

FOURTH MODIFICATION TO LEASE

This Fourth Modification to Lease (“Fourth Modification”) is executed this _____ of December, 2022 (the “Effective Date”), by and between the Board of County Commissioners of Indian River County, Florida (“Lessor”) and Environmental Learning Center, Inc. (“Lessee”).

WHEREAS, Lessor and the Pelican Island Audubon Society, Inc. entered into a lease dated, March 6, 1987, for a portion of Wabasso Island for the development of an environmental learning center (the “Lease”); and

WHEREAS, that Lease was assigned to the Environmental Learning Center, Inc.; and

WHEREAS, on July 2, 1991, the Lease was modified in order to include language concerning the public access to the environmental learning center; and

WHEREAS, the Lease was modified again on February 7, 2006, in order to add lands to the Lease; and

WHEREAS, the Lease was modified for a third time (“Third Modification”) on May 21, 2021, to have Lessor on behalf of Lessee as owner of the property, to act as the applicant for the application to Florida Inland Navigational District (“FIND”) for the replacement of the 30 year old public dock with a new public environmental education dock in the same location and footprint (the “Dock Project”); and

WHEREAS, as part of the Third Modification, Lessee provided the necessary monetary match, up to \$100,000, for the Dock Project; and

WHEREAS, the cost to perform the Dock Project exceeded the initial cost estimate; and

WHEREAS, the Lessor and Lessee wish to modify the Lease again in order to pursue an additional FIND grant of up to \$50,000 to cover the additional expense of the Dock Project,

NOW THEREFORE, in consideration of the mutual undertakings herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree, as follows:

1. **Recitals.** The above recitals are true and correct and are incorporated herein.
2. **Additional FIND Application.** Lessor agrees to be the applicant for an additional \$50,000 FIND grant application for the Dock Project, above and beyond the FIND grant application described in the Third Modification. If the additional FIND grant is not approved or is approved, but insufficient for the Dock Project, the Parties will be released from their responsibilities under the Third Modification and this Fourth Modification.

3. **Funding.** Within 10 days of the Lessor's acceptance of the additional \$50,000 FIND grant, Lessee shall pay Lessor \$100,000, which will be used as an additional match for the Dock Project. Once the Dock Project is completed, Lessor will seek reimbursement from FIND for Lessor's contribution of the project. If final amount of the Dock Project is greater than \$300,000, Lessee shall pay difference to Lessor within 30 days of notice of the final amount of the Dock Project. If final amount of project is less than \$300,000, Lessor will reimburse Lessee any remaining amount of funds left after Lessor has been reimbursed in full. Lessor retains the right to cancel the Dock Project due to cost increases that occur during the construction of the Dock Project, in the event Lessee does not pay for such cost increases, and Lessee shall be responsible for funding any costs incurred by Lessor.

4. All other provisions of the Lease and the prior modifications shall remain in full force and effect.

IN WITNESS WHEREOF, Lessor and Lessee have executed this instrument this __ day of December, 2022.

LESSOR
INDIAN RIVER COUNTY, FLORIDA

By: _____
Joseph H. Earman, Chairman
Board of County Commissioners

Approved by BCC _____

Attest: Jeffrey R. Smith, Clerk of Circuit Court
and Comptroller

By: _____
Deputy Clerk

Approved as to Form and Legal Sufficiency

Dylan Reingold, County Attorney

Jason E. Brown, County Administrator

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me, by means of physical presence or online notarization, this ____ day of December, 2022 by **Joseph H. Earman, Chairman** of the **Board of County Commissioners of Indian River County, a political subdivision of the State of Florida**, who executed on behalf of and with the authority of said Board, and who is personally known or produced identification in the form of _____.

NOTARY PUBLIC

printed name:
Commission No.:
Commission expiration:

NOTARIAL SEAL:

LESSEE

ENVIRONMENTAL LEARNING CENTER, INC.

Signed in the presence of the following witnesses:

sign: _____
print name: _____

sign: _____
print name: _____

By: _____
Barbara Ford
Chief Executive Officer

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me, by means of physical presence or online notarization, this ____ day of December, 2022 by **Barbara Ford, Chief Executive Officer** of **ENVIRONMENTAL LEARNING CENTER, INC.**, a Florida not-for-profit corporation, who executed on behalf of the corporation, and who is personally known or produced identification in the form of _____.

NOTARY PUBLIC

printed name:
Commission No.:
Commission expiration:

NOTARIAL SEAL: