



TOWN OF WEST SENECA

LAUREN J. MASSET
RECREATION SUPERVISOR

TOWN SUPERVISOR
GARY DICKSON
TOWN COUNCIL
WILLIAM HANLEY
WILLIAM BAUER
JOSEPH CANTAFIO
JEFFREY PIEKAREC

TO: Honorable Town Board / Town of West Seneca
FROM: Lauren J. Masset
Recreation Supervisor
DATE: August 26, 2020
RE: WSCSD Facility Usage Agreement 2020-2021

Please allow the Supervisor to execute the necessary documents to enter into an agreement with the West Seneca Central School District (WSCSD) located at 675 Potters Road, West Seneca, NY, 14224 for the use of Town of West Seneca facilities for the 2020-2021 school year.

NON-EXCLUSIVE FACILITIES
USAGE PERMIT & LICENSE AGREEMENT
TOWN OF WEST SENECA RECREATION DEPARTMENT

This Non-Exclusive Facilities Usage Permit & License Agreement (the "Agreement") is by and between the Town of West Seneca, located at 1250 Union Road, West Seneca, New York (the "Town"), West Seneca Central School District located at 675 Potters Road West Seneca, NY 14224 (collectively, the "Parties"), and is effective the date it was executed on behalf of the Town (the "Effective Date").

Recitals

WHEREAS, the Town owns and operates certain recreation facilities, including but not limited to: baseball diamonds, softball diamonds, soccer fields and an ice rink; and

WHEREAS, the Licensee desires to use a Town owned and operated recreation facility for the purpose of conducting games, practices or any other permitted use as set forth in this Agreement; and

WHEREAS, the Town is willing to permit the Licensee, and its employees, volunteers, agents, representatives and invitees to use the Facilities upon the terms, and subject to the conditions set forth in this Agreement.

NOW, THEREFORE, the Parties agree as follows:

1. Subject to the conditions, obligations and terms of this Agreement, including the Facilities Usage Rules and Regulations, set forth and attached hereto as EXHIBIT A, the Town grants the Licensee and the Licensee's Permitted Users a non-exclusive license (the "License") to use the facilities set forth and described within the hereto attached EXHIBIT B (the "Facilities"). By executing this Agreement, Licensee acknowledges and affirms it has reviewed and understands it shall be obligated to follow the Facilities Usage Rules and Regulations. Such use shall be solely for the Permitted Use as set forth below.

2. The License shall be the Permitted Use and the Permitted Use Dates as set forth and attached hereto as EXHIBIT C. Any changes to any provisions set forth in this section must be agreed to in writing by the Town, acting in its sole discretion.

3. The term of this Agreement shall commence on August 20, 2020, and end on August 19, 2021, unless terminated earlier in writing as provided by the Agreement.

4. The Licensee designates the individual named below (the "Licensee Representative") as the Licensee's authorized representative with whom the Town will work to facilitate the Permitted Use of the Facilities. The Town shall have the absolute right to rely upon

WSCSD / TWS Fac Use
2020-2021

representations and warranties made by the Licensee Representative purportedly on behalf of the Licensee:

Licensee Representative

Name: Matthew Bystrak, Superintendent of WSCSD
Address: 675 Potter Road, West Seneca, NY, 14224
Phone Number: 716-677-3100

5. The West Seneca Central School District shall pay \$120.00 per hour or \$2.00 per minute between 7:00 AM - 1:59 PM on weekdays and \$210.00 per hour or \$3.50 per minute before 6:59 AM on weekdays, after 2:00 PM on weekdays and regardless of time on weekends for use of the West Seneca Ice Rink. These fees are due at the end of each in season (no later than June 1, 2021). This document serves as the invoice of fees. The West Seneca Central School District shall pay no fees for use of Town of West Seneca Softball Diamonds, Baseball Diamonds, Soccer Fields, Tennis Courts, Basketball Courts, Walking Paths, Park Use, Track and Cross County.

The West Seneca Central School District must pay any fees for any Tournaments, Large Gatherings, Community or Special events. These fees will be assessed on a case by case basis. These fees are due a minimum of 10 business days in advance. An invoice will be provided.

After the Licensee's use of the Facilities, the Town shall provide an invoice setting forth any additional buildings and grounds maintenance costs resulting from the use. The invoice shall be paid within fifteen (15) days of Licensee's receipt. See Exhibit A #1.

THIS DOCUMENT SERVES AS AN INVOICE FOR THE FACILITY USE FEE.
Checks should be made out to Town of West Seneca

There is an additional fee for credit card transactions.

Payments can be submitted via mail to at West Seneca Youth & Recreation 1250 Union Road West Seneca, NY 14224. No currency should be sent in the mail. Checks only.

6. Other Licensee obligations:
7. Other Town obligations:
8. Failure of the Parties to agree upon any changes to, or extension of, the Permitted Use Dates will result in expiration of the Term; if that occurs, the Town will have no liability for damages of any kind whatsoever to the Licensee. The Town, in its sole discretion, may terminate this Agreement on the basis of any termination right set forth anywhere in this Agreement, including but not limited to any violation of the Facilities Usage Rules and Regulations.
9. The Licensee will only engage in Permitted Uses, all other uses are prohibited. The Licensee will engage in Permitted Uses in a manner that will protect and not damage the

Facilities, and will immediately notify the Town in writing of any prohibited uses by the Licensee or its invitees.

10. The Licensee will cooperate and will cause the Licensee's Representative and its invitees to cooperate with the Town's personnel at all times.

11. Neither the Licensee nor its invitees will make any alterations, improvements or changes of any kind to any of the Facilities or other Town property. If any alterations take place, the Licensee will immediately notify the Town in writing of such prohibited alterations. If any damage is sustained by the Facilities during the Licensee's use, then the Licensee shall pay the Town for such damages.

12. The Licensee agrees to indemnify and hold harmless the Town from any and all liability, damages, expenses, causes of action, suits, judgments and claims of any nature arising out of or in any manner connected with injury to persons or property which results from the Town's use and access of the Facilities, only to the extent that such liability, damages, expenses, causes of action, suits, judgments and claims do not arise out of the Town's negligence. The Licensee will maintain, or cause to be maintained, in full force and effect, at the Licensee's expense, one or more policies of general comprehensive liability insurance (the "Licensee's Liability Insurance") with combined single limit coverage of at least one million dollars (\$1,000,000.00) per occurrence, and at least three million dollars (\$3,000,000.00) in the aggregate, naming the Town as an additional insured. If the Certificates of Insurance, demonstrating insurance coverage required by this Section, are not received by the Town prior to the Permitted Use Dates, then the Town in its sole discretion may terminate this Agreement and/or prohibit the Licensee use of the Facilities. Certificates of Insurance upon their approval by the Town shall become part of this Agreement and shall be attached hereto as EXHIBIT D. An approved insurance certificate must be filed at least thirty (30) days prior to Licensee's use of the Facilities. Failure to provide a Certificate thirty (30) days prior to use may result in termination of this Agreement. Certificates of Insurance must list the Town of West Seneca 1250 Union Road West Seneca, NY 14224.

13. Each of the Parties acknowledges that it is not an agent for the other, and the Parties will not make any such assertions. This Agreement may be executed on behalf of the Town by any authorized Recreation Personnel, as designated by the Town Board. In the event any provision of this Agreement is determined to be invalid or unenforceable, the remainder shall remain in force as if such provision were not a part. This Agreement sets forth the entire understanding between the Parties and may be amended solely upon the written mutual agreement of the Parties.

TOWN OF WEST SENECA

By: Gary Dickson, West Seneca Town Supervisor
Dated:

(LICENSEE)

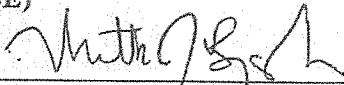
Signature: 
Matthew Bystrak, Superintendent of WSCSD
Dated: 8/26/2020

EXHIBIT A - Facilities Usage Rules and Regulations

1. If the Town cancels events, games, gatherings or other scheduled activities due to weather or any other conditions, Licensee is prohibited from using the facilities. If Licensee cancels any scheduled use or will not be using the scheduled facility use, the Recreation Department must be notified in advance. The Town will, at the request of the Licensee, make a good faith effort to reschedule any uses canceled by the Town due to weather. If the town is unable to reschedule any canceled game, Licensee will not be entitled to any refund from the Town.

Fees will not be refunded or adjusted should the Licensee fail to use the date they reserved. Fees will not be refunded or adjusted if usage is canceled due to weather related issues. Usage dates are not required to be rescheduled if they are canceled for weather related issues.

The Town of West Seneca reserves the right to deny a refund of fees should the Licensee wish to withdraw from usage prior to it's scheduled start date.

2. Licensee agrees to pay the Town the total rental fee for use of the Town facility specified upon execution of this agreement. (Payment in full is required) Unless other wise listed in section 5 of this agreement.
3. Licensee is responsible for keeping the diamond, field, park or rink and other areas in the vicinity free and clear of debris and garbage.
4. No alcoholic beverages or rowdiness will be allowed on the premises or in the immediate vicinity of any Town facilities or property.
5. There is no smoking of any kind permitted inside any town facility.
6. When using the Ice Rink all "Rink Rules" must be followed. These are posted in the main lobby of the ice rink.
7. Failure of Licensee to abide by the terms of this agreement may result in cancellation of this License by the Town.

8. Licensee acknowledges that its players have made themselves familiar with the terms of the Agreement and finds such terms acceptable.
9. Players and spectators WILL stay OFF the berm, if using the West Seneca Soccer Park.
10. Parking spots cannot be reserved for any Town facility
11. West Seneca Youth & Recreation reserves the right to cancel any scheduled use at any time, with no notice.
12. If using the West Seneca Ice Rink no "outside" food or drink should be brought in. Food should be purchased from the concession area within the rink.
13. Failure to abide by this agreement and work in harmony with the Town of West Seneca could result in termination of this agreement. No refunds will be given. All fees will still be owed for future reserved field uses.

EXHIBIT B - (the "Facilities") - Use

West Seneca Ice Rink - Bathrooms facilities, locker rooms (if available) and lobby.

Parks, Soccer Complex (Fields) and Diamonds - In addition to the facility used, licenses and participants shall receive us of bathroom facilities, and walking path (if/when available).

Use of Town of West Seneca Ice Rink, Softball Diamonds, Baseball Diamonds, Soccer Fields, Tennis Courts, Basketball Courts, Track and Cross County for West Seneca Central School District athletic/sporting events (games, practices, scrimmages, etc) during the 2020-2021 school year. All uses must be booked through the West Seneca Youth & Recreation office. No dates/times are guaranteed.

EXHIBIT C - Permitted Use and the Permitted Use Dates

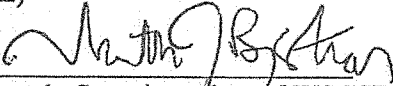
Permitted Use: See Exhibit B above.

Permitted Dates: Dates/Times/Location to be determined and scheduled between the WSCSD Athletic Office and TWS Recreation Office.

TOWN OF WEST SENECA

By: Gary Dickson, West Seneca Town Supervisor
Dated:

(LICENSEE)

Signature: 
Matthew Bystrak, Superintendent of WSCSD
Dated: 8/26/2020

ADDENDUM TO
NON-EXCLUSIVE FACILITIES
USAGE PERMIT & LICENSE AGREEMENT
TOWN OF WEST SENECA RECREATION DEPARTMENT

This Addendum to Non-Exclusive Facilities Usage Permit & License Agreement (the "Agreement") is by and between the Town of West Seneca, located at 1250 Union Road, West Seneca, New York (the "Town"), and the Licensee West Seneca Schools, located at 675 Potters Rd, West Seneca, NY 14224 (the "Licensee") (collectively, the "Parties"), and is effective the date it was executed on behalf of the Town (the "Effective Date").

Recitals

WHEREAS, the Licensee and the Town previously entered into a License Agreement for use of Town Facilities; and

WHEREAS, the novel coronavirus, COVID-19, has been declared a worldwide pandemic by the World Health Organization, and COVID-19 is reported to be extremely contagious; and

WHEREAS, the Centers for Disease Control and Prevention (CDC), New York State Department of Health, Erie County Department of Health have all implemented guidelines and rules related to the safety and reduction of spread of COVID-19;

WHEREAS, for the safety of the Parties, including the Licensee and its owners/operators/employees/players/spectators the Parties desire to make this Addendum to the Non-Exclusive Facilities Usage Permit & License Agreement previously executed in consideration of the circumstances described above.

NOW, THEREFORE, the Parties agree as follows:

1. The Parties acknowledge that there is a COVID-19 public health emergency and that Licensee, including its owners/operators/employees/players/spectators, must take precautions to help protect against the spread of COVID-19.

2. The Licensee will ensure that the organization adheres to all guidelines and rules made by the Centers for Disease Control and Prevention (CDC), New York State Department of Health, Erie County Department of Health, and Town of West Seneca, if applicable, and any changes to those guidelines and rules. It will be the responsibility of the Licensee to be abreast of any changes to aforementioned guidelines and rules.

3. The Licensee must sign the affirmation regarding Interim Guidance for Sports and Recreation provided by New York State affirming they have read and understand their obligation to operate in accordance with the guidance and provide proof of the signing of the affirmation to the Town prior to use of the Town's Facility. The affirmation may be found at <https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/SportsAndRecreationMaste>

rGuidance.pdf. Such affirmation must be and proof of signature submitted with the return of this executed Agreement.

4. The Licensee is solely responsible for the preparation of their written safety plan as required by New York State Department of Health. Said written safety plan shall be submitted to the Town with the return of this executed Agreement.

5. It is the sole responsibility of the Licensee to enforce the guidelines set forth by the New York State Department of Health. Such failure to adhere to or enforce the guidelines may lead to police intervention and possible charges for those individuals not following the guidelines pursuant to the Governor's Executive Order 202 and New York State Public Health Law Section 12-b.

6. In the event the Licensee fails to remain compliant with provisions of Paragraph 14 of this Agreement, the Town in its sole discretion may terminate this Agreement and/or prohibit the Licensee use of the Facilities.

7. The Licensee, on behalf of its owners/operators/employees/players/spectators, acknowledge the contagious nature of COVID-19 and further acknowledge that such exposure or infection may result in personal injury, illness, permanent disability, or death. The Licensee hereby forever releases and waives any right to bring suit against the Town of West Seneca, and its officers, directors, managers, officials, trustees, agents, employees, or other representatives in connection with exposure, infection, and/or spread of COVID-19 related to utilizing the Town's Facility. The Licensee understands that this waiver means they give up their right to bring any claims including for personal injuries, death, disease or property losses, or any other loss, including but not limited to claims of negligence and give up any claim seeking damages, whether known or unknown, foreseen or unforeseen.

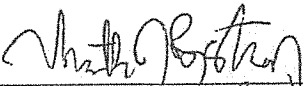
8. All other terms of the prior License Agreement between the Parties not modified herein shall remain in full force and effect.

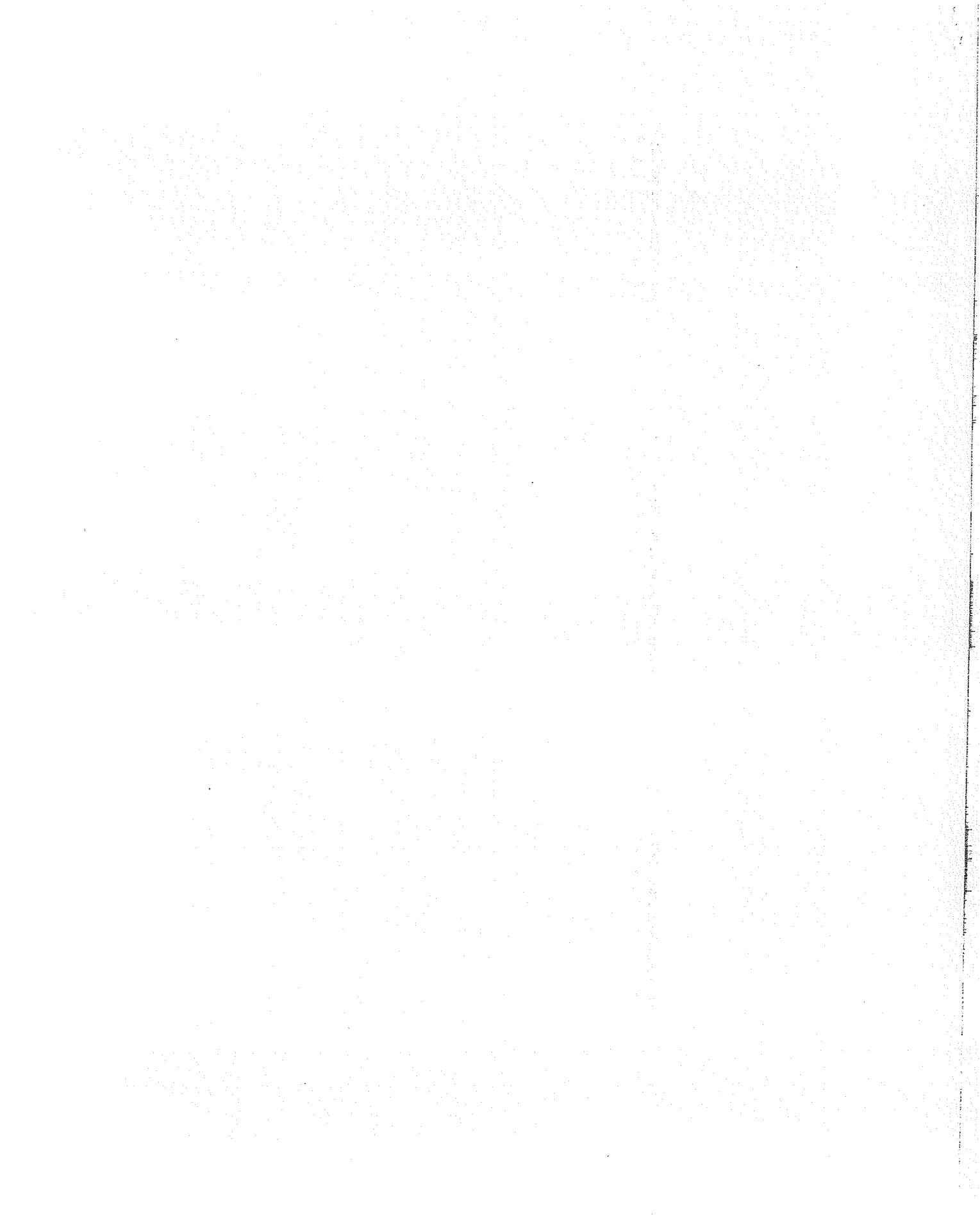
9. This Agreement contains the entire agreement between the Parties. All prior negotiations, statements, or representations are merged herein. The Parties acknowledge that they have not made or relied upon any representations, statements, or agreements except those specifically set forth herein.

TOWN OF WEST SENECA

West Seneca Schools

By: _____
Gary A. Dickson
Title: Supervisor

By: 
Name: Matthew J. Bystrak
Title: Superintendent





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
01/23/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER NEW YORK SCHOOLS INSURANCE RECIPROCAL 333 Earle Ovington Blvd. Uniondale NY, 11553	CONTACT NAME: PHONE (A/C, No., Ext): _____ FAX (A/C, No.): _____ E-MAIL ADDRESS: _____ <table style="width: 100%; border: none;"> <tr> <td style="text-align: center; border: none;">INSURER(S) AFFORDING COVERAGE</td> <td style="text-align: center; border: none;">NAIC #</td> </tr> <tr> <td style="border: none;">INSURER A : New York Schools Insurance Reciprocal</td> <td style="border: none;">34843</td> </tr> <tr> <td style="border: none;">INSURER B :</td> <td style="border: none;"></td> </tr> <tr> <td style="border: none;">INSURER C :</td> <td style="border: none;"></td> </tr> <tr> <td style="border: none;">INSURER D :</td> <td style="border: none;"></td> </tr> <tr> <td style="border: none;">INSURER E :</td> <td style="border: none;"></td> </tr> <tr> <td style="border: none;">INSURER F :</td> <td style="border: none;"></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : New York Schools Insurance Reciprocal	34843	INSURER B :		INSURER C :		INSURER D :		INSURER E :		INSURER F :	
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INSURER F :															
INSURED West Seneca Central School District 675 Potters Road West Seneca, NY 14224															

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR	WVO	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	X		SSP WSENA 001	01/31/2020	01/31/2021	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE UNLIMITED PRODUCTS - COMP/OP AGG \$1,000,000 \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB RETENTION \$	X		ECL WSENA 001	01/31/2020	01/31/2021	EACH OCCURRENCE \$25,000,000 AGGREGATE UNLIMITED \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory In NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				<input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Certificate Holder is named as Additional Insured only as respects to the use of Town of West Seneca's premises/facilities for scheduled West Seneca Central School District's athletic teams' practices and games during the policy period.

CERTIFICATE HOLDER

CANCELLATION

Town of West Seneca
 1250 Union Road
 West Seneca, NY 14224

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Eric M. [Signature]