

## SETTLEMENT AGREEMENT AND RELEASE

This Confidential Settlement Agreement and Release (the "Settlement") made this 20<sup>TH</sup> day of November, 2018 by and among, MONTAGUE TOWNSHIP BOARD OF EDUCATION ("MONTAGUE"), together with its respective successors, assigns, attorneys, agents and all other persons or entities acting on its behalf,

and

HIGH POINT REGIONAL HIGH SCHOOL BOARD OF EDUCATION ("HIGH POINT"), together with its respective successors, assigns, attorneys, agents and all other persons or entities acting on its behalf. (High Point and Montague are hereinafter referred to as the "Parties".)

### RECITALS

**WHEREAS**, on or about August 13, 2013, the Parties entered into a Sending/Receiving Agreement Contract ("Agreement") commencing with the 2014-2015 school year, and which was intended to run through the 2023-2024 school year, whereby Montague sends its students to High Point pursuant to the terms of the Agreement, and in exchange for the consideration set forth therein; and

**WHEREAS**, the Agreement provides that Montague will have financial responsibility for its special education students requiring placements outside the High Point Regional School District subject to certain pre-placement notice requirements; and

**WHEREAS**, a dispute has arisen with respect to whether Montague was responsible for the tuition for two of its students placed by High Point in out of district placements for the 17-18 school year, with one student placed at the Windsor Learning Center & School ("Windsor"), and the other student placed at the Willowglen Academy ("Willowglen"); and

**WHEREAS**, as a result of the dispute, High Point initiated a petition of appeal before the Commissioner of Education captioned High Point Regional School District Board of Education v. Montague Township School District, the Windsor Learning Center & School, and the Willowglen Academy, under OAL Docket No. EDU 04412-2018N (the “Litigation”); and

**WHEREAS**, as a result of the Litigation, both cross claims and counter claims have been asserted; and

**WHEREAS**, in addition to the Litigation, Windsor has brought a suit against High Point alleging breach of contract, and High Point has moved to add Montague to as a third party defendant, which action is presently pending in Superior Court under SSX-L-000379-18 (the “Windsor Litigation”); and

**WHEREAS**, High Point and Montague desire to amicably resolve the Litigation without further legal proceedings; and

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, the Parties agree as follows:

**1. Tuition Payment**

- A) Montague agrees to pay the 2017-2018 tuition for its student that attended Windsor, in the amount of \$63,000.
- B) Montague agrees to pay the 2017-2018 tuition for its student that attended Willowglen, in the amount of \$80,175.90.
- C) High Point agrees to pay the July 2018 tuition for Montague’s student attendance at Willowglen, in the amount of \$6,962.67.

D) Montague agrees to pay any increase in the 2017-2018 tuition amounts set forth herein should the certified tuition rate be determined to be higher than the amounts listed above, which reflect the estimated tuition rates, subject to compliance with the terms set forth in the respective tuition contracts, which are in the form promulgated by the New Jersey Department of Education.

E) Montague is responsible for and will pay the tuition for the student placed at Windsor for the 2018-2019 school year, contingent on the student remaining domiciled within the Montague Public School District. Montague reserves all rights, going forward, to object to the appropriateness of the placement, based on the student's needs in the future. Montague reserves all rights and waives no other claims, including but not limited to, claims arising from compliance with the student's IEP, compliance with the applicable tuition contract, and/or future compliance with the Agreement.

2. **Additional Consideration.** For the consideration contained herein, High Point Agrees not to oppose, hinder, or in any way obstruct any effort by Montague to terminate, withdraw from and/or not renew the Agreement, subject to the following terms:

A) Any action by Montague to terminate the Agreement shall not seek such termination prior to the end of the 2019-2020 school year.

B) High Point shall not be prohibited from providing data or documentation to the Commissioner of Education, requested as a result of Montague's efforts to terminate, withdraw from and/or not renew the Agreement.

3. **Release of Claims.** In consideration of the conditions and terms above, the Parties agrees as follows:

- a. High Point, on its own behalf and on behalf of its officers, directors, shareholders, stockholders, attorneys, agents, insureds, servants, representatives, employees, subsidiaries, affiliates, partners, executors, administrators, managers, employees, predecessors, successors in interest, and assigns, hereby completely releases and forever discharges Montague, and all of its respective past, present and future board members, officers, directors, attorneys, agents, insureds, servants, representatives, employees, administrators, managers, and assigns, from any and all claims, demands, obligations, actions, causes of action, rights, damages, costs, attorneys' fees, loss of services, loss of earnings, expenses and compensation of any nature whatsoever, whether based on tort, contract (express, implied or otherwise) or any other theory of recovery, and whether for compensatory or punitive damages, arising out of the tuition payments to Willowglen and Windsor for the 2017-2018 school year at issue in the Litigation and the Windsor Litigation.
- b. Montague, on its own behalf and on behalf of its officers, directors, shareholders, stockholders, attorneys, agents, insureds, servants, representatives, employees, subsidiaries, affiliates, partners, executors, administrators, managers, employees, predecessors, successors in interest, and assigns, hereby completely releases and forever discharges High Point, and all of its respective past, present and future board members, officers, directors, attorneys, agents, insureds, servants, representatives, employees, administrators, managers, and assigns, from any and

all claims, demands, obligations, actions, causes of action, rights, damages, costs, attorneys' fees, loss of services, loss of earnings, expenses and compensation of any nature whatsoever, whether based on tort, contract (express, implied or otherwise) or any other theory of recovery, and whether for compensatory or punitive damages, arising out of the tuition payments to Willowglen and Windsor for the 2017-2018 school year at issue in the Litigation and the Windsor Litigation.

4. **Successors and Assigns.** This Settlement shall bind and inure to the benefit of each Party, its officers, directors, shareholders, stockholders, attorneys, agents, insureds, servants, representatives, employees, subsidiaries, affiliates, partners, executors, administrators, managers, employees, board members, predecessors, successors in interest, and assigns, separately and collectively.

5. **Warranties.** The Parties acknowledge, represent, warrant, affirm and confirm the following:

- a. Each Party has read and understands the effect and scope of this Settlement, has relied and is relying solely upon its own judgment, belief and knowledge and/or upon the advice of its independent legal counsel as to the nature, extent, effect and consequences relating thereto.
- b. This Settlement is being made without reliance upon any statement or representation by any other party hereto, except those expressly set forth herein.
- c. No promise, inducement or agreement not herein expressed has been made to any of the Parties hereto.

- d. Each individual signing this Settlement on behalf of a Party has the right, power and authority to sign and enter into this agreement on behalf of that Party and is competent to sign and enter into this agreement on behalf of that Party.
- e. The Parties each execute and deliver this Settlement as a free and voluntary act, without any duress, coercion or undue influence exerted by or on behalf of any other party.
- f. This Settlement is a valid, binding and enforceable agreement and does not violate any law, rule or regulation, or any contract or agreement to which any individual or entity on whose behalf this Settlement is executed is a party.

6. **Resolution of Other Claims.** The Parties agree that this Settlement is expressly contingent upon each party being able to fully and satisfactorily resolve any claims asserted against it by Willowglen and/or Windsor in the Litigation and/or the Windsor Litigation.

7. **Interpretation of Settlement.** This Settlement shall not be construed against any party on the basis that it or its attorney drafted it.

8. **Entire Agreement / Amendment.** This Settlement constitutes the entire agreement between the Parties with respect to its subject matter and there are no representations, warranties or agreements between the Parties not expressed herein. This Settlement supersedes and replaces all prior understandings and agreements between the Parties hereto, whether written or oral, express or implied, with respect to its subject matter. This Settlement may be amended or modified at any time or times only by written agreement of both Parties.

9. **Execution in Counterparts.** This Settlement may be executed simultaneously in several counterparts, each of which shall be deemed to be one and the same instrument.

10. **Facsimile/E-mail Signature.** Signature by facsimile or electronic mail transmission is acceptable and will be fully enforceable as an original document. Electronic facsimiles of signatures will have the same force and effect as original signatures.

11. **Forum Selection.** The Parties agree that all claims, disputes, and other matters arising out of or relating to this Settlement, or the breach thereof, will be decided by proceedings instituted and litigated in the Superior Court of the State of New Jersey, Sussex County Vicinage, or by Petition filed with the Commissioner of Education, as appropriate.

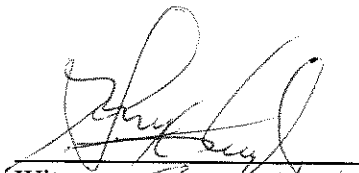
12. **Necessary Documents.** Prior to and at all times following the date of this Settlement, the Parties agree to execute and deliver, or to cause to be executed and delivered, such documents and to do, or cause to be done, such other acts and things as might reasonably be requested by the Parties, to assure that the benefits of this Settlement are realized by the Parties.

13. **Agreement Subject to Approval.** The Parties agree that this Settlement in contingent upon approval by both High Point and Montague.

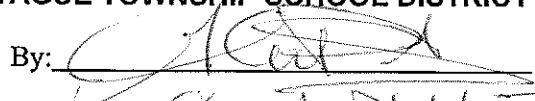
14. **No Admission.** Both parties agree and acknowledge that this Settlement does not constitute an admission of any kind by either party.

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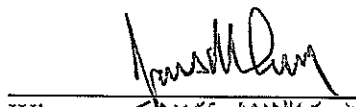
THE UNDERSIGNED HAVE CAREFULLY READ THIS "SETTLEMENT AGREEMENT AND RELEASE;" THEY HAVE READ, KNOW AND UNDERSTAND ITS CONTENTS; THEY FREELY AND VOLUNTARILY AGREE TO ABIDE BY ITS TERMS, AND ARE FULLY AUTHORIZED TO SO AGREE AND BE BOUND; AND THEY HAVE NOT BEEN COERCED INTO SIGNING THIS AGREEMENT.

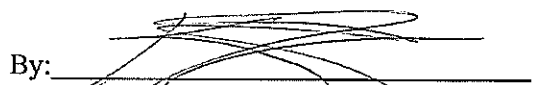
  
Witness George Hyatt  
Print or type name:  
Acting Bus. Adm. / Bd. Secretary

**MONTAGUE TOWNSHIP SCHOOL DISTRICT**

By:   
Glen A. Plotsky, President

**HIGH POINT REGIONAL SCHOOL DISTRICT**

  
Witness JAMES MINKEWICZ  
Print or type name:

By:   
Kyle Vealey