

SHARED SERVICES AGREEMENT

THIS AGREEMENT made this 7th day of November, 2017, between the MONTGOMERY TOWNSHIP BOARD OF EDUCATION, which has offices located at 1014 Route 601, Skillman, New Jersey 08558, ("the Board"), and the TOWNSHIP OF MONTGOMERY, in Somerset County, a municipal corporation of the State of New Jersey, which has offices located at 2261 Van Horne Road, Belle Mead, New Jersey 08502 ("the Township").

WITNESSETH:

WHEREAS, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1 to 35, authorizes public entities to enter into a contract with each other to share services which the entities are empowered to provide or receive within their own jurisdictions, including services incidental to the primary purposes of any of the participating public entities; and

WHEREAS, the Board operates the Montgomery Township School District ("the District") and owns property (Block 19001, Lot 8.34), upon which Montgomery Upper Middle School is situated, and that, among other things, includes ten (10) tennis courts(the "Tennis Courts"); and

WHEREAS, the Board currently allows the Township use of the Tennis Courts for recreational activities; and

WHEREAS, the Board and the Township are desirous of memorializing the parties' responsibilities with regard to the repair and maintenance of the Tennis Courts and the Township's use of the Tennis Courts.

NOW, THEREFORE, based on the foregoing premises and the mutual promises and covenants contained herein the parties agree as follows:

1. Services to be Performed

a. The Board shall allow the Township access to and use of the Tennis Courts for recreational purposes. The Board shall have the exclusive and unconditional use of the Tennis Courts on weekdays until 3:30 p.m. while school is in session. The Township shall have use of the Tennis Courts after 3:30 p.m. on weekdays while school is in session, during daylight hours on Saturdays and Sundays, and on days when school is not in session. In the event the Board shall need to use the Tennis Courts for a special, non-recurring event during the designated

times of use for the Township, the Board shall give the Township at least seven (7) days advance notice except where the circumstances requiring said special, non-recurring use are unforeseeable, and the Board's need shall take priority over the Township's use.

b. The Board and the Township shall each pay one-half of the cost to reconstruct eight (8) tennis courts and to resurface two (2) tennis courts in accordance with the plans and specifications that have been approved by the parties. The Township will pay its share on a schedule coincident with the bid documents. Each time the contractor is entitled to a payment, the Township will pay its one-half share of the amount due to the contractor. There shall be no change orders unless mutually agreed to by the Board and the Township.

c. The Board shall, at its own cost and expense, cause all maintenance, litter clean-up, and repair work, including but not limited to re-coating, sealing and/or filling of cracks and holes, re-painting, repairing and/or replacing nets and hardware fasteners, repairing and/or replacing windscreens, and repairing fencing on or around the Tennis Courts to be performed. The cost of any full reconstruction, complete resurfacing, or replacement of fencing of the Tennis Courts made during the term of this Agreement shall be shared equally by the parties, provided that the parties have conferred and agreed upon the specifications for the full reconstruction, complete resurfacing, or fence replacement, and budgeted adequate funds for such work. The Board shall obtain a design for the required improvements to the Tennis Courts, including plans and specifications, and will solicit bids or quotations, where applicable, pursuant to the Public School Contracts Law, N.J.S.A. 18A:18A-1 to 59.

## 2. Standards and Performance

a. As to Township-scheduled recreational activities and programs, the Township will ensure that the Tennis Courts are used in a safe and appropriate manner, and in compliance with all applicable federal, state, and municipal laws. As to Board activities, the Board will ensure that the Tennis Courts are used in a safe and appropriate manner, and in compliance with all applicable federal, state, and municipal laws.

b. The Board and Township shall perform their respective tasks to maintain the Tennis Courts in a good and workmanlike manner to ensure the least possible interference with the use of the Tennis Courts.

c. The Township agrees that it will be responsible for the coordination and scheduling of those recreational activities and programs that anticipate using the Tennis Courts, and that the Township may charge fees therefor; however, no fees shall be charged for unscheduled resident use of the Tennis Courts. It is understood that the intended use of the Tennis Courts is for Board educational and athletic activities, Township-scheduled recreational activities and programs, and residents' use, and that the Board shall have the right to deny the use of said Tennis Courts to others.

d. For projects relating to the improvement of the Tennis Courts, the Board shall take all necessary steps to undertake the proposed improvements to the tennis courts in accordance with the Public School Contracts Law, N.J.S.A. 18A:18A-1 to 59. The Board shall also administer all contracts associated with such projects including, but not limited to, supervision of work, contract management, inspections, review and approval of all vouchers.

### 3. Costs and Payments

a. The Township shall pay the Board its fifty percent (50%) share of the costs for reconstruction and repaving of the Tennis Courts within thirty (30) days of the date the contract is awarded by Board resolution to perform such work.

b. Both parties agree to make payment directly to any contractor which it uses for the respective services the parties are obligated to provide under this Agreement. The Board and the Township shall each pay one-half of the cost to reconstruct eight (8) tennis courts and to resurface two (2) tennis courts in accordance with the plans and specifications that have been approved by the parties. The Township will pay its share on a schedule coincident with the bid documents. Each time the contractor is entitled to a payment, the Township will pay its one-half share of the amount due to the contractor. There shall be no change orders unless mutually agreed to by the Board and the Township.

### 4. Duration

a. This Agreement shall commence on November 7, 2017 and end on November 7, 2037. This Agreement may be renewed for an additional five (5) years with the mutual written consent of both parties. A party seeking to renew the Agreement for an additional five (5) years shall notify the other, in writing, no

later than 60 days prior to the date of termination of the Agreement.

b. This Agreement may be terminated for cause by either party after giving written notice of such cause for termination to the other party and other party's failure of cure the default within seven (7) business days of receiving such written notice. In the event this Agreement is terminated by the Board in accordance with this paragraph, the Township shall remain responsibility for payments owed under paragraph 3.a. and 3.b. for projects awarded by the Board prior to the date of the Board's notice of termination.

#### 5. Indemnification and Insurance

a. The Township assumes all liability for, and agrees to indemnify and hold the Board and its agents, servants, employees, students, guests, licensees and invitees, harmless from and against any and all claims, losses, damages, injuries and expenses, including reasonable attorney's fees, arising out of, resulting from, or incurred in connection with, any acts or omissions by the Township, its agents, servants, employees, guests, licensees and invitees, related to the performance of the Township's obligations under the terms of this Agreement.

b. The Board assumes all liability for, and agrees to indemnify and hold the Township and its agents, servants and employees, harmless from and against any and all claims, losses, damages, injuries and expenses, including reasonable attorney's fees, arising out of, resulting from, or incurred in connection with, any acts or omissions by the Board, its agents, servants or employees related to the performance of the Board's obligations under the terms of this Agreement.

c. The Township and the Board shall maintain the following liability insurance coverage:

- a. Property damage coverage of at least \$1,000,000 per occurrence/\$2,000,000 aggregate; and
- b. Bodily injury coverage of at least \$1,000,000 per person/\$1,000,000 per occurrence/\$2,000,000 aggregate.

The Township and the Board shall furnish to each other a certificate of insurance for each policy period, and shall also name each other as an additional insured on their policies.

6. Merger

This Agreement merges and supersedes all prior negotiations, representations and/or agreements between the parties relating to the subject matter of this Agreement and constitutes the entire contract between the parties.

7. Modification

This Agreement may only be modified by an instrument in writing signed by both parties to the Agreement.

8. Waiver

No waiver by either party of any term or condition of this Agreement shall be deemed or construed to constitute a waiver of any other term or condition or of any subsequent breach, whether of the same or a different provision of this Agreement. Neither party may waive any of its rights or any obligations of the other party or any provision of this Agreement except by an instrument in writing signed by that party.

9. Severability

If any of the provisions contained in this Agreement are held illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

10. Notice

All notices pertaining to the Agreement shall be in writing, and delivered in person or sent certified mail to the parties at the following address:

For the Board:

Business Administrator/Board Secretary  
Montgomery Township Board of Education  
1014 Route 601  
Skillman, New Jersey 08558

For the Township:

Township Administrator  
Montgomery Township  
Municipal Building  
2261 Van Horne Road  
Belle Mead, New Jersey 08502

11. Governing Law

This Agreement shall be governed, construed and interpreted in accordance with the law of the State of New Jersey as it applies to contracts made and performed in New Jersey. The Superior Court of the State of New Jersey, in the County of Somerset, shall have jurisdiction to hear and determine any claims or disputes pertaining directly or indirectly to the Agreement or to any matter arising therefrom. Each of the parties hereby expressly submits and consents in advance to such jurisdiction in any action or proceeding commenced by the other in such court.

12. Assignment

Neither party may transfer or assign any of its rights or obligations under this Agreement without the prior written consent of the other, and any such transfer or assignment or attempt thereat shall be null and void.

13. Section Headings

Section headings are for reference purposes only and shall not in any way affect the meaning or interpretation of any provision of this Agreement.

14. Counterparts

This Agreement may be executed in any number of counterparts, which, taken together, shall constitute but one instrument. It is not necessary that all parties sign all or any one of the counterparts, but each party must sign at least one counterpart for the Agreement to be effective.

15. Public Inspection

A copy of this Agreement shall be available for public inspection at the offices of both parties immediately after passage of a resolution to become a party to the Agreement in accordance with N.J.S.A. 40A:65-5(b).

**(THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK)**

IN WITNESS WHEREOF, the parties have hereunto set their hand and seals the day and year first above written.

ATTEST:

MONTGOMERY TOWNSHIP

By: \_\_\_\_\_  
Donna Kukla,  
Township Clerk

By: \_\_\_\_\_  
Ed Trzaska  
Mayor

ATTEST:

MONTGOMERY TOWNSHIP BOARD OF  
EDUCATION

By: \_\_\_\_\_  
Annette M. Wells  
Business Administrator/  
Board Secretary

By: \_\_\_\_\_  
Richard T. Cavalli  
Board President