

Intermunicipal Agreement for Snow Removal and Ice Control Services

THIS AGREEMENT, bearing the date set forth on the signature page, by and between the **COUNTY OF DUTCHESS**, a municipal corporation having its office and place of business at 22 Market Street, Poughkeepsie, New York, 12601, hereinafter referred to as the “**County**,” and the **TOWN OF CLINTON**, a municipal corporation within the County of Dutchess, having its office and place of business at 1215 Centre Road, Rhinebeck, NY 12572, hereinafter referred to as the “**Town**.”

W I T N E S S E T H

WHEREAS, the County owns, operates, and maintains a highway system in the towns and villages of the County, and

WHEREAS, the County Commissioner of Public Works, in his capacity as the County Superintendent of Highways has general charge and supervision of the work of constructing, improving, repairing and maintaining all County roads, and

WHEREAS, County funds may be expended for the control and removal of snow and ice from County roads, and

WHEREAS, the County desires to contract with the Town for the control and removal of snow and ice from County roads within the Town, and

WHEREAS, the County Commissioner of Public Works may, pursuant to Dutchess County Administrative Code Article 14.01(b) and Article 33.01, and Dutchess County Charter Section 33.02, contract with the Town for snow removal and for salting or otherwise treating County roads for the purpose of removing the danger of ice and snow, and

WHEREAS, the Town has appropriate snow and ice removal equipment, sufficient snow and ice control personnel and sufficient materials on hand to contract with the County for snow and ice control services, and

WHEREAS, the Supervisor of the Town has been authorized to execute this Intermunicipal Agreement pursuant to the Town Board Resolution No. _____, (annexed hereto as **Exhibit A**), and

WHEREAS, the County Executive has been authorized to execute this Intermunicipal Agreement pursuant to Dutchess County Legislature’s Resolution No. 2017200, (annexed hereto as **Exhibit B**),

NOW THEREFORE, in consideration of the mutual covenants, agreements, and consideration hereinafter set forth and pursuant to Section 135-a of the New York State Highway Law, the parties hereto mutually agree that the Town will provide snow and ice control services on a portion of the County highway system within the Town and that the County will pay for, and reimburse the Town for the provision of these services in the manner described herein.

I. TERM OF THE AGREEMENT:

The term of this Agreement shall be for a period of one (1) year beginning **October 1, 2023**, and expiring on **September 30, 2024**.

II. EXTENSION:

This Agreement may be extended for two (2) additional periods of one (1) year each, upon such terms and conditions as the parties may agree.

III. SCOPE OF WORK:

This Agreement shall include all activities necessary to control snow and ice, together with all necessary labor, equipment, and materials. The following list of Standard Activities will be routinely performed by the Town:

1. Supervision
2. Supervisory Patrolling
3. Radio watch/ Dispatch
4. Preparedness for snow and ice control
5. Plowing of snow from the roadways and shoulders, and/or the application of anti-icing or deicing materials
6. Removal of snow at intersections to improve sight distance and safety
7. Treatment of slippery spots, including 'black ice', and bridges
8. Routine benching using plow trucks.

IV. SERVICES TO BE PROVIDED:

The basic service elements to be provided by the Town as part of this Agreement are as follows:

Snow Control Goals

Perform work in accordance with Dutchess County Department of Public Works Snow & Ice Control Guidelines, dated October 5, 2020.

Removal of Snow from Intersections

Snow shall be cleared from intersections with County/County or County/Town roads sufficiently to provide adequate sight distance and safety.

Material Application Rate

The application rate of Traction Sand or Anti-Icing/De-Icing Agents on County roads shall be based on prevailing and expected weather conditions in accordance with Dutchess County Department of Public Works Snow & Ice Control Guidelines, dated October 5, 2020.

V. LEVEL OF SERVICE:

The Town will be required to maintain a sufficient level of manpower, equipment, and materials to enable it to meet the objectives of the Dutchess County Department of Public Works Snow & Ice Control Guidelines, dated October 5, 2020. The Town shall clear such County highways of snow and ice as designated by the County, to the extent that the County may deem necessary to provide reasonable passage and movement of vehicles over such highways all in accordance with terms as may be deemed by the County to be in the best interest of the public.

The County roads on which the Town is to perform snow and ice control operations are attached to this agreement as **Exhibit C**.

VI. PAYMENT:

Payment will be \$5,600.00 per mile for the period of October 1, 2023 through April 30, 2024.

The payment is based on the following percentages:

- 51% for materials.
- 46% for labor and equipment.
- 3% for inspection and supervision.
- In the event that unusual weather conditions occur which cause the Town to utilize considerably more or less resources than expected to perform the work, the DPW Commissioner and the Town Supervisor agree to meet to discuss adjustments to the Payment terms of this Agreement.
- The Town shall be required to receive payments electronically by submitting an authorization form to the Dutchess County Comptroller.

VII. METHOD OF PAYMENT:

The total due will be computed by multiplying the amount of county road miles assigned (Exhibit A) by the annual cost per mile. This total amount due will be paid in two payments. The first payment of 50% will be made on December 1, 2023. The final payment of 50% will be made by April 30, 2024. This final payment will include any adjustments that may arise during the winter season.

VIII. INDEMNIFICATION:

The Town agrees to the fullest extent permitted by law to defend, indemnify and hold the County and its employees harmless from any and all such losses, claims, liens, demands and causes for action, including but not limited to, judgments, penalties, interest, court costs, and legal fees incurred by the County on behalf of any party, in connection with or arising from this Agreement. The Town shall investigate, handle, respond to and defend any such claims, demands or suits at its sole expense and shall bear all other related costs and expenses even if such claims, demands, or suits are groundless, false or fraudulent. This indemnification section shall survive the expiration or termination of this Agreement.

In any matter in which indemnification hereunder would violate Section 5-322.1 of the New York General Obligations Law or any other applicable legal prohibition, the foregoing provision shall not be construed to indemnify the County for damage arising out of bodily injury to persons or to property caused by or resulting from the sole negligence of Dutchess County employees. The

term "employee" shall include all officers, advisory board members and/or volunteers serving the County.

IX. INSURANCE REQUIREMENTS:

At all times during the term of this Agreement, the Town shall maintain at its own cost the following insurance and shall provide proof thereof to the County, in the form of a Certificate of Insurance, prior to commencing work under this Agreement:

1) Worker's Compensation Employer's Liability (statutory limits). In compliance with the Workers' Compensation Law of the State of New York, each Town shall provide:

- a. a certificate of insurance on an Acord form indicating proof of coverage for Worker's Compensation, Employer's Liability, **OR**
- b. a New York State Works Compensation Notice of Compliance (Form C-105, Form U-26.3, Form SI-12 or Form SI-105.2P).
- c. In the event that the Town is exempt from providing coverage, it must provide a properly executed copy of the Certificate of Attestation of Exemption from NYS Workers' Compensation Board, Form CE-200.

2) Commercial General Liability

- a. Insurance coverage including blank contractual coverage for the operation of the program under this Agreement with limits not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
- b. This insurance shall be written on an occurrence coverage form and include bodily injury and property damage liability.
- c. The County must be listed as an additional insured.
- d. The additional insured endorsement for the Commercial General Liability insurance required above shall not contain any exclusion for bodily injury or property damage arising from completed operations.

3) Automobile Liability

- a. Insurance coverage for all owned, scheduled, hired and non-owned vehicles with a combined single limit of liability of not less than \$1,000,000.
- b. This insurance shall include coverage for bodily injury and property damage.
- c. The County must be listed as additional insured.

4) CERTIFICATE HOLDER AND ADDITIONAL INSURED SHALL BE NAMED AS:

County of Dutchess
22 Market Street
Poughkeepsie, NY 12601

5) Excess/Umbrella Liability

- a) with limits not less than \$5,000,000 per occurrence with a 5,000,000 aggregate.
- b) The County must be included as additional insured.

6) The Acord form certificate of insurance must contain the following provisions:

- (A)** The County of Dutchess must be listed as certificate holder and additional insured on the commercial general, umbrella/excess and automobile liability policies.

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- (B)** In addition, the commercial general liability policy must include the additional insured endorsement forms cg 2037 July 2004 edition and the cg 2010 April 2013 edition or their equivalent.
- (C)** The commercial general and automobile policies are primary and noncontributory.
- (D)** The commercial general liability, auto liability and workers compensation policies must contain a waiver of subrogation in favor of the County of Dutchess.
- (E)** The umbrella/excess policy is primary and noncontributory and must contain a waiver of subrogation in favor of the County of Dutchess.
- (F)** If the workers compensation Notice of Compliance is used instead of the Acord certificate of insurance, the Notice of Compliance must indicate that a waiver of subrogation in favor of the County of Dutchess is provided.

7) All policies of insurance referred to above

- a) shall be underwritten by companies authorized to do business in the State of New York with an A.M. Best financial strength rating of A- or better.
 - i) In the alternative, the policies of insurance referred to above may be underwritten by non-Admitted companies with an A.M. Best financial strength rating of A+ or higher.
- b) In addition, every policy required above shall be primary and noncontributory.
- c) Any insurance carried by the County, its officers, or its employees shall be excess and noncontributory insurance to that provided by the Town. The Town shall be solely responsible for any deductible losses under each of the policies required above.

- 8)** Payment(s) to the Town may be suspended in the event the Town fails to provide the required insurance documentation in a timely manner.

- 9)** Prior to cancellation or material change in any policy, a thirty (30) day notice shall be given to the County Attorney at the address listed below:

**Dutchess County Attorney
County Office Building
22 Market Street
Poughkeepsie, New York 12601**

a) On receipt of such notice, the County shall have the option to cancel this Agreement without further expense or liability to the County, or to require the Town to replace the cancelled insurance policy or rectify any material change in the policy so that the insurance coverage required by the paragraph is maintained continuously throughout the term of this Agreement in form and substance acceptable to the County. Prior to canceling this Agreement, the Town shall be given ten (10) calendar days to cure the insurance policy.

i) Failure of the Town to take out or to maintain, or the taking out or the maintenance of any required insurance, shall not relieve the Town from any liability under this Agreement nor shall the insurance requirements be construed to conflict with or to limit the obligations of the Town concerning indemnification.

b) All Certificates of Insurance shall be approved by the County's Director of Risk Management or designee prior to commencement of any work under this Agreement.

X. EXECUTORY:

The Dutchess County fiscal year begins on January 1st and ends on December 31st of any given year. Notwithstanding anything to the contrary contained herein, it is understood and agreed that this Agreement shall be deemed executory only to the extent of the moneys available to the County for the performance of the terms hereof and that, in the event that the Dutchess County Legislature fails to appropriate the necessary funds to affect payment in any calendar year beyond the initial year herein, this Agreement shall automatically cease and terminate on the last day of the year in which funds have been appropriated for said Agreement and no liability on account thereof shall be incurred by the County beyond the funds available for the performance of this Agreement. It is further understood and agreed that neither this Agreement nor any representation by any public employee or officer creates any legal or moral obligation to request, appropriate or make available moneys for the purpose of this Agreement.

XI. COUNTERPARTS; SIGNATURES TRANSMITTED BY ELECTRONIC MEANS:

This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one agreement, and any of the parties hereto may execute this Agreement by signing any such counterpart. A facsimile or signature transmitted by electronic means applied hereto or to any other document shall have the same force and effect as a manually signed original. This provision contemplates giving legal force and effect to copies of signatures. This provision does not contemplate the use of "electronic signatures" as regulated by New York State Technology Law Article 3, "Electronic Signatures and Records Act".

XII. ENTIRE AGREEMENT:

The terms of this Agreement, including its attachments and exhibits, represent the final intent of the parties. Any modification, rescission or waiver of the terms of this Agreement must be in writing and executed and acknowledged by the parties with the same formalities accorded this basic Agreement.

IN WITNESS HEREOF, the parties have executed this Agreement this _____ day of _____, 2023.

APPROVED AS TO FORM:

County Attorney's Office

ACCEPTED: COUNTY OF DUTCHESS

By: _____
William F.X. O'Neil
Acting County Executive

APPROVED AS TO CONTENT:

Robert H. Balkind, P.E.
Commissioner of Public Works

ACCEPTED: TOWN OF CLINTON

By: _____
Michael Whitton
Town Supervisor

Gary Cooper
Director of Highway Construction
and Maintenance

EXHIBIT "B"

PUBLIC WORKS & CAPITAL PROJECTS

RESOLUTION NO. 2017200

RE: AUTHORIZATION TO ENTER INTO INTERMUNICIPAL AGREEMENTS FOR SNOW AND ICE CONTROL SERVICES BY THE LOCAL MUNICIPALITIES

Legislators PULVER and BORCHERT offer the following and move its adoption:

WHEREAS, Article 6, Section 135-a of the New York State Highway law provides authorization for the County to empower the Commissioner of Public Works to enter into agreements with various municipalities for the purpose of removing snow from County roads or for sanding or otherwise treating them for the purpose of removing the danger of snow and ice, and

WHEREAS, the Commissioner of Public Works, in his capacity as the County Superintendent of Highways, has determined that it is in the best interest of the County, and the safety and transportation needs of residents and users of the highways in outlying areas of the County, to enter into agreements with various municipalities for the assistance of snow and ice removal from County roads, and

WHEREAS, a copy of the proposed Intermunicipal Agreement for Snow Removal and Ice Control Services is annexed hereto, now, therefore, be it

RESOLVED, that the County Executive is authorized to execute Intermunicipal Agreements for Snow and Ice Control Services with various municipalities in substantially the same form as annexed hereto.

CA-121-17
09/06/17
CAB/AMS/kvh/G-1462-O
Fiscal Impact: See attached statement.

APPROVED
M. Molinaro
MARCUS J. MOLINARO
COUNTY EXECUTIVE
Date 10/10/2017

STATE OF NEW YORK
COUNTY OF DUTCHESS

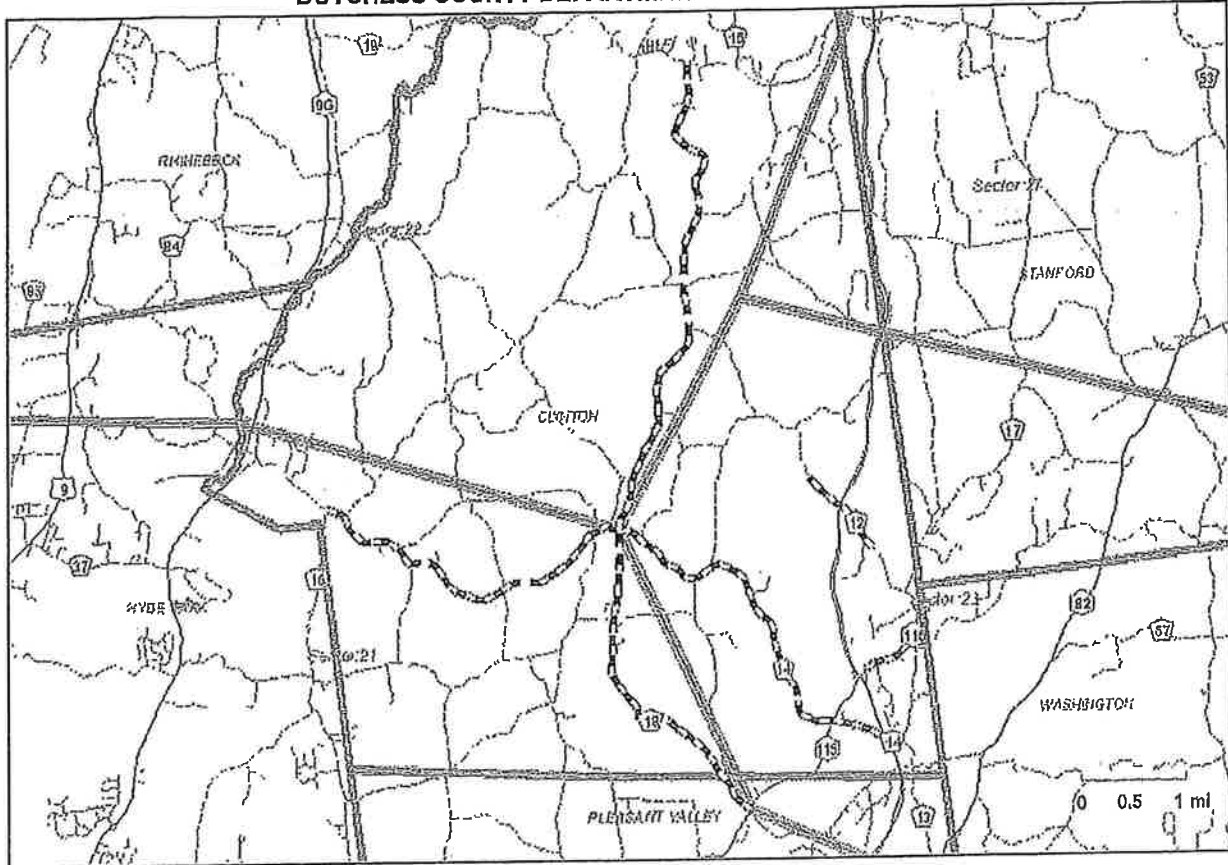
This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess have compared the foregoing resolution with the original resolution now on file in the office of said clerk and which was adopted by said Legislature on the 10th day of October 2017, and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 10th day of October 2017.

Carolyn Morris
CAROLYN MORRIS, CLERK OF THE LEGISLATURE

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DUTCHESS COUNTY DEPARTMENT OF PUBLIC WORKS



TOWN OF CLINTON

TOWN OF CLINTON

17	Salt Point TRNPK	0.55
18	Clinton Hollow Rd	9.22
14	Hollow Rd (CR 18 East)	3.15
14	Hollow Rd	3.4
12	Schutzville Rd	0.89
18	Centre Rd	4.72
14	Hollow Rd (CR 18 East)	0.5
		16.43

Total Mileage: 16.43

