

**INTERGOVERNMENTAL AGREEMENT
BETWEEN VILLAGE OF SHELBY
AND
SHELBY PUBLIC SCHOOLS**

THIS INTERGOVERNMENTAL AGREEMENT (IGA) is made and entered into this ___ day of _____, 2019 ("Effective Date") by and between the Village of Shelby, a Michigan village organized and operating under the provisions of the General Law Village Act, MCL 61. 1, et seq., whose address is 218 N. Michigan Avenue, Shelby, Michigan 49455 ("Village"), and Shelby Public Schools, a Michigan general powers school district, organized and operating under the provisions of the Revised School Code, MCL 380. 1, et seq., as amended, whose address is 525 N. State Street, Shelby, Michigan 49455 ("School"). School and the Village shall be collectively referred to herein as the "Parties" or "Party".

RECITALS

The Parties own and operate various lands and facilities in and around the Village of Shelby for the benefit of the public and their respective constituencies. Under prior agreements, the Parties have had a long history of working together for their mutual benefit and for the benefit of the community.

The Parties stipulate that all previous agreements pertaining to the sharing of lands and facilities are terminated as of _____, 2019. (date agreement signed)

School and the Village desire to enter into a new IGA which (1) provides for the continued use of certain land and facilities; (2) provides for certain maintenance and capital cost sharing; and (3) provides for future programming opportunities.

NOW, THEREFORE, in consideration of the foregoing recitals and in consideration of the mutual covenants and agreements hereinafter set forth, Village and School agree as follows:

ARTICLE 1 – FORMATION OF VILLAGE/SCHOOL COMMITTEE

1.1 Village/School Committee Formation

A. The Village / School Committee is established with a shared mission to determine areas in which the two entities can share resources and collaborate for the betterment of all who live, work, play and learn in the community of Shelby; while continuing to achieve the mission and goals of each entity in regard to Getty Field and certain land holdings of the School. In addition to shared facility use, the Village / School Committee should also explore any other opportunity where resources and expertise could benefit the community, such as educational programs for conservation techniques.

B. The School and Village will designate no more than three (3) elected officials from each the School Board and Village Council to serve on said Village / School Committee.

C. The School Superintendent and Village Administrator will also serve on the Village / School Committee in the capacity as advisors.

D. The Village / School Committee will meet at least four (4) times per year; alternating meeting locations of the Parties. Additional meetings can be called, and or planned, by either one of the Parties throughout each calendar year.

ARTICLE 2 –USE OF LANDS AND FACILITIES

2.1 General Provisions

A. School Use of Village Park. Provided the School follows the guidelines for scheduling Getty Field as described in Article 2.1.B. and 2.1.C. of this IGA, the School will have priority for the use of Getty Field in Getty Park, which is owned and managed by the Village, for its High School Soccer Program and School Instruction Program. This permitted use and priority status of Getty Field for the High School’s soccer program will include soccer practices, games, various soccer tournaments and the rescheduling of games canceled due to weather and or other conditions beyond the control of the School and Village. Exhibit A shows the area and support facilities that will be associated with the permitting of Getty Field for the School by the Village.

B. Scheduling for Getty Field. For all scheduling purposes, all requests for usage must be submitted on the Village Park Permit Application. Requests for the intended use of Getty Field must be received by the Village no later than 30 days prior to the Fall Season of the soccer program; and no later than 30 days prior to the Spring Season of the soccer program. The School will present a Park Permit Application to the Village listing the specific date(s) and time(s) needed for their soccer practices, games and any tournaments for the specific season. The Village will review the request and respond in writing its approval provided all required supporting documents such as, but not limited to, a certificate of insurance that adds the Village as an additional insured for the specific requested use and any other documents that may be reasonably required by the Village at the time of application are submitted in the proper timeframe along with the Park Permit Application for the use of Getty Field.

When School submits the Park Permit Application for Getty Field, the Village will allow two (2) hours before the scheduled event for field preparation and two (2) hours for appropriate clean up after the event.

C. Scheduling for School Instruction Program. The School must submit all request(s) for usage on the Village Park Permit Application. Requests for the intended use of Getty Field must be received by the Village no later than 30 days prior to the School Instruction Program.

D. Owner Right of Refusal. Village shall have the right to reject any request for usage that is inconsistent with the intended purpose of the respective land and/or facilities.

E. Blanket Request for Field Use. The School will not be allowed to make “blanket” requests for the use of Getty Field for its soccer program. All requests to use Getty Field must be specific to date(s) and time(s). When the School is not permitted to use Getty Field, Getty Field will be open for the use by the general public. For the purpose of this particular IGA and for all past and future Project Agreements entered into by the Village with the Michigan Department of Natural Resources, “open for the use of the general public” will be defined as: Getty Field will be accessible to the general public at all times with the exceptions as described in Article 2.1.F. of this IGA.

F. Times When Getty Field is not Available for Public Use. Getty Field will remain open and available for the general public with the following exceptions:

- 1) When the School has authorization from the Village to use Getty Field for its Athletic Program and School Instruction Program;
- 2) During periods of bad weather when the field could be damaged;
- 3) During periods of major renovation of the field, not daily/weekly maintenance;
- 4) When the field is rented to community organizations;
- 5) When the field is rented by others for field team sport activities; and,
- 6) When the park is closed; outside of the park hours of operation (7:00am – 10:00pm).

The Village will consult with the School on the closing of Getty Field as per the exceptions listed above, only when the School is the permitted user of Getty Field.

There are five (5) gates associated with Getty Field, as their approximate location is shown on Exhibit A. At the Effective Date of this IGA the Village will provide locks for all of the following gates:

- 1) Service gate in the northwest corner,
- 2) Pedestrian gate in the northeast corner,
- 3) Pedestrian gate in the southeast corner,
- 4) Pedestrian gate along Sixth Street, and
- 5) Pedestrian gate in the southwest corner.

Keys will be given to the School for the service gate, pedestrian gate along Sixth Street and the pedestrian gate located in the northeast corner of Getty Field. It will be the sole responsibility of the School to lock these gates on the date and time of the permitted use of Getty Field only; and to unlock/open the same specific gates at the conclusion of that daily event.

The service gate may always be locked. The gate in the northeast corner must always remain open with the exceptions listed above. Also, the gate along Sixth Street must always remain open with the exceptions listed above. All other gates can be closed and locked until at such time the Village would determine it would be in the best interest of the general public to open the remaining two (2) pedestrian gates.

G. Getty Field Storage Building (southwest corner of Getty Field). As part of this permitted use, the School will be offered the opportunity to share the southeast half of the building located on the southwest area of Getty Field for the purpose of storing only athletic supplies needed for the operation of its soccer program. Effective with this IGA, all non-athletic supplies must be removed from the building and keys to that building be provided to the Village.

H. Risk Management and Operational Policies. Throughout the Village’s management and operation relating to Getty Park and Getty Field, there may be certain policies approved by the Village Council that will apply specifically to Getty Field. When certain risk management policies are being considered, the Village will provide advance notice to the School of those risk management policies that would impact the School’s use of Getty Field. The School will be required to follow all risk management and operational policies established by the Village.

I. Scheduling Activities in Getty Park/Getty Field. With the Effective Date of this IGA the Village, as the owner and manager of Getty Park, which includes Getty Field, will be the only Party that will be authorized to accept and approve Park Permit Application(s) for the use of Getty Park and Getty Field.

ARTICLE 3 – MAINTENANCE, CAPITAL EXPENDITURES AND COST SHARING

3.1 General Provisions

A. Turf Maintenance in General for Getty Field. Getty Field proper (see Exhibit A) will be maintained by the School. Getty Field will be maintained in a safe and accessible condition; the School will follow all safety and notification rules, regulations when applying any type of weed and feed control product and or any other chemical treatment on the turf area of Getty Field. In exchange for the School providing and conducting annual turf maintenance tasks on Getty Field, the Village will reimburse the School 50% of the purchase cost of the weed and feed materials based upon an itemized invoice given to the Village.

The School will be responsible for mowing Getty Field and for applying all regulation game

markings to Getty Field. In exchange for the School mowing Getty Field, the Village will reimburse the School 50% of the mowing cost based upon an itemized invoice given to the Village.

Should a local recognized community organization be permitted by the Village to use Getty Field and that organization would want the field marked appropriately for soccer, that organization would be required to make that arrangement with the School. The School would be allowed to charge a reasonable fee that would cover the cost of the labor and material(s) for the service.

B. Sundry Maintenance Responsibilities. The Village will be responsible for guaranteeing that Getty Field is clean outside of the approved permitted use by the School. This will include, but not be limited to, litter pick up, emptying and removing all rubbish from garbage containers and any other maintenance task that would assist with the safe use of Getty Field.

The School will be responsible for guaranteeing that Getty Field is clean after the permitted use by the School. This will include, but not be limited to, litter pick up, emptying and removing all rubbish from garbage containers and any other maintenance task that would assist with the continued safe use of Getty Field.

C. Existing Support Facilities in Getty Field. Those facilities as highlighted in Exhibit A will be maintained solely by the School until such time it is determined that the facilities are no longer needed and removed from Getty Field. When new facilities are needed, the Village / School Committee will meet and discuss joint removal and replacement. Any new fencing in and around Getty Field shall be of like material and color as other fencing within Getty Park. Any new facilities must meet the most current ADA standards and if applicable, in accordance with the Construction of School Buildings Act 306 of 1937.

D. Getty Park Inspection Reports. Should either party find any damage and other possible hazardous condition(s) to the facilities as highlighted in Exhibit A, it shall be immediately brought to the attention of the Village Administrator. Should a hazardous condition be identified, which affects the health and safety of the public, the Village has the right to resolve it immediately. The Village reserves the right to invoice the School for any repairs required due to a hazardous condition caused by the School.

3.2 Maintenance, Utilities and Other Cost Sharing

A. General Maintenance Cost Sharing. The Village and School agree to share operational costs associated with Getty Field maintenance, at a fifty percent (50%) cost share. If significant repairs and/or costs are identified, they will be brought to the Village / School Committee for discussion.

B. Irrigation System. As of the Effective Date of this Agreement, the School will provide adequate material(s) and instruction on the operation and care of the irrigation system for Getty Field.

C. Utilities. The School will maintain the electrical utility payment account for the current field lights at Getty Field. In the future should there be a joint decision and an approved plan that the current lights be upgraded, at that time the utility billing account will be changed from the School to the Village.

D. Sports Field Supplies and Equipment. The Village and School will jointly participate in the purchase of soccer net(s) and goal(s).

E. Park Police. The Village shall maintain a regular Police presence of the property and shall respond to calls regarding breach of the peace, breach of the Village Park Permit, or other similar matters.

3.3 Capital Costs / Capital Improvements

A. General Shared Responsibilities. The Village / School Committee shall make recommendations for all capital improvements and major renovations to Getty Field.

B. Capital Improvement Process. Proposed project(s) will be presented to the Village and School for consideration. Prior to any work being authorized for Getty Field for either capital improvements or renovations, the Village will notify the Michigan Department of Natural Resources (MDNR), Grant Management Division, of the pending work at Getty Field. The MDNR must approve any and all future work within Getty Field prior to commencing any capital or renovation project(s). All work to be completed within encumbered property on the current MDNR Boundary Map of Getty Park, Exhibit B, must meet the most current ADA standards and if applicable, be in accordance with the Construction of School Buildings Act 306 of 1937.

C. Management and Payment of Capital Improvements / Renovation(s). The Village shall be the project manager on all capital improvements and major renovations to Getty Field. The project manager shall pay approved and certified invoices and be reimbursed accordingly.

D. Disputes with Regard to Capital Cost Sharing. The Village and School shall use their best efforts to resolve any conflict related to capital improvements/replacements and repairs/maintenance necessary for the shared amenities in Getty Field. In the event that a conflict cannot be resolved through mutual agreement, the parties shall select a qualified and neutral individual or company familiar with the construction and maintenance of said amenities/work and get a written estimate of the cost to provide any disputed maintenance, repair, or replacement services and whether such maintenance, repair, or replacement service is necessary. The recommendations of the selected individual or company, as to the nature and extent of maintenance, repair, or replacement required, shall prevail and be binding upon the Parties.

ARTICLE 4 – INSURANCE AND INDEMNIFICATION

4.1 Insurance

A. Liability Insurance. The Village and School agree to maintain public liability insurance for bodily injury and property damage with a \$2,000,000 limit of liability and each party shall name the other as an additional insured. Prior to use of property and facilities as described in Article 2, each party shall annually provide to the other proof of insurance. Any such policy shall cover the actions of the Party's board members, employees, volunteers and invitees who will be using the lands and facilities. Limits can be satisfied with an applicable umbrella policy.

B. Property Insurance. Each party shall pay for and maintain fire and extended coverage insurance and in such amount that each party generally provides for the public facilities that it owns.

C. Certificate of Insurance. Each party shall provide the other party with a Certificate of Insurance showing that the other has been added as an "Additional Insured."

ARTICLE 5 – GENERAL PROVISIONS

5.1 Breach and Opportunity to Cure. Before any failure of any Party to this IGA to perform its obligations under this IGA shall be deemed to be a breach of this IGA, the Party claiming such failure shall notify in writing the Party alleged to have failed to perform the alleged failure and shall demand performance. No breach of this IGA may be found to have occurred if performance is completed within thirty (30) days after receipt of such notice or in the case of a failure which by its nature takes an excess of thirty (30) days to cure such longer period

of time as may be reasonably necessary to cure the same provided that the curing party is pursuing said cure with due diligence.

5.2 Assignment by the Parties. Neither Party shall assign its interest in this IGA to any third party.

5.3 Amendment. This IGA may be amended only by the mutual consent of the Parties.

5.4 No Other Agreements. This IGA supersedes all prior agreements, negotiations and discussions relative to the subject matter hereof and fully integrates the agreement of the Parties.

5.5 Binding On Successors. This IGA shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

5.6 Paragraph Headings. Paragraph headings and references are for the convenience of the Parties and are not intended to limit, vary, define or expand the terms and provisions contained in this IGA and shall not be used to interpret or construe the terms and provisions of this IGA.

5.7 Severability. If any provision, covenant, or portion of this IGA or its application to any person, entity or property is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants or portions of this IGA (and to that end, any provisions, covenants, or portion of this IGA are declared to be severable).

5.8 Applicable Law. This IGA shall be construed in accordance with the laws and decisions of the State of Michigan.

5.9 Term. The initial term of this IGA shall commence on the day above first written and shall be in full force and effect for a period of five (5) years, provided that each party is in compliance with the terms and conditions set forth herein. At least six (6) months prior to the expiration of this IGA, the Village / School Committee will meet to discuss either the renewal, for a period of no more than ten (10) years, or termination of the IGA. If the Village / School Committee does not meet to discuss the IGA it shall auto-renew for a period of five (5) years.

No material changes to the IGA can occur without mutual concurrence of both parties.

5.10 Termination Prior to End of Term. The School may terminate from this IGA at any time by providing ninety (90) days' notice in writing to the Village. At this time, the School shall remove the facilities as highlighted in Exhibit A from Getty Field that was a part of Getty Field prior to the Effective Date of this IGA. The School will be responsible for all costs associated with the removal and restoring the grounds where the removed amenities were located. All work must meet the Village's expectations.

5.11 Notices. All notices herein shall be in writing and shall be deemed to be effective as of the date of actual delivery if by personal delivery or as of the third day from and including the day of posting if mailed by certified or registered mail return receipt requested with postage prepaid:

To School: Shelby Public Schools
ATTN: Superintendent of Schools
525 North State Street
Shelby, Michigan 49455

To Village: Village of Shelby
ATTN: Village Administrator
218 North Michigan Avenue
Shelby, Michigan 49455

IN WITNESS WHEREOF, the Parties have executed this IGA as of the day and year first above written.

SHELBY PUBLIC SCHOOLS BOARD OF EDUCATION

By: _____
Its President

ATTEST:

By: _____
Its Secretary

VILLAGE OF SHELBY

By: _____
Its President

By: _____
Its Village Administrator

ATTEST:

By: _____
Its Clerk/Treasurer

Final Version, October 1, 2019.