

THIS AGREEMENT made this 2nd day of December 1986 by and between the County of St. Lawrence (hereinafter referred to as "COUNTY"), and the \_\_\_\_\_ of the village of Potsdam (hereinafter referred to as "MUNICIPALITY") as follows:

WHEREAS pursuant to Section 12 of the Highway Law and Resolution 159-86 of the St. Lawrence County Board of Legislators, the State of New York, through the Commissioner of the Department of Transportation, and the County, through the Chairman of the Board, have entered into a contract for the control of snow and ice on approximately 318 lane miles of State Highways, and

WHEREAS St. Lawrence County through the St. Lawrence County Highway Department under the direction of the COUNTY SUPERINTENDENT will perform the function so delegated to it for the work of such control of snow and ice upon such terms, rules and regulations as may be within the legal authority of St. Lawrence County and for the best interest of the public, and

WHEREAS in order to perform the work of said control of snow and ice, St. Lawrence County, according to Board Resolution 159-86 and with the consent of the State Commissioner of Transportation, may enter into a contract with another municipality for the performance of said work as a subcontractor of the County, and

WHEREAS, the MUNICIPALITY is willing to perform the function so delegated to it for the work of such control of snow and ice upon such terms, rules and regulations as may be within the legal authority of the MUNICIPALITY and which are deemed by the COUNTY to be for the best interest of the public:

NOW, THEREFORE, in consideration of the mutual covenants and benefits between the parties hereto:

WITNESSETH:

1. The term of this Agreement shall be for three years commencing July 1, 1986.

At the expiration of each year of the term specified herein, as such term may be extended as herein provided, the MUNICIPALITY shall notify the COUNTY SUPERINTENDENT either (a) that it requests with the approval of the COUNTY SUPERINTENDENT that the term of Agreement be extended for one year, or (b) that it intends not to extend the Agreement, in which case the Agreement shall expire at the end of the three-year term. If the MUNICIPALITY fails to notify the COUNTY SUPERINTENDENT it shall be deemed that the MUNICIPALITY intends not to extend the term of this Agreement.

2. In the event that the COUNTY SUPERINTENDENT shall deem that the work of control of snow and ice by the MUNICIPALITY is inadequate or unsatisfactory according to the terms of the Agreement and not being performed in the best interest of the public, he may, by official order to be filed in his office, cancel the Agreement, and any payments herein provided by the COUNTY shall cease. Any such official order shall become effective at the expiration of five (5) days after the COUNTY SUPERINTENDENT shall have mailed a certified copy thereof to the clerk or other official who performs related duties in such MUNICIPALITY. The COUNTY SUPERINTENDENT shall thereupon perform the work in such manner as, in his judgment, shall be for the best interest of the public.

3. The MUNICIPALITY, as an adjunct of the State, through St. Lawrence County, in performing the function herein delegated to it by the State, shall clear such State highways from snow and ice within the boundaries of such MUNICIPALITY as designated by the COUNTY SUPERINTENDENT to the extent that the COUNTY SUPERINTENDENT 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 SUPERINTENDENT to be for the best interest of the public, such terms, rules and regulations (a) having been submitted to and examined by the governing body of said MUNICIPALITY, prior to or simultaneously with the execution and delivery of this Agreement, (b) this having been made a part thereof, and (c) being subject to change or modification from time to time by the COUNTY SUPERINTENDENT as he deems it necessary for the best interest of

the public, it being understood by the parties hereto that notice of any such change or modification shall be mailed by the COUNTY SUPERINTENDENT to the MUNICIPALITY and shall, according to the provisions hereof, be deemed to be thereupon accepted by the MUNICIPALITY and made a part thereof, except that in the event the MUNICIPALITY does not concur with the modifications, the MUNICIPALITY may submit a letter of dispute to the COUNTY SUPERINTENDENT within ten (10) days after receipt of the notice, setting forth the reason for the non-concurrence. The COUNTY SUPERINTENDENT shall then, within ten (10) days, arrange for a meeting between representatives of the COUNTY SUPERINTENDENT and the MUNICIPALITY to be held as soon as practical to resolve the matter. In the event the matter cannot be resolved, the COUNTY SUPERINTENDENT may unilaterally impose the modification, and the MUNICIPALITY may, if it so elects, notify the COUNTY SUPERINTENDENT that this Agreement is terminated, effective not less than one year after the date of receipt of the notice by the COUNTY SUPERINTENDENT. The COUNTY SUPERINTENDENT may, however, shorten this period to not less than 30 days if he deems it advisable.

4. The MUNICIPALITY shall obtain necessary permission from the landowners affected and shall erect snow fences at suitable locations on such highways where designated by the COUNTY SUPERINTENDENT and shall also remove such snow fences pursuant to said terms, rules and regulations.

5. The MUNICIPALITY shall (a) designate and hereby designates Superintendent of Public Works of the MUNICIPALITY as the representative of the MUNICIPALITY who shall be in responsible charge and shall have supervision of the performance of the work under this Agreement, (b) provide the necessary machinery, tools and equipment to perform the terms of this Agreement, (c) provide the necessary personnel and supplies to operate such machinery, tools and equipment, and (d) furnish any abrasives, chemicals or other similar materials at such locations as may be designated by the COUNTY SUPERINTENDENT and in such quantities as may be necessary for the performance of this Agreement, to be applied in manner and in such quantity as may be directed by the COUNTY SUPERINTENDENT, provided, however, the COUNTY SUPERINTENDENT may furnish for use under this

Agreement such snow fence, materials, chemicals and abrasives as he may deem desirable and in the best interest of the State and he shall notify the MUNICIPALITY on or before August 1 of each year as to the kind and amount of such items as are to be furnished for the following winter season.

6. The COUNTY SUPERINTENDENT shall furnish the MUNICIPALITY with a suitable map of such municipality which shall delineate the State Highways within the boundaries of the MUNICIPALITY and shall show distinctively, the State Highways or parts thereof that are affected by this Agreement. For each year of the term of the Agreement, or for any extended term thereof, the maps shall be modified to show the changes, if any, to the State Highways affected by this Agreement. Any such modification to such map shall be agreed upon in writing by the COUNTY SUPERINTENDENT and the MUNICIPALITY.

7. Whenever directed by the COUNTY SUPERINTENDENT, the MUNICIPALITY shall include in the work delegated to be performed under this Agreement any bridge or highways that cross into an adjacent municipality or municipalities.

8. The MUNICIPALITY shall install and observe a system of accounting and a form of accounts as may be prepared and prescribed by the COUNTY SUPERINTENDENT to the end that there shall be establishing and maintained a uniform method of bookkeeping, filing and rendering accounts for the purpose of this particular Agreement. Payment for this administrative work and for items of printing, postage, telephone and other communication, etc. shall be made by St. Lawrence County as an amount equal to the actual costs incurred for this purpose, subject to subsequent audit.

9. In consideration of the performance of the MUNICIPALITY, St. Lawrence County agrees to pay the MUNICIPALITY each year during the term of this Agreement a sum not to exceed the estimated expenditure of mutually agreed/ rates, (copy attached) This estimate will be updated annually at the time this agreement is extended as provided in paragraph No. 1. In the event that a MUNICIPALITY feels that a justifiable estimate for any year exceeds the estimated amount indicated above, in this

paragraph, the MUNICIPALITY may submit to the COUNTY SUPERINTENDENT for consideration a supplementary estimate which fully documents and justifies the increase, which shall be reviewed by the COUNTY SUPERINTENDENT. The COUNTY SUPERINTENDENT may approve, modify or disapprove the increase and shall notify the MUNICIPALITY in writing of his decision. Any approved or modified increase shall become effective upon notification by the COUNTY SUPERINTENDENT to the MUNICIPALITY and shall thereby be substituted in place of the above estimate and made a part of this Agreement without further action. The COUNTY SUPERINTENDENT, however, reserves the right to reduce the amount of the estimated expenditure set forth herein if the monies available to the COUNTY for control of snow and ice are not sufficient to meet the anticipated expenditures for this program. If and as a MUNICIPALITY increases or decreases the mileage on which work is performed, the amount of the estimated expenditures set forth herein may be adjusted by the COUNTY SUPERINTENDENT. In the event of such an occurrence, the COUNTY SUPERINTENDENT shall notify the MUNICIPALITY, on or before November 1st of the year of the term of this Agreement for which such changed estimated expenditure is to apply, of the changed expenditure. Upon receipt of such notice, the MUNICIPALITY shall in cooperation with the COUNTY review and reorganize its operations to the fullest extent practical to prevent overcommitment of allocated funds. The COUNTY SUPERINTENDENT may in his discretion restore in part or in whole the amount of the estimated expenditure taking into consideration the weather conditions experienced in the MUNICIPALITY and the amount of monies available for control of snow and ice. The MUNICIPALITY shall not overcommit allocated funds without prior written approval of the COUNTY SUPERINTENDENT.

10. The MUNICIPALITY shall transmit on or after the 10th day of December, January and February of each year during the term of this Agreement a properly executed voucher as furnished by the COUNTY SUPERINTENDENT, each in the amount of 25% of the "estimated expenditure" as stated in Paragraph No. 10. At the conclusion of each snow and ice control season, but no later than July 1st,

the MUNICIPALITY shall transmit to the COUNTY SUPERINTENDENT a final statement of accounting of expenditures actually made for the purpose of this Agreement for the entire season, in the form furnished by the COUNTY SUPERINTENDENT. Such statement shall be signed and verified by the MUNICIPALITY'S Superintendent of Highways and certified by the chief fiscal officer and the COUNTY shall upon approval of the COUNTY SUPERINTENDENT, pay to the MUNICIPALITY the total amount shown on such statement, less the interim payments as provided for herein. The monies shall be paid out of the COUNTY Treasury on the audit and warrant of the Treasurer on the certificate of the COUNTY SUPERINTENDENT pursuant to the provisions of law relating to such expenditure.

11. Except as provided hereafter the STATE shall be responsible for any loss with respect to any tort claim arising from or occasioned by the manner of performance of the functions under this agreement or under any sub-contract authorized thereby, provided, however, that any such MUNICIPALITY shall, within ten (10) days, notify the STATE and the COUNTY SUPERINTENDENT of any action, proceeding, claim or demand arising hereunder. The State shall, at its option, either elect to defend any action brought against a MUNICIPALITY or call upon the MUNICIPALITY to defend such action. In the event that the MUNICIPALITY defends the action the STATE shall reimburse the MUNICIPALITY. In no event shall the STATE be obligated to defend or indemnify the MUNICIPALITY or any insurer thereof, in any action, proceeding, claim or demand arising out of the actual operation of an insured vehicle or vehicle subject to self-insurance while engaged in the operation of snow and ice control functions under this agreement. In all actions, proceedings, claims or demands, arising out of work under this agreement the STATE shall assist and cooperate with the MUNICIPALITY in the defense of such action by providing expert witnesses, legal advice and necessary data.

12. The MUNICIPALITY specifically agrees that this Agreement shall be deemed executory only to the extent of the monies available, and no liability shall be incurred by the COUNTY beyond the monies available for the purpose.

13. This Agreement shall bind the successors, assigns and representatives of the parties hereto.

IN WITNESS WHEREOF, This Agreement has been executed by the County, acting by and through the Chairman of the St. Lawrence County Board of Legislators and the MUNICIPALITY which has caused this Agreement to be executed by its duly authorized officer on the date and year first written above.

ST. LAWRENCE COUNTY

By Rosemary Sanford  
Chairman of Board of Legislators

MUNICIPALITY - VILLAGE OF POTSDAM

By Paul J. Claffey  
Paul J. Claffey, Mayor

December 2, 1986

Approved by: \_\_\_\_\_  
New York State Department of Transportation

APPENDIX A

The parties to the attached contract further agree to be bound by the following which are hereby made a part of said contract:

I. This contract may not be assigned by the contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or disposed of without the previous consent, in writing, of the State.

II. This contract shall be deemed executory only to the extent of money available to the State for the performance of the terms hereof and no liability on account thereof shall be incurred by the State of New York beyond moneys available for the purpose thereof.

III. The contractor specifically agrees, as required by Labor Law, Section 220 and 220-d, as amended, that:

a. no laborer, workman or mechanic, in the employ of the contractor subcontractor or other person doing or contracting to do the whole or any part of the work contemplated by the contract shall be permitted or required to work more than eight hours to any one calendar day or more than five days in any one week, except in the emergencies set forth in the Labor Law.

b. the wages paid for a legal day's work shall be not less than the prevailing rate of wages as defined by law.

c. the minimum hourly rate of wages to be paid shall not be less than that stated in the specifications, and any redetermination of the prevailing rate of wages after the contract is approved shall be deemed to be incorporated herein by reference as of the effective date of redetermination and shall form a part of these contract documents.

d. The Labor Law provides that the contract may be forfeited and no sum paid for any work done thereunder on a second conviction for willfully paying less than

(a) the stipulated wage scale as provided in Labor Law, Section 220, subdivision 3, as amended or

(b) less than the stipulated minimum hourly wage scale as provided in Labor Law, Section 220-d as amended

IV. The contractor specifically agrees, as required by the provisions of the Labor Law, Section 220-e as amended, that

(a) In hiring of employees for the performance of work under this contract or any subcontract hereunder, or for the manufacture, sale or distribution of materials, equipment or supplies hereunder, no contractor



subcontractor nor any person acting on behalf of such contractor or subcontractor, shall by reason of race, creed, color, sex or national origin discriminate against any citizen of the State of New York who is qualified and available to perform the work to which the employment relates.

b. no contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this contract on account of race, creed, color sex or national origin.

c. there may be deducted from the amount payable to the contractor by the State under this contract a penalty for five dollars for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the contract, and

d. this contract may be cancelled or terminated by the State or municipality and all moneys due or to become due hereunder may be forfeited for a second or any subsequent violation of the terms or conditions of this section of the contract, and

e. the aforesaid provisions of this section covering every contract for or on behalf of the state or a municipality for the manufacture, sale or distribution of materials, equipment or supplies shall be limited to operations performed within the territorial limits of the State of New York.

V. During the performance of this contract, the contractor agrees as follows:

a. The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, disability or marital status.

b. If directed to do so by the Commissioner of Human Rights, the contractor will send to each labor union or representative of workers with which the contractor has or is bound by a collective bargaining or other agreement or understanding a notice to be provided by the State Commissioner of Human Rights, advising such labor union or representative of the contractor's agreement under clauses (a) through (g) (hereinafter called "non-discrimination clauses"). If the contractor was directed to do so by the contracting agency as part of the bid or negotiation of this contract, the contractor shall request such labor union or representative to furnish a written statement that such labor union or representative will not discriminate because of race, creed, color, sex, national origin, age, disability or marital status and that such labor union or representative will cooperate, within the limits of its legal and contractual authority, in the implementation of the policy and provisions of these non-discrimination clauses and that it consents and agrees that recruitment, employment and the terms and conditions of employment under this contract shall be in accordance with the purposes and provisions of these non-discrimination clauses. If such labor union or representative fails or refuses to comply with such a request that it furnish such a statement, the contractor shall promptly notify the State Commissioner of Human Rights of such failure or refusal.

c. If directed to do so by the Commissioner of Human Rights, the contractor will post and keep posted in conspicuous places, available to employees and applicants for employment, notices to be provided by the State Commissioner of Human Rights, setting forth the substance of the provisions of clauses (a) and (a) and such provisions of the State's laws against

discrimination as the State Commissioner of Human Rights shall determine.

(d) The contractor will state, in all solicitations or advertisements for employees placed by or on behalf of the contractor, that all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, sex, national origin, age, disability or marital status.

(e) The contractor will comply with the provisions of Sections 290 and 299 of the Executive Law and with the Civil Rights Law, will furnish all information and reports deemed necessary by the State Commissioner of Human Rights under these non-discrimination clauses and such sections of the Executive Law, and will permit access to the contractor's books, records and accounts by the State Commissioner of Human Rights, the Attorney General and the Industrial Commissioner for the purposes of investigation to ascertain compliance with these non-discrimination clauses and such selections of the Executive Law and Civil Rights Law.

(f) This contract may be forthwith canceled, terminated or suspended, in whole or in part, by the contracting agency upon the basis of a finding made by the State Commissioner of Human Rights that the contractor has not complied with these non-discrimination clauses, and the contractor may be declared ineligible for future contracts, made by or on behalf of the State Commissioner of Human Rights that the contractor has established and is carrying out a program in conformity with the provisions of these non-discrimination clauses. Such finding shall be made by the State Commissioner of Human Rights after conciliation efforts by the Commissioner have failed to achieve compliance with these non-discrimination clauses and after a verified complaint has been filed with the Commissioner, notice thereof has been given to the contractor and an opportunity has been afforded the contractor to be heard publicly in accordance with the Executive Law. Such sanctions may be imposed and remedies invoked independently of or in addition to sanctions and remedies otherwise provided by law.

(g) The contractor will include the provisions of clauses (a) through (f) in every subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to operations to be performed within the State of New York. The contractor will take such action in enforcing such provisions of such subcontract or purchase order as the State Commissioner of Human Rights or the contracting agency may direct, including sanctions or remedies for non-compliance. If the contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the State Commissioner of Human Rights or the contracting agency, the contractor shall promptly so notify the Attorney General, requesting the Attorney General to intervene and protect the interests of the State of New York.

VI. (a) By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his knowledge and belief:

1. The prices in this bid have been arrived at independently without collusion, consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such parties with any other bidder or with any competitor.

2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor;

3. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

(b) A bid shall not be considered for award nor shall any award be made where (a) (1) (2) and (3) above have not been complied with provided however, that if in any case the bidder cannot make the foregoing certification the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefore. Where (a) (1) (2) and (3) above have not been complied with, the bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the State, public department or agency to which the bid is made, or his designee, determined that such disclosure was not made for the purpose or restricting competition.

The fact that a bidder (a) has published price lists, rates or tariffs covering items being procured, (b) has informed prospective customers of proposed or pending publications of new or revised price lists for such items or (c) has sold the same items to other customers at the same prices being bid, does not constitute, without more, a disclosure within the meaning of paragraph VI(a).

VII. The agreement shall be void and of no force and effect unless the contractor shall provide coverage for the benefit of, and keep covered during the life of this agreement, such employees as are required to be covered by the provisions of the Worker's Compensation Law.