.

4. In exchange for an additional one-time payment of TWO HUNDRED THOUSAND AND NO/100 DOLLARS (\$200,000.00) payable by COUNTY to SCC on or before January 31, 2007, SCC agrees to construct on the property Phase I of the Seminole Community College Law Enforcement Training Complex. Phase I shall consist of a one-quarter (1/4) mile long straight track, small skid pad, motorcycle pad, maneuver pad, classroom parking lot, storm water system, and all necessary utilities as shown on Exhibit A attached hereto. Phase I shall conform to all federal, state, and local

laws and ordinances and to all applicable land regulations. From the time SCC engages a contractor to begin work on Phase I and until final completion of the project, SCC shall, on a quarterly basis, provide COUNTY with a written report on the progress of the project. In addition, COUNTY shall have the right to conduct periodic on-site inspections of the project to check progress. Phase I shall be fully completed and ready for use on or before June 1, 2008. In the event Phase I is not completed in a timely manner or is constructed in manner unsatisfactory to COUNTY and contrary to the drawings and representations given to COUNTY regarding the project, or if SCC fails to meet all State Matching Capital Program requirements for use of the TWO HUNDRED THOUSAND AND NO/100 DOLLARS (\$200,000.00) in funds received from COUNTY, then SCC shall, within thirty (30) days of receipt from COUNTY or the State notifying SCC of said non-compliance, refund to COUNTY the full TWO HUNDRED THOUSAND AND NO/100 (\$200,000.00) consideration. In addition, said failure shall be considered a breach of this Lease for which COUNTY may exercise immediate termination.

SCC agrees that upon completion of Phase I no fees shall be charged to COUNTY or Seminole County Sheriff's Office for the use of any part of the Phase I facilities.

5. This Amendment shall take effect upon the date of signature by the parties, and remain in effect for the entire term of the Lease.

6. Except as herein modified, all terms and conditions of the Lease shall remain in full force and effect for the term of the Lease, as originally set forth in said Lease.

**IN WITNESS WHEREOF,** the parties hereto have executed this instrument for the purpose herein expressed.

ATTEST:

SEMINOLE COMMUNITY COLLEGE  
BOARD OF TRUSTEES

\_\_\_\_\_

By: \_\_\_\_\_

Chairperson

Date: \_\_\_\_\_

*Additional Signature Page Follows*

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA

\_\_\_\_\_  
MARYANNE MORSE  
Clerk to the Board of  
County Commissioners of  
Seminole County, Florida.

By: \_\_\_\_\_  
CARLTON HENLEY, Chairman

Date: \_\_\_\_\_

For the use and reliance  
of Seminole County only.

As authorized for execution  
by the Board of County Commissioners  
at their \_\_\_\_\_, 20\_\_\_\_  
regular meeting.

Approved as to form and  
legal sufficiency.

\_\_\_\_\_  
County Attorney

AC/jr  
12/18/06; 12/21/06; 12/27/06  
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Here are the issues that need to be addressed in the proposed Amendment to the Geneva Lease between the BCC and SCC:

**1. The donation of \$200,000 must not be included in any lease amendment.**

*Rationale: State rules for administration of the Matching Fund Program require any donation to be free of contractual consideration. The BCC should consider the donation exclusively for the project and can even require the that funds be returned if not matched by the State or if not used before some timeframe (I have suggested 18 months from now because the state has previously provided matching over 2 fiscal years). Any relationship between the funds and the waiver of user fees is not permitted.*

*Suggestion: I suggest that the donation be a separate action of the BCC. Therefore, all of item 4 should be deleted.*

**2. Waiver of user fees can be recognized if some consideration is attached.**

*Rationale: As stated above, the \$200,000 cannot be tied to waiver of fees. Waiver or reduction of some fees can come with changes to the lease. However, there needs to be a certain amount of fees assessed in order to maintain and supervise the facilities over time. The amount waived needs to be appropriate in light of the other consideration in the Amendment.*

*Suggestion: I suggest that the waiver of fees be attached to a waiver of the remaining lease payments by the College. An alternative rationale can be made for waiver of fees for some period of time, through separate agreement, in exchange for \$400,000 (.the value of an unmatched payment).*

**3. Section 6...Use of Leased Land amendment further restricts the College's use of the property. There is no benefit to the College for this restriction.**

*Rationale: The length of this lease and the growth of the County's educational needs is inconsistent with the expectation the there will not need to be this type of use for the next several decades. To place further restrictions does not benefit the long-term needs of our district.*

*Suggestion: The College may consider adding some restrictions on compliance as long as the College has broader rights as to use of the property (i.e. for educational use) without the need for BCC prior approval.*

4. **Section 7...Prohibited Activities amendment requires the College to increase adherence to regulation. There is no benefit to the College for this restriction.**

*Rationale: The College is already required by this section of the existing lease to comply with Federal, State and County laws and regulations. There is no need to add details of regulations in the Amendment.*

*Suggestion: The College may consider adding some restrictions on reporting as long as the College has broader rights as to use of the property for educational uses without the need for BCC prior approval.*

5. **Section 11 ...Maintenance and Taxes amendment adds an additional requirement in the lease for the College to adhere to another set of regulations. The College is already responsible to operate within the laws of State and County. EPA regulations apply to the site as well and the College complies as required. The amendment adds requirement to send reports to the County.**

*Rationale: The College is already required by this section of the existing lease to comply with Federal, State and County laws and regulations. There is no need to add details of regulations in the Amendment.*