

COUNTY COMMISSION

BALDWIN COUNTY
312 Courthouse Square, Suite 12
BAY MINETTE, ALABAMA 36507
(251) 937-0264
Fax (251) 580-2500
www.baldwincountyal.gov

MEMBERS
DISTRICT 1. JAMES E. BALL
2. JOE DAVIS, III
3. BILLIE JO UNDERWOOD
4. CHARLES F. GRUBER

August 17, 2021

Mr. Eddie Tyler, Superintendent
Baldwin County Public Schools
2600-A North Hand Avenue
Bay Minette, Alabama 36507

RE: Agreement Concerning Use of Board of Education Facilities as Emergency Mass Care Shelters

Dear Mr. Tyler:

The Baldwin County Commission, during its regularly scheduled meeting held on August 17, 2021, approved the *Agreement Concerning Use of Facilities of the Board of Education as Emergency Mass Care Shelters* between the Baldwin County Board of Education and the Baldwin County Commission to allow the use of certain Baldwin County Board of Education facilities as mass care shelters.

This *Agreement* will replace the previous *Agreement* approved by the Baldwin County Commission on July 6, 2010. The terms will remain the same with the addition of Florence B. Mathis Elementary School being used as a first responders' shelter.

This *Agreement* shall automatically renew unless and until either party provides written notice of termination. Either party shall be able to, upon 30 (thirty) days advanced written notice, terminate this *Agreement*. Notwithstanding anything written or implied herein, the Board shall not terminate this *Agreement* anytime during the period between April 1st and November 1st, during any calendar year without a showing of extenuating circumstances.

Enclosed are 2 (two) **fully executed copies** of the *Agreement* for your files.

Mr. Eddie Tyler, Superintendent
August 17, 2021
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If you have any questions or need further assistance, please do not hesitate to contact me at (251) 937-0330 or Zach Hood, Emergency Management Director at (251) 972-6801.

Sincerely,



JAMES E. BALL, Vice Chairman
Baldwin County Commission

JB/clc Item BK1

cc: Scott Wallace
Amanda Thweatt

ENCLOSURE(S)

**AGREEMENT CONCERNING USE OF FACILITIES OF THE
BOARD OF EDUCATION AS EMERGENCY MASS CARE SHELTERS**

This Agreement is entered into by and between Baldwin County Board of Education (the "Board") and Baldwin County Commission of Baldwin County, (the "County") concerning the use of certain facilities owned by the Board, for the purpose of providing emergency mass care shelters to the County, in the event of a state of local emergency.

WITNESSETH:

WHEREAS, the County has requested that the Board make available to it the certain Board facilities for use as emergency mass care shelters for those individuals and families who are in need of emergency sheltering; and,

WHEREAS, the Board is not equipped to operate its facilities as emergency shelters, however, the Board is willing to make the facilities available to the County for use as emergency mass care shelters in accordance with the terms and conditions set forth herein; and

WHEREAS, the Board is unable to certify or guarantee that the facilities are fit for use as such shelters and further that the Board is unable to certify or guarantee that the facilities can withstand hurricane force winds; and

WHEREAS, the County has agreed to assume responsibility and control of the facilities for the general purposes of operating emergency mass care shelters during a state of local emergency; and

WHEREAS, with the exception of acts of God, the County has agreed to assume all liability arising from or relating to the use of the facilities as storm shelters; and

NOW THEREFORE, THE BALDWIN COUNTY BOARD OF EDUCATION AND THE COUNTY ENTER THIS AGREEMENT, AND THEREBY RESULTING IN THE PROVISION OF CERTAIN BOARD-OWNED FACILITIES AND NECESSARY SUPPLIES, AS FOLLOWS:

1. Recitals Included. The above recitals and statements are incorporated as part of this Agreement, and shall have the binding effect and enforceability as all other provisions herein.
2. Delegation and Assumption of Control. The Board will temporarily delegate operation, supervision and control over all of the designated facilities to the County for the general purposes of operating emergency mass care shelters for a state of local emergency. The Board will not be responsible for any aspect of the operation of facilities as shelters. The County agrees to assume responsibility for the operation, supervision and control of the facilities for the sole purpose of operating emergency mass care shelters. The County shall ensure that only those portions of the designated facilities, agreed upon by both the

County and the Board, are utilized by the County, its employees, agents, assigns or invitees as a portion of the various emergency mass care shelters.

3. Designated Emergency Mass Care Facilities and Designated Capacity. The Parties agree that the following Board-owned facilities shall be designated for use by the County, as emergency mass care facilities, according to the terms of this Agreement. Each of the facilities listed shall also have the corresponding occupancy capacity as listed:

<u>Shelter Facility</u>	<u>Capacity</u>
a. Baldwin County High	1000 persons
b. Central Baldwin Middle	1000
c. Daphne East	500
d. Fairhope High School	1000
e. Robertsdale High	1000
f. Foley High	1000
g. Bay Minette Middle	500
h. Florence B. Mathis Elementary	500

Further, the parties agree that such other Board-owned facilities may be added to these designations as the parties may from time to time agree.

4. Normal BOE Functions. Nothing contained herein shall in any way limit the Board's use of the facilities designated herein including, but not limited to, the normal educational purposes for which they serve. The Parties shall work together to ensure that the provision educational needs of the students of the respective facilities are not interrupted or altered by the usage allowed within this Agreement.
5. No Modifications. No modifications or changes will be made to any Board facility or property without the express approval of the Board.
6. Inspection of the Facilities. Prior to occupancy, representatives of both Parties to this Agreement will inspect the utilized facilities and properties and will note any obvious, apparent, or unmistakable defects. Such findings shall be specifically noted by the respective representative and provided to both the County and the Board. Prior to vacating any of the designated facilities, representatives of both Parties will provide an additional inspection of the facility and property, and such findings shall again be specifically noted and provided to both the County and the Board.
7. Staffing of the Shelters. The County shall ensure that the facilities are appropriately staffed in accordance with the current Baldwin County EMA Shelter Mgt Plan, which shall include appropriate medical and police personnel. The Board shall have no responsibility for providing personnel for operation of any shelter; however, nothing herein shall prevent any Board employee from volunteering to staff any of the designated shelters.
8. Protecting the Occupants. The County shall ensure that all appropriate measures are taken to protect all occupants of designated facilities.

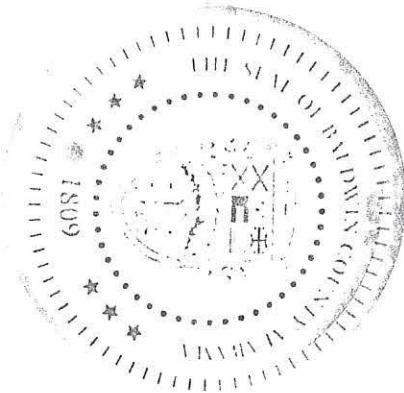
9. Preserving the Facilities. The County shall protect and preserve the designated facilities from damage, with the exclusion of any damage caused solely by acts of God. With the exception of damage caused solely by acts of God, the County shall, within twenty-four hours of the passage of the storm if possible, repair and restore any of the designated facilities to their condition existing immediately prior to the County's entry upon the property upon which the facilities are located.
10. Food and Supplies Provided by the Board. The Board shall ensure that adequate food and supplies are maintained, at each of the designated facilities, in an amount to accommodate the corresponding capacity as designated within this Agreement. Detailed daily reports shall be maintained in tracking all food and supplies utilized during the occupancy.
11. Reimbursement for Provision of Food and Supplies. The County shall, upon the submittal of a detailed invoice, reimburse Board for all actual costs incurred by the Board for the provision of food and supplies as outlined herein.
12. Advance Notice. The County shall provide the Board twelve (12) hours advance notice of the time that any facility will be opened for occupancy as an emergency mass care shelter.
13. Counsel Certification. The attorney for both the County and the Board shall certify in writing to the other that this Agreement is lawfully entered into by their client and that it is legally binding. Said certifications shall be attached as necessary portion of this Agreement as if fully set forth herein.
14. Indemnification. To the fullest extent permitted by law, the County shall defend, indemnify, and hold harmless the Board from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of, related to, or resulting from the use of the designated facilities as emergency mass care shelters.
15. Term and Termination of the Agreement. This Agreement shall automatically renew unless and until either party provides written notice of termination. Either party shall be able to, upon (thirty) 30 days advanced written notice, terminate this Agreement. Notwithstanding anything written or implied herein, the Board shall not terminate this Agreement anytime during the period between April 1st and November 1st during any calendar year without a showing of exigent circumstances.
16. No Agency Created. It is neither the express nor the implied intent of either party to create an agency relationship pursuant to this Agreement and the creation of such a relationship is prohibited and void.
17. Unenforceable Provisions. If any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof,

and such invalidity, illegality or unenforceability shall not affect any other provision hereof. This Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

- 18. Entire Agreement. This agreement represents the entire and integrated agreement between the Parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This agreement may be amended only by written instrument signed by all parties.
- 19. Failure to Strictly Enforce Performance. The failure of the either party to insist upon the strict performance of any of the terms, covenants, agreements and conditions of this Agreement shall not constitute, and shall never be asserted by the other party as constituting, a default or be construed as a waiver or relinquishment of the right of either party to thereafter enforce any such term, covenant, agreement, or condition, but the same shall continue in full force and effect.
- 20. Assignment. This Agreement or any interest herein shall not be assigned transferred or otherwise encumbered by either party without the prior written consent of the other party, which may be withheld or granted in the sole discretion of either the Board or the County.
- 21. Additionally Agreed Upon Provisions, If Any. (If none, mark as N/A)

NIA

IN WITNESS THEREOF, the parties hereto have executed this Agreement effective as of the day and year first herein written.



COUNTY:

[Signature] 18/17/2021
~~Joe Davis III, Chairman~~ *James E. Bell, Vice Chairman*
 Baldwin County Commission

ATTEST:

[Signature] 8/17/2021
 Wayne Dyess, County Administrator
 Baldwin County Commission

BOARD OF EDUCATION

[Signature] 8,9,21
 Eddie Tyler, Superintendent
 Baldwin County School

NOTARY PAGE TO FOLLOW

STATE OF ALABAMA
COUNTY OF BALDWIN

I, a Notary Public in and for said County, in said State, hereby certify that Eddie Tyler, whose name as Superintendent of the Baldwin County Board of Education and as the duly authorized representative for the School Board is signed to the foregoing Agreement, and who is known to me, acknowledged before me on this day that, being informed of the contents of the Agreement, he, as such officer and with full authority, executed the same voluntarily for and as the act of said entity.

Given under my hand and official seal, this the 10th 9th of August 2021.



Elizabeth Louise Coe

Notary Public

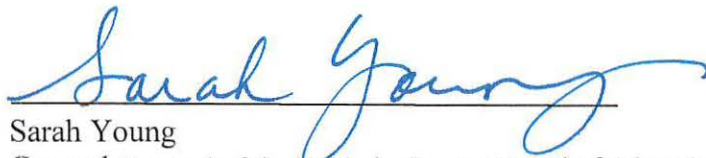
My Commission Expires: 5/9/2023

ATTORNEY CERTIFICATION

Pursuant to Item 13 with the Agreement, the undersigned counsel for both the Baldwin County Board of Education and the Baldwin County Commission hereby certify that their respective clients have lawfully entered this "Agreement Concerning the Use of Facilities of the Baldwin County Board of Education". In addition, both counsels further certify that the Agreement is legally binding upon their respective clients.



Brad Hicks, Chief Counsel
Baldwin County Commission



Sarah Young
General Counsel of the Baldwin County Board of Education