

AMENDED AND RESTATED INTERLOCAL AGREEMENT

BETWEEN THE INDIAN RIVER COUNTY BOARD OF COMMISSIONERS AND THE SCHOOL BOARD OF INDIAN RIVER COUNTY CONCERNING USE OF FACILITIES AS PUBLIC SHELTER BUILDINGS FOR DECLARED AND LOCAL EMERGENCIES.

This Amended and Restated Interlocal Agreement (the “Agreement”) is entered into this day 14<sup>th</sup> day of June, 2022, (the” Effective Date”) between the Indian River County Board of Commissioners, (the” COUNTY”) and the School Board of Indian River County (the “School Board”).

**WHEREAS**, Section 163.01, Florida Statutes, known as the “Florida Interlocal Cooperation Act of 1969”, authorizes local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities; and

**WHEREAS**, Part 1 of Chapter 163, Florida Statutes permits “public agencies” as defined in Section 163.01(3)(b), to enter into interlocal agreements with each other to exercise jointly any power, privilege, or authority which such agencies share in common and which each might exercise separately; and

**WHEREAS**, the Florida Legislature has found that safeguarding the life and property of its citizens is an innate responsibility of the governing body of each political subdivision of the state; and

**WHEREAS**, pursuant to Section 252.38(1)(d), Florida Statutes, during a declared state or local emergency and upon the request of the director of a local emergency management agency, the School Board shall participate in emergency management by providing facilities and the necessary personnel to staff such facilities; and

**WHEREAS**, the COUNTY and the SCHOOL BOARD, together constituting the “Parties” to this Agreement, mutually desire that the SCHOOL BOARD make available certain school facilities for emergency shelters and the personnel to staff such shelters, as more fully described herein.

**NOW, THEREFORE**, in consideration of the mutual promises contained herein, it is agreed upon between the Parties as follows:

**1. Recitals**

The Parties agree that the foregoing recitals are true and correct and are incorporated herein by this reference.

**2. Purpose**

The SCHOOL BOARD agrees, that after meeting its responsibilities to pupils, it will permit upon request of COUNTY, the use of specific mutually agreed upon public school facilities as designated shelters as set forth in Exhibit “A” (excluding the Special Needs Shelter Treasure Coast Elementary School which will only be used when a Special Needs Shelter is required), attached hereto and made a part hereof, by COUNTY as emergency

shelters in advance of a potential emergency and during and after an emergency. Use of the public school facilities as shelters shall be in accordance with all applicable laws, ordinances, and SCHOOL BOARD policies, including but not limited to prohibitions against the possession and/or use of firearms, tobacco products and illegal drugs on SCHOOL BOARD owned property. The SCHOOL BOARD shall have the absolute discretion to remove from a shelter any member of the public who violates any of the applicable laws, ordinances, or SCHOOL BOARD policies.

The SCHOOL BOARD will annually, before hurricane season, meet with COUNTY staff to discuss which of the designated shelters listed in "Exhibit A" will **not** be available to serve as a general public shelter. The SCHOOL BOARD shall coordinate with the COUNTY staff as to which school facilities are utilized and when such facilities shall be open and closed. During a localized Emergency Event, affecting only a portion of Indian River County, the COUNTY will utilize non-School Board buildings as shelter facilities whenever possible. The Superintendent of the SCHOOL BOARD will have the responsibility to determine when shelters will be closed after an emergency event after consultation with COUNTY.

**3. Staffing**

The SCHOOL BOARD agrees to operate, supervise and staff the shelters with SCHOOL BOARD personnel, including but not limited to: cafeteria staff, facilities' maintenance staff, custodians, and appropriate administrative staff. Disaster related roles and a staffing plan will be determined by the SCHOOL BOARD. The COUNTY and SCHOOL BOARD will be responsible for making sure their personnel have any required or recommended Just-in-Time, American Red Cross training. In the event the SCHOOL BOARD is unable to fully staff any of the shelters as described above, the COUNTY agrees to provide the additional staff as outlined in this Agreement.

**4. Emergency Medical Services**

The COUNTY agrees to staff each activated shelter with a minimum of two Emergency Medical Technicians (EMTs) to provide emergency medical services within the facility should the need arise.

**5. Law Enforcement**

The COUNTY shall coordinate with the Indian River County Sheriffs' Office to provide at least one law enforcement officer at each public shelter while the shelter is being utilized under this Agreement.

**6. Transportation**

The SCHOOL BOARD shall provide transportation services to the COUNTY, including the use of its vehicles and personnel, as deemed necessary by the COUNTY before, during, and after an emergency event. In the event, the SCHOOL BOARD is unable to provide enough drivers, the COUNTY may provide its own drivers, as long as such drivers have a valid and current CDL license or are drivers within the County's Fire Rescue Division. If appropriately licensed drivers are not available, the COUNTY may use the Indian River County Community Coach "Go Line" buses and drivers.

**7. Reimbursement**

The SCHOOL BOARD shall document all disaster related costs for the use of the designated shelters and seek reimbursement from state and federal agencies for costs associated with the responsibilities set forth in this Agreement. The SCHOOL BOARD will seek such shelter use reimbursement as a separate applicant from the COUNTY.

**8. Liability**

By this Agreement, the SCHOOL BOARD recognizes for the purposes in this Agreement the SCHOOL BOARD is an active participant with the COUNTY in this community service endeavor. Each are cognizant of the provisions of Chapter 252, Florida Statutes, pertaining to “Emergency Management,” particularly Section 252.51, Florida Statutes, insulating both the SCHOOL BOARD and COUNTY from liability due to death of or injury to, any person on or about emergency shelter premises or for loss of , or damage to, the property of such person unless the gross negligence or the willful and wanton misconduct of one of the Parties is the proximate cause of such death, injury, loss or damage occurring during such sheltering period.

**9. Indemnification**

Subject to the provisions and only within the limitations of Section 768.28, Florida Statutes, and without waiving sovereign immunity, the Parties recognize their respective tort liability for injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee acting within the scope of the employee’s office or employment. It is expressly understood that this provision shall not be construed as; i) a waiver of any right, defense or immunity that the Parties have under Chapter 768.28, Florida Statutes, or any other statute, ii) an agreement by either Party hereto to indemnify the other; or iii) consent by either Party to be sued by third parties. Each Party covenants to maintain sufficient general liability and worker’s compensation coverage, unless self-insured regarding its respective liability, throughout the term of this Agreement.

**10. Insurance**

The Parties warrant that they are self-insured and agree to maintain general liability insurance as required by law. The Parties further agree to provide each other with a copy of said insurance certificates.

**11. Non-Discrimination**

The Parties shall not unlawfully discriminate against any individual on the basis of his or her race, age, religion, ancestry, color, ethnicity, gender, national origin, marital status, disability, sexual orientation, genetic information, or gender identity or expression with respect to any activity occurring or under this Agreement.

**12. Modifications**

This Agreement may be modified or amended only by mutual written consent of the Parties. Notwithstanding the foregoing, the Parties agree that Exhibit “A” may be amended or supplemented from time to time upon the mutual written agreement by the

Superintendent and the Director of the COUNTY's Emergency Management without formal amendment hereto.

**13. Relationship of the Parties**

The Parties hereto acknowledge that their relationship is that of independent contractors. No employee of either Party shall be deemed an employee of the other Party. Nothing contained herein shall be construed to create a partnership or joint venture between the Parties.

**14. No Third-Party Beneficiaries**

This agreement and the provisions hereof are for the exclusive benefit of the Parties hereto and their affiliates and not for the benefit of any third person, nor shall this Agreement be deemed to confer or have conferred any rights, express or implied, upon any other third person.

**15. Pre-Emergency Event Responsibilities**

The SCHOOL BOARD will be responsible for performing an inventory of only designated areas to be used as designated shelters prior to an emergency event.

**16. Execution, Term and Termination**

The term of this Agreement shall commence upon the Effective Date and shall remain in effect for five (5) years, unless replaced by a substitute agreement or otherwise terminated in accordance to this paragraph. This Agreement may be terminated with or without cause by either party to the Agreement by providing at least one hundred eighty (180) days prior written notice to the other party, but in no event shall this Agreement terminate during the period of June 1 through November 30 of each year ("Hurricane Season"), or during any COUNTY declared state of emergency. A notice of termination shall be held in abeyance until the conclusion of the Hurricane Season, or a COUNTY declared state of emergency.

**17. Notice**

Any notice, request, demand, consent, approval or other communication required or permitted by this Agreement shall be given or made in writing and shall be served, as elected by the party giving such notice, by any of the following methods: (1) Hand delivered to the other party; or (2) Delivery by commercial overnight courier service; or (3) Mailed by registered or certified mail (postage prepaid), return receipt requested at the address of the parties show below.

Indian River County: County Administrator  
1801 27<sup>th</sup> Street, Building A  
Vero Beach, FL 32960

School Board: The School Board of Indian River County  
Attn: Superintendent  
6500 57<sup>th</sup> Street  
Vero Beach, FL 32967

## **18. Choice of Law and Venue**

The validity, interpretation, construction, and effect of this Agreement shall be in accordance with the governed by the laws of the State of Florida, only. The location for settlement of any and all claims, controversies, or disputes, arising out of a relating to any part of this Agreement, or any breach hereof, as well as any litigation between the parties, shall be Indian River County, Florida for claims brought in state court and the Southern District of Florida for those claims justiciable in federal court.

## **19. Prior Agreements**

This Agreement incorporates and includes all prior and contemporaneous negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms and conditions contained herein shall be effective unless contained in a written document signed by all parties. In addition, notwithstanding any other provision set forth herein, it is agreed that this Agreement shall not constitute a third-party beneficiary contract and no third party, even if referenced or mentioned hereunder, shall have any rights or privileges hereunder including, but not limited to standing to enforce any term or condition of this Agreement or make any claim based on this Agreement.

## **20. Construction/Interpretation of Agreement**

Each party has participated equally in the negotiation and drafting of this Agreement. In the event that a court is required to interpret any provision of this Agreement, the provision shall not be interpreted for or against either party upon the basis that such party was or was not the preparer of this Agreement.

## **21. Severability**

If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held invalid or unenforceable for the remainder of this Agreement, then the application of such term or provision to person or circumstances other than those as to which it is held invalid or enforceable shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by the law.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date first written above.

**ATTEST:** Jeffrey R. Smith, Clerk of Courts,

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

By: \_\_\_\_\_  
Chairman

**APPROVED BY Indian River County  
Board of Commissioners on:**

\_\_\_\_\_

**Approved:**

\_\_\_\_\_  
Jason E. Brown, County Administrator

**Approved as to form and legal sufficiency:**

\_\_\_\_\_  
Dylan Reingold, County Attorney

**THE SCHOOL BOARD OF INDIAN RIVER COUNTY**

By: \_\_\_\_\_  
Teri L. Barenborg, Chair

Date Approved: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
David K. Moore, Ed.D., Superintendent

## **Exhibit “A”**

### **DESIGNATED SHELTERS**

**AS OF JUNE 2022**

The COUNTY shall coordinate with the SCHOOL BOARD staff as to which school facilities are utilized and when such facilities shall be open and closed.

1. Treasure Coast Elementary (Special Needs Shelter)
2. Liberty Magnet (Pet Friendly Shelter)
3. Freshman Learning Center
4. Oslo Middle
5. Sebastian River High School
6. Sebastian River High School, V-Wing (Special Needs Overflow)
7. Fellsmere Elementary
8. Gifford Middle
9. Osceola Magnet
10. Storm Grove Middle
11. Vero Beach Elementary
12. Glendale Elementary
13. Indian River Academy
14. Pelican Island Elementary
15. Sebastian River Middle
16. Sebastian Elementary