

**INTER-MUNICIPALITY
AGREEMENT**

INTER-MUNICIPALITY AGREEMENT (the "Agreement") made as of by and between the **BOARD OF EDUCATION** (the "Board") of the **BALDWINSVILLE CENTRAL SCHOOL DISTRICT**, County of Onondaga, State of New York (the "School District"), and the **TOWN BOARD** (the "Town Board") of the **TOWN OF LYSANDER**, County of Onondaga, State of New York (the "Town").

WHEREAS, Article 5-G of the General Municipal Law (the "GML") authorizes municipal corporations and public school districts to perform among themselves, or to have one perform for the other, their respective functions, powers and duties on a cooperative basis, and to enter into written agreements to confirm such inter-municipal cooperation; and

WHEREAS, the parties have agreed that the School District will purchase, store and provide fuel for the Town motor vehicles on the terms set forth herein; and

WHEREAS, the parties wish to confirm, in writing, the terms and conditions under which said cooperative services will be provided.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. **Scope of Services.** The School District will store motor vehicle fuel at its fuel storage tank and will sell fuel to the Town to be used in vehicles owned by the Town during the term of this Agreement. The Town shall fuel its own vehicles.
2. **Priority.** School District vehicles will receive priority for refueling during the term of this Agreement and the School District's obligations hereunder shall be subject to its ability to meet its own fuel needs first. The Town's right and obligation to purchase fuel throughout the term of this Agreement shall be subject to the School District being able to supply fuel that meets the requirements of Town vehicles.
3. **Term.** This Agreement shall be for a five (5) year period from July 1, 2022 until June 30, 2027, unless sooner terminated or further extended as provided in Section 8 of this Agreement.
4. **Payment for Services.** The cost of the fuel to the Town shall be the average per gallon price paid by the School District for fuel delivered during the quarter for which the Town is billed. In similar inter-municipality agreements with other public entities, the School District

also receives an additional \$8 per FOB fee to compensate it for the administrative expense, the cost of equipment, and other expenses it incurs in connection with such agreements. The School District will invoice the Town quarterly for the months of July- September, October-December, January-March, April-June by the 15th of the next month, meaning invoices will be sent in October, January, April and July for fuel consumed during the preceding quarter. Payment is to be made by the Town within 30 days of receipt of the invoice. In the event the School District renovates the existing fuel storage facility or constructs a new facility or in the event the Town requires fuel other than what the School District uses in its vehicles, the parties will re-negotiate the per gallon cost to be paid by the Town hereunder. (*\$8 per FOB per quarter*)
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5. Indemnification by the School District. To the fullest extent permitted by law, the School District shall indemnify the Town and save it harmless from and against any and all causes of action, claims, actions, suits, charges, damages, statutory liabilities, costs, expenses, and losses (hereinafter "Claims") arising out of or resulting from performance or failure to perform pursuant to this Agreement by the School District, its agents, contractors, employees and servants for or in connection with (i) the personal and/or bodily injury or death of any person (including employees of the parties); (ii) damage, including environmental damage, to any real or personal property (whether owned, leased or licensed); (iii) all reasonable attorney's fees and legal expenses associated with the defense of such Claims; and (iv) all costs sustained by the Town in enforcing this indemnification agreement, except that the School District shall not be required to indemnify or hold the Town harmless for any Claims brought by, on behalf of, or as a survivor of, a School District employee who has a right to claim benefits under the New York Workers Compensation Law.

6. Indemnification by the Town. To the fullest extent permitted by law, the Town shall indemnify the School District and save it harmless from and against any and all causes of action, claims, actions, suits, charges, damages, statutory liabilities, costs, expenses, and losses (hereinafter "Claims") arising out of or resulting from performance or failure to perform pursuant to this Agreement by the Town, its agents, contractors, employees and servants for or in connection with (i) the personal and/or bodily injury or death of any person (including employees of the parties); (ii) damage, including environmental damage, to any real or personal property (whether owned, leased or licensed); (iii) all reasonable attorney's fees and legal expenses associated with the defense of such Claims; and (iv) all costs sustained by the School District in enforcing this indemnification agreement. In addition, the Town shall indemnify the School District for any penalties, fines, costs, attorney's fees and other expenses statutorily imposed with respect to any discharge of petroleum product which is caused by the negligence or intentional acts of the Town, including but not limited to the acts of its agents and employees, in their use of the School District's fuel storage facility.

7. Insurance. The Town and School District will name each other as an additional insured on their comprehensive liability insurance which shall be maintained throughout the entire term of this Agreement in minimum amounts of \$1,000,000 per individual and \$2,000,000 per occurrence.

8. Extension or Termination. The term of this Agreement may be extended by written agreement of the parties, provided the extended term is permissible under General Municipal Law § 119-0(2)(j). The School District may terminate this Agreement upon thirty (30) days written notice upon the occurrence of any of the following events.

- (a) the School District no longer operates the fuel storage facility; or
- (b) the Town requires a different type of fuel than the School District uses in its vehicles.

This Agreement may also be terminated by written agreement between the School District and the Town with such notice as the parties may agree upon.

9. Agreement Terms to be Exclusive. This Agreement contains the sole and entire understanding between the parties and supersedes any and all other agreements between the parties. Neither party has made any representations with respect to the subject matter of this Agreement or any representations inducing the execution and delivery hereof except such representations as are specifically set forth herein. The parties further acknowledge that any statements or representations that may have been made by either of them to the other are void and of no effect, and that neither of them as relied thereon in connection with its dealings with the other.

10. Non-Assignment. Neither party may assign this Agreement without prior written consent of the other party.

11. Agreement Governed by Law of State of New York. This Agreement, the performance hereunder and all questions relating thereto, shall be construed in accordance with the laws of the State of New York. The parties shall comply with all applicable laws, rules and regulations in all actions taken pursuant to this Agreement.

12. Waiver or Modification Ineffective Unless in Writing. No waiver or modification of this Agreement or of any covenant, condition, or limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith, and no evidence of any waiver or modification shall be offered or received in evidence in any arbitration proceeding between the parties arising out of or affecting this Agreement, or the rights or obligation of any

party hereunder, unless such waiver or modification is in writing, duly executed as aforesaid. The provisions of this section may not be waived except as herein set forth.

13. Arbitration. Any claims or disputes between the School District and that pertain directly or indirectly to this Agreement and/or any matter arising therefrom shall be submitted to final and binding arbitration. The parties shall agree on the selection of an impartial arbitrator and, if agreement is not reached, the arbitrator shall be selected under rules of the American Arbitration Association. The arbitration proceeding shall be conducted under the rules of the American Arbitration Association; the arbitrator shall have no power or authority to add to, subtract from, modify, change or alter any of the provisions of this Agreement; and the fees and expenses of the arbitrator shall be paid for by the parties as directed by the arbitrator.

14. Severability. All provisions contained in this Agreement are severable. In case anyone or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement; rather, this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein. If, moreover, anyone or more of the provisions contained in this Agreement shall, for any reason, be held to be excessively broad as to time, duration, geographical scope, activity, or subject, this Agreement shall be construed, by limitation and reduction thereof, so as to be enforceable to the extent compatible with applicable law as such law shall then appear.

15. Exclusive Application. Nothing in this Agreement is intended or shall be construed to confer upon, or to give to, any person, firm, or corporation other than the parties hereto any right, remedy, or claim under or by any reason of this Agreement. All terms and conditions in this Agreement shall be for the sole and exclusive benefit of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**BALDWINSVILLE CENTRAL SCHOOL
DISTRICT BOARD OF EDUCATION**

By: Jennifer Patrum
President

TOWN OF LYSANDER

By: _____
Town Supervisor