



# TOWN OF PENFIELD

3100 Atlantic Avenue, Penfield, NY 14526-9798

## TOWN BOARD LEGISLATIVE AGENDA

Wednesday, June 4, 2025 6:30 PM

Supervisor Leenhouts, presiding

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- I. Call to Order - Pledge of Allegiance - Roll Call
- II. Communications and Announcements
- III. Public Hearing: To Consider a Proposed Local Law to Amend Town Code Chapter 180 (Sewers)
- IV. Public Information Input Session: 2026 Sidewalks
- V. Public Participation
- VI. Additions and Deletions to Agenda
- VII. Approval of Minutes - May 7, 2025
- VIII. Petitions
- IX. Resolutions by Function

### Law and Finance

- 25T-108 Authorization for Supervisor to Sign a License and Hold Harmless Agreement to Allow a Memorial Bridge within a Drainage Easement at 1401 Empire Blvd.
- 25T-109 Authorization for Supervisor to Sign a License and Hold Harmless Agreement to Allow a Fence within a Sanitary Storm Sewer Easement at 7 Readonna Lane
- 25T-110 Authorize the Supervisor to Sign an Intermunicipal Agreement with Monroe County for Purchase of Fuel
- 25T-111 Awarding a Contract for Selective Demolition and Dismantling of the Clark House Barn
- 25T-112 Authorize the Supervisor to Sign an Intermunicipal Agreement with the Penfield Central School District
- 25T-113 Authorization for Supervisor to Sign a License and Hold Harmless Agreement to Allow Stairs to an Elevated Deck Within a Drainage Easement at 58 Saldo Lane
- 25T-114 Budget Transfers for the General Fund

### Public Works

- 25T-115 Amending the Electrical Contract for the Construction of the Alpheus Clark House Renovation Project
- 25T-116 State Environmental Quality Act (SEQRA) Review and Determination Associated with the Transfer of Land Between 1607 Jackson Road and 1545 Jackson Road
- 25T-117 Authorizing Transfer of Land Between 1607 Jackson Road and 1545 Jackson Road

### Public Safety

- 25T-118 Authorization to post Temporary NO PARKING Signs

### Community Services - None

- X. Old Business
- XI. New Business
- XII. Executive Session
- XIII. Next Meeting: July 2, 2025

**TOWN BOARD LEGISLATIVE AGENDA**

XIV. Adjournment

*This meeting will be video recorded and broadcast LIVE via the town's website [www.penfield.org](http://www.penfield.org)  
and the Town's Government Access Cable Channel 1303.*

*Questions regarding video coverage contact Penfield TV at (585) 340-8661.*

PENFIELD TOWN BOARD RESOLUTION NO. 25T-108

DATE: 06/04/2025

BY: Councilperson Lee

COMMITTEE: Law and Finance

NAME: Authorization for Supervisor to Sign a License and Hold Harmless Agreement to Allow a Memorial Bridge Within a Drainage Easement at 1401 Empire Blvd – SBL#108.06-1-16.1

BE IT RESOLVED, that the Town Board of the Town of Penfield hereby authorizes the Supervisor to sign a License and Hold Harmless Agreement with Richard F. Harris, owner of property of 1401 Empire Blvd, to permit a portion of a memorial bridge to encroach into the drainage easement to the Town of Penfield located at 1401 Empire Blvd in a form and substance acceptable to the Town Attorney.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

|       |           |       |
|-------|-----------|-------|
| Vote: | Berry     | _____ |
|       | Lee       | _____ |
|       | Leenhouts | _____ |
|       | Ockenden  | _____ |
|       | Teglash   | _____ |

PENFIELD TOWN BOARD RESOLUTION NO. 25T-109

DATE: 06/04/2025

BY: Councilperson Lee

COMMITTEE: Law and Finance

NAME: Authorization for Supervisor to Sign a License and Hold Harmless Agreement to Allow a Fence  
Within a Sanitary Storm Sewer Easement at 7 Readonna Lane – SBL#109.05-1-42

BE IT RESOLVED, that the Town Board of the Town of Penfield hereby authorizes the Supervisor to sign a License and Hold Harmless Agreement with Chad Streb, owner of property of 7 Readonna Lane, to permit a portion of a fence to encroach into the sanitary storm sewer easement to the Town of Penfield located at 7 Readonna Lane in a form and substance acceptable to the Town Attorney.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

|       |           |       |
|-------|-----------|-------|
| Vote: | Berry     | _____ |
|       | Lee       | _____ |
|       | Leenhouts | _____ |
|       | Ockenden  | _____ |
|       | Teglash   | _____ |

BY: Councilperson Lee

COMMITTEE: Law and Finance

Name: Authorize the Supervisor to sign an Intermunicipal Agreement with Monroe County for the Purchase of Fuel

WHEREAS, the Monroe County Sheriff’s Office would like to continue obtaining fuel from the Town’s DPW facility, and

WHEREAS, the Town will be reimbursed monthly for this fuel along with an administrative fee, per the mutually accepted agreement,

BE IT RESOLVED, that the Town Supervisor is hereby authorized to sign an Intermunicipal Agreement with Monroe County for the term of September 1, 2025 through August 31, 2026, upon review and approval by the Town Attorney.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote: Berry \_\_\_\_\_  
Lee \_\_\_\_\_  
Leenhouts \_\_\_\_\_  
Ockenden \_\_\_\_\_  
Teglash \_\_\_\_\_

PENFIELD TOWN BOARD RESOLUTION NO. 25T-111 DATE: June 4, 2025

BY: Councilperson Lee

COMMITTEE: Law and Finance

NAME: Awarding a Contract for Selective Demolition and Dismantling of the Clark Road Barn

WHEREAS, the Town solicited bids for selective demolition of the Clark Road Barn with two specific demolition options detailed in the bid document as Option A and Option B; and

WHEREAS, on March 14, 2025 at 10:00 AM local time, the following sealed bids for selective demolition of the Clark Road Barn were received by the following list of bidders:

ACP Buffalo  
Aventus NV Inc  
Durable Demolition LLC  
Empire Building Diagnostics  
Empire Dismantlement Corp  
Rock Environmental Inc

WHEREAS, Durable Demolition LLC was the apparent low bidder with Option A for \$50,000 and Option B for \$25,000; and

WHEREAS, Town staff reviewed the bids received, interviewed the apparent low bidder and checked the references provided; and

WHEREAS, the Town Board reviewed the submitted bids and the analysis provided and determined that it is in the best interest of the Town of Penfield to accept the low bid for Option A; and

WHEREAS, this project requires an appropriation from the General Fund assigned fund balance to the Capital Fund.

NOW, THEREFORE, BE IT RESOLVED, that a contract is hereby awarded to Durable Demolition LLC to provide Selective Demolition services described in Option A, in accordance with the Contract Documents for the Project, for the total amount not to exceed \$50,000.00. This resolution and the bid submitted by Durable Demolition LLC shall constitute the contract; and

BE IT FURTHER RESOLVED, that said award is subject to submission and approvals of appropriate Bonds and Insurance documents, and Town of Penfield required contractual documents, which will be subject to the Town Attorney's approval. Once all Town reviews and approvals associated with the contract have been completed the contractor will be given Notice to Proceed with this contract; and

BE IT FURTHER RESOLVED, the Town Board authorizes the transfer of funds from the General Fund Assigned Fund Balance to Account H86-1620-0004-4003 to pay for the services associated with this contract, not to exceed the amount of \$50,000.00.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote:

Berry \_\_\_\_\_

Lee \_\_\_\_\_

Leenhouts \_\_\_\_\_

Ockenden \_\_\_\_\_

Teglash \_\_\_\_\_

PENFIELD TOWN BOARD RESOLUTION NO. 25T-112

DATE June 4, 2025

BY: Councilperson Lee

COMMITTEE: Law and Finance

NAME: Authorize the Supervisor to sign an Intermunicipal Agreement with the Penfield Central School District

WHEREAS, the Town of Penfield, wishes to continue obtaining fuel for the Town fleet on an as needed basis from the Penfield Central School District; and

WHEREAS, the Penfield Central School District Transportation Facility includes a fueling depot and the parties have determined that the cooperative use of this fueling will afford mutual advantages in terms of convenience and cost efficiencies; and

NOW, THEREFORE, BE IT RESOLVED, that the Town Supervisor is hereby authorized to sign an Intermunicipal Agreement with the Penfield Central School District for the term of July 1, 2025 through June 30, 2026, to be reviewed and approved by the Town Attorney.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote:

Berry \_\_\_\_\_

Lee \_\_\_\_\_

Leenhouts \_\_\_\_\_

Ockenden \_\_\_\_\_

Teglash \_\_\_\_\_



PENFIELD TOWN BOARD RESOLUTION NO. 25T-113

DATE: June 4, 2025

BY: Councilperson Lee

Law & Finance COMMITTEE

NAME: Authorization for Supervisor to Sign a License and Hold Harmless Agreement to Allow Stairs to an Elevated Deck Within a Drainage Easement at 58 Saldo Lane, SBL# 109.03-4-18

BE IT RESOLVED, that the Town Board of the Town of Penfield hereby authorizes the Supervisor to sign a License and Hold Harmless Agreement with the owners of property at 58 Saldo Lane, to permit the stairs to an elevated deck to encroach into a portion of a Drainage easement to the Town of Penfield located at 58 Saldo Lane in a form and substance acceptable to the Town Attorney.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote: Berry \_\_\_\_\_

Lee \_\_\_\_\_

Leenhouts \_\_\_\_\_

Ockenden \_\_\_\_\_

Teglash \_\_\_\_\_

BY: Councilperson Lee COMMITTEE: Law and FinanceNAME: **Budget Transfers for the General Fund**

WHEREAS, the Town Board desires to have an up-to-date budget in relation to current income and expenditures,

NOW BE IT RESOLVED that the following 2025 budget transfers be approved:

| <b>TRANSFERS</b>                   |  |               |                               |  |               |
|------------------------------------|--|---------------|-------------------------------|--|---------------|
| <b>From</b>                        |  | <b>Amount</b> | <b>To</b>                     |  | <b>Amount</b> |
| A00-1620-0001-1012                 |  | \$ 14,000.00  | A00-1620-0001-1013            |  | \$ 4,000.00   |
| FACILITIES PART TIME EMPLOYEES     |  |               | FACILITIES SEASONAL EMPLOYEES |  |               |
|                                    |  |               | A00-1620-0001-1014            |  | \$ 10,000.00  |
|                                    |  |               | FACILITIES OVERTIME           |  |               |
| A00-3510-0001-1012                 |  | \$ 25,000.00  | A00-3510-0001-1014            |  | \$ 25,000.00  |
| ANIMAL CONTROL PART TIME EMPLOYEES |  |               | ANIMAL CONTROL OVERTIME       |  |               |
|                                    |  |               |                               |  |               |
| A00-7110-0001-1013                 |  | \$ 9,520.00   | A00-7110-0001-1014            |  | \$ 9,520.00   |
| PARKS SEASONAL EMPLOYEES           |  |               | PARKS OVERTIME                |  |               |
|                                    |  |               |                               |  |               |
| A00-7110-0001-1011                 |  | \$ 25,000.00  | A00-7110-0001-1014            |  | \$ 25,000.00  |
| PARKS FULL TIME EMPLOYEES          |  |               | PARKS OVERTIME                |  |               |
|                                    |  |               |                               |  |               |
| A00-7111-0001-1012                 |  | \$ 20,000.00  | A00-7111-0001-1014            |  | \$ 20,000.00  |
| SECURITY PART TIME EMPLOYEES       |  |               | SECURITY OVERTIME             |  |               |
|                                    |  |               |                               |  |               |
| A00-1220-0004-4077                 |  | \$ 1,500.00   | A00-8989-0004-4077            |  | \$ 1,500.00   |
| CONFERENCES                        |  |               | CONFERENCES                   |  |               |

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote:

Berry \_\_\_\_\_

Lee \_\_\_\_\_

Leenhouts \_\_\_\_\_

Ockenden \_\_\_\_\_

Teglash \_\_\_\_\_

PENFIELD TOWN BOARD RESOLUTION NO. 25T- 115      DATE: June 4, 2025

BY: Councilperson Ockenden

COMMITTEE: Public Works

NAME: Amending the Electrical Contract for the Construction of the Alpheus Clark House Renovation Project

WHEREAS, the Town Board previously awarded the electrical contract for the electrical services associated with the Alpheus Clark House Renovation Project to Kaplan Schmidt Electrical, in the amount of \$760,000.00; and

WHEREAS, the project boundary and scope did not include the replacement of two light poles in the existing parking lot on the northern end of the lot; and

WHEREAS, Town staff recommended these fixtures be replaced while work on this project is underway, which would require a change order in the amount of \$21,781.07, and the Town Board agreed this was a prudent investment.

NOW, THEREFORE, BE IT RESOLVED, that the contract with Kaplan Schmidt. to provide Electrical Contract services in accordance be amended to the not-to-exceed amount of \$781,781.07; and

BE IT FURTHER RESOLVED, the Town Board authorizes the transfer of funds from the General Fund Assigned Fund Balance to Capital Account H86-1000-5031-0000 to pay for the change order and amended contract.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote:

Berry \_\_\_\_\_

Lee \_\_\_\_\_

Leenhouts \_\_\_\_\_

Ockenden \_\_\_\_\_

Teglash \_\_\_\_\_

PENFIELD TOWN BOARD RESOLUTION NO. 25T- 116      DATE: June 4, 2025

BY: Councilperson Ockenden

COMMITTEE: Public Works

NAME: State Environmental Quality Act (SEQRA) Review and Determination Associated with the Transfer of Land Between 1607 Jackson Road (109.04-1-9.111) and 1545 Jackson Road (109.04-1-10)

WHEREAS, the Town Board is considering authorizing the transfer and acquisition of an equal amount of land between town property located at 1607 Jackson Road (Tax ID: 109.04-1-9.111) and 1545 Jackson Road (Tax ID: 109.04-1-10), owned by the Penfield Volunteer Ambulance (“PVA”), together with the grant of an easement for parking and access to the transferred property; and

WHEREAS, this is a proposed re-subdivision of land to shift a lot line, with a reciprocal transfer of equal amount of land between the two parcels; and

WHEREAS, this action has been classified as an Unlisted Action under the State Environmental Quality Review Act.

NOW, THEREFORE, BE IT RESOLVED, the Town Board has considered the action, reviewed all parts of the Environmental Assessment Form (“EAF”), thoroughly analyzed any relevant areas of environmental concern associated with this action and determined that no significant adverse environmental impacts will result from the foregoing action requiring the preparation of an environmental impact statement; and

BE IT FURTHER RESOLVED, the Town Board accepts Parts 2 and 3 of the EAF, makes a negative declaration for the purposes of SEQRA, and authorizes the Supervisor to sign Part 3 of the EAF, thus concluding its environmental review.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote:

Berry \_\_\_\_\_

Lee \_\_\_\_\_

Leenhouts \_\_\_\_\_

Ockenden \_\_\_\_\_

Teglash \_\_\_\_\_

PENFIELD TOWN BOARD RESOLUTION NO. 25T- 117      DATE: June 4, 2025

BY: Councilperson Ockenden

COMMITTEE: Public Works

NAME: Authorizing Transfer of Land Between 1607 Jackson Road (109.04-1-9.111) and 1545 Jackson Road (109.04-1-10)

WHEREAS, a portion of the building owned by the Penfield Volunteer Ambulance (“PVA”), located at 1545 Jackson Road (Tax ID: 109.04-1-10) encroaches over the lot line of the adjacent parcel at 1607 Jackson Road (Tax ID: 109.04-1-9.111), which is owned by the Town of Penfield; and

WHEREAS, the PVA wishes to re-subdivide the property lines, in a manner that transfers an equal amount of land between the two parcels, in order to site the existing PVA building entirely on its own parcel at 1545 Jackson Road; and

WHEREAS, the Town Board’s approval is required because the proposed re-subdivision involves the proposed acquisition of lands owned by the PVA, and the proposed transfer of Town-owned lands to the PVA, together with the grant of an easement for parking and access to the transferred property; and

WHEREAS, the PVA will need appear before the Town of Penfield Planning Board for administrative review and approval of the proposed re-subdivision before the re-subdivision map and associated easements can be filed with the Monroe County Clerk’s Office.

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the proposed transfer and acquisition of town land between 1670 Jackson Road and 1545 Jackson Road and the grant of a non-exclusive easement for parking and access to the transferred property, and authorizes the Town Supervisor to execute all necessary documents in connection with said transfer, with all costs of recording to be borne solely by the PVA, subject to approval by the Town of Penfield Planning Board and review and approval of the transfer documents by the attorney to the Town; and S

BE IT FURTHER RESOLVED, that this resolution is adopted subject to permissive referendum requirements in New York State Town Law Sections 64 and 90; and

BE IT FURTHER RESOLVED, this resolution shall take effect and the Town Supervisor will execute the contemplated transfer documents unless a petition calling for a referendum is filed with the Town Clerk pursuant to New York State Town Law 91 within 30 days of adoption of this resolution.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote:

Berry \_\_\_\_\_

Lee \_\_\_\_\_

Leenhouts \_\_\_\_\_

Ockenden \_\_\_\_\_

Teglash \_\_\_\_\_

PENFIELD TOWN BOARD RESOLUTION NO. 25T-118

DATE: June 4, 2025

BY: Councilperson Berry

COMMITTEE: Public Safety

NAME: Authorization to Post Temporary NO PARKING Signs

WHEREAS, it is the Town of Penfield's responsibility to promote and maintain public safety on roads within the Town of Penfield; and

WHEREAS, pursuant to the New York State Vehicle and Traffic Law, Section 1660, the Penfield Town Board is granted the authority to authorize the establishment of traffic control devices on Town highways within the Town of Penfield; and

WHEREAS, The Town of Penfield wishes to keep the neighborhoods around the Town's Independence Day Celebration, parade route and festivities at Harris Whalen Park accessible to emergency vehicles.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby authorizes and establishes that "NO PARKING" will be established along both and/or one side of all and/or parts of the following streets, for the duration of the Town's Independence Day Celebration, parade and festivities at Harris Whalen Park: Baird Road (north of Penfield Road), Gebhardt Road, Peachtree Road, Hotchkiss Circle, Wheelock Road, Kenmont Drive, Henderson Drive, Avonmore Way, Hidden Meadow, Hillrise Drive, Lazy Trail, Valley Green Drive, Valley Green Circle, Maple Hill Farm Road, Maple Leaf Circle, Timber Glen Trail, Woodside Drive, Harmon Road, and Harris Whalen Park Road; and

BE IT FURTHER RESOLVED, that the Town Board hereby authorizes and directs the Director of Public Works to post said temporary "NO PARKING" signs along both and/or one side of said streets.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

|       |           |       |
|-------|-----------|-------|
| Vote: | Berry     | _____ |
|       | Lee       | _____ |
|       | Leenhouts | _____ |
|       | Ockenden  | _____ |
|       | Teglash   | _____ |

**AGREEMENT BETWEEN**  
**TOWN OF PENFIELD**  
**AND**  
**PENFIELD CENTRAL SCHOOL DISTRICT**  
**FOR THE PERIOD OF**  
**JULY 1, 2025 THROUGH JUNE 30, 2026**



## **INTERMUNICIPAL AGREEMENT**

This Agreement which shall be deemed to be dated as of the date the last party executed this Agreement, between and among the Town of Penfield, a municipal corporation with offices at 3100 Atlantic Avenue, Penfield, New York 14625, and the Penfield Central School District, having its offices and place of business at 2590 Atlantic Avenue, Rochester, New York 14625 (hereinafter referred to as “the District”).

### **WITNESSETH:**

WHEREAS, the Town of Penfield is desirous of obtaining certain refueling services of its vehicles from the District; and

WHEREAS, the District has a fueling depot (hereinafter “the **Depot**”) at 2075 Five Mile Line Road, in the Town of Penfield, and the parties have determined that the cooperative use of the Depot will afford mutual advantages in terms of convenience and cost efficiencies; and

WHEREAS, the District is willing to allow such vehicular refueling at the Depot; and

WHEREAS, the Town of Penfield has authorized the execution of this Intermunicipal Agreement with the District for the services specified herein; and

WHEREAS, the Board of Education of the Penfield Central School District has authorized execution of this Intermunicipal Agreement with the Town of Penfield for such services.

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

### **1. SCOPE OF VEHICULAR REFUELING AVAILABILITY.**

- A. During the term of this Agreement, the Town of Penfield may purchase fuel for vehicles owned or operated by the Town of Penfield from the Depot. The Town of Penfield is under no obligation to purchase a minimum amount of fuel in any period. The District shall retain the right to prohibit any purchase by the Town of Penfield at any time or times when, in District’s sole discretion, District reasonably determines that any such sale would or might detrimentally affect the availability of fuel to District for District’s vehicles.
- B. The District shall not be responsible for providing any personnel to refuel any vehicle and the Town of Penfield shall not at any time request any District personnel to refuel any Town of Penfield vehicle. Any and all refueling of Town of Penfield vehicles will be performed by representatives of the Town of Penfield. No such representative shall refuel any Town of Penfield vehicle until that representative has first been instructed by the District as to the operation of the refueling equipment at the Depot,

including unlocking and locking procedures, and including the written or electronic documentation of fuel purchases (including the amount of each purchase, time and date of each purchase, license plate number of each vehicle refueled, name of the employee performing the refueling, and such other reasonable information as the District may require).

- C. The District will undertake reasonable efforts to make the Depot accessible to the Town of Penfield twenty-four (24) hours per day each day of the calendar year, but the District shall, at all times, retain the right to limit or preclude accessibility at any time or times based on weather, security, safety or other concerns as determined in District's sole discretion.
- D. The parties agree that the fueling needs of District shall at all times take priority. The Town of Penfield shall at all times cooperate with District to minimize any inconvenience, delay or hindrance to the District in the refueling of District vehicles. The Town of Penfield shall make all reasonable efforts to avoid the use of the Depot at times that would interfere with the needs of the District and shall at no time interfere with or hinder or delay the refueling of any District school bus (or other vehicle used for the transportation of students) or snow clearing or maintenance vehicle. Upon request, the District shall provide the Town of Penfield with schedules or estimates of the known or regularly expected times of refueling of District vehicles.
- E. The Town of Penfield acknowledges that the District's priority is its own fueling needs. District shall, however, use reasonable efforts to have available sufficient quantities of regular unleaded gas and diesel fuel to meet the anticipated needs of the Town of Penfield. The Town of Penfield shall supply the District with written estimates of its fuel needs on at least a monthly basis and shall promptly notify District whenever it anticipates that its actual needs will exceed those amounts by five percent (5%) or more. In no event, however, shall District be liable for any costs, damage or expense, including consequential damages, by reason of any failure to have sufficient quantities of fuel on hand or to have the Depot available to the Town of Penfield.
- F. The Town of Penfield shall have no responsibility for the maintenance or repair of the Depot except for damage caused by intentional or negligent acts or omissions made by Town of Penfield personnel. The maintenance and repair of the Depot shall otherwise lie solely with the District as the District shall determine in its sole discretion. It is anticipated that the District shall maintain and keep the Depot available for the term of this Agreement, but District shall at all times retain the right, in its sole discretion, to modify or close the Depot for a temporary period or permanently. District shall have no liability whatsoever to the Town of Penfield on account of any modification or closing.
- G. In the interest of protecting its own vehicles, the District is expected to protect the fuel tanks and equipment at the Depot from damage and from water infiltration into

fuel. It is anticipated that the District shall take reasonable steps in pursuit of such protection, but in no event shall the District be liable to the Town of Penfield on account of any damage resulting from water infiltration into fuel or any malfunction of the Depot equipment. The District shall take reasonable steps to promptly notify the Town of Penfield of any water infiltration or damage to equipment that it determines may make refueling of vehicles dangerous or unsafe. The Town of Penfield shall immediately notify the District both by telephone and in writing of the discovery of any condition or defect at the Depot that requires repair or warrants investigation.

- H. The responsibility and cost of keeping the Depot clear of snow so as to permit access to the Depot shall rest solely with District. The District anticipates using reasonable efforts to clear snow in a reasonably prompt manner so as to maximize accessibility to the Depot, but in no event shall the District be liable to the Town of Penfield on account of the inaccessibility of the Depot due to snow or ice cover or any other condition.
- I. All parties shall work cooperatively to implement and use such security measures relating to the use of the Depot as the District may from time to time require.
- J. The District represents that it has legal authority to operate the Depot.
- K. The Town of Penfield acknowledges that District has disclosed the capacity of the Depot, the District's fueling needs, and the general parameters of the District's times for refueling its vehicles. The Town of Penfield represents that its refueling needs are compatible with the District's capacity, needs, and scheduling, and the Town of Penfield will not request refueling which is inconsistent with that capacity, those needs and that scheduling.

## **2. TERM OF AGREEMENT.**

- A. The term of this Agreement shall be for a period July 1, 2025, through June 30, 2026. The parties agree to confer with each other before the expiration of the contract term to discuss whether or not the parties mutually wish to renew this Agreement and, if so, with or without modifications.
- B. This Agreement shall remain in effect for the term specified in paragraph 2.A. unless it is terminated by either the Town of Penfield or the District upon sixty (60) days prior written notice sent by registered or certified mail to the Town of Penfield or the District, as is appropriate. Notice shall be sent to the respective parties at the addresses set forth at the beginning of this Agreement or at such other address as specified in writing by the party.
- C. Upon termination of this Agreement, the District shall have no further responsibility the Town of Penfield or to any other person with respect to the matters covered by this Agreement. Upon termination of this Agreement, the Town of Penfield shall be

obligated to pay the District for any and all fuel which it has obtained from the District. Following such payment, the Town of Penfield shall have no obligation to purchase additional fuel from the District regardless of whether or not the District has purchased fuel in anticipation of the Town of Penfield purchasing fuel from District for any time or times.

### **3. PAYMENT.**

- A. The District will bill the Town of Penfield on a monthly basis and shall submit a voucher that documents the actual fuel usage and cost per month; the Town of Penfield shall then authorize the payment of said bill which will be paid to the District within thirty (30) days from receipt of the voucher by the Town of Penfield. The voucher, or an accompanying report, will list the actual amount of fuel purchased and the cost per gallon. The District acknowledges that failure to abide by these requirements could result in the delay of payment to the District. The Town of Penfield shall promptly render all reasonable service or assistance requested by the District in connection with the completion of the vouchers and any other paperwork. The Town of Penfield shall approve or take any other action required to process vouchers.
- B. The parties acknowledge that the District purchases its fuel from the New York State Contract. The cost of fuel shall be computed separately for regular unleaded gasoline and for diesel fuel (including all additives). The per gallon charge of fuel obtained during any month shall be fixed on the last day of that month. The per gallon charge shall be computed by the District as the average cost per gallon of all fuel delivered to District during that month. The District retains the right, however, in its sole discretion, to instead compute the cost of fuel based on the average cost of fuel delivered to District on a weekly basis. Should the District determine to calculate cost based on a weekly rather than a monthly average basis, the District shall provide the Town of Penfield with written notice (which may be delivered by facsimile) at least forty-eight (48) hours in advance. The Town of Penfield shall pay to the District an amount equal to the cost of fuel for the current period as calculated above plus ten cents (\$.10) per gallon. The Town of Penfield shall not be obligated to make any other payment on account of fuel purchases or use of, or access to, the Depot except in accordance with paragraph 6 of this Agreement.
- C. The District shall comply with all reasonable requests by the Town of Penfield to audit records relating to fuel purchases and payments under this Agreement.

### **4. MODIFICATION/AMENDMENTS.**

This Agreement may, pursuant to Section 119-o of the General Municipal Law, be amended, modified, or clarified during the term of this Agreement, but no such amendment, modification, or clarification shall be made except in writing duly executed by the Town of Penfield and the District.

## **5. INSURANCE.**

- A. The District shall, at its own expense, procure and maintain during the term of this Agreement a policy or policies of insurance providing for general liability coverage (including, without limitation, contractual liability) with limits of liability in the amount of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) aggregate coverage. Upon request, the District shall provide proof of such coverage, including the Town of Penfield as additional insured with respect to its activities under, or in connection with, the matters covered by this Agreement: namely, refueling by the Town of Penfield at the Depot. Such insurance shall not be cancelled or amended without thirty (30) days prior written notice to the Town of Penfield.
- B. The Town of Penfield shall, at its own expense, procure and maintain during the term of this Agreement a policy or policies of insurance providing for general liability coverage (including, without limitation, contractual liability) with limits of liability in the amount of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) aggregate coverage. Upon request the Town of Penfield, shall provide proof of such coverage, including the District as additional insured with respect to its activities under, or in connection with, the matters covered by this Agreement: namely, refueling by the Town of Penfield at the Depot. Such insurance shall not be cancelled or amended without thirty (30) days prior written notice to the District.
- C. The District shall not be liable the Town of Penfield for any cost, damage or expense of any kind or nature whatsoever, including, without limitation, consequential damages, incurred as the result of any impurity or contamination of any fuel or of any failure of quality or grade, or mislabeling of any fuel, whether due to any act or omission of District, the supplier of the fuel, the refiner of the fuel, or any other person or entity.

## **6. MUTUAL INDEMNIFICATION.**

The Town of Penfield and the District each agree to indemnify and hold harmless the other from any and all liability in connection with any act or omission with respect to the use of the Depot, refueling, or any other matter arising out of or in connection with this Agreement, including, but not limited to, liability for personal injury, wrongful death or property damage and including costs (including attorneys' fees) of the defense of any claim or action; provided, however, that either party shall have the right, in its sole discretion, to either obtain and provide such defense on its own and to obtain reimbursement from the indemnifying party or to demand that the indemnifying party directly provide such defense. However, neither party shall be required to indemnify the other for any damage or loss arising out of any negligent acts or willful misconduct of the other party.

## **7. CONTRACTUAL RELATIONSHIP.**

The relationship between the District and the Town of Penfield under this Agreement is a contractual relationship between distinct entities, neither controlling nor subservient to the other. The District, its Board members, officers, employees and agents are not, and shall not, hold themselves out to be, or claim to be, officers or employees of the Town of Penfield or make claim to any rights accruing under such capacities. Neither shall the Town of Penfield, its elected or appointed officials, officers, employees and agents hold themselves out to be, or claim to be, officers, employees, or agents of the District or make any claim to any rights accruing under those capacities. This Agreement provides only for access to the Depot and the purchase of fuel and no member, official, officer, employee or agent of any party shall provide any service with respect to the act of refueling or maintenance or repair of facilities or vehicles to any other party.

#### **8. EXECUTORY NATURE OF CONTRACT.**

This Agreement shall be deemed executory only to the extent of the funding available and the Town of Penfield shall not incur any liability beyond the funds annually budgeted therefor.

#### **9. NO ASSIGNMENT WITHOUT CONSENT.**

The parties shall not, in whole or in part, assign, transfer, convey, sublet, mortgage, pledge, hypothecate, grant any security interest in, or otherwise dispose of this Agreement or any of its right, title or interest herein or its power to execute the Agreement, or any part thereof to any person or entity without the prior written consent of either party.

#### **10. AUDIT.**

The Town of Penfield shall, upon request of the District, provide the District such documentation, records, information and data and response to such inquiries as the District may deem necessary or appropriate and shall fully cooperate with internal and/or independent auditors designated by the District and permit such auditors to have access to, examine and copy all records, documents, reports and financial statements as the District deems necessary to assure or monitor payments to the District under this Agreement.

The District's right of inspection and audit pursuant to this Agreement shall survive the payment of monies due to the District and shall remain in full force and effect for a period of three (3) years after the close of the District's fiscal year in which any funds or payment was received from the County under this Agreement.

#### **11. NON-DISCRIMINATION.**

The Town of Penfield agrees that in carrying out its activities under the terms of the Agreement that it shall not discriminate against any person due to such person's age, marital status, disability, genetic predisposition or carrier status, race, color, creed, sexual orientation, sex or national origin, and that at all times it will abide by the applicable provisions of the

Human Rights Law of the State of New York as set forth in Section 290-301 of the Executive Law of the State of New York.

## **12. GENERAL PROVISIONS.**

This Agreement constitutes the entire Agreement between the District and the Town of Penfield and supersedes any and all prior Agreements between the parties hereto for the services herein to be provided. The Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard or reference to its conflict of law principles.

## **13. MISCELLANEOUS.**

The Town of Penfield agrees to comply with all confidentiality and access to information requirements in Federal, state and local laws and regulations.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the last day and year written below.

### **TOWN OF PENFIELD**

By: \_\_\_\_\_  
\_\_\_\_\_

### **PENFIELD CENTRAL SCHOOL DISTRICT**

By: \_\_\_\_\_  
**Dr. Tasha Potter**  
**Superintendent of Schools**

State of New York     )  
                                      )  
Town of Penfield     )       ss:

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2025 before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signatures on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

State of New York     )  
                                      )  
Penfield Central School District)       ss:

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2025 before me, the undersigned, a Notary Public in and for said State, personally appeared TASHA POTTER, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public