

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

Blue Sheet No. 20030779

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Request Board approve and execute amended lease agreement between the "Island School" and the Lee County Board of County Commissioners providing for the continued use of the Boca Grande Community Center.

**WHY ACTION IS NECESSARY:** Board approval is required for agreements.

**WHAT ACTION ACCOMPLISHES:** Allows for the "Island School" to continue using a portion of the Boca Grande Community Center temporarily until the permanent school has been constructed.

**2. DEPARTMENTAL CATEGORY:  
COMMISSION DISTRICT # 01**

*C11A*

**3. MEETING DATE:**

*07-08-2003*

**4. AGENDA:**

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC WALK ON
- TIME REQUIRED:

**5. REQUIREMENT/PURPOSE:  
(Specify)**

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER

**6. REQUESTOR OF INFORMATION:**

- A. COMMISSIONER
- B. DEPARTMENT Parks & Recreation
- C. DIVISION

BY: *John Warbrough*

**7. BACKGROUND:**

The original lease agreement between the Island School and Lee County Board of County Commissioners expires on July 1<sup>st</sup>, 2003. This amended lease agreement allows the Island School to continue using the Boca Grande Community Center until such time as their school is constructed as per Board direction on January 7, 2003. The amended lease agreement is for a two (2) year period with an additional one (1) year extension if necessary and subject to the terms in the agreement. The Island School is a not-for-profit corporation. The primary use will be for two (2) rooms of the Community Center, and they will be responsible for their percentage of the utility costs plus an annual lease fee of \$1.00.

**8. MANAGEMENT RECOMMENDATIONS:**

**9. RECOMMENDED APPROVAL:**

*ccm*

| A<br>Department Director | B<br>Purchasing or Contracts | C<br>Human Resources | D<br>Other     | E<br>County Attorney | F<br>Budget Services  | G<br>County Manager |    |      |    |                |                |                |                |                    |
|--------------------------|------------------------------|----------------------|----------------|----------------------|---|---------------------|----|------|----|----------------|----------------|----------------|----------------|--------------------|
| <i>[Signature]</i>       | <i>[Signature]</i>           | <i>N/A</i>           |                | <i>[Signature]</i>   | <table border="1"> <tr> <td>OA</td> <td>DM</td> <td>Risk</td> <td>GC</td> </tr> <tr> <td><i>6/26/03</i></td> <td><i>6/26/03</i></td> <td><i>6/26/03</i></td> <td><i>6/26/03</i></td> </tr> </table> | OA                  | DM | Risk | GC | <i>6/26/03</i> | <i>6/26/03</i> | <i>6/26/03</i> | <i>6/26/03</i> | <i>[Signature]</i> |
| OA                       | DM                           | Risk                 | GC             |                      |   |                     |    |      |    |                |                |                |                |                    |
| <i>6/26/03</i>           | <i>6/26/03</i>               | <i>6/26/03</i>       | <i>6/26/03</i> |                      |   |                     |    |      |    |                |                |                |                |                    |

**10. COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty  
Date: *6/26/03*  
Time: *3:30 pm*  
Forwarded To: *Co. Admin*

RECEIVED BY  
COUNTY ADMIN. *[Signature]*  
*6/29/03*  
*4:15 pm*  
*6/29/03*  
*4:30 pm*

## **AMENDED LEASE AGREEMENT BOCA GRANDE COMMUNITY CENTER**

This Amended Lease Agreement is made this \_\_\_\_\_ day of \_\_\_\_\_, 2003, by and between Lee County Board of County Commissioners (hereinafter referred to as "County"), and The Island School, Inc., a not-for-profit Florida corporation (hereinafter referred to as "School") In consideration of the mutual promises contained herein, the parties agree to the following:

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

WHEREAS, the School wishes to extend its lease of a particular part of the County's Boca Grande Community Center located at 131 First Street West, Boca Grande, Florida 33921, hereinafter referred to as "Center"; and

WHEREAS, the County hereby grants and the School agrees to use two dedicated rooms in the Center, as identified on the sketch attached as Exhibit "A", hereto; and

WHEREAS, the School is a charter school as defined by Florida law and approved by the School District of Lee County School Board; and

WHEREAS, the use of the facility serves a public purpose that will benefit residents and persons employed in Boca Grande, which is a part of Lee County, Florida.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

### **I. LEASE OF SPACE**

1. The County is providing the School with the temporary, primary use of identified dedicated rooms in the center. The rooms are identified on the sketch attached as Exhibit "A".
2. The School is granted the right to use other areas in the Center on an "as needed" basis by the School, and when available when not in use by the County for other programs. The School must reserve any non-exclusive area on a month-to-month, "as available" basis from the County.

3. The County has the right to use the dedicated rooms at the Center when necessary for other programs at times when the School is not using the rooms. The County will advise the School in advance of the need to use this room, and the School will allow such use, subject only to extraordinary circumstances.
4. The School shall abide by all applicable laws, ordinances and regulations; federal, state and county, and shall not use or permit the School to be used for any unlawful, improper or offensive purposes whatsoever.

## II. TERM AND RENEWALS

1. This Amended Lease Agreement is for a period of two (2) years and terminates on July 19, 2005. The Agreement may be renewed and extended for an additional one (1) year period (terminating on July 19, 2006) upon written agreement of both parties, and only if the School has secured the necessary variances, permits, special exceptions and administrative relief, or zoning approval to construct a small school at the County's Community Center site and the construction of such school has either begun or is near completion. The County and the School will enter into an Interlocal for the placement, construction and use of the school prior to design and construction.
2. This Amended Lease Agreement may be terminated by the County for cause if the School breaches any term of this Lease Agreement or fails to take appropriate corrective action. The School has thirty (30) days from written notice by the county to cure or correct any default. If the School fails to correct the default within the thirty (30) day period to cure or correct the default, this Lease Agreement will be automatically terminated ninety (90) days from the date written notice was initially given to the School.
3. In the event the necessary zoning or variance approvals for the Community Center site cannot be obtained by the School, the School will begin to search for an alternative site for its permanent location.
4. If during the total term of this Agreement (2 years), the School is unable to secure the necessary variance(s), permits and zoning approvals to construct a small, separate building at the County's Community Center, then the School and County will meet no later than December 1, 2004 to discuss the termination of this Amended Lease Agreement.

5. **NOTICES:**

Notices referred to in this Amended Lease Agreement shall be written, signed and delivered to the notified party at the following addresses:

Lee County: John Yarbrough, Director  
Parks & Recreation  
P.O. Box 398  
Fort Myers, FL 33902

The Island School, Inc.: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

With Copy To: James T. Humphrey  
Fowler, White, Boggs &  
Banker  
2201 2<sup>nd</sup> street, 5<sup>th</sup> Floor  
Wachovia Building  
Fort Myers, FL 33901

6. **RENT:**

The School shall pay rent for its use of the Center in the amount of \$ 1.00 per year, payable in advance, on the first day of each year. Rent is payable without demand to the County at the address given above.

7. **AUDITABLE RECORDS:**

The County, at all reasonable times, may examine the School's business records in order to among other matters, monitor and verify the continuation of the School's I.R.S. Code § 501©)(3) status with the Internal Revenue Service, or any pending application thereof. The County may immediately terminate this Amended Lease Agreement if the School refuses to permit access to County representatives for such examinations.

8. **BUSINESS HOURS:**

This Amended Lease Agreement shall be effective during each school year for the term of the lease, with the County being able to utilize the dedicated room for its purposes one (1) week after the last day of Charlotte County school year, which shall be no later than June 8, 2003 for the first year, and surrendering it to the School one (1) week prior to the following new school year term.

9. **SUPERVISION OF STUDENTS:**

The School is solely responsible for the supervision and monitoring of students attending the School, including the arrival and departure of the students and early drop off and late pickup.

10. **STUDENT CRITERIA:**

The School will be operated by educating children in grades kindergarten through the fifth grade, unless the School Board of Lee County allows other ages to be accepted by the charter school. The student enrollment maximum for the School shall be sixty (60) students total for Grades K through 5.

11. **ACCESS AND PARKING:**

The School shall have access to the facility and shall have the non-exclusive use of parking spaces in the adjoining County parking lot, as said spaces are available.

12. **UTILITIES:**

The School will be responsible for their proportionate share of water and electric service for their use of the Center. For purposes of this lease, proportionate share is determined by multiplying the square footage used by the School for the months when the Center is used by the School. The School may obtain separate utility meters exclusive for its use, if it so elects, and at its sole expense.

13. **LITTER:**

The School shall remove all trash and litter relating to its use of the facility for purposes of maintaining the building in an attractive condition. The County shall provide a trash receptacle and recycling bin for this purpose.

The School will pay its proportionate share, as allocated above, for solid waste collection and disposal.

14. **ASSIGNMENT OR SUB-LEASE:**

This Amended Lease Agreement shall not be assigned by the School nor shall the School sublet any part of the Center. The use by the School shall be terminated immediately by the County, and all rights to this Amended Lease Agreement will revert to the County in the event of any assignment or sub-lease is made by the School.

15. **CONDITION OF THE PREMISES:**

The School has inspected the property and accepts the property in its current condition and on an "as is" basis, for the intended purpose of Elementary School classrooms and related programs. The School shall maintain and protect the County from damage, and shall surrender the facilities in essentially the same condition as received, except for normal wear and tear.

16. **IMPROVEMENTS MADE BY THE SCHOOL:**

The School may make improvements to the facility for its educational purposes only. Any permanent improvements must be requested and approved in writing by Lee County with the understanding that all such permanent improvements will become the property of the County at the conclusion of the Lease. The School will be responsible for obtaining all necessary building permits and will use contractors properly licensed in Lee County for any improvements.

17. **TEMPORARY FIXTURES:**

The School may make non-permanent improvements to the building for its educational purposes and with the expressed consent of the County. The parties agree that any such improvements will be removed from the Center by the School upon expiration of this Amended Lease Agreement at no cost to the County.

18. **INSPECTION OF PREMISES:**

The County or its designee(s) shall have the right to inspect the premises used by the School at any reasonable times during the term of this Amended Lease Agreement.

19. **MAINTENANCE:**

The School will be responsible for all interior maintenance and regular cleaning of its dedicated classroom, with the exception that should the County exercise its right to use the rooms under I.3. of this agreement, the county will be responsible for any maintenance or cleaning associated with such use. The County will be responsible for the exterior maintenance of the building. In the event the interior of the facility is not being suitably maintained by the School, as required by this section, the County reserves the right to maintain the facility so as to not permit economic waste, and may submit the resulting costs to the School for payment. Failure to pay any such invoice by the School will be cause for termination.

20. **SIGNAGE:**

The School may place at the Community Center certain signs identifying the School at the facility. The signs will be drafted as follows:

THE ISLAND SCHOOL, INC.

The School will contract with a contractor lawfully authorized to do this work.

21. **DEFAULT STATUS:**

If the School defaults in its payment of rent, or if it violates any other covenants of this Amended Lease Agreement and fails to correct such default or violation after 30 days following written notice from County, then the School shall become a tenant at sufferance and thereby waives all rights of notice and the County may immediately enter and retake possession of the dedicated room.

22. **INSURANCE:**

Insurance shall be obtained by the School, per the attached insurance guide, prior to commencement of this Amended Lease Agreement, naming Lee County Board of County Commissioners as an additional insured. See Exhibit "B".

23. **HAZARDOUS WASTE:**

During the term of this Amended Lease Agreement, the School will use the property in compliance with all hazardous material laws, and will

cause no violation of such laws. As used in this section, "hazardous material" shall mean any substance, chemical or waste identified as hazardous, toxic or dangerous as described or defined in any applicable federal, state or local law or regulation (including, but not limited to, petroleum products and asbestos).

24. **LIABILITY:**

School to HOLD COUNTY HARMLESS. The School will be liable and agrees to be liable for, and will indemnify, defend and hold the County harmless for any and all claims, suits, judgments or damages, losses and expenses including court costs, expert witness and professional consultation services, and attorneys' fees arising out of the Schools errors, omissions, and/or negligence. The School will not be liable to, nor be required to indemnify the County for any portions of damages arising out of any error, omission, and/or negligence of the County, its employees, agents, or representatives.

25. **VENUE:**

This Amended Lease Agreement shall be governed by, interpreted, and its performance enforced, in accordance with the laws and Administrative Rules of the State of Florida. The venue of any action to enforce any terms under this Amended Lease Agreement will be a court of competent jurisdiction in Lee County, Florida.

(Balance of this Page Left Intentionally Blank)



**IN WITNESS WHEREOF**, the County and the School have executed this Amended Lease Agreement on the \_\_\_\_\_ day of \_\_\_\_\_, 2003.

ATTEST: CHARLIE GREEN  
CLERK OF COURTS

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY: \_\_\_\_\_  
Deputy Clerk

BY: \_\_\_\_\_  
Chairman

APPROVED AS TO FORM:

BY: \_\_\_\_\_  
Office of the County Attorney

WITNESSES:

The Island School, Inc.  
a Florida Not-for-Profit Corporation

\_\_\_\_\_  
Witness

BY: \_\_\_\_\_

\_\_\_\_\_  
Witness

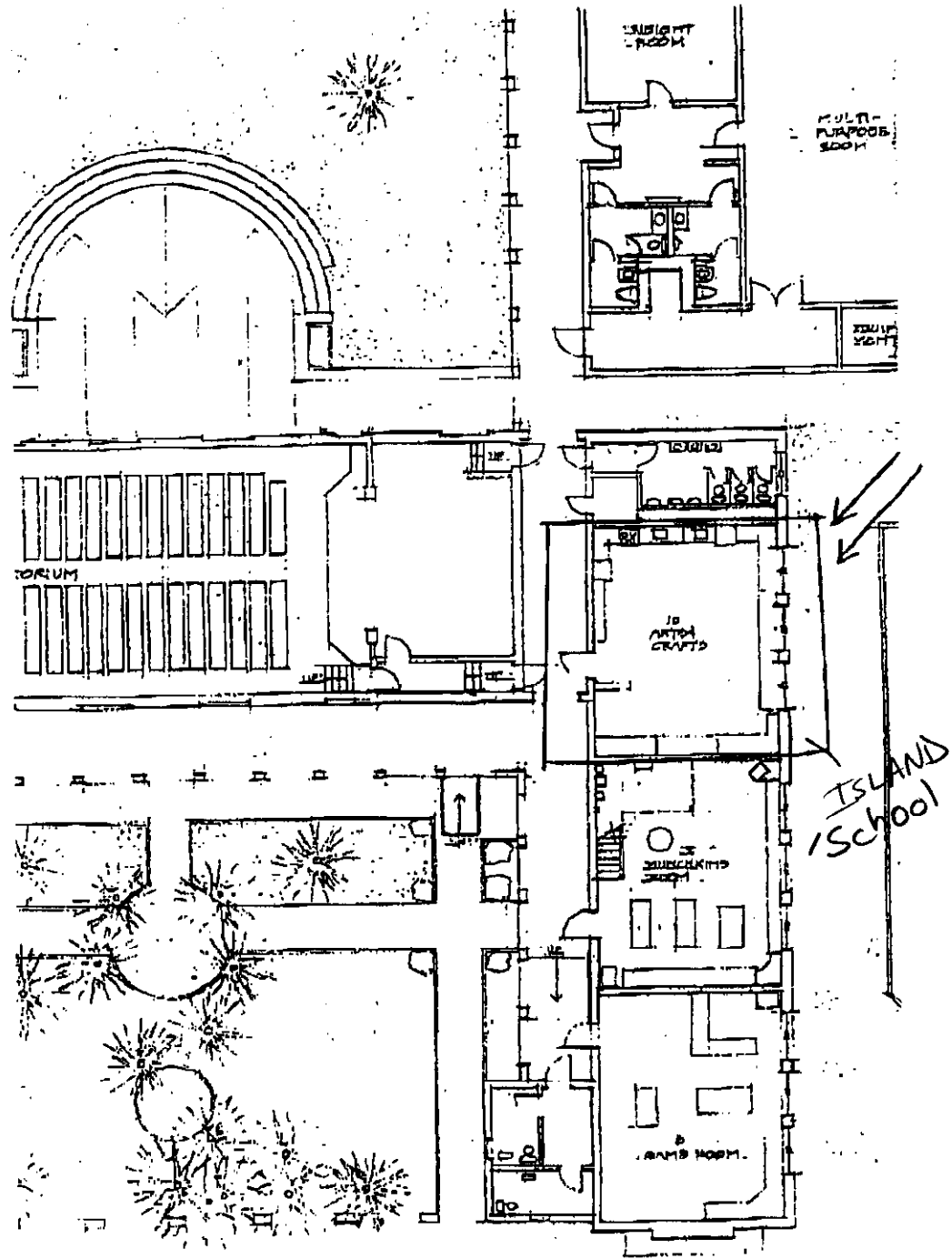
STATE OF )  
COUNTY OF )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2003 by \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public  
Printed Name: \_\_\_\_\_

EXHIBIT "A"

SKETCH



**EXHIBIT "B"**  
**INSURANCE GUIDE**

**STANDARD CONTRACT** - Contracts that will not exceed three hundred and sixty five (365) calendar days; or where costs will not exceed \$500,000; and/or there are no unusual hazards present.

1. Insurance Requirements: ***These are minimum requirements, which are subject to modification in response to operations involving a higher level of loss exposure.***

a. Workers' Compensation - Statutory benefits as defined by FS 440 encompassing all operations contemplated by this contract or agreement to apply to all owners, officers, and employees regardless of the number of employees. Individual employees may be exempted per State Law. Employers' liability will have minimum limits of:

\$500,000 per accident  
\$500,000 disease limit  
\$500,000 disease limit per employee

b. Commercial General Liability - Coverage shall apply to premises and/or operations, products and/or completed operations, independent contractors, contractual liability, and broad form property damage exposures with minimum limits of:

\$500,000 bodily injury per person (BI)  
\$1,000,000 bodily injury per occurrence (BI)  
\$500,000 property damage (PD) or  
\$1,000,000 combined single limit (CSL) of BI and PD

c. Business Auto Liability - The following Automobile Liability will be required and coverage shall apply to all owned, hired and non-owned vehicles use with minimum limits of:

\$500,000 bodily injury per person (BI)  
\$1,000,000 bodily injury per occurrence (BI)  
\$100,000 property damage (PD) or  
\$1,000,000 combined single limit (CSL) of BI and PD

***\*The required limit of liability shown in Standard Contract: 1.a; 1.b; 1.c; may be provided in the form of "Excess Insurance" or "Commercial Umbrella Policies." In which case, a "Following Form Endorsement" will be required on the "Excess Insurance Policy" or "Commercial Umbrella Policy."***

2. Verification of Coverage:

- a. Ten (10) days prior to the commencement of any work under this contract a certificate of insurance will be provided to the Risk Manager for review and approval. The certificate shall provide for the following:
  1. ***“Lee County, a political subdivision and Charter County of the State of Florida, its agents, employees, and public officials” will be named as an “Additional Insured” on the General Liability policy.***
  2. Lee County will be given thirty (30) days notice prior to cancellation or modification of any stipulated insurance. Such notification will be in writing by registered mail, return receipt requested and addressed to the Risk Manager (P.O. BOX 398 Ft. Myers, FL 33902).

3. Special Requirements:

- a. An appropriate “Indemnification” clause shall be made a provision of the contract.
- b. It is the responsibility of the general contractor to insure that all subcontractors comply with all insurance requirements.