

Deputy Superintendent of Schools
Henry C. Fraind

SUBJECT: AUTHORIZATION TO ENTER INTO A LEASE AGREEMENT WITH THE DEPARTMENT OF JUVENILE JUSTICE FOR THE CONSTRUCTION AND OPERATION OF A JUVENILE JUSTICE FACILITY ON VACANT BOARD-OWNED LAND

At its meeting of November 21, 1995, the School Board authorized the execution of a lease agreement with Walden Community School, Inc. (Walden), for the construction of a community based residential treatment center for adolescents with emotional problems, on 5.362 acres of vacant Board-owned land adjacent to Miami Douglas MacArthur North Senior High School (MacArthur North). The lease document, which was entered into on December 6, 1995, provided four placement slots at no cost to the District and stipulated that the agreement was subject to termination by the Board at any time after two years, unless Walden demonstrated substantial completion in securing all funds. Walden was unable to secure funding within the specified time and, at the request of Walden, the District granted a number of temporary extensions. The Department of Juvenile Justice (DJJ), has now advised that it is willing to provide funding, but, due to the nature of its program, it can only participate if the lease agreement names it as the lessee, rather than Walden. Further, DJJ can only operate the facility as a center for youth who have been adjudicated and assigned to the program by the Court. This will preclude the District's ability to directly place its students in the program, as only the Court retains that authority.

DJJ has now approached the District with a request to enter into a new long-term lease agreement for the same vacant Board-owned site, under similar terms and conditions as the Walden lease, but with no provision for District placement slots. In an attempt to provide an equitable arrangement similar to the original Board/Walden lease, Walden, the service provider selected to operate the program at the new DJJ facility, has advised its willingness to enter into a separate Cooperative Agreement to make four placement slots available at its Miami Springs facility for District use, at no cost to the Board, for a minimum of three years. The value of the slots to be provided by Walden is approximately \$360,000 per year. Based on recent District-commissioned appraisals, the fair market value of the 5.362 acre parcel would be \$439,109.

Pursuant to negotiating procedures, a Management Team meeting was held on January 22, 1999, for direction on negotiating strategies and parameters. Based on this direction, terms and conditions of the proposed lease agreement are as follows:

- a 40 year term, with one-10 year renewal option, at the Board's option;
- the annual rent shall be \$1.00;

- unless otherwise approved by the Board, DJJ shall only use the property for the purpose of operating a juvenile justice facility for the treatment of youth who have been adjudicated to have committed a delinquent act according to the provisions of Chapter 985, Florida Statutes;
- at the termination or expiration of the lease agreement, DJJ will, at the Board's sole option, either remove all improvements or convey title to all structures to the District;
- DJJ shall be responsible for all construction and maintenance of its facility and shall provide and pay for its own utilities;
- DJJ shall be responsible for securing all necessary and appropriate governmental approvals, at its sole cost and expense;
- the Board may terminate the agreement, without penalty, at any time that DJJ ceases to use the land for the purpose intended. The Board may terminate the agreement at any other time, for any other reason, by giving DJJ 360 days advance notice. In that event, the Board shall reimburse DJJ for the fair market value of the construction improvements made by DJJ;
- DJJ may terminate the agreement at any time, by giving the Board 360 days advance notice. In that event, DJJ shall surrender all construction improvements to the Board;
- if the Board defaults on the terms and conditions of the lease in such a manner as to deny DJJ the beneficial use of the property, and fails to correct such default, the lease shall terminate and the Board shall be required to compensate DJJ for the fair market value of the construction improvements made by DJJ; and
- the Superintendent shall be designated by the Board to grant or deny all approvals required by this lease or to terminate this lease.

The proposed agreement has been reviewed by the School Board Attorney's Office and by the Office of Risk and Benefits Management. The Deputy Superintendent of Education recommends approval of this lease agreement.

A copy of the proposed agreement will be placed on file in the Citizen Information Center and the Recording Secretary's Office.

The Cooperative Agreement between Walden and the Board guaranteeing four placement slots at the Walden facility, at no cost to the District, is being brought to the Board as companion item C-13.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, authorize the Superintendent or his designee to:

1. terminate the current lease agreement between the Board and Walden Community School, Inc., effective immediately; and
2. execute a lease agreement with the Department of Juvenile Justice, for the construction and operation of a juvenile justice facility on vacant Board-owned land, under terms and conditions set forth above. The new lease agreement will commence concurrent with the execution of a Cooperative Agreement between the Board and Walden Community School, Inc., for the use of four placement slots at the Walden facility, at no cost to the District.

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