

# TOWN OF THORNTON HIGHWAY DEPARTMENT

## 2017/2018 Winter Snow Removal Subcontractor Contract

Name of Subcontractor: \_\_\_\_\_

Address of Subcontractor: \_\_\_\_\_

Phone Business: \_\_\_\_\_ Phone Cell: \_\_\_\_\_

Email: \_\_\_\_\_

Route:  Route 3+Gore Rd  Gateway Hill  Waterville Est + Rte 175 North of Sunrise  
 Sugar Run  Upper Mad River Road +  Off Route 175  Mill Brook dirt + Woods  
 Town Hall starting w/Rte 3 (A map detailing each route is available for review at the Town Office.)

Descriptions of Plow Truck(s) to be used by Subcontractor:

Year: \_\_\_\_\_ Make: \_\_\_\_\_ Model: \_\_\_\_\_ Plow Width: \_\_\_\_\_  
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Descriptions of Sander to be used by Subcontractor:

Year: \_\_\_\_\_ Make: \_\_\_\_\_ Model: \_\_\_\_\_ Capacity: \_\_\_\_\_  
Year: \_\_\_\_\_ Make: \_\_\_\_\_ Model: \_\_\_\_\_ Capacity: \_\_\_\_\_

The Town of Thornton has approved the following rates for the 2017/2018 winter season:

A. ¼ Ton Plowing	\$60.00	C. 1 Ton	\$65.00	E. 6 Wheeler	\$70.00
B. ¾ Ton with Sander	\$64.00	D. 1 Ton with Sander	\$69.00	F. 6 Wheeler w/Sander	\$74.00

- All above rates include a Minimum of 5 hours per week guaranteed (Sunday-Saturday) for November 1 – April 1. (approved by Board of Selectmen for 2017/2018 Snow Removal Season)
- Subcontractors shall agree to be on call 24/7 throughout the current winter season.
- Subcontractors shall agree to complete a Winter Subcontractor Log to report work performed.
- Subcontractors shall agree to comply with the Highway Garage Emergency Repair Policy to allow access to the Thornton Highway Garage for emergency repairs.
- Subcontractor shall agree to payment for work performed being made on a biweekly basis.
- Subcontractors shall agree to submit the Winter Subcontractor Log on a biweekly basis due at the Town Office by 3:00pm on the Friday prior to the regular Board of Selectmen meetings.

### INSURANCE REQUIREMENTS:

The Subcontractor agrees that it will carry any and all insurance which will protect it, the Town of Thornton and their officials, agents, volunteers and employees from any and all claims and demands, costs, damages, loss of service or consortium, expenses, compensation and attorneys' fees including but not limited to any and all claims for personal injury and/or death, workers' compensation injuries, and property damages which may, in any way, arise from or out of the operations of the Subcontractor whether such operations be performed by the Contractor itself, anyone directly or indirectly employed by it or any other persons or company retained in any way to carry on all or portion of the operations, activities or work required by or related to the Contract.

The Subcontractor further agrees that the Town of Thornton and its officials, agents, volunteers and employees shall be named as an additional insured in any and all such liability insurance policies required by the Town of Thornton.

Prior to commencing work, the Subcontractor shall demonstrate that it carries a commercial general liability policy (CGL Policy) with limits of \$1,000,000 per occurrence and \$2,000,000 aggregate, as well as completed operations coverage, applicable to the work performed under this Contract and all liabilities as set forth above. The CGL Policy must also contain contractual liability coverage applicable to the contractual indemnification obligation set forth below.

The Subcontractor will furnish to the Town of Thornton a Certificate of Insurance and an endorsement prior to executing the Contract or commencing work demonstrating that the Town of Thornton and its officials, agents, volunteers and employees are named as an additional insured on the CGL Policy and automobile liability insurance coverage.

The Subcontractor shall provide proof of automobile insurance coverage for a minimum of \$300,000.00 which is an amount deemed satisfactory to the Town of Thornton.

The Subcontractor shall provide proof of workers compensation insurance meeting State of New Hampshire required limits and providing employer's liability coverage, unless legally exempt.

The Town of Thornton shall not be required to insure the Subcontractor, any subcontractor or any professional service provider.

#### **INDEMNIFICATION:**

To the fullest extent permitted by law, Subcontractor shall protect, indemnify, save, defend and hold harmless the Town of Thornton, including its officials, agents, volunteers and employees ("Indemnified Parties"), from and against any and all liabilities, obligations, claims, damages, penalties, causes of action, costs, interest and expenses, and losses, including but not limited to reasonable attorney and paralegal fees, which Indemnified Parties may become obligated or suffer by reason of any accident, bodily injury, personal injury, death of person, or loss of or damage to property, arising indirectly or directly under, out of, in connection with, or as a result of this Contract or the activities of Subcontractor or its agents, employees, contractors or subcontractors, and even if caused in whole or in part by any negligent or intentional act or omission of Indemnified Parties.

In addition, and regardless of respective fault, Subcontractor shall defend, indemnify and hold harmless the Indemnified Parties for any costs, expenses and liabilities arising out of a claim, charge or determination that Subcontractor's officers, employees, contractors, subcontractors or agents are employees of the Indemnified Parties, including but not limited to claims or charges for benefits, wages, fees, penalties, withholdings, damages or taxes brought in connection with laws governing workers compensation, unemployment compensation, social security, medicare, state or federal taxation, and/or any other similar obligation associated with an employment relationship.

The Subcontractor shall be liable to the Town of Thornton for the value of any damage or loss that the Subcontractor or any of its employees causes to any property owned by the Town of Thornton, including but not limited to any damage or loss to any equipment, vehicles, tools or materials belonging to the Town of Thornton but which the Subcontractor or any of its employees uses. In the event of such loss or damage, the Town of Thornton shall be entitled to replacement value if repair would not restore the property to its former state of functionality and appearance.

The Subcontractor's obligations to defend, indemnify and hold harmless the Indemnified Parties hereunder shall survive the term of this Contract.

The Town of Thornton shall not be required to defend or indemnify the Subcontractor, any subcontractor or any professional service provider.

Subcontractor:

\_\_\_\_\_  
*Signature of Subcontractor*

\_\_\_\_\_  
*Date*

**INDEPENDENT CONTRACTOR:**

Contractor is an independent contractor and not an employee of Town. Contractor is not entitled to any wages, benefits, insurance coverage, unemployment compensation, workers compensation, withholdings and contributions for state or federal benefits, or any other compensation, payment or benefit associated with an employment relationship with the Town. The services to be provided by Contractor pursuant to this Agreement are intended to and shall be in compliance with the provisions of RSA 281-A:2, VI(b)(1)(A)-(G), which are as follows:

(A) The person possesses or has applied for a federal employer identification number or social security number, or in the alternative, has agreed in writing to carry out the responsibilities imposed on employers under this chapter.

(B) The person has control and discretion over the means and manner of performance of the work, in that the result of the work, rather than the means or manner by which the work is performed, is the primary element bargained for by the employer.

(C) The person has control over the time when the work is performed, and the time of performance is not dictated by the employer. However, this shall not prohibit the employer from reaching an agreement with the person as to completion schedule, range of work hours, and maximum number of work hours to be provided by the person, and in the case of entertainment, the time such entertainment is to be presented.

(D) The person hires and pays the person's assistants, if any, and to the extent such assistants are employees, supervises the details of the assistants' work.

(E) The person holds himself or herself out to be in business for himself or herself or is registered with the state as a business and the person has continuing or recurring business liabilities or obligations.

(F) The person is responsible for satisfactory completion of work and may be held contractually responsible for failure to complete the work.

(G) The person is not required to work exclusively for the employer.

Contractor represents and warrants that he is an independent contractor and that his status in fact meets the legal standard set forth above.

Subcontractor:

\_\_\_\_\_  
*Signature of Subcontractor*

\_\_\_\_\_  
*Date*

**THORNTON Board of Selectmen:**

\_\_\_\_\_  
*John Paul-Hilliard, Chairman*

\_\_\_\_\_  
*Marianne Peabody, Vice-Chairman*

\_\_\_\_\_  
*Roy Sabourn, Selectman*

\_\_\_\_\_  
*Brad Benton, Selectman*

\_\_\_\_\_  
*John Gaites, Selectman*

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