

**FUNDING AGREEMENT BETWEEN THE CITY OF DELRAY BEACH AND
ORCHARD VIEW ELEMENTARY SCHOOL**

THIS AGREEMENT (“Agreement”) is made on this ____ day of _____, 2024, by and between the **CITY OF DELRAY BEACH (the "CITY")**, whose principal address is 100 NW First Avenue, Delray Beach, FL 33444, and **SCHOOL BOARD OF PALM BEACH COUNTY, (the "SCHOOL BOARD")** political subdivision of the State of Florida, whose address is 3300 Forest Hill Blvd, West Palm Beach, Florida 33406.

WITNESSETH:

WHEREAS, the SCHOOL BOARD owns and operates Orchard View Elementary School, located at 4050 Old Germantown Road, Delray Beach, FL 33445 ("Orchard View Elementary School");

WHEREAS, the City desires to provide for the funding of and operation to support the provision of reading and math proficiency, mental and behavioral health initiatives and workforce and career programming at Orchard View Elementary School;

WHEREAS, the Orchard View Elementary School represents that no employee or public official of the CITY is a member of the Orchard View Elementary School organization; and

WHEREAS, the CITY finds that this Agreement serves a municipal and public purpose, is consistent with the CITY’s goals for education, and conforms with the requirements of Florida law.

NOW, THEREFORE, in consideration of the mutual covenants, stipulations and agreements herein contained, the parties agree as follows:

1. **Recitals**. The recitals set forth above are incorporated herein.

2. **Funding**. Subject to the terms and conditions set forth herein and the Orchard View Elementary School’s compliance with all of its obligations hereunder, the CITY hereby agrees to make available to the Orchard View Elementary School funds in the amount of \$15,000 (the “Funds”), to be used solely for the educational purpose and disbursed in the manner hereinafter provided. The Funds will be sent to the School District (“District”) to be placed in a special revenue fund. CITY will provide District with a letter detailing the allowable uses, term and reporting requirements Orchard View Elementary School is to abide by. Orchard View Elementary School agrees to use the Funds to perform at least one of the following educational services and/or activities for the benefit of Delray Beach school attendees:

- a) To benefit students scoring below grade level in reading, math, and/or science as demonstrated through end-of-year assessments.
- b) To benefit school safety and positive behavior interventions that support character development and a positive learning environment.

- c) To benefit students in need of mental and/or behavioral health support
- d) To enhance family engagement and participation
- e) To increase access to workforce programming and career readiness

3. **Term.** This Agreement shall terminate on December 31, 2024, or upon the disbursement of funds, or the sooner of the two dates.

4. **Reporting.** The Orchard View Elementary School is responsible for reporting to the City of Delray Beach if there are any changes in administering the activities aligned to the proposed project. This includes changes in staff, additional support from other agencies, and changes in activities. A Orchard View Elementary School representative must present the scope of their project, activities, expenditures, and outcomes to the City of Delray Beach's Education Board once on or before October 1, 2024.

An Orchard View Elementary School representative must submit an annual report to the City Manager's office within thirty (30) days of the school year indicating executed activities, projects, expenditures, and overall impact using schoolwide data. Failure to provide a report evidencing that the Funds were spent in accordance with this Agreement shall be deemed a breach of this Agreement, requiring the SCHOOL BOARD or Orchard View Elementary School to reimburse the CITY for the Funds disbursed within sixty (60) days after demand from the CITY.

5. **Retention and Audit.** The Orchard View Elementary School agrees to maintain adequate supporting documentation to account for the expenditure of Funds under this Agreement, including financial records, demographic records, description of activities, and other related documents and records for the Program. The Funds may only be spent by the Orchard View Ele Orchard View Elementary School Elementary School for the purpose(s) described in this Agreement. The Orchard View Elementary School shall provide the Report and any other documentation requested by the CITY to demonstrate to the CITY'S satisfaction, as determined by the Finance Director, that the Funds were spent for the purpose(s) described in this Agreement. Any Funds finally determined as misspent or otherwise not spent as provided for this Agreement shall be immediately returned to the CITY.

6. **Remedies for Non-compliance.** If the Orchard View Elementary School fails to comply with this Agreement, then the CITY shall have the right to take one or more of the following actions:

- a) Recover payments made to the Orchard View Elementary School;
- b) Deem the Orchard View Elementary School ineligible to receive future grants from the CITY for a period of up to three (3) Years; and
- c) Take any and all other remedies as may be legally permitted.

7. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties and shall supersede all prior oral and written agreements as to the funding by the CITY to the Orchard View Elementary School.

8. **Nondiscrimination.** The CITY and Orchard View Elementary School each agrees that it will not unlawfully discriminate against anyone on the basis of age, race, sex, national origin, creed, religion, handicapped status, or any other protected class in the fulfillment of this Agreement.

9. **Modification.** This Agreement may be amended or modified by written addendum or amendment signed by the parties.

10. **Assignment.** This Agreement may not be assigned without the express written consent of the parties.

11. **Indemnification.** The SCHOOL BOARD acknowledges the waiver of sovereign immunity for liability in tort contained in Florida Statutes Section 768.28, the State of Florida's partial waiver of sovereign immunity, and acknowledges that such statute permits actions at law to recover damages in tort for money damages up to the limits set forth in such statute for death, personal injury or damage to property caused by the negligent or wrongful acts or omissions of an employee acting within the scope of the employee's office or employment. Subject to the limitations of Florida Statutes Section 768.28, the SCHOOL BOARD agrees to indemnify, hold harmless, and defend the CITY from and against any and all claims, suits, actions, damages, or causes of action arising out of the intentional wrongdoings or negligent acts of the SCHOOL BOARD arising out of or in connection with the provisions of this Agreement.

Notwithstanding the forgoing, this provision is not intended to serve or constitute (i) a waiver of any defense the SCHOOL BOARD may have under such statute; (ii) the consent of the SCHOOL BOARD or its officers, employees to be sued; or (iii) a waiver of sovereign immunity of the State of Florida beyond the monetary limits provided in Section 768.28 of the Florida Statutes, nor will anything herein be read as increasing the liability of SCHOOL BOARD to any person or entity beyond those limits of liability for which SCHOOL BOARD could be held liable under that cited statute.

12. IF THE SCHOOL BOARD OR ORCHARD VIEW ELEMENTARY SCHOOL HAVE QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SCHOOL'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CITY OF DELRAY BEACH, CITY CLERK, 100 N.W. 1ST AVE., DELRAY BEACH FLORIDA. THE CITY CLERK'S OFFICE MAY BE CONTACTED BY PHONE AT 561-243-7050 OR VIA EMAIL AT CITYCLERK@MYDELRAYBEACH.COM.

The SCHOOL BOARD and Orchard View Elementary School shall comply with all public records laws in accordance with Chapter 119, Florida Statutes. In accordance with state law, both agree to:

- (1) Keep and maintain all records that ordinarily and necessarily would be required by the CITY.
- (2) Provide the public with access to public records on the same terms and conditions that the CITY would provide for the records and at a cost that does not exceed the costs provided in Chapter 119, Fla. Stat. or as otherwise provided by law.
- (3) Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law.
- (4) Meet all requirements for retaining public records and transfer, at no cost, to the CITY all records in possession of the SCHOOL BOARD and Orchard View Elementary School at the termination of the contract and destroy any public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the CITY in a format that is compatible with the information technology systems of the CITY. All records shall be transferred to the CITY prior to final payment being made to the SCHOOL BOARD and Orchard View Elementary School.

13. **Palm Beach County Inspector General.** SCHOOL BOARD and Orchard View Elementary School are aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this contract, and may demand and obtain records and testimony from the SCHOOL BOARD and Orchard View Elementary School and its subcontractors and lower tier subcontractors. The SCHOOL BOARD and Orchard View Elementary School understands and agrees that in addition to all other remedies and consequences provided by law, the failure of the SCHOOL BOARD and Orchard View Elementary School or its subcontractor or lower tier subcontractors to fully cooperate with the Inspector General when requested may be deemed by the CITY to be a material breach of this Agreement justifying its termination.

14. **School Board's Inspector General.** The CITY 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 related to this Agreement. The CITY shall furnish the Inspector General with requested records for the purpose of conducting an audit or investigation per School Board Policy 1.092.

15. **Fiscal Funding.** The continuation of this Agreement beyond the end of any fiscal year shall be subject to both the appropriation and the availability of funds in accordance with Florida law.

16. **Termination.** This Agreement may be canceled with or without cause by either party during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. Termination of this Agreement shall not affect any rights, obligations, and liabilities of the parties arising out of matters which occurred prior to termination.

17. **Notice.** Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the Parties designate the following:

CITY:

City of Delray Beach
100 N.W. 1st Avenue
Delray Beach, Florida 33444
Attn: City Manager

SCHOOL BOARD:

School Board of Palm Beach County
3300 Forest Hill Blvd
West Palm Beach, Florida 33406
Attn: XXXX

with a copy to:

School Board of Palm Beach County
3300 Forest Hill Blvd, Suite C-331
West Palm Beach, Florida 33406
Attn: General Counsel's Office

18. **Jurisdiction and Venue.** This Agreement shall be construed in accordance with the City of Delray Beach's Code of Ordinances and the laws of the State of Florida. Any dispute relating to this Agreement shall only be filed in a court of competent jurisdiction in Palm Beach County, Florida, and each of the parties to this Agreement submits itself to the jurisdiction of such court. In any litigation brought to

enforce the terms of this Agreement, each party shall bear its own costs and attorney's fees incurred in connection therewith.

19. **Waiver of Jury Trial.** EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES THE RIGHT EITHER OF THEM MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT.

20. This Agreement contains the entire understanding between the CITY and SCHOOL BOARD and Orchard View Elementary School with respect to the subject matter hereof and merges and supersedes all prior and contemporaneous agreements. No modification, alteration, or amendment shall be effective unless made in writing, dated and signed by duly authorized representatives of both parties.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the day and year first written above.

ATTEST:

CITY OF DELRAY BEACH, FLORIDA

Katerri Johnson, City Clerk Date

By: _____
Shelly Petrolia, Mayor Date

Approved as to Form:

Lynn Gelin, City Attorney Date

THE SCHOOL BOARD OF PALM BEACH
COUNTY, FLORIDA

By: _____
Karen M. Brill
Board Chair

Date: _____

ATTEST:

By: _____
Michael J. Burke, Superintendent

Date: _____

Reviewed and Approved for Form and
Legal Sufficiency:

By: _____
School Board Attorney

Date: _____