

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (hereinafter “MOU”) is made and entered into this 12<sup>th</sup> day of July 2022, by and between PINELLAS COUNTY, a political subdivision of the State of Florida, (hereinafter “County”), and the SCHOOL BOARD OF PINELLAS COUNTY, FLORIDA (hereinafter “School Board”) by and through the Superintendent of Schools.

### WITNESSETH:

WHEREAS, the County is a “local emergency management agency” pursuant to Chapter 252, Florida Statutes, and therefore has the responsibility for Emergency Management for the County; and

WHEREAS, the parties desire to cooperate in the interest of public safety by providing shelter facilities before, during and following a disaster; and

WHEREAS, the School Board is undertaking certain enhancements in the areas of life safety at Clearwater High School, including but not limited to, upgrading the base generator to a 650 kw generator, and ensuring the generator includes a fuel tank sized to accommodate a run time of 24-hours; and

WHEREAS, the County would use the gymnasium and cafeteria at Clearwater High School for hurricane risk shelter space for the public; and

WHEREAS, the County herein agrees to provide funding not to exceed a total of **\$2,780,000.00** for the work specified in the attached Scope of Work, including a cost escalation amount to cover unanticipated construction costs not identified in the construction proposals or scope of work for the project that are incurred by the School Board; and

NOW THEREFORE, in consideration of the premises and of the mutual covenants, terms and conditions herein set forth, the parties agree as follows:

Section 1. Purpose

In order to increase its Emergency Management Shelter Capacity, the County agrees to provide funds to the School Board to have the enhancements and retrofits completed at Clearwater High School as outlined in the Scope of Work attached hereto and incorporated herein by reference.

Section 2. Obligations of the School Board

The School Board shall contract for all the necessary design and construction work related to the attached Scope of Work; and shall utilize a competitive public process to select Vendors to perform such work.

The School Board shall be solely responsible and liable for the operation and maintenance of the enhancements and retrofit items at Clearwater High School constructed in accordance with the attached Scope of Work. Additionally, the School Board shall be solely responsible for resolving any disputes arising or resulting from any contract disputes connected to performance of the attached Scope of Work; and shall be responsible for ensuring that the Scope of Work is completed. The School Board agrees to refund any monies provided by the County in accordance with this MOU for work not completed in accordance with the Scope of Work.

The School Board agrees to comply in all respects with Florida's laws governing public records, specifically including the requirements set out in Fla. Stat. 119.0701, and failure to comply will be grounds for the County to terminate this agreement.

Section 3. Obligations of the County

The County herein agrees to provide funds up to the amount of **\$2,780,000.00** for the enhancements and retrofit work identified in the Scope of Work. The County shall not be responsible for the ongoing operation and maintenance of the enhancements and retrofit items located at locations identified in the Scope of Work. The funding source(s) for this project is the Infrastructure Sales Surtax (Penny for Pinellas).

Section 4. Payment

The County shall make payment(s) in an amount up to and including **\$2,780,000.00** for the work as scheduled in the attached Scope of Work and in accordance with any and all deliverables as set forth in the Scope of Work. All payments shall be made in accordance with the Florida Local Government Prompt Payment Act (Section 218.70. *Fla. Stat*) and shall be made based upon the substantial completion points occurring during the course of the Scope of Work with final payment occurring upon satisfactory demonstration to the County of project completion, inspection and testing of said enhancements stated in the Scope of Work and determination that the items described in the Scope of Work have been provided.

Section 5. Indemnification and Disclaimer

Notwithstanding any other provision in this MOU, the School Board assumes all risks relating to the performance of the Scope of Work and agrees to be solely liable for any claims, loss, damage, and other expenses, including attorney's fees and costs, arising from performance of the Scope of Work to the extent permitted by Sect. 768.28, *Fla. Stat.*. The County expressly disclaims any and all responsibility or liability to the School Board or third persons for the actions of the School Board or third persons resulting in death, bodily injury, property damage, or any other losses resulting in any way from the School Board or third person's performance of the Scope of Work. The acceptance by the School Board of funding from the County under this MOU does not in any way constitute an agency relationship between the School Board and the County. Additionally, nothing in this MOU shall be interpreted as a waiver of the County's or School Board's sovereign immunity or an extension of their respective liability beyond the limits established in Section 768.28 *Fla. Stat.*

Section 6. Effective Date and Termination

This MOU shall become effective upon the signing by both parties. This MOU shall continue in force and effect until the completion of the performance of the Scope of Work and completion of the obligations of the parties hereunder, or until terminated for cause, including failure to comply with the

terms of this MOU, or by mutual consent by the parties as evidenced in writing. Additionally, this MOU may be terminated for lack of appropriation of funds described in paragraph 7, below. Notice shall be given to the other party and delivered by certified mail, return receipt requested, to the following individuals as designated by the County and the School Board:

As to County:

Cathie Perkins  
Director of Emergency Management  
10750 Ulmerton Road, Building 1, Suite 267  
Largo, FL. 33778

As to School Board:

Clint Herbic  
Associate Superintendent O.S.  
11111 S. Belcher Road  
Largo, FL. 33773

Section 7. Fiscal Non-funding

It is understood that neither this MOU nor any representation by any County employee or officer creates any obligation to appropriate or make monies available for the purpose of the MOU beyond the fiscal year(s) that the Capital Improvement Project has been identified for in relation to the Emergency Shelter Buildings Program. No liability shall be incurred by the County or any department beyond the monies budgeted and available for this purpose. If funds are not appropriated by the County for any or all of this MOU for a new fiscal period, the County shall not be obligated to pay any sums provided pursuant to this MOU beyond the portion for which funds are appropriated. The County agrees to promptly notify the School Board in writing of such failure of appropriation, and upon such notice, this MOU shall terminate on the last day of the current fiscal period without penalty to the County.

Section 8. Entire Agreement

This MOU constitutes the entire agreement between the parties, may be amended only in writing and signed by all parties to this MOU.

[REMAINDER LEFT INTENTIONALLY BLANK]

IN WITNESS THEREOF, the parties hereto have executed this Agreement effective as of the date stated above.

PINELLAS COUNTY, by and through  
Its Board of County Commissioners

By: [Signature]  
Chairman

Date: 8/16/22

WITNESS:  
By: [Signature]

Name/Title: Dereclynn Reire/Deputy clerk

SCHOOL BOARD OF PINELLAS  
COUNTY, FLORIDA

By: [Signature]  
Eileen M. Long, Chairperson

Date: 7/12-22

ATTEST:  
By: [Signature]

Name/Title: Kevin K. Hendrick/Superintendent

Approved as to form:

[Signature]  
School Board Attorney

**APPROVED AS TO FORM  
OFFICE OF COUNTY ATTORNEY**

By: [Signature]  
Attorney