

MEMORANDUM OF UNDERSTANDING
BETWEEN THE FLORIDA DEPARTMENT OF HEALTH
AND THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA

THIS MEMORANDUM OF UNDERSTANDING (“**MOU**”) is entered into by and between the **FLORIDA DEPARTMENT OF HEALTH (“FDOH”)** and **THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA (“School Board” or “Facility Owner”)** in order to outline and memorialize the obligations and responsibilities of the parties with respect to staging areas for drive through COVID-19 testing sites. Collectively the FDOH and the Facility Owner shall be referred to as Parties.

WHEREAS, the School District of Palm Beach County (“School District”) provides a public education to over 175,000 students and is committed to providing a safe and healthy environment for its students and staff;

WHEREAS, the FDOH is charged with protecting the health, safety and welfare of citizens of the State of Florida;

WHEREAS, both organizations are committed to promoting and improving the health and well-being of students, their families, and the staff of the School District so as to minimize the impact of health related emergencies on the education of students in Palm Beach County, Florida;

WHEREAS, COVID-19 continues to pose a threat to the entire State of Florida, and requires that timely precautions are taken to protect the communities and general welfare of this State;

WHEREAS, there are a large number of COVID-19 cases throughout the state of Florida, and as a result an increased need for access by students, their families, and staff to testing for COVID-19;

WHEREAS, the Facility Owner owns and controls the Chuck Shaw Technical Education Center and the West Technical Education Center, which have been identified as drive through testing sites (“Testing Sites”) for the FDOH to provide COVID-19 testing of students, their families, and School District employees; and,

NOW THEREFORE, in consideration of the mutual promises and conditions contained herein, the parties agree to the following terms:

1. The purpose of this MOU is to set forth guidance for the designation of certain School Board properties as Testing Sites providing COVID-19 testing availability to students, their families, and School District employees.
2. The Parties have currently designated the Chuck Shaw Technical Education Center, at 4260 Westgate Avenue, in West Palm Beach, Florida 33409, and the West Technical Education Center, at 2625 NW 16th Street, in Belle Glade, Florida, 33430, as Testing Sites. By mutual agreement of the Superintendent and the FDOH, the Parties may designate additional and/or replacement School Board properties as Testing Sites on an as needed basis.
3. The Facility Owner hereby gives the FDOH a license to use mutually agreed upon designated areas within the parking lots of the Testing Sites as well as access to bathroom facilities if

available (“License Area”) to set up drive through COVID-19 testing. The initial term of use for the License Area shall be a minimum of 30 days, beginning September 2, 2021, with the right of the FDOH, upon mutual agreement, to extend the term until the FDOH no longer needs the Testing Sites (“**Term**”), subject to the provisions of Section 15.

4. The FDOH shall conduct the COVID-19 testing in full compliance with all applicable governmental requirements. The FDOH represents and warrants that: (i) the FDOH has all authorizations, licenses and permits that are necessary to provide the COVID-19 testing; (ii) the FDOH and its employees, guests, invitees, agents, contractors and representatives will comply with all applicable laws, regulations, rules, governmental requirements and School Board Policies in connection with, or during the COVID testing event; and (iii) the FDOH shall ensure that the COVID-19 testing event is carried out in a safe and controlled manner. The FDOH will abide by best practices in COVID-19 prevention measures while on and/or using the License Area.
5. If not already fenced, the FDOH will be permitted at its sole cost to fence the License Area in a manner or install portable restroom facilities, using materials to be approved by Facility Owner prior to installation. In addition, FDOH will be permitted to install and operate within the paved portion of the License Area diesel powered generators with secondary containment supporting its operations within the License Area. Any liquid chemicals stored in the License Area will be stored with secondary containment protection. The specific locations within the License Area within which the generator(s) will be installed and method of installation are subject to Facility Owner’s approval prior to installation. In connection with the FDOH’s operations at the License Area, the FDOH will comply with all applicable Federal, State, and local laws, code, rules and regulations. Specifically, the FDOH will comply with all laws, codes, rules and regulations relating to the environment, or to emissions, discharges, or releases of Hazardous Substances (defined below) into the environment, including, without limitation, ambient air, soil, surface water, and ground water. “Hazardous Substances” shall mean any chemical or other hazardous or toxic substances or materials, including pollutants and other petroleum products, asbestos, radioactive materials, and any regulated substances under applicable environmental laws. The FDOH must maintain all equipment installed within the License Area in compliance with law and good practices.
6. The FDOH shall inform Facility Owner in advance and conduct a joint walk through before moving any equipment onto the License Area and a second joint walkthrough shall take place within 3 days following moving equipment into the License Area. The FDOH shall provide to Facility Owner contact information of the local site supervisor in charge of the site. Facility Owner reserves the right throughout the Term to inspect the FDOH’s operations at the License Area, including but not limited to operation of the generators and all maintenance records pertaining to the same. The FDOH shall secure all required governmental permits and approvals prior to installation of fencing, generators or other equipment at the License Area. Any emissions, discharges or releases of Hazardous Substances shall be immediately reported by the FDOH to Facility Owner.
7. Except as provided in Section 5 above, the FDOH will not make any alterations, installations, or improvements to the License Area. All fencing, portable restroom facilities, generators, equipment, and personal property installed within the License Area shall be removed by the FDOH at its sole cost prior to the expiration of the Term, and the License Area shall be returned by the FDOH to Facility Owner at expiration of the Term in its original condition. All damage to

the License Area resulting from the FDOH's installation of fencing, generators, and other equipment shall be restored by the FDOH at its sole cost prior to the expiration of the Term.

8. The Facility Owner will permit ingress and egress to the FDOH, its agents, contractors, and employees to the Testing Sites in order for the FDOH, its agents, contractors, and employees to perform emergency relief work and other work as needed at the POD. In addition, the Facility Owner will permit access to the Testing Site to local, state, and federal regulatory agencies for inspection or such other legal purposes as are deemed appropriate by the FDOH. Information about the COVID-19 testing operation, and other information deemed sensitive shall not be shared with anyone aside from the FDOH and its designated agents. FDOH shall take all necessary actions to provide for and to protect the safety of its agents, contractors, and employees on or within the License Area. Access to the POD shall be provided by the Facility Owner or its designee Monday through Sunday on a 24-hour basis or at other reasonable times as mutually agreed upon by the parties.
9. The FDOH shall be responsible, at its sole cost and expense for any utilities including but not limited to electrical service and/or water that will be needed and/or required for the FDOH's use of the property. No utilities shall be provided to the License Area by Facility Owner, except for those utilities necessary for the use of the bathroom facilities that are part of the License Area
10. The FDOH shall be charged for post-event COVID 19 and other routine custodial services provided by the Facility Owner's custodial staff in accordance with established District guidelines. The labor charges will align with the SEIU/FPSU Repair and Supervisory Collective Bargaining Agreement for time worked outside the custodians' regular duty hours. The custodial staff will be responsible for opening and closing the bathroom facilities in the License Area and the cleaning of the bathroom facilities used by the FDOH during the COVID-19 testing event.
11. The FDOH shall be responsible, at its sole cost and expense, for hiring School Police officers to maintain security at the License Area during its hours of operation. The FDOH will coordinate with the School District of Palm Beach County Police Department to make sure that there is adequate security at the License Area during its hours of operation, and will coordinate with the Palm Beach County Sheriff's office for traffic control outside of the License Area.
12. **The License Area is being provided in "as is" condition with all faults. The FDOH shall be responsible for restoring the Premises to substantially its previous condition or better condition.**
13. In no event will the Facility Owner be liable for any loss or damage to persons or property including but not limited to third party claims, resulting from the use of the License Area by the FDOH, its agents and contractors, and its and their employees and invitees. Use of the License Area by the FDOH, its agents and contractors, and its and their employees and invitees shall be at the sole risk and expense of the FDOH. Facility Owner makes no representations or warranties to the FDOH regarding the suitability or safety of the License Area for FDOH's intended use. Facility Owner shall make the FDOH aware of any known or reasonably knowable issues in the License Area that could harm to the FDOH, its agents and contractors, and its and their employees and invitees or cause loss or damage to persons or property.

14. The parties agree that all notices provided under or pursuant to this MOU shall be in writing, either by hand delivery, or first class, certified mail, return receipt requested, or nationally recognized overnight delivery service (by way of example, Federal Express) to the contract representative identified below at the address set forth below and said notification shall be attached to the original of this Memorandum of Understanding: The names, title, address, and phone number of the FDOH representative for this MOU is:

Primary:

Secondary:

The names, titles, address, and phone numbers of the Facility Owner representatives responsible for the administration of this MOU are:

Primary:

JAY BOGGESS, Chief of Staff
School District of Palm Beach County
3300 Forest Hill Boulevard, Suite C-316
West Palm Beach, FL 33406
561-969-5829; jay.boggess@palmbeachschools.org

Secondary:

WANDA F. PAUL, M.Ed., MBA, Chief Operating Officer
School District of Palm Beach County
3300 Forest Hill Boulevard, Suite B-302
West Palm Beach, FL 33406
561-357-7573; Wanda.Paul@palmbeachschools.org

15. This MOU is effective upon its execution by both of the parties and may be modified only in writing with execution by both parties. In the event the designated site is utilized for the storage of equipment and commodities, notice of intent to terminate this MOU by the Facility Owner must be provided at least 30 days in advance. In the event the designate site is not being utilized, notice of intent to terminate this MOU by the Facility Owner must be provided at least 15 days in advance. This MOU shall expire one year after execution unless an extension is mutually agreed to in writing.
16. Each Party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its employees, contractors, representatives and agents. Nothing contained herein shall constitute a waiver by the FDOH of its sovereign immunity or the provisions of section 768.28, Florida Statutes. Nothing herein shall be construed as consent by either Party to be sued by third parties.
17. Each Party shall comply with Florida's public records laws, and specifically agree to: 1) keep and maintain public records that ordinarily and necessarily would be required in accordance with the applicable records retention schedule, 2) provide the public with access to public records at a cost

that does not exceed the cost provided in Chapter 119, F.S., and 3) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law. The Parties must also comply with any applicable professional standards of practice with respect to client confidentiality.

18. The FDOH agrees and understands, that except as restricted by law, that the School Board's Office of Inspector General shall have immediate, complete, and unrestricted access to all financial and performance-related records and property or equipment purchased with School Board funds. IF requested, the FDOH shall cooperate with and furnish the Inspector General with requested records for the purpose of conducting an audit or investigation per School Board Policy 1.092.
19. 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, familial status, disability, sexual orientation, genetic information, or gender identity or expression with respect to any activity occurring or under this MOU.
20. Each Party shall be excused from its obligation to perform any duty, requirement or obligation under this MOU if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of any party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure").
21. This MOU contains all the terms and conditions agreed upon by the parties. This MOU shall be governed by the laws of the State of Florida and the venue shall be Palm Beach County, Florida.
22. The persons executing this Agreement on behalf of their respective agency parties hereby represent and warrant that they have the right, power, legal capacity, and appropriate authority to enter into this MOU on behalf of the agency for which they sign.
23. This MOU contains all the terms and conditions agreed upon by the Parties. There are no provisions, terms, conditions, or obligations other than those contained herein.
24. This MOU may be executed electronically and in two (2) or more counterparts, each of which shall be deemed an original. The signatures, including electronic signatures, to this MOU may be executed on separate pages, and when attached to this MOU shall constitute one complete document.

IN WITNESS WHEREOF, the parties hereto have caused this Memorandum of Understanding to be executed by their undersigned officials as duly authorized.

FACILITY OWNER:

FDOH:

THE SCHOOL BOARD OF
PALM BEACH COUNTY, FLORIDA

FLORIDA DEPARTMENT OF HEALTH

By: Frank A. Barbieri, Jr., Esq., Board Chair

By: _____
Title: _____

Date: _____

Date: _____

By: Michael J Burke
Superintendent

Date: _____

Reviewed and Approved for Form and Legal Sufficiency:

By: _____

Date: _____