

## TOWN OF WEST SENECA



SHEILA M. MEEGAN  
TOWN SUPERVISOR

To: Fellow Town Board Members

From: Sheila M. Meegan, Town Supervisor

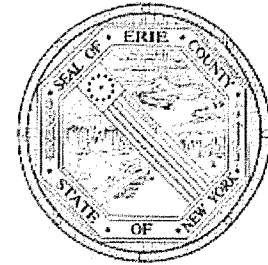
Date: October 23, 2013

**RE: Erie County 2013 – 2016 Snow Removal and Ice Control Agreement**

Kindly move to enter into the 2013 – 2016 Snow Removal and Ice Control Agreement with Erie County negotiated by the Town Highway Superintendents Association of Erie County, Inc.

And further, direct the Town Attorney to review and execute the contract.

**ERIE COUNTY 2013-2016  
INTERMUNICIPAL SNOW REMOVAL AND ICE CONTROL AGREEMENT**



THIS AGREEMENT made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2013  
By and between the COUNTY OF ERIE, a municipal corporation organization under the Laws of the State of New York maintaining it's offices at 95 Franklin Street, Buffalo, New York, hereinafter referred to as the County and the TOWN OF WEST SENECA, maintaining offices at 1250 UNION ROAD, WEST SENECA, New York, a municipal corporation of the State of New York in Erie County hereinafter referred to as MUNICIPALITY.

WITNESSETH:

**FIRST:** The MUNICIPALITY hereby agrees to remove snow and to control ice/snow on County roads, hereinafter defined in the attached Exhibit A; and, in implementing such removal and control, to erect and remove its own snow fences where it deems desirable, all at rate per lane mile as established by Resolution of the Erie County Legislature dated **September 26, 2013** as **Communication 16E-14**. The **2013-2014** snow season rate has been set at three thousand, four hundred ninety-four dollars and ninety-two cents (**\$3,494.92**) per lane mile; the **2014-2015** snow season rate has been set at three thousand, five hundred ninety-nine dollars and seventy-seven cents (**\$3,599.77**) per lane mile; and the **2015-2016** snow season rate has been set at three thousand, seven hundred and seven dollars and seventy-six cents (**\$3,707.76**).

This agreement shall include all activities necessary to control snow and ice, together with all necessary labor, equipment, and materials. "Remove" is defined as, that which is moved and re-deposited alongside the road, and shall include, if necessary, push back and shelving.

The MUNICIPALITY will be required to maintain a sufficient level of manpower, equipment, and materials to enable it to meet the objectives of the County. The MUNICIPALITY as an agent of the County in performing the function herein delegated to it by the County, 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, rules and regulations as may be deemed by the County to be in the best interest of the public. Notwithstanding the foregoing, the County reserves the right to call out a MUNICIPALITY to remove and/or clear snow and ice, and the MUNICIPALITY hereby agrees to respond within a reasonable period of time. The MUNICIPALITY shall designate a 24-hour contact person, whom the County will contact in the event the County determines it is necessary to call out a MUNICIPALITY.

If the County requires a higher level of removal such as with front-end loaders and trucks, V-plows, and snow blowers, this is deemed "extra work" and will be compensated at an hourly basis. The County District Engineer must order the work, and receive approval from the Commissioner of Public Works for the "extra work" order. Labor shall be billed at the applicable MUNICIPAL rate. Equipment will be billed at FEMA rates.

**SECOND:** The schedule of County roads that are affected by this Agreement are attached hereto and marked as **Exhibit A: Lane Mile Confirmation**. A "Lane Mile" is defined as a portion of any County road which is one mile long and of sufficient width to allow the safe passage of a vehicle. Shoulders, median strips and short widened sections designed for intersection turning lanes shall not be considered in the calculation of the number of Lane Miles to be maintained under this Agreement. All County roads shall be considered to be at least two lanes wide for such purposes. The number of Lane Miles for which compensation shall be paid hereunder is as set forth on **Exhibit A**.

**THIRD:** The term of this Agreement shall be for a three-year period beginning on **September 1, 2013 through August 31, 2016** to include yearly snow seasons. "Snow season" is *typically* defined as beginning on September 1<sup>st</sup> and running through April 30th of each year. This Agreement shall be reviewed annually in accordance with the SEVENTH paragraph, and any modifications shall be effective during such year. This Agreement may be extended at the request of the County with the approval of the MUNICIPALITY. The parties agree that they will commence discussion or negotiations pertaining to the extensions or renewal of this Agreement, whether in whole or in part, during the **Spring of 2016**.

**FOURTH:** The MUNICIPALITY agrees, at its own expense, will indemnify, defend, and hold harmless the County, its officers, agents and employees from any and all liability, judgment, costs, damages, attorneys fees, and expenses arising out of the MUNICIPALITY'S negligence in performance of such work, labor or services by the MUNICIPALITY, its agents, servants or employees, providing, however, that timely notice shall be given to the MUNICIPALITY by the County of any claim, action or proceeding, which may be filed or commenced against the County by reason of the performance of such work.

As a part of its obligation to indemnify, defend and hold harmless the County, its officers, agents and employees, as set forth above, the MUNICIPALITY agrees to obtain and maintain in full force and effect, for the term of this Agreement, insurance coverage as described in **Exhibit B: County of Erie Standard Insurance Certificate and Instructions, Classification G.**

In lieu of the attached **Exhibit B** insurance certificate, the County of Erie will also accept an Accord Form of insurance certificate containing the exact same terms as the attached Exhibit B, except that the Acknowledgment Clause of the Accord Form may parallel the applicable language contained in this Agreement to read as follows:

"Insurance Companies providing these coverages acknowledge that the named insured (the MUNICIPALITY) is entering into a contract with the County of Erie in which the named insured agrees to defend, indemnify and hold harmless the County of Erie, its officers, employees and volunteers from all claims, demands, suits and judgments for bodily injury or property damage arising out of the performance of the named insured's obligations under this Agreement. The Contractual liability evidenced above herein covers the liability assumed under the County-Named Insured (MUNICIPALITY) Agreement."

The MUNICIPALITY may furnish satisfactory evidence of self-insurance plan acceptable to the Erie County Attorney and/or Risk Management.

Payment cannot be made to a MUNICIPALITY until that MUNICIPALITY furnishes a current certificate of insurance meeting requirements in accordance with the herein attached **Exhibit B: County of Erie Standard Insurance Certificate and Instructions, Vendor Classification G.**, approved by the Erie County Attorney. The Agreement may not be fully executed until sufficient proof of insurance, as provided for under **Exhibit B**, has been approved by the County Attorney.

The MUNICIPALITY and its insurance carrier shall provide copies to the County of any renewal or modifications to its insurance policies

**FIFTH:** The County hereby agrees to defend, indemnify and hold harmless the MUNICIPALITY from all claims, demands, suits and judgments arising out of the performance of the County's obligations under the agreement.

**SIXTH:** The MUNICIPALITY agrees to maintain and submit supporting documentation, in accordance with the herein attached **Exhibit C: Form SI-7ECrev**, with their invoice to the County, twice per season. The invoice shall be signed by an Executive of the MUNICIPALITY who serves in one of the following capacities: Supervisor; Mayor; Highway Superintendent or Department of Public Works Commissioner and shall be submitted with the supporting documentation at least forty-five days prior to the payment dates set forth below. In the event the supporting documentation is not available for the December 15<sup>th</sup> payment, the MUNICIPALITY shall submit supporting documentation for the entire snow season with the second invoice as a condition to the April 15<sup>th</sup> payment.

**For 2013 – 2014 snow season beginning September 1, 2013 through August 31, 2014;**  
\$1,747.46 x Exhibit A Lane Miles by December 15, 2013.  
\$1,747.46 x Exhibit A Lane Miles by April 15, 2014.

**For 2014 – 2015 snow season beginning September 1, 2014 through August 31, 2015;**  
\$1,799.88 x Exhibit A Lane Miles by December 15, 2014.  
\$1,799.89 x Exhibit A Lane Miles by April 15, 2015.

**For 2015 – 2016 snow season beginning September 1, 2015 through August 31, 2016;**  
\$1,853.88 x Exhibit A Lane Miles by December 15, 2015.  
\$1,853.88 x Exhibit A Lane Miles by April 15, 2016.

**SEVENTH:** Any modifications made to the terms of this Agreement which are mutually agreed upon in writing or permitted pursuant to this Agreement shall apply to the current winter season and be for the period of one year. It is understood and agreed by the parties hereto that notice of any modification or change shall be mailed by the Department of Public Works to the MUNICIPALITY and shall be deemed to be accepted by the MUNICIPALITY and made a part hereof, except that in the event that the MUNICIPALITY does not agree with the modification, the MUNICIPALITY may by its chief elected officer submit a letter of dispute to the Department of Public Works-Highways within ten (10) days after receipt of the notice. The MUNICIPALITY and the Department of Public Works-Highways shall try to resolve the matter. If a Resolution is unsuccessful, a hearing may be requested before the Commissioner of Public Works. Any request for a hearing must be on or before October 1<sup>st</sup>. Either party may terminate this Agreement upon thirty (30) days written notice to the other party. Solely in the event of price modifications, the MUNICIPALITY may terminate this Agreement upon twenty (20) days written notice to the County.

**EIGHTH:** It is understood by the parties that this Agreement shall be executory only to the extent of the monies available to the County of Erie and appropriated therefore, and no liability shall be incurred by the County beyond the monies available and appropriated for these purposes.

**NINTH:** This Agreement shall bind the successors, assigns and representatives of the parties hereto.

**TENTH:** This Agreement shall not be assigned without the written permission of the County.

**IN WITNESS WHEREOF**, the parties hereto have set their hands and seals as of the day and year first above written.

**MUNICIPALITY**

By: \_\_\_\_\_  
SUPERVISOR/MAYOR

State of New York)ss.  
County of Erie)

On this \_\_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned, personally appeared \_\_\_\_\_ to me 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 entity or individual upon behalf of which the individual acted, executed the instrument by authority of said municipality.

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

**COUNTY OF ERIE**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Mark Poloncarz/Richard Tobe  
County Executive/Deputy County Executive

**APPROVED AS TO FORM:**  
Electronically Signed  
KRISTEN WALDER  
ASSISTANT COUNTY ATTORNEY

Document # \_\_\_\_\_-PW  
Date: \_\_\_\_\_

**APPROVED AS TO CONTENT:**  
Electronically Signed  
JOHN C. LOFFREDO, P.E., Commissioner  
DEPARTMENT OF PUBLIC WORKS

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

**MUNICIPAL SNOW CONTRACT 13-16  
DEPT: DPW-HIGHWAYS  
CONTACT: Annette x8373**