

THIS AGREEMENT (this “Agreement”) made on September 1, 2024, by and between the COUNTY OF ONTARIO, a municipal corporation organized and existing under the laws of the State of New York, having its county seat and principal offices at 20 Ontario Street, Canandaigua, New York 14424, hereinafter referred to as the “County”, and, PHELPS-CLIFTON SPRINGS CSD an educational corporation organized and existing under the laws of the State of New York having its principal offices at 1490 State Route 488 CLIFTON SPRINGS, NY 14432, hereinafter referred to as the “School.” The County and the School are sometimes referenced to in this Agreement individually as a “party” or collectively as the “parties.”

WITNESSETH:

WHEREAS, the School desires the services of two (2) school resource officers (“SRO”) in an attempt to deter criminal behavior through positive interactions with students during school hours; and

WHEREAS, the County, through its Sheriff’s Office, desires to provide the School with a full time SRO and a part time SRO; and

WHEREAS, the School and the County recognize the potential outstanding benefits of the SRO Program to the citizens of the School; and

WHEREAS, it is in the best interests of the School, the County, and the citizens of the School to establish this program; and

NOW THEREFORE, in consideration of the mutual promises and covenants herein contained, the School and the County hereby agree as follows:

1. **TERM.** The term of this Agreement shall be September 1, 2024 to June 30, 2025.
2. **SUSPENSION OR TERMINATION OF AGREEMENT.**
  - a. This Agreement may be terminated at any time by either party upon the giving of thirty (30) days’ written notice to the other party that it has failed to substantially perform in accordance with the terms and conditions of this Agreement; or without cause upon ninety (90) days’ written notice. In the event this Agreement is terminated, compensation will be made to the County for all costs actually incurred in performing the services to the date of termination. The School shall be entitled to a pro-rated refund for that period of time when SRO services are not provided because of such termination.
3. **SCOPE OF SCHOOL RESOURCE OFFICER PROGRAM.** The SRO Program is designed to provide education, law enforcement and counseling to school students. It is an attempt to deter criminal behavior through positive interactions with students during school hours. The SROs will work with the School community to promote a safe learning environment for all students. It is the intention of the parties over the life of this Agreement to collaborate on the issues of recruitment, on-boarding and training of the SROs; evaluation of data and effectiveness; and receipt of feedback from constituents, in a manner consistent with the Local Implementation Rubric adopted by the U.S. Department of Justice and the U.S. Department of Education under their Joint Safe School-based Enforcement through Collaboration, Understanding and Respect (SECUR-e) program.
4. **RIGHTS AND DUTIES OF COUNTY SHERIFF.** The County Sheriff shall assign two (2) SROs to the School as follows:

- a. The SROs shall be assigned to the School for the number of hours defined in Schedule A attached hereto and made a part hereof for the period of this Agreement. During the SROs' daily tours of duty, the SROs may be off-campus performing such tasks as may be required by their assignments.
- b. The SROs may be temporarily reassigned by the County Sheriff when deemed necessary at the sole discretion of the County Sheriff. Should such reassignment occur, any hours spent by the SROs on County business outside their duties as SROs shall not be billed to the School.
- c. Regular working hours may be adjusted on a situational basis with the consent of the SRO's supervisor and the School administrator. These adjustments should be approved prior to the adjustment being required and should be to cover scheduled school-related activity requiring the presence of a SRO.
- d. The SROs will be off-campus for in-service and other training required. The SROs will not be available to the School from July 1 through August 31.
- e. The SROs, if requested to work any hours in addition to that defined in Schedule A by School administration for security, sporting events and other special projects, shall be paid by the School as provided in Schedule A of this Agreement.
- f. Body worn cameras ("BWC") are a common law enforcement tool and are utilized by the County. A BWC will be utilized by the SROs; in the school setting the SROs shall have the discretion to record contacts when the SRO considers it to be in the best interest of the student, staff, school administrators or the SRO. The SRO's consideration shall take into account privacy interests of those subject to recording. The recordings of a BWC are the property of the County. The County will, if not otherwise prohibited by law, provide to the School copies of footage, upon request. If providing a copy of the footage is prohibited, the County will facilitate the availability of its officer that made the video to testify, upon request of the School, in any school disciplinary hearing concerning the facts and circumstances of the videoed incident. If the BWC footage is provided to a third party, not including a district attorney's office or a county attorney's office, the County will also provide a copy to the School upon its request. Any records produced by the BWC are not considered education records subject to FERPA, unless the School takes possession of a copy of such records, upon which the copy may be treated as an education record. The SROs, while on School property, shall use body-worn camera only in accordance with Section 423.6.8 of the Ontario County Sheriff's Office Law Enforcement Policy Manual, a copy of which is attached to this Agreement as Addendum D. During the time period of this contract, any change in policy specifically related to the SRO position will be provided to the School in writing prior to implementation for review.
- g. The SROs shall comply with all applicable laws, regulations, and School policies regarding corporal punishment of students and the use of physical restraints on students. Corporal punishment, meaning any act of physical force upon a student for the purpose of punishing that student, shall be prohibited. Physical restraint shall only be used in a situation in which immediate intervention involving the use of reasonable physical force is necessary to prevent imminent danger of serious physical harm to the student or others. The use of a prone restraint, meaning a physical or mechanical restraint while the student is in the face down position, is strictly prohibited. Physical restraint must be discontinued as soon as imminent danger of serious physical harm has resolved and may not be used in a manner that restricts a student's ability to breathe or communicate or harms the student. This section shall not apply when a student is under

arrest, in which case the SRO is acting in the capacity of law enforcement and may use handcuffs as necessary for the safety of the student and others. Further, this paragraph is subject to the provisions in Section 5(j) herein and shall not be interpreted to restrict the SROs' rights and responsibilities as law enforcement officers for the County.

5. **DUTIES OF SCHOOL RESOURCE OFFICERS.** Instructional responsibility of the SROs at the School is as follows:

- a. The SROs shall act as an educator, counselor and police officer.
- b. The SROs shall act as an instructor for specialized, short-term programs at the School, when invited to do so by the principal or member of the faculty.
- c. The SROs shall make available to the School faculty and students a variety of law related presentations.
- d. The SROs shall coordinate all of his/her activities with the School principal and staff members concerned and will seek permission, advice and guidance prior to enacting any program within the School.
- e. The SROs shall develop expertise in presenting various subjects to the School students. Such subjects shall include basic understanding of the laws, the role of the police officer and the police mission.
- f. The SROs shall encourage individual and small group discussions with School students, based upon material presented in class to further establish rapport with the students.
- g. The SROs shall make himself/herself available for conference with School students, parents and faculty members in order to assist them with problems of law enforcement or crime prevention.
- h. The SROs shall become familiar with all School community agencies which offer assistance to youths and their families such as mental health clinics, drug treatment centers, etc. The SROs shall make referrals to such agencies when necessary, thereby acting as a resource person to the students, faculty and staff at the School.
- i. The SROs shall assist the School principal in developing plans and strategies to prevent and/or minimize dangerous situations which may occur on the School campus or during School sponsored events.
- j. The SROs shall take law enforcement action as required by law. As soon as practicable, the SROs shall make the principal of the School aware of such action. At the principal's request and upon final approval by the County Sheriff, the SROs shall take appropriate law enforcement action against intruders and unwanted guests who may appear at the School and related School functions, to the extent that the SROs may do so under the authority of the law. Whenever practicable, the SROs shall advise the School principal before requesting additional police assistance on the School campus.
- k. The SROs shall give assistance to other police officers and deputy sheriffs in matters regarding his/her School assignment, whenever necessary and authorized by the County Sheriff.

l. The SROs may be assigned non-campus investigations relating to runaways that attend the School to which the SRO is assigned.

m. The SROs shall maintain detailed and accurate records of the operation of the SRO Program, and shall make them available to the School principal or superintendent if required by law.

n. The SROs shall not act as a School disciplinarian, and matters of school discipline shall be referred to the appropriate building principal. However, if the School principal believes an incident is a violation of the law, the principal may contact the SROs and the SROs shall then determine whether law enforcement action is appropriate. The SROs are not to be used for regularly assigned lunchroom duties, hall monitoring, bus duties or other monitoring duties. If there is a problem in one of these areas, then the SROs may assist the School until the problem is solved. This paragraph however, shall not be interpreted to restrict the SROs' rights and responsibilities as a law enforcement officers for the County.

o. The SROs shall be prohibited from detaining or questioning students about their immigration status.

p. The County and the SROs shall comply with all applicable federal, State and local laws, rule and regulations. All of the obligations of the SROs as required under this Agreement shall be met without discriminating on the basis of race, color, sex, national origin, language status, disability, religion, sexual orientation, or membership in any other protected class.

q. The County and SROs shall comply with health and safety practices and protocols consistent with DOH's applicable New York Department of Health guidance and the School's policies, plans and procedures applicable to the provision of SRO services.

## **6. RIGHTS AND DUTIES OF THE SCHOOL.**

a. The School shall comply with all applicable federal, State and local laws, rule and regulations.

b. The School shall provide to the SROs the following materials and facilities, which are deemed necessary for the performance of the SROs' duties:

i. Access to an air-conditioned and properly lighted private office which office shall contain a telephone which may be used for general business purposes.

ii. A location for files and records which can be properly locked and secured.

iii. A desk with drawers, a chair, work table, filing cabinet and office supplies.

iv. Access to a computer and/or secretarial assistance.

## **7. PAYMENT.**

a. The School shall compensate the County in accordance with Schedule A attached hereto and made a part hereof. The County shall invoice the School quarterly upon execution of this Agreement and the School shall submit payment within thirty (30) days of receipt of each invoice. Any overtime costs shall be billed monthly by the County on separate invoices and shall be paid by the School within thirty (30) days.

8. **EMPLOYMENT STATUS OF SCHOOL RESOURCE OFFICER.** The SROs shall remain employees of the County Sheriff 's Office, and shall provide services to the School as independent contractors. The SROs shall therefore not hold themselves out as, nor claim to be, employees of the School, nor make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the School, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, social security coverage, disability benefits, or retirement membership or credit. The SROs shall not have, or hold themselves out as having the authority or power to bind or create liability for the School by the SROs' acts or omissions. The School and the County acknowledge that the SROs shall remain responsive to the chain of command of the County Sheriff who shall have sole control and authority over such SROs.

9. **APPOINTMENT OF SCHOOL RESOURCE OFFICERS.** SRO applicants must meet the following requirements and be acceptable to the School:

- a. The applicant must be a volunteer for the position of SRO.
- b. The applicant must be a County Deputy Sheriff.
- c. The applicant must possess job knowledge, experience, training, education, and appropriate appearance, attitude, communications skills and demeanor.

10. **DISMISSAL AND REPLACEMENT OF SCHOOL RESOURCE OFFICER.**

1. In the event the principal of the School feels that the SRO is not effectively performing his/her duties and responsibilities, the principal shall recommend to the School Superintendent that the SRO be removed from the program and shall state the reasons therefore in writing. Within a reasonable time after receiving the recommendation from the principal, the School Superintendent shall advise the County Sheriff of the principal's request.
2. If the County Sheriff so desires, then the School Superintendent and Sheriff shall meet with the SRO to mediate or resolve any problems which may exist. At such meeting, specified members of the staff of the School may be required to be present.
3. If, within a reasonable amount of time after commencement of such mediation the problem cannot be resolved or mediated or in the event mediation is not sought by the County Sheriff, then the SRO shall be removed from the program at the School.
4. The County Sheriff may dismiss or reassign the SRO based upon County Department Rules and Regulations governing special assignments and/or general orders and when it is in the best interest of the people of the School.
5. In the event of the resignation, dismissal or reassignment of the SRO, or in the case of long-term absences by the SRO, the County Sheriff may provide a temporary replacement for the SRO within thirty (30) days of receiving notice of such absence, dismissal, resignation or reassignment. However, the County may terminate this Agreement if no suitable replacement can be found.

11. **NOTICES.** Any and all notices of any other communication herein required or permitted shall be deemed to have been given when deposited in the United States Postal Service as regular mail, postage prepaid and addressed as follows:

TO THE COUNTY:

Ontario County Sheriff

74 Ontario Street

Canandaigua, NY 14424

with a copy to:

Ontario County Attorney

20 Ontario Street

Canandaigua, NY 14424

TO THE SCHOOL:

PHELPS-CLIFTON SPRINGS CSD

1490 State Route 488 CLIFTON SPRINGS, NY 14432

with a copy to:

Ferrara Fiorenza PC

5010 Campuswood Drive

East Syracuse, New York 13057

12. **GOOD FAITH.** The School, the County, their agents and employees, agree to cooperate in good faith in fulfilling the terms of this Agreement. The School Superintendent and the County Sheriff or their designees shall endeavor to resolve any difficulties or questions by negotiation.

13. **DATA PRIVACY AND SECURITY.**

- a. **Protection of Confidential Data.** The County shall provide the contracted services in a manner which protects Student Data (as defined by 8 NYCRR 121.1(q)) and Teacher or Principal Data (as defined by 8 NYCRR 121.1(r)) (hereinafter “Confidential Data”) in accordance with the requirements articulated under Federal, New York State and local laws and regulations, including but not limited to Education Law Section 2-d and the associated regulations (8 NYCRR Part 121).
- b. **Data Breach.** In the event that Confidential Data is accessed or obtained by an unauthorized individual due to the County’s or the SROs’ acts or omissions, and/or a subcontractor or affiliate of the County’s acts or omissions, the County shall provide notification to the School without unreasonable delay and not more than seven calendar

days after the discovery of such breach. The County shall follow the following process:

- i. The security breach notification shall be titled “Notice of Data Breach,” shall be clear, concise, use language that is plain and easy to understand, and to the extent available, shall include: a brief description of the breach or unauthorized release; the dates of the incident in the date of discovery; a description of the types of Confidential Data affected; an estimate of the number of records affected; a brief description of the County’s investigation or plan to investigate; and contact information for representatives who can assist the School District with additional questions.
  - ii. The County shall also prepare a statement for parents and eligible students which provides information under the following categories: “What Happened,” “What Information Was Involved,” “What We Are Doing,” “What You Can Do,” and “For More Information.”
  - iii. Where a breach or unauthorized release of Confidential Data is a result of the County’s or the SROs’ acts or omissions, and/or a subcontractor or affiliate of the County’s acts or omissions, the County shall pay for or promptly reimburse the School for the cost of notification to parents and eligible students of the breach.
  - iv. The County shall cooperate with the School and law enforcement to protect the integrity of investigations into the breach or unauthorized release of Confidential Data.
- c. **2-d Addenda.** The following addenda attached hereto shall be incorporated into the Agreement, and shall supersede any inconsistent provisions in the Agreement:
- i. Addendum A: School District’s Parents’ Bill of Rights for Data Privacy and Security
  - ii. Addendum B: Parents’ Bill of Rights – Supplemental Information Addendum
  - iii. Addendum C: Third-Party Data Security and Privacy Plan

14. **MODIFICATION.** This document constitutes the full understanding of the parties and no terms, conditions, understandings or agreement purporting to modify or vary the terms of this document shall be binding unless hereafter made in writing and signed by both parties.

15. **NON-ASSIGNMENT.** The School shall not assign or transfer this agreement to any other person or corporation without the previous consent, in writing, of the Chairman of the Ontario County Board of Supervisors. The County shall not assign or transfer this Agreement to any other person or corporation without the previous consent, in writing, of the School’s Board of Education.

16. **SEVERABILITY.** In the event any provision of this contract shall be or become invalid under any provision of federal, state or local law, such invalidity shall not affect the validity or enforceability of any other provision hereof.

17. **CONTRACT INTEREST.** No officer or employee of the County, who is authorized in such capacity and on behalf of the County to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving this contract, shall become directly or indirectly interested

personally in this contract, or in any part hereof. No officer or employee of, or for the County, who is authorized in such capacity and on behalf of the County to exercise any supervisory or administrative function in connection with this contract, shall become directly or indirectly interested personally in this contract or in any part hereof.

18. **INDEMNIFICATION.** The Parties agrees to the fullest extent of the law:

a. that except for the amount, if any, of damage contributed to, caused by or resulting from the negligence of the County, the School shall indemnify and hold harmless the County, its officers, employees and agents from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorneys' fees or loss arising directly or indirectly out of the negligent acts and/or omissions or a material breach of this Agreement by the School or third parties under the direction or control of the School; and

b. to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of the acts or omissions referred to in paragraph (a) and to bear all other costs and expenses related thereto. The duty to defend hereunder shall be triggered immediately upon notice to the School by the County of the County's receipt of a Notice of Claim, service of process or other demand or claim.

c. That except for the amount, if any, of damage contributed to, caused by or resulting from the negligence of the School district, the County shall indemnify and hold harmless the School district, its officers, employees and agents from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorneys' fees or loss arising directly or indirectly out of the negligent acts and/or omissions or a material breach of this Agreement by the County or third parties under the control of the County (including the SROs); and;

d. To provide defense and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly referred to in subparagraph (c) and to bear all other costs and expenses related thereto. The duty to defend hereunder shall be triggered immediately upon notice to the county by the School district of the School district's receipt of a Notice of Claim, service of process or other demand or claim.

e. Notwithstanding the provisions in subparagraphs (c) and (d), the County shall not be required to indemnify, hold harmless, or defend the School with respect to claims arising out of any law enforcement actions taken by the SROs, including but not limited to actions taken with respect to violent intruders, violent guests, active shooters, or other similar situations, unless the SRO is adjudged liable for negligence or willful misconduct in connection with the same.

f. The defense and indemnification obligations provided herein shall survive the expiration or termination of this Agreement, whether occasioned by this Agreement's expiration or earlier termination.

19. **ENTIRE CONTRACT AND INCORPORATION.** This contract constitutes the entire agreement of the parties hereto and all previous communications between the parties, whether written or oral, with reference to the matter of this contract, are hereby superseded.

20. **SPECIAL RELATIONSHIP.** This Agreement does not create a "special relationship." Specifically, this Agreement is not:



1. an assumption by the County of an affirmative duty to act on behalf of a party who was injured;
2. knowledge on the part of the County's agents that inaction could lead to harm;
3. some form of direct contact between the County's agents and the injured party; and
4. evidence of a party's justifiable reliance on the County's affirmative undertaking.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed and their respective seals to be hereunto affixed by their duly authorized officers the day and year first above written.

**DIGITAL SIGNATURE PAGE**

**SCHEDULE A - FULL-TIME**

		9/1/2024 - 6/30/2025	
		Cost	
		Annual	1 FT SRO
[1]	Gross Salary	\$95,132	
[2]	Fringe Benefits	\$66,001	
	Subtotal Salary & Fringe at 100%	\$161,133	
	<b>Annual Average Cost for SRO</b>	<b>\$161,133</b>	
	Standard Monthly Rate		\$13,428
	Standard Hourly Rate		\$77.47
[3]	Overtime Hourly Rate		\$116.20
[4]	Anticipated School Cost for SRO      1,733 Hours	\$134,252	
[1]	Salary based on current contract - at top step for Full Time County Police Officer, assumes Tier 4 ERS.		
[2]	Fringe Benefits paid on Gross Wages for FT Deputy	2024	
	FICA	7.65%	
	WC	2.61%	
	Retirement	26.10%	
	Health & Dental Insurance, H.R.A./H.S.A.	33.02%	
		<u>69.38%</u>	
[3]	Overtime incurred by SRO for School related activities to be billed separately at this overtime rate.		
[4]	The deputy assigned to your detail may have selected a lesser benefit package or may be at a lower ERS rate. This represents the highest potential charge.		

**SCHEDULE A - PART-TIME**

		9/1/2024 - 6/30/2025	
		Cost	
		Annual	1 PT SRO
[1]	Gross Salary	\$44,101	
[2]	Fringe Benefits	<u>\$5,407</u>	
	Subtotal Salary & Fringe at 100%	\$49,508	
	<b>Annual Average Cost for SRO</b>	<b><u>\$49,508</u></b>	
	Standard Monthly Rate		\$4,126
	Standard Hourly Rate		\$45.84
[3]	Overtime Hourly Rate		\$68.76
[4]	Anticipated School Cost for SRO      1,040 Hours	<u>\$47,674</u>	
[1]	Salary based on current contract - at top step for Part Time County Police Officer, assumes deputy is retired from NYSERS.		
[2]	Benefits paid on Gross Wages for PT Deputy	2024	
	FICA	7.65%	
	WC	2.61%	
	Deferred Comp	2.00%	
		12.26%	
[3]	Overtime incurred by SRO for School related activities to be billed separately at this overtime rate.		
[4]	The deputy assigned to your detail may be paid at a lower rate of pay. This represents the highest potential charge.		

## ADDENDUM A

### PARENTS BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY

Parents (includes legal guardians or persons in parental relationships) and Eligible Students (student 18 years and older) can expect the following:

1. A student's personally identifiable information (PII) cannot be sold or released for any commercial purpose. PII, as defined by Education Law § 2-d and FERPA, includes direct identifiers such as a student's name or identification number, parent's name, or address; and indirect identifiers such as a student's date of birth, which when linked to or combined with other information can be used to distinguish or trace a student's identity. Please see FERPA's regulations at 34 CFR 99.3 for a more complete definition.
2. The right to inspect and review the complete contents of the student's education record stored or maintained by an educational agency. This right may not apply to parents of an Eligible Student.
3. State and federal laws such as Education Law § 2-d; the Commissioner of Education's Regulations at 8 NYCRR Part 121, the Family Educational Rights and Privacy Act ("FERPA") at 12 U.S.C. 1232g (34 CFR Part 99); Children's Online Privacy Protection Act ("COPPA") at 15 U.S.C. 6501-6502 (16 CFR Part 312); Protection of Pupil Rights Amendment ("PPRA") at 20 U.S.C. 1232h (34 CFR Part 98); the Individuals with Disabilities Education Act ("IDEA") at 20 U.S.C. 1400 et seq. (34 CFR Part 300); protect the confidentiality of a student's identifiable information.
4. Safeguards associated with industry standards and best practices including but not limited to encryption, firewalls, and password protection must be in place when student PII is stored or transferred.
5. A complete list of all student data elements collected by NYSED is available at [www.nysed.gov/data-privacy-security](http://www.nysed.gov/data-privacy-security) and by writing to: Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, NY 12234 or by telephone at (518) 474-0937.
6. To be notified in accordance with applicable laws and regulations if a breach or unauthorized release of PII occurs.
7. Educational agency workers that handle PII will receive training on applicable state and federal laws, policies, and safeguards associated with industry standards and best practices that protect PII.
8. Educational agency contracts with vendors that receive PII will address statutory and regulatory data privacy and security requirements.

Parents, eligible students (students who are at least 18 years of age or attending a postsecondary institution at any age), principals, teachers, and employees of an educational agency may file a complaint about a possible breach or improper disclosure of student data and/or protected teacher or principal data. This complaint form is submitted to Privacy Officer Lydia Schadler, at 1490 State Route 488, Clifton Springs, NY 14432, or in writing to the Chief Privacy Officer, New York State Education Department, Room 863 EBA, 89 Washington Ave., Albany, NY 12234.

## ADDENDUM B

### SUPPLEMENTAL INFORMATION ADDENDUM

1. **EXCLUSIVE PURPOSES FOR DATA USE:** The exclusive purposes for which “student data” or “teacher or principal data” (as those terms are defined in Education Law Section 2-d and collectively referred to as the “Confidential Data”) will be used by Ontario County (the “Contractor”) are limited to the purposes authorized in the contract between the Contractor and Phelps-Clifton Springs Central School District (the “School District”) dated September 1, 2023 (the “Contract”).
2. **SUBCONTRACTOR OVERSIGHT DETAILS:** The Contractor will ensure that any subcontractors, or other authorized persons or entities to whom the Contractor will disclose the Confidential Data, if any, are contractually required to abide by all applicable data protection and security requirements, including but not limited to, those outlined in applicable State and Federal laws and regulations (e.g., Family Educational Rights and Privacy Act (“FERPA”); Education Law § 2-d; 8 NYCRR § 121).
3. **CONTRACT PRACTICES:** The Contract commences and expires on the dates set forth in the Contract, unless earlier terminated or renewed pursuant to the terms of the Contract. On or before the date the Contract expires, protected data will be exported to the School District in format and/or destroyed by the Contractor as directed by the School District.
4. **DATA ACCURACY/CORRECTION PRACTICES:** A parent or eligible student can challenge the accuracy of any “education record”, as that term is defined in the FERPA, stored by the School District in a Contractor’s product and/or service by following the School District’s procedure for requesting the amendment of education records under the FERPA. Teachers and principals may be able to challenge the accuracy of APPR data stored by School District in Contractor’s product and/or service by following the appeal procedure in the School District’s APPR Plan. Unless otherwise required above or by other applicable law, challenges to the accuracy of the Confidential Data shall not be permitted.
5. **SECURITY PRACTICES:** Confidential Data provided to Contractor by the School District will be stored physically in the Office of the SRO at the School District and/or electronically on the School District’s computer system. The measures that Contractor takes to protect Confidential Data will align with the NIST Cybersecurity Framework, including but not necessarily limited to, disk encryption, file encryption, firewalls, and password protection.
6. **ENCRYPTION PRACTICES:** The Contractor will apply encryption to the Confidential Data while in motion and at rest at least to the extent required by Education Law Section 2-d and other applicable law.

## ADDENDUM C

### THIRD-PARTY DATA SECURITY AND PRIVACY PLAN

WHEREAS, the Phelps-Clifton Springs Central School District (hereinafter “School District”) and the County of Ontario (“Contractor”) entered into an agreement dated September 1, 2023, (hereinafter “Agreement”) for the provision of School Resource Officer services (hereinafter “Services”).

WHEREAS, pursuant to the requirements under 8 NYCRR § 121, Contractor maintains the data security and privacy plan described herein in connection with the Services provided to the School District.

1. During the term of the Agreement, Contractor will implement all state, federal and local data security and privacy requirements, consistent with the School District's Data Security and Privacy Policy in the following way(s):

*As a local government entity, Contractor actively works to maintain compliance with various data security and privacy requirements, and will comply with the School District’s Data Security and Privacy Policy when accessing and/or transmitting student data.*

2. Contractor has in place the following administrative, operational and technical safeguards and practices to protect personally identifiable information that it will receive under the Agreement:

*Contractor will not receive or store any personally identifiable information on County network resources. Contractor agrees to only access the School District’s Student Management System through a District device on the District’s computer network. Contractor agrees to only use the District-provided email address to communicate electronically regarding District matters in the course of providing School Resource Officer Service. Contractor agrees to comply with the District's Data Security and Privacy Policy when accessing the District’s computer system.*

3. Contractor shall comply with 8 NYCRR § 121 in that it acknowledges that it has reviewed the School District’s Parents Bill of Rights for Data Privacy and Security and will comply with same.

- a. Contractor will use the student data or teacher or principal data only for the exclusive purposes defined in the Agreement.
- b. Contractor will ensure that the subcontractor(s) or other authorized persons or entities to whom Contractor will disclose the student data or teacher and principal data, if any, will abide by all applicable data protection and security requirements as described in the “Supplemental Information” appended to the Agreement.
- c. At the end of the term of the Agreement, Contractor will destroy, transition or return, at the direction of the School District, all student data and all teacher and principal data in accordance with the “Supplemental Information” appended to the Agreement.
- d. Student data and teacher and principal data will be stored in accordance with the “Supplemental Information” appended to the Agreement.

e. Student data and teacher and principal data in motion and at rest will be protected using an encryption method that meets the standards described in 8 NYCRR 121.

4. Prior to receiving access to student data and/or teacher and principal data, officer(s) and employee(s) of Contractor and any assignees who will have access to student data or teacher or principal data shall receive training on the federal and state laws governing confidentiality of such data. Such training shall be provided:

*The School Resource Officer shall receive training from the School District at the start of the school year.*

5. Subcontractors: Contractor shall not utilize sub-contractors.

6. Contractor has the following procedures, plans or protocols in place to manage data security and privacy incidents that implicate personally identifiable information: *Procedures, plans or protocols must, at a minimum, specify plans to identify breaches and unauthorized disclosures, and to promptly notify the School District.*

*Contractor maintains various IT security policies and plans, including but not limited to a data breach notification policy. Contractor does not currently intend to receive or store any school district-related PII on County network resources.*

7. Termination of Agreement.

To the extent Contractor receives or stores PII, within 30 days of termination or expiration of the agreement without renewal, Contractor shall delete or destroy all student personally identifiable information in its possession.

8. In the event of a conflict between the terms of this Data Security and Privacy Plan and the terms of the Agreement, the terms of this Data Security and Privacy Plan shall control. All of the defined terms in the Agreement shall have the same definitions in the Data Security and Privacy Plan, unless otherwise defined herein. Except as expressly set forth in this Data Security and Privacy Plan, the terms and conditions of the Agreement shall remain unmodified and in full force and effect.

IN WITNESS WHEREOF, the Contractor hereto has executed this Data Security and Privacy Plan as of September 1, 2023.



# **Addendum D**

## Portable Audio/Video Recorders

### 423.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this office while in the performance of their duties. Portable audio/video recording devices include all recording systems whether body-worn, hand-held or integrated into portable equipment.

Where this policy explicitly references body-worn camera (or BWC), those terms shall apply to the authorized primary portable video and audio recording device issued to members of this Office. Where the body-worn camera (or BWC) is not specifically named as the recording device being referenced, those terms shall apply to all portable recording devices as previously described, including the BWC.

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at any Ontario County Sheriff's Office facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

### 423.2 POLICY

The Ontario County Sheriff's Office may provide members with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Office by accurately capturing contacts between members of the Office and the public.

### 423.3 BODY-WORN CAMERA COORDINATOR

The Sheriff or the authorized designee should designate a BWC coordinator responsible for:

- (a) Establishing procedures for the security, storage and maintenance of data and recordings.
- (b) Establishing procedures for accessing data and recordings.
- (c) Establishing procedures for logging or auditing access.
- (d) Establishing procedures for transferring, downloading, tagging or marking events.

All other data and recordings made on devices other than body-worn cameras shall be processed in accordance with the Property Room Policy.

See Body-Worn Camera Procedure

### 423.4 MEMBER PRIVACY EXPECTATION

All recordings made by members on any office-issued device at any time, and any recording made while acting in an official capacity of this office, regardless of ownership of the device it was made on, shall remain the property of the Office. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

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### **423.5 MEMBER RESPONSIBILITIES**

Prior to going into service, each uniformed member will be responsible for making sure that he/she is equipped with a portable body-worn camera (BWC), issued by the Office, and that the BWC is in good working order. If the BWC is not in working order or if the member becomes aware of a malfunction at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed members should wear the BWC in a conspicuous manner with an unobstructed front-facing view of their activity when in use.

Any member assigned to a non-uniformed position shall carry a body-worn camera unless in an undercover or other capacity where use the BWC or other recording device would not be conducive to the investigation or safety of the member. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner with an unobstructed front-facing view of their activity when in use.

Members should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the member de-activated the recording. Members should include the reason for de-activation.

### **423.6 ACTIVATION OF THE BODY-WORN CAMERA**

This policy is not intended to describe every possible situation in which the body-worn camera should be used, although there are many situations where its use is appropriate. Members shall have their BWC powered on at all times while conducting patrol activities and should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The recorder shall be activated in the following situations:

- (a) All enforcement and investigative contacts including stops and field interview situations, transports of incident involved subjects, and any other enforcement related activity.
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops.
- (c) Self-initiated activity in which a deputy would normally notify Dispatch.
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.

Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

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At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable.

Failure to activate, delayed activation, recording disruption, or camera malfunction which prevents or interrupts recording shall be documented on the appropriate Incident Report, or in memorandum to the Duty Sergeant if the enforcement activity did not result in an Incident Report. The Duty Sergeant shall review the documentation and take appropriate action as needed based on the circumstances and frequency of such occurrences by the member.

### 423.6.1 CESSATION OF RECORDING

Once activated, the BWC shall remain on until the event that prompted the activation has concluded and/or the member has physically left the scene, except that recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

If a member deviates from either full video & audio activation of the BWC for any of the above authorized reasons, they shall document such on the recording prior to deactivation or muting and in either the Incident Report if one is produced, or in memorandum to the Duty Sergeant if the situation does not result in an Incident Report.

### 423.6.2 MUTING OF BODY-WORN CAMERA

A BWC that is activated in accordance to the provisions of this policy, shall remain un-muted until the situation no longer fits the criteria for activation and/or the member has physically left the scene., or when in accordance to any other section of this policy.

Members involved in an arrest or detainment of an individual shall not deactivate or mute their BWC in the time frame immediately succeeding the arrest or detainment simply based on removing yourself from the proximity of the subject. Once a subject is arrested or detained, communications relevant to such arrest are subject to the rules of discovery and thus shall be considered enforcement activity requiring full video and sound activation of the BWC.

### 423.6.3 DISCRETIONARY RECORDING

In certain circumstances, members may have the discretion to continue to record, to not record, to record audio only, or mute the BWC audio based upon a weighing of legitimate law enforcement interests and an individual's privacy. Situations to include, but not limited to:

- (a) A potential witness who requests to speak to an officer confidentially or desires anonymity.
- (b) A victim or witness who requests that he/she not be recorded (audio or video) and the situation is non-confrontational.
- (c) A victim who requests that he/she not be recorded as a condition of cooperation and the interests of justice require such cooperation.

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If a member deviates from full video & audio activation of the BWC based on the authority of this policy section, they shall document such on the recording prior to deactivation or muting and in either the Incident Report if one is produced, or in memorandum to the Duty Sergeant if the situation does not result in an Incident Report.

#### 423.6.4 SURREPTITIOUS USE OF THE AUDIO/VIDEO RECORDER

New York law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission. Members may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation.

#### 423.6.5 EXPLOSIVE DEVICE

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

#### 423.6.6 LIVESTREAMING BODY-WORN CAMERAS

Livestreaming of another Member's BWC may only be authorized by a Supervisor and are limited to the following situations:

- (a) In tactical situations, to include, but not limited to, SWAT operations.
- (b) In an Officer Safety situation where an on-duty Member has not responded to repeated calls or status checks from dispatch.
- (c) At the request of a Member who wishes to have a Supervisor livestream his BWC under special circumstances.
- (d) By an Investigator for investigative purposes in a criminal case to which they have been assigned or assisting.
- (e) For any other reason or special circumstance as determined by the Sheriff or authorized designee.

In all situations, other than for Officer Safety issues, members being livestreamed should be notified prior to the livestream being initiated. Any member being livestreamed under the circumstances in this section will comply as directed and may not intentionally interrupt the livestream. Any question by a Member regarding the purpose of a livestream should afterwards be submitted to the BWC coordinator for review.

#### 423.6.7 CRITICAL INCIDENTS AND SPECIAL CIRCUMSTANCES

During critical incidents and other special circumstances, all activated BWC recordings shall continue uninterrupted until otherwise instructed by a supervisor. These situations include:

- (a) Officer-involved shootings.
- (b) In-custody deaths.
- (c) Member involved traffic crashes with fatalities or serious injuries.

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- (d) Serious injury or death of a member in the line-of-duty.
- (e) Active-shooter and/or mass casualty events.
- (f) Any other critical situation where a supervisor orders continuous activation of on-scene BWCs.

### **423.6.8 SCHOOL RESOURCE OFFICERS**

Members assigned to the position of a School Resource Officer shall abide by all provisions of this Policy, except that, while on school property, mandatory activation when interacting with students shall be more restrictive to criminal enforcement action or other activity which:

- (a) Constitutes a criminal offense, or there is reason to believe that such offense is about occur.
- (b) Becomes confrontational towards the SRO.
- (c) Requires, or there is reason to believe that it may require, Use of Force or any other physical contact, or verbal warning of physical contact for gaining compliance.

Body-worn cameras should not be activated by the School Resource Officer during normal everyday interactions with students or staff, or when encountering or assisting staff with a student whom is simply violating school policies or protocol, unless such activity is covered under any other sections of this policy where discretionary activation would be beneficial for the protection of the member and integrity of the Sheriff's Office, or other involved parties.

### **423.7 PROHIBITED USE OF PORTABLE RECORDERS**

Members are prohibited from using office-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in an official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with office-issued or personally owned recorders. Members shall not duplicate or distribute such recordings in any manner, except for authorized legitimate office business purposes. All such recordings shall be retained at the Office. Members shall not erase, alter, reuse, modify or tamper with any recording. Members will not allow citizens to review recordings unless authorized by a Supervisor.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of their supervisor. Any member who uses a personally owned recorder for office-related activities shall comply with the provisions of this policy, including retention and release requirements, and should notify the on-duty supervisor of such use as soon as reasonably practicable.

Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

It shall further be prohibited to use the body-worn camera or other portable recorder in the following manner:

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- (a) To intentionally record conversations of fellow members without their knowledge during routine, non-enforcement related activities, or communications with other law enforcement personnel unrelated to official duties.
- (b) In places where a reasonable expectation of privacy exists, such as: locker rooms, dressing rooms or restrooms, unless the recording is being made pursuant to an arrest or in search of the location or the individuals.
- (c) When conducting tactical planning.
- (d) While administering a DataMaster breath test during which time the recorder shall be powered off.
- (e) Encounters with undercover officers or confidential informants where the conversation would identify them as such. This does not include when members are engaging in enforcement-related activity where activation is required in accordance to the provisions of this policy.
- (f) In order to capture discussions between individuals with privilege, such as attorneys, members of the clergy, peer support counselors, and medical professionals.

### **423.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS**

To assist with identifying and preserving data and recordings, members shall download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report.

### **423.9 RETENTION OF RECORDINGS**

All recordings shall be retained for a period consistent with the requirements of the established records retention schedule but in no event for a period less than 180 days.

#### **423.9.1 RELEASE OF AUDIO/VIDEO RECORDINGS**

Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy.

Members may only release audio/video recordings to outside agencies without prior authorization when such recording is relevant to an arrest, criminal prosecution, or a verified criminal investigation being conducted by another law enforcement or prosecuting agency, or when otherwise authorized in this policy or the Body-Worn Camera Procedure.

### **423.10 REVIEW OF RECORDED MEDIA FILES**

When preparing written reports, members should review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time a recording involves or is relevant to a Use of Force incident, when they are investigating alleged misconduct or reports of

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meritorious conduct, or whenever such recordings would be beneficial in reviewing a member's performance.

Supervisors are further authorized to review recordings that may be beneficial for training purposes. If a recording is deemed as such, the Supervisor shall make a request to the Sheriff, or Sheriff's designee, with an explanation of the training benefits, and receive approval prior to using it as a training aid for uninvolved members.

Recorded files may also be reviewed:

- (a) By members assigned to criminal investigations where recordings from other members would be relevant to their investigation.
- (b) By any member of the Office who has been authorized to participate in an official administrative investigation, personnel complaint, or other administrative task where reviewing the recording would be relevant to the matter.
- (c) By any member of the Use of Force Review Committee in accordance to their assigned duties on said committee.
- (d) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (e) By media personnel with permission of the Sheriff or the authorized designee.
- (f) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.
- (g) By Sheriff designated members prior to sharing with other Federal, State, or Local agencies, or other County Departments as necessary for legitimate work-related purposes.
- (h) In any other circumstance where the Sheriff authorizes review of specific recordings by designated members.

All recordings should be reviewed by the County Attorney's Office prior to public release (see the Records Maintenance and Release Policy). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court (Public Officers Law § 89).

Any member viewing another member's BWC recording as authorized by this Policy, shall document the reason in the recording file on Evidence.com, except if doing so would be detrimental to the integrity of an administrative investigation, or violate the privacy of any member subject to the administrative investigation. In those circumstances, required documentation of the review should instead be completed in the administrative investigation report (see Personnel Complaints Policy).