

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Lease for Public Purpose with Seminole Softball Club, Inc.

DEPARTMENT: Library & Leisure Services **DIVISION:** Parks & Recreation

AUTHORIZED BY: J. Suzy Goldman **CONTACT:** J. Suzy Goldman **EXT.** 7490

Agenda Date <u>3-25-03</u> Regular <input type="checkbox"/> Consent <input checked="" type="checkbox"/> Work Session <input type="checkbox"/> Briefing <input type="checkbox"/>
Public Hearing – 1:30 <input type="checkbox"/> Public Hearing – 7:00 <input type="checkbox"/>

MOTION/RECOMMENDATION:

Approve Lease Agreement with Seminole Softball Club, Inc. for rights to the facilities at Soldier's Creek Park.

BACKGROUND:

In 1987 Seminole Softball Club, Inc. built a restroom/concession/meeting building at Soldier's Creek Park and deeded it to the County. The County entered into a 10 year lease agreement with Seminole Softball Club, Inc. that gave the organization a lease of the building for public purposes. This agreement expired February 28, 1998.

A 3-year lease agreement was entered into on March 1, 1998 with two one-year renewal clauses which expires February 28, 2003. This action initiates a new lease agreement for the period of March 1, 2003 - February 22, 2006. This will bring the lease agreement onto the same schedule as the Special Priority Use Right agreement which gives the Seminole Softball Club priority rights to reserve the softball fields at the park.

Reviewed by:
Co Atty: _____
DFS: _____
Other: _____
DCM: <u>SS</u>
CM: <u>JK</u>
File No. <u>CLLP01</u>

LEASE FOR PUBLIC PURPOSE

THIS LEASE is made and entered into this ____ day of _____, 20____, by and between **SEMINOLE COUNTY**, a political subdivision of the State of Florida, whose address is County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as LANDLORD, and **SEMINOLE SOFTBALL CLUB, INC.**, a non-profit organization of the State of Florida, whose mailing address is Post Office Box 196475, Winter Springs, Florida 32719-6475, hereinafter referred to as TENANT.

W I T N E S S E T H

WHEREAS, the LANDLORD is the owner of a certain building located adjacent to the softball fields at Soldier's Creek Park in Seminole County; and

WHEREAS, the Board of County Commissioners has the authority to lease property to a not-for-profit corporation organized for purposes of promoting community interest and welfare in accordance with *Section 125.35, Florida Statutes*; and

WHEREAS, the Board of County Commissioners has determined the granting of such rights and privileges constitutes a County purpose,

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter set forth, the LANDLORD and TENANT agree as follows:

1. LEASED PREMISES. For the consideration provided below, the LANDLORD does hereby lease and demise the following described property situated in the County of Seminole, State of Florida, to-wit:

A portion of that building containing the concession stand and meeting room and located adjacent to the softball fields at Soldier's Creek Park.

It is expressly understood that this Lease is only for that portion of the building commonly referred to as the concession stand and meeting room and this Lease does not grant any specific or exclusive rights to TENANT to utilize any other portion of the building or Soldier's Creek Park.

2. TERM. The term of this Lease is from March 1, 2003 through February 28, 2006, the date of signature by the parties notwithstanding, unless earlier terminated as provided herein. At the option of the COUNTY this Lease may be renewed for two (2) additional terms not to exceed one (1) year each.

3. CONSIDERATION FOR LEASE. As consideration for the lease of the above premises to the TENANT for the terms provided herein, the TENANT agrees to pay to the LANDLORD the sum of ONE AND NO/100 DOLLAR (\$1.00) per year and to provide all maintenance for the leased premises as directed by the LANDLORD. It is acknowledged and agreed upon by both parties hereto that said consideration is provided in good faith and is sufficient to make this Lease binding on both parties.

4. ENTRY OF LANDLORD. TENANT shall permit LANDLORD and its agents to enter into and upon the lease premises at all times for the purposes of inspecting or exhibiting the same or for the purpose of making repairs or alterations to the building.

5. PURPOSE. The purpose of this Lease is to permit TENANT to utilize the concession stand area for the provision of concession

services during TENANT organized and sanctioned events at Soldier's Creek Park as well as the meeting room for TENANT meetings.

6. USE OF LEASED PREMISES. TENANT shall have the exclusive use of the demised premises for such lawful use as it may desire to make thereof in connection with, incidental to and consistent with the purpose section of this Lease. TENANT covenants that it will not use or permit the premises to be used for any purpose prohibited by any regulation, ordinance, law or statute; it shall not use or keep any substance or material in or about the demised premises which may vitiate or endanger the validity of the insurance on the said building or increase the hazard of risk; and it shall not permit any nuisance on the demised premises.

7. QUIET POSSESSION. The LANDLORD shall warrant and defend the TENANT in the enjoyment and peaceful possession of the concession area and meeting room of the premises during the term of this Lease.

8. ASSIGNMENT AND SUBLETTING. The TENANT shall not assign or sublet the leased premises, or any part thereof, without first obtaining the written consent of the LANDLORD.

9. HOLD HARMLESS. The TENANT agrees to hold harmless and indemnify LANDLORD, its commissioners, officers, employees, and agents from and against any and all claims, liability, loss or damage LANDLORD may sustain as a result of claims, demands, costs or judgments arising from, allegedly arising from or related to injury or damages of whatsoever nature to persons or property from the TENANT's use of the premises.

10. INSURANCE.

(a) GENERAL. The TENANT shall at the TENANT's own cost, procure the insurance required under this Section.

1. The TENANT shall furnish the LANDLORD with a Certificate of Insurance signed by an authorized representative of the insurer evidencing the insurance required by this Section (Workers' Compensation/Employer's Liability and Commercial General Liability). The LANDLORD, its officials, officers, and employees shall be additional named insured under the Commercial General Liability policy. The Certificate of Insurance shall provide that the LANDLORD shall be given not less than thirty (30) days written notice prior to the cancellation or restriction of coverage. Until such time as the insurance is no longer required to be maintained by the TENANT, the TENANT shall provide the LANDLORD with a renewal or replacement Certificate of Insurance not less than thirty (30) days before expiration or replacement of the insurance for which a previous certificate has been provided.

2. The Certificate shall contain a statement that it is being provided in accordance with the Agreement and that the insurance is in full compliance with the requirements of the Agreement. In lieu of the statement on the Certificate, the TENANT shall, at the option of the LANDLORD submit a sworn, notarized statement from an authorized representative of the insurer that the Certificate is being provided in accordance with the Agreement and that the insurance is in full compliance with the requirements of the Agreement.

3. In addition to providing the Certificate of Insurance, if required by the LANDLORD, the TENANT shall, within thirty (30) days after receipt of the request, provide the LANDLORD with a certified copy of each of the policies of insurance providing the coverage required by this Section.

4. Neither approval by the LANDLORD nor failure to disapprove the insurance furnished by a TENANT shall relieve the TENANT of the TENANT's full responsibility for performance of any obligation including TENANT indemnification of LANDLORD under this Agreement.

(b) INSURANCE COMPANY REQUIREMENTS. Insurance companies providing insurance hereunder must meet the following requirements:

1. Companies issuing policies other than Workers' Compensation must be authorized to conduct business in the State of Florida by maintaining Certificates of Authority issued to the companies by the Department of Insurance of the State of Florida. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by *Section 440.57, Florida Statutes*.

2. In addition, such companies other than those authorized by *Section 440.57, Florida Statutes*, shall have and maintain a Best's Rating of "A" or better and a Financial Size Category of "VII" or better according to A.M. Best Company.

3. If, during the period in which an insurance company is providing the insurance coverage required by this Agreement, an insurance company shall: 1) lose its Certificate of Authority, 2) no longer comply with *Section 440.57, Florida Statutes*, or 3) fail to maintain the Best's Rating and Financial Size Category, the TENANT

shall, as soon as the TENANT has knowledge of any such circumstance, immediately notify the LANDLORD and immediately replace the insurance coverage provided by the insurance company with a different insurance company meeting the requirements of this Agreement. Until such time as the TENANT has replaced the unacceptable insurer with an insurer acceptable to the LANDLORD, the TENANT shall be deemed to be in default of this Agreement.

(c) SPECIFICATIONS. Without limiting any of the other obligations or liability of the TENANT, the TENANT shall, at the TENANT's sole expense, procure, maintain and keep in force amounts and types of insurance conforming to the minimum requirements set forth in this subsection. Except as otherwise specified in the Agreement, the insurance shall become effective prior to the commencement of work by the TENANT and shall be maintained in force until the Agreement completion date. The amounts and types of insurance shall conform to the following minimum requirements.

1. Workers' Compensation/Employer's Liability.

(A) The TENANT insurance shall cover the TENANT and its subcontractors of every tier for those sources of liability which would be covered by the latest edition of the standard Workers' Compensation Policy, as filed for use in Florida by the National Council on Compensation Insurance, without restrictive endorsements. In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the United States Longshoremen and Harbor Workers' Compensation Act, Federal Employers' Liability Act and any other applicable federal or state law.

(B) Subject to the restrictions of coverage found in the standard Workers' Compensation Policy, there shall be no maximum limit on the amount of coverage for liability imposed by the Florida Workers' Compensation Act, the United States Longshoremen's and Harbor Workers' Compensation Act, or any other coverage customarily insured under Part One of the standard Workers' Compensation Policy.

(C) The minimum amount of coverage under Part Two of the standard Workers' Compensation Policy shall be:

\$ 100,000.00	(Each Accident)
\$ 500,000.00	(Disease-Policy Limit)
\$ 100,000.00	(Disease-Each Employee)

2. Commercial General Liability.

(A) The TENANT's insurance shall cover the TENANT for those sources of liability which would be covered by the latest edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01), as filed for use in the State of Florida by the Insurance Services Office, without the attachment of restrictive endorsements other than the elimination of Coverage C, Medical Payment and the elimination of coverage for Fire Damage Legal Liability.

(B) The minimum limits to be maintained by the TENANT (inclusive of any amounts provided by an Umbrella or Excess policy) shall be those that would be provided with the attachment of the Amendment of Limits of Insurance (Designated Project or Premises) endorsement (ISO Form CG 25 01) to a Commercial General Liability Policy with amount of coverage specified for each project:

LIMITS

General Aggregate

\$Three (3) Times the
Each Occurrence Limit

Personal & Advertising Injury Limit	\$1,000,000.00
Each Occurrence Limit	\$1,000,000.00

(d) COVERAGE. The insurance provided by TENANT pursuant to this Agreement shall apply on a primary basis and any other insurance or self-insurance maintained by the LANDLORD or the LANDLORD's officials, officers, or employees shall be excess of and not contributing with the insurance provided by or on behalf of the TENANT.

(e) OCCURRENCE BASIS. The Workers' Compensation Policy and the Commercial General Liability required by this Agreement shall be provided on an occurrence rather than a claims-made basis.

(f) OBLIGATIONS. Compliance with the foregoing insurance requirements shall not relieve the TENANT, its employees or agents of liability from any obligation under a Section or any other portions of this Agreement.

11. CANCELLATION AND TERMINATION. This Lease may be cancelled or terminated by either party at any time, with or without cause, upon not less than thirty (30) days' written notice delivered to the other party or, at the option of the LANDLORD, immediately in the event any of the terms, covenants or agreements of this Lease have been violated.

12. SURRENDER OF POSSESSION. The TENANT agrees to deliver up and surrender to the LANDLORD possession of the leased premises at the expiration or termination of this Lease, in as good condition as when the TENANT takes possession except for ordinary wear and tear, alterations permitted under this Lease, or loss by fire or other

casualty, act of God insurrection, nuclear weapon, bomb, riot, invasion or commotion, military or usurped power.

13. REMOVAL OF PROPERTY. TENANT shall, without demand therefor and at its own cost and expense prior to expiration or sooner termination of the term hereof or of any extended term hereof, remove all property belonging to TENANT and all alterations, additions, or improvements, and fixtures which, by the terms hereof, it is permitted to remove; repair all damage to the leased premises caused by such removal; and restore the leased premises to the condition they were in prior to the installation of the property so removed. Any property not so removed shall be deemed to have been abandoned by TENANT and may be retained or disposed of by LANDLORD.

14. ACCEPTANCE OF PREMISES BY TENANT. The taking of possession of the leased premises by the TENANT shall be conclusive evidence that said premises were in good and satisfactory condition when possession of the same was taken, latent hidden defects excepted.

15. MAINTENANCE OF PREMISES. TENANT agrees to keep the leased premises clean and the pavements and appurtenances free of debris and trash and expressly agrees to assume sole liability for accidents alleged to have been caused by their defective condition. TENANT agrees to use reasonable care to avoid improper use of the concession stand sewer system or the introduction of inappropriate objects or materials into said system. TENANT shall provide adequate extermination services to leased premises during the term of this Lease and provide evidence of same to LANDLORD upon demand.

16. MAINTAINING SECURITY AND SAFETY OF PREMISES. The concession and storage areas, meeting room, their contents, and other improvements or portions of the leased premises must be made secure by devices such as locks, electronic devices, safety devices or lighting by the TENANT subject to approval by the LANDLORD. So long as the approved security is maintained by TENANT, the risk of loss to contents shall fall upon the TENANT and the risk of loss to the building shall fall upon the LANDLORD.

17. WAIVER. No waiver of any breach of any one or more of the conditions or covenants of this Lease by the LANDLORD or by the TENANT shall be deemed to imply or constitute a waiver of any succeeding or other breach hereunder.

18. AMENDMENT OR MODIFICATION. Both parties hereto acknowledge and agree that they have not relied upon any statements, representations, agreements or warranties, except such as are expressed herein, and that no amendment or modification of this Lease shall be valid or binding unless expressed in writing and executed by the parties hereto in the same manner as the execution of this Lease.

19. NOTICES. Whenever either party desires to give notice unto the other, it must be given by written notice, sent by United States mail, to:

FOR LANDLORD:

Director of Library and Leisure Services Department
Seminole County Services Building
1101 East First Street
Sanford, Florida 32771

FOR TENANT:

Seminole Softball Club, Inc.
Post Office Box 196475
Winter Springs, Florida 32719-6475

Either of the parties may change by written notice as provided above, the addresses or persons for receipt of notices.

20. DEFAULT. Either party to this Lease, in the event of an act of default by the other, shall have all remedies available to it under the laws of the State of Florida, including, but not limited to, injunction to prevent default or specific performance to enforce this Lease.

21. APPLICABLE LAW. This Lease shall be construed under and in accordance with the laws of the State of Florida.

IN WITNESS WHEREOF, the parties hereto have made and executed this instrument for the purposes herein expressed on the day and year set forth hereinabove.

ATTEST:

SEMINOLE SOFTBALL CLUB, INC.

RICK MILLER, Secretary

By: _____
TODD MILLER, President

Date: _____

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

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

By: _____
DARYL G. MCLAIN, Chairman

Date: _____

For the use and reliance
of Seminole County only.
Approved as to form and
legal sufficiency.

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

County Attorney

SED/lpk
1/29/03
Seminole softball