

RESOLUTION NO. 19-10-93

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA APPROVING A LEASE AGREEMENT BETWEEN THE SCHOOL BOARD OF MONROE COUNTY, FLORIDA AND ISLAMORADA, VILLAGE OF ISLANDS FOR REAL PROPERTY LOCATED ON UPPER MATECUMBE KEY WITH REAL ESTATE PARCEL ID NUMBER 00095080-000000; AUTHORIZING VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Islamorada, Village of Islands (the “Village”) incorporated on December 31, 1997; and

WHEREAS, in 1998, shortly after the Village incorporated, Monroe County (the “County”) entered into an Interlocal Agreement (the “ILA”) with the Village which conveyed the County’ s interest in several pieces of real property located within the municipal boundaries of Islamorada to the Village; and

WHEREAS, one of the parcels conveyed by the ILA located on Upper Matecumbe Key and identified by Real Estate Parcel No. 00095080-000000, contains the following premises: (1) the Hurricane Monument; (2) Fire Station No. 20; (3) the Library Beach Park located behind the Monroe County Public Library and (4) the “Mosquito Control” Parcel, which is a vacant lot located directly behind Fire Station No. 20 (collectively referred to as the “Property”); and

WHEREAS, the Property is owned by the School Board of Monroe County (the “School Board”), which in 1951, entered into a 1951 Lease Agreement with the County to lease the Property to the County for a term of ninety-nine (99) years from the School Board; and

WHEREAS, the Village and School Board desire to unify the various lease interests in the Property into a single agreement; and

WHEREAS, the Village and School Board have proposed and prepared a new Lease Agreement (“Lease”), attached hereto as Attachment “A”, providing the terms and conditions for the leasing of the Premises to the Village; and

WHEREAS, the Village Council of Islamorada, Village of Islands (the “Village”) finds that approval of the Lease with the School Board for the Property is in the best interest of the Village.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and incorporated into this Resolution by reference.

Section 2. Approval of Lease Agreement. The Village Council hereby approves the Agreement attached as (Attachment “1”) between the School Board and the Village for the Property located on Upper Matecumbe Key identified by Real Estate Parcel No. 00095080-000000, together with such non-material changes as may be acceptable to the Village Manager and approved as to form and legality by the Village Attorney.

Section 3. Authorization of Village Officials. The Village Manager and/or his designee and the Village Attorney are authorized to take all actions necessary to implement the terms and conditions of the Lease Agreement.

Section 4. Execution of Agreement. The Mayor is authorized to execute the Lease Agreement on behalf of the Village, to execute any required agreements and/or documents to implement the terms and conditions of the Lease Agreement and to execute any extensions and/or amendments to the Lease Agreement, subject to the approval as to form and legality by the Village Attorney.

Section 5. Authorization of Fund Expenditure. Notwithstanding the limitations

imposed upon the Village Manager pursuant to the Village's Purchasing Procedures Ordinance, the Village Manager is authorized to expend budgeted funds to implement the terms and conditions of the Agreement.

Section 6. Effective Date. This Resolution shall take effect immediately upon adoption.

Motion to adopt by Councilman Ken Davis, second by Councilman Jim Mooney.

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA:

Mayor Deb Gillis	YES
Vice Mayor Mike Forster	YES
Councilman Ken Davis	YES
Councilwoman Jim Mooney	YES
Councilwoman Cheryl Meads	YES

PASSED AND ADOPTED this 10th day of October, 2019.



DEB GILLIS, MAYOR

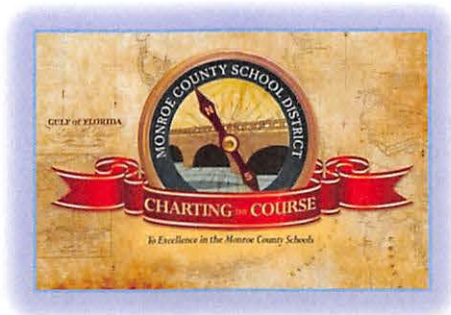
ATTEST:



KELLY TOTH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY FOR THE USE AND BENEFIT OF ISLAMORADA, VILLAGE OF ISLANDS ONLY:


ROGET V. BRYAN, VILLAGE ATTORNEY



THE SCHOOL BOARD OF MONROE COUNTY, FLORIDA LEASE AGREEMENT

THIS AGREEMENT, entered into this 1st day of November, 2019, between **THE SCHOOL BOARD OF MONROE COUNTY, FLORIDA**, (hereinafter “lessor” or “SCHOOL BOARD”), party of the first part, and the **VILLAGE OF ISLAMORADA, FLORIDA** (hereinafter “lessee” or “VILLAGE OF ISLAMORADA”), party of the second part:

WITNESSETH, that the said lessor does this day lease unto said lessee the following premises: (1) the Upper Matecumbe Hurricane Monument; (2) the Upper Matecumbe Fire Station; (3) the “Mosquito Control” Parcel; and (4) the Islamorada Library Park (collectively, the “Premises”). Each of the Premises are described more particularly in Exhibit A, which is attached hereto and incorporated herein by reference.

WHEREAS, Lessor the SCHOOL BOARD, entered into a 1951 Lease Agreement with Monroe County, Florida, in which the County agreed to lease the Premises for a term of ninety-nine (99) years; and

WHEREAS, Monroe County entered into a 1998 Interlocal Agreement with Lessee, the VILLAGE OF ISLAMORADA, in which Monroe County conveyed their interest under the 1951 Lease Agreement to Lessee in several different pieces; and

WHEREAS, Lessor and Lessee wish to unify Lessee’s currently fractured lease interests into a single agreement;

NOW THEREFORE, in consideration of the mutual promises and covenants herein contained, and other valuable consideration, the parties to this Agreement hereby agree as follows:

1. RECITALS:

The above recitals are incorporated and are hereby made a part of this Agreement. This Agreement supersedes any/all prior Agreements. All prior agreements are hereby terminated.

2. TERM:

This Agreement shall be effective as of October 1, 2019, and shall continue for a term of thirty one (31) years, running through and including September 30, 2050 (hereinafter the "Term").

3. PREMISES & USE:

During the term of this agreement, it is understood and agreed upon by Lessor and Lessee that Lessee will:

- a. Use said premises for a youth and community center, or for other public purposes; and
- b. Pay the rent herein reserved at the time and manner as stated herein; and
- c. Make no improper, unlawful, or offensive use of said premises; and
- d. Will pay any and all charges for utilities, including but not limited to, electricity, water, garbage disposal, fuel, and any and all installation charges for same; and
- e. At its own expense, keep and maintain all plumbing and pumps (as applicable); and
- f. Permit the Lessor or its agents to enter upon the Premises at all reasonable times for the purpose of viewing and inspecting the condition thereof; and
- g. At the expiration of the term of this lease, without demand, quietly and peacefully surrendering full possession of the Premises in good condition, as they are now, with the exception only of damage by fire and natural elements.

4. ASSIGNMENT:

The Lessee shall not assign, sublet, transfer, mortgage, pledge or otherwise encumber or dispose of this Lease during the term hereof, or underlet the demised premises or any part thereof or permit the premises to be occupied by any other persons.

5. RENT:

The Lessee agrees to pay the SCHOOL BOARD a rental of thirty-one dollars (\$31.00) for the total lease term of thirty-one (31) years, as follows:

- a. \$1.00 payable upon execution and delivery of this Lease, which shall cover the yearly rental for the first year of this Lease. After which, Lessee shall pay \$1.00 on the 1st day of October, 2020, and upon the same day every year thereafter until the expiration of the term of this Lease.

- b. Rent shall be made payable to:

**SCHOOL BOARD OF MONROE COUNTY, FLORIDA
c/o Mark Porter, Superintendent of Schools
241 TRUMBO ROAD
KEY WEST, FL 33040**

6. LESSEE OBLIGATIONS:

- a. To name the School Board as an additional insured under its liability insurance policies and to maintain the insurance coverage and amounts reflected in the certificates for the remainder of the Lease term.
- b. To maintain all portions of the premises in a safe and clean manner, including repair of any damage which may occur by such use.
- c. To maintain general liability insurance in an amount of at least \$1,000,000.00 single incident/\$2,000,000.00 aggregate and name The School Board of Monroe County, Florida as an additional insured.

7. IMPROVEMENTS TO PREMISES

- a. Any improvements to the Premises shall be approved by SCHOOL BOARD in writing.
- b. Lessor, SCHOOL BOARD, and Lessee, the VILLAGE OF ISLAMORADA, expressly agree that, upon termination of this Agreement, title to all tangible property (with the exception of the Monroe County Library and the Village of Islamorada Fire Station) shall be in the name of SCHOOL BOARD.

8. INDEMNIFICATION:

In consideration of being permitted to use the premises and for other valuable and good consideration not specifically contained herein, the VILLAGE OF ISLAMORADA :

- a. Expressly acknowledges and agrees that use of the premises could involve the risk of serious injury and/or death and/or property damage if equipment and/or activities are not undertaken in a careful and prudent manner. In light of this and other, if any, risks associated with the use of the premises the VILLAGE OF ISLAMORADA hereby voluntarily assumes full responsibility for and all risk of bodily injury, death and property damage while on or about the premises regardless of any negligence of any other party especially (but without limitation) to any negligence of the SCHOOL BOARD, their assigns, successors in interest, officers, directors, employees, agents, attorneys, or any person, persons, or entity (hereinafter SCHOOL BOARD individually and collectively) who may be responsible or liable for the actions of the SCHOOL BOARD.

- b. Irrevocably and unconditionally releases, acquits, waives and forever discharges the SCHOOL BOARD, their assigns, successors in interest, officers, directors, board members, employees, agents, attorneys, or any person, persons, or entity who may be responsible or liable for the actions of the SCHOOL BOARD of any and all charges, complaints, claims, liabilities, damages, actions, causes of action, suits, rights, demands, costs, losses, debts and expenses (including reasonable attorneys' fees and costs actually incurred) of any nature whatsoever, whether known or unknown, suspected or unsuspected, arising out of or in any way related to any personal injury (including, but not limited to, bodily injury and death) or property damage suffered by VILLAGE OF ISLAMORADA or its agents, in connection with utilizing the premises, or while on or about the premises, regardless of any negligence of any other party especially (but without limitations) to any negligence of the SCHOOL BOARD, their assigns, successors in interest, officers, directors, board members, employees, agents, attorneys, or any person, persons, or entity who may be responsible or liable for the actions of the SCHOOL BOARD.
- c. Agrees to indemnify, defend and hold harmless the SCHOOL BOARD and all of its officers, agents and employees, from all claims, losses, damages, costs, charges, or expenses arising out of any acts, action, neglect, or omission by VILLAGE OF ISLAMORADA during the performance of the lease, whether direct or indirect, and whether to any person or property to which the SCHOOL BOARD or said parties may be subject, except that VILLAGE OF ISLAMORADA is not liable under this Sub paragraph for damages arising out of the injury or damage to persons or property directly caused or resulting from the sole negligence of the SCHOOL BOARD or any of its officers, agents or employees. The indemnification referenced above is capped and limited to the amount of the limit of the applicable insurance, or other limits as prescribed by law. The parties hereby agree this limitation bears a reasonable commercial relationship to the contract.
- d. This indemnification section shall be governed by and construed in accordance with the laws of the State of Florida, including s. 768.28, Florida Statutes.

9. TERMINATION:

This Agreement can be terminated for breach of the covenants set forth herein. Termination of the Agreement for breach shall be effective upon given ten (10) days written notice of the breach of the Agreement and termination thereof. Upon written termination of this Agreement for any reason, the Lessee's right of use and access to the Premises shall cease, the Lessee shall vacate the Premises, and neither party shall owe the other any further performance under this Agreement.

10. WAIVER:

The failure of either the SCHOOL BOARD or the Lessee to insist in any one or more instances upon the strict performance of any one or more of the obligations of this Agreement, or to exercise any rights or election herein contained, shall not be construed as a waiver or relinquishment for that or the future of the performance of such or more obligations of the Agreement or of the right to exercise such election, but the same shall

both continue and remain in full force and effect with respect to that and any subsequent breach, act or omission.

11. NOTICES:

Any notice, statement, demand or other communication required or permitted to be given or made by either party to the other, pursuant to this Agreement or pursuant to any applicable law, shall be in writing and shall be deemed to have been properly given and made if sent by registered or certified mail, return receipt requested, addressed to the other party at the address hereinafter set forth or at such other address as may be hereafter designated by either party by notice to the other and shall be deemed to have been given or made on the day so mailed. Either party may, by notice given as aforesaid, designate a different address or addresses for notices, statements, demands or other communications intended for it.

Monroe County School Board:
Superintendent
Monroe County School District
241 Trumbo Road
Key West, FL 33040

Village of Islamorada
Attn: Village Manager
Islamorada, Village of Islands
86800 Overseas Hwy
Islamorada, Florida 33036

12. RULES AND REGULATIONS:

Lessee acknowledges that it will be occupying real property owned by the School Board of Monroe County Florida, and expressly agrees to be subject to the reasonable rules and regulations of such body, and hereby covenants and agrees that it and its employees, servants, and agents will at all times observe, perform and abide by said rules and regulations as they exist and as they may be amended hereafter from time to time.


13. NON- WAIVER OF IMMUNITY:

Notwithstanding the provisions of Florida Statute § 768.28, the participation of SCHOOL BOARD and VILLAGE OF ISLAMORADA in this Agreement and the acquisition of any commercial liability insurance coverage, self-insurance coverage, or local government liability insurance pool coverage shall not be deemed a waiver of immunity to the extent of liability coverage, nor shall any contract entered into by SCHOOL BOARD and VILLAGE OF ISLAMORADA be required to contain any provision against such waiver.

IN WITNESS WHEREOF, the SCHOOL BOARD and the VILLAGE OF ISLAMORADA have duly signed and executed this lease agreement on this 1st day of November, 2019.

Signed, sealed and delivered in the presence of:

"LESSOR"
THE SCHOOL BOARD OF MONROE COUNTY FLORIDA



Robert Highsmith, Chairman

Attest:



Mark Porter, Superintendent of Schools

"LESSEE"
VILLAGE OF ISLAMORADA

BY: Deb Gillis, Mayor
Printed name and title:



Lessee Signature

Kelly S. Toth
Witness as to Lessee:

Kelly S. Toth

Printed Name

THE SCHOOL BOARD OF MONROE COUNTY, FLORIDA LEASE AGREEMENT

EXHIBIT A

The Property commonly known as **81850 Overseas Highway, Islamorada, Florida, 33036**; that certain parcel of tract of land lying in Government Lot One (1) of Section Thirty-Two (32), Township Sixty-three (63) South, Range Thirty-seven (37) East, more particularly described as follows, to-wit:

Beginning at a point, being the intersection of the Easterly right-of-way line of the Florida East Coast Railway with the Northeasterly boundary line of Lot One (1) of MacDonald's Subdivision of Government Lots One (1), Two (2) and Three (3), of the aforesaid Section Thirty-two (32), according to the plat recorded in Plat Book 1, at page 41 of the Public Records of Monroe County, Florida; thence Northeasterly along the Easterly right-of-way line of the Florida East Coast Railway a distance of Two Hundred One feet and no inches (201.0') to a point; thence in a Southeasterly direction parallel to the Northeasterly boundary of said Lot One(1) of MacDonald's Subdivision and Two Hundred One feet and no inches (201.0') Northeasterly therefrom, measured at right angles for a distance of One Hundred Fifteen feet and no inches (115.0') more or less to the Westerly right-of-way line of the Overseas Highway; thence Southerly and Southwesterly along the curved Westerly right-of-way line of the Overseas Highway a distance of Two Hundred Twenty-three feet and no inches (223.0') feet more or less to the Northeasterly boundary line of said Lot One (1) of MacDonald's Subdivision; thence in a Northwesterly direction along the said Northeasterly boundary line of Lot One (1) of MacDonald's Subdivision a distance of Twenty-eight and fifty-six-hundredths feet (28.56) to the Easterly right-of-way line of the Florida East Coast Railway and the point of beginning of the track of land above described.

The above tract of land being all of that tract of land Two Hundred One feet and no inches (201.0) in width, Northerly and Southerly, lying between the right-of-way line of the Overseas Highway and the right-of-way line of the Florida East Coast Railway, extending from the Northeasterly boundary line of Lot One (1) of MacDonald's Subdivision as aforesaid to a line parallel to and Two Hundred One feet and no inches (201.0) Northeasterly from the Northeasterly boundary line of Lot One (1) of MacDonald's Subdivision as aforesaid.

ALSO

The following tract of land lying in said Government Lot One (1) of Section Thirty-two (32), Township Sixty-three (63) South, Range Thirty-seven (37) East, more particularly described as follows, to-wit:

Beginning at a point, being the intersection of the Westerly right-of-way line of the Florida East Coast Railway with the Northeasterly boundary line of said Lot One (1) of MacDonald's Subdivision; thence Northeasterly along the Westerly right-of-way line of the Florida East Coast Railway a distance of Four Hundred Two feet and no inches (402.0') to a point; thence in a Northwesterly direction

parallel to, and Four Hundred Two feet and no inches (402.0') Northeasterly, measured at right angles, from the Northeasterly boundary line of said Lot One (1) of MacDonald's Subdivision a distance of Two Hundred Fifty-three and fifty-four hundredths feet (253.54') to a point; thence Southwesterly along a line parallel to and Two Hundred Fifty-three and fifty-four hundredths feet (253.54') Northwesterly from the Westerly right-of-way line of the Florida East Coast Railway, a distance of Two Hundred One feet and zero inches (201.0') to a point; thence in a Northwesterly direction parallel to and Two Hundred One feet and no inches (201.0') Northeasterly, measured at right angles, from the Northeasterly boundary line of said Lot One (1) of MacDonald's Subdivision a distance of Two Hundred Thirty-two and twenty-five hundredths feet (232.25') more or less to the East bank of a creek or canal; thence in a Southerly direction meandering the East bank of said creek or canal a distance of Two Hundred One feet and zero inches (201.0') more or less to the said Northeasterly boundary line of Lot One (1) of MacDonald's Subdivision; thence in a Southeasterly direction along the Northeasterly boundary line of said Lot One (1) of MacDonald's Subdivision a distance of Four Hundred Sixty-five and fifty-four hundredths feet (465.54') more or less to the Westerly right-of-way line of the Florida East Coast Railway and the point of beginning of tract of land last above described.