

INTERMUNICIPAL COOPERATION AGREEMENT

This Agreement made and entered into this ____ day of April, 2018, between the TOWN OF LEWISTON (“the Town”), a municipal corporation, organized and existing under the laws of the State of New York, with its principal office located at 1375 Ridge Road, Lewiston, New York 14092, and the LEWISTON-PORTER CENTRAL SCHOOL DISTRICT (“the District”), a municipal corporation, organized and existing under the laws of the State of New York, with its principal office located at 4061 Creek Road, Youngstown, New York 14174.

WITNESSETH:

WHEREAS, the parties to this Agreement recognize the importance of municipal autonomy as well as the potential benefits that can be derived from a cooperative relationship between them for the betterment of the local community; and

WHEREAS, the District owns and maintains its school buildings and related sports and recreational facilities (“District Facilities”); and

WHEREAS, the Town owns and maintains various parks and recreational facilities, including but not limited to Washuta Park (“Town Facilities”); and

WHEREAS, the Town operates various recreation programs within the Town of Lewiston, including but not limited to baseball, softball and basketball programs throughout the year; and

WHEREAS, the Town wishes to utilize District Facilities for its recreation programs, and the District wishes to utilize Town Facilities for sporting events, practices and/or other school programs and events; and

WHEREAS, the District is willing to allow the Town to use District Facilities, and the Town is willing to allow the District to use Town Facilities upon the terms and conditions set forth herein; and

WHEREAS, the District and the Town are authorized to enter into this Agreement pursuant to Article 5-G, Section 119-o of the General Municipal Law and Article IX, Section 1(c) of the New York State Constitution;

NOW, THEREFORE, in consideration of the promises and mutual covenants and agreements contained herein, the parties hereby agree as follows:

1. DURATION: This Agreement shall continue from April 17, 2018 until May 30, 2021, unless terminated previously by either party via written notice of its intention to terminate at least sixty (60) days prior to the effective date of the termination. This Agreement shall not automatically renew if it is not terminated prior to May 30, 2021.
2. USE OF FACILITIES, IN GENERAL: The Town shall be permitted to use District Facilities for the Town's recreation programs when District Facilities are not needed for District purposes and are otherwise available, and the District shall be permitted to use Town Facilities for sporting events, practices and/or other school programs and events when Town Facilities are not needed for Town purposes and are otherwise available. Except as indicated in this Agreement, neither party shall charge any costs or fees to the other party for its use of Town Facilities or District Facilities. Each party agrees to notify the other as far in advance as is practicable whenever a party seeks to use the Facilities of the other party, and shall provide all dates, times and length of use when requesting access to said Facilities. In the event that the Town seeks to use District

Facilities, the Town shall complete and submit an Application for Facility Use, along with certificate of insurance and any other documentation required in the Application, to the District's Buildings and Grounds Office at least fifteen (15) days prior to the date on which the Town wishes to use District Facilities.

3. INSURANCE: The Town shall name the District as an additional insured on its liability insurance policy and the District shall name the Town as an additional insured on its liability insurance policy.
4. TOWN OBLIGATIONS: The Town agrees to assume the following obligations in connection with its use of District Facilities:
 - a. To comply with all rules, regulations, and policies of the District, including but not limited to Policy 3280, "Use of School Facilities, Materials and Equipment;"
 - b. Tobacco, alcohol and illegal substances are strictly prohibited on the District's grounds, including all District Facilities;
 - c. The Town shall be responsible for providing adequate supervision and safety measures for all individuals present at the District's Facilities during the Town's usage of same;
 - d. The Town shall indemnify and hold harmless the District from any loss, injury, death, and/or damage, and against any claim for compensation which may be asserted against the District arising out of or resulting from the Town's use of the District's Facilities pursuant to this Agreement or the Town's obligations set forth herein;
 - e. To notify the District as soon as practicable of any and all potential hazards or dangerous conditions that are observed in or around District Facilities;
 - f. To supervise and monitor all vehicle travel and parking on the District's property; except in emergencies, vehicles are not

permitted to travel or park on any grass on District property, and are not permitted to park on the service road located between the District's High School and Middle School at any time.

- g. To the extent the Town seeks to use District Facilities at any times that require the payment of overtime to District employee(s), the District will notify the Town of the overtime expense on the Application for Use of School Facility Form, and the Town shall be responsible for and pay all such overtime costs incurred by the District in connection therewith;
- h. In the event that the Town seeks to host a tournament at District Facilities, excluding any tournament that takes place between June 1st and August 15th on the District's baseball fields, the Town shall pay the applicable rental fee set by the District's Board of Education, which rental fee shall be discounted by 50% whenever at least 50% of the participants are residents of the District;
- i. District Facilities used by the Town shall be left in a neat and orderly condition after each use;
- j. To prohibit any and all activities that may damage the fencing around the baseball fields, including but not limited to throwing or hitting balls against the fence;
- k. To fix or repair any and all damage to District Facilities or grounds that is caused by or incident to the Town's usage of same;
- l. The Town shall not leave or store any equipment, materials or other items on District property, and to the extent any such equipment, materials or other items are left on District property, the District shall not be responsible for any loss or damage to same;
- m. Payment of invoice dated April 5, 2017 in the amount of \$1,066.12, upon execution of this Agreement;
- n. To maintain all baseball fields on the District's campus, weather permitting, from June 1st to August 15th, including but not limited to:

- i. Mowing baseball fields at least two times per week. Grass should be cut at a height of two to three inches.
- ii. Trimming baseball fields, including but not limited to areas around fence lines and dugouts, at least once every two weeks.
- iii. Grooming and cultivating home plate area, pitching mounds and infield on a regular basis and to the extent necessary to avoid or eliminate the growth of weeds or grass in those areas;
- iv. Grooming and cultivating warning track area at least once every two weeks.
- v. Any other regular maintenance that may be required in order to play on the baseball fields, including but not limited to, striping, leveling and dragging of infields;
- vi. Cleaning dugouts after each use;
- vii. Supply all clay and maintenance materials necessary in order to play games except for ball mix, which the District will supply;
- viii. Fixing any and all damage to District Facilities or property that is caused by or incident to the Town's usage of same; and
- ix. Gathering all garbage on or around baseball fields and fence area and placing in trash receptacles after each use.
- o. In the event that the Town is unable to perform any of the foregoing obligations, the Town shall promptly notify the District's Superintendent of Buildings & Grounds, via email, and shall identify the obligation(s) the Town is unable to perform and the reason(s) why. This would include, for example, that the weather prevented the Town from performing certain maintenance.

5. TOWN'S USE OF DISTRICT EQUIPMENT: The Town may use the District's tractor rake (rake only) to help maintain the warning track area of the baseball field. The Town agrees to clean and maintain the rake as necessary. The Town shall not use any other District equipment without express authorization from the District, in writing.
6. INSPECTIONS:
- a. On or prior to June 1st of each year of this Agreement, the Town's Director of Recreation and the District's Superintendent of Buildings & Grounds shall, at a mutually agreed upon date and time, walk through and inspect the baseball fields for the purpose of confirming and documenting the condition of the fields prior to the Town's use of same. Photographs of the areas inspected, including any issues identified during the inspection, shall be taken during the inspection.
 - b. On or prior to August 15th of each year of this Agreement, the Town's Director of Recreation and the District's Superintendent of Buildings & Grounds shall, at a mutually agreed upon date and time, walk through and inspect the baseball fields for the purpose of confirming and documenting the condition of the fields prior to the District resuming full control and maintenance of the fields. Photographs of the areas inspected, including any issues identified during the inspection, shall be taken during the inspection.
 - c. Following each inspection performed pursuant to this Agreement, the parties shall complete the Inspection Form, a copy of which is attached hereto as **Exhibit A**.
 - d. The District reserves the right to terminate this Agreement if the Town fails or refuses to rectify an issue discovered during an inspection within a reasonable period of time.

7. DISTRICT OBLIGATIONS: The District agrees to assume the following obligations in connection with its use of Town Facilities;
- a. To comply with all rules, regulations, and policies of the Town, including but not limited to the prohibited use of tobacco, alcohol and illegal substances;
 - b. The District shall be responsible for providing adequate supervision and safety measures for all individuals present at the Town's Facilities during the District's usage of same;
 - c. The District shall indemnify and hold harmless the Town from any loss, injury, death, and/or damage, and against any claim for compensation which may be asserted against the Town arising out of or resulting from the District's use of the Town's Facilities pursuant to this Agreement or the District's obligations set forth herein;
 - d. Town Facilities used by the District shall be left in a neat and orderly condition after each use;
 - e. To the extent the District seeks to use Town Facilities at any times that require the payment of overtime to Town employee(s), the Town will notify the District of the overtime expense, and the District shall be responsible for and pay all such overtime costs incurred by the Town in connection therewith;
 - f. To notify the District as soon as practicable of any and all potential hazards or dangerous conditions that are observed in or around District Facilities;
 - g. Fixing any and all damage to Town facilities or property that is caused by or incident to the District's usage of same; and
 - h. The District shall not leave or store any equipment, materials or other items on Town property, and to the extent any such equipment, materials or other items are left on Town property, the Town shall not be responsible for any loss or damage to same;

8. COMPLETE AGREEMENT/MODIFICATIONS: The parties hereby acknowledge that this Agreement constitutes the complete understanding of the parties. No modification of any provision herein shall be valid unless in writing and signed by both parties.
9. PRIOR AGREEMENTS: This Agreement shall replace and supersede any and all prior agreements between the Town and the District related to the use of District Facilities or Town Facilities.
10. ASSIGNMENT: This Agreement may not be assigned by either party.
11. SEVERABILITY: If any provision of this Agreement is deemed to be invalid or inoperative for any reason, that part shall be severed and the remainder of the Agreement shall continue in full force and effect as if the Agreement had been signed without the invalid portion.
12. AUTHORITY TO EXECUTE: The undersigned hereby acknowledge that this Agreement is being executed pursuant to the authority vested in them by the Town Board and Board of Education, respectively.
13. APPLICABLE LAW: This Agreement is governed by the laws of the State of New York. To the extent that any dispute may arise related to the terms of this Agreement, the parties agree that all such disputes shall be litigated in New York State Supreme Court, Niagara County.
14. NOTICES: Any and all notices and payments required hereunder shall be addressed as follows, or to such other address as may hereafter by designated in writing by either party hereto:

To: Steve Broderick
Town Supervisor
1375 Ridge Road
P.O. Box 330
Lewiston, New York 14092

To: Paul J. Casseri
Superintendent of Schools
4061 Creek Road
Youngstown, New York 14174

IN WITNESS WHEREOF, the undersigned have executed this Agreement and have thereby agreed to abide by all terms stated above.

By: _____
Paul J. Casseri
Superintendent of Schools
Lewiston-Porter Central School District

By: _____
Steve Broderick
Town Supervisor
Town of Lewiston

STATE OF NEW YORK)
) ss.
COUNTY OF NIAGARA)

On this ____ day of _____ 2018, before me personally appeared Mr. Paul J. Casseri, to me known to be the individual who executed the within instrument and he acknowledged to me that he executed the same.

Notary Public

STATE OF NEW YORK)
) ss.
COUNTY OF NIAGARA)

On this ____ day of _____ 2018, before me personally appeared Mr. Steve Broderick, to me known to be the individual who executed the within instrument and he acknowledged to me that he executed the same.

Notary Public