TOWN OF WEST SENECA

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TOWN SUPERVISOR
SHEILA M. MEEGAN
TOWN COUNCIL
EUGENE P. HART
WILLIAM P. HANLEY, JR.

TO: The Honorable Town Board

FROM: John J. Fenz, Esq.
Town Attorney

DATE: June 16, 2016

RE: West Seneca Central Schools
2016-2017 Intermunicipal Cooperation Agreement
Loaning of Buses

Kindly authorize the Supervisor to execute the necessary documents to enter into an Agreement with the West Seneca Central School District whereby the District would temporarily loan school buses to the Town for the transportation of youth to Town activities for the term set forth therein.

Please be advised that there is no fee to the Town for the rental of the buses; however, the Town shall provide insurance to cover the vehicles when used on behalf of the Town and hire current active District bus drivers to operate the vehicles.

INTERMUNICIPAL COOPERATION AGREEMENT REGARDING THE LOANING OF SCHOOL BUSES FOR THE 2016-17 SCHOOL YEAR

THIS AGREEMENT is made this 1st day of July 2016 by and between the West Seneca Central School District ("District") and the Town of West Seneca ("Town"), collectively referred to as "parties", both being municipal corporations as defined by section 119-n(a) of the General Municipal Law of New York.

WITNESSETH:

WHEREAS, this Agreement is made pursuant to General Municipal Law Article 5-G and Education Law Section 1709(25)(c&f); and

WHEREAS, the District maintains a fleet of school buses; and

WHEREAS, the Town operates activities devoted to the welfare of youth therein and in order to provide leisure-time activities for youth, as authorized in General Municipal Law § 95; and

WHEREAS, the District has determined that it has school buses not used for the transportation of District students during certain periods, including when school is not in session; and

WHEREAS, the District and the Town jointly desire to enter into an agreement whereby the District would temporarily loan school buses to the Town for the transportation of youth to Town activities during the 2016-17 school year; and

NOW, THEREFORE, it is mutually covenanted and agreed by and between the parties hereto as follows:

1. **TERM**. This Agreement shall be in effect for the loan of school buses during the 2016-17 school year (July 1, 2016 through June 30, 2017). However, either party may terminate this Agreement upon providing thirty (30) days written notice to the other party. Such written notice shall be sent to the designated agent for each party as set forth below.

2. **AUTHORIZED AGENTS**. The District designates the Superintendent of Schools, Dr. Mark J. Crawford, as its authorized agent for all communications pursuant to this Agreement and the Town designates Town Supervisor, Sheila Meegan, as its authorized agent for all communications pursuant to this Agreement. Written notices and the payment of any costs incurred pursuant to this Agreement shall be addressed as follows (or to such other agent/address as may hereafter be designated in writing by either party):

To the District:
Dr. Mark J. Crawford
West Seneca Central School District
675 Potters Rd
West Seneca, NY 14224

To the Town:
Sheila Meegan
Town of West Seneca
1250 Union Road
West Seneca, NY 14224

3. **LOANING OF SCHOOL BUSES.** The District shall intermittently loan school buses to the Town for the transportation of youth to programs as described herein. The Town shall provide the District at least five days' notice prior to the anticipated need of a school bus. After receiving such a request, the District shall determine, in its sole discretion, if it is able to loan a school bus to the Town for that particular program. The District shall then notify the Town in writing of its decision.

4. **COSTS INCURRED BY THE TOWN.** The Town shall provide insurance to cover the vehicles when used on behalf of the Town, including public liability and property damage insurance, fire insurance and compensation insurance of drivers, to protect the District. The Town shall be solely responsible for the cost of this additional insurance, and shall provide evidence of such coverage to the District. In addition, the Town shall indemnify the District for the cost of any collision insurance deductible and/or increase to premium incurred by the District as the result of damage to District vehicles when being used on behalf of the Town.

5. **SCHOOL BUS DRIVERS.** The Town must hire a current, active District bus driver(s) to operate the District's school buses. The Town agrees no one but a District driver will operate any school bus leased under this Agreement. The Town will indemnify the District for the full cost of any claim by a driver in alleging to be injured when he or she was working on a bus run for the Town, including any increase in the District's insurance premiums that may result from such a claim.

6. **SCHOOL BUS SAFETY.** The District agrees that the buses shall be equipped, inspected, and certified to be operated as school buses in accordance with the laws of the State of New York at the time of the loan made under this Agreement.

7. **LEGAL COMPLIANCE.** While performing under the terms of this Agreement, the District and the Town and each of their agents shall comply with all applicable federal, state, and local laws, resolutions, ordinances, codes, rules, and regulations.

8. **INSURANCE COVERAGE.** The Town does hereby agree: (1) to obtain and thereafter keep in full force and effect during the term of this Agreement, at its sole cost, general liability insurance with limits of not less than $1,000,000 per occurrence and $3,000,000 annual aggregate; (2) that the insurance of the Town will be primary with respect to any claim made against the Town and/or the District related to and/or arising out of the Town's use of a loaned school bus, and that the District shall be named as additional insured on such insurance coverage; (3) that the Town shall furnish evidence of such coverage to the District. In addition, the Town shall provide the District with evidence of its existing insurance coverages upon request, with the understanding that, pursuant to Education Law § 1709(25)(f), public liability and property damage insurance, fire insurance and compensation insurance of drivers shall be provided and collision insurance shall be provided in the amount of the value of the vehicle, to protect the District, and that the additional cost of such insurance shall be paid solely by the Town.

9. **INDEMNIFICATION**. The parties agree that the Town shall indemnify and hold harmless the District against any and all claims brought against the District related to or arising out of the Town's use of a loaned school bus, whether alleged to be negligent, intentional, reckless, or otherwise. Furthermore, each party agrees to defend, indemnify and hold harmless the other party from any and all claims and/or liability arising from its own acts, omissions or negligence, including the acts, omissions or negligence of its own employees and/or others under its supervision and control.

10. **MAINTENANCE AND REPAIR OF LOANED VEHICLES**. The District shall perform at its expense all needed routine inspections, maintenance, repairs and parts replacements as set forth in paragraph 4 of this Agreement, and any emergency road service needed during the term of the loan. The District shall also remain responsible for any repair and parts replacements to the powertrains (including, but not limited to, engines, transmissions, differentials, etc.) and structural deficiencies inside or outside of the buses. Any repairs made by the District shall be subject to the insurance coverage provided by the Town, as described in paragraph eight of this Agreement.

11. **DISPUTE RESOLUTION**. The parties shall first attempt to resolve any dispute that may arise as a result of this Agreement by discussion between the authorized agents. Both parties shall be barred from taking any legal action prior to the fulfillment of these dispute resolution procedures.

12. **PROHIBITION AGAINST ASSIGNMENT**. Neither party to this Agreement shall assign, transfer, convey, sublet, or otherwise dispose of this Agreement, or of its right, title, or interest in this Agreement, to any other person without the previous written consent of the other party.

13. **ENTIRE AGREEMENT**. This Agreement constitutes the entire agreement between the parties and supersedes any and all prior proposals, negotiations, and agreements, whether written or oral. Any modification or amendment to this Agreement shall be void unless it is in writing and signed by both parties.

14. **APPLICABLE LAW**. This Agreement is governed by the laws of the State of New York.

15. **SEVERABILITY**. If any provision of this Agreement is held invalid by a court of law, the remainder of this Agreement shall be valid and enforceable.

16. **BOARD APPROVAL**. This Agreement is subject to the approval of each the District's Board of Education and the Town's Board.

IN WITNESS WHEREOF, the parties hereto have caused this Intermunicipal Cooperation Agreement to be duly executed as of the day and year first above written.

WEST SENECA CENTRAL SCHOOL DISTRICT

By:_____
Superintendent of Schools

TOWN OF WEST SENECA

By: _____
Town Supervisor