

RESOLUTION NO.: 9-01-2020

DATED: January 9, 2020

THREE-YEAR COUNTY SNOW AND ICE REMOVAL AGREEMENT

This Agreement dated as of January 9, 2020, is between the Town of Piercefield and the County of St. Lawrence for the winter maintenance of certain roads on the Official County Road System and provides as follows:

The Town of Piercefield acting through its Town Superintendent of Highways with the approval of the Town Board shall provide normal snow and ice control as required on the following County roads:

All County roads in the Town of Piercefield 2.39 Total Miles

The term of the contract shall be for one (3) years beginning approximately October 1, 2020 and ending June 1, 2023.

In return for the performance of such work, the County will pay the Town at the following Tier II annual amounts per mile for the total miles stated above:

	Tier I	Tier II	Town Total Payment
2020-2021	\$5,050.00	\$5,511.41	\$13,172.27
2021-2022	\$5,100.50	\$5,566.52	\$13,303.93
2022-203	\$5,151.51	\$5,622.19	\$13,437.03

Payment to the Town shall be made twice a season, one half of the contract amount at the beginning of February and the balance for the season after April 15.

If the average price of diesel fuel paid by the County in a given plow season varies, per each \$0.20 above or below the price range of \$1.50-\$2.75 per gallon, the County will modify the Town's final seasonal payment accordingly. The average diesel fuel cost will be determined as from the time between November 1st to March 31st of each year. For example, if the average price of diesel fuel was \$2.95, the Town would receive an additional \$20.00 per lane mile for the season. If the average price of diesel was \$1.30 per gallon, the final payment would be reduced by \$20.00 per mile.

If the average price of road salt paid by the County in a given plow season varies, per each \$4.00 above or below the price range of \$73.00-\$83.00 per ton, the County will modify the Town's payments accordingly. For example, if the average cost of salt was \$87.00 per ton, the Town would receive an additional \$80.00 per lane mile, and if the price dropped to \$69.00 per ton, the Town would receive a reduction of \$80.00 per lane mile.

The work shall be carried on at all times promptly and efficiently to the reasonable satisfaction of the County Superintendent of Highways. The Town shall use a mixture of sand and salt in proportions acceptable to the County Highway Superintendent from time to time, with a minimum of 10% salt, for the sanding of slippery pavements.

County roads will be patrolled by County Highway maintenance Supervisors who will monitor the Town's ice control and snow removal work. The County reserves the right to terminate the Agreement or to reopen the payment provisions of the Agreement if the Town is not in compliance with the performance terms of this contract to reasonable satisfaction of the County Superintendent of highways.

Notwithstanding the preceding paragraph The Town shall not be held liable for performance of

such work when County road deficiencies hamper the normal snow and ice removal. When, due to abnormal conditions, the County Superintendent or County Maintenance Supervisor requests the Town to use equipment not normally used for sanding and plowing roads subject to this contract, the County will pay the Town rental for that equipment used at the then current hourly equipment rental rates. This payment will be in addition to the contract payment described above. The County will make payment within 30 days of the receipt of an invoice from the Town for the rental.

The right is reserved to the County Superintendent of Highways to terminate this Agreement at any time if, in the County Superintendent's judgment, the Town has failed to perform its duties in a manner that is satisfactory to this Agreement before the end of the then current season, the amount paid to the Town shall be in proportion to the amount of work performed by the Town compared to the work expected to be performed for the entire season of the then annual contract. For the purpose of determining the amount due upon termination of the Agreement, the period during which work was to be is hereby stated to be the winter snow season, October 1st to the next following April 15th. Notwithstanding the use of this time period in the case of a contract termination, the parties agree that if the Agreement is not terminated the Town shall provide services after April 15th when the weather conditions require snow and ice control.

If the Town Highway Superintendent disagrees with the County Superintendent of Highway's decision to terminate the Agreement, or if an agreement cannot be reached after negotiations for adjustment of payments due to a change in the price of fuel or salt, or if some other problem arises and discussions between the two fail to provide a solution, the County Administrator will address the problem with the Town Supervisor and the Town Board. If those discussions fail to resolve the problem, then the dispute will be presented to the St. Lawrence County Finance Committee for a recommendation to the St. Lawrence County Board of Legislators as a whole. The St. Lawrence County Board of Legislators will be the final authority for resolving the dispute and its decision will be final and binding on the parties.

During the term of this contract and until completion the Town shall, at its sole expense, maintain the following insurance on its own behalf, and furnish to the County, certificates of insurance evidencing same and reflecting the effective date of such coverage as follows:

The Village/Town shall purchase from and maintain in a company or companies lawfully authorized to do business in New York such insurance as will protect the Town from claims set forth below which may arise out of or result from the Town operations under the Contract and for which the Town may be legally liable.

- A. Commercial General Liability with a combined Bodily Injury and Property Damage limit of not less than One Million (\$1,000,000.00) dollars per occurrence and Two million (\$3,000,000.00) in the aggregate.
 - a. The County must be named an additional insured. A copy of the blanket additional insured endorsement should be attached. In absence of such, endorsement CG 20 10 11 85 or CG 20 33 must be furnished.
 - b. Coverage is to be endorsed to reflect that insurance is to be primary and non-contributory, with respect to any other collectable insurance.
 - c. Coverage is to be provided on an "occurrence" basis with carriers licensed and admitted to do business in the State of New York or otherwise acceptable to the County with an A.M.'s best rating of A- or higher.
- B. Commercial Automobile Liability Insurance covering the use of all Owned, Non-Owned, and Hired Vehicles with combined Bodily Injury and property Damage Limit of at least One Million (\$1,000,000.00) Dollars.

Insurers shall have no right to recovery or subrogation against St Lawrence County (including its employees and agents), it being the intention of the parties to this Agreement that the insurance policies provided by the Town shall protect both parties and be the primary coverage for any and all losses covered by the above described insurance. The clause "other insurance provisions", if appearing in a policy in which St. Lawrence County is named as an additional insured, shall not apply to St Lawrence County. All deductibles in the above described policies shall be assumed by and be for the account of and at the sole risk of the Town.

To the fullest extent permitted by law, the Town will indemnify and hold harmless the County, its officers, agents and employees from and against any and all claims, suits, liens, judgments, damages, losses and expenses, including legal fees and all court costs and liability (including statutory liability) arising in whole or in part and in any manner from injury or death, or both, of any person or damage to or loss of any property resulting from the acts, omissions, breach or default by the Town, its employees, officers, or agents. The foregoing indemnity shall include injury or death of any employee of the Town or any of its subcontractors and shall not be limited in any way by an amount of type of damage, compensation, or benefits payable under any applicable workers' compensation, disability benefits or other similar employees benefit act.

The County Highway Superintendent will grant permission for the operation of oversized equipment required for the work under this agreement on the roads identified in this Agreement.

Reference to the County Highway Superintendent in this agreement shall mean the County Highway Superintendent and any other County employee that the County Highway Superintendent designates from time to time to act in his place in the absence or unavailability of the County Highway Superintendent. The Town Highway Superintendent will be notified from time to time of the identity of the person or persons designated.

If one or more of the 26 Towns that have indicated a willingness to contract with the County for snow and ice control decline to contract for the work for this three year period, or, having contracted, fail to complete the work for the full three year term, making the continuation of this contract no longer in the best interest of the County, the County reserves the right to terminate this Agreement.

St Lawrence County will give a thirty (30) day advance notice in writing to the Town of the effective date of such termination. The Town shall be entitled to receive just and equitable compensation for any services satisfactorily performed hereunder through the date of termination.

It is understood by and between the parties hereto that this Agreement shall be deemed executory to the extent of the monies available* to the County and no liability on account thereof shall be incurred by the County beyond monies available for the purpose thereof.

*General Minicapal Law 109-b: "available" in an executory clause "relates to the appropriation of funds by the Legislature and the allocation of such funds by the appropriate officer or body such that the unavailability is dependent upon a legislative or budgetary determination or directive not to provide funds of the expenditure in question."