

INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is executed on the date last written below by and between the Board of Education of Wheaton Community Unit School District No. 200 (“Wheaton”) and the Board of Education of Keeneyville Elementary School District No. 20 (“Keeneyville”), hereinafter individually referred to as a “Party” and collectively as the “Parties.”

WHEREAS, Wheaton is an Illinois public school district existing and operating pursuant to the Illinois School Code, 105 ILCS 5/1 *et seq.*; and

WHEREAS, Keeneyville is an Illinois public school district existing and operating pursuant to the Illinois School Code, 105 ILCS 5/1 *et seq.*; and

WHEREAS, Article VII, Section 10, of the Constitution of the State of Illinois of 1970 provides that units of local government may contract or otherwise associate among themselves to obtain or share services and to exercise, combine, or transfer any power or function in any manner not prohibited by law or by ordinance and may use their credit, revenues, and other resources to pay costs related to intergovernmental activities; and

WHEREAS, intergovernmental cooperation is further authorized by the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.* (“the Act”); and

WHEREAS, Wheaton has arranged, through a separate agreement with Blu Petroleum, Inc., to purchase fuel to be stored at the transportation depot and fueling station located at the Illinois Central School Bus Depot, with an address of 640 Kimberly Drive, Carol Stream, IL 60188 (“Fueling Facility”) for the purpose of fueling its own vehicles; and

WHEREAS, the Parties intend to also have Keeneyville purchase fuel from the Fueling Facility for the purpose of fueling Keeneyville’s equipment (“Refuel Services”); and

NOW, THEREFORE, in consideration of these recitals and the promises, mutual covenants, terms, and conditions set forth herein and for good and valuable consideration, the Parties agree as follows:

1. Incorporation. The recitals as set forth above are hereby incorporated into this Agreement and shall have the same force and effect as thought fully set forth herein.

2. Term and Termination. The term of this Agreement shall commence on the date this Agreement is fully executed and shall continue for a three (3) year period (the “Term”). This Agreement shall automatically renew annually unless either Party provides notice of termination pursuant to this Section.

- a. Termination for convenience. Either Party may terminate this Agreement for convenience by providing ninety (90) days’ written notice to the other Party.
- b. Termination for cause. Either Party may terminate this Agreement upon written Notice (defined below in Section 7) to the other Party if the other Party breaches any provision of this Agreement and either the breach cannot be cured or, if the breach can be cured, it is not cured by the other Party within ten (10) days after receipt of written Notice of such breach.

3. Access to the Fueling Facility. Wheaton agrees to allow Keeneyville to fuel its vehicles and equipment using Wheaton's fuel at the Fueling Facility throughout the term of this Agreement, on the following terms and conditions:

- a. Except as otherwise provided herein, Wheaton shall permit Keeneyville to fuel its vehicles and equipment using Wheaton's fuel at the Fueling Facility without restriction whenever the Fueling Facility is open and operational; and
- b. Wheaton and Keeneyville shall jointly and mutually agree upon a system to track Keeneyville's fueling.
 - i. Illinois Central School Bus Company shall keep a daily record of the gallons of fuel pumped into its vehicles and equipment on the daily gas register, which will also be recorded on a totalized meter;
 - ii. Illinois Central School Bus Company shall provide Wheaton with the daily record of fuel pumped into vehicles used to service Keeneyville on a monthly basis.
- c. The Parties agree that they shall not use the Fueling Facility to dispense fuel into personal vehicles or containers that are not authorized or appropriate for such purposes; and
- d. The Parties shall abide by all rules, regulations, guidelines and notices issued by or posted at the Fueling Facility.

4. Parties' Responsibilities.

- a. Wheaton Responsibilities. Wheaton shall:
 - i. Order and procure the quantities of gasoline required for its own use and for purposes of this Agreement;
 - ii. Sign undisputed delivery tickets when bulk shipments of gasoline;
 - iii. Allow Keeneyville to fuel its vehicles and equipment using Wheaton's fuel at the Fueling Facility throughout the term of this Agreement as set forth to Section 3; and
 1. Take daily pump readings which will be cross checked with the daily gas register;
 - iv. Invoice Keeneyville once per month for all fuel dispensed to Keeneyville with any for the period since the date of the last invoice. The invoiced amount shall be the per gallon (or gallon equivalent) based on the most recent fuel purchase cost paid by Wheaton charged by the vendor multiplied by the number of gallons (or gallon equivalent) dispensed.

- b. Keeneyville's Responsibilities. Keeneyville shall:
 - i. Take daily pump readings which will be cross checked with the daily gas register;
 - ii. Pay Wheaton within thirty (30) days of receipt of any invoice provided pursuant to this Agreement;
 - iii. Provide Wheaton with a Certificate of Exemption for tax filings related to the purchase of Wheaton's gasoline; and
 - iv. Reasonably using the Fueling Facility in accordance with the terms of this Agreement.
- c. The Parties may prepare a mutually agreeable schedule for the refueling, subject to revisions as the Parties deem necessary.

5. Representations, Warranties, and Certain Covenants.

- a. Mutual Representations, Warranties, and Covenants. Each Party represents, warrants, and covenants to the other that:
 - i. it has the full right, power, and authority to enter into this Agreement, to grant the rights and licenses granted under this Agreement and to perform the obligations under this Agreement;
 - ii. the execution of this Agreement by its Representative whose signature is set forth at the end hereof and the delivery of this Agreement by the Party has been duly authorized by all necessary action of the Party;
 - iii. this Agreement has been executed and delivered by the Party and (assuming due authorization, execution, and delivery by the other Party) constitutes the legal, valid and binding obligation of the Party, enforceable against the Party in accordance with its terms; and
 - iv. it is now and through the Term shall remain in compliance with all laws applicable to the performance of its obligations under this Agreement.

6. Indemnification. Each Party shall indemnify, defend, and hold harmless the other Party and its representatives, agents, directors, board members, employees, administrators, and volunteers from all claims, demands, causes of action, losses, liabilities, damages, penalties, liens, fines, and expenses, including reasonable attorney's fees and court costs, which are incurred by another Party, but only to the extent arising from the indemnifying Party's breach of this Agreement or negligence. The requirements of this paragraph shall survive the termination of this Agreement. Nothing in this paragraph shall be interpreted to waive any statutory or common grants of privilege or immunity.

7. Insurance.

11. **Complete Understanding.** This Agreement sets forth all promises, agreements, conditions and understandings between the Parties relative to the subject matter herein, and there are no promises, agreements or undertakings, either oral or written, express or implied, between them other than as set forth herein.

12. **Modifications.** This Agreement may be modified only through a written instrument signed by both Parties.

13. **Independent Contractors.** This Agreement evidences an independent contractor relationship, and nothing in this Agreement is intended nor will be construed to create an employee relationship or a partnership or joint venture relationship between Wheaton and Keeneyville, and any employee, agent, faculty or student of the districts; or b) to allow either party to exercise control or direction over the manner or method by which the other party and its representatives perform this Agreement; provided always that each party will ensure that such performance is made in a manner consistent with each parties' policies, applicable legal and accreditation standards and the provisions of this Agreement.

14. **No Third-Party Beneficiaries.** This Agreement is not intended to confer any right upon any third party who is not a Party to this Agreement.

15. **No Assignment or Delegation.** Each Party represents and warrants that it has not and will not assign, sublet or transfer any rights or obligations under this Agreement. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body that may not be a party hereto, nor shall it be construed as giving any right or benefits hereunder to anyone other than the Parties.

16. **Choice of Law.** This Agreement shall be governed by, subject to, and construed in accordance with the laws of the State of Illinois without regard to conflict of law principles. Venue for any dispute arising under this Agreement shall be DuPage County, Illinois.

17. **Binding Effect and Interpretation.** The Parties intend this Agreement to be legally binding on them, and to inure to their benefit and the benefit of their respective legal representatives, successors, beneficiaries, heirs and assigns. The provisions of this Agreement are severable and no provision shall be affected by the invalidity of any other provision. This Agreement has been negotiated by the Parties, and in the event any court determines any provision of this Agreement to be ambiguous, the ambiguity shall not be construed against the School District.

18. **Execution in Counterparts.** This Agreement may be executed in counterparts. When both counterparts have been executed, the exchange of counterparts in hardcopy or electronically shall have the same effect as if the Parties had executed and exchanged the same instrument.

19. **Integration.** This Agreement contains the entire agreement between the Parties. This Agreement supersedes and nullifies any prior verbal or written statement, assurance, representation, or agreement between the Parties concerning the subject matter of this Agreement, except as contained in this Agreement. This Agreement may only be amended by the subsequent written agreement of both Parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their duly authorized representatives and executed on the date last written below.

**BOARD OF EDUCATION OF COMMUNITY
UNIT SCHOOL DISTRICT NO. 200**

**BOARD OF EDUCATION OF
KEENEYVILLE ELEMENTARY
SCHOOL DISTRICT NO. 20**

By:
Its:

By:
Its:

Date: _____, 2024

Date: _____, 2024