

## **SCHOOLS SURVEILLANCE CAMERA SYSTEM ACCESS AGREEMENT**

This agreement ("Agreement") is entered into between the DISTRICT SCHOOL BOARD OF PASCO COUNTY, FLORIDA ("SBPC") and the CITY OF NEW PORT RICHEY POLICE DEPARTMENT ("CITY")(collectively, the "Parties").

### **WITNESSETH**

**WHEREAS**, the Parties recognize that this Agreement provides the mechanism for the performance of their respective obligations under law, including the requirements of *Florida Statutes* Chapter 1006; and

**WHEREAS**, SBPC operates all public district schools located in Pasco County, Florida; and

**WHEREAS**, CITY desires its police personnel to have access to real-time (live) video feeds and recorded video feeds from SBPC's surveillance cameras when active circumstances at a public district school or facility present an immediate need for law enforcement or fire safety personnel to respond to that school or facility to protect the health or safety of district school students, SBPC personnel or SBPC property.

**NOW, THEREFORE**, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

### **ARTICLE I - RECITALS**

1.01 **Recitals.** The Parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

### **ARTICLE 2 - SPECIAL CONDITIONS**

2.01 **Term of Agreement.** Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence upon execution by both Parties and conclude on the third anniversary of the execution date.

2.02 **Confidential and Exempt Security and Safety Plan Information.** CITY acknowledges that SBPC's video security monitor images depict the internal layout and structural elements of SBPC's buildings or other structures owned or operated by SBPC and are exempt from Section 119.07(1) and section 24(a), Article I of the State Constitution [the provisions commonly referred to as the public records laws] pursuant to Section 119.071(3), *Florida Statutes*. In addition, such security video monitor images constitute information relating to the security systems and are confidential and exempt from ss. 119.07(1) and 286.011 and other laws and rules requiring public access or disclosure. Section 119.071(3)(a)3c and (b)3a, *Florida Statutes*, permit SBPC to disclose such confidential and/or exempt information to CITY in furtherance of CITY police personnel official duties and responsibilities. Pursuant to Section 119.0701, *Florida Statutes*, CITY shall keep and maintain confidential and exempt all such information provided to them under applicable law. CITY agrees

not to release such information or to disclose their contents to anyone other than an employee of CITY that requires access to such information in furtherance of their official duties, unless such information is required to be released by applicable law or order of a court of competent jurisdiction and unless SBPC is first notified by CITY of the information's intended release. Any failure by CITY to maintain the confidential and exempt nature of such information shall constitute a material breach of this Agreement.

2.02.1 **SBPC Ownership and Required Retention of Recorded Video Images.** CITY acknowledges that SBPC is a political subdivision of the State of Florida and is subject to that state's public records laws and record retention requirements. CITY further acknowledges that any and all original recordings of video security images captured through use of SBPC's video security cameras as well as any equipment within which such images are recorded are the property of SBPC. Such video images may not be removed from SBPC's property except pursuant to a subpoena, court order or search warrant in which case SBPC will be allowed to make a copy of such images to serve as SBPC's record copy for record retention requirements under applicable law.

2.03 **Access to Recorded Video Images Not Involving an Emergency.** Video images recorded through use of SBPC's security video cameras may be considered a confidential and exempt "education record" pursuant to Sections 1002.22(2) and 1002.221(1), *Florida Statutes*; the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g, and the federal regulations issued pursuant thereto. CITY police personnel shall be granted sole access to recorded video images. When CITY police personnel desire access to recorded images from SBPC's security video cameras as part of their law enforcement responsibilities not involving an emergency, as defined in 2.04.1, CITY shall make a request for such recorded images to SBPC's law enforcement unit which will submit any such request to SBPC's Office of the General Counsel to determine any applicable procedures, restrictions or limitations that are applicable to the requested images. Such requests by CITY police personnel may require issuance of a subpoena or an order from a court of competent jurisdiction.

2.04 **Viewing of Real-Time (Live) Video Feeds and Recorded Videos/Images During an Emergency.** The Parties acknowledge and agree that viewing of real-time (live) video feeds from SBPC security cameras by CITY police personnel during an emergency situation is not considered access to an "education record" as defined under state or federal law. The Parties also acknowledge that any recorded videos/images [as contrasted to real-time (live) video feeds] may constitute an "education record" and be confidential and exempt pursuant to Sections 1002.22(2) and 1002.221(1), *Florida Statutes*; the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g, and the federal regulations issued pursuant thereto. The Parties further agree and acknowledge that CITY police personnel viewing of real-time (live) video feeds and/or recorded videos/images received from SBPC's security video cameras will be limited to specific circumstances, described in this Agreement, which are necessary to protect the health or safety of students or individuals on or around SBPC property. SBPC will designate a person authorized to make decisions on its behalf about whether any recorded videos/images constitute an education record and whether access to real-time (live) video feeds and/or recorded videos/images will be permitted in any particular instance.

2.04.1 **Emergency Circumstances Authorizing Real-Time (Live) and Recorded Video Access.** CITY police personnel shall be permitted to view, through remote access, real-time (live) video feeds during emergency circumstances as described in this Agreement. In addition,

CITY police personnel shall be permitted to view, play back, fast forward and fast back images and videos recorded on SBPC security cameras during time periods prior to CITY police personnel receiving information that an emergency circumstance exists when such recorded images/videos are not education records and their viewing is necessary to assist CITY police personnel in making a law enforcement response to the emergency circumstance. Emergency circumstances shall include:

- a) When SBPC administration has declared an elevated threat level at a district school or facility;
- b) When CITY police personnel have received information that a life-threatening incident exists on or immediately near the grounds of a district school or facility;
- c) When CITY police personnel or another law enforcement agency having jurisdiction or participating under an applicable mutual aid agreement is notified of a life-threatening incident occurring on or immediately near SBPC grounds of a district school or facility that requires a law enforcement response;
- d) When CITY police personnel or another fire safety agency having jurisdiction or participating under an applicable mutual aid agreement is notified of a life-threatening incident occurring on or immediately near SBPC grounds of a district school or facility that requires a fire safety response;
- e) When CITY police personnel determine it is necessary in order to protect the health or safety of district school student(s), SBPC personnel, or other individuals on or immediately near the grounds of a district school or facility;
- f) When CITY police personnel determine it is necessary in order to protect SBPC grounds of a district school or facility;
- g) For routine maintenance solely to verify operability and functionality of cameras and recording devices including the confirmation of the locations of designated cameras at a particular district school or facility; or
- h) For training of appropriate CITY police personnel.

2.04.2 The CITY is authorized to test the functionality of the video system each school day by logging in and verifying connectivity.

2.04.3 Procedures for Remote Access via VPN Tunnel. Upon determining that emergency circumstances exist to warrant CITY access to SBPC's video security images at a school or facility, CITY will access video security images with the VPN password supplied by SBPC in accordance with SBPC procedures. The CITY will supply the SBPC with two PC Desktop Computers for installation of the SBPC VPN client. CITY will maintain an audited register in an Excel spreadsheet of the VPN tunnel status and usage and will submit to the SBPC Chief of Safety and Emergency Operations seven (7) days after the start of each calendar quarter. The Excel spreadsheet will contain the name of the CITY employee accessing the security images, the date and time of the access and the reason(s) the security images were accessed.

2.04.4 **General Surveillance Prohibited.** CITY police personnel acknowledge that the limited access granted to them under this Agreement to SBPC's security video cameras and images/videos captured using such equipment does not authorize them to conduct general surveillance of SBPC grounds of a district school or facility unrelated to a specific law enforcement purpose as specified in Section 2.04.1 of this Agreement.

2.04.5 **SBPC Access to Remote Viewing Site.** CITY police personnel shall permit SBPC's designated personnel access to the remote location at which they will be afforded real-time access to SBPC's security cameras and images/video recordings. Such access shall only be conducted during the CITY's normal business hours and shall be permitted within two (2) business days of SBPC's request for access, in accordance with the policies and procedures of the CITY.

2.04.6 **Limited Authority to Capture Video Screen Shots and Recorded Video Images.** CITY police personnel acknowledge that the video access authorized by this Agreement is expressly restricted to viewing real-time (live) video access and recorded images/video recordings as authorized in Section 2.04.1 of this Agreement. CITY further acknowledges that they shall make no recordings of real-time (live) video images or of recorded images/videos using SBPC's security cameras except as expressly authorized within this Agreement. Notwithstanding Section 2.04.1 of this Agreement, CITY police personnel are permitted to make screen shots, record video, and tag video capturing the images of persons or locations of interest that appear through the real-time (live) video access feeds or images/videos recorded from such feeds to the extent necessary to assist law enforcement personnel to respond to any of the emergency circumstances specified in Section 2.04.1 of this Agreement. However, CITY police personnel acknowledge that they may not make any screen shots or video recordings from the cameras when those video feeds are accessed for training purposes or routine maintenance. CITY police personnel agree that any of their personnel who makes any use of SBPC's security video feeds other than as permitted by this Agreement shall be subject to discipline in accordance with CITY police personnel policies and procedures.

2.05 **Confidentiality of Education Records.** Notwithstanding any provision to the contrary within this Agreement, to the extent that CITY police personnel receive access to "education records" as defined by applicable state and federal law, they shall:

2.05.1 fully comply with the requirements of Sections 1002.22, 1002.221, and 1002.222, *Florida Statutes*; the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g (FERPA) and its implementing regulations (34 C.F.R. Part 99), and any other state or federal law or regulation regarding the confidentiality of student information and records; and

2.05.2 notify SBPC Director of Technology and Information Services immediately via email and by telephone at (813) 794-2416, upon discovery of a breach of confidentiality of education records and take all necessary notification steps as may be required by federal and Florida law, including, but not limited to, those required by Section 501.171, *Florida Statutes*, and fully cooperate with appropriate SBPC staff, including SBPC's Director of Strategic Communications and/or Technology and Information Services staff to resolve any privacy investigations and concerns in a timely manner; and

2.05.3 prepare and distribute, at CITY's own cost, any and all required breach notifications, under federal and Florida Law, or reimburse SBPC any direct costs incurred by SBPC for doing so, including, but not limited to, those required by Section 501.171, *Florida Statutes*, when CITY police personnel have been determined to be the source of the breach; and

2.05.4 be responsible for any fines or penalties for failure to meet breach notice requirements pursuant to federal and/or Florida law when CITY police personnel have been determined to be the source of the breach; and

2.05.5 provide SBPC with the name and contact information of CITY police employee who shall serve as SBPC's primary security contact and shall be available to assist SBPC in resolving obligations associated with a security breach of confidentiality of education records when CITY police personnel have been determined to be the source of the breach; and

2.05.6 securely erase education records from any media once any media equipment is no longer in use or is to be disposed; secure erasure will be deemed the deletion of the education records using a single pass overwrite Secure Erase (Windows) or Wipe (Unix).

2.06 **Ownership of Education Records.** To the extent that CITY police personnel receive any original education records from SBPC, SBPC shall be entitled to retain a record copy of such original education records and such original education records shall remain the property of SBPC unless such records are held as evidence. If any education record is held in evidence, CITY police personnel shall be allowed to store a digital copy of any evidence in its secured digital evidence storage program for evidence preservation purposes and SBPC shall be entitled to possess and retain a copy of such education record in fulfillment of its duties as a public agency to retain public records in compliance with applicable law. Upon termination of this Agreement the CITY shall, at SBPC's request, return to SBPC or dispose of the education records in compliance with the applicable Florida Retention Schedules and provide SBPC with a written acknowledgment of said disposition.

2.07 **Audit of CITY Police Personnel Access to SBPC Security Video Images.** CITY police personnel access and use of real-time (live) video feeds and recorded images/videos from SBPC security cameras is subject to audit by SBPC. CITY police personnel will provide SBPC's designated personnel with the following detailed information on a monthly basis:

2.07.1 The identity of each user authorized by CITY police personnel to log into and gain access to SBPC's security video feeds and/or recorded images/videos; and

2.07.2 The identity of each CITY police personnel user who logged into and gained access to SBPC's security video feeds and/or recorded images/videos over the past month; and

2.07.3 The emergency circumstances under Section 2.04.1 of this Agreement in each instance in which access was had to SBPC's security video feeds and/or recorded images/videos which authorized each CITY police personnel user to have such access; and

2.07.4 The location of each district school or facility at which CITY police personnel users accessed SBPC security video feeds and/or recorded images/videos; and

2.07.5 The date, time of access, and duration of access by CITY police personnel users to SBPC security video feeds and/or recorded images/videos; and

2.07.6 The names of the CITY police personnel or other law enforcement or fire safety personnel who viewed SBPC security video feeds and/or recorded images/videos.

2.08 **Notice.** When any of the Parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the Party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice

in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBPC: Superintendent of Schools  
District School Board of Pasco County, Florida  
7227 Land O' Lakes Blvd., Land O' Lakes, Florida 34638

To CITY: Robert Kochen, Chief of Police  
6739 Adams St, New Port Richey, FL 34652

3.01 **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, *Florida Statutes*. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries.** The Parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the Parties intend to directly or substantially benefit a third party by this Agreement. The Parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the Parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any Agreement.

3.03 **Independent Contractor.** The Parties to this Agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee, or agent of one another. Neither Party or its respective agents, employees, subcontractors, or assignees shall represent to others that it has the authority to bind the other Party unless specifically authorized in writing to do so. No right to retirement, leave benefits or any other benefits of either Party's employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. Neither Party shall be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other Party or the other Party's officers, employees, agents, subcontractors, or assignees.

3.04 **Default.** The Parties agree that, in the event that either Party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting Party (30) calendar days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting Party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting Party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting Party upon thirty (30) calendar days' notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any Party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.05 **Termination**. This Agreement may be canceled with or without cause by either Party during the term hereof upon thirty (30) calendar days written notice to the other Party of its desire to terminate this Agreement.

3.06 **Compliance with Laws**. Each Party shall comply with all applicable federal, state and local laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.07 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the Parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.08 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors.

3.09 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any Party without the prior written consent of the other Party. There shall be no partial assignments of this Agreement.

3.10 **Preparation of Agreement**. The Parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other.

3.11 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each Party hereto.

3.12 **Waiver**. The Parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any Party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the Party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.13 **Force Majeure**. Neither Party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either Party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either Party be deemed Force Majeure.

3.14 **Survival**. All representations and warranties made herein, indemnification obligations,

obligations to reimburse SBPC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.15 **SBPC Agreement Administration.** SBPC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.16 **Counterparts and Multiple Originals.** This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Agreement.

3.17 **Authority.** Each person signing this Agreement on behalf of either Party individually warrants that he or she has full legal power to execute this Agreement on behalf of the Party for whom he or she is signing, and to bind and obligate such Party with respect to all provisions contained in this Agreement.

CITY OF NEW PORT RICHEY

DISTRICT SCHOOL BOARD  
OF PASCO COUNTY

BY: \_\_\_\_\_  
City Manager, Debbie L. Manns

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

BY: \_\_\_\_\_  
Chairman

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

BY: \_\_\_\_\_  
Chief of Police, Robert Kochen

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

BY: \_\_\_\_\_  
Superintendent

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

Attest: \_\_\_\_\_  
Judy Meyers, CMC, City Clerk

Attest: \_\_\_\_\_