

**Mutual Agreement of Summer and Winter maintenance between
SAU-39 and Town of Amherst**

Agreement made this 18th day of December, 2006, between the Town of Amherst, a New Hampshire Municipal Corporation, with a place of business at 2 Main Street and the Amherst School District, Souhegan School District, and SAU 39 whose legal place of business is Middle Street and School Street with a mailing address of P.O. Box 849, Amherst, NH.

WHEREAS, the SCHOOL DISTRICTS and SAU 39 seek to utilize the services of Amherst DPW to perform summer and winter road maintenance tasks on the School District's roads, driveways and other snow removal services (and other areas, e.g. parking lots); and

WHEREAS, the TOWN seeks to perform such services; and

WHEREAS, the parties wish to specify the terms and conditions under which such services will be provided.

NOW, THEREFORE, in consideration of the terms and conditions set forth in this Agreement, the parties agree as follows:

1. Nature of Agreement. The purpose of this Agreement is to state the terms and conditions under which the Town of Amherst Department of Public Works will provide Summer and Winter road maintenance and snow removal services using the Amherst DPW equipment and General Contractors equipment under contract with the Town of Amherst.

Town Equipment

- 675E Ford / New Holland Backhoe with power angle plow
- 4900 or 7400 series International Dump Truck W/sander
- Ford one ton truck with plow and sander
- 10' parking lot push plow
- Three yard sander (normally mounted in school owned one ton)
- Toro 48" deck 0-turn lawn mower

Contractor Equipment

- Catch basin cleaning equipment (negotiated yearly by town bid process)
- Parking lot sweeping equipment (negotiated yearly by town bid process)
- 555 Ford backhoe

2. Length of Agreement. This Agreement will take effect upon its execution and will remain in effect until June 30, 2007. This agreement shall automatically renew July 1 for successive 12 month terms.

3. Services Provided. The Town of Amherst Department of Public Works obligation to make payments under this Agreement is limited to funds legally available for the purposes of this Agreement.

The Town of Amherst Department of Public Works shall perform the following winter road maintenance and snow removal tasks for the School Districts and SAU 39 during the term of this Agreement:

Clark School	Plowing and treating
Wilkins School	Plowing, treating, and occasionally remove piled snow
Middle School	Plowing, treating
Souhegan High School	Plowing, treating, removal of parking lot snow piles
SAU 39 office building	Plowing, treating

The Town of Amherst Department of Public Works shall perform the following summer tasks for the School Districts and SAU 39 during the terms of this agreement

Clark School	Parking lot sweeping and catch basin cleaning
Wilkins School	Parking lot sweeping and catch basin cleaning, mowing
Middle School	Parking lot sweeping and catch basin cleaning
Souhegan High School	Parking lot sweeping and catch basin cleaning

4. Equipment/Materials.

- A. AMHERST DPW shall be responsible for providing equipment and materials for plowing, snow removal, sanding, salting and de-icing.
- B. AMHERST DPW shall be responsible for any contractual agreements between private contractors hired by the town to perform summer and winter school parking lot maintenance

5. Manner of Performance.

- A. *Mutual Obligations.* Both parties shall adhere to the TOWN's and SAU 39's inclement weather road maintenance and treatment policy as currently in effect and as may be amended during the term of this Agreement.
- B. *TOWN Obligations.* The Town of Amherst Department of Public Works shall:
 - 1. Assure that all equipment and materials used in the performance of this Agreement are in safe and proper operating condition.
 - 2. Follow best management practices in the performance of tasks under this Agreement.
 - 3. Utilize only town and contractor operators properly trained and certified for the performance of tasks under this Agreement.
 - 4. Keep insurance in place as required under section 7 of this Agreement.

5. Record services provided and cost for sand salt and other materials used.
6. Promptly advise SCHOOL DISTRICT of any change in its inclement weather road maintenance and treatment policy
7. Provide sufficient sand and deicing materials for the performance of tasks under this Agreement in accordance with applicable policies and within the limits of available funds.

C. SAU – 39’s Obligations. The SCHOOL DISTRICT shall:

1. School district will be responsible for the clearing, sanding and salting of walkways.
2. Provide special instructions to the TOWN related to locations where snow may or may not be piled on school property, as well as information on evening or weekend use of school buildings.
3. Promptly notify TOWN of any complaint or concern raised as to the TOWN’s performance under this Agreement.

6. Liability/Indemnification. To the extent possible under law, the Town of Amherst, NH retains all immunity and limits on liability relating to the performance of services under this Agreement and the parties do not intend, by entry into this Agreement, to waive or otherwise relinquish any such immunity or liability limits. To the extent that any liability for damages for property damage, personal injury, or bodily injury, including death, may arise out of the performance of this Agreement, TOWN agrees to indemnify and hold harmless the SCHOOL DISTRICT for any such liability, claims, or demands, including legal expenses, resulting from conduct of, or attributable, to the TOWN and its agents, officers, contractors and employees.

7. Insurance. During the term of this Agreement, the Town of Amherst, NH shall maintain in full force and effect and requires written documentation of the same, from contractors hired by the town to perform winter maintenance, liability insurance, including automobile insurance covering all vehicles(s) used to perform services under this Agreement, protecting against property damage and bodily injury including death, for a limit not less than \$1,000,000 CSL. Such insurance shall name the SCHOOL DISTRICT as an additional insured and may not be cancelled except upon 30 days’ prior written notice, including notice to the SCHOOL DISTRICT. Such insurance shall provide coverage for claims arising out of the TOWN’S services provided under this contract. The provision of insurance under this Agreement and the obligation to indemnify the TOWN are not intended to waive any immunity or limit on liability that exists under law, whether as a result of RSA 507-B, RSA 231:90 -: 95, including 231:92-A, or common law. The intent of the insurance and indemnification requirements of this Agreement is solely for the protection of parties hereto who may be liable under existing law and is not for the benefit of third persons. The Town shall also carry Workers Compensation and Employers Liability coverage for all employees

that will be working under this contract and require written documentation of same from contractors performing summer and winter maintenance on behalf of the town on school property.

8. Primary Contact:

The primary snow plowing contract for the TOWN is Lead Foreman David Herlihy of Public Works, Phone 673-2317 ext 202.

The primary snow plowing contact for the School District is: James Miner Director of Buildings and Grounds Phone 673-2690 ext 111

9. Miscellaneous

A. Termination. Either party may give written notice of termination without cause 60 days prior to the end of the current term.

B. Communications/Notices. All communications involving the administration and performance of this AGREEMENT shall be directed to Bruce W Berry, Director of Public Works. Notices of Termination and other Notices under this Agreement other than administrative communications shall be in writing and shall be sent to Town Administrator Gary MacGuire.

C. Amendment. This Agreement may be amended only in writing executed by Town Administrator Gary MacGuire, Public Works Director Bruce W. Berry and Director of Buildings and Grounds James Miner.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized officials or agents, on the date indicated above:

TOWN of Amherst

SCHOOL DISTRICT

BY _____
Bruce W. Berry DPW Director

BY _____
James Miner Director of Building & Grounds