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MANAGER  
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TO: Township Board

FROM: Andrew Dymczyk, Township Manager *AD*

SUBJECT: DeWitt Public Schools Police Department Video Surveillance Agreement

DATE: November 23, 2022

Our Public Safety Departments have been actively engaged in conversations with the DeWitt Public School District to address safety protocols and safety concerns. To satisfy a Family Educational Rights and Privacy Act (FERPA) requirement the DeWitt Public School District is requesting an agreement to allow the Police Department access to the school's video surveillance in emergencies upon the district's request. I would recommend entering into a video surveillance agreement with DeWitt Public Schools for the purpose of allowing Police Department access to the school's video surveillance in emergencies upon the district's request pending legal review.

**STRATEGIC PLAN:**

Strategic: Public Safety

Strategies: Explore multi-jurisdictional agency cooperation for emergency, mental health, and drug recovery services

**SUGGESTED ACTION:**

Direct the Manager's Office to execute a video surveillance agreement with DeWitt Public Schools for the purpose of allowing Police Department access to the school's video surveillance in emergencies upon the district's request pending legal review.

## VIDEO SURVEILLANCE AGREEMENT

This Video Surveillance Agreement (“Agreement”) is made this \_\_\_\_\_ day of \_\_\_\_\_, 2022, between the **DeWitt Public Schools**, a Michigan general powers school district, organized and operating under the provisions of the Michigan Revised School Code, MCL 380.1, *et seq.*, as amended, whose address is 2957 West Herbison Road, DeWitt, Michigan 48820 (the “District”), and \_\_\_\_\_ an Authority created pursuant to Michigan law, whose address is \_\_\_\_\_ (the “Department”) (individually, a “Party” and collectively, the “Parties”).

### RECITALS

WHEREAS, the District has the authority, pursuant to MCL 380.11a(4), to enter into agreements with other entities, public or private, as part of performing the functions of the school district as well as the authority to engage contractors and agencies to carry out school district powers; and

WHEREAS, the Department has the expertise, training, capacity, and qualifications to dispatch law enforcement personnel and effectively use, upon the District’s request, live feed video surveillance during emergency situations and respond to those emergency situations (“Services”); and

WHEREAS, “emergency situations” include, but are not limited to: any in-progress or other event where life, safety, and/or property are in imminent or immediate danger; a reported fire; any time an intrusion alarm is received from a central monitoring station; and necessary testing/drills, as requested in advance; and

WHEREAS, the Parties agree that the health, safety, and welfare of persons on District property are of significant concern; and

WHEREAS, the District designates the Department’s employees as school officials with a legitimate educational interest for the specific purpose of providing the Services; and

WHEREAS, the District grants the Department access to live feed video surveillance cameras (“Video”) located within the public areas of District buildings and facilities consistent with the terms of this Agreement, provided that the Department does not maintain or record the Video; and

WHEREAS, the Parties desire to define the terms and conditions whereby the Department will access and use the Video to provide the Services.

NOW THEREFORE, the Parties hereby agree as follows:

**SECTION 1**  
**DESCRIPTION OF SERVICES AND**  
**RELATIONSHIP OF PARTIES**

- 1.1 Upon District request, the Department shall access and use Video in providing Services. The Department represents that its employees have been trained and qualified to provide the Services.
- 1.2 The Department shall not be entitled to any form of payment from the District under this Agreement.
- 1.3 The Department acknowledges it is the sole employer of any employee providing Services under this Agreement. The Department shall be solely responsible for compensating, hiring, retaining, disciplining, dismissing, evaluating and otherwise regulating employment terms and conditions, rights, compensation and other similar matters relative to all Department employees providing Services under this Agreement. The Department shall be responsible for payment of all required payroll taxes, and local, state, and federal tax withholdings for its employees. No joint employment relationship is created as a result of this Agreement. Department employees providing Services under this Agreement are not entitled to any of the rights, compensation or other benefits which the District may provide its employees.
- 1.4 The District authorizes and designates the Department's employees as security agents authorized to provide Services in the District's buildings and facilities. The Parties agree that the Department's sole responsibility pursuant to this designation shall be to authorize its agents and employees to access Video and otherwise provide Services, at the request of authorized responding public safety personnel during emergency situations, subject to the limitation and conditions set forth herein and in **Attachment A**. It is the Parties' intent that accessed Video shall be used to assist in providing the Services.
- 1.5 The Parties acknowledge that Department officials have been designated, in accordance with the Family Educational Rights and Privacy Act ("FERPA"), as District school officials with a legitimate educational interest in the information depicted in the Video. 34 CFR 99.7. The Parties further acknowledge that records both created and maintained by the Department for a law enforcement purpose are considered records of a law enforcement unit and are therefore excluded from the

definition of “education records” under FERPA. 34 CFR 99.8(b)(1). Records of a law enforcement unit do not include those records created and maintained by a law enforcement unit exclusively for a non-law enforcement purpose, such as a disciplinary action or proceeding conducted by the educational agency or institution. 34 CFR 99.8(b)(2). Additionally, education records do not lose their status as “education records” and remain subject to FERPA when shared with or in possession of the Department. 34 CFR 99.8(c)(2).

- 1.6 The Parties agree that the Department’s access to and use of Video is an institutional function it performs on behalf of the District for which the District would otherwise use employees, and that the Department is subject to the sole, direct control of the District with respect to this function.
- 1.7 The Department shall not make or maintain any recordings from the Video.
- 1.8 The Department, its officers, employees and agents shall use Video information only to provide Services under this Agreement and will not disclose any information to third parties except as permitted by applicable law or regulation. 34 CFR 99.33.
- 1.9 The Department acknowledges and agrees that the District may revoke its ability to remotely access Video at any time and for any reason. Revocation shall be effective immediately when communicated by e-mail or other written means to the Department’s Chief of Police or his/her designee.
- 1.10 The Department acknowledges that its employees and agents may through the Video receive or have access to information that may be considered student education records and other data subject to confidentiality requirements of FERPA, the Individuals with Disabilities Education Act (“IDEA”), the Michigan Mandatory Special Education Act (“MMSEA”), the National School Lunch Act, the Michigan Revised School Code, and their underlying regulations. The Department acknowledges that, to the extent its employees and agents may receive and have access to such data and records, it will require that its agents and employees, as a condition of employment, acknowledge and agree to comply with the above-referenced Acts and their regulations, and further agree that they **will not** photograph, record, copy, disseminate, convey, or re-disclose video images or photos, student data, or education records without the express written consent of the District or the student’s parent/guardian or eligible students, except as permitted by law. The Department will require that each of its employees or agents having access

to the Video sign an acknowledgement substantially in the form attached as **Attachment A**.

- I.II The Department further agrees that no video images, pictures, student information, photos or video images will be maintained, stored, or kept on file (in electronic, print, or any other media or format) except as authorized by this Agreement.
- I.I2 The District reserves the sole right and authority to revise the means of, and procedures related to, Department Video access. If the District makes such revisions, then the Department will, to the extent necessary, within thirty (30) days provide verification to the District that it has modified its internal Operational Policy and Procedures to comply with them.
- I.I3 If the Department needs non-emergent access and/or copies of Video, the Parties agree that, upon written request from the Department made no later than thirty (30) days after the incident, the District will segregate, identify and preserve on an external storage device or location the requested Video and will retain it until such time as: (a) it is requested by subpoena or through other court process by the Department; or (b) the Department notifies the District in writing that the copy of the Video no longer is required. Notwithstanding the foregoing, any such preserved Video shall be disposed of no longer than ten (10) years from the date of creation unless a subpoena or court order has been issued; or as mutually agreed upon by the Parties in writing which identifies the date and time and purpose for retention.
- I.I4 If the Department requires a copy of the Video, rather than access to the live feed as described in this Agreement, it will adhere to all state and federal laws, including, but not limited to, student privacy laws, in requesting a copy from the District.
- I.I5 Use of the Video is expressly limited to live feed video surveillance recordings and should not include audio recording or capture of District facilities.
- I.I6 The Department will create a log of when the Video is accessed and for what purpose (training, fire, alarm, etc.). This log will be shared with the District Superintendent monthly.
- I.I7 The Parties will review this arrangement annually.

**SECTION 2**  
**TERM OF AGREEMENT AND TERMINATION**

- 2.1 This Agreement shall commence on the date of the last signature dated below (“Effective Date”) and shall remain in full force and effect until otherwise terminated pursuant to its terms.
- 2.2 Any Party may terminate this Agreement at any time and for any reason by providing thirty (30) days’ written notice to the other Party.
- 2.3 Sections 1.2, 1.3, 1.5, 1.6, 1.7, 1.10, 1.11, 1.12 and 3.1 of this Agreement survive the expiration or termination of this Agreement for any reason.

### **SECTION 3** **CONFIDENTIALITY**

- 3.1 To the extent that the Department and its employees and agents are permitted access to confidential records or information protected by FERPA or other applicable law while performing Services under this Agreement, the Department agrees it shall comply with applicable District confidentiality policies.

### **SECTION 4** **MISCELLANEOUS**

- 4.1 The Department shall not assign this Agreement nor its rights and duties under this Agreement without the District’s prior written consent.
- 4.2 This Agreement is non-exclusive and does not prevent the District from entering into similar agreements with other law enforcement authorities.
- 4.3 This Agreement constitutes the entire Agreement between the Parties regarding its subject matter and supersedes any prior agreements, written or oral, with respect to the Services contemplated. This Agreement, including this paragraph, cannot be modified or terminated orally. Any changes must be made in a writing signed by the Parties.
- 4.4 This Agreement shall be interpreted and enforced under the laws of the State of Michigan.
- 4.5 If any provisions of this Agreement should be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions of this Agreement shall not in any way be affected, impaired, or prejudiced thereby.

4.6 This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which constitute one and the same Agreement.

**SECTION 5**  
**AUTHORIZATION**

5.1 This Agreement has been duly authorized, executed, and delivered by the Parties and constitutes a legal, valid, and binding obligation upon each of them, enforceable in accordance with its terms. Each person placing his/her signature below represents and warrants that he/she is the signatory duly authorized to execute this Agreement on behalf of the Department or the District, as is respectively applicable.

**DEWITT PUBLIC SCHOOLS,**  
**a Michigan general powers school district**

By: \_\_\_\_\_

Shanna Spickard

Its: Superintendent

Dated: \_\_\_\_\_

\_\_\_\_\_ **POLICE DEPARTMENT**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_



ATTACHMENT A

Operational Policy and Procedures

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SOP:	Page 1 of 2
Title: <b>School Security Camera System</b>	
Effective Date: PENDING	Revision:
Approval: _____	

**PURPOSE**

The purpose of this policy is to designate acceptable use terms of school district video surveillance access for all Department employees in accordance with the various acceptable use agreements the into which the Department has entered with any school district.

The Department may be requested to access school video surveillance systems during “emergency situations.” The Department and its agents and its employees may only access school video surveillance systems during “emergency situations.” Emergency situations may include, but are not limited to: any in-progress or other event where life, safety, and/or property are in imminent or immediate danger; a reported fire; any time an intrusion alarm is received from a central monitoring station; and necessary testing/drills, as requested in advance.

**POLICY**

Under emergency situations, the Department staff may receive or have access to the district’s live video surveillance system which may depict student images and pictures. The video may convey records and other data subject to confidentiality requirements of the Family Educational Rights and Privacy Act (“FERPA”), 20 USC § 1232g, Individuals with Disabilities Education Act (“IDEA”), the Michigan Mandatory Special Education Act (“MMSEA”), and the National School Lunch Act, the Michigan Revised School Code, and their underlying regulations.

If a staff member receives or has access to such video surveillance, or data and records, the staff member shall not disseminate, convey, or re-disclose video surveillance images, pictures, or student data or other records, including video or photographic images of students, school district personnel, or others who may have been present. This prohibition remains in effect even if a student is not the subject of the video or photograph. Department staff is strictly prohibited from recording or photographing a monitor viewing school surveillance camera systems or attaching any recording device to the live video feed.

Department staff shall only access a school video surveillance system when specifically requested to do so by the school district and when responding to an emergency situation. When the Department receives such a request, the following actions shall be taken:

1. The request shall be documented. Documentation of the request must include the unit ID of the employee/agent who received the request.
2. The Dispatch employee/agent shall be permitted access to the district's video surveillance system in which the emergency situation is occurring.
  - a. Dispatch will establish a secure VPN connection to the school utilizing the VPN client.
  - b. Dispatch will then access the video server (as worked out between the school and Dispatch) through the video management system.
3. Dispatch will continue to monitor the surveillance system during the course of the emergency situation.
4. At the conclusion of the emergency situation, the portal access to the district's video surveillance system shall be disconnected and monitoring the district's video surveillance system shall cease.

**ACKNOWLEDGEMENT**

I have reviewed the above Policy and Procedure and agree to follow it.

Employee/Agent Signature \_\_\_\_\_

Dated: \_\_\_\_\_