



Interoffice Memorandum

REAL ESTATE MANAGEMENT ITEM 2

DATE: May 3, 2021

TO: Mayor Jerry L. Demings
-AND-
County Commissioners

THROUGH: Mindy T. Cummings, Manager *MTC*
Real Estate Management Division

FROM: Alex Feinman, Assistant Manager *AF*
Real Estate Management Division

CONTACT PERSON: **Mindy T. Cummings, Manager**

DIVISION: **Real Estate Management**
Phone: (407) 836-7090

ACTION REQUESTED: Approval and execution of Fifth Amendment to Facility and Land Use Agreement by and between The School Board of Orange County, Florida and Orange County, Florida and authorization for the Real Estate Management Division to furnish notices, required or allowed by the agreement, as needed

PROJECT: Head Start with OCPS (Head Start)
Lease File #10042

Districts 1, 2, 3, 5, and 6

PURPOSE: To continue to provide classroom space for Head Start programs.

ITEM: Fifth Amendment to Facility and Land Use Agreement
Cost: \$230,030.36
Size: 33,138 square feet, between 38 portables and classrooms
Term: one year
Options: None

BUDGET: Account No.: 7001-062-7534-3260

APPROVALS: Real Estate Management Division
County Attorney's Office
Head Start Division

REMARKS: Head Start currently operates programs out of 38 portables and classrooms, across 11 Orange County Public School campuses (Sites), pursuant to the Facility and Land Use Agreement approved by the Board on September 13, 2016, as amended (Lease).

This Fifth Amendment to Facility and Land Use Agreement will provide for Head Start's continued use of the Sites and extends the term of the Lease for one year.

All other terms and conditions of the Lease shall remain in effect.

APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS

MAY 18 2021

**FIFTH AMENDMENT TO
FACILITY AND LAND USE AGREEMENT**
between
The School Board of Orange County, Florida
and
Orange County, Florida
regarding

**Head Start Program
2020 - 2021**

THIS FIFTH AMENDMENT TO FACILITY AND LAND USE AGREEMENT (“Fifth Amendment”), is entered into by and between **THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA**, a public body corporate existing under the Constitution and laws of the State of Florida, hereinafter referred to as the “**SCHOOL BOARD**”, and **ORANGE COUNTY, FLORIDA**, a charter county and political subdivision of the State of Florida, hereinafter referred to as the “**COUNTY**”.

RECITALS

WHEREAS, the COUNTY and SCHOOL BOARD entered into that certain Facility and Land Use Agreement dated September 13, 2016, as amended by that certain First Amendment to Facility and Land Use Agreement dated October 3, 2017, that certain Second Amendment to Facility and Land Use Agreement dated June 19, 2018, that certain Third Amendment to Facility and Land Use Agreement dated March 5, 2019, and that certain Fourth Amendment to Facility and Land Use Agreement dated August 6, 2019 to provide for the use of certain spaces at the public schools (“Schools”) for the purpose of operating the Head Start Program in accordance with conditions prescribed in the funding grant of the United States of Health and Human Services, Administration for Children and Families (“**Agreement**”); and

WHEREAS, SCHOOL BOARD and COUNTY desire to amend the Agreement to alter, amend and revise the list of School premises in accordance with the terms and conditions of this Fourth Amendment.

NOW THEREFORE, in consideration of the mutual promises, covenants and conditions hereinafter set forth, the parties agree as follows:

1. **Recitals; Definitions.** The recitals set forth above are true and correct and are incorporated herein by this reference. Defined (capitalized) terms used herein, but not defined herein, shall have the meanings given to such terms by this Fourth Amendment.
2. **Premises.** Section 1.a. of the Agreement is hereby amended and restated in its entirety as follows:

“PREMISES.

a. The SCHOOL BOARD does hereby grant unto the COUNTY, and the COUNTY does hereby receive from the SCHOOL BOARD, a lease to occupy and use, subject to the terms and conditions contained herein, certain real property for the locating of portables or certain facilities, as further described herein below, for use as classrooms, offices, bathrooms, space for storage and playground space, excluding parking, as available (collectively hereinafter referred to as "Portable Classrooms"). The Portable Classrooms shall be located on School sites, as more specifically described herein (collectively referred to as the "Premises"). The Portable Classroom locations shall include the following six (6) Schools:

1. Aloma Elementary School: three (3) Portable Classrooms;
2. Dillard Street Elementary School: three (3) Portable Classrooms;
3. Engelwood Elementary School: four (4) Portable Classrooms;
4. McCoy Elementary School: three (3) Portable Classrooms;
5. Three Points Elementary School: four (4) Portable Classrooms;
6. Ventura Elementary School: one (1) Portable (Office).

In addition, the following six (6) Schools shall have permanent classrooms ("**Permanent Classrooms**") for COUNTY use to operate the Head Start Program:

1. Evans High School: one (1) classroom and two (2) storage rooms;
2. Ventura Elementary School: two (2) classrooms
3. Washington Shores Primary Learning Center: five (5) classrooms and two (2) offices;
4. Washington Shores Elementary School: two (2) classrooms and one (1) office;
5. Dover Shores Elementary School: three (3) classrooms; and
6. Hungerford Elementary School: two (2) classrooms

The location of the Portable and Permanent Classrooms, as well as the approximate square footage of each Portable and Permanent Classroom, shall be as further described in **Exhibit "A"** attached to and incorporated herein by this reference.

Absent exigent circumstances, the Head Start Program shall be permitted to operate on SCHOOL BOARD property Monday through Friday between the hours of 7:30 A.M. and 5:30 P.M. on all days on which the school locations in question are opened for use by students or faculty. If 7:30 A.M. is prior to a particular school site's normal operating hours, then the Head Start Program's operations shall not begin until such school site's normal operating hours begin.

The Head Start Program shall not – without specific permission otherwise granted – be permitted to operate on SCHOOL BOARD property on any such day that the agreed upon school locations have not been otherwise opened for use by students or faculty. The SCHOOL BOARD shall provide the COUNTY with a schedule of such prior to the beginning of each school year so that the Head Start Program can plan accordingly.

The COUNTY shall be permitted to operate a Full Day/Full Year Summer Program at pre-determined School sites, if mutually agreed upon by the Parties prior to the end of the then current school year.

3. **Term.** SCHOOL BOARD and COUNTY agree to exercise the fourth one (1) year renewal period effective from August 1, 2020 to July 31, 2021.

4. **Payments.** Section 4a.-e. of the Agreement is hereby amended and restated in its entirety as follows:

“PAYMENTS.

- a. The COUNTY agrees to pay the SCHOOL BOARD the sum of ONE AND NO/DOLLARS (\$1.00) per Portable Classroom for the use of land space for eighteen (18) Portable Classrooms, located at the designated Schools throughout Orange County, with a total cost not to exceed EIGHTEEN AND NO/100 DOLLARS (\$18.00) per year.
- b. The SCHOOL BOARD shall furnish all Utilities, as further described in Section 1 above, and the COUNTY agrees to reimburse the SCHOOL BOARD a sum of approximately \$1.08 per square foot of space for each Portable and Permanent Classroom for a period of twelve (12) months, with a total cost not to exceed THIRTY-FIVE THOUSAND EIGHT HUNDRED NINETY-NINE AND 39/100 DOLLARS (\$35,899.39) per year.
- c. The SCHOOL BOARD agrees to provide Maintenance Services, as more specifically further described in Section 1 above. Notwithstanding the foregoing, the janitorial services shall include cleaning paper supplies such as toilet paper, hand towels, hand soap and trash bags. The maintenance services shall include playground maintenance, water, lawn care, and pest control. The COUNTY shall pay the SCHOOL BOARD the sum of approximately \$1.68 per square foot for each Portable Classroom and Permanent Classroom, for monthly Maintenance Services, with the total costs not to exceed FIFTY-FIVE THOUSAND FIVE HUNDRED THIRTY-SIX AND 97/100 DOLLARS (\$55,536.97) per year.

The SCHOOL BOARD shall provide administrative support to the Program. The COUNTY shall pay the SCHOOL BOARD rental fees in the amount of FIVE HUNDRED FIFTY AND NO/DOLLARS (\$550.00) per Portable Classroom and Permanent Classroom, which shall include media center access, where applicable, clerical support and principal oversight. The total overall administrative costs shall not exceed NINETEEN THOUSAND EIGHT HUNDRED AND NO/DOLLARS (\$19,800.00) per year.

- d. The COUNTY shall reimburse the SCHOOL BOARD for rental payments on fourteen (14) Portable Classrooms leased by SCHOOL BOARD on behalf of the COUNTY, which monthly reimbursements shall be as follows:
1. Aloma Elementary School: COUNTY shall pay THREE HUNDRED SIXTY-ONE AND NO/100 DOLLARS (\$361.00) per month for each of the three (3) Portable Classrooms.
 2. Dillard Street Elementary School: COUNTY shall pay SEVEN HUNDRED TWENTY-NINE AND NO/100 DOLLARS (\$729.00) per month for each of the three (3) leased Portable Classrooms;
 3. Engelwood Elementary School: COUNTY shall pay SCHOOL BOARD monthly rental payments in the amount of EIGHT HUNDRED THIRTY-EIGHT AND NO/100 DOLLARS (\$838.00) per month for each of the four (4) leased Portable Classrooms;
 4. McCoy Elementary School: COUNTY shall pay SCHOOL BOARD monthly rental payments in the amount of SEVEN HUNDRED NINETY-NINE AND NO/DOLLARS (\$799.00) per month for each of three (3) leased Portable Classrooms; and
 5. Ventura Elementary School: COUNTY shall pay SCHOOL BOARD monthly rental payments in the amount of EIGHT HUNDRED SEVENTY-NINE AND NO/100 DOLLARS (\$879.00) per month for one (1) leased Portable Classroom.

The total combined rent reimbursement cost shall not exceed ONE HUNDRED EIGHTEEN THOUSAND SEVEN HUNDRED SEVENTY-SIX AND NO/DOLLARS (\$118,776.00) per year. The four (4) portables at Three Points Elementary School are currently owned by SCHOOL BOARD and as such, not subject to reimbursement from the COUNTY.

- e. The COUNTY shall pay the SCHOOL BOARD the cumulative amount of all the above-referenced fees in two (2) payments for the term of this Agreement. The first payment of ONE HUNDRED FIFTEEN THOUSAND FIFTEEN AND 18/00 DOLLARS (\$115,015.18) will be made on or after January 26, 2021 and the remaining payment of ONE HUNDRED FIFTEEN THOUSAND FIFTEEN AND 18/00 DOLLARS (\$115,015.18) will be made on or before June 1, 2021. The total compensation paid by the COUNTY to the SCHOOL BOARD shall not exceed TWO HUNDRED THIRTY THOUSAND THIRTY AND 36/100 DOLLARS (\$230,030.36) per year.

The above-referenced fees are further described by location and square footage in **Exhibit "A"**, attached to and incorporated herein."

5. **Effect; Conflicts.** Except as modified herein, all other terms and provisions of the Agreement are hereby ratified and confirmed and shall remain in full force and effect. In

the event of any conflict between the provisions of this Fourth Amendment and the provisions of the Agreement, the provisions of this Fifth Amendment shall control.

6. **Counterparts and Electronic Signatures**. This Fifth Amendment may be executed in two or more counterpart copies, including facsimile and electronic mail signatures, each of which shall be fully effective as an original, and all of which together shall constitute one and the same instrument. Signature pages may be detached from the counterparts and attached to a single copy of this document to physically form one document.

Signatures on Following Pages

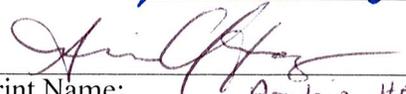
IN WITNESS WHEREOF, the Parties hereto have signed and executed this Agreement on the dates indicated below.

Signed, sealed and delivered in the presence of:

THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA, a public corporate body organized and existing under the constitution and laws of the State of Florida


Print Name: Marilyn Cuervo

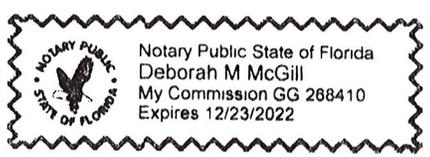
By: 
for Teresa Jacobs, as Chair


Print Name: Arabia Henry

Date: 5.18.2021

STATE OF FLORIDA)
)
COUNTY OF ORANGE)

The foregoing instrument was acknowledged before me this 18th day of MAY, 2021, by Teresa Jacobs, vice Pamela Gould, as Chair of The School Board of Orange County, Florida, a public corporate body organized and existing under the Constitution and the laws of the State of Florida, on behalf of The School Board, who is personally known to me or had produced _____ (type of identification) as identification and has acknowledged that he/she signed the instrument voluntarily for the purpose expressed in it.




Notary Public
Printed Name: Deborah M. McGill
Commission No.: _____
My Commission Expires: _____

WITNESSES:

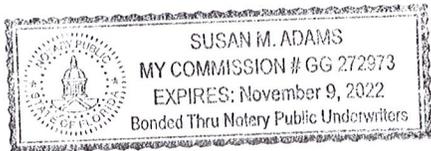
[Signature]
Print Name: Marilin Cuatrecasas
[Signature]
Print Name: Arabian Henley

THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA, a public corporate body organized and existing under the constitution and laws of the State of Florida

By: [Signature]
Barbara M. Jenkins, Ed.D.,
as Superintendent
Date: 5-17-2021

STATE OF FLORIDA)
)
COUNTY OF ORANGE)

The foregoing instrument was acknowledged before me this 17th day of May 2021, by Barbara M. Jenkins, Ed.D., as Superintendent of The School Board of Orange County, Florida, a public corporate body organized and existing under the Constitution and the laws of the State of Florida, on behalf of The School Board. She is personally known to me or had produced _____ (type of identification) as ~~identification~~ and has acknowledged that he/she signed the instrument voluntarily for the purpose expressed in it.



[Signature]
Notary Public
Printed Name: Susan M. Adams
Commission No.: _____
My Commission Expires: _____

Approved as to form and legality by legal counsel to The School Board of Orange County, Florida this 13th day of May, 2021, for its exclusive use and reliance.

By: [Signature]
Jad M. Brewer, Esquire
Staff Attorney III

Reviewed and approved by Orange County Public Schools Chief Facilities Officer this 14th day of MAY, 2021.

By: [Signature]
John T. Morris, Chief Facilities Officer

ORANGE COUNTY, FLORIDA

By: Orange County Board of County Commissioners

By: Burr W. Brooks

Jerry L. Demings
Orange County Mayor

Date: 19 May 2021

ATTEST:

Phil Diamond, C.P.A., Orange County Comptroller
As Clerk of the Board of County Commissioners

By: Craig Stopyna
for Deputy Clerk

Date: MAY 19 2021

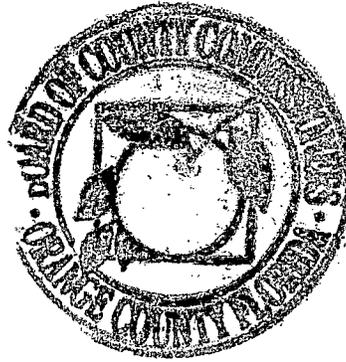


EXHIBIT "A"

Location of Portable and Permanent Classrooms and Square Footage of Each

