

**SHARED SERVICES AGREEMENT
FOR THE PROVISION OF INTERNET SERVICES**

This SHARED SERVICES AGREEMENT (this "Agreement") between the Township of Randolph, in the County of Morris, New Jersey, a municipal corporation of the State of New Jersey (the "Township"), and The Board of Education of the Township of Randolph in the County of Morris, New Jersey, a school district and political subdivision of the State of New Jersey (the "Board" or "District") (collectively the "Parties"), dated as of December 1, 2012.

WITNESSETH:

WHEREAS, the Township and Board have long worked in cooperative spirit to meet the short and long term needs of Randolph; and

WHEREAS, the Township has the need for internet services at its Municipal Building; and

WHEREAS, the Board currently provides internet access services to its buildings, students and staff via its technology department; and

WHEREAS, the Board has excess internet bandwidth resulting in an under-utilization of its internet services capacity; and

WHEREAS, N.J.S.A. 40A: 65-1 et seq., authorizes and encourages a municipality and a board of education to enter into contracts for the joint provision within their jurisdictions of any service which either party to Agreement is empowered to render within its own jurisdiction; and

WHEREAS, the provision of internet access services by the Board to the Township Municipal Building can be accomplished effectively through this Agreement; and

WHEREAS, the Township has approved the execution of this Agreement by resolution adopted on March 15, 2012.

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. Basic Agreement.

The Board agrees to provide 20 megabytes per second of internet bandwidth ("Services") for use by the Township at the Municipal Building during the term of this Agreement.

2. Term of Agreement and Compensation.

This Agreement will last 36 months, commencing on December 1, 2011, and terminating on November 30, 2014. The Township will pay the District \$1,300 per month (\$46,800 total) for the term of this Agreement. Payment shall be made quarterly.

3. Connection.

The Township, as a condition precedent of this Agreement, shall contract with a third-party vendor to install and maintain a network connection between the Municipal Building and the District's technology building. All costs associated with installation

and/or maintenance of this connection shall be borne by the Township solely and completely. The third-party vendor selected by the Township shall be approved by the District to ensure that the network connection is compatible with District facilities.

4. Permitted Users.

The Township, its officers, employees and agents shall be considered "Permitted Users" and shall be allowed to utilize the Services as provided for in this Agreement.

5. System Availability.

- a. General. The Board shall endeavor to make the Services available to the Township and its Permitted Users on a 24 hours a day, 7 days a week basis, except in the case of regularly scheduled maintenance downtime.
- b. Regularly Scheduled Maintenance. Services may not be available during periods of regular District scheduled maintenance. The District will provide Township Network Administrator with 2 days notice of such maintenance. The Board will make efforts to schedule maintenance for off-peak usage periods/overnight to avoid unnecessary impact to the Services. The Township shall not be entitled to any credit against monthly fees as a result of regularly scheduled maintenance downtime.
- c. Unforeseen Services Outage. The Parties acknowledge that the Services may occasionally be interrupted because of unforeseen problems with the District's computer systems. The Township shall not be entitled to any credit against monthly fees because of an unforeseen Services outage, except where such outage lasts for longer than 4 consecutive hours. In such case, the Township shall be entitled to a credit for each hour the Services are interrupted at the applicable hourly rate.
- d. Failure of District's Internet Services Provider/Force Majeure. The Parties acknowledge that the Services may be interrupted for reasons beyond the District's control, including but not limited to a failure of the District's internet services provider to provide internet access. In such case, the Township shall not be entitled to any credit against monthly fees, except where the District receives compensation as a result of said failure (for example, a credit by the District's internet services provider). In such case, the Township shall receive a credit for the downtime as set forth in paragraph (c) above.
- e. Chronic Outage. In the event that the Services are interrupted for 48 consecutive hours or more for reasons other than regularly scheduled maintenance, the Township may terminate this Agreement upon 7 days written notice to the District.
- f. Measuring the Outage. For purposes of this Section 5, the time of a Services outage shall be measured from the time the Township's Network Administrator advises the District of the interruption in Services.

6. Quality of Service.

No guarantee is made concerning the Services' latency, jitter and/or packet loss.

7. No Liability for Use of Services by Township.

The Township and its Permitted Users shall use the Services in accordance with all applicable local, state and federal laws, including but not limited to laws relating to copyright and trademark. The District is not responsible for the content uploaded or downloaded by the Township or its Permitted Users through the use of the Services, and the Township indemnifies, releases and holds the District harmless for any inaction or action taken by the Township in connection with such content to the fullest extent possible.

8. Malicious and/or Abuse of Services.

The Township and its Permitted Users shall use the Services in a reasonable and customary manner and will not take any action, intentionally or otherwise, that disrupts, impairs, harms, or attempts to disrupt or impair or harm the Services or the District's computer systems and/or network. The Township and its Permitted Users will not take any action that causes the Township to exceed its authorization to use the Services under this Agreement, including but not limited to attempting to or actually exceeding the bandwidth provided by the Services. In the event of any of the foregoing, the District reserves the right to suspend Township access to the Services (whether on an individual Permitted User or wider basis) and/or to terminate this Agreement, in the District's sole discretion.

9. Monitoring of Services Traffic.

The District reserves the right to monitor and examine all network traffic occurring through the use of or in connection with the Services.

10. Township Network Administrator.

The Township shall designate one or more individuals as "Network Administrator(s)." This/these individual(s) shall be the Township's authorized representative(s) and contact person(s) for communication with the District's technology department for all matters relating to the Services.

11. Mutual Technical Support.

The Board and Township shall work cooperatively to rectify any problem with the Services should they arise.

12. Use of the Services – WAP/WiFi.

The Township shall be allowed to provide its Permitted Users with secured, wireless access to the Services. The provision of an unsecured wireless access point (WAP) or WiFi access to the general public is prohibited.

13. Indemnification and Hold Harmless.

To the greatest extent permitted by the laws of the State of New Jersey, the Township shall (a) indemnify and save harmless the Board and its agents, employees, officers and

directors from and against claims, demands, liabilities, damages, losses, costs, charges and any and all expenses (including but not limited to reasonable attorney's fees) that the Board may incur or be subject to as a consequence directly or indirectly, of any breach or non-performance by the Township of its obligations under this Agreement, or a willful or negligent act of the Township in connection with such performance or non-performance, operation and condition, or otherwise arising out of the District's provision of the Services, and (b) reimburse the Board for all losses, costs, charges, and expenses (including reasonable attorney's fees) that the Board may incur or be subject to as a consequence, directly or indirectly, of involvement in any legal proceeding or action relating to the foregoing.

To the greatest extent permitted by the laws of the State of New Jersey, the District shall (a) indemnify and save harmless the Township and its agents, employees, officers and directors from and against claims, demands, liabilities, damages, losses, costs, charges and any and all expenses (including but not limited to reasonable attorney's fees) that the Township may incur or be subject to as a consequence directly or indirectly, of any breach or non-performance by the Board of its obligations under this Agreement, or a willful or negligent act of the Board in connection with such performance or non-performance, operation and condition, or otherwise arising out of the District's provision of the Services, and (b) reimburse the Township for all losses, costs, charges, and expenses (including reasonable attorney's fees) that the Township may incur or be subject to as a consequence, directly or indirectly, of involvement in any legal proceeding or action relating to the foregoing.

14. No Assignment.

The rights and the obligations under this Agreement shall not be assigned by either party without the written consent of the other.

15. Severability.

The Board and Township intend this Agreement to be a valid legal instrument and no provision of this Agreement which shall be deemed unenforceable shall in any way invalidate any other provision or provisions of this Agreement, all of which shall remain in full force and effect.

16. Entire Agreement.

This Agreement constitutes the entire understanding of the Parties, and supersedes any prior written or oral agreements. This Agreement cannot be modified except by the written agreement of both Parties.

17. Public Benefit.

The Township and the Board agree that this Agreement is being undertaken on behalf of the residents of the Township of Randolph and that the Agreement achieves cost savings and efficiencies beneficial to the residents of the Township of Randolph.

IN WITNESS WHEREOF, the Township has caused this Agreement to be executed in its corporate name by its duly Authorized Representative, and the Board has caused this Agreement to be executed in its name by its duly Authorized Representative, as of the date first above written, but on the date set forth below.

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TOWNSHIP OF RANDOLPH
IN THE COUNTY OF MORRIS
NEW JERSEY, as Township

Attest: *Donna Marie Luciani* By: *Michael Guadagno*
Donna Marie Luciani, Township Clerk Michael Guadagno, Mayor

Dated: _____

THE BOARD OF EDUCATION OF THE TOWNSHIP OF RANDOLPH IN THE COUNTY OF MORRIS NEW JERSEY, the Board

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Attest: _____ By: _____
Michael Neves, Board Secretary Amy Sachs, President

Dated: _____