

INTERGOVERNMENTAL AGREEMENT OF COOPERATION

THIS AGREEMENT, made this 1st day of January 2003, by and among:

Fairview Township, a township of the Commonwealth of Pennsylvania located in York County, herein called "Fairview Township"

Goldsboro Borough, a borough of the Commonwealth of Pennsylvania located in York County, herein called "Goldsboro Borough"

Lemoyne Borough, a borough of the Commonwealth of Pennsylvania located in Cumberland County, herein called "Lemoyne Borough"

Lewisberry Borough, a borough of the Commonwealth of Pennsylvania located in York County, herein called "Lewisberry Borough"

Lower Allen Township, a township of the Commonwealth of Pennsylvania located in Cumberland County, herein called "Lower Allen Township"

Newberry Township, a township of the Commonwealth of Pennsylvania located in York County, herein called "Newberry Township"

New Cumberland Borough, a borough of the Commonwealth of Pennsylvania located in Cumberland County, herein called "New Cumberland Borough"

West Shore School District, a public school district of the Commonwealth of Pennsylvania, the citizens of which reside in Fairview Township, Goldsboro Borough, Lemoyne Borough, Lewisberry Borough, Lower Allen Township, Newberry Township, New Cumberland Borough, and Wormleysburg Borough, herein called "School District"

situated in the counties of Cumberland and York, Pennsylvania, hereafter collectively referred to as "Participants" or sometimes individually as "Participant".

WITNESSETH:

WHEREAS, the Intergovernmental Cooperation Act (53 Pa. C.S. Section 2301 et seq., herein call the "Act") permits municipalities (under the Act the term "municipality" includes school districts) to enter into agreements to cooperate in the exercise or performance of their respective functions, powers or responsibilities, including recreation and parks activities; and

WHEREAS, the Participants are bound by an intergovernmental agreement which formed West Shore Recreation & Leisure Services Board in 1968 and was last updated February 9, 1993; and

WHEREAS, it is believed by the Participants that the citizens within their respective political boundaries will be benefited by continuing a community recreation program jointly administered by them, which program shall comply with all applicable laws; and

WHEREAS, the purpose of this Agreement is to provide a framework and mechanism to adequately maintain community recreation services and facilities, and to organize, manage, sponsor, and supervise community events within the political boundaries of Participants through joint efforts rather than by separate efforts of each Participant; and

WHEREAS, to prevent duplication of effort and to maximize cost effectiveness, and in order to promote and conduct a program of community recreation and parks, the Participants mutually desire to mobilize community resources to effectively and economically meet the present and future recreation and parks needs of their citizens; and

WHEREAS, all Participants are legally authorized to enter into such an Agreement for the joint administration of a community recreation program for their respective citizens.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and intending to be legally bound hereby, the Participants agree as follows:

1. Incorporation of Recitals

The above recitals are hereby incorporated herein as fully set forth.

2. Commission

(a) The Participants hereby authorize the extension of the West Shore Recreation & Leisure Services Board, which shall direct, manage, and administer a community recreation program pursuant to this Agreement, and all amendments hereto. The organization will be known as West Shore Recreation Commission (herein called "Commission").

(b) Representation. The Commission shall consist of eight members, as follows:

(1) The School District shall appoint one elected member of the School Board to be a member of the Commission and elected member of the School Board to be his/her alternate to the Commission. Such members may be removed from office at any time for cause or at any time without cause by the School District.

(2) Each Township and Borough Participant shall appoint one member of the Commission and a designated person to be his/her alternate. The member and alternate must be residents of the municipality they represent. Such members may be removed from office at any time for cause or at any time without cause by the appointing municipality.

All appointments shall be made in writing by the Participants.

(c) Alternates. One alternate member shall be appointed by each Participant. The alternate member shall serve in the absence of a regular member and shall have full voting rights. Should both the member and the alternate be unable to attend a Commission meeting, a designated appointee may attend with full voting rights, provided notice is given by the Participant by 12:00 noon on the day of the meeting.

(d) Voting. Each Participant of the Commission shall have one vote.

(e) Establishment of Advisory Committees or Subcommittees. The Chairman of the Commission may establish advisory committees as deemed necessary or desirable for the operation of the Commission. The number of members and membership requirements of said committees shall be established by the Commission from time to time pursuant to the Commission's by-laws.

(f) Vacancy. Any vacancy on the Commission (whether by reason of death, disqualification, resignation or removal of a member thereof) shall be filled by the Participant which appointed the vacating member of the Commission. If a Commission member who is required to maintain his or her residence in the political boundaries of a Participant ceases to be such a resident, his or her membership shall terminate automatically and his or her position on the Commission shall be deemed vacant. When a Commission member who is required to be an elected member of a Participant's governing body is no longer serving as such an elected official, his or her membership on the Commission is terminated. Any vacancy on the Commission must be filled within 60 days.

(g) Attendance. The Commission may request that a Participant remove such Participant's member or alternate for his or her repeated lack of attendance at meetings. Members who attend less than 75% of regularly scheduled meetings or miss two consecutive meetings during one year are subject to removal for cause.

3. Duties of Commission – Powers

(a) Purpose. The Commission shall organize, supervise, administer, maintain and operate a community recreation program for the residents of Fairview Township, Goldsboro Borough, Lemoyne Borough, Lewisberry Borough, Lower Allen Township, Newberry Township, and New Cumberland Borough. The Commission shall not discriminate against any resident in regard to race, color, national origin, religion, sex, age, marital status or disability. As a joint venture of local government, the Commission shall strive to make recreation opportunities available to all residents, regardless of ability or level of income.

(b) Mission Statement. West Shore Recreation Commission, based on an agreement of intergovernmental cooperation, is dedicated to enriching the lives of residents of all ages, abilities and income level by providing quality recreation and leisure services.

(c) Property, Facilities and Equipment.

(1) Acquisition of Real Property. The Commission shall have the authority to purchase, acquire by gift, or otherwise hold, lease, let and convey, by sale or lease, such real property as shall be deemed to be in the best interest of the Commission. The acquisition and purchase of real property shall comply with all bidding requirements of the Intergovernmental Cooperation Act.

(2) Sale of Real Property. The Commission shall have the authority to sell, convey and devise such real property acquired by the Commission in accordance with the following conditions and restrictions.

(i) No real estate owned by the Commission shall be sold for a consideration in excess of fifteen hundred dollars (\$1,500.00), except to the highest bidder after due notice by advertisement for bids or advertisement of a public auction in one newspaper of general circulation in the municipality where such real estate is located. Such advertisement shall be published once not less than ten days prior to the date fixed for the opening of bids or public auction, and such date for opening bids or public auction shall be announced in such advertisement. The award of contracts shall be made only by public announcement at a regular or special meeting of the Commission or at the public auction. All bids shall be accepted on the condition that payment of the purchase price in full shall be made within sixty days of the

acceptance of bids. The Commission shall have the authority to reject all bids if such bids are deemed to be less than the fair market value of the real property. In the case of a public auction, the Commission may establish a minimum bid based on the fair market value of the real property. Real estate owned by the Commission may be sold at a consideration of fifteen hundred (\$1,500.00) or less without advertisement or competitive bidding only after the Commission estimates the value thereof upon receipt of an appraisal by a qualified real estate appraiser.

(ii) No real estate owned by the Commission shall be advertised for sale until each Participant has been advised of the proposed sale in writing from the Commission.

(3) Division of Proceeds upon sale of real estate or withdrawal of Participant.

(i) Sale of Real Estate: Division of Proceeds. In the event of a sale of real estate owned by the Commission, the proceeds from such sale shall be reduced by the reasonable closing costs incurred in such sale and the remaining amount shall be distributed to each Participant at an amount equal to the percentage of the total based on the population per capita of the respective municipalities according to the most recent census data from the US Census or the Pennsylvania Data Center as more specifically set forth in Paragraph 6(a) hereunder.

(4) Acquisition of Personal Property. The Commission shall have the authority to purchase, acquire by gift, or otherwise hold, lease, let and convey, by sale or lease, such personal property, equipment and accessories as shall be deemed to be in the best interest of the Commission. The acquisition and purchase of personal property shall comply with all bidding requirements of the Intergovernmental Cooperation Act.

(5) Sale of Personal Property. Except as otherwise hereinafter provided in the case of personal property of an estimated fair market value of less than one thousand (\$1,000.00), no Commission personal property shall be disposed of, by sale or otherwise, except upon approval of the Commission, by ordinance or resolution. In cases where the Commission shall approve a sale of such property, it shall estimate the fair market value of the entire lot to be disposed of. If the Commission shall estimate the fair market value to be one thousand dollars (\$1,000.00) or more, the entire lot shall be advertised for sale once, in at least one newspaper of general circulation in the municipality where the property is located, not less than ten days prior to the date fixed for the opening of bids or public action, and such date of opening of bids or public auction, shall be announced in such advertisement, and sale of the property so advertised shall be made to the best responsible bidder. The Commission may reject any bids received if the bids are believed to be less than the fair market value of the property. The Commission shall, by resolution, adopt a procedure for the sale of surplus personal property, either individual items or lots of items, of an estimated fair market value of less than one thousand dollars (\$1,000.00) and the approval of Commission shall not be required for any individual sale that shall be made in conformity to such procedure.

(d) Employment of Personnel. The Commission may, for the purpose of carrying out its purposes, employ and terminate such personnel as it shall deem proper. All employees of the Commission shall be paid through the Commission. The Commission shall have the authority to enter into contracts for policies of group insurance and employee benefits. The Commission shall employ a Director, who shall serve at the Commission's pleasure, and who shall be responsible for coordinating the development and supervision of all recreational activities and programs. The Director, with the approval of the Commission, shall be responsible

for the selection and hiring or all other personnel, including program administrators, supervisors, instructors and leaders. The Director shall be required to attend all regular meetings of the Commission as an ex-officio member and shall not be entitled to vote at any such meeting. Executive sessions of the Commission may be held without the attendance of the Director or staff at the discretion of the Commission.

(e) Conduct of Business. The Commission shall establish its own form of organization and appropriate rules and regulations for the conduct of its business, including adopting its own by-laws. Said by-laws shall incorporate and not be inconsistent therewith any and all provisions set forth in this agreement with regard to the conduct of Commission business and shall be reviewed and commented upon by the governing bodies of the Participants.

(1) Officers. The Commission shall elect a President, Vice-President and Treasurer, all from the membership of the Commission, with each officer position being held by a Commission member representing a different Participant. The Commission Director shall perform the duties of Secretary. The President shall act as chair at all duly called meetings and shall be empowered to execute, together with an attestation by the Secretary, all legally binding and authorized documents on behalf of the Commission. The Vice-President shall serve in the absence of the President. The Secretary shall record the Commission's actions and be custodian of the Commission's records. The Treasurer of the Commission or his/her designee shall receive and expend all Commission funds and shall keep an accounting of all the Commission's finances including, but not limited to, employee payroll. The Treasurer shall also present monthly reports regarding the finances of the Commission to the Commission members. All officers shall serve for a minimum term of one year and shall have all rights, duties and responsibilities as may be contained in this Agreement and the by-laws of the Commission. An officer may serve a maximum of two consecutive terms. If an officer ceases to be a member of the Commission, a successor shall be elected in accordance with the requirements of this Agreement.

(2) Commission Meetings. The Commission shall have regularly scheduled meetings at least every month, except for June or July or as determined by a majority at a regular meeting. The President of the Commission may, when he or she deems it necessary or desirable, and shall, upon the request of any member of the Commission and/or the Director, call a special meeting of the Commission for the purpose of transacting any business designated in the call of the meeting. The call for any regular and special meeting shall be in accordance with the Pennsylvania Sunshine Act.

(3) Quorum. When a majority of the number of members of the Commission (five or more members) are present at a Commission meeting, a quorum will be met and official actions may be taken. Official actions shall require a majority vote of those present. The annual budget must be adopted by a majority of the Participants.

(4) Office. The office of administration for the Commission shall be at a location as to be determined by the Commission to best suit the needs of staff, access for the general public and the community.

(f) Annual Report/Audit. The Commission shall submit an annual report and audit of its activities to the Participants, on or before August 15 of each year.

4. Finances

(a) Fiscal Year - Budget. The Commission shall prepare an annual accounting of all of its operations and activities on a calendar year basis beginning January 1 of each year. On or before August 31 of each year, the Commission shall prepare a budget, which shall include in detail the costs and expenses expected

to be incurred by the Commission in the performance of its duties for the succeeding calendar year. Such budget shall include the amount of funds which the Commission expects to receive from sources other than the Participants. Any remaining funds which the Commission budgets as necessary or desirable for the performance of its duties shall be reflected as cash contributions to be received from the Participants in accordance with paragraph 6 hereof. Such budget shall not include any expenditure for any item designated as an in-kind contribution pursuant to paragraph 5 hereof. Any excess funds remaining after the conclusion of a calendar year shall be applied to the fund balance of the Commission.

(b) Approval of Budget. The budget prepared by the Commission shall be submitted to the governing bodies of the Participants for approval on or before August 31 of each year. A board representative from the Commission will be selected to attend the June, July or August meeting of each Participant's governing body to present any news from the Commission and to ask if they have any questions or items they wish to discuss with the Board of the Commission. No budget shall be effective if disapproved by a majority of the Participants' governing bodies prior to the end of September of each year. Such disapproval shall be immediately communicated orally or in writing to the other Participants and to the Commission.

5. In Kind Contributions

(a) Use of Municipal real property and personal property.

(i) Real Property. The Participants may make available, without charge, for use by the Commission, the real property of the Participants upon the written request of the Commission. Participants shall consider each written request of the Commission on an individual basis and may permit the use of the real property of the Participant. A Participant's denial of a written request to use the real property of the Participant shall be final and not subject to further challenge by the Commission.

(ii) Personal Property. The Participants may make available, without charge, for use by the Commission, the personal property of the Participants upon the written request of the Commission. The Commission's request shall include the personal property desired to be used by the Commission. Personal property shall not include motor vehicles, highway equipment, maintenance equipment or other property regularly used by the employees of the Participant. Participants shall consider each written request of the Commission on an individual basis and may permit the use of the personal property of the Participant. Any Participant's denial of a written request to use the personal property of the Participant shall be final and not subject to further challenge by the Commission.

The in-kind contributions shall include the costs and expenses related to or associated with the use of the Property of any Participant which would have been incurred by the Participants' property (including but not limited to maintenance, repair, insurance, heat, air-conditioning, ground maintenance, improvements, police and fire protection, water, sewer, utility services and all other items of cost and expense) with respect to the Property irrespective of the Commission's use thereof. The in-kind contributions shall not include costs and expenses which would not have been incurred by the Participants except for the Commission's use of the Property, specifically, the costs and expenses for janitorial services or special property protection with respect to a specific event of the Commission ("Supplement Costs"). The Supplemental Costs actually incurred by each of the Participants shall be included in the Commission's budget and promptly reimbursed by the Commission. The Commission's use of West Shore Natatorium shall be governed separately by a Memorandum of Understanding between the West Shore School District and the Commission and shall be not be subject to the above guidelines concerning in-kind contributions.

(b) Maintenance of Property. The Participants agree to be responsible for and maintain all recreation facilities and park property that they own in a safe and reasonable condition. The Commission will provide playground equipment safety audits and inspections and report the findings with the Participants.

(c) Capital Improvements/Existing Agreements. The Participants agree to be responsible for capital

improvements to facilities and property that they own and further agree that the Commission shall not be responsible for making any such capital improvements. This Agreement, and the duties of the Commission hereunder, shall not interfere with any existing lease agreements or licenses among the Participants or by and between any of the Participants and any third party. Any such agreements or licenses shall remain in full force and effect, and the powers and duties of the Commission are subject to any such agreements or licenses. Nothing in this paragraph creates a duty upon a Participant to make material improvements to its property at the request of the Commission.

(d) Insurance.

(1) Liability Insurance. The Participants shall obtain and maintain liability coverage, which policy of insurance or self-insurance shall contain limits of not less than \$1,000,000 per occurrence for injury or damage to persons or property. The Participants shall provide a certificate of insurance to the Commission annually. The Commission shall obtain and maintain liability coverage which names each Participant as additional insured with respect to the Commission's duties and activities with limits not less than \$1,000,000 per occurrence for injury and damage to persons or property.

(2) Casualty Loss Insurance. The Participants shall each maintain, with respect to their property, such property loss insurance or self-insurance as they shall deem appropriate.

(3) Public Officials Liability Coverage. The Commission shall obtain and maintain public officials liability coverage for its members.

6. **Cash Contributions**

(a) Cash Contribution Formula. In addition to the in-kind contributions as set forth in this agreement, the Participants agree to contribute to the Commission in accordance with its annual budget as approved by the Commission, the amounts of cash as are necessary or desirable to fund the Commission's operations. In no event will Participants be required to contribute funding above the approved budget level on an annual basis. Each Township and Borough Participant shall contribute a percentage of the total based on the population per capita of the respective municipalities according to the most recent census data from the US Census or the Pennsylvania State Data Center. The pro rata cash contributions, based on the most recent US Census data for 2000, shall be as follows:

(1) Fairview Township shall contribute 26.08% thereof

- (2) Goldsboro Borough shall contribute 1.71% thereof
- (3) Lemoyne Borough shall contribute 7.28% thereof
- (4) Lewisberry Borough shall contribute 0.70% thereof
- (5) Lower Allen Township shall contribute 24.74% thereof
- (6) Newberry Township shall contribute 26.10% thereof
- (7) New Cumberland Borough shall contribute 13.39% thereof
- (8) West Shore School District shall contribute \$32,125 thereof.

(b) Cash Contribution Payments. The Participants shall make payments to the Commission in three installments at the beginning of the first three quarters (January, April, July). The April payment shall be one-half of the annual amount. The January and July payments will each be one-quarter of the annual amount. The School District shall make two equal payments in July and September.

7. Effective Date, Term and Termination

(a) Effective Date and Term. This Agreement shall be effective January 1, 2003. This Agreement shall continue in full force and effect and shall be automatically renewed year-to-year thereafter except as otherwise provided in this Agreement.

(b) Withdrawal. Any Participant may withdraw from the terms of this Agreement at the end of any calendar year by giving written notice of such withdrawal to other Participants and the Commission on or before September 30 (three months notice). Withdrawal from this Agreement by any Participant shall not terminate the Agreement among the remaining parties. Any funds contributed by a withdrawing Participant shall be retained by the Commission. Withdrawal from this Agreement must be approved by a majority of the voting members of the governing body of the Participant which desires to withdraw, voted on following a public meeting held in accordance with the Pennsylvania Sunshine Act. If any Participant withdraws from the Commission, a meeting of the representatives from the remaining Participants must be conducted before the regularly scheduled October meeting to discuss the withdrawal. Any fee increases due to a Participant withdrawal must be approved by a majority of the voting members of the governing body of the remaining Participants. Any Participant that elects to withdraw from this Agreement must notify the Commission within 48 hours following the official vote by that Participant's governing body. The Commission will then notify all the remaining Participants to the agreement of the withdrawal action within 48 hours.

(c) Expansion. Additional municipalities may become a Participant in this Agreement at the beginning of any calendar year with a majority approval of the existing Participants and upon written agreement of the additional Participant to be bound by the terms and conditions of the Agreement. The additional Participant will be expected to contribute to the funding of the Commission in accordance with a formula to be determined by the Participants.

(d) Dissolution. In case of dissolution of the Commission by mutual consent of all Participants hereto, the equipment, property, materials, supplies, and capital assets of the Commission that remain shall be distributed to the Participants in proportion to the cumulative contributions of the Participants from the date of this Agreement to the time of dissolution; provided, however, that any Fixtures shall remain property of the Participants on whose Property any such Fixtures are affixed, and shall not be subject to the distribution provided for in this section.

8. Entire Agreement

This Agreement constitutes the entire contract by the Participants and there are no other understandings, oral or written, relating to the subject matter hereof.

9. Amendment

This Agreement shall not be amended or altered except by writing duly approved and signed on behalf of all the Participants.

10. Governing Law

This Agreement shall be governed by the Laws of the Commonwealth of Pennsylvania. This Agreement is adopted pursuant to the Act and each Participant shall take all necessary steps under said statute to comply with the same. Nothing herein shall be deemed to be a waiver by the Commission or any Participant of the right to assert a claim or defense of governmental immunity with respect to any claims or actions against the Commission or the Participants.

11. Further Action

The Participants agree to take all action necessary to carry forth the provisions of this Agreement.

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

Attest:

Donna L. Missel

Signature

DONNA L. MISSEL

Printed Name

Fairview Township

BY:

Robert P. Stanley, Jr

Signature

Robert P. Stanley, Jr

Printed Name

Attest:

Lee V. Fisher

Signature

Lee V. FISHER

Printed Name

Goldsboro Borough

BY:

Cory F. Ensor

Signature

CORY F. ENSOR

Printed Name

Attest:

Robert E. Ahlein

Signature

ROBERT E. AHLEIN

Printed Name

Lemoyne Borough

BY:

Stacy Gromlich

Signature

Stacy Gromlich

Printed Name

Attest:

Mackenzie Greene

Signature

Mackenzie Greene

Printed Name

Lewisberry Borough

BY:

Mark Keener

Signature

MARK KEENER

Printed Name

Attest:

Fredrick M. Young Sr.

Signature

FREDRICK M. YOUNG, S.R.

Printed Name

Lower Allen Township

BY:

H. Edward Black

Signature

H. EDWARD BLACK

Printed Name

Attest:

Stephen C. Sulzberger

Signature

STEPHEN C. SULZBERGER

Printed Name

New Cumberland Borough

BY:

John A. Murray

Signature

John A. Murray

Printed Name