

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2003, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

CITY OF PEMBROKE PINES,
(hereafter referred to as "Law Enforcement Agency")
a municipal corporation operating and existing
under the laws of the State of Florida,
whose principal place of business is
9500 Pines Boulevard,
Pembroke Pines, FL 330024

WHEREAS, SBBC has approved the Code of Student Conduct that contains a section providing for the use of "drug sniffing dogs" and has developed Procedures for Trained Animals in the Search of Student Areas; and

WHEREAS, Law Enforcement Agency is a law enforcement agency and has specially trained narcotics detection canines; and

WHEREAS, SBBC has asked the Law Enforcement Agency to assist SBBC in its implementation of the Code of Student Conduct through the use of Law Enforcement Agency's specially trained narcotics detection canines while following SBBC's Procedures for Trained Animals in the Search of Student Areas.

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 1 - 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 **Scope of Services.** SBBC's Executive Director of the Special Investigative Unit, or his/her designee, shall request in writing the assistance of the Law Enforcement Agency when the services of a specially trained narcotics detection canine is needed by SBBC at a facility within the Law Enforcement Agency's jurisdiction. The Law Enforcement Agency will review SBBC's request for assistance and determine whether the Law Enforcement Agency can fulfill SBBC's request for assistance. The Law Enforcement Agency, in its sole discretion, may decline to assist SBBC for any reason, including, but not limited to, personnel and/or canine availability.

2.02 **Scope of Searches.** Narcotics detection canines may be utilized to inspect cars parked on SBBC's property, desks, backpacks, lockers, book bags and gym bags. Narcotics detection canines will not be used to inspect students. Any deployment of narcotics detection canines will be in accordance with Florida law.

2.03 **Indemnification.** Each party agrees to be fully responsible for its acts of negligence, or its agent's acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence. Nothing contained in this Agreement is intended to serve as a waiver of sovereign immunity by any agency to which sovereign immunity may be applicable.

2.04 **Term.** This Agreement shall be effective when it is executed by both parties, and shall be in force for a period of one (1) year unless extended by written agreement of both parties or terminated as provided at Section 3.03 herein.

2.05. **Compensation.** Each party shall bear any and all costs associated with its performance of services under this Agreement.

2.06 **Records.** Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law.

2.07 **Administration of Agreement.** The provisions of this Agreement shall be administered by SBBC's Executive Director of the Special Investigative Unit and by **CHIEF OF POLICE** for the Law Enforcement Agency.

2.08 **Dispute Resolutions.** Any problems or issues regarding the implementation of this Agreement shall be resolved by the parties' staff taking the problem or issue up their respective chains of command.

2.09 **Applicable Standards.** This Agreement shall be governed by Florida and federal law. Nothing in this Agreement is intended to supersede any statutes as existing or as they may be amended. Each party shall comply with all applicable federal and state laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

2.10 This Agreement shall apply only to the use of specially trained narcotics detection canines in response to SBBC's requests for assistance. The parties expressly agree that the terms of this Agreement do not apply to the use of police canines by the Law Enforcement Agency on SBBC property in the event of a police emergency. In a police emergency, as defined solely by the Law Enforcement Agency, the use of police canines on SBBC property shall be at the sole discretion of the Law Enforcement Agency.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **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 contract.

3.02 **Non-Discrimination.** The parties shall not discriminate against any employee or participant in the performance of the duties, responsibilities and obligations under this Agreement because of race, age, religion, color, gender, national origin, marital status, disability or sexual orientation.

3.03 **Termination.** This Agreement may be canceled by SBBC during the term hereof upon thirty- (30) days written notice to the other parties of its desire to terminate this Agreement.

3.04 **Entire 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.

3.05 **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.

3.06 **Preparation of Agreement.** The parties acknowledge that they have sought and obtained whatever competent advise 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.

3.07 **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. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

3.08 **Governing Law.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

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

3.10 **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.

3.11 **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.

3.12 **Place of Performance.** All obligations under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be performable in Broward County, Florida.

3.13 **Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, unlawful, unenforceable or void in any respect, the invalidity, illegality, unenforceability or unlawful or void nature of that provision shall not effect any other provision and this Agreement shall be considered as if such invalid, illegal, unlawful, unenforceable or void provision had never been included herein.

3.14 **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 SBBC: Superintendent of Schools
The School Board of Broward County, Florida
600 Southeast Third Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director
Special Investigative Unit
The School Board of Broward County, Florida
7720 West Oakland Park Boulevard
Sunrise, Florida 33351

To Law Enforcement Agency: City of Pembroke Pines
Dan Giustino, Chief of Police
Pembroke Pines Police Department
9500 Pines Boulevard
Pembroke Pines, Florida 33024

With a Copy to: Samuel S. Goren, City Attorney
Name to be Provided by Other Party
3099 E. Commercial Blvd. Suite 200
Address
Ft. Lauderdale, FL 33308
Address

3.15 **Captions.** The captions, section numbers, article numbers, title and headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such articles or sections of this

Agreement, nor in any way effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.16 **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.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

ATTEST:

By _____
Lois Wexler, Chair

Franklin L. Till, Jr., Superintendent of Schools

Approved as to Form



School Board Attorney

AS TO CITY OF PEMBROKE PINES

(Official Seal)

ATTEST:

CITY OF PEMBROKE PINES


Eileen Tesh
EILEEN TESH, City Clerk

By *Alex G. Fekete*
ALEX G. FEKETE, Mayor

-or-

Witness

Witness

APPROVED AS TO FORM
AND LEGALITY
For the use and reliance of the
City of Pembroke Pines, Florida
only.

Z. Payne
City Attorney's Office