

**2.6 APPROVAL OF MEMORANDUM OF UNDERSTANDING FOR OPEN POINT DISPENSING IN MCHENRY COUNTY**

**A. SUBJECT**

This item appears on the agenda so the Board can approve a Memorandum of Understanding (MOU) agreement with the McHenry County Department of Health.

**B. INFORMATION**

The purpose of the Memorandum of Understanding (MOU) is to allow District 200 to permit the McHenry County Department of Health to use District facilities and equipment as a local dispensing site. This would happen only in the event of a large-scale disease outbreak or a bioterrorism event, and only to the extent feasible as determined solely by the District.

**C. RECOMMENDATION**

The Superintendent is recommending that the Board approve a Memorandum of Understanding with the McHenry County Department of Health as outlined above.

**D. SUGGESTED MOTION**

This item will be included in the suggested motion for the Consent Agenda.

## **MEMORANDUM OF UNDERSTANDING FOR OPEN POINT DISPENSING IN MCHENRY COUNTY**

WHEREAS, the McHenry County Department of Health (“Department”), hereby acknowledges that it is in the interest of the community that Woodstock Community Unit School District 200 (“Open POD Partner”) be used as a local dispensing site in the event of a large scale disease outbreak or bioterrorism event; and

WHEREAS, Open POD Partner hereby acknowledges its intent to serve the community by permitting use of its physical facilities and equipment, under the conditions set forth below, to be used as a local vaccine dispensing site;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, Department and Open POD Partner do hereby enter into this Memorandum of Understanding (“MOU”) and agree as follows:

### **Incorporation of Recitals/Headings**

The foregoing preambles are incorporated herein as if fully set forth herein. The “headings” contained in this MOU are for reference only, and the actual written provisions, paragraphs and words of this MOU shall control.

### **Partnership Deliverables**

#### **Open Pod Partner will:**

- A. After first considering responsibilities to Open POD Partner staff, Open POD Partner will permit, to the extent feasible as determined solely by Open POD Partner, and upon request of the Department, the use of the physical facilities and equipment by the Department for the time period being requested, for a mass dispensing site for disease prevention and control activities, including but not limited to:
  - Office equipment, including telephones, copy machines, computers
  - Tables, chairs, desks, cots, wheelchairs, cones
  - Washrooms
  - Refrigerators
- B. Designate two (2) points of contact in case of emergency:
  - A security point of contact from Open POD Partner that will interact with the Department staff and local law enforcement.
  - Open POD Partner will identify an administrator, who will serve as the primary point of contact. This person should have authority to open up the facility and authorize its use by the Department.

**Department will:**

- A. Designate appropriate personnel as Department point(s) of contact to answer questions that Open POD Partner might have about this MOU.
- B. Replace or reimburse Open POD Partner (at Open POD Partner's option) for any damage to equipment or physical facilities as a result of the conduct of Department's mass vaccination activities.
- C. Be fully and solely responsible for dispensing medication.
- D. Maintain insurance policies to cover claims arising out of the Open POD to be operated by the Department.

**Term**

The term of this MOU shall be a period of one (1) year from the date that the last Party signs this MOU and shall renew automatically for successive one (1) year periods unless terminated in accordance with the provisions herein. This MOU may be modified by mutual written consent of authorized officials from the Department and Open POD Partner. Either Party may terminate this MOU upon thirty (30) days prior written notice to the other Party. Either Party's exercise of its right to terminate shall not limit that Party's right to any other remedies allowed by law. The Department and Open POD Partner are referred to in this MOU as a "Party" or collectively as "Parties". The Parties' confidentiality and indemnification obligations set forth in this MOU shall survive the termination of this MOU.

**Indemnification**

Open POD Partner hereby agrees to defend, indemnify and hold harmless the Department, all Department elected or appointed officials, officers, employees, agents, representatives, engineers and attorneys, from and against any and all claims, damages, losses, risks, liabilities, and expenses (including reasonable attorneys' fees and costs) arising from performance under this MOU by Open POD Partner or otherwise arising out of Open POD Partner's breach of the obligations contained in this MOU. The Department hereby agrees to defend, indemnify and hold harmless Open POD Partner, all Open POD Partner elected or appointed officials, officers, employees, agents, representatives, engineers and attorneys, from and against any and all claims, damages, losses, risks, liabilities, and expenses (including reasonable attorneys' fees and costs) arising from performance under this MOU by the Department or otherwise arising out of Department's breach of the obligations contained in this MOU.

**Confidential Information**

Each Party to this MOU may from time to time disclose (in that capacity "Discloser") to the other Party (in that capacity "Recipient") information which Discloser regards as confidential. For the purposes of this MOU, "Confidential Information" means any information that a Party designates as confidential, is required by law to remain confidential, or which the receiving Party

knows or has reason to know is confidential. Each Party agrees to maintain in confidence and not disclose to any other person or entity or utilize, directly or indirectly, any Confidential Information disclosed by the other Party in connection with this MOU or the discussions and negotiations leading thereto except information which is (i) already known and not received from the other Party in the course of negotiating or fulfilling this MOU, (ii) information which becomes generally available to the public through no fault of the Party who wishes to utilize the information, (iii) information received from a non-Party who has the right to disclose such information without breaching any obligations to the other Party, or (iv) information which a Party is legally obligated to disclose. Disclosure of Confidential Information shall be permitted if such disclosure is in response to a valid order of a court or other governmental body of the United States, any State, or any political subdivision thereof or is otherwise required to be disclosed by law (including the Freedom of Information Act). Both Parties agree to waive any and all potential claims or causes of action against the other Party and its employees arising out of disclosure of Confidential Information when such disclosure is made pursuant to the Freedom of Information Act. The Recipient agrees that it will (a) use such Confidential Information of the Discloser only to carry out the services contemplated by this MOU, (b) disclose such Confidential Information only to employees who have a reasonable need for such information, (c) instruct all employees who have access to Discloser's Confidential Information of the necessity to maintain the confidentiality of such information, (d) use at least as great a standard of care in protecting the Discloser's Confidential Information as it uses to protect its own information of like character, but in no event less than a reasonable degree of care, and (e) return or destroy all such Confidential Information upon request of the Discloser.

### **Governing Law and Venue**

This MOU has been executed and delivered in Illinois and that their relationship and any and all disputes, controversies or claims arising under this MOU shall be governed by the laws of the State of Illinois, without regard to conflicts of laws principles. The Department and Open POD Partner agree that the exclusive venue for all such disputes arising out of or related to this MOU shall be the Circuit Court of the 22nd Judicial Circuit of McHenry County, Illinois, and the Department and Open POD Partner hereby consent to the personal jurisdiction thereof.

### **Relationship of Parties**

In performing under this MOU, Open POD Partner shall at all times act as an independent contractor and not as an agent or employee of the Department.

### **Non-Appropriation**

This MOU is made subject to available budgetary appropriations and shall not create any obligation on behalf of the Department in excess of such appropriations. In the event that no funds or insufficient funds are appropriated and budgeted, this MOU shall terminate without penalty or expense to the Department thirty (30) days after written notification of termination from the Department.

### **Entire Agreement**

This MOU supersedes any and all other agreements, either oral or written, between the Parties hereto with respect to the subject matter hereof, and contains all of the agreements between the Parties hereto with respect to the said matter. Each Party to this MOU acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by either Party which is not embodied herein and that no other agreements, statements, or promises not contained within this MOU shall be valid or binding. No modification concerning this MOU shall be of any force or effect, excepting a subsequent modification in writing, signed by both Parties.

### **Severability**

The invalidity or unenforceability of any particular word, phrase, sentence, paragraph or provision of this MOU shall not affect the other words, phrases, sentences, paragraphs or provisions hereof. This MOU shall be construed in all respects as if such invalid or unenforceable provisions were omitted and the remainder construed so as to give them meaningful and valid effect. It is the intention of the Department and Open POD Partner that if any particular provision of this MOU is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, the provision shall have the meaning which renders it valid.

### **Compliance with Laws**

Both Parties hereby covenant and agree to comply with all applicable federal, state, and local laws, codes, ordinances, rules and regulations.

### **Waiver**

The failure of the Department or Open POD Partner to insist upon strict compliance with any provision of this MOU or its failure to enforce any right or remedy in any instance shall not constitute or be deemed to be a waiver of any provision, right, or remedy.

### **Notice**

Any notice or communication concerning this MOU shall be effective if in writing and personally delivered or sent by certified mail, return receipt requested postage prepaid, to the following addresses:

If to Woodstock Community Unit School District 200:

Superintendent  
2990 Raffel Road  
Woodstock, Illinois 60098

If to McHenry Department of Health (“Department”):

Melissa Adamson, Public Health Administrator  
667 Ware Road  
Woodstock, IL 60098

**Authority to Sign**

Each person signing below hereto agrees, represents and warrants that he or she has been duly and validly authorized to sign this MOU on behalf of their Party.

McHenry County Department of Health

Woodstock Community Unit  
School District 200

By: \_\_\_\_\_  
Melissa Adamson  
Public Health Administrator

By: \_\_\_\_\_  
Carl Gilmore  
Board President

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

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