

**INTERLOCAL AGREEMENT  
BY AND BETWEEN  
LEE COUNTY, FLORIDA  
AND  
THE SCHOOL BOARD OF LEE COUNTY, FLORIDA**

**USE OF FACILITIES DURING A STATE OR LOCAL EMERGENCY**

THIS INTERLOCAL AGREEMENT (the "Agreement"), is made and entered into this day \_\_\_ of \_\_\_\_\_, 2023, by and between **LEE COUNTY, FLORIDA**, a political subdivision of the State of Florida, hereafter referred to as the "COUNTY", and **THE SCHOOL BOARD OF LEE COUNTY, FLORIDA**, a district school board and body corporate created under the laws of the State of Florida, hereafter referred to as the "SCHOOL BOARD". The COUNTY and SCHOOL BOARD are collectively referred to throughout this Agreement as the "Parties".

**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 I 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)(a), each local emergency management agency shall have jurisdiction over and serve an entire county, in order to provide effective and orderly governmental control and coordination of emergency operations.

**WHEREAS**, pursuant to Section 252.38(1)(b), Florida Statutes, during a declared state or local emergency, the director of a local emergency management agency shall coordinate emergency management activities, services, and programs within the county and shall serve as liaison to the SCHOOL BOARD; 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**, pursuant to Section 252.38(1)(d), Florida Statutes, during a declared state or

local emergency and upon the request of the COUNTY, the SCHOOL BOARD shall provide transportation assistance in an emergency evacuation and shall coordinate the use of its vehicles and personnel with the local emergency management agency; and

**WHEREAS**, pursuant to Section 1013.372, Florida Statutes, the COUNTY, and the SCHOOL BOARD must ensure that appropriate new educational facilities, that fall under this subsection, can serve as public shelters for emergency management purposes; and

**WHEREAS**, pursuant to Section 1013.372, Florida Statutes, the COUNTY must prepare and submit a statewide emergency shelter plan. The plan must identify the general location and square footage of existing shelters, general location, square footage, types of public facilities that should be constructed to comply with emergency-shelter criteria, and recommend available sources of funding for the additional cost of constructing emergency shelters within these public 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 BOARD facilities for emergency shelters and the personnel to staff such shelters.

**WHEREAS**, the COUNTY is a "local emergency management agency" pursuant to Chapter 252, Florida Statutes, and therefore has the responsibility for emergency management for Lee County;

**WHEREAS**, the Parties entered into a new Interlocal Agreement dated November 6, 2018, to govern their obligations and mutual assistance during hurricanes and other natural disasters, and now desire to enter into a new Agreement; and

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

**I. RECITALS:**

1. The above "Whereas" clauses shall be incorporated into this Agreement and are evidence of the intent of the parties entering into this Agreement.
2. The Parties agree that the foregoing recitals are true and correct and are incorporated herein by reference.

**II. PURPOSE:**

1. The purpose of this Agreement is for the mutual cooperation and coordination between the COUNTY and the SCHOOL BOARD in carrying out responsibilities to serve the people of Lee County during emergencies or disasters.
2. The purpose of this Agreement is for the COUNTY and the SCHOOL BOARD to determine available and appropriate SCHOOL BOARD facilities to be used as emergency shelters; the need for new school facility builds and upgrades to current

facilities used for shelters, for the statutorily required hardening of SCHOOL BOARD facilities; and reimbursement for use, damages, and staffing of SCHOOL BOARD facilities as emergency shelters.

### III. DEFINITIONS:

1. **Agreement:** This Agreement, together with all exhibits, amendments, and modifications hereto.
2. **County Regulations:** Adopted County rules, regulations, resolutions, and ordinances governing the use of County Facilities.
3. **Disaster:** As defined in Section 252.34, Florida Statutes.
4. **Effective Date:** The effective date begins after the Agreement has been properly approved and signed by both the COUNTY and the SCHOOL BOARD, and upon being duly filed with the Clerk of the Court of Lee County.
5. **Emergency:** As defined in Section 252.34, Florida Statutes.
6. **Incident Action Plan (IAP):** The local agency creates a plan for each operational period and documents the entire life cycle of the event. The IAP establishes the Incident Commander's goals and objectives, and provides a brief description of what has occurred, what is currently occurring, and what is projected to occur. The IAP addresses basic assumptions regarding the incident, and alternative strategies and outcomes.
7. **Local Emergency Management Agency:** As defined in Section 252.34, Florida Statutes.
8. **Lee County Emergency Operations Center ("EOC"):** The local agency for coordination of emergency response and recovery activities throughout Lee County. When activated for an emergency, the EOC is staffed with key personnel from first responder agencies, emergency relief organizations, County departments, municipalities, utility companies, media, and other essential agencies. The EOC assists with preparation for an emergency; monitors emergency levels through the Emergency Dispatch Center and the State EOC Watch Office; and develops, coordinates, and operates County-wide programs during large-scale disasters.
9. **Lee County Comprehensive Emergency Management Plan:** The local emergency plan that is in place for Lee County. The plan contains processes, procedures, and tools put in place to prevent, prepare for, respond to, recover from, and mitigate against hazards, disasters, and emergencies.
10. **Manager:** The County Manager of Lee County or his/her designee.

11. **School Board Policies:** Adopted School Board policies, rules, and regulations governing the use of SCHOOL BOARD Facilities.
12. **School Facilities:** Buildings and properties owned and maintained by the SCHOOL BOARD.
13. **State of Emergency:** An emergency that is declared by executive order or proclamation by the Governor of the State when there is an imminent threat of danger.
14. **State of Local Emergency:** An emergency declaration by the COUNTY in accordance with Lee County Ordinance 87-01, or future revisions adopted by the COUNTY.
15. **Superintendent:** The Superintendent of the School District of Lee County or his/her designee.

#### IV. **TERM:**

1. **Term:** The initial term of this Agreement shall commence on the date of execution and shall be for five (5) years. After the initial term, the SCHOOL BOARD and the COUNTY may renew upon written mutual agreement of the parties for up to two (2) additional five (5) year terms upon ninety (90) days' notice to the other party. The terms, covenants, and conditions of this Agreement, as the same may be modified in writing, from time to time, shall continue to be in effect during each such renewal term.
2. **Effective Date:** This Agreement shall take effect after it has been properly approved and signed by both the COUNTY and the SCHOOL BOARD, and upon being duly filed with the Clerk of the Court of Lee County.
3. **Agreement Review:** The Superintendent and/or Department Designee and Manager and/or designee, shall meet at least once a year, or as needed, to examine the terms of this Agreement. Except as otherwise provided herein, this Agreement shall only be amended by formal action of both the SCHOOL BOARD and COUNTY.
4. **Right of Termination:** Except for default of this Agreement, either party may terminate this Agreement at any time without cause upon ninety (90) days' written notice to the other party.
5. **Right of Termination with Cause:** This Agreement may be terminated by either party upon five (5) calendar days, written notice to the other should such other party fail substantially to perform in accordance with this Agreement's material terms, through no fault of the party initiating the termination.
6. **Termination:** In the event of termination, the SCHOOL BOARD shall continue to provide all assistance to the COUNTY required by Section 252.38(1)(d), Florida Statutes, and other applicable law.

**V. COUNTY RESPONSIBILITIES:**

1. The COUNTY, through its Department of Public Safety, agrees to:
  - A. Provide as much advance notice as possible to the SCHOOL BOARD for the need for SCHOOL BOARD assistance.
  - B. Implement, to the fullest extent possible, Lee County Comprehensive Plan Policy 66.2.1, which states that Lee County shall continue programs to allocate responsibility and costs for supporting the use of schools as Emergency Shelters.
  - C. In cooperation with the SCHOOL BOARD, will identify and designate suitable school facilities to serve as emergency public shelters during hurricanes and other natural disasters.
  - D. In a major incident, tactical command activities are usually directed from the field. The exceptions to this are in response to hazards that have advance warning periods (such as a hurricane) that affect a large area of the community. In these cases, the COUNTY may direct certain preparation activities from the Lee County EOC and conduct response and recovery activities from the field, including shelter operations.
  - E. Once a state of local emergency has been declared, the COUNTY will provide the SCHOOL BOARD with written notice that SCHOOL BOARD facilities will need to be used as Emergency Shelters. Once the state of emergency has ended and/or the need for use of the SCHOOL BOARD facilities has ended, the COUNTY will provide written notice. The need and length for assistance and use of facilities may vary depending on the type and severity of the state of emergency declared.
  - F. The COUNTY will provide staff, as representatives or designees to assist in the operation of the shelter. The staffing requirements and duties will be mutually agreed upon at the annual meeting, as these may be subject to change.
  - G. COUNTY-assigned personnel to the shelter:
    - i. COUNTY will assign a Director, Representative, or Designee to the SCHOOL BOARD to assist with the coordination of Local or State of Emergencies.
    - ii. Shelter Manager or Designee to work with Principal to establish work schedules and assign personnel with duties.
    - iii. Law Enforcement.
    - iv. Other COUNTY staff or volunteers.

- H. Provide space at the EOC for a SCHOOL BOARD representative and any necessary support staff.
- I. Act as the single point of contact with the SCHOOL BOARD in matters relating to the designation and use of SCHOOL BOARD facilities for any emergency purposes under this Agreement, regardless of the requesting agency.
- J. Manage approval, with the concurrence of the SCHOOL BOARD of all requests, regardless of requesting agency, for the use of SCHOOL BOARD facilities and any emergency purposes under this Agreement.
- K. In cooperation with the SCHOOL BOARD, coordinate the operation of shelters as “Pet Friendly” shelters, including allocating staff from Lee County Domestic Animal Services (LCDAS) to support this effort. Operation of shelters as “Pet Friendly” requires the assignment of LCDAS staff or volunteers with appropriate training to provide support. The only animals admitted will be cats, dogs, and other non-venomous domesticated species. For more information, see the Lee County Comprehensive Emergency Management Plan, Annex C-11 Mass Care.
- L. Notwithstanding the SCHOOL BOARD’S duty to maintain School Board facilities designated as emergency public shelters, the COUNTY will conduct a joint analysis with the SCHOOL BOARD of newly constructed SCHOOL BOARD facilities and existing SCHOOL BOARD facilities to ascertain the suitability of such facilities as emergency public shelters. At the annual meeting, hurricane upgrade needs will be established for new and existing schools. The COUNTY and SCHOOL BOARD will determine and mutually agree upon these improvements. The COUNTY and SCHOOL BOARD will follow all Federal, State, and local guidelines to appropriately source funding to be used for these upgrades.
- M. Upgrade needs are contingent upon the availability of funding, availability of materials, equipment, and supplies that either improve the use of or increase the capacity of, SCHOOL BOARD facilities to serve as emergency public shelters, to include, but not be limited to: shutters or other code-approved window protection, emergency power connections, and emergency generators.
- N. With the concurrence of the SCHOOL BOARD, or its designated representative at the Lee County Emergency Operations Center ("EOC"), determine emergency transportation needs, including the potential use of SCHOOL BOARD fuel and fueling sites.
- O. Identify emergency transportation priorities in cooperation with the SCHOOL BOARD.
- P. Assist the SCHOOL BOARD with the coordination of bus resources, including LeeTran staff, to meet emergency transportation needs.

- Q. Work with the SCHOOL BOARD to establish the necessary communication resources needed to coordinate the use of SCHOOL BOARD assistance. The COUNTY agrees, at its expense, to procure, install and maintain amateur radio equipment (including antennas) at SCHOOL BOARD facilities that are utilized as emergency public shelters and other facilities utilized by the COUNTY during a state of emergency.
- R. Provide, fuel trucks and licensed drivers for the purpose of obtaining and transporting fuel and food to SCHOOL BOARD sites and to COUNTY generators at such sites and other facilities utilized by the COUNTY during a State of Local Emergency.
- S. Conduct training activities annually, including training staff on supervising a shelter facility in the event of a hurricane or natural disaster. The SCHOOL BOARD agrees to support training activities in furtherance of the purposes of this Agreement to be conducted annually, as the Parties recognize that training is essential to successfully assist the people of Lee County in an emergency or disaster.
- T. Provide any information requested by the SCHOOL BOARD in support of completing the project worksheets ("PW") to provide to FEMA for approval.

**VI. SCHOOL BOARD RESPONSIBILITIES:**

- 1. The SCHOOL BOARD agrees it retains a duty to maintain School Board facilities designated as emergency public shelters, during hurricanes and other natural disasters and a duty to warn of any dangers or defective conditions in the facilities consistent with Florida law.
- 2. The SCHOOL BOARD agrees that it shall provide all assistance to the COUNTY required by § 252.38(1)(d), Florida Statutes. Specifically, during a declared state or local emergency and upon the request of the COUNTY, the SCHOOL BOARD shall participate in emergency management by providing facilities and necessary personnel to staff such facilities.
- 3. Provide all assistance to the COUNTY required by § 252.38(1)(d), Florida Statutes. Specifically, during a declared state or local emergency and upon the request of the COUNTY, the SCHOOL BOARD shall provide transportation assistance in an emergency evacuation and shall coordinate the use of its vehicles and personnel with the COUNTY's Emergency Management division.
- 4. The SCHOOL BOARD agrees, that after meeting its responsibilities to pupils, it will permit upon request of the COUNTY, the use of a specific, mutually agreed upon list of SCHOOL BOARD facilities, which will be provided by June 1 of each year to the COUNTY as emergency shelters in advance of a potential emergency and during and after an emergency. This list may be subject to change; based on availability, maintenance, and other factors.

5. The SCHOOL BOARD, through its District Superintendent or other authorized staff, agrees to:
  - A. Provide building facilities to serve as emergency public shelters.
  - B. Provide SCHOOL BOARD staff to support Emergency Shelter operations as described below. The staffing requirements and duties will be mutually agreed upon at the annual meeting, as these may be subject to change.
  - C. Coordinate with the assigned COUNTY Shelter Manager or Designee to facilitate the needs of Emergency Shelters.
  - D. Operate, supervise, and staff the shelters with SCHOOL BOARD personnel, including, but not limited to cafeteria staff, custodians, and appropriate administrative staff as mutually acceptable to the COUNTY and SCHOOL BOARD. The staffing will include:
    - i. Minimum SCHOOL BOARD staffing at each shelter site will include:
      - a. Principal
      - b. Assistant Principal (1-5) or Designee(s)
      - c. Building Supervisor or Designee
      - d. Head Custodian or Designee
      - e. Cafeteria Manager or Designee
      - f. Other SCHOOL BOARD staff or Volunteers
    - ii. Minimum SCHOOL BOARD staffing at each “sister” shelter site will include:
      - a. Principal
      - b. Assistant Principal (1-5) or Designee(s)
      - c. Building Supervisor or Designee
      - d. Head Custodian or Designee
      - e. Cafeteria Manager or Designee
      - f. Other SCHOOL BOARD staff or Volunteers

- E. Provide space in SCHOOL BOARD facilities, including schools, for housing first responders, COUNTY staff, and other authorized persons providing services to the community during a state of emergency. Principals or designated SCHOOL BOARD administrative staff will be responsible for coordinating the supervision and management of the school facility before, during, and after a local or state of emergency, with the COUNTY. The COUNTY shall oversee operations of the Emergency Shelters.
- F. Principals or designated SCHOOL BOARD administrative staff will be responsible for coordinating the supervision and management of the school-based shelters before, during, and after a local or state of emergency with the COUNTY.
- G. Conduct documented maintenance inspections of emergency generators and building systems at all shelter locations prior to June 1 of each year. A copy of this will be provided to the SCHOOL BOARD and COUNTY.
- H. Notify the COUNTY immediately if any emergency generators are determined to be non-functional and cannot be repaired in a timely manner.
- I. Assist the COUNTY (including LeeTran) with the coordination of bus resources in order to meet emergency transportation needs.
- J. Coordinate with the COUNTY for the transport, delivery, and distribution of food supplies to activate emergency public shelters and other facilities being utilized by the COUNTY during a local or state of emergency. The SCHOOL BOARD will track and maintain an inventory of all food supplies delivered and distributed to shelters and other facilities utilized by the COUNTY.
- K. Provide, to the extent practical, access to SCHOOL BOARD fueling sites and fuel for COUNTY approved emergency responders and agencies. The available fuel sites may be subject to changes, depending on maintenance and other factors. This will be determined as part of the annual meeting. The fuel sites are as follows:
  - i. Trans East 3291 Buckingham Road, Fort Myers FL, 33905;
  - ii. Trans South 14701 Ben C Pratt Parkway Fort Myers FL, 33912;
  - iii. Trans West 450 NW 14<sup>th</sup> Ave Cape Coral FL, 33993 (*There is no generator available at this site and it will not be available during periods of power outages.*);
  - iv. Trans Leonard 301 Leonard Blvd Lehigh Acres FL, 33971;
  - v. Trans Central 3234 Canal S. Fort Myers FL, 33916; and

- vi. Estero Fueling Site 21811 Bode Blvd. Estero Blvd. Estero Fl, 33928.
- L. Provide fuel to COUNTY for delivery to its generators and to SCHOOL BOARD sites, and support staff to assist in the provisions of fuel.
- M. Work with COUNTY in establishing the necessary communication resources needed to coordinate the use of SCHOOL BOARD assistance, including, but not limited to, access to SCHOOL BOARD facilities that are utilized as emergency public shelters to install and maintain amateur radio equipment (including antennas).
- N. Provide any information requested by the COUNTY in support of completing the project worksheets ("PW") to provide to FEMA for approval.
- O. Maintain COUNTY purchased equipment provided to the SCHOOL BOARD pursuant to this Agreement and assigned to SCHOOL BOARD facilities, in good repair and serviceable condition, in accordance with manufacturer's recommendations or other accepted standards. A list of COUNTY purchased equipment will be maintained by the SCHOOL BOARD.
- P. Notwithstanding the SCHOOL BOARD'S duty to maintain School Board facilities designated as emergency public shelters, the SCHOOL BOARD will conduct a joint analysis with the COUNTY of newly constructed SCHOOL BOARD facilities and existing SCHOOL BOARD facilities to ascertain the suitability of such facilities as emergency public shelters. At the annual meeting, hurricane upgrade needs will be established for new and existing schools. The COUNTY and SCHOOL BOARD will determine and mutually agree upon these improvements. The COUNTY and SCHOOL BOARD will follow all Federal, State, and local guidelines to appropriately source funding to be used for these upgrades.
- Q. Use of the SCHOOL BOARD facilities as shelters pursuant to this Agreement 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, including prescribed medical marijuana on SCHOOL BOARD owned property and no registered sex offenders or predators are permitted in shelter schools.
- R. Be the sole authority to declare the closing and opening of the public schools, to approve and/or make all oral and written communications regarding the opening of and closing of public schools, to have final approval on the use and assignment of paid school district personnel to assist in managing activated special needs shelters, and to have final approval on the use of school buses as emergency transportation resources.

- S. 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.
- T. The SCHOOL BOARD will identify and designate suitable SCHOOL BOARD facilities that will have a designated area to serve as "Pet friendly" for a pre-approved list of domesticated pets during a local or state of emergency.
- U. Participate in training activities annually; including training staff on supervising a shelter facility in the event of a hurricane or natural disaster. The COUNTY agrees to support training activities in furtherance of the purposes of this Agreement to be conducted annually, as the Parties recognize that training is essential to successfully assist the people of Lee County in an emergency or disaster.
- V. Provide any information requested by the COUNTY in support of completing the project worksheets ("PW") to provide to FEMA for approval.

**VII. REIMBURSEMENT OF EXPENSES:**

1. **The COUNTY and the SCHOOL BOARD must follow FEMA reimbursement policies. If the FEMA reimbursement guidelines change or new guidelines come into effect, the COUNTY and the SCHOOL BOARD will adopt the new policies as part of this Agreement. Where FEMA reimbursement guidelines offer options, both parties will mutually agree upon a selected option.**
2. The COUNTY and the SCHOOL BOARD shall determine available and appropriate source funding for new school facility builds and upgrades to current facilities used for shelters, for the statutorily required hardening of school facilities at the annual meeting.
3. The COUNTY shall reimburse the SCHOOL BOARD for all reasonable and necessary costs and expenses incurred by the SCHOOL BOARD in providing the school facilities pursuant to the COUNTY's request in accordance with the Shelter Plan, except that SCHOOL BOARD employees' regularly scheduled salary will not be reimbursed.
4. The SCHOOL BOARD shall provide the COUNTY with all necessary documentation within the SCHOOL BOARD's control or possession to enable the COUNTY to pay the invoices and be reimbursed from other sources, as the result of the COUNTY's expenditures. This shall include any documentation required by the Federal Emergency Management Agency (FEMA) that may be in the possession or control of the SCHOOL BOARD and that may be needed by the County to obtain reimbursement from FEMA or other federal sources.
5. **Exercises:** Expenses incurred by the SCHOOL BOARD in support of training exercises for the purposes outlined in this Agreement and related use of SCHOOL BOARD employees will be reimbursed by the COUNTY.

6. **Disaster Expenses:** In the event that a disaster has been declared, the COUNTY shall submit certain SCHOOL BOARD claims for reimbursement directly through the Federal Emergency Management Agency (FEMA) Public Assistance (PA) Program. The COUNTY will submit project worksheets ("PW") to FEMA for approval of eligible project expenses. The SCHOOL BOARD shall provide any reasonable information that is within the SCHOOL BOARD'S possession, which is requested by The COUNTY in support of completing the PW.
7. The COUNTY shall reimburse the SCHOOL BOARD for the actual costs to the SCHOOL BOARD for employees and resources used in providing facility management and food service activities at activated special needs shelters, COUNTY-managed emergency public shelters, other facilities being utilized by the COUNTY during a state of emergency, and in providing emergency transportation assistance. Such reimbursable expenses shall include, but are not limited to hourly wages, including specific mandatory benefits, paid to those SCHOOL BOARD employees who are available and actually serve during a said emergency; administrative costs; costs for expendable and/or consumable items used in the course of shelter operations; fuel dispensed in accordance with this Agreement; and cleaning services provided at activated special needs shelters, COUNTY-managed emergency public shelters and other facilities being utilized by the COUNTY and during a state of emergency.
8. In addition to the COUNTY's reimbursement of the SCHOOL BOARD costs and expenses set forth above, the COUNTY shall reimburse the SCHOOL BOARD for the actual cost to repair or replace SCHOOL BOARD owned real and personal property that is lost or damaged as a result of the use of the school facility as an emergency shelter; these costs shall include any damages caused by housing pets. Damages or losses caused by SCHOOL BOARD employees, acting outside the scope of emergency shelter duties or by the actual disaster (e.g., hurricane-related property damage, etc.), will be covered by the SCHOOL BOARD.
9. The Parties agree that in the State of Florida, in the event a disaster has been declared, independent school districts do not have the legal responsibility to conduct hurricane evacuation sheltering services and therefore cannot apply directly to FEMA for reimbursement for such activities. Instead, any eligible costs incurred by the SCHOOL BOARD should be reimbursed through a mutual aid agreement, as outlined below, with the COUNTY serving as the requesting entity and the SCHOOL BOARD as the providing entity, which is considered a vendor. Accordingly, the COUNTY will bear the responsibility of providing reasonable notice and clearly conveying its expectations related to the information and documentation needed from the SCHOOL BOARD. The SCHOOL BOARD shall provide the necessary documentation within a reasonable amount of time when seeking reimbursements. Further, the COUNTY shall not unreasonably delay or withhold reimbursements. The COUNTY will bear the risk that FEMA does not approve full reimbursement of expenses or that a disaster is not declared.
10. The SCHOOL BOARD will follow the process outlined below for invoicing:

- A. The SCHOOL BOARD shall submit an invoice documenting all reasonable and necessary costs and expenses incurred by the SCHOOL BOARD in providing the SCHOOL BOARD facilities pursuant to the COUNTY'S request to use the SCHOOL BOARD facilities as emergency shelters, and in accordance with the Shelter Plan. **Invoices shall be submitted by the SCHOOL BOARD within one hundred and twenty days (120) after the last emergency shelter has closed.** The SCHOOL BOARD may request a formal extension in writing. The COUNTY shall grant all reasonable requests for extension.
  - B. The SCHOOL BOARD shall provide the COUNTY with all necessary documentation within the SCHOOL BOARD's control or possession to enable the COUNTY to pay the invoices and be reimbursed from other sources, as the result of the COUNTY's expenditures. The COUNTY may require reasonable additional documentation of costs and expenses sufficient to document the expenditures per COUNTY's Finance Department. This shall include any documentation required by the Federal Emergency Management Agency (FEMA) that may be in the possession or control of the SCHOOL BOARD and that may be needed by the COUNTY to obtain reimbursement from FEMA or other sources.
  - C. For reimbursement of SCHOOL BOARD employee time, the SCHOOL BOARD will provide an invoice to the COUNTY's Department of Public Safety's Finance Department with supporting documentation that will include employee name, job title, status (exempt, non-exempt, bargaining unit), FT/PT, hourly rate, benefit rate breakdown, regular and overtime hours separately, copies of time sheets, and purpose of work.
  - D. **Reimbursement requests will be paid within ninety (90) days following the COUNTY's receipt of the invoice(s),** unless the COUNTY requests a formal extension or dispute in writing, to some or all of the costs and expenses as set forth herein. Notwithstanding the foregoing, the COUNTY shall reimburse all undisputed costs and expenses not later than ninety (90) days from receipt of the invoice.
  - E. If the COUNTY disputes a cost or expense, the COUNTY shall within thirty (30) days of receipt of the invoice, provide the SCHOOL BOARD with a written explanation of the basis of the dispute with regard to the disputed cost, expense, or documentation, and the parties shall attempt to resolve the dispute in accordance with the provisions of this Agreement.
  - F. Parties agree to and shall be bound by arbitration before a neutral third party upon ninety (90) days written notice of a dispute related to reimbursement pursuant to this Section.
11. The COUNTY shall reimburse SCHOOL BOARD staff overtime costs in accordance with the FEMA Public Assistance Program and Policy Guide. However, the COUNTY

will not reimburse the SCHOOL BOARD employees' regularly scheduled salaries.

- A. The SCHOOL BOARD will submit an invoice to the Department of Public Safety's Finance Department with supporting documentation that will include employee name, job title, status (exempt, non- exempt, bargaining unit), FT/PT, hourly rate, benefit rate breakdown, regular and overtime hours separately, copies of time sheets, and purpose of work.

#### **VIII. PLANNING AND IMPLEMENTATION:**

1. The COUNTY and SCHOOL BOARD agree to meet and confer regarding the preparation of emergency operations plans and procedures prior to June 1 of each year as necessary. At this meeting, The COUNTY and the SCHOOL BOARD will determine their requirements to meet the COUNTY's needs for use of the SCHOOL BOARD'S facilities, transportation, and staffing, in order to carry out this Agreement. The Parties shall address and agree to:
  - A. Designate COUNTY and SCHOOL BOARD representatives who shall coordinate the activities and services included in emergency operations.
  - B. Identify the duties and responsibilities of the appropriate COUNTY and SCHOOL BOARD employees and agencies that are needed for emergency operations planning and implementation purposes.
  - C. Develop appropriate shelter management operations procedures.
  - D. Develop food service activity plan(s) and procedures.
  - E. Prepare and finalize a list of public schools designated as approved emergency public shelters fuel sites, and transportation needs this includes reviewing special needs and animal sheltering plans by June 1 each year.
  - F. If either party gives the other written notice to set a meeting under this subparagraph, the other party shall fully cooperate, and a meeting shall be set as soon as practicable; but in no event, shall the meeting occur more than ninety (90) days after written notice has been given unless both parties otherwise agree.
  - G. If the parties agree to proposed changes or amendments it shall be executed with the same formality as this document.

#### **IX. LIABILITY AND INDEMNIFICATION:**

1. By this Agreement, the SCHOOL BOARD recognizes that for the purposes stated, the SCHOOL BOARD and the COUNTY are active participants 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 any 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.

2. **Liability for Damage or Injury:**

- A. Each party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its staff and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of Section 768.28, Florida Statutes.
- B. **Personal Liability of Parties:** The parties acknowledge that this Agreement is entered into by two governmental entities. The parties agree that no individual elected official, employee, or representative of any party to this Agreement shall have any personal liability under this Agreement.

3. **Indemnification:**

- A. **Indemnification by the School Board:** Subject to the limitations of Section 768.28 of the Florida Statutes, including the dollar amount limitations therein, the SCHOOL BOARD agrees to indemnify, hold harmless, and defend the COUNTY for the SCHOOL BOARD'S own negligence, gross negligence or the willful and wanton misconduct, from and against any and all claims, suits, actions, damages or causes of action arising from or in connection with the COUNTY'S use of SCHOOL BOARD Facilities during the term of this Agreement.
- B. **Indemnification by the County:** Subject to the limitations of Section 768.28 of the Florida Statutes, including the dollar amount limitations therein, the COUNTY agrees to indemnify, hold harmless, and defend the SCHOOL BOARD for the COUNTY's own negligence, gross negligence or the willful and wanton misconduct, from and against any and all claims, suits, actions, damages or causes of action arising from or in connection with the COUNTY's use of the SCHOOL BOARD facilities during the term of this Agreement.

X. **INSURANCE:**

- 1. 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.

XI. **SCHOOL BOARD EMPLOYEES:**

- 1. The COUNTY and SCHOOL BOARD agree that throughout the term of this Agreement and during the performance of obligations hereunder, the SCHOOL BOARD will maintain medical and workers' compensation insurance for SCHOOL

BOARD employees activated to carry out the duties and responsibilities under this Agreement. SCHOOL BOARD employees shall remain at all times employees of the SCHOOL BOARD and shall not be considered for any purposes to be employees or agents of the COUNTY for purposes of this Agreement or for any other purposes.

## **XII. DEFAULT:**

1. **Notice:** If a party to this Agreement (the "Defaulting Party") fails to perform under this Agreement or fails to comply with the terms and conditions of this Agreement (a "Default"), the other party hereto (the "Non-Defaulting Party") shall send written notice (the "Default Notice") to the Defaulting Party, according to the notice requirements set forth in this Agreement.
2. **Opportunity to Cure:** The Defaulting Party shall have a period of thirty (30) days after receipt of the Default Notice to either cure its Default or to provide a written response to the Non-Defaulting Party indicating the status of the Defaulting Party's resolution of the Default and a schedule for the curing of the Default.
3. **Remedies:** If, within thirty (30) days after receipt of Default Notice, the Defaulting Party fails to either cure its Default or to provide a written response to the Non-Defaulting Party's indicating the status of the Defaulting Party's resolution of the Default and a schedule for the curing of the Default, the Non-Defaulting Party may pursue any and all remedies available under Florida law.
4. **Legal Fees and Court Costs:** In the event of any litigation between the parties under this Agreement, each party shall be responsible for its own attorney's fees and court costs through trials and appellate levels. The provisions of this paragraph shall survive the expiration or early termination or cancellation of this Agreement.

## **XIII. GOVERNING LAW; COMPLIANCE WITH LAWS; VENUE:**

1. This Agreement will be interpreted and enforced in accordance with Florida law. The parties agree that they shall comply with all applicable federal, state, and local laws, ordinances, and codes, including but not limited to the Florida Building Code and the Americans with Disabilities Act. Venue for any action brought hereunder shall be proper exclusively in Lee County, Florida.

## **XIV. NON-DISCRIMINATION:**

1. 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 Agreement.

**XV. MODIFICATIONS:**

1. This Agreement may be modified or amended only by mutual written consent of the Parties. Notwithstanding the foregoing, the Parties agree that Emergency Shelter sites, fuel sites, and staffing/staff duties, may be amended or supplemented from time to time upon the mutual written agreement of the SCHOOL BOARD's Superintendent and/or designee and the Director of the COUNTY's Public Safety Department without formal amendment hereto.

**XVI. RELATIONSHIP TO THE PARTIES:**

1. 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.

**XVII. NO THIRD-PARTY BENEFICIARIES:**

1. 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.
2. All parties are in mutual agreement with the terms of this ILA as evidenced by the signatures below. This ILA will be effective upon authorized signature of each party's representative.
3. This Agreement will inure to the benefit of and be binding upon the SCHOOL BOARD and COUNTY and their respective legal representatives, successors, and permitted assigns.

**XVIII. SECTION AND PARAGRAPH HEADINGS:**

1. The section and paragraph headings contained in this Agreement are for purposes of identification only and are not to be considered in construing this Agreement.

**XIX. RIGHT OF ENTRY:**

1. Each party shall have the right to enter the COUNTY and SCHOOL BOARD facilities during all reasonable working hours to examine same, provided their actions do not in any way interfere with the other party's use of the respective Facilities. The COUNTY shall provide notice prior to entering any SCHOOL BOARD facilities. This right of entry includes but is not limited to, the right of the party, or any of its agents, representatives, or employees, to enter the COUNTY or SCHOOL BOARD Facilities for inspection or other related tasks related to the needs of the COUNTY and the SCHOOL BOARD to a local or state of emergency and the School Facilities that are listed as part of the Plan in this Agreement. The COUNTY employees that

enter District facilities for inspection or other related tasks, must follow Federal, State, and Board Policies for background checks and access to SCHOOL BOARD facilities.

2. Sexual predators shall follow Emergency Shelter guidelines defined in LEE COUNTY ORDINANCE NO. 06-08.

**XX. DESIGNEES:**

1. The Superintendent shall be the party designated by the SCHOOL BOARD to grant or deny all approvals required by this Agreement. The County Manager shall be the party designated by the COUNTY to grant or deny all approvals required by this Agreement.

**XXI. FORCE MAJEURE:**

1. Non-performance by the SCHOOL BOARD or COUNTY shall be excused to the extent that performance is rendered impossible or delayed by strike, fire, hurricane, flood, terrorism, pandemics, governmental acts or orders or restrictions, or other similar reason where failure to perform is beyond the control of and not caused by the negligence of the non-performing Party ("Force Majeure"), provided that the non-conforming Party gives prompt notice of such conditions to the other Party and makes all reasonable efforts to perform.

**XXII. PUBLIC RECORDS:**

1. The SCHOOL BOARD and COUNTY are subject to Florida's Public Records Act, Chapter 119, Florida Statutes. Each party shall keep and maintain public records in connection with this agreement and shall ensure that public records that are exempt or confidential shall not be disclosed except as authorized by law. Upon request from the respective party's custodian of records, the other party shall provide the requested records or allow for inspection within a reasonable time as provided by law.

**For the COUNTY:**

**IF THE SCHOOL BOARD HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO SCHOOL BOARD'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 239-533-2221, 2115 SECOND STREET, FORT MYERS, FL 33901, [publicrecords@leegov.com](mailto:publicrecords@leegov.com); <http://www.leegov.com/publicrecords>.**

**For the SCHOOL BOARD:**

**IF COUNTY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO COUNTY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 239-461-8420, [PublicRecords@leeschools.net](mailto:PublicRecords@leeschools.net) OR BY MAIL: Lee County School Board – Public Information Coordinator, 2855 Colonial Blvd., Fort Myers, FL 33966.**

**XXIII. NOTICES:**

1. All notices and communications shall be in writing and must either be (a) hand-delivered, (b) sent by Federal Express or comparable overnight mail service, or (c) mailed by U.S. registered or certified mail return receipt requested, postage prepaid. Notices should be sent to the SCHOOL BOARD and County at their respective addresses set forth below. Notice is effective upon delivery or refusal of delivery of notice. Any notice delivered after 5:00 p.m. will be deemed to be delivered on the following Business Day. The addressees and addresses for notice may be changed by giving notice. Until written notice of a change in address is delivered, the last addressee and address stated in this Agreement are in effect for all purposes.

**If to the SCHOOL BOARD:**

Office of Superintendent  
Attn: Superintendent of Schools  
2855 Colonial Blvd.  
Fort Myers, FL 33966

Copies to:  
Department of Planning  
Attn: Director of Planning  
2855 Colonial Blvd.  
Fort Myers, FL 33966

Office of Legal Services  
Attn: School Board Attorney & General Counsel  
2855 Colonial Blvd.  
Fort Myers, FL 33966

**If to the COUNTY:**

Lee County Government  
Attn: County Manager  
P.O. Box 398  
Fort Myers, FL 33902

Copies to:  
Lee County Public Safety  
Attn: Director  
P.O. Box 398  
Fort Myers, FL 33902

Lee County Government  
Attn: County Attorney  
P.O. Box 398  
Fort Myers, FL 33902

**XXIV. ENTIRE AGREEMENT:**

1. This Agreement constitutes the entire agreement between the SCHOOL BOARD and the COUNTY concerning the purposes outlined herein and shall supersede and control any or all prior Agreements or understandings, either written or oral, relating to the matters herein.

**XXV. MISCELLANEOUS:**

1. The Parties represent that they have full authority to enter into and execute this Agreement. The drafting of this Agreement has been a joint endeavor between the Parties and shall not, solely as a matter of judicial construction, be interpreted more strictly against one Party than the other.
2. The invalidity of any provision hereof as may be found by a court of competent jurisdiction shall in no way affect or invalidate the remaining provisions of the Agreement.

**IN WITNESS WHEREOF**, the Lee Board of County Commissioners and the School Board of Lee County, Florida have executed this Agreement, by their authorized representatives on the date(s) written below.

**LEE COUNTY BOARD OF COUNTY COMMISSIONERS**

ATTEST:  
CLERK OF COURTS

By: \_\_\_\_\_  
Kevin Carnes  
Deputy Clerk

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

LEE COUNTY OF COUNTY  
COMMISSIONERS

By: \_\_\_\_\_  
Brian Hamman, Chair

APPROVED AS TO FORM FOR THE  
RELIANCE OF COUNTY ONLY

By: \_\_\_\_\_  
County Attorney's Office

**THE SCHOOL BOARD OF LEE COUNTY, FLORIDA**

ATTEST:

By: \_\_\_\_\_  
Christopher S. Bernier, Ed.D  
Superintendent of Schools

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

By: \_\_\_\_\_  
Armor Persons  
Board Chair

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

APPROVED AS TO FORM AND LEGAL SUFFICIENCY AS TO THE SCHOOL BOARD OF LEE COUNTY, FLORIDA ONLY:

By: *Kathy Dupuy-Bruno*  
Kathy Dupuy-Bruno, Esq.  
School Board Attorney and General Counsel

Date: Oct 30, 2023