

SHARED SERVICES AGREEMENT
between the
BERKELEY HEIGHTS BOARD OF EDUCATION
and the
TOWNSHIP OF BERKELEY HEIGHTS
for
VEHICLE MAINTENANCE

This SHARED SERVICES AGREEMENT (“Agreement”) is made and entered into this 12th day of October, 2023, by and between the parties hereto:

THE TOWNSHIP OF BERKELEY HEIGHTS, a New Jersey municipal corporation with address at 29 Park Avenue, Berkeley Heights, New Jersey 07922 (hereinafter the “Township”); and

THE BERKELEY HEIGHTS BOARD OF EDUCATION, having offices at 345 Plainfield Avenue, Berkeley Heights, New Jersey 07922 (hereinafter the “Board of Education”).

WITNESSETH

WHEREAS, the Township and the Board of Education have reviewed their needs, resources and personnel and have found that they can assist each other at considerable savings to the taxpayers of the Township of Berkeley Heights, and

WHEREAS, it would be in the best interest of the residents of the Township to enter a Shared Services Agreement for the exchange of services and various other opportunities such as the Township providing repair and maintenance services for the Board of Education vehicles; and

WHEREAS, the Township and the Board of Education are authorized to enter into this Shared Services Agreement pursuant to the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1, et seq.; and

WHEREAS, the Township and the Board of Education hereby wish to enter into this Shared Services Agreement.

NOW, THEREFORE, for and in the good and valuable consideration in hand paid, receipt of which is hereby acknowledge, and in consideration of the mutual covenants and obligations

hereinafter set forth, the Township and the Board of Education hereby agree to and with each other as follows:

- 1. Services to be Provided.** The Township hereby agrees to provide, through the Township's Public Works Department, regular vehicular maintenance, and repair services for the Board of Education's vehicles similar to such services on the Township vehicles. Prior to performing any maintenance or repairs, the Township's Public Works Department shall provide a written estimate for the costs of such maintenance or repairs for each vehicle pursuant to the terms of Section 2 herein below. The Township's labor hours required to assess each vehicle and prepare the written estimate may be included in the costs to make such maintenance or repair.

All of the Township services set forth herein are to be scheduled and performed by Township staff and personnel, thus are subject to the availability of the township staff and personnel to perform such services. The Township shall not be required to hire additional staff or personnel, or contract with outside firms or individuals in order to perform any of the services identified herein. The Township expressly reserves the right to refuse to provide any service which it can no longer perform due to staff or personnel availability.

- 2. Consideration.** In exchange for the services provided by the Township set forth in Section 1 hereinabove, the Board of Education agrees to pay the Township the cost of the parts necessary to complete the vehicular maintenance and repair, at the Township's actual cost for such parts, along with a rate of \$35.00 per hour to cover the Township's labor costs. Payment for services rendered shall be made by the Board of Education to the Township within thirty (30) days from receipt of the voucher/invoice for said services from the Township.

Pursuant to N.J.S.A. 40A:65-7(g), in the event of any dispute as to the amount to be paid under this Agreement, the voucher/invoice shall be paid in full by the Board of Education; however, if through subsequent negotiation, mediation, arbitration or litigation, the amount due shall be determined, agreed or adjudicated to be less than was actually so paid, then the Township shall repay the excess to the Board of Education.

- 3. Term.** Pursuant to N.J.S.A. 40A:65-7(a)(4), this Agreement shall be for a term of three (3) years, from September 1, 2022 through August 1, 2025, or until such time as either party notifies the other, in writing, at least thirty (30) days in advance of the intent to terminate this Agreement, or if this Agreement is otherwise terminated pursuant to the terms herein.
- 4. Insurance.** The Township and the Board of Education shall maintain appropriate automobile and liability insurance coverage; and annually provide a copy of its insurance certificate, naming the other party as an additional insured with regard to the

use and maintenance of the Board of Education's vehicles. Minimum acceptable limits for bodily injury and property damage are \$1,000,000.00 each occurrence and \$3,000,000.00 aggregate.

- 5. Indemnification.** The Board of Education, its successors, assigns, contractors, agents, servants, officers, employees, designees, guests and invitees, shall indemnify, defend and hold harmless the Township, its successors and assigns, elected officials, officers, employees, servants, contractors, designees and invitees, from and against any and all claims, demands, suits, actions at law or equity or otherwise, judgments, arbitration determinations, damages, liabilities decrees of any person(s) or entities related to the Board of Education's use of its vehicles, which duty to indemnify, defend and hold harmless shall commence immediately upon assertion of a claim against the Township. This indemnification shall not include any claim arising from any willful negligence on behalf of the Township officers and employees, in connection with the vehicular maintenance and repair services provided under this agreement. This indemnification shall specifically include, but not be limited to, any and all costs, reasonable attorney's fees, court costs and any other expenses that may be incurred by the Township in connection with any and all claims, demands, suites, actions at law or equity or otherwise and/or arbitration proceedings which may arise in connection with the Board of Education's project(s). The Board of Education, upon notice from the Township, shall resist and defend, at the expense of the Board of Education, any legal action or proceeding brought against the Township and/or its officers, employees, representatives and/or agents with counsel selected in the sole discretion of the Township. In addition, at its option, the Township may engage separate counsel to appear on its behalf in such action or proceeding without waiving its rights or the Board of Education's obligation under this Agreement.

The Township, its successors and assigns, elected officials, officers, employees, servants, contractors, designees and invitees, shall indemnify, defend and hold harmless the Board of Education, its successors and assigns, from and against any and all claims, demands, suits, actions at law or equity or otherwise, judgments, arbitration determinations, damages, liabilities, decrees or any person(s) or entities that may arise during the Township's officers and employees performance of vehicular maintenance and repair services provided under this Agreement. This indemnification shall cease the moment the Board of Education accepts the vehicles and takes same from the Township.

- 6. Termination.** If either party breaches this Agreement, the other party may terminate this Agreement after providing thirty (30) days notice to the breaching party, providing such breaching party 30 days to cure any such breach. If the breach cannot be cured within 30 days, and the parties do not mutually agree to an extension thereof, the non-breaching party may terminate this Agreement and seek all appropriate legal redress.

7. **Assignment.** This Agreement shall not be assigned by either party.

8. **Notices.** All notices under this Agreement must be in writing. The notices must be sent via fax and regular mail simultaneously, or by certified mail, return receipt requested, or by an overnight delivery service of good repute, to the other party, at the addresses identified herein.

For the Township: Township Administrator
Township Clerk
29 Park Avenue
Berkeley Heights, NJ 07922

With a copy to: Kraig Dowd, Esq.
Weber Dowd Law, LLC
365 Rifle Camp Road
Woodland Park, NJ 07424

For the Board of Education: H. Ronald Smith
Interim School Business Administrator
345 Plainfield Avenue
Berkeley Heights, NJ 07922

With a copy to: Matthew J. Giacobbe, Esq.
Cleary, Giacobbe, Alfieri, Jacobs, LLC
169 Ramapo Valley Road
Upper Level 105
Oakland, New Jersey 07436

The time at which any notice or demand shall be deemed given or served shall be the time at which such notice or demand is delivered, whether or not such delivery is refused. Any notice may also be delivered personally. The parties may designate by notice, in writing, a new or other address to which such notice or demand shall thereafter be so given, made or mailed.

9. **Miscellaneous.** This Agreement contains the entire understanding of the parties. This Agreement may not modify or amended except by mutual agreement between the parties incorporated in writing and signed by the parties. This Agreement shall be construed in accordance with the laws of the State of New Jersey. In the event that any provision of the Agreement is deemed to be illegal by any Court or agency of competent jurisdiction, then the remaining provisions shall continue in full force and effect. In the event of any conflict between the terms, conditions, and provision of this Agreement and the provision of the parties' policies or any permissive State and/or Federal law, then, unless otherwise prohibited by law, the terms of this Agreement shall take

precedence over the contrary provisions of each entities policies or any such permissive laws during the Agreement term.

10. Pursuant to N.J.S.A. 40A:65-4(b), a copy of this Agreement shall be filed, for informational purposes, with the Division of Local Government Services in the Department of Community Affairs.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals, or caused this Agreement to be signed by the proper corporate officers and their corporate seal to be set hereto.

ATTEST:

TOWNSHIP OF BERKELEY HEIGHTS


Ana Minkoff
Township Clerk

Angie D. Devanney
Mayor

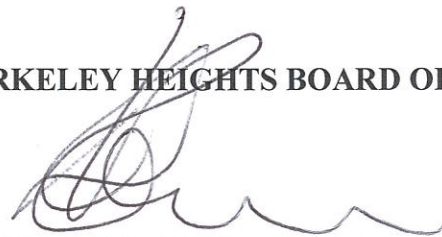
Date: _____

ATTEST:

BERKELEY HEIGHTS BOARD OF EDUCATION



H. Ronald Smith
Interim School Business
Administrator/
Board Secretary



Angela Penna
President, Board of Education

Date: 10/20/2023