

LYNX Board Audit Committee Agenda

Central Florida Regional Transportation Authority

455 N. Garland Ave.

2nd Floor Board Room

Orlando, FL 32801

Board Date: 10/26/2006

Time: 10:30 AM




As a courtesy to others, please silence all electronic devices during the meeting.

1. Call to Order

2. Approval of Minutes

-  Approval of the September 28, 2006 Audit Committee Minutes (pgs 2-6)




3. Audit Agenda Items

- A.  Briefing on request for the Chief Executive Officer (CEO) to enter into a lease agreement with the Orange County Clerk of Courts for available office space on the second floor of the LCS (pgs 7-9)
 - Attachment  (pgs 10-50)
- B.  LYNX Operations Center Project Update (pg 51)

4. Review of Board Package: 10/26/2006

5. Information Items

(For Review Purposes Only - No action required)

- I.  LYNX Board of Directors' 12-month rolling calendar of agenda items (pg 52)
 - Attachment  (pgs 53-54)
- II.  Update on LYNX Bus Shelters Program (pgs 55-57)

LYNX
Central Florida Regional Transportation Authority
Audit Committee Meeting

PLACE: **LYNX Central Station**
 455 N. Garland Avenue
 Board Room, 2nd Floor
 Orlando, FL 32801

DATE: **September 28, 2006**

TIME: **10:30 a.m.**

Audit Committee Members in Attendance:

Seminole County Chair, Carlton Henley
Interim FDOT District 5 Secretary, Kevin Thibault
Osceola County Commissioner, Bill Lane
City of Orlando Representative, Roger Neiswender

Not in Attendance:

City of Orlando, Mayor Buddy Dyer
Orange County Commissioner Homer Hartage
Guest:
FDOT District 5 Secretary, Noranne Downs

1. Call to Order

The meeting was called to order at 10:30 a.m.

2. Approval of Minutes

Commissioner Lane moved to approve the minutes of the August 24, 2006 Audit Committee meeting. Roger Neiswender seconded the motion. The motion passed unanimously.

3. Audit Agenda Items

A. Update on the LYNX Operations Center and the Bennett Trucking temporary operations base lease agreement

Bert Francis, Chief Financial Officer reported on the status of the LYNX Operations Center. Mr. Francis reported that on September 13, the LYNX subcommittee (Bert Francis, Commissioner Carlton Henley and Roger Neiswender) of the LOC met and discussed the current status of the LOC. Also in attendance were representatives from Earth Tech as well as members from Collage. There is now a very detailed timeframe and schedule of completion for each of the buildings. Building A will be completed by the end of October, the Building A expansion will be completed by mid-November. Building B should be completed by mid-December. Building C, C1 and C2 will be complete the end of November. The lift station will be complete the end of October. Commissioner Lane asked if there would be meetings on a weekly basis to ensure this schedule is adhered to. Mr. Francis reported that yes, there are weekly meetings scheduled. Chairman Henley requested that if there is a red flag raised to please call him so he can place a call to Collage.

Lisa Darnall, Chief Operations Officer, reported that the Bennett lease was negotiated down to a 6 month lease (from 9 months) with an option to terminate after 4 months

(down from 6 months). The move took place the weekend of September 15. Everything was moved out of the Princeton bus maintenance facility and moved into the Bennett facility. There is quite a bit of difference in terms of space. The Princeton facility was approximately 7 acres and the Bennett facility is on approximately 2.4 acres. There are currently 20 buses that are slated for retirement so the Central Florida Fairgrounds will allow LYNX to park these buses in a fenced in area on the fairgrounds until March 15, 2007 in exchange for advertising for the County Fair. There is security on-site and again, these buses are scheduled to be auctioned in the near future.

There is disagreement between Dr. Phillips and LYNX on what needs to be done to the Princeton facility before it is released back to them. LYNX staff is confident that the terms of the lease only require LYNX to return the site in as good condition as when the site was accepted. Earth Tech has documents, photographs, etc. of the condition of the site when LYNX occupied it. LYNX put in approximately \$1.3 million of capital improvements into the Princeton building when it was occupied 10 years ago.

To date, \$392,000 has been spent to complete the move-out of the Princeton facility which includes the move and the demolition work needed at Princeton. \$557,000 was budgeted to complete this work.

B. Procurement policies and procedures update

Bert Francis, Chief Financial Officer, provided the Audit Committee with an update on the Procurement policies and procedures. He reported that per Linda Watson's request, APTA came in to perform a peer review. In July of this year, the FTA came in to perform a peer review. The FTA looked at 56 different areas and there were several that LYNX was deficient in. LYNX staff then prepared a written summary and response back to them with a matrix of when the items could be completed.

Both of the reports hit on key issues that were common such as delegation of authority, expanding and elaborating some of the policies and procedures. Joe Sperty is currently on LYNX staff. He was formerly with the FTA and helped write the best practices manual. He is very familiar with FTA procurements and compliance and the policies and procedures. Also, the former Procurement Manager, Patrick Grimison, is returning to LYNX in early October. Mr. Grimison was deployed to Kuwait approximately one year ago. The last Senior Contractor position was filled so staff has been added. Therefore, some of the recommendations have already been implemented.

Chairman Henley asked about the computer hardware and software deficiencies. Mr. Francis explained that no one really knows all the capabilities of the computer system. No one in the department has been trained on all the capabilities of the computer. The first thing that needs to be done is to get the procedures and processes in line to find out if there is a deficiency in the process or a deficiency in the system. Until that is done it is difficult to determine whether it is a computer or system problem. Mr. Francis also explained that all employees will need to be trained on the computer system. Chairman Henley asked who would be providing the training and providing the evaluation of the software. Mr. Francis explained that Paramount is the company that would come in and

provide computer training to the new employees. This is also the company that installed the software.

Chairman Henley asked if there will need to be a budget adjustment to keep Mr. Sperty on. Mr. Francis explained that there is already money in the budget to cover Mr. Sperty.

Mr. Neiswender had a question regarding the APTA Peer Review. He referred page 17 of 27. Mr. Neiswender is not familiar with some terms. He asked for explanation on “reduce legal review by standardizing contracts”. He believes that is referring to the use of a standard contract and then adding only the exceptions and provisions rather than spending the time and money to review the entire contract. Mr. Francis explained that is part of it. The other part is if there are different contracts for services and for goods, there is no need for all the clauses in both. Right now, the clauses are in both.

Chairman Henley explained that it was his understanding that the Board directed Albert Bustamante, when he was still here, that a boiler plate type of contract be established. Mr. Francis answered that that has not yet been completed.

Mr. Neiswender asked about the item that states “Eliminate board involvement in approving solicitations for budgeted items and routine items.” He understands that to mean that as soon as an item is specifically identified within the budget and that budget is approved, that it can then go forward for advertising and selection without further Board review. Mr. Francis explained that yes that is their recommendation; however, it is not something LYNX is considering.

Chairman Henley asked staff to move cautiously. He stated that it is the Board’s responsibility for policy and oversight.

Linda Watson, CEO, explained that the current process is to bring any request for proposal, no matter what the dollar amount, to the Board. Then the item is brought back to the Board for approval to procure the item. What the FTA is saying in their report is that staff should not wait for a monthly Board meeting to ask permission to send out a request for proposal. The Board would still have overall approval process.

Chairman Henley asked at what point the Board has final approval. Ms. Watson explained that staff would provide to the Board a list showing the proposals received, staff recommendation. However, Ms. Watson wanted to assure the Board that this is not something that staff is looking to change. This process is not causing any problems.

Discussion ensued.

Mr. Francis explained that staff did a much better job with the MV procurement and this should become the standard.

C. Overview of LYNX FY2007 Capital Budget

Bert Francis, Chief Financial Officer, gave a brief overview of the FY07 Capital Budget. The capital budget is \$28,774,433. Mr. Francis quickly explained the items in the capital budget.

Chairman Henley asked if the Board could be given the locations of the 2 super stops as well as an estimated timeframe.

Funding sources include Federal, \$15,782,463, SIB Loan \$2,640,625, State \$4,700,625 and local \$5,650,720 which equal \$28,774,433. Chairman Henley asked what the total obligation is for SIB Loans. Mr. Francis explained that there are 3 outstanding SIB Loans totaling approximately \$23,000,000. Chairman Henley asked what the debt service is. Mr. Francis explained it is approximately \$1,000,000 a year per loan.

Discussion ensued.

4. Review of Board Package

Ms. Watson reviewed the Board packet with the Audit Committee and provided an overview of the consent agenda items.

Chairman Henley asked what level of service is Lake County requesting. Ms. Darnall explained that LYNX will provide express services from Lake County to Downtown Orlando and an extension of Link 55 to Claremont which requires one additional bus.

Mr. Neiswender requested a presentation on where we are with the Commuter Assistance Program. He specifically wants to know how much demand is out in the community.

Ms. Watson reminded the Board that there is no November Board meeting due to the Thanksgiving Holiday.

Ms. Watson welcomed Ms. Noranne Downs, FDOT District 5 Secretary to the LYNX Board.

Ms. Watson then reviewed a few key points in the CEO Report that she will present to the Board.

Ms. Watson reported that the League of Women Voters (LWV) of Orange and Seminole County have a 30-year resolution for supporting LYNX. They made a presentation to Mayor Crotty last week to inform Orange County that they are interested in working with elected officials to get dedicated funding for LYNX.

Chairman Henley asked how staff arrived at the number of buses needed to support Commuter Rail. Ms. Watson explained that when FDOT performed all the studies for the Commuter Rail projects, this was the number FDOT came up with for LYNX in order to serve the Commuter Rail project. In addition to that, the TDP plan that is being submitted at MetroPlan is based on higher frequencies and levels of service similar to what is seen in the

Comprehensive Operational Analysis. Chairman Henley asked if anyone took into consideration the projected growth. He stated that Seminole County is over 400,000 which double the population. He asked if these are realistic numbers or are these numbers based on present demand with a small percent increase. The future needs to be considered in looking to the future for transit needs so as not to be under funded. Mr. Neiswender explained that there recently was a meeting between Commuter Rail and planning and this very item about the coordination of the bus system was discussed extensively. It was decided that a small group of knowledgeable people representing each of the Counties and the City of Orlando with LYNX and DOT meet to sort through the entire discussion of the adequacy and different projections for the area. This group is asking others to cease and desist in further discussions on the adequacy and inadequacy until this group gets a real answer.

Discussion ensued.

Ms. Watson recommends that with the number of new members of this Board and with all the issues facing LYNX she proposes a Board retreat or workshop in January or February to talk about the direction of LYNX and to get guidance on where LYNX is going and how to get there and what LYNX' participation in the commuter rail process is. Chairman Henley asked staff to put together a tentative agenda and distribute it to the Board.

Ms. Watson reported to the Audit Committee that mold was found at the entire maintenance facility at South Street. A remediation needs to be completed immediately. The cost is within CEO approval (\$125,000). Chairman Henley asked if it is in reserves. Ms. Watson explained that it is.

Ms. Watson announced that there is a paratransit vehicle in the Kiss and Ride equipped with a mobile data terminal if the Board would like a demonstration.

5. Information Item

I. Update on the status of paratransit contract negotiations with MV Transportation

The Audit Committee meeting ended at approximately 11:40 a.m.

LYNX Board Audit Committee Agenda

Audit Committee Agenda Item #3.A

To: LYNX Board of Directors

From: Linda Watson
CHIEF EXECUTIVE OFFICER
Edward Johnson

Phone: 407.841.2279 ext: 3017

Item Name: Briefing on request for the Chief Executive Officer (CEO) to enter into a lease agreement with the Orange County Clerk of Courts for available office space on the second floor of the LCS

Date: 10/26/2006

ACTION REQUESTED:

Staff is requesting the Board of Directors' authorization for the Chief Executive Officer (CEO) or designee to lease 5,800 square feet of office space to the Orange County Clerk of Courts (Clerk of Courts) for a period of five years with an option to extend the lease agreement for an additional five years.

BACKGROUND:

In November 2004, LYNX moved into LYNX' newly constructed transfer facility that is commonly referred to as the LYNX Central Station (LCS). The new facility also includes the agency's administrative offices. The administrative office space has more than 58,960 square feet of gross usable space, of which, 5,800 square feet is vacant. During the conceptual phase of the facility, LYNX envisioned making a certain level of space available for leasing to local public and/or private entities to generate additional revenue for the agency.

During the construction phase of the facility, LYNX contracted with First Capital Property Group to seek potential tenants for the vacant space. First Capital Property Group's efforts to find a suitable tenant was challenged by the fact there is no localized parking for employees. Upon notification that the Clerk of Courts was in need of additional space, this was determined that it was a good fit for both parties. The Clerk of Courts employees currently use the same parking site as LYNX employees at the CentroPlex Parking Facility located on Hughey Blvd. on the north side of Interstate 4 (I-4) and Garland Avenue. Since moving to the LCS, the vacant space has been used for public and civic meetings as well as agency-wide training.

The Clerk of Courts has experienced tremendous growth over the past few years and is in need of additional space for some of its support related functions. The Clerk of Courts has proposed

LYNX Board Audit Committee Agenda

housing its Training and Information Technology Departments at the LCS. It is projected that at least 20 Clerk of Courts employees will be relocated to the LCS.

FISCAL IMPACT:

The base rent under this agreement will be \$19 per square foot with a 3.5% increase, effective each anniversary date. The first term (five years) of the lease agreement will result in approximately \$606,495 in income. Should both parties agree to the second optional term of an additional five years, the projected income is approximately \$720,325. The total projected income for this lease agreement is \$1,326,820.

First Term (Five Years)

<u>Lease Year</u>	<u>Annual Rent*</u>
First Year	\$113,100
Second Year	117,058
Third Year	121,155
Fourth Year	125,395
Fifth Year	129,784

Second Term (Optional Five Years)

<u>Lease Year</u>	<u>Annual Rent*</u>
Sixth Year	\$134,327
Seventh Year	139,028
Eighth Year	143,894
Ninth Year	148,931
Tenth Year	154,143

Note: * Dollar values are rounded to the nearest dollar.

The base rent shall include all common area maintenance, as well as other matters such as building insurance, water and sewer charges, utilities, property management, HVAC repair and maintenance, pest control and trash removal. However, any excessive use or increases for which the tenant is responsible, the tenant will be required to pay its proportionate share. Additionally, any increases in insurance over the base year, the tenant will be responsible to pay its proportionate share. This shall include any real estate taxes arising as a result of the tenant occupying the leased premises.

Based on the design and functional need of the Clerk of Courts, LYNX will be required to expend at least \$87,000 for the build-out of movable and operable (collapsible) walls. It is normal for the owner to make the initial tenant improvements prior to occupation of the leasable

LYNX Board Audit Committee Agenda

space. This value may be adjusted upward or downward slightly depending on the final architectural design and purchase negotiations. This activity will be funded by local funds within the FY2007 operating budget.

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LEASE

CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY
(d/b/a **LYNX**)
(Landlord)

and

Check correct name of Tenant?

CLERK OF THE COURT FOR ORANGE COUNTY, FLORIDA
(Tenant)

for

OFFICE SPACE
(On Second Floor)

in

LYNX CENTRAL STATION (LCS)
(Downtown Bus Station)

LEASE DATE: October ____, 2006

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EXHIBITS

- Exhibit "A"** Sketch of Leased Premises (NOTE: This sketch is to be used for identification purposes and does not separately constitute any representation or warranty by the Landlord)
- Exhibit "B"** Legal Description of LCS
- Exhibit "C"** Schedule of Tenant Improvements to Leased Premises
- Exhibit "D"** Schedule of Landlord's Finish Responsibility for the Leased Premises

GENERAL LEASE PROVISIONS

This Lease is a legally binding document; please read it thoroughly before you sign. The items contained in these General Lease Provisions pages relate to and are applicable to the various contents of the Lease. There are no agreements between Landlord and Tenant unless contained in writing, signed by both parties, attached hereto and made a part of this Lease.

LANDLORD: **CENTRAL FLORIDA REGIONAL
TRANSPORTATION AUTHORITY (d/b/a LYNX)**

LANDLORD'S ADDRESS: **LYNX**
455 North Garland Avenue
Orlando, Florida 32801
Attention: Contract Administrator
Telephone: 407-254-6029
Fax: 407-254-6289

TENANT: Clerk of the Court for Orange County, Florida

TENANT'S TRADE NAME: N/A

TENANT'S ADDRESS: **Prior to Occupancy:**

Orlando, Florida _____

After Occupancy:

Orlando, Florida _____

In Emergency:

Phone: _____

ACCESS: A. During normal occupancy, access will be through the general entrance off of Garland Avenue. This will require security identification badges in compliance with LYNX security procedures. The Tenant will not have any access through any of the other "secured areas" or any common areas of the LCS.

B. Tenant will have access to the Leased Premises within the thirty (30) day period prior to the Lease commencement date for installation of their equipment. Said access will be during normal building hours, Monday through Friday, unless otherwise agreed.

ADVANCE RENT DEPOSIT:

\$ _____ (NOTE: This amount represents rent for the first month of the Term, which the Landlord estimates to be _____, 200_. It does not includes sales tax, which the parties anticipate will not be required.)

ANNIVERSARY DATE:

Each date which is one or more years from the Rent Commencement Date, **provided, however**, if the Rent Commencement Date is other than on a first day of the month, then the Anniversary Date shall be the first day of the first full month immediately following one full year from the Rent Commencement Date and will continue each year thereafter on the same day. Thus, for example, if the Rent Commencement Date is _____, 2007, the First Anniversary Date would be _____, 2008 and each _____ of each subsequent year thereafter would be a continuing Anniversary Date.

BASE RENT:

<u>Lease Year</u>	<u>Annual Rent</u>	<u>Monthly Rent</u>
First Year	\$113,100.00	\$ 9,425.00 (\$19.50 per square foot)
Second Year	117,058.50	9,754.87
Third Year	121,155.54	10,096.29
Fourth Year	125,395.98	10,449.66
Fifth Year	129,784.83	10,815.40

During the Renewal Term, Base Rent will be the following:

<u>Lease Year</u>	<u>Annual Rent</u>	<u>Monthly Rent</u>
Sixth Year	\$134,327.29	\$11,193.94
Seventh Year	139,028.74	11,585.72
Eighth Year	143,894.74	11,991.22
Ninth Year	148,931.05	12,410.92
Tenth Year	154,143.63	12,845.30

The annual increases in rent are based upon an annual increase of three and one-half percent (3.5%) over the prior year's rent.

Except as hereinafter set forth, the foregoing amounts generally include all common area maintenance, as well as other matters such as building insurance, water and sewer charges, utilities, property management, HVAC repair and maintenance, pest control and trash removal, subject, however to (i) any excessive use or increases for which the Tenant will pay its proportionate share, (ii) any increases in insurance over the base year, for which the Tenant will pay its proportionate share, and (iii) any real estate taxes arising as a result of the Tenant occupying the Leased Premises, for which the Tenant will pay its proportionate share. They also do not include sales tax, which the Tenant is obligated to pay in addition to said Base Rent, unless the Tenant furnishes to the Landlord an exemption certificate.

COMMON AREA:

Shall mean that area of the LCS which is the common area on the first floor which is a common public area for the passengers.

DESCRIPTION OF LEASED PREMISES:

The premises as outlined in Exhibit "A" attached hereto and located in the LYNX Central Station (Downtown Bus Station) (the "LCS"). (NOTE: The attached sketch is a rough diagram, the sole purpose of which is to identify where the Leased Premises are generally located. The sketch does not constitute any separate warranty or representation on the part of the Landlord. The Leased Premises constitutes only a portion of the second floor of the LCS. It is only that specific portion identified on Exhibit "A" which is to be leased to the Tenant; the remainder remains with the Landlord.)

MAKE RENT CHECKS PAYABLE TO:

Central Florida Regional Transportation Authority

MAXIMUM NUMBER OF EMPLOYEES:

MAXIMUM NUMBER OF PARKING SPACES:

None (NOTE: The Tenant must separately provide for parking for the Tenant and its employees off site, all at Tenant's expense.)

OPERATING HOURS:

A. Access. The Tenant will have access to the Demised Premises 24 hours/day, 7 days/week.

B. Utilities. The Landlord will, at its expense, provide normal operating utilities (including standard HVAC) during the following hours:

(i) Monday through Friday, 7:00 a.m. to 6:00 p.m.

(ii) Saturday from 8:00 a.m. to Noon.

To the extent the Tenant requests utilities, including HVAC "after hours", the Tenant shall pay to the Landlord an hourly charge for said services, initially estimated at \$35.00 per hour. From time to time, the Landlord may recalculate that hourly charge to take into account increases in costs for providing said services.

PASS-THRU EXPENSES:

Except as hereinafter set forth, the Base Rent includes the Tenant's obligation to pay for any of the following common area charges associated with the Leased Premises: building insurance, utilities (water and sewer, electricity, HVAC), pest control, trash removal; therefore there is no separate pass-thru charge for said the Tenant for expenses associated with the Leased Premises, provided that said use by the Tenant is both normal and customary and there is no extraordinary increase in said charges to the Landlord. The Tenant will, however, be obligated to pay all other expenses associated with the Leased Premises such as telephone, communication services, etc. In addition:

A. To the extent the insurance premium paid by the Landlord for overall insurance on the LCS exceeds its current year premium of \$ _____ for any future lease year, the Tenant will pay its proportionate share of any such increase.

B. To the extent any real estate taxes are assessed on the LCS as a result of the activity by the Tenant, the Tenant will pay those real estate taxes. At the current time, the LCS is exempt from real estate taxes and the parties contemplate that said exemption will continue. In any event, if said exemption does not continue due to Tenant's activity, then Tenant will pay those real estate taxes, and, in such case, said payment may be 100% if said taxes are solely on Tenant's space.

- C. The Landlord estimates that its overall annual utility bill for the LCS (electricity, water and sewer, etc.) is \$_____. To the extent said annual utility bill exceeds said amount, the Tenant will pay its proportionate share of said increase.
- D. To the extent the Tenant causes any inordinate or substantial increase in other expenses associated with the LCS (e.g. substantial increase in trash removal) as a result of activities by the Tenant, the Tenant will pay the additional expenses associated with said increase.

PERMITTED USE:

An office use only for the Tenant's business, which would generally include "back room" operations of the Tenant. The Demised Premises would not generally be used for "access by the public."

RENEWAL OPTIONS:

A one time option for five (5) years. **(NOTE:** Any renewal option is subject to Landlord's reasonable approval based on past performance by the Tenant during the Initial Term, and the Landlord making a reasonable determination that the Leased Premises are not required by the Tenant to fulfill its primary obligation to provide transportation services in Central Florida.)

RENT COMMENCEMENT DATE:

The date when the Leased Premises have been completed and delivered to the Tenant (evidenced by a certificate of occupancy or similar certificate reflecting that the Landlord has completed its construction of the Improvements for the Leased Premises) or when the Tenant opens for business, whichever first occurs. **(NOTE:** This is the date when Rent payments commence.) The parties anticipate this date to be on or about 200___, but this is subject to when the Landlord will complete said construction.

RENT DUE DATE:

All monthly rent payments are due on or before the first day of each month.

SALES TAX:

Tenant will pay all applicable sales tax due on all payments due under the Lease. However, if the Tenant furnishes to the Landlord an appropriate sales tax exemption certificate, then no sales tax is due on any such rent payments.

SECURITY ACCESS:

The Tenant is aware and understands that access to the LCS is secured and is by name tag only. In that regard:

- A. The Tenant shall furnish to the Landlord from time to time the list of names of those employees of the Tenant who will need access tags. The Tenant will coordinate with the Landlord for providing said access tags and the Tenant will reimburse the Landlord for its reasonable expense.
- B. Access will be through the Garland Street entrance and will be coordinated with the guard then stationed at that entrance.
- C. Access to the Tenant and its employees will only be to the Leased Premises on the second floor; access to other portions of the LCS is not permitted.
- D. The Landlord has general security for the LCS on Monday through Friday, during normal business hours. Although access to the Leased Premises will be available to the Tenant after said hours, it will be by security pass only. Thus, if the Tenant desires to utilize the space for other uses or purposes, it will need to coordinate and obtain Landlord's approval.

The Tenant will comply with the security procedures of the Landlord from time to time.

SECURITY DEPOSIT:

None.

SIGNAGE:

The Tenant may provide signage next to the entrance door to the Leased Premises as well as on the first floor where the entryway is off of Garland Avenue. All signage must comply with all applicable laws and is subject to the Landlord's prior reasonable approval.

SPACE NUMBER OF LEASED PREMISES:

N.A.

SQUARE FOOTAGE OF LEASED PREMISES:

5,800 square feet (NOTE: This is an estimate of the square footage in the Leased Premises.)

TENANT'S EQUIPMENT:

With respect to any equipment that the Tenant desires to use or install on the Leased Premises, any personal property may be utilized by the Tenant; however, any equipment which would require the penetration of any walls or the ceiling, will require the prior approval of the Landlord. The Tenant in that regard may place on the roof of the LCS a satellite system for the Tenant's use provided that the Landlord approves said plans as well as the contractor to undertake any such installation. Any damage arising out of the Tenant's use of said rights shall be repaired by the Tenant. Upon the expiration of the Lease, the Tenant will remove all such equipment and restore the LCS to its original condition.

TENANT'S PROPORTIONATE SHARE:

_____%

TERM OF LEASE:

The period from the Lease Commencement Date to the Lease Expiration Date.

TOTAL BASE MONTHLY RENT:
(NOTE: From the Rent Commencement Date to the first month prior to the first Anniversary Date.)

\$ _____ (NOTE: The foregoing amount does not include sales tax at, based on the premise that the Tenant is not obligated to pay sales tax and is an exempt entity. After the last full month prior to the first Anniversary Date, the total monthly rent will continue to be as otherwise set forth herein and will be subject to adjustments from time to time as set forth herein.)

LEASE

THIS LEASE (the "Lease") made and entered into this ____ day of October, 2006 by and between:

CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY (d/b/a LYNX), a political subdivision of the State of Florida, whose address is 455 North Garland Avenue, Orlando, Florida 32801, Attention: Linda S. Watson, Executive Director (hereinafter called "Landlord")

and

ORANGE COUNTY CLERK OF COURTS, a Florida corporation, whose address is _____, Orlando, Florida _____ (hereinafter called "Tenant")

LEASED PREMISES

Pursuant to the terms of this Lease, Landlord leases to Tenant, and Tenant leases from Landlord, the Leased Premises outlined on the Sketch of Leased Premises attached hereto and made a part hereof as Exhibit "A" (the "Leased Premises").

The Leased Premises are a part of the second floor of the new LYNX Central Station (hereinafter called "LCS"), located at 455 North Garland Avenue, Orlando, Orange County, Florida.

TERMS AND CONDITIONS OF LEASE

The Leased Premises are leased and accepted, and Tenant shall have and hold the Leased Premises, upon the terms and conditions set forth below:

1. **CONDITION OF LEASED PREMISES.** Except for those improvements set forth in Exhibit "D" attached hereto, and which improvements are to be made by the Landlord, Landlord has no obligation whatsoever to make any improvements or repairs of any nature whatsoever to the Leased Premises and, as set forth in Paragraph 2 below, the Tenant is accepting the Leased Premises in its "AS IS" condition.

2. **EXAMINATION OF LEASED PREMISES.** Tenant has examined the Leased Premises and Tenant acknowledges that the Leased Premises are in good order and satisfactory condition and except for those improvements to be made by the Landlord as set forth in Exhibit "D" attached hereto, Landlord is under no obligation whatsoever to make any improvements or repairs of any nature whatsoever to the Leased Premises. Except for those improvements described in Exhibit "D" to be made by the Landlord, Tenant has agreed that (i) the Landlord is making no representations of any nature whatsoever regarding the Leased Premises, (ii) the Tenant is accepting the Leased Premises in their "AS IS" condition, and (iii) the Tenant will, subject to the provisions of Paragraph 11 below, undertake any and all necessary improvements and repairs to the Leased Premises which may be necessary for the Tenant's use

and occupancy of the Leased Premises, whether required by applicable law, needed to bring the Leased Premises "up to code" or otherwise required by the Tenant. Tenant will undertake those improvements to the Leased Premises referenced and described in Exhibit "C".

3. **TERM OF LEASE.** The term of this Lease shall be from the date hereof and shall continue until the Lease Expiration Date. In that regard:

A. **Lease Year.** The term "**Lease Year**" as used herein shall mean each twelve (12) month period during the term hereof ending on each Anniversary Date, with any period of occupancy by Tenant prior to the first and subsequent to the last such lease year being deemed a lease year for the purpose hereof with pro rata adjustments with respect to rental or other matters provided for in this Lease in which the "Lease Year" shall be a factor.

B. **Renewal Term.** Tenant has a one time right to renew or extend this Lease beyond the Lease Expiration Date for a period of five (5) years. In order to exercise said option, the Tenant must not be in default under this Lease and the Tenant must give written notice to the Landlord of the Tenant's election to renew not less than one hundred eighty (180) days prior to the end of the then existing term. If the Tenant so elects to renew, said right is subject to the Landlord's reasonable approval which, if not given, shall terminate any right of the Tenant to renew. As a part of the Landlord's approval for any renewal, the Landlord may consider what the then rental value is for the Leased Premises including the fact that the rental paid under this Lease is less than the then rent that would be paid as market rent. If the Tenant fails to exercise its right of renewal, but nonetheless the Tenant continues to remain in the space after the Lease Expiration Date, then the Landlord, in its absolute discretion, may so notify the Tenant that the Landlord considers the renewal option to be exercised, in which case, the Tenant shall be deemed to have renewed the Lease. The foregoing is solely at the option of the Landlord, and the Landlord may continue to consider the Tenant as a tenant at sufferance. It is only if the Landlord so designates in writing that it considers that the renewal will be deemed to have been so exercised.

C. **Right Of Landlord To Terminate Any Renewal Right.** The Tenant is aware and understands that the Landlord is in the public transportation business and that it will expand its business from time to time, including expansion to accommodate commuter rail. If, after _____, 200_, the Landlord reasonably determines that the Leased Premises are needed for the core business operations of the Landlord (i.e., providing public transportation including commuter rail), and it is not feasible to relocate the Tenant to other comparable space in the LCS, then the Landlord shall have the right to terminate the Lease upon _____ months written notice to the Tenant.

4. **RENT COMMENCEMENT DATE.** Notwithstanding anything herein to the contrary, Rent shall begin no later than the Rent Commencement Date. At the request of either party, Landlord and Tenant shall enter into an agreement confirming the respective Commencement Dates, the occupancy of the Leased Premises and other matters reasonably requested by either party.

5. **RENTALS.** Tenant shall pay to Landlord the following rent during the term of this Lease:

A. **Base Rent.** The annual Base Rent set forth in the **GENERAL LEASE PROVISIONS** payable in twelve (12) equal monthly installments as set forth in the **GENERAL LEASE PROVISIONS**, each of which shall be due and payable on the first day of each and every calendar month during the term of this Lease.

B. **Security Deposit/Advance Rent.** Simultaneously with the execution of this Lease by Landlord, Landlord acknowledges receipt of the following amounts:

(1) The amount set forth under General Lease Provisions as a security deposit to be held by Landlord pursuant to Paragraph 14 below.

(2) The amount set forth under the General Lease Provisions as Advance Rent Deposit which is to be applied toward the rent payment set forth in the General Lease Provisions. To the extent necessary, this amount may be used by the Landlord as an additional Security Deposit in the event of a default under the Lease prior to said rent payment coming due.

C. **Status of Rent Payments.** The rent payments set forth under the **GENERAL LEASE PROVISIONS** are subject to adjustment from time to time based upon changes in the Base Rent as set forth under the **GENERAL LEASE PROVISIONS**.

D. **Rent for Fractional Periods.** If the Term of this Lease begins or ends on a date other than the first or last day of the month, then, in that event, rent and other amounts due for those fractional periods shall be prorated.

E. **Rent Absolutely Due.** All rent and other payments due Landlord hereunder shall be absolutely and unconditionally due to Landlord and shall be paid without notice or demand, and shall not be subject to any defense, off-set or counterclaim whatsoever.

F. **Monthly Rent Due on First Day of Month.** The monthly rent (consisting of monthly Base Rent and the monthly estimated pass-thru expenses) shall be due and payable on the first day of each and every calendar month during the term of the Lease.

G. **Sales Tax.** The Tenant shall be responsible for and pay to the Landlord on all rent and other payments due under this Lease all applicable sales tax, which sales tax shall be in addition to all rent and other payments set forth in this Lease, to the extent sales tax is due on any such rent payments. All amounts required to be paid to the Landlord and designated as rent hereunder or otherwise due and payable to the Landlord under this Lease shall be deemed to be "rent" as that term is used in this Lease. The parties assume that no additional sales tax will be due due to the tax exempt nature of the Tenant, but, if any sales tax is due, that will be the obligation of the Tenant.

6. **USE OF LEASED PREMISES.**

A. Tenant agrees that the Leased Premises will be used solely for the Permitted Use set forth under the **GENERAL LEASE PROVISIONS**. The Leased Premises may not be used for any other purpose without Landlord's consent, which Landlord may withhold in its absolute discretion. Without Landlord's prior written consent, the Tenant will not

use or permit there to be located at any time on the Leased Premises any Hazardous Materials (as defined below) or any other regulated materials such as gasoline products, paint products, etc. except those which are normal and customary in the Permitted Use and only incidental such as cleaning materials, paint to paint the interior of the Leased Premises, etc. No alcoholic beverages may at any time be located on the Leased Premises for the purpose of sale or distribution to patrons or customers. (Thus, for example, Christmas parties for employees are not prohibited by this provision).

B. Control of Leased Premises. The Tenant is aware and understands that the Leased Premises are part of an overall concept for the LCS which is a public facility serving the public. Thus, the Leased Premises are not contemplated to be a conventional leased premises but are part of the overall operation of the LCS. In this regard, any security provided by the Landlord at the LCS will have the right to enter and have general review over the Leased Premises. The Tenant will generally comply with directions from security personnel of the Landlord.

7. **TENANT'S USE OF COMMON AREAS.** Tenant shall have no right to use the entrance ways, driveways, service drives and public parking areas, (the "**Common Areas**") as the same may exist from time to time, in the LCS. In that regard:

A. Employee Parking At no time may any employees of the Tenant park at the LCS, or on any adjacent parking which may be owned by the Landlord. As such, the Tenant must make separate arrangements for parking of the Tenant and its employees.

B. Loading and Unloading. Except as authorized by Landlord, all loading and unloading at the Leased Premises in the LCS and shall be coordinated with the Landlord.

8. **LANDLORD'S OBLIGATION FOR REPAIRS TO STRUCTURAL PORTIONS.**

A. Landlord's Repairs. Landlord shall, at its sole cost and expense, keep in good repair and maintain the following areas:

(i) the roof, the exterior and supporting walls, and other structural portions of the Leased Premises.

(ii) The electrical system up to the panel in the Leased Premises. Thus, electrical lines inside the Leased Premises will be maintained by the Tenant.

(iii) The plumbing system up to the Leased Premises. Thus, water and sewer lines outside the Leased Premises will be maintained by the Tenant.

(iv) The HVAC system, provided the Tenant will provide normal maintenance as provided in paragraph 9(A)(1) below.

With respect to the obligations of the Landlord set forth above, this will not apply to the extent the Tenant through its negligence has damaged said systems; in which case, the repair will be paid for by the Tenant as provided in Subparagraph B below. Except as expressly set forth in this Subparagraph A, Landlord has no other duties or obligations whatsoever for any repairs or maintenance to the Leased Premises.

B. Tenant's Neglect. Regardless of any obligation otherwise imposed upon Landlord under Subparagraph A above, Tenant shall pay for the cost of any repairs resulting from the negligence or the unlawful or willful acts of its employees, contractors, its agents, or representatives.

C. Landlord's Liability. Landlord shall not be liable to Tenant for failure to make any repairs required of Landlord unless written notice of necessity thereof has been given by Tenant to Landlord, specifying in reasonable detail the repairs required, and Landlord shall not have made such repairs within a reasonable period of time sufficient to accomplish such repairs after receipt of such notice, due allowances being made for delays beyond the control of Landlord. In any event, Landlord shall have no duty or liability whatsoever to Tenant for any incidental damages, lost profits, or any damage to any property of Tenant.

D. Sovereign Immunity. Any liability of the Landlord under this Lease is expressly subject to the provisions of Florida law regarding sovereign immunity for the Landlord.

9. TENANT'S CARE, REPAIR AND MAINTENANCE OF LEASED PREMISES.

A. General Repairs. Tenant shall, at its sole cost and expense, keep the Leased Premises in good repair. This obligation shall include (but is not limited to) all interior painting, floor maintenance, and replacement of damaged ceiling tile. By way of illustration and not limitation, the following are obligations of Tenant in regard to the Leased Premises:

(1) Tenant shall provide normal and customary maintenance to heating, air conditioning and ventilation equipment and systems (the "**HVAC**") in the Leased Premises, including any additional maintenance, repairs or replacements needed to make the HVAC operable to meet Tenants needs, and, in that regard, the Tenant shall contract with a licensed heating and air conditioning firm (subject to Landlord's reasonable approval) for regular inspection and maintenance of the HVAC, including, but not limited to, regular replacement of filters and Tenant shall furnish Landlord a copy of said contract. Tenant shall not be responsible for any repairs or replacements to the HVAC system (which the Landlord will make), unless the same were brought about by the wrongful or negligent acts of the Tenant beyond the normal use of the HVAC system.

10. ADDITIONAL DUTIES OF TENANT.

A. Laws. Tenant shall at all times comply with all laws and ordinances applicable to the Tenant and its business.

B. Nuisance. Tenant shall not permit any nuisance or dangerous condition to occur at the Leased Premises.

C. Maintenance. Tenant shall at all times keep the Leased Premises and the areas immediately in front of the Leased Premises and immediately to the rear of the Leased Premises in a clean and neat condition.

D. Noise and Air Pollution. Tenant shall prohibit disturbing or offensive odors, fumes, gases, smoke, dust, steam vapors, noise or vibrations from occurring on or from the Leased Premises.

E. Pest Control. Tenant shall keep the Leased Premises free of vermin.

F. Use of Appliances. Tenant shall prohibit use of sinks, toilets or urinals in the Leased Premises for any purpose except that for which they were designed and installed.

G. Trash Storage. Tenant shall store all trash and garbage inside the Leased Premises and provide for its prompt and regular removal in containers provided by Landlord at the LCS. Tenant shall not burn any trash of any kind in or about the LCS. Tenant shall not place in any such dumpster at the LCS any trash or garbage other than that generated at the Leased Premises and, further, shall not dispose of any other materials other than trash and garbage which can be customarily disposed of. Thus, for example, hazardous or other similar materials (e.g. paint, petroleum products, etc., but only to the extent otherwise permitted to be on the Leased Premises) will be separately disposed of by Tenant at its expense and will not be placed in any of the garbage containers at the LCS. The Landlord may charge the Tenant for any trash or garbage removal in addition to the Base Rent.

H. Advertising Media. Tenant shall not permit the use of any advertising media or device (such as sound production devices) which shall be audible from the exterior of the Leased Premises.

I. Operating Hours. The Tenant will have access to the Leased Premises during the hours set forth under the **GENERAL LEASE PROVISIONS**. Tenant will also pay for any "after hour utilities" as set forth under said General Lease Provisions.

J. Utilities for Leased Premises. Tenant shall procure for its own account, shall be solely responsible for, and shall promptly pay all charges (not covered in the Base Rent) for telephone and other communication services consumed or used in or at the Leased Premises. The Landlord shall provide for use at the Leased Premises water, sewer, electric, and HVAC services on a normal basis for the Permitted Use at no additional cost to the Tenant. If the utilization by the Tenant of said water, sewer, electric, or HVAC is excessive considering the Permitted Use (generally in excess or _____ percent (____%) more than the average normal use at the Leased Premises), then the Landlord will have the right to charge a reasonable fee for any such excessive uses beyond what would be normal for the Permitted Use. The Landlord may at its discretion install a "**submeter**" for the Leased Premises in order to monitor said use. Thus, for example, if the Tenant should "leave the water running" for twenty-four hours, that would result in excessive use which would permit the Landlord to charge the Tenant for said excessive use. Landlord shall not be responsible or liable to Tenant in damages or

otherwise for the quality or quantity or for any interruptions, curtailment, or suspension of utility service due to repairs, action of public enemy, or any other cause beyond Landlord's reasonable control. In the event the utility provider for the LCS does not provide individual metered utilities for the Leased Premises for gas or electric but, rather, provides said utilities to the Leased Premises under a master meter (meaning a meter which serves more space than the Leased Premises), then, in that event, the Landlord may reasonably allocate the utility charges from the master meter and estimate the amount to be charged from time to time, which amount may be added to the monthly rent payments due under this Lease, but the foregoing sentence will only be applicable if the use of these utilities by the Tenant is excessive beyond what would be reasonably normal and customary for the Permitted Use.

K. Taxes. If applicable, Tenant shall make timely payment of all ad valorem taxes and assessments assessed against Tenant's stock of merchandise, furniture, equipment, supplies and other property located on or used in connection with the Leased Premises and of all privilege and business licenses, taxes and similar charges for which Tenant is primarily responsible.

L. Occupancy License. Where governmental jurisdictions require businesses to obtain an Occupancy License, Tenant shall provide Landlord within thirty (30) days after Tenant opens for business with a copy of the Occupancy License granted to Tenant by the governing municipality.

M. Notice of Accidents. Tenant shall give immediate notice to Landlord in case of fire or accidents in the Leased Premises.

N. No Alcohol. Tenant shall not sell or distribute alcoholic beverages for on or off premises consumption without the prior written approval by Landlord. If approved, Tenant shall carry liquor liability insurance naming Landlord and its agents as additional insured. Tenant shall furnish Landlord a copy of said liquor liability insurance and shall keep said policy in full force and effect and shall notify Landlord immediately upon termination of said Insurance.

11. **ALTERATIONS TO LEASED PREMISES.**

A. Alterations. Alterations to the Leased Premises by Tenant shall be made only with the written consent of Landlord, which consent may be withheld by the Landlord in its absolute discretion. Any unauthorized structural alteration by Tenant, shall result in Tenant being financially liable for all costs Landlord incurs as a result of any such unauthorized alterations including, if so elected by Landlord, the removal of any such alterations and related repairs. To the extent authorized, any such improvements by the Tenant must be made in compliance with all applicable laws, the Tenant will be required to obtain all requisite building permits, and any such alterations or improvements may only be made by properly licensed contractors, subject to Landlord's approval, such approval not to be unreasonably withheld. In any event, the Tenant prior to commencing any alterations shall submit to the Landlord the building plans for the alterations. The Landlord may during any alterations inspect the construction to confirm that said construction is in compliance with the plans, building code and applicable law. All alterations shall be done in a good and workmanlike manner.

B. Payment of Contractors. Tenant shall promptly pay all contractors and materialmen employed by the Tenant and should any such lien be made or filed, Tenant shall bond off or discharge the same within ten (10) days after written request by Landlord.

C. Tenant Has No Right to Lien LCS. Notice is hereby given that Landlord shall not be liable for any work, labor, or materials furnished or to be furnished upon credit to or for Tenant or anyone claiming under Tenant, and that no mechanic's or other liens for any such work, labor or materials shall attach to or affect the estate or interest of Landlord in and to the Leased Premises. Tenant shall not do or suffer anything to be done whereby the Leased Premises may be encumbered by any mechanic's lien. Landlord shall be entitled to record in the public records where the LCS is located a notice to this effect. The Tenant shall furnish a written notice to all persons so furnishing any such work, labor or materials that said persons do not have a right to file any lien on the LCS. The Tenant shall indemnify and hold the Landlord harmless from any claims, damages, expenses (including attorney's fees), liabilities and obligations of any nature whatsoever that may arise out of or relate to any liens that may be filed against the Leased Premises by virtue of any actions taken by the Tenant, whether or not permitted under this Lease. As set forth above, the Tenant shall immediately bond off and discharge any such liens.

12. **RELOCATION OPTION.** If Landlord determines to utilize the Leased Premises for other purposes during the term of this Lease, Tenant agrees to relocate to other space in the LCS designated by Landlord, provided such other space is of equal or larger size than the Leased Premises. Landlord shall pay all the reasonable out-of-pocket expenses of any such relocation, for the expenses of moving and reconstruction of all Tenant furnished and Landlord furnished improvements. In the event of such relocation, this Lease shall continue in full force and effect without any change in the terms or conditions of this Lease, but with the new location substituted for the old location set forth in **Exhibit "A"** of this Lease.

13. **COMMON AREA.** The term "**Common Areas**" means the entire areas designed for common use or benefit within the LCS, including, but not by way of limitation, parking areas, driveways, service roads, landscaped and vacant areas, loading docks, walks, retaining walls, curbs, retention areas and facilities, corridors and LCS signs together with

facilities such as washrooms and settling and retention ponds located within or outside of the LCS. The Common Areas shall at all times be subject to the exclusive control and management of Landlord and may be expanded, contracted or changed by Landlord from time to time as deemed desirable. The Tenant will not have general access to said Common Areas, for use in its business; however, employees of the Tenant shall not be precluded from the Common Areas in the same manner as other members of the public. Landlord shall have the right to change the areas, location and arrangement of Common Areas (including specifically the parking and access areas); to enter into, modify and terminate easements and other agreements pertaining to the use and maintenance of the Common Areas; and to restrict parking by tenants, their officers, agents, and employees to designated areas within the Common Areas. Notwithstanding any reference in this paragraph or elsewhere in this lease to "**parking**" or "**parking areas**", the Tenant specifically agrees and understands that it must separately arrange off premises for parking by it and its employees. The parking areas are designated in the Common Areas as temporary parking to be used for matters such as drop-off of customers for the Landlord.

14. **SECURITY DEPOSIT/ADVANCE RENTS.** Landlord has received the Security Deposit/Advance Rent Deposit as set forth in paragraph 5(C) above, which shall serve, in part, as security for the obligations of Tenant under this Lease. The Security Deposit/Advance Rent Deposit shall not bear interest, need not be maintained in a separate account and may be co-mingled by Landlord with its other funds. Provided Tenant has fully and timely complied with all its duties and obligations under the Lease, Landlord shall apply to the applicable month the Advance Rent Deposit as and when due and refund to Tenant the Security Deposit within thirty (30) days after the Lease Expiration Date. Until due, all Advance Rent Deposits shall serve as additional Security Deposits.

15. **SIGNS AND ADVERTISING.** Without the prior approval of Landlord, Tenant shall not permit the painting or display of any sign, placard, lettering or advertising material of any kind on or near the exterior of the Leased Premises except as expressly permitted in this Paragraph.

A. **Sign on Building.** Tenant shall not, without Landlord's express written consent, install any signs outside the Leased Premises on the fascia of the LCS Building.

B. **Maintenance of Signs, Etc.** If the Landlord does approve any signs, Tenant shall pay the costs of its signs and their installation and shall thereafter maintain its signs in good condition. Tenant shall be responsible for damage to and repairing the LCS building to as near original condition, subject to Landlord's acceptance, due to the installation, maintenance, and/or removal of signs. Signs which remain in place on the Leased Premises ten (10) days after the end of the Term or after Tenant abandons the Leased Premises shall automatically become the property of Landlord and may be removed by Landlord at Tenant's expense (including cost of repairs to the Leased Premises).

C. **Compliance with Law.** All signs shall be in strict compliance with applicable law. The copy area of signs shall be in compliance with laws. Further, prior to installing any signs, Tenant must submit said signs to Landlord for its approval, not to be unreasonably withheld.

16. **This paragraph is not applicable.**

17. **USE OF LCS NAME.** Tenant shall not have any property right or interest in any name or distinctive designations which may become associated with the LCS. Landlord shall retain all property rights in, and right to the use of, such name or designation.

18. **LCS CHANGES.** Landlord may at any time construct additional buildings or improvements in the LCS and may remodel or remove any of them.

19. **REAL ESTATE TAXES.** Tenant agrees to pay as additional rent hereunder all real estate taxes which may be levied or assessed by the lawful taxing authorities against the Leased Premises. The Tenant is aware and understands that the Leased Premises will probably not be subject to real estate taxes, since the Tenant is a government entity. If, however, any real estate taxes are assessed against the LCS as a result of the Tenant, then the Tenant will pay that bill; if, on the other hand, the real estate taxes are part of a larger bill for a portion or all of the LCS, then the Landlord will reasonably allocate those real estate taxes to the portions of the LCS on which the real estate taxes are assessed or levied. "**Real Estate Taxes**" shall be deemed to mean all city, county, town and village taxes, special or general, ordinary or extraordinary, assessments, water and sewer rents, charges for public utilities, excises, levies, licenses and permit fees, and other governmental charges which shall be imposed upon or become due and payable or become a lien upon the LCS or any part thereof, including the building and improvements which may hereafter be placed or erected thereon, or on the sidewalks or streets in front of the same by any federal, state, municipal or other governmental or public authority under existing laws or practice or under any future laws or practice. If a tax consultant is secured by Landlord, Tenant shall pay the Proportionate Share of this cost as long as such tax services result in a tax savings for Tenant, including the Leased Premises.

20. **INSURANCE.** Tenant shall at its own cost and expense keep and maintain in full force and effect the following insurance:

A. **Tenant's Property Insurance.** Property damage insurance on all Tenant's property to the extent of its full insurable value against loss or damage by fire, with extended coverage, and shall furnish Landlord with satisfactory evidence of such coverage within thirty (30) days after the commencement date of this Lease Agreement.

B. **Tenant's Liability Insurance.** Liability insurance against claims for bodily injuries or death upon or near the Leased Premises, to the extent of not less than \$1,000,000.00 in respect to bodily injuries or death to any one person and to the extent of not less than \$2,000,000.00 for bodily injuries or death to any number of persons arising out of one accident or disaster and property damage with limits of not less than \$500,000.00. Tenant shall furnish Landlord with satisfactory evidence of such coverage within ten (10) days after the execution of the Lease and, in any event, prior to the Tenant actually taking possession of the Leased Premises. Such policy of insurance shall show Landlord as an additional insured, shall contain a waiver of subrogation clause, and shall contain a clause that the insurer will not cancel or change the insurance without first giving Landlord thirty (30) days prior written notice.

C. **Activities by Tenant.** Tenant will not do or suffer to be done, or keep or suffer to be kept, anything in, upon or about the Leased Premises which will contravene Landlord's policies insuring against loss or damage by fire or other casualty (including but not limited to public liability) or which will prevent Landlord from procuring such policies in companies acceptable to Landlord. If anything done, omitted to be done or suffered to be done by Tenant, or kept or suffered by Tenant to be kept, in, upon or about the Leased Premises shall cause the rate of fire or other insurance on the Leased Premises or other property of Landlord in companies acceptable to Landlord to be increased beyond the minimum rate from time to time applicable to the premises for use for the purposes permitted under this Lease or such other property for the uses made thereof, Tenant will pay the amount of such increase promptly upon Landlord's demand.

D. **Insurance On LCS.** The Landlord, from time to time, shall maintain whatever insurance is required on the LCS which would be in the nature of casualty insurance and liability insurance. To the extent the annual cost of such insurance exceeds the base annual cost (which is \$ _____ for the period from _____, 2006 to _____, 2007), the Tenant will pay its proportionate share of any such increase in said insurance.

21. **PROTECTION OF LANDLORD.**

A. **Indemnity By Tenant.** Tenant shall indemnify and save harmless Landlord, its stockholders, directors, officers, employees, agents and contractors (the "**Indemnified Parties**") from and against any and all liability, damage, penalties or judgment arising from injury to person or persons or property sustained by anyone in and about the Leased Premises and Common Area of the LCS resulting from any act or acts or omissions of Tenant or Tenant's officers, agents, servants, employees, contractors or sublessees. Tenant shall at its own cost and expense, defend any and all suits or actions which may be brought against any Indemnified Party or in which any Indemnified Party may be impleaded with others upon any such aforementioned matter or claim except as may result from the acts set forth in Subparagraph B below.

B. **No Liability by Landlord.** Except for its negligence or the negligence of its officers, agents, servants, employees or contractors, Landlord shall not be responsible or liable for any damage or injury to any property, fixtures, buildings, or other improvements or to any person or persons, at any time on the Leased Premises, including any damage or injury to Tenant or to any of Tenant's officers, agents, servants, employees, contractors, customers, or sublessees. Landlord shall not be under any responsibility or liability in any way whatsoever for any latent defect in the Leased Premises or in the building of which they form a part.

22. **FIRE OR CASUALTY.** If the Leased Premises shall be made untenable by fire or other casualty, Landlord, if it so elects, may (a) terminate the term of this Lease, effective as of the date of such fire or casualty, by written notice given to Tenant within thirty (30) days after such date, or (b) repair, restore, or rehabilitate said Leased Premises at Landlord's expense within nine (9) months after the date of such fire or casualty, in which event the term hereof shall not terminate but any fixed rent herein reserved shall be abated on a pro rata basis while the Leased Premises shall remain untenable (but nothing herein shall constitute any waiver by

Landlord to seek any rent recovery under any applicable insurance policies). Thus, for example, if the Tenant is unable to use fifty percent (50%) of the Leased Premises measured by square footage, then the Tenant will only be obligated during said period to pay fifty percent (50%) of what the Tenant is otherwise obligated to pay under this Lease whether in the form of rent or other payments. If Landlord elects to so repair, restore or rehabilitate said Leased Premises and shall fail to substantially complete the same within said nine (9) month period, due allowance being made for delay due to practical impossibility, either Landlord or Tenant, by written notice to the other, given within fifteen (15) days next following the last day of said nine (9) month period, may terminate the term hereof as of the date of such fire or casualty. In the event of termination of the term hereof pursuant to this Paragraph, Guaranteed Rent, if any, reserved hereunder shall be apportioned on a per diem basis and paid to the date of such fire or casualty and percentage rent, if any, shall be paid to the date of termination. The right of termination herein provided is separate and independent of any other provisions of this Lease relative to termination. The foregoing notwithstanding, if during the last two (2) years of the existing term, the Leased Premises shall be damaged to the extent of more than twenty-five percent (25%) of the reasonable value of the improvements above foundation and floor, Landlord shall not be obligated to repair and replace said premises unless Tenant, within thirty (30) days after demand by Landlord, extends said Lease for the period of any renewal term then authorized, and if there be no such term authorized, Landlord shall not be obligated to make such repairs, but may, at its election to be exercised within sixty (60) days after date of such damages, cancel and terminate this Lease effective as of the date of such damages. If the Lease is terminated by Tenant pursuant to the provisions of this Paragraph, Landlord shall have no further obligations to Tenant. If the Leased Premises are not damaged (or are damaged in such a way that would not preclude the Tenant from continuing its business) but the remainder of the LCS is damaged in such a way as to substantially reduce the availability of customers to the Leased Premises, then the obligation of the Tenant to pay rent hereunder shall be proportionately reduced during the period of damage to the remainder of the LCS, until the LCS operations are returned so that customers are available to the Leased Premises.

23. **EMINENT DOMAIN.** In the event the whole of the Leased Premises (or such substantial part thereof that they are rendered unsuitable for Tenant's business) shall be taken by any public authority under the power of eminent domain or like power, this Lease shall terminate as of the date possession thereof shall be required to be delivered to the appropriate authority. In the event of only a partial taking under such power, which does not materially render the Leased Premises unsuitable for Tenant's business, this Lease shall not terminate, but there shall be an equitable abatement of the Guaranteed Rent proportionate to the part of the Leased Premises taken under such power. In the event of any total or partial taking under such power, Landlord shall be entitled to all such awards of damages as may be allowed. In the event there is any taking of any Common Area, said taking shall not terminate this Lease, result in any reduction of rent payments or other obligations of Tenant, and shall not have any other effect whatsoever on the Lease. All proceeds and awards arising out of any such taking regarding the Common Area shall be the sole property of Landlord.

24. **ASSIGNMENT AND SUBLETTING.**

A. **General Provisions.** Without Landlord's prior written consent, which consent shall not be unreasonably withheld, Tenant shall not assign this Lease, sublet any part of

the Leased Premises, or otherwise transfer any right or interest hereunder. If Tenant is a corporation, the sale or encumbrance of a majority of its outstanding voting stock (whether in one transaction or as the result of more than one transaction) shall be deemed an assignment of this Lease. Likewise, if Tenant is a partnership, the sale or transfer of a majority of its partnership interests (whether in one transaction or as the result of more than one (1) transaction) shall be deemed assignment of this Lease. If, at any time during the term, Landlord has knowledge that a person, firm or corporation other than Tenant is in possession of the Leased Premises without the written consent of Landlord, Landlord may, at its option, at any time thereafter, by written notice to Tenant, accept and treat such person, firm or corporation in possession as the assignee or sublessee of Tenant, in which event both Tenant and such assignee or sublessee shall be obligated to observe and perform all the covenants, conditions and provisions herein contained binding upon Tenant provided; however, that nothing herein shall affect Landlord's other remedies for Tenant's default by wrongful assignment or subletting. If Landlord gives its consent, such approval shall be limited only to the particular instance described in the consent. In no event may the use to which the Leased Premises are put be other than the Permitted Use without the Landlord's prior written consent, which the Landlord may withhold in its discretion. In no event may a changed Permitted Use violate any exclusives or restrictions that may have been placed on the entire Waterford Lake Plaza as reflected in the entire Plat.

B. No Release of Tenant. In the event Landlord's written consent is given to an assignment, or subletting, Tenant shall nevertheless remain liable to perform all covenants and conditions thereto and to guarantee such performance by its assignee or subtenant unless relieved thereof by the express terms of such consent. In no event may the Leased Premises be used for any use other than as specifically set forth under this Lease and, further, nothing contained in any such assignment shall release Tenant from any continuing liability.

C. Right of Landlord to Cancel. Landlord, in reviewing any request for assignment or subleasing by Tenant, shall have the absolute right to cancel this Lease upon giving sixty (60) days notice to Tenant. In such case, the Lease shall expire as of the end of said sixty (60) day period. If the Landlord indicates it wishes to cancel the Lease, then the Tenant may, in its discretion, upon notice to the Landlord, elect not to make said assignment, in which event, this clause is not applicable.

D. Review Fee. Upon submission by Tenant of an Assignment or Sublease for consideration by Landlord and Landlord's signature, Tenant shall simultaneously deliver to Landlord the monetary sum of Five Hundred and 00/100 Dollars (\$500.00) which shall be an administrative charge for Landlord's review, investigation and consideration of Tenant's request for assignment or subleasing. One-half (1/2) of such sum shall be refundable if Landlord does not consent to such assignment or subleasing.

25. LANDLORD MORTGAGES.

A. Subordination. This Lease shall be automatically subordinated to the lien of any mortgage ("Mortgage") which currently exists on the LCS or which Landlord may at any time place on the LCS. Upon Landlord's request, Tenant shall execute any instrument which may be required to confirm such a subordination.

B. Notice to Mortgagee. Tenant agrees that in the event Landlord is in default under this Lease, Tenant shall give simultaneous written notice of such default to the holder of record of the first mortgage covering the Leased Premises provided Tenant shall have first been notified, in writing, of the name and address of such mortgagee. Tenant further agrees that said holder of the first mortgage shall be permitted to correct or remedy such default within the same period of time allotted to Landlord.

26. **ESTOPPEL CERTIFICATES.** At any time and from time to time upon request in writing from Landlord, Tenant agrees to execute, acknowledge and deliver to Landlord a statement in writing certifying that this Lease is unmodified and in full force and effect for if there have been modifications, that the same is in full force and effect as modified and stating the modifications), the dates to which the Guaranteed Rent, Pass-Through Rent, and other charges have been paid, and any other factual data relating to this Lease or the Leased Premises which Landlord may request.

27. **ENTRY OF LANDLORD.** Landlord may, at all reasonable times, enter the Leased Premises:

- A. To inspect or protect the Leased Premises or any of its equipment thereon;
- B. To effect compliance with any law, order or regulation of any lawful authority;
- C. To make or supervise repairs, alterations or additions;
- D. To exhibit the Leased Premises to prospective tenants, purchasers or other persons; and
- E. To alter or otherwise prepare the Leased Premises for re-occupancy at any time after Tenant has vacated the Leased Premises.

No authorized entry by Landlord shall constitute an eviction of Tenant or a deprivation of Tenant's rights, alter the obligation of Tenant, or create any right in Tenant adverse to Landlord's interests hereunder and the rent reserved shall in no way abate, by reason of loss or interruption of business of Tenant, or otherwise, while any repairs, alterations, improvements or additions are being made. During the last six (6) months prior to the expiration of the term of this Lease or any renewal terms, Landlord may place upon the Leased Premises the usual notices "**For Rent**", which notices Tenant shall permit to remain thereon without molestation.

28. **VACATING LEASED PREMISES ON LEASE EXPIRATION DATE.** On the Lease Expiration Date, Tenant shall quit and surrender the Leased Premises broom clean and in good condition and repair (including the HVAC) together with all alterations, fixtures, installations, additions and improvements which may have been made in or attached on or to the Leased Premises except for reasonable wear and tear. Upon surrender, Tenant shall remove its trade fixtures, and Tenant shall repair any damage to the Leased Premises caused thereby. Landlord may require Tenant to restore the Leased Premises so that the Leased Premises shall be as they were on the Lease Commencement Date except for reasonable wear and tear, **provided, however,** if the Tenant is not in default and has fulfilled all its duties under this Lease, the

Tenant will not be required to remove any Tenant Improvement that were installed with the approval of the Landlord. If the Tenant fails to surrender the Leased Premises as required herein, the Tenant shall be liable to the Landlord for all damages which the Landlord may sustain which, in any event, shall not be less than twice the total rent on a per diem basis which was required to be paid under the Lease immediately prior to the Lease Expiration Date. For the purposes of this paragraph, the term "**Lease Expiration Date**" means any earlier date on which the Tenant may vacate the Leased Premises.

29. **REMOVAL OF EQUIPMENT AND FIXTURES.** All trade furnishings, fixtures and equipment in the Leased Premises, which are supplied and installed at the sole expense of Tenant, shall remain Tenant's property. Tenant may remove these items prior to termination of this Lease, provided:

A. Tenant is not in default hereunder at the time of termination; and

B. Tenant immediately repairs or reimburses Landlord for the cost of repairing all resulting damage or defacement.

Otherwise, such items shall become Landlord's property. There is set forth in the Exhibits attached hereto a note as to the status of certain equipment which will be complied with.

If the Landlord elects not to permit the Tenant to renew the Lease (and the Tenant wishes to do so) or if for any other reason the right of the Tenant to continue to occupy the Leased Premises is terminated by the Landlord (not due to any default by the Tenant), then, in that event, the Landlord shall pay to the Tenant the unamortized cost of those improvements by the Tenant as set forth in **Exhibit "B"**. In arriving at the amortized cost, the useful life will be as determined by the IRS and the amortization schedule will be straight line. Upon the occupancy of the Leased Premises, the parties will enter into an agreement confirming the equipment subject to this provision, the useful life, and amortization provision.

30. **HOLDING OVER BY TENANT.** In the event Tenant remains in possession of the Leased Premises after the Lease Expiration Date and without the execution of a new lease, it shall be deemed to be occupying said Premises as a tenant in sufferance and not under any other arrangement such as a month-to-month or other periodic rental. In such case, either party may terminate such tenancy in sufferance upon written notice thereof to the other party. Tenant shall not acquire any right or interest in the Leased Premises by remaining in possession after the termination of this Lease. However, the Landlord may, in its absolute discretion, as set forth in paragraph 3(B) above, notify the Tenant that it considers the Tenant to have exercised the renewal term, in which case, the Tenant will be deemed to have exercised the renewal term. If there is no further renewal term, then, in that event, the parties will be deemed to have renewed the Lease for one additional renewal term continuing on the same terms with a continuation and increase in the rental.

31. **DEFAULT.**

A. **Events of Default.** As used in this Lease, the term "**event of default**" shall mean any of the following:

(1) Tenant's failure to make payment of any rent or any other amounts payable by Tenant to Landlord hereunder within five (5) business days after the same is due and payable;

(2) Tenant's failure, within ten (10) business days after receipt of demand by Landlord, to fulfill any other non-monetary obligation imposed on Tenant by this Lease;

(3) Tenant or its guarantor shall file in any court a petition in bankruptcy or insolvency or for reorganization within the meaning of Chapter X of the Bankruptcy Act, or for the appointment of a receiver or trustee of all or a portion of Tenant's property;

(4) An involuntary petition of the kind referred to in subparagraph (c) of this Paragraph shall be filed against Tenant or any guarantor, if any, and such petition shall not be vacated within thirty (30) days after the date of filing thereof. To the extent necessary, this amount may be used by the Landlord as an additional Security Deposit in the event of a default under the Lease prior to said rent payment coming due.

(5) Tenant or any guarantor, if any, shall make an arrangement for the benefit of creditors, or shall be adjudicated a bankrupt;

(6) Any property used in connection with Tenant's leasehold interest shall be taken on execution;

(7) Tenant shall for reasons other than those specifically permitted in this Lease, cease to conduct its normal business operations in the Leased Premises for a period of five (5) continuous days or for more than five (5) days in any thirty (30) day period; or

(8) Tenant's failure to provide Landlord with a copy of the Certificate of Occupancy granted to Tenant by the governing municipality showing that Tenant has complied with all building codes within thirty (30) days after Tenant opens for business.

B. Remedies for Default. Upon the happening of an "**event of default**", Landlord at its option, may in addition to any other rights which may be available to Landlord under applicable law, all of which rights are cumulative:

(1) Sue for all rent due under this Lease, including all past due rent and any and all future but not yet due rent for the balance of the then existing Term, all of which future rent shall be accelerated. For the purposes of this clause, "**Rent Due**" shall mean all Base Rent as well as all other pass-thru expenses required to be made by Tenant under this Lease;

(2) If default consists in whole or in part of Tenant's failure to expend funds, make the necessary expenditures for the account of Tenant who shall reimburse Landlord therefore with interest at the maximum legal rate of interest from date of expenditure; or

(3) Terminate Tenant's rights to possession of the Leased Premises without waiving any other rights that Landlord may have under this Lease, including the right of

Landlord to recover all past due and future rent due for the then existing Term of the Lease. Upon termination of this Lease for any reason, or upon termination of Tenant's right of possession as provided above, Tenant shall promptly surrender possession to Landlord and vacate the Leased Premises, and Landlord may reenter the Leased Premises and expel Tenant or anyone claiming under Tenant and remove the property of any of them without notice, formal claim or process, Landlord being absolved of any liability or claim for damages in doing anything reasonably necessary or appropriate in connection therewith. If Landlord elects to terminate Tenant's right of possession without terminating the term of this Lease, Landlord may, at its option, lease or sublet all or any part of the Leased Premises on such terms and conditions as Landlord may elect and collect from Tenant any balance remaining due on the rent or other obligations payable by Tenant under this Lease.

(4) If the default relates only to the Vending Machines, then the Landlord may terminate that separate right without terminating the remainder of the Lease.

It is expressly understood and agreed that the provisions of this Paragraph shall not be construed to limit or impair any other right, claim or remedy to which Landlord may be entitled by law in case of Tenant's default, all of which rights for Tenant shall be cumulative. Landlord is under no duty to mitigate its damages in the event of Tenant's default.

Tenant shall also pay to Landlord all its costs and expenses, including reasonable attorneys fees, incurred by Landlord in the event of Tenant's default, regardless of whether suit is brought by Landlord. The foregoing provision shall also apply in the event of any bankruptcy of Tenant.

If Tenant shall default in the performance of any covenant required to be performed by virtue of any provisions of this Lease, Landlord may, after any notice and the expiration of any period with respect thereto as required pursuant to the applicable provisions of this Lease, perform the same for the account of Tenant. If Landlord, at any time, is compelled to pay or elects to pay any sum of money or do any acts which would require the payment of any sum of money by reason of the failure of Tenant, after any notice and the expiration of any period with respect thereto as required pursuant to the applicable provisions of this Lease, to comply with any provision of this Lease, or if Landlord is compelled to incur any expense including reasonable attorney's fees, instituting, prosecuting or defending any action or proceeding instituted by reason of any default of Tenant hereunder, the sum or sums so paid by Landlord, with all interest at the highest rate permitted by law, costs (including any of Landlord's attorney's fees) and damages, shall be deemed to be additional rental hereunder and shall be immediately due from Tenant to Landlord following the incurring of such expenses.

32. **LANDLORD'S WARRANTIES.** Landlord warrants to Tenant that it has the right to lease the Leased Premises on the terms and conditions of this Lease and that Tenant may peaceably and quietly hold and enjoy the Leased Premises for the term of this Lease as long as Tenant shall faithfully perform its obligations hereunder, except as otherwise provided for by the terms of this Lease. Landlord makes no other representations or warranties of any nature whatsoever under this Lease or otherwise.

33. **NOTICES.** In regard to all notices to be given under this Agreement, all notices shall be in writing and shall be deemed to have been given (i) in the case of hand delivery, when actually delivered to the other party at the address set forth at the beginning of this Agreement, (ii) in the case of mailing, three (3) days after such notice has been deposited in the United States Mails, postage prepaid, by certified or registered mail and sent to the other party at the address set forth in the beginning of this Agreement, and (iii) in all other cases, when actually received by the other party. Notices may be given by telecopy and, in such case, shall be deemed to have been given when received by the other party. Either party may change the address to which said notices are to be given by the giving of notice of such to the other party as set forth in this paragraph. In regard to the Tenant, notices may also be given by delivering the notice addressed to the Tenant at the Leased Premises.

34. **DEFAULT BY LANDLORD.** Landlord shall in no event be charged with default in the performance of any of its obligation hereunder unless and until Landlord shall have failed to perform such obligations within thirty (30) days after written notice by Tenant to Landlord properly specifying wherein Landlord has failed to perform any such obligation, or if circumstances are such that the default cannot be reasonably cured within said thirty (30) day period, unless Landlord has not commenced to perform such obligations within said thirty (30) days after written notice, and has not completed performance within a reasonable time thereafter. Landlord shall not be obligated for any damages whatsoever to Tenant beyond the cost for curing said default. By way of illustration, Landlord shall not be liable to Tenant for any incidental or consequential damages, lost profits, or damages to any of Tenant's property.

35. **MISCELLANEOUS.**

A. **Authorization of Signors.** Each of the persons whose signature appears hereon does warrant to all others signatory hereto that such person is duly authorized and empowered to execute this Lease Agreement and thereby bind Landlord and Tenant first named above.

B. **Joint and Several Liability.** If more than one person should sign this Lease (including any guarantors), all of said persons shall be jointly and severally liable for all obligations of Tenant under this Lease.

C. **Time of Essence.** Time is of the essence of this Agreement.

D. **This subparagraph is not applicable.**

E. **Applicable Law.** This Lease shall be construed in accordance with and governed by the laws of the State of Florida.

F. **Miscellaneous.** References to Tenant, whenever consistent with the context of this Lease, shall include the plural, neuter, feminine and masculine. In the absence of specified provisions to the contrary, the party upon whom any obligation is imposed by this Lease shall perform the obligation at its own expense. Paragraph headings relating to the contents of particular paragraphs are inserted only for the purpose of convenience and are not to be construed as parts of the particular paragraphs to which they refer. Any separate or attached sketch, drawing, plan, specification, rider, exhibit or schedule shall be deemed an original part of

this Lease only if initialed by the parties. Any sketch of the Leased Premises is for the purposes only of identifying Leased Premises, and does not constitute any separate warranty of representation by the Landlord.

G. Invalid Terms. If any term, covenant or conditions of this Lease or the application thereof to any person or circumstance shall, to any extent be invalid or unenforceable, the remainder of this Lease, of the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

H. Interpretation of Lease. If it ever becomes necessary to interpret this Lease, it shall be done without giving any preference or weight as to which party prepared or caused this Lease to be prepared.

I. Memorandum of Lease. Upon the request of Landlord, Tenant will in good faith cooperate in the preparation and execution of a Memorandum of Lease describing the parties, the Leased Premises, the basic terms of this lease and such other portions hereof as either party may desire to be included in such instrument. Tenant will not record or cause anything to be recorded in the Public Records regarding the Leased Premises or the LCS without Landlord's prior written consent.

J. Identity of Interest. The execution of this Lease or the performance of any act pursuant to the provisions thereof shall not be deemed or construed to have the effect of creating between Landlord and Tenant the relationship of principal or agent or of partnership or of joint venture and the relationship between them shall be that only of Landlord and Tenant.

K. Waiver of Jury Trial. In regard to all actions whatsoever regarding this Lease, or any other matter between the parties hereto or the Leased Premises, each party expressly waives any right to a jury trial.

L. Exclusive Venue. The exclusive venue for any and all actions involving this Lease, the Leased Premises or any other matters whatsoever between the parties hereto regarding directly or indirectly the transaction described herein, shall be solely in the county where the Leased Premises are located.

M. Binding Effect of Lease. All rights and liabilities given to or imposed upon either of the parties by this Lease shall benefit and bind their respective successors, heirs and assigns to the extent this Lease may be assignable as provided above.

N. Non-Waiver. In the event Landlord shall fail to exercise any right, power, privilege, or option immediately upon the same arising, such failure shall not be construed as a waiver of the right to exercise that right, power, privilege or option at a subsequent time, and the failure on the part of Landlord to insist upon strict compliance with any of the terms of this agreement by Tenant shall not be construed as a waiver of the right of Landlord to insist upon strict compliance in the future.

O. Insufficient Funds. Landlord will bill Tenant, and Tenant agrees to pay, in an amount equal to the greater of ten percent (10%) of the amount of the check or the bad check fee charged by Landlord's bank for each rental payment or other payment made to the Landlord hereunder that has been returned because of insufficient funds, in addition to the late charge stated in Paragraph 37 below. If Tenant should on more than two (2) occasions provide a check to Landlord which is returned for insufficient funds, all future payments by Tenant will be required to be made by local bank cashier's check.

P. No Third Party Beneficiaries. This Agreement is solely between the parties hereto, and no person other than said parties shall have any rights or privileges hereunder.

Q. This subparagraph is not applicable.

R. Default Fee. If the Tenant is in default under this Lease and fails to cure said default within ten (10) business days after written notice from the Landlord, then, in that event the Landlord may, in addition to all other remedies available to it under this Lease or applicable law, at its option charge the Tenant a daily default fee of \$100.00 per day. This subparagraph does not require the giving of any written notice for any default unless otherwise expressly required under this Lease and, further, does not apply to late payment of rent for which paragraph 37 is applicable.

36. **LIMITATION OF LIABILITY.** Anything contained in this Lease to the contrary notwithstanding, Tenant agrees that it shall look solely to the estate and property of Landlord in the land and buildings comprising the LCS of which the Leased Premises form a part for the collection of any judgment requiring the payment of money by Landlord for any default or breach by Landlord of any of its obligations under this Lease, and no other asset of Landlord shall be subject to levy, execution or other judicial process for the satisfaction of Tenant's claim. Upon the sale of the LCS by the Landlord, the Landlord shall have no further liability under this Lease.

As provided in Paragraph 8(D) above, any liability of the Landlord hereunder is subject to the sovereign immunity provisions of Florida law.

37. **LATE CHARGES.** In the event that Tenant is more than five (5) business days late in the payment of any amounts due the Landlord (including monthly rent) under the provisions of this Lease, then in addition to the amount owed, Tenant shall pay a late charge equal to ten percent (10%) of the amount due. If the Tenant is late on more than three (3) occasions during the term of this Lease, then beginning with the fourth late payment, the late charge shall increase to fifteen percent (15%) and if the Tenant has been late during the term of this Lease on more than five (5) occasions, the late charge shall thereafter be twenty percent (20%). Failure to pay any funds when due under the terms of this Lease shall subject Tenant to all of the provisions applicable upon default provided for in this Agreement, or provided for by law, and such rights granted to Landlord shall not be abridged by the provisions herein for said late charge.

38. **HAZARDOUS WASTE.** Tenant agrees to comply strictly and in all respects with the requirements of the any and all federal, state and local statutes, rules and regulations

now or hereinafter existing relating to the discharge, spillage, storage, uncontrolled loss, seepage, filtration, disposal, removal or use of hazardous materials, including but not limited to the Comprehensive Environmental Response, Conservation and Liability Act of 1980, the Superfund Amendments and Re-authorization Act, the Resource Conservation and Recovery Act, the Hazardous Materials Transportation Act and the Florida Substances Law (collectively the "Hazardous Waste Law") and with all similar applicable laws and regulations and shall notify Landlord promptly in the event of any discharge, spillage, uncontrolled loss, seepage or filtration of oil, petroleum, chemical liquids or solids, liquid or gaseous products or any other Hazardous Materials (a "Spill") or the presence of any substance or material presently or hereafter identified to be toxic or hazardous according to any Hazardous Waste Law, including, without limitation, any asbestos, PCBs, radioactive substance, methane, volatile hydrocarbons, acids, pesticides, paints, petroleum based products, lead, cyanide, DDT, printing inks, industrial solvents or any other material or substance which has in the past or could presently or at any time in the future cause or constitute a health, safety or other environmental hazard to any person or property (collectively "Hazardous Materials") upon the Premises or the Building, and shall promptly forward to Landlord copies of all orders, notices, permits, applications or other communications and reports in connection with any such spill or Hazardous Materials. Tenant shall not handle, use, generate, manufacture, store or dispose of Hazardous Materials in, upon, under or about the Premises and the Building. Tenant shall indemnify Landlord and hold Landlord harmless from and against all loss, penalty, liability, damage and expense suffered or incurred by Landlord related to or arising out of (i) the presence of Hazardous Materials on the Premises; (ii) any Spill or Hazardous Material affecting the Building, including any loss of value of the Building as a result of a Spill or the presence of Hazardous Material; or (iii) any other matter affecting the Building as a result of Tenant's action or inaction within the jurisdiction of any Governmental Authority; which loss, damage, penalty, liability, damage and expense shall include, but not limited to, (a) courts costs, attorney's fees and expenses, and disbursements through and including any appellate proceedings; (b) all foreseeable and unforeseeable consequential damages, directly or indirectly, arising out of the use, generation, storage or disposal of Hazardous Materials by Tenant; (c) the cost of any required or necessary repair, clean-up or detoxification of the Project; and (d) the cost of preparation of any closure or other plans required under the Hazardous Waste Law, necessary to sell or lease the Premises or the Building.

39. **RADON DISCLOSURE - NOTICE TO TENANT.** Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit. Pursuant to 404.056(8) Florida Statutes.

40. **CONFIDENTIALITY CLAUSE.** The terms and conditions set forth herein between Landlord and Tenant are the result of market conditions existing at the time of lease negotiations, Landlord's evaluation of the credit worthiness of Tenant, length of lease term and many other factors that are unique to the parties hereto and the circumstances surrounding the transaction. The specifics of the business, legal and all other terms of the Lease are solely for the benefit and knowledge of the parties hereto involved. These specific terms, if disclosed to other tenants or prospective tenants at the LCS or any other party, might have serious financial consequences that might prove damaging to Landlord. Therefore, should Landlord learn that

Tenant has disclosed any of the terms of this Lease, without first obtaining written approval of Landlord, Tenant shall be liable for claims of damages, and all other remedies provided Landlord by law or equity. Further, the disclosure by Tenant shall constitute an event of default.

41. **This paragraph is not applicable.**

42. **RULES AND REGULATIONS.** Landlord shall have the right from time to time to promulgate, amend, rescind or change rules and regulations applicable to the LCS, as a whole, including all operations and uses by tenants in the LCS. All rules and regulations must be reasonable and must apply to the LCS as a whole. Tenant agrees to comply with said rules and regulations, provided that said rules and regulations shall not take effect earlier than thirty (30) days after Landlord has given notice of such rules and regulations.

43. **COMPLETE AGREEMENT.** This Agreement incorporates all prior discussions, letters of intent, and Agreements between the parties regarding the Leased Premises and all matters relating thereto, and constitutes the complete agreement between the parties as to the Leased Premises. For this Lease to be amended, it may only be evidenced by a document signed by the party to be charged by said amendment.

44. **ADDENDUM.** The Addendum attached to this Lease and consisting of one (1) page(s) shall be deemed to be a part of this Lease.

[Signatures on Following Page.]

IN WITNESS WHEREOF, the parties hereto have signed and sealed this Lease as of the day and year first above written.

Signed, sealed and delivered in the presence of:

LANDLORD:

**CENTRAL FLORIDA REGIONAL
TRANSPORTATION AUTHORITY
(d/b/a LYNX)**

(Signature of Witness)

By: _____
(Signature of Authorized Person)

(Print Name of Witness)

(Print Name and Title of Person Signing)

(Signature of Witness)

(Print Name of Witness)

As to "Landlord"

The foregoing document is approved as to form only. This approval is solely for the benefit of the Landlord and may not be relied on in any way by the Tenant.

Dated: _____, 2006

AKERMAN SENTERFITT,
General Counsel to LYNX

By: _____

Signed, sealed and delivered in
the presence of:

TENANT:

**CLERK OF THE COURT FOR ORANGE
COUNTY, FLORIDA**

(Signature of Witness)

By: _____
(Signature of Authorized Person)

(Print Name of Witness)

(Print Name and Title of Person Signing)

(Signature of Witness)

(Print Name of Witness)

As to "Tenant"

ADDENDUM TO LEASE

The foregoing Lease is modified as follows:

Paragraph/Exhibit

Modification

None.

Exhibit "A"

SKETCH OF LEASED PREMISES

Note: The foregoing constitutes a layout of Leased Premises at this time. This sketch is a rough or general diagram used solely for the purposes of identifying the location of the Leased Premises. It does not separately substitute any warranty or representation by the Landlord.

Exhibit "B"

LEGAL DESCRIPTION OF LCS

DUPONT CENTRE 16/47 LOT 4 (LESS BEG AT SE COR OF SAID LOT RUN W 259.28 FT
NWLY 39.52 FT TH S 61 DEG E 30.26 FT E 259.12 FT S 11 FT TO POB FOR RD R/W) &
(LESS PT TAKEN FOR R/W ON N,S & W PER OR 4988/1270 & 1278)

Exhibit "C"

SCHEDULE OF TENANT IMPROVEMENTS TO LEASED PREMISES

The Tenant will at its expense furnish and provide all the following improvements:

Exhibit "D"

**SCHEDULE OF LANDLORD'S FINISH
RESPONSIBILITY FOR THE LEASED PREMISES**
(Typical Premises)

The Landlord shall undertake at its expense the following improvements to the Leased Premises:

LYNX Board Audit Committee Agenda

Audit Committee Agenda Item #3.B

To: LYNX Board of Directors

From: Bert Francis
CHIEF FINANCIAL OFFICER
Blanche Sherman
(Technical Contact)

Phone: 407.841.2279 ext: 3047

Item Name: LYNX Operations Center Project Update

Date: 10/26/2006

Project Update:

The LOC subcommittee consisting of Chairman Henley, Roger Neiswender, Pat Christiansen, Bert Francis and CEO, Linda Watson, met with representatives of Collage and EarthTech on Wednesday, October 18 to discuss issues regarding the new LYNX Operations Center as well as monitor progress on the project and adherence to the agreed upon schedule.

Staff, as well as EarthTech, are continuing to work on critical issues as well as establish a definitive project deadline. LYNX staff is scheduled to meet with Collage next week to continue these discussions. Our CFO, Bert Francis will provide you with an update as to the results of these discussions as well as any actions that may require Board approval.

LYNX Board Audit Committee Agenda

Audit Committee Information Item #.I

To: LYNX Board of Directors

From: Linda Watson
CHIEF EXECUTIVE OFFICER
Edward Johnson
(Technical Contact)

Phone: 407.841.2279 ext: 3017

Item Name: LYNX Board of Directors' 12-month rolling calendar of agenda items

Date: 10/26/2006

In an effort to provide the LYNX Board of Directors with advanced notice of items that require Board action, staff will provide a 12-month rolling calendar listing critical items that will be on future Audit Committee and Board of Director agendas. The purpose of this document is to make the best forecast; however, periodically staff may be required to adjust the dates by which items will be presented to the board of Directors.

LYNX Board of Directors
12-month Rolling Calendar of Agenda Items
October 2006

No Board Meeting in November

December 2006

- Authorization to amend Administrative Rule #4 – Contract Administration
- Authorization to approve Administrative Rule #6 – Audit Committee By-laws
- Authorization to purchase 19-vans for the Vanpool Program
- Authorization to extend option year for collection agency services
- Authorization to award contract for banking services
- Authorization to award contract for shelter installation
- Authorization to purchase replacement buses

January 2007

- Authorization to execute 6-month option for gasoline contract
- Authorization to execute 6-month option for diesel fuel contract
- Authorization to execute option year for artistic painting of LYNX revenue vehicles
- Authorization to execute option year for general liability legal services
- Information Item – Final Transit Development Plan (TDP) for FY07-11
- Authorization to award contract for moving services to the LOC

February 2007

- Authorization to exercise option year for pressure cleaning services
- Authorization to award contract for tire services
- Authorization to award contract for vending machine services
- Authorization to execute option year for workers compensation and tort insurance

March 2007

- Authorization to award contract for shelter manufacturer

April 2007

- Preliminary approval of the annual operating and capital budget for submission to the funding partners
- Authorization to submit FDOT Service Development Grant Applications
- Authorization to exercise final option year for security guard services

May 2007

- Authorization to award contract for background checks
- Work Session on Transit Development Plan (TDP) Major Update for FY08-12
- Authorization to exercise option year for occupational health services

June 2007

- Authorization to dispose of fixed assets
- Adoption of TDP Major Update for FY08-12

- Authorization to execute option year for property liability insurance

July 2007

- Authorization to execute 6-month option for gasoline contract
- Authorization to execute 6-month option for diesel fuel contract

August 2007

- Authorization to provide coin telephone services at LYNX operating and administrative facilities
- Adoption of the annual operating and capital budget

September 2007

- Authorization to execute local funding agreements
- Annual Board of Directors' selection of officers
- Adoption of Title VI Program

October 2007

- Acceptance of the Chief Executive Officer (CEO) annual appraisal
- Authorization to award contract for office supplies

LYNX Board Audit Committee Agenda

Audit Committee Information Item #.II

To: LYNX Board Of Directors

From: **Lisa Darnall**
CHIEF OPERATING OFFICER
Jennifer Clements
(Technical Contact)
Doug Jamison
(Technical Contact)

Phone: 407.841.2279 ext: 3036

Item Name: Update on LYNX Bus Shelters Program

Date: 10/26/2006

Background

Staff was given authorization at the January 2006 Board Meeting to issue a request for proposal (RFP) to seek a manufacturer for a new shelter design. The goals of the RFP were to explore the market to find a smaller, simpler and less expensive type of shelter to add to our existing customer amenities program.

New Bus Shelters Design Bids

RFP #06-032 was released with interest from many manufacturers with four firms submitting proposals. The source evaluation committee (SEC) was made up of four staff members: J. Marsh McLawhorn, Chief Government Affairs Officer; Lisa Darnall, Chief Operations Officer; Doug Jamison, Strategic Planning Project Manager; and Scott Meeks, Facilities Maintenance Supervisor. Three of the five firms were qualified by the SEC to submit cost proposals for their designs, two were disqualified for not the terms of the RFP. Final proposals were received and evaluated by each member of the SEC with the decision to reject all proposals. The SEC determined that proposals were both the same size or larger than the smallest of the existing LYNX design and each had a higher structure cost than the existing LYNX shelter units. It is understood that shelters cannot be designed smaller than the new LYNX six-foot by nine-foot units due to required clear floor space and ADA requirements. It was found by the SEC that the existing LYNX Bus Shelters Program is lower in cost than the bids received from the market, so we are discontinued the RFP process for new design.

Design proposals were received from five companies.

- o Landscapeforms
- o Duo-Gard
- o Spencer
- o Ball Fabrics

LYNX Board Audit Committee Agenda

- o BPI International

The designs of Duo-Gard and Landscapeforms were eliminated as structurally unsatisfactory. Price proposals were then requested and received from the following:

- o Spencer 6' X 10' \$6,000
- o Ball Fabrics 6' X 10' \$6,000
- o BPI International 8' X 10' \$5,000 - \$8,000

In May 2006, LYNX released IFB #06-036 for a new shelter installation contract. Two bids were received with prices higher than expected. Staff worked with the bidding contractors to determine ways to reduce the perceived risk in the bid with the goal of reducing the bid prices. The two bids were rejected and the bid re-released this month anticipation of awarding a contract in December 2006. Shelter installations are continuing under the contract extension during the IFB process.

Installation of New Bus Shelters

In August, staff was given authorization to extend contract #01-004 with T&G Constructors for installation of LYNX passenger shelters. This extension allows installation of bus shelters and other customer amenities to continue while the contract is released as an invitation to bid (IFB).

The following sites are in the final stages of installation:

<u>Location</u>	<u>Cross Street</u>	<u>Jurisdiction</u>
4700 Orange Av	Holden Av	Edgewood
5600 Hansel Av	Hoffner Av	Edgewood
1097 Sand Pond Rd	Greenwood Blvd	Lake Mary
2400 Lake Mary Blvd	4th St	Lake Mary
2578 Lake Mary Blvd	4th St	Lake Mary
3702 Lake Emma Rd	Flagg Ln	Lake Mary
3900 Lake Mary Blvd	Sun Dr	Lake Mary
1200 Blackwood Av	West Colonial Dr	Ocoee
5100 W Colonial Dr	Deauville Rd	Orange County
6100 Winegard Rd	Lancaster Rd	Orange County
6100 Winegard Rd	Lancaster Rd	Orange County
7500 Silver Star Rd	Silver Ridge Dr	Orange County
7600 Silver Star Rd	Summer Glen Rd	Orange County
950 Mercy	Fairvilla Rd	Orange County
South Park Cir		Orange County
1600 Semoran Blvd	Curry Ford Rd	Orlando
1900 Mercy Dr	south of Princeton St	Orlando
2000 Mercy Dr	north of Princeton St	Orlando
3000 W Colonial Dr	John Young Pkwy	Orlando
400 W Colonial Dr	Peachtree Rd	Orlando
800 Central Blvd	Westmoreland Dr	Orlando
*Central Avenue (2 shelters)	7th Street	Orlando

LYNX Board Audit Committee Agenda

Future

LYNX is currently in the process of finalizing the installation of twenty-three shelter structures placed throughout our service area, as listed below. Staff has placed an order for the manufacturing of forty-one more structures for installation at sites currently in design. This order will have a mix of the standard ten-foot by ten-foot shelter, the large fifteen-foot by fifteen-foot shelter, and the new smaller six-foot by nine-foot shelter.

An RFP for new shelters with existing design will be issued in January 2007, leading to a contract award in approximately April/May 2007.