

WINTER MAINTENANCE AGREEMENT

Under 1951 PA 51, As Amended

This Agreement made this _____ day of _____, 2008, between the Board of County Road Commissioners of the County of Oakland, State of Michigan, a Public Body Corporate, hereinafter referred to as the "BOARD", and the City of Rochester Hills, Oakland County Michigan, a Municipal Corporation hereinafter referred to as the "CITY", witnesseth as follows to-wit:

Certain county primary and local roads more specifically set forth in Exhibit A, attached hereto, are under the jurisdiction and control of the Board and are located within or adjacent to the City.

The City hereby agrees to be responsible for the winter maintenance of said roads under the terms of this Agreement and the Board agrees to participate in the cost thereof as provided in Section III of this Agreement.

The "Winter Maintenance" included in the terms of this Agreement shall be such as is defined in Section I of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein as provided, it is hereby agreed as follows:

I

Winter Maintenance, as herein required to be performed by City, shall include the following requirements:

SNOW AND ICE CONTROL: Snow removal by blading, plowing and other methods necessary to make the roads reasonably safe for public travel. Ice Control by salting, sanding, scraping and other methods necessary to make the roads reasonably safe for public travel.

II

City agrees to keep said roads in such condition as to be reasonably safe and convenient for public travel, in accordance with MCL 224.21.

City agrees to hold harmless, represent, defend and indemnify the Board, its officials and employees from any and all claims and suits arising out of the performance or non-performance of the activities, which are the subject matter of this Agreement.

III

In consideration of the assumption of Winter Maintenance by the City, the Board agrees to pay to the City the sum of \$23,913.53, as set forth in Exhibit A, attached hereto and made a part hereof. Such amounts are to be used by the City for Winter Maintenance. Payments are to be made by the Board to the City as follows:

50% in December 2008
50% in March 2009

The making of said payments shall constitute the Board's entire obligation in reference to Winter Maintenance.

IV

The usual maintenance guidelines and standard practices utilized by the Board, including but not limited to, the Board adopted Winter Maintenance Guidelines, shall control. Should any dispute arise as to the character or extent of Winter Maintenance or to City's performance hereunder, the controversy may be referred to an arbitration board consisting of the Road Commission for Oakland County Director of Highway Maintenance, the Director of the Department of Public Service and a third person to be chosen by them for settlement thereof.

V

The City shall acquire and maintain, during the term of the Agreement, statutory Worker's Compensation Insurance, automobile and comprehensive general liability insurance coverage as described in Exhibit C attached hereto covering the Board's liability for any and all claims arising out of the City's performance or non-performance of the activities which are the subject matter of this Agreement.

Certificates of insurance for each policy providing for 30 days notice of cancellation, termination or material change shall be provided to the Board, and are attached hereto as Exhibit D.

VI

The City further agrees to comply with all relevant laws and regulations of the State of Michigan for safeguarding the air and waters of the State. In particular, City facilities and operations must meet the provisions of Part 5 (Spillage of Oil and Polluting Materials) rules promulgated pursuant to Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. (Rules R324.2001 through R324.2009 address release prevention planning, secondary containment, surveillance, and release reporting requirements).

VII

In accordance with 1976 PA 453, as amended, and 1976 PA 220, as amended, the City covenants not to discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight, marital status or because of a handicap that is unrelated to the individual's ability to perform the duties of the particular job or position and to require a similar covenant on the part of any subcontractor employed in the performance of the Agreement.

VIII

It is the intention of the parties hereto that this Agreement is not made for the benefit of any third party.

It is anticipated that subsequent agreements regarding Winter Maintenance activities will be executed annually by the Parties hereto.

The terms and conditions of this Agreement shall become effective on October 1, 2008, and shall continue in full force and effect until a subsequent Winter Maintenance agreement has been executed by the parties hereto or until this agreement is terminated, as set forth below.

In the event that a subsequent Winter Maintenance agreement has not been executed by the parties hereto on or before September 1, 2009, either party may terminate this Agreement by providing the other party hereto with written notice of intent to terminate, at least thirty days prior to the date of termination.

This Agreement is executed by the Board at its meeting of _____, and by the City by authority of a resolution of its governing body, adopted _____, (copy attached as Exhibit B).

Witnesses:

CITY OF ROCHESTER HILLS
A Municipal Corporation

By: _____
Bryan K. Barnett

Its: Mayor _____

By: _____
Jane Leslie

Its: Clerk _____

Witnesses:

BOARD OF COUNTY ROAD COMMISSIONERS
OF THE COUNTY OF OAKLAND,
A Public Body Corporate

By: _____

Its: _____

By: _____

Its: _____

WINTER MAINTENANCE
2008-2009

CITY OF ROCHESTER HILLS

EXHIBIT A

Livernois Road

Extending from South Boulevard to Tienken Road

.85 miles at \$3,252.78 per mile	\$ 2,764.86
2.72 miles at \$4,615.14 per mile	\$12,553.18
1.51 miles at \$5,692.38 per mile	<u>\$ 8,595.49</u>
	\$23,913.53

TWO LANES

(\$3,252.78 per mile)

.85 miles	\$ 2,764.86
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THREE LANE

(\$4,615.14 per mile)

2.72 miles	\$12,553.18
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FOUR OR FIVE LANES

(\$5,692.38 per mile)

1.51 miles	<u>\$ 8,595.49</u>
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TOTAL	\$23,913.53
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50% in December, 2008	\$11,956.77
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50% in March, 2009	<u>\$11,956.76</u>
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	\$23,913.53
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EXHIBIT C

LIABILITY AND INSURANCE REQUIREMENTS

The Consultant, prior to beginning work, shall file with the Road Commission for Oakland County copies of completed certificates of insurance, as evidence that he carries adequate insurance, satisfactory to the ROAD COMMISSION. Insurance coverage shall be provided in accordance with the following:

- a. Worker's Compensation Insurance – To provide protection for the Consultant's employees, to the statutory limits of the State of Michigan, and \$100,000 employer's liability. The indemnification obligation under this section, shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the consultant under worker's disability compensation coverage established by law.
- b. Bodily Injury and Property Damage – To afford protection against all claims for damages to public or private property, and injuries to persons arising out of and during the progress and to the completion of the work, and with respect to product and completed operation for one year, after completion of the work.
 1. Bodily Injury and Property Damage Other Than Automobile (Comprehensive General Liability including contractual liability coverage) – The minimum limits of property damage and bodily injury liability covering each contract shall be:

Single Limit: Bodily Injury and Property Damage Liability:	
Each Occurrence:	\$2,000,000
Aggregate:	\$2,000,000
 2. Bodily Injury Liability and Property Damage Automobiles (Comprehensive Auto Liability) – The minimum limits of bodily injury liability and property damage liability shall be:

Single Limit; Bodily Injury and Property Damage Liability:	
Each Occurrence	\$2,000,000
- c. Professional Liability (Errors and Omissions) – To afford professional liability protection against all claims arising out of the work. The minimum limits of professional liability shall be \$2,000,000. However, policies are subject to review by the Road Commission prior to beginning work.
- d. Excess and Umbrella Insurance – The consultant may substitute corresponding excess and/or umbrella liability insurance for a portion of the above listed requirements in order to meet the specified minimum limits of liability.
- e. Notice – The Consultant shall not cancel, reduce, or non-renew the coverage of any insurance required by this Section without providing 30 day prior written notice to the Road Commission for Oakland County. All such insurance must include an endorsement whereby the insurer shall agree to notify the Road Commission for Oakland County immediately of any reduction by the Consultant. The Consultant shall cease operations on the occurrence of any such cancellation or reduction, and shall not resume operations until new insurance is in force. If the Consultant cannot secure the required insurance within 30 days, the Board reserves its right to terminate the contract.
- f. Reports – The Consultant or his insurance carrier shall report all claims received, claims investigations made and disposition of claims to the County Highway Engineer.