

Winter Road Maintenance Contract

This contract is entered into this _____ day of _____, 2018, between the Town of Mercer ("Town"), represented by the Board of Selectmen in Mercer, and _____ of the Town of _____ ("Contractor"). The subject of this contract is winter road maintenance and service.

In consideration of mutual covenants made herein, the parties agree as follows:

The Contractor agrees:

1. To remove the snow from, and control the ice, on the town ways in Mercer in a timely manner, with consideration for commuter and school bus schedule routes, being approximately 30 miles of accepted Town Ways, all in the Town of Mercer, for the 2018-2019 through 2020-2021 snow seasons commencing October 1, 2018 and ending on May 31, 2021, with an additional two year option.
 2. That the work shall be done to the satisfaction of the Board of Selectmen, or termination of contract is possible, and Contractor shall perform required duties for the Town before proceeding to private contracts.
 3. To furnish safe, legal, adequate and satisfactory motor driven equipment and manpower to efficiently perform the following winter road maintenance work:
 - A. To perform this contract with the minimum following equipment, which shall be ready and available for inspection by the Selectmen by October 1, 2018:
 - Two trucks (both at least a 6 yard) with plow and wing.
 - 10 wheel dump truck with plow and wing or equivalent.
 - One ¾ ton 4X4 truck with plow.
 - One bulldozer (equivalent to a 350 John Deere).
 - One four-wheel drive loader.
 - Three sanders compatible with the three snowplows listed above.
 - Grader with wing.
 - B. To mobilize all equipment when conditions require, and to never let snow accumulate above 5 inches.
 - C. To apply winter sand and/or sand/salt mixture, as dictated by the circumstances, to control ice with three sanders that are compatible with the three snowplows named above.
 - D. To have radio equipped vehicles and/or adequate cell phone reception so that messages of urgency can reach the plowing or sanding vehicles.
- NOTE:** During the term of this contract, if Contractor wishes to substitute a different piece of equipment for any equipment named above, the Board of Selectmen shall first determine that the substitution is comparable to or superior to the equipment to be replaced.
4. The Contractor will commence plowing and sanding operations on the town ways when depths of 2 inches of snow (slush and/or dry snow) have accumulated, either from actual snowfall or mixed precipitation or from drifting caused by wind. Operations will continue until roadways are completely

cleared of snow to the outside shoulders, including snow accumulated by drifting conditions after cessation of a storm. During severe storms or drifting, plows will be operated so as to ensure passable two-way traffic for all two lane roadways. Immediately after the road plowing, snow will be removed to the extreme outside shoulders. Compacted snow and ice must be removed from the roadways, insomuch as possible. To accomplish this, the plow "shoes" shall be removed, as needed.

5. Snow on the above described ways shall be removed and/or pushed back or winged back to the outside edges of the shoulders of the road a minimum of 4 feet (whenever possible) off road, to permit proper drainage of the road surface, as needed. Maintenance work shall be performed at all road intersections to ensure all angle views of oncoming traffic, including, as required, pushing back, winging back, or removing of snow.

6. To apply winter sand and/or winter sand/salt mixture to control ice on any portion of the roadways covered by this Agreement as may be necessary, in the judgment of Contractor and/or Board of Selectmen. This work shall be done within a reasonable length of time after said roadways have been coated with ice, and such applications of sand (or sand/salt) shall be made as frequently as in the judgment of Contractor and/or Board of Selectmen may be necessary for safe use of said town ways.

7. To pay all bills for labor, material, equipment and fuel and other items that are incurred in the performance of this contract.

8A. To maintain liability insurance in the amount of \$1,000,000 for personal injury, death and property damage claims which may arise from snow removal or sanding operations under this contract. (A copy of policy is to be provided to the Town of Mercer prior to signing of contract).

-or-

8B. To furnish a Contract (Performance) Bond, satisfactory to the Town, in an amount equal to 65% of the contract price. (The contract price is \$_____, so the bond must be for \$_____). This bond must be obtained by Contractor within 30 days after this Contract has been signed by both parties.

9. To hold the Town harmless from any claim for death, injury, property damage or other loss which may result from Contractor's performance of road maintenance under this contract. In the event that such a claim is made against the Town, to defend the Town, and to pay any amount for which the Town may be held liable in a legal action for such claims (indemnify the Town).

10. That Contractor and his agents and employees, during the performance of this contract, shall act as independent contractors and not as officers or employees or agents of the Town. Any manpower needed to fulfill the obligation of this contract shall be employed by the Contractor, who agrees to be solely responsible for complying with applicable state and federal laws, including but not limited to worker's compensation law, employment security law, and minimum wage law.

The Town Agrees:

1. To furnish and stockpile winter sand and salt/sand mixture for each season.

2. To pay the Contractor, for the 2018-2021 seasons, at the rate of _____ for the 30 miles of road, for a total of \$_____.

Payments to be made in six equal installments of \$_____ by the 15th of the months of November, December, January, February, March and April. The first and final payments in November

and April, for each season, will be determined after Selectmen have inspected and approved the conditions and ground maintenance of the Town of Mercer Salt Shed.

This schedule of payments is subject to modification in the event of a breach of contract.

In the event of any agreed upon fuel cap, the Contractor will be required to provide the Town with dated slips identifying payments for fuel purchased which exceed cap in order to receive reimbursement.

Both parties agree:

For purposes of calculating the seasonal contract amounts and the installment amounts, that the town ways covered by this Contract equal 30 miles, regardless of whether in fact the town ways are more or less than 30 miles in length. In the event that Contractor and the Board of Selectmen have a difference of opinion in the interruption of this contract, the Board of Selectmen have the final say, to promote the health, welfare, safety of public and to prevent damage to the town way.

That the Contractor shall have an option to renew this “Contract” for a term of two additional years, and that in order to exercise this option, either party shall notify the other in writing by May 1, 2021, said contract to be renewed if mutually agreeable terms can be negotiated.

Breach of Contract:

If contractor fails to perform according to the terms of this contract at the time and in the manner specified, that failure shall be a breach of contract.

In the event of a breach, the Town (through the Board of Selectmen) shall immediately give oral notice to Contractor, who will then be required to perform within a reasonable time. “Reasonable time” may vary depending on the nature of the breach and road and weather conditions. In the event that Contractor still does not (for whatever reason) perform said duties in the time and manner stated, the Town shall have the following options:

A. Terminate this Contract: Town may terminate the contract by sending Contractor a written notice, stating the reason for termination. Contractor will be paid for all work which is satisfactorily done by that time, but the remainder of the money due Contractor under this contract may be used to obtain another contractor to maintain the roads.

B. Substitution: Town may hire a substitute contractor to plow and sand the roads for any period of time the Selectmen consider necessary. This substitution will be paid from the reminder of money due to Contractor (but unearned) under this contract.

C. Other: The Town may also seek any other legal remedies available to enforce this contract.

Notice and Contact Information: The following persons shall be available and authorized to accept notices (written or oral), telephone calls and orders:

Contractor:

Name: _____ Address _____

Phone Numbers _____

Selectmen of the Town of Mercer

Address: 1015 Beech Hill Road, Suite A, Mercer, Maine 04957

Office Phone 207 587- 2911

Additional Phone Numbers:

Vernon E. Worthen II

Christopher M. Tibbetts

Norman G. Redlevske

Amendment, Severability, Jurisdiction

This contract can be amended only by written consent of the Board of Selectmen (acting on behalf of the Town) and the Contractor. If any part of this contract is declared by a Court to be void or unenforceable, the rest of the contract continues to be valid and effective. This contract is governed by the laws of the State of Maine.

In witness whereof, the parties or their duly authorized agents execute this agreement on this

_____ day of _____, 2018.

Inhabitants of the Town of Mercer

Witness By: _____
Name: Vernon E. Worthen II
Its Selectman

Witness By: _____
Name: Christopher M. Tibbetts
Its Selectman

Witness By: _____
Name: Norman G. Redlevske
Its Selectman

Witness Contractor
Name: _____