Town of Porter

Selectmen’s Office

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**TOWN OF PORTER**

**WINTER ROAD MAINTENANCE CONTRACT (2019 – 2024)**

This contract (“Contract”) is between the Town of Porter (referred to as “we” or “our”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (referred to as “you”). When the Contract refers to you, it includes your employees and agents. The subject of this Contract is winter road maintenance (sanding, salting, and plowing).

1. **SERVICES: WHAT AND WHEN**

You agree to:

* Remove ice and snow and control ice on approximately 43 miles of town ways
* Clear parking lot and all entrances at the Town Hall and maintain these areas clear all day and every day
* Clear the Spectacle Pond swimming area parking lot, and
* Clear the sidewalk commencing at the town line on the Route 25 Bridge and continuing to the western end of the Kezar Falls movie theater lot.

Your duties run from November 1 to May 1 of the contract years.

1. **INDEPENDENT CONTRACTOR**

You and your agents and employees, during the performance of this Contract, shall act in an independent capacity and not as officers, employees or agents of the Town.

Any manpower needed to fulfill the obligations for this Contract, shall be employed by you and **you shall 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.**

As an independent contractor, you are responsible for maintaining your equipment in a safe, operable, and legal condition. **All vehicles used in plowing and sanding operations must be registered, insured and inspected.**

**Proof of the above requirements (worker’s comp., employment security law, vehicle insurance, etc.) must be provided to the office prior to the issuance of each payment**.

1. **MAINTENANCE REQUIREMENTS**
   1. You will commence plowing and sanding operations when snow on the pavement has reached a depth of one inch if the snow is wet and two inches if dry. Operations will continue until highways are cleared of snow to the outside shoulders. During severe storms or drifting, plows will be operated so as to maintain two-way traffic. Immediately after the extreme conditions have subsided, snow will be removed to the outside of the shoulders of the highways. You must have radio-equipped vehicles situated so that messages of urgency can reach the plowing and sanding vehicles.
   2. The Town Hall must be plowed every 2 inches of snow. Since this is an emergency facility it needs to be maintained even when the office is closed. All Town Hall entrances must be kept clear of snow and ice.
   3. You will follow the Maine Department of Transportation’s methods and precautions for plowing and sanding. Such methods and practices as excessive speed of plows and disregard of mailboxes must be controlled by you and will be monitored by the Town.
   4. We agree to provide sufficient salt and sand for operations required by this agreement. **Sand for operations must be transported from pit to salt shed area as part of this Contract.** You agree to pay particular attention to the sanding of hills, curves and intersections, and to apply extra sand and salt to such locations when necessary.
   5. You will remove compacted snow and ice from highways, insofar as possible, so that three and one-half feet of pavement will be exposed on each side of the centerline.
   6. You will perform required duties for the Town before proceeding to private contracts. Town-owned salt and sand will not be used by you for private use.
   7. You will maintain snow banks at intersections to provide adequate visibility for safe traffic entry and exit (snow bank height shall be less than 4 feet within 10 ft. of the right of way of the cleared roadway). If there is no place to push snow, without causing damage to taxpayer property, it must be removed for adequate visibility for safety reasons.
   8. You agree throughout the term of this Contract to maintain and make available for your responsibilities under this Contract the equipment listed on the attached “Minimum Required Equipment List”.
   9. You will maintain an area to be determined by the Town to dispose of snow in accordance with Maine DEP Best Management Practices, Ch. 573.
   10. Caution should be taken when roads are soft to avoid unnecessary damage.
   11. You will maintain a civil tone when dealing with taxpayers. If problems can’t be resolved, notify the selectmen to see if help can be provided.
2. **INSURANCE**

**You agree to maintain and show proof of liability insurance in the amount of $1,000,000 for personal injury, death and property claims which may arise from snow removal or sanding operations. In addition, you will be required to provide evidence of insurance or sufficient financial resources to satisfy the requirements of the Worker’s Compensation Act. All trucks must be licensed, inspected, and insured. Proof that these requirements are up-to-date must be provided before any contract payment is made and held throughout the term of the contract.**

1. **BILLS AND CLAIMS**

As an independent contractor, you are responsible for all bills for labor, material, and equipment, fuel, and other items which are incurred in the performance of this Contract. The Town will not pay such bills.

1. **BREACH OF CONTRACT**

If you fail to perform according to the terms of the 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 its Selectmen) shall immediately give oral notice to you. You 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 you still do not (for whatever reasons) perform your duties in the time stated, the Town shall have the following options:

* 1. Terminate this Contract: We may terminate the Contract by sending you a written notice, stating the reason for termination. You will be paid for all work, satisfactorily done by that time, but the remainder of the money due you under this Contract may be used to obtain another contractor to maintain the roads.
  2. Substitution: We may hire a substitute contractor to plow and sand the roads for any period of time we consider necessary. This substitution will be paid from the remainder of any money due to you (but unearned) under this Contract.
  3. Withhold payments until issue is resolved.
  4. The Town may also seek any other legal remedies available to enforce this Contract.

1. **INDEMNIFICATION**

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

1. **SUPERVISION AND CONTROL**

As independent contractor, you have the right and duty to supervise and control your own employees, agents and equipment. The Town’s Selectmen have the right to inspect road maintenance operations, and notify you of any problems, errors or non-performance. The Selectmen may order that work be done in a satisfactory manner, to be determined by them. They may also determine the priority of roads to be plowed and sanded.

1. **LENGTH OF CONTRACT**

The Contract awarded hereunder is for five seasons: November 1, 2019 to May 1, 2024

1. **COMPENSATION**

The Town agrees to pay the contractor the following for the snow removal and sanding operations as described in this contract:

2019 – 2020 Season: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2020 – 2021 Season: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2021 – 2022 Season: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2022 – 2023 Season: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2023 – 2024 Season: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Payment will be as follows:

1/6 – First Warrant of October

1/6 – First Warrant of November

1/6 – First Warrant of December

1/6 – First Warrant of January

1/6 – First Warrant of February

1/6 – First Warrant of March

1. **FUEL ADJUSTMENT**

If diesel fuel is at or over $4.10 (Four dollars and ten cents), as of December 30th, the Town will pay a lump sum of $750.00 (Seven hundred and fifty dollars) on the contract.

If, as of February 15th, diesel fuel remains at or over $4.10 (Four dollars and ten cents) the Town will pay an additional lump sum of $750.00 (Seven hundred and fifty dollars) on the contract unless, on that date, diesel fuel is at or over $4.25 (Four dollars and twenty-five cents) in which case the Town will pay an additional lump sum of $1,500.00 (Fifteen hundred dollars) on the contract.

1. **AMENDMENT, SEVERABILITY, JURISDICTION**

This Contract can be amended only by written consent of the Town and 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 Contract on this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2019.

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Witness Contractor

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Witness Selectman

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Witness Selectman

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Witness Selectman

MINIMUM REQUIRED EQUIPMENT LIST

1. (1) 4WD one-ton truck with 9’ plow and sander
2. (1) 2WD tandem axle truck with 11’ plow & wing and 7-yard sander
3. (1) AWD 5-ton single axle truck with 11’ plow & wing, and 6-yard sander
4. (1) 2 ½ yard loader
5. Two-way radios for each truck