

ATTACHMENT “P”**AGREEMENT BETWEEN NIPSTA AND GLENVIEW SCHOOL DISTRICT #34****EMERGENCY USE AGREEMENT**

THIS AGREEMENT is entered into and effective this 13TH day of November, 2017, by and between the Board of Education of Glenview Consolidated School District No. 34, Cook County, Illinois (“District 34”) and the Northeastern Illinois Public Safety Training Academy (“NIPSTA”), Glenview, Illinois (NIPSTA and District 34 shall be collectively referred to as the “Parties”).

WITNESSETH

WHEREAS, District 34 maintains and operates eight (8) schools, as well as an administrative building and other school related properties, and desires to ensure the safety of students/participants and staff in its buildings; and

WHEREAS, at any given time, an emergency situation can occur that requires the need to evacuate Attea Middle School to an off-site location; and

WHEREAS, District 34 desires to engage the assistance of NIPSTA to provide a temporary safe haven for the students/participants, invitees, and employees of Attea Middle School during an emergency evacuation and NIPSTA desires to provide such assistance; and

WHEREAS, for the purposes of this Agreement an “Emergency Evacuation” shall be a situation in which the administration for District 34 decides to evacuate a portion or all of Attea Middle School due to an unforeseen event that threatens the safety of the students/participants, invitees, employees, and/or personal property (e.g., portable, sensitive or valuable property like money, keys, etc.) of District 34; and

WHEREAS, NIPSTA, as a public agency established by intergovernmental agreement that is comprised of local units of government that jointly provide for a public safety training facility consisting of a series of buildings and related properties located at 2300 Patriot Boulevard, Glenview, Illinois (“NIPSTA Campus”), desires to assist District 34 in ensuring the safety of the students/participants and staff and certain personal property in its buildings.

NOW, THEREFORE, in consideration of the promises and conditions as herein set forth, and for other good and valuable consideration, receipt of which is acknowledged, it is agreed to by and between District 34 and NIPSTA as set forth below:

1. **Incorporation of Recitals**. The representations, covenants, and recitations set forth in the recitals above are material to this Agreement and are herein incorporated into and made a part of this Agreement as though they were fully set forth herein.
2. **Use of NIPSTA**. NIPSTA shall permit students/participants, invitees, and employees and certain personal property of District 34 to seek refuge and have access to the NIPSTA Campus for the purpose of and use as a temporary shelter during an Emergency Evacuation of Attea Middle School and for as long as District 34 and NIPSTA mutually deem reasonably necessary. District 34 shall endeavor to give NIPSTA advance notice of its need to use the NIPSTA Campus. Use of the NIPSTA Campus shall be limited to available classrooms, restroom facilities and the cafeteria area of the Education Center. Students/participants, invitees and employees shall not be permitted to access the Field Training Facility or the outside training areas at any time. The Parties agree that students/participants, invitees and employees of District 34 will comply with all of NIPSTA’s applicable policies, procedures, directives, and instructions while at the NIPSTA Campus. Failure to comply with all of NIPSTA’s applicable policies, procedures, directives and instructions may result in the immediate termination of this Agreement in the sole discretion of the Executive Director of NIPSTA, or his/her designee.

3. **Supervision and Control.** Each Party to this Agreement shall provide for the direct supervision of its students/participants, invitees, and employees during an Emergency Evacuation.
4. **Term.** The initial term of this Agreement shall be for one (1) year commencing on the effective date stated above. At the expiration of the initial term, this Agreement will automatically renew for successive one (1) year periods unless a party provides the other party with written notice of its intent not to renew this Agreement at least ninety (90) days prior to the expiration of the then current term.
5. **Release, Hold Harmless and Indemnification.** The Parties agree as follows:
 - A. **District 34 – Release From Liability.** District 34 releases NIPSTA, and its officials, instructors/contractors, employees, volunteers and agents, and each of NIPSTA’s member entities, including specifically the Village of Glenview, (collectively, the “NIPSTA Affiliates”) from any and all damages, losses, claims, demands, lawsuits, actions and costs of any kind whatsoever that District 34 incurs that arise out of or relate to District 34’s use of the NIPSTA Campus under this Agreement, except to the extent that such bodily injuries, illnesses, death, damages, losses, claims, demands, lawsuits, actions and costs are due, in whole or in part to the grossly negligent or intentional acts or omissions of NIPSTA or the NIPSTA’s Affiliates.
 - B. **NIPSTA – Release From Liability.** NIPSTA and the NIPSTA Affiliates release District 34, its individual Board members, agents and employees from any and all damages, losses, claims, demands, lawsuits, actions and costs of any kind whatsoever that NIPSTA incurs that arise out of or relate to said Parties’ use of the NIPSTA Campus under this Agreement , except to the extent that such damages, losses, claims, demands, lawsuits, actions and costs are due, in whole or in part, to the grossly negligent or intentional acts or omissions of District 34, its individual Board members, agents and employees.
 - C. **Indemnification – District 34.** Subject to Paragraph 5.B, to the fullest extent permitted by Illinois law, District 34 shall indemnify, defend and hold harmless NIPSTA and NIPSTA’s Affiliates from all damages, liabilities, losses, claims, demands, lawsuits, actions and costs (including reasonable attorneys’ fees) of any kind, that arise out of or relate to District 34’s use of the NIPSTA Campus under this Agreement, except to the extent that such damages, liabilities, losses, claims, demands, lawsuits, actions and costs result, in whole or in part, to the negligent acts or omissions of NIPSTA or NIPSTA’s Affiliates.
 - D. **Indemnification – NIPSTA.** Subject to Paragraph 5.A, to the fullest extent permitted by Illinois law, NIPSTA shall indemnify, defend and hold harmless District 34, its individual Board members, employees and agents from all damages, liabilities, losses, claims, demands, lawsuits, actions and costs (including reasonable attorneys’ fees) of any kind, that arise out of or relate to the use of the NIPSTA Campus under this Agreement, except to the extent that such damages, liabilities, losses, claims, demands, lawsuits, actions and costs result, in whole or in part, to the negligent acts or omissions of District 34 its individual Board members, employees and agents.

6. Insurance. During the term of this Agreement, the Parties agree as follows:

- A. Each Party, at its cost, shall procure and maintain a commercial general liability insurance policy in the amount of at least One Million Dollars (\$1,000,000.00) per occurrence and at least Two Million Dollars (\$2,000,000.00) in the aggregate. District 34 shall name NIPSTA and the NIPSTA Affiliates, including specifically the Village of Glenview, as additional insureds on its commercial general liability insurance. Likewise, NIPSTA shall name District 34, its individual Board members, agents and employees as additional insureds on its commercial general liability insurance.
- B. Upon demand by either Party, the other party shall provide a certificate of insurance evidencing the insurance required hereunder. The insurance required under Paragraph 6.A. above shall be procured from an insurance company authorized to conduct business in Illinois with a current A.M. Best Credit Rating of at least A, or a similar rating by another nationally recognized insurance rating agency.
- C. Each Party's commercial general liability insurance policy shall specifically recognize and cover their indemnification obligation under this Agreement, and shall contain cross-liability endorsements.

7. General Terms.

- 8. Assignment. This Agreement shall not be altered, modified or amended except by written instrument signed by both Parties. Neither Party may assign this Agreement, in whole or in part, without the prior written approval of the other Party.
- 9. Force Majeure. Neither Party shall be liable in damages for any delay or default in performing its respective obligations under this Agreement if the delay or default is caused by conditions beyond its control. Such conditions include, but are not limited to, acts of God, government restrictions, strikes, fires, floods or work stoppages, or acts or failures to act of third parties, excluding acts or failures to act by the Parties or their respective Affiliates. So long as any such delay or default continues, the Party affected by the conditions shall keep the other Party at all times fully informed concerning the matters causing the delay or default and the prospects of their ending.
- 10. No Relationship Created; No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any relationship of partner, joint venture, employee or agent as between the Parties hereto, nor shall this Agreement be construed to create any rights in third parties.
- 11. Severability. If any provision of this Agreement is held unenforceable, the provision shall be severed and the remainder of this Agreement will continue in full force and effect. If any provision of this Agreement shall be held or deemed to be or shall in fact be inoperative or unenforceable as applied in any particular case in any jurisdiction or in all cases because it conflicts with any provision(s) hereof or any constitution, statute, ordinance, rule of law or public policy, or, for any reason, such circumstances shall not have the effect of rendering any other provision(s) contained herein invalid, inoperative or unenforceable to any extent whatsoever. The invalidity of any one or more phrases, sentences, clauses or sections contained in this Agreement shall not affect the remaining portions of this Agreement or any part hereof.

12. Compliance With The Law. The Parties to this Agreement shall comply with all applicable federal, state and local laws, rules and regulations in carrying out the terms and conditions of this Agreement, including the following:

- A. Certification. Each Party and its officers, corporate authorities, employees and agents certify that they are not barred from entering into this Agreement as a result of a violation of either 720 ILCS 5/33E-3 or 5/33E-4 (bid rigging or bid rotating) or 5/33E-6 (interference with contract submission and award by public official) or as a result of a violation of 820 ILCS 130/1 et seq. (the Illinois Prevailing Wage Act) or as a result of: (1) a delinquency in the payment of any tax administered by the Illinois Department of Revenue or any fee required by any unit of local government or the State, unless the Party is contesting, in accordance with the procedures established by the appropriate revenue act, its liability for the tax or the amount of the tax or the fee, as set forth in Section 11-42.1-1 et seq. of the Illinois Municipal Code, 65 ILCS 5/11-42.1-1 et seq. Each Party and its officers, corporate authorities, employees and agents further certify by signing this Agreement that the Party and its officers, corporate authorities, employees and agents have not been convicted of, or are not barred for attempting to rig bids, price-fixing or attempting to fix prices as defined in the Sherman Anti-Trust Act and Clayton Act. 15 U.S.C. § 1 et seq.; and has not been convicted of or barred for bribery or attempting to bribe an officer or employee of a unit of state or local government or school district in the State of Illinois in that officer's or employee's official capacity. Nor has any of the Parties and their officers, corporate authorities, employees and agents made admission of guilt of such conduct which is a matter of record, nor has any official, officer, agent or employee of the Parties been so convicted nor made such an admission.
- B. Non-Discrimination. Each Party and its officers, corporate authorities, employees and agents agree not to commit unlawful discrimination and agree to comply with all applicable provisions of the Illinois Human Rights Act, Title VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act, the Age Discrimination in Employment Act, Section 504 of the Federal Rehabilitation Act, and all applicable rules and regulations. Each Party maintains a written Sexual Harassment Policy in compliance with Section 2-105 of the Illinois Human Rights Act (775 ILCS 5/2-105(A)(4)). Each Party certifies that it is an "Equal Opportunity Employer" as defined by federal and State laws and regulations, and agrees to comply with the Illinois Department of Human Rights ("IDHR") Equal Opportunity Employment clause as required by the IDHR's Regulations (44 Ill. Admin. Code, Part 750, Appendix A). As required by Illinois law and IDHR Regulation, the Equal Opportunity Employment clause is incorporated by reference in its entirety as though fully set forth herein. Each Party certifies that it agrees to comply with the Prohibition of Segregated Facilities clause, which is incorporated by reference in its entirety as though fully set forth herein. See, Illinois Human Rights Act (775 ILCS 5/2-105). See also, Illinois Department of Human Rights Rules and Regulations, Title 44, Part 750. Administrative Code, Title 44: Government Contracts, Procurement and Property Management, Subtitle B: Supplemental Procurement Rules, Chapter X: Department of Human Rights, Part 750: Procedures Applicable to All Agencies, Section 750.160: Segregated Facilities (44 Ill. Admin. Code 750.160)
- C. Illinois Freedom of Information Act. The definition of a public record in the Freedom of Information Act (5 ILCS 140/1 et seq.) ("FOIA") includes a "public record that is not in the possession of a public body but is in the possession of a party with whom the agency has contracted to perform a governmental function on behalf of the public body and that directly relates to the governmental function and is not otherwise exempt under this Act." (5 ILCS

140/7(2). Consequently, the Parties must maintain and make available to the other Parties, upon request, their public records relating to the performance of this Agreement in compliance with the requirements of the Local Records Act (50 ILCS 205/1 et seq.) and FOIA.

13. Waiver. The failure of either Party at any time to enforce any provision of this Agreement shall not constitute a waiver of that Party's right to later enforce the provision or all terms of this Agreement.
14. Counterparts/Facsimile/Email Signatures. This Agreement may be signed in counterparts, all of which together constitute the Agreement. Facsimile or emailed signatures shall constitute original signatures for all purposes.
15. Governing Law/Venue. This Agreement shall be governed by the laws of the State of Illinois. The Parties agree that the venue for all disputes, claims and lawsuits arising between the Parties under this Agreement shall be either the Circuit Court of Cook County, Illinois (Chicago/Daley Center) or the United States District Court, Northern District of Illinois (Chicago) and that either court system shall have jurisdiction of such matters and each Party consents to either Court's exercise of jurisdiction.
16. No Personal Liability. No member, official, employee or agent of NIPSTA or District 64 shall be individually or personally liable in connection with this Agreement.
17. Notice. Upon execution of this Agreement, the following individuals will represent the Parties as a primary contact in all matters under this Agreement:

For District 34:

Dr. _____, Superintendent

Glenview School District 34

_____ Avenue

Glenview, Illinois 600

Phone: (847)-_____

Fax:

Email:

For NIPSTA:

Jill Ramaker, Executive Director

Northeastern Illinois Public Safety Training Academy

2300 Patriot Boulevard

Glenview, Illinois 60026

Phone: (847) 998-8090

Fax: (847) 998-8091

Email: jramaker@nipsta.org

Each Party agrees to promptly notify the other Party of any change in its designated representative, which notice shall include the name, address, telephone number, fax number and email address of the representative for such Party for the purpose hereof. Any notice to be sent under this Agreement may be sent via Certified U.S. Mail Return Receipt Requested, personnel delivery, messenger delivery, overnight express delivery, facsimile or email.

18. **Amendment and Entire Agreement.** This Agreement may only be amended by written agreement of both parties. This Agreement represents the entire agreement between the parties to the subject matter hereof and supersedes any prior negotiations between the parties.

19. **Governing Laws and Interpretation.** This Agreement shall be governed by the laws of the State of Illinois. Any action to enforce the terms of this Agreement shall be brought in the Cook County Circuit Court or the U.S. District Court for the Northern District of Illinois, Eastern Division.
20. **Execution.** This Agreement may be executed in counterparts, including facsimile and email counterparts, and all such executed counterparts, including counterparts with email or facsimile signatures, together shall constitute one original Agreement which shall be binding upon all the parties. This Agreement shall be effective on the latest of the dates indicated below.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date set forth above.

**NORTHEASTERN ILLINOIS PUBLIC
SAFETY TRAINING ACADEMY**

**BOARD OF EDUCATION OF
GLENVIEW COMMUNITY
CONSOLIDATED SCHOOL DISTRICT NO.
34, COOK COUNTY, ILLINOIS**

By: _____
Jill Benson Ramaker
Executive Director

By: _____

Date: _____

Date: _____

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APPROVED BY THE NIPSTA BOARD OF DIRECTORS, NOVEMBER 2017

ORIGINAL SIGNED COPY AVAILABLE IN THE NIPSTA EXECUTIVE DIRECTOR'S OFFICE