

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

Blue Sheet No. 20060114

**1. ACTION REQUESTED/PURPOSE:** Approve request for a License & Agreement to Hold Lee County Harmless ("License") for the placement of temporary or nonpermanent structures and allow recreational activities to occur in a portion of a County-owned drainage easement on the south side of College Parkway; authorize the Chairwoman to execute the License; and authorize the Director of the Lee County Dept. of Transportation ("LCDOT") to approve subsequent requests for uses consistent with the terms of the License.

**2. WHAT ACTION ACCOMPLISHES:** Authorizes a license to allow The Canterbury School, Inc., a Florida Non Profit Corporation, to place temporary or nonpermanent structures and allow recreational activities to occur in a portion of a County-owned drainage easement on the south side of College Parkway at 8141 College Parkway, Fort Myers, Florida; and authorizes the Director of LCDOT to approve subsequent requests for uses consistent with the terms of the License.

**3. MANAGEMENT RECOMMENDATION:**

**4. Departmental Category:** 09

**C9C**

**5. Meeting Date:**

**03-14-2006**

**6. Agenda:**

**7. Requirement/Purpose: (specify)**

**8. Request Initiated:**

<input checked="" type="checkbox"/>	Consent	<input checked="" type="checkbox"/>	Statute	Ch.125, F.S.	Commissioner	
	Administrative		Ordinance		Department	DOT
	Appeals		Admin. Code		Division	
	Public		Other		By:	
	Walk-On				Scott M. Gilbertson, Director	

**9. Background:**

The Canterbury School, Inc. ("Canterbury"), would like permission to place temporary, nonpermanent structures and conduct recreational activities within portions of a County-owned drainage easement at the school site at 8141 College Parkway, Fort Myers, Florida. The County has a 20-foot wide drainage easement that bisects a portion of the school site (including the school's running track and recreation field). The drainage easement outfalls from College Parkway to retention ponds on the Canterbury property. Canterbury's encroachment or use of the County-owned drainage easement requires the Board's permission.

Lee County DOT does not object to Canterbury's proposed use of the County-owned drainage easement, provided certain conditions are met. First, Canterbury's use must be subordinate and inferior to the County's rights in the drainage easement. Second, Canterbury cannot damage the drainage facilities nor overburden the drainage easement. Third, while a license would allow Canterbury's requested uses, the license would also require Canterbury (or any successor property owner) to remove or relocate any improvement if requested to do so by the County. Finally, Canterbury must also agree to hold Lee County harmless from any claims resulting from their use of any portion of the County-owned drainage easement. A copy of the License is attached. Canterbury will be responsible for the cost of recording the License in the Public Records of Lee County, Florida.

Attachment: License & Agreement to Hold Lee County Harmless

**10. Review for Scheduling:**

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
<i>[Signature]</i>	N/A			<i>[Signature]</i> 2-21-06	Analyst <i>[Signature]</i>	Risk <i>[Signature]</i>	Grants <i>[Signature]</i>	Mgr. <i>[Signature]</i>	<i>[Signature]</i> 2-21-06

**11. Commission Action:**

- Approved
- Deferred
- Denied
- Other

*[Stamp]*  
2/21/06 9AM

RECEIVED BY  
COUNTY ADMIN: *[Signature]*  
2-21-06  
10:50  
COUNTY ADMIN  
FORWARDED TO: *[Signature]*  
2/21/06  
9AM

This Instrument Prepared by:

Office of the County Attorney  
Lee County, Florida  
Post Office Box 398  
Fort Myers, Florida 33902-0398

STRAP No. 15-45-24-00-00014.0020

THIS SPACE FOR RECORDING

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## LICENSE & AGREEMENT TO HOLD LEE COUNTY HARMLESS

**THIS LICENSE & AGREEMENT TO HOLD LEE COUNTY HARMLESS** ("*License*") is executed this \_\_\_\_ day of \_\_\_\_\_, 2006, by **LEE COUNTY, FLORIDA**, a political subdivision of the State of Florida, whose address is Post Office Box 398, Fort Myers, Florida 33902-0398, ("*County*" or "*Licensor*"), and **THE CANTERBURY SCHOOL, INC.**, a Florida Non Profit Corporation, whose address is 8141 College Parkway, Fort Myers, Florida 33919 ("*Canterbury*" or "*Licensee*").

**WHEREAS**, Canterbury is the owner of real property located at 8141 College Parkway, Fort Myers, Florida, being more particularly described in attached Exhibit "A," which description is incorporated herein by reference ("*Canterbury's Property*"); and

**WHEREAS**, the County is the owner of a 20-foot wide drainage easement located, in part, within a portion of Canterbury's Property, which drainage easement is more particularly described in the Warranty Deed of Elwood Safron, individually and as Trustee, to Lee County, Florida, dated December 19, 1988 and recorded in the Public Records of Lee County, Florida at O.R. Book 2038, Pages 347 - 349, which description is incorporated herein by reference ("*County's Easement*"); and

**WHEREAS**, Canterbury seeks to construct certain temporary or nonpermanent improvements and conduct certain recreational activities within portions of the County's Easement; and

**WHEREAS**, such construction or activity within the County's Easement is either inconsistent with, or an overburdening of, the County's Easement and not otherwise appropriate without the County's permission or approval; and

**WHEREAS**, the County has the authority to issue to Canterbury a non-exclusive, revocable license to allow the construction of certain temporary or nonpermanent improvements or permit certain recreational activities within the County's Easement.

**NOW THEREFORE**, for and in consideration of the sum of One and xx/100 Dollar (\$1.00), the promises of the Licensee contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County hereby authorizes, approves and issues a non-exclusive, revocable License to Canterbury to construct certain improvements and permit certain recreational activities within the County's Easement, further subject to the following conditions:

1. The above recitals are acknowledged by the parties to be true and correct and are incorporated herein by reference.
2. This License is temporary, non-exclusive and fully revocable by the County at any time and for any reason whatsoever as determined solely by the County. The License may be terminated by the County upon the sending of a notice of revocation to the Licensee, via regular mail, postage prepaid, at the address for the property as maintained by the Lee County Tax Collector.
3. This License allows the placement and construction of temporary or nonpermanent structures for recreational activities within the portion of the County's Easement located on Canterbury's Property. This License will create the relationship of Licensor and Licensee between the parties and no estate or title will pass out of the Licensor. This License may not be construed to constitute an easement.
4. Licensee may not construct any improvements within the County's Easement without the County's prior written approval. Such written approval must be requested from the Director of the Lee County Department of Transportation.
5. Licensee agrees not to construct, create or install any improvement nor conduct any activity that may obstruct or in any manner impede the flow of water through the County's drainage facilities now existing or hereafter constructed within the County's Easement.
6. Licensee agrees to repair any damage caused by Licensee, its agents or invitees that may occur to the County's drainage facilities located within the County's Easement during the course of construction, installation, maintenance or use of any improvement authorized hereunder.
7. Licensee also agrees to allow the County, or its agents, a reasonable right of access across Licensee's property, on either paved or unpaved surfaces, for the purposes of repairing, replacing and maintaining the County's drainage facilities within the County's Easement, doing no unnecessary damage.
8. The County reserves the right to enter on and install, repair and maintain its drainage facilities located within the County's Easement. The County's obligation to restore the easement area will be limited to the restoration of the natural ground only. The County will not be responsible for the restoration or replacement of any of the Licensee's improvements located within the County's Easement.

9. Licensee, as the current owner of the Property benefitted by the License herein, for itself, its successors and assigns, agrees, upon the receipt of a request from the County, to immediately remove or relocate any improvement or structure, or cease any activity within the County's Easement, in part or in whole, as requested. In the event Licensee fails to immediately remove or relocate any structure when requested, then the County is authorized to remove the structure or improvement, in part or in whole, at the full expense of the Licensee or any subsequent owner of the Property.
10. Licensee, for itself, its successors and assigns, agrees to indemnify, hold harmless and defend the County and all of its officers, agents, consultants and employees from and against all losses, claims, demands, payments, suits, actions, recoveries and judgments of every nature and description brought or recoverable against it or them by reason of any negligent or willful act or omission of the Licensee, or the Licensee's agents, consultants, employees or subcontractors during the installation or maintenance of any improvement or structure or as a result of any activity occurring within the County's Easement. This includes any costs related to these actions.
11. The Licensee may abandon its use of any improvement or structure it has constructed within the County's Easement, provided the removal is at the sole expense of the Licensee and further, that any improvements or structures owned or maintained by the County in the County's Easement are not damaged or diminished.
12. The terms and conditions of this License are deemed to run with the property and, as such, will be binding upon and inure to the benefit of the successors, assigns, and administrators of the respective parties hereto.
13. This License will be construed and enforced in accordance with Florida law.
14. This License constitutes the entire agreement between the parties with respect to the subject matter hereof and may not be modified except by written agreement executed with the same formality.
15. Licensee, by accepting this License, specifically accepts and agrees to be bound by the stated conditions contained therein
16. This License must be recorded in the Official Records of the Public Records of Lee County, Florida.

This License applies only to the interest of Lee County and its Board of County Commissioners in the County's Easement referenced herein, and does not warrant the title or represent any state of facts concerning the title.

**IN WITNESS WHEREOF** the COUNTY has caused this License to be executed in its name by its Board of County Commissioners, acting by the Chairwoman or Vice Chairman of said Board, the day and year first written above.

(OFFICIAL SEAL)

ATTEST:  
CHARLIE GREEN, CLERK

LEE COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS

By: \_\_\_\_\_  
Deputy Clerk

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

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
John J. Fredyma  
Assistant County Attorney  
Office of the Lee County Attorney

**Licensee's Acceptance of Terms and Conditions  
of License & Agreement to Hold Lee County Harmless**

In consideration of the County's grant of the License herein, the Licensee specifically accepts and agrees to be bound by the terms and conditions stated and contained in this License & Agreement to Hold Lee County Harmless.

**IN WITNESS WHEREOF**, the Licensee has hereunto set its corporate hand intending to be bound as of the date first written above.

Signed, sealed and delivered  
in the presence of

**The Canterbury School, Inc.**

Shelley Tennant  
[1<sup>st</sup> Witness' Signature]  
SHELLEY TENNANT  
Type or Print Name]

BY: Amanda B Cross  
[Signature]  
Amanda B Cross  
[Type or Print Name]  
President Board of Trustees  
[Corporate Office or Title]

Mary Ann Menendez  
[2<sup>nd</sup> Witness' Signature]  
MARYANN MENENDEZ  
[Type or Print Name]

COUNTY OF LEE :  
STATE OF FLORIDA :

The foregoing instrument was acknowledged before me this 17<sup>th</sup> of FEB 2006,  
by AMANDA B. CROSS , the PRESIDENT of  
[Name] [Corporate Office or Title]

The Canterbury School, Inc., a Florida Non Profit Corporation, on behalf of the company.  
He/she is personally known to me, or has produced \_\_\_\_\_  
\_\_\_\_\_ as identification.

[stamp or seal]

Richard Starace  
[Signature of Notary]  
\_\_\_\_\_  
[Typed or printed name]  
\_\_\_\_\_  
[Title]  
\_\_\_\_\_  
[Serial number, if any]





September 8, 2005

**DESCRIPTION**

**CANTERBURY SCHOOL - PARCEL A  
LYING IN THE  
SOUTH HALF (S-1/2) OF THE SOUTHEAST QUARTER (SE-1/4)  
SECTION 15, TOWNSHIP 45 SOUTH, RANGE 24 EAST  
LEE COUNTY, FLORIDA**

A tract or parcel of land lying in the South Half (S-1/2) of the Southeast Quarter (SE-1/4) Section 15, Township 45 South, Range 24 East, Lee County, Florida, which tract or parcel is described as follows:

From the southeast corner of Section 15, Township 45 South, Range 24 East, run N 89° 55' 44" W along the south line of the Southeast Quarter (SE-1/4) of said section for 663.17 feet to the southeast corner of the West Half (W-1/2) of the Southeast Quarter (SE-1/4) of the Southeast Quarter (SE-1/4) of said section and the Point of Beginning.

From said Point of Beginning continue N 89° 55' 44" W along said fraction line for 331.39 feet to the southeast corner of the West Half (W-1/2) of the West Half (W-1/2) of the Southeast Quarter (SE-1/4) of the Southeast Quarter (SE-1/4); thence run N 00° 01' 57" W along the east line of said fraction for 50.00 feet to a point on a line 50.00 feet north of (as measured on a perpendicular) and parallel with the south line of said Southeast Quarter (SE-1/4), said point also being the southeast corner of lands described in Official Record Book 1081, Page 1712, of said public records; thence run N 89° 55' 44" W along said line and along the south line of lands described in Official record Book 1081, Page 1712, Official Record Book 2764, Page 3373 and Official Record Book 2683, Page 673, of said public records, also being the north line of the IDD Canal H-7 for 988.87 feet to an intersection with the west line of said lands described in Official Record Book 2683, Page 673; thence run N 00° 00' 00" E along the west line of said lands and parallel with said east line of the Southwest Quarter (SW-1/4) of the Southeast Quarter (SE-1/4) for 1221.52 feet to an intersection with the south right-of-way of College Parkway (100 feet wide); thence run S 89° 51' 44" E along said south right-of-way for 50.00 feet; thence departing said right-of-way run S 00° 00' 00" W for 175.00 feet; thence run S 89° 51' 44" E parallel with said south right-of way for 607.51 feet to an intersection with the east line of the Southwest Quarter (SW-1/4) of the Southeast Quarter (SE-1/4) also being the west line of lands described in Official Record Book 3741, Page 913, of said public records; thence run S 00° 00' 00" E along the east line of said fraction and the west line of said lands in Official Record Book 3741, Page 913, for 176.44 feet to an intersection with the north line of lands described in Official Record Book 3344, Page 1543, of said public records; thence run N 89° 59' 02" E along

said north line for 165.43 feet to an intersection with the west line of lands described in Official Record Book 2204, Page 2565, of said public records; thence run S 00° 00' 58" E along said west line for 199.57 feet to the southwest corner of said lands; thence run S 89° 55' 44" E along the south line of said lands for 165.49 feet to an intersection with the east line of the West Half (W-1/2) of the West Half (W-1/2) of the Southeast Quarter (SE-1/4) of the Southeast Quarter (SE-1/4); thence run N 00° 01' 57" W along said east line of said fraction for 550.37 feet to an intersection with the south right-of-way of said College Parkway; thence run the following two courses and distances along said right-of-way: S 89° 51' 44" E for 169.26 feet to a jog in said right-of-way line; S 86° 35' 50" E for 161.71 feet to an intersection with the east line of West Half (W-1/2) of the Southeast Quarter (SE-1/4) of the Southeast Quarter (SE-1/4); thence departing said right-of-way run S 00° 03' 54" E along said east line for 1260.78 feet to the Point of Beginning.

Parcel contains 1,371,200 square feet (31.48 acres) more or less.

Subject to easements, restrictions and reservations of record.

Bearings hereinabove mentioned are based on the south line of the Southeast Quarter (SE-1/4) of Section 15, Township 45 South, Range 24 East to bear N 89° 55' 44" W.