

**TOWN OF NEW ASHFORD**  
**188 MALLERY ROAD**  
**NEW ASHFORD, MA. 01237**

This Agreement is made this \_\_\_\_ day of \_\_\_\_\_, 2015 between the Town of New Ashford, Massachusetts having a usual place of business at 188 Mallery Rd, New Ashford, MA 01237, hereinafter referred to as "TOWN," and Contractor Name: \_\_\_\_\_  
(Company Name)  
Address: \_\_\_\_\_  
(Street Address and P.O. Box)  
City: \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
(City, State, Zip)

Hereinafter referred to as the "CONTRACTOR".

In consideration of the mutual covenants and agreements herein contained, the parties do hereby agree as follows:

- 1. SCOPE OF WORK:** The contractor shall provide all equipment and labor for the successful completion of snow plowing/sanding and salting of all town roads and the Town Hall parking lot, fire station and trash/recycling center.

**Roads are as follows:**

- 17 Rte. 7(Brodie Mountain) from Rte. 7 to Lanesboro town line.
- Smith Road from Rte. 7 to the end of the road
- Old Rte. 7 from Rte. 7 to the end of the road (Opposite Mallery Road/RT7 Intersection)
- Mallery Road from Rte. 7 to Rte. 7
- Beach Hill Road from Mallery Road to end of the road
- Cemetery Road from Mallery Road to the town salt shed
- Ingraham Road from Mallery Road to last house
- Greylock Road from Rte. 7 to roadblock
- White Road from Rte. 7 to end of the road
- Roys Road south from Rte. 7 to end of the pavement
- Roys Road north from Rte. 7 to road block

**School Bus Routes:** *Old Rte. 7, Mallery Road, Beach Hill Road, Ingraham Road from Mallery Road to Rte. 7, and Roys Road north from Rte. 7 to road block. The Contractor will be responsible for applying treated salt and washed screened sand per contract year to be used on the New Ashford streets and roads in sufficient quantity. Such materials shall be applied per Commonwealth of Massachusetts specifications, including all requirements of the Department of Transportation, Highway Division.*

**2. TERM:** The duration of the Contract will be October 15, 2015 through May 15, 2017.

**3. PAYMENT:** For the performance of the work of this Contract, the Town will pay the Contractor the total sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_). The Contractor is responsible for payment to all its vendors and any subcontractors. The final payment to the Contractor for each year of the Contract term will require certification of payment from all vendors and subcontractors.

- *Eight (8) payments, based on the following schedule, shall be made on the tenth of the month starting in November and ending in June.*
- *The Contractor is responsible for monthly billing for payment. Bills must be received by the TOWN 30 days prior to the due date for payment.*
- *Eight (8) payments are based on the total yearly contract sum: (The following scheduled percentages will be deducted from the payments to the Contractor until the full value of the salt/sand in the Town Salt Shed as of the date of this Contract has been expended. That value is \$ \_\_\_\_\_)*

10% for October	10% for November
15% for December	15% for January
20% for February	20% for March
5% for April	5% for May

Cost of Completion of Contract, Two (2) Years: \_\_\_\_\_

**4. TERMINATION, NO ASSIGNMENT:** The Select Board reserves the right to terminate the Contract if, in their sole discretion and opinion, the Contractor is not

performing in accordance with the Contract requirements and to their satisfaction. Termination will be so stated by written notice to the Contractor.

- *If, in the judgment of the Select Board, the Contractor fails to complete the work of this Contract, as provided herein, he shall forfeit a sum equal to ten percent (10%) of the total contract amount. (The estimated Cost/Expense for the TOWN to replace Contractor).*
- *The Contractor may not assign this Contract without the written consent of the Select Board.*
- *The Select Board reserves the right to terminate the Contract for convenience, at any time, upon written notice to the Contractor.*
- Return of Property - Upon termination, the CONTRACTOR shall immediately return to the TOWN, without limitation, all documents and items of any nature whatever, supplied to CONTRACTOR by the TOWN or developed by the CONTRACTOR in accordance with this Agreement.

**5. INSURANCE:** The Contractor shall provide the TOWN with Certificates of Insurance, which indicate that he possesses standard Workers' Compensation Coverage and Comprehensive General Liability and Automobile Liability for his equipment and operations under this Contract as follows:

- \$ 1,000,000.00 Bodily Injury
- \$ 1,000,000.00 Property Damage

The Contractor shall acquire and submit to the TOWN a signed Statement from his insurance agent stating that under no circumstances will insurance coverage be canceled without providing written notice to the Select Board not less than 30 days prior to date of cancellation.

*\*\* No work shall start without compliance with these insurance requirements.*

**6. PERFORMANCE REQUIREMENTS:** The Contractor shall supervise and direct the Work, using its best skills and attention. The Contractor shall be solely responsible for coordinating all portions of the Work under the Contract. The Contractor shall prepare to initiate care of roads in a timely manner. It shall be the responsibility of the Contractor to monitor the conditions of the roads and to respond to conditions in a time and manner as necessary to ensure safety of travel and operations under the Contract.

Timely response shall require the following:

- *The Contractor shall carry a cell phone with him and be able to be reached 24 hours a day.*
- *Salt and sand paved areas prior to storms predicted by local weather reporting.*
- *Snow plowing to commence on or before snow accumulation on traveled ways has reached 1.5 inches.*
- *All roads are to be kept open, sanded and salted during storms and not merely attended to only at storm's end. Widening of traveled ways on secondary roads to two lanes within 24 hours of a storm. Backup to be called in if necessary to achieve required conditions.*
  - *The Select Board reserves the right to close town roads upon declaration of a State of the Emergency and reopen once the emergency has been cleared.*
- *Secondary dirt roads shall be sanded with a combination of salt/sand.*
- *The Contractor shall view all roads at the storm's end for problem areas and shall correct problems before complaints arise.*
- *The Contractor shall provide information on road conditions when requested by the Town's designated school person(s) regarding recommendations to close school due to inclement weather.*
- *The Contractor is responsible for securing adequate equipment in the event any of his equipment is unable to provide satisfactory service. The TOWN requires a list of hourly rates for all equipment proposed for maintenance of town roads.*
- *The Contractor shall have the use of the Town Salt Shed at no cost but is responsible for the utility cost and maintenance during all months of use during the Contract term. The electric bill will be the responsibility of the Contractor. The Salt Shed and surrounding area must be kept clean of salt and sand. The right of possession to the Salt Shed remains with the Town, and the Select Board will have a key to the Salt Shed and may enter at any time without liability to the Contractor.*
- *If determined applicable, wage rates are subject to the minimum wage rate (Prevailing Rates of Wage) as per Massachusetts General Law, Chapter 149. (Refer to section 7.)*
- *The Contractor agrees to provide income tax and any other documentation as required by the Select Board for compliance with Massachusetts Wage Laws.*
- *The Contractor shall notify the Select Board to arrange for purchase of salt/sand and other materials required for the work of this Contract under the joint purchasing option available to the Town through a Berkshire County Regional Group Purchasing contract and/or Massachusetts statewide municipal group bid.*
  - *The Select Board reserves the right to delegate this task*

- *The Select Board or their agents shall have the right, at any time, with prior notification, to enter upon the premises where Contractor's equipment is kept in order to inspect the equipment.*
- *Each vehicle used in operations under this Contract shall be equipped with revolving beacon type light mounted to the highest point of the vehicle, in such a manner as to be clearly visible from the front side and rear side of vehicle, operating whenever the vehicle is moving.*
- *The Contractor shall be responsible for piling and loading salt/sand mix even if the material is supplied by another contractor.*

**7. CONTRACTOR EMPLOYEE MATTERS:**

- *The Contractor shall bear all financial responsibility to his agents and employees.*
- *The Contractor shall maintain payroll and compensation records for the benefit of his employees as may be required by all Federal, Massachusetts and local laws. Such records to be opened for inspection by the Town upon reasonable notice.*
- *The Contractor shall assume full responsibility for payment of all Federal, Massachusetts Unemployment Insurance, Social Security, Workers' Compensation and Federal, Massachusetts and local income taxes with respect to his operations and his employees engaged in the performance of this Contract.*
- *As of the date of this Contract, prevailing wage requirements do not apply, per Massachusetts Division of Occupational Safety ruling.*
- *The Contractor agrees to provide payment records and any other documentation as required by the Select Board to ensure compliance with Massachusetts and Federal law.*

**8. NO WAIVER:** The failure of the TOWN in any instance to insist upon strict performance of the terms of this Contract, or to exercise any remedy or option herein, shall not be construed as a waiver or a relinquishment for the future of such remedy or option, but the same shall continue in full force and effect.

**9. INDEMNIFICATION:** The Contractor shall defend, indemnify and hold harmless the TOWN and its officers, agents, and all employees from and against claims arising directly or indirectly from the Contract. The Contractor shall be solely responsible for all local taxes or contributions imposed or required under the Social Security, Workers' Compensation, and income tax laws. Further, the Contractor shall indemnify and hold harmless the TOWN and its officers and employees from and against any damages, expenses, claims or liability arising as a result of the Contractor's acts or omissions in the

performance of this Contract. This shall not be construed as a limitation of the Contractor's liability under the Contract or as otherwise provided by law.

**10. ENTIRE AGREEMENT, AMENDMENT, GOVERNING LAW, NOTICE:**

- *This instrument contains the entire agreement between the parties and any statement, promises or inducements made by any party hereto, which are not contained in this Contract, shall not be valid or binding.*
- *This Contract may not be enlarged, modified or altered except by an instrument in writing signed by the parties hereto.*
- *This Contract shall be governed by and construed in accordance with the law of the Commonwealth of Massachusetts. The Contractor shall comply with all provisions of federal, state and local law applicable to the performance of the work of this Contract.*
- *Notices required or permitted hereunder shall be given to the parties at the addresses stated above.*

In Witness Whereof, the parties have signed and sealed this Contract in duplicate, each of which is to be deemed an original, on the day and year first above written.

By execution of this Contract, the Contractor certifies under the penalties of perjury that the Contractor has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Contractor: \_\_\_\_\_

Address: \_\_\_\_\_

Cell phone: \_\_\_\_\_

Date: \_\_\_\_\_

**Town of New Ashford**

**Select Board**

_____	Jason Jayko (chair)
_____	Ken McInerney
_____	Mark Phelps