

AGREEMENT
FOR WINTER SNOW REMOVAL AND ROAD MAINTENANCE
ANNUALLY RENEWAL CONTRACT

THIS AGREEMENT (“Agreement”) may be annually renewed by mutual written consent of the parties for any “Snow Year” which shall mean a six (6) consecutive month period commencing a 12:00 a.m. on November 1 of the designated Snow Year and terminating at 11:59 p.m. on April 30 of the following year. For example, the “2023 Snow Year” commences at 12:00 a.m. on November 1, 2023 and terminates at 11:59 p.m. on April 30, 2024.

DESIGNATED SNOW YEAR: 2023-2024

This agreement is and entered into 12th day of October 2023, of the Snow Year by and between the **TOWN OF BLUE RIVER**, a Colorado municipal corporation, whose address is P.O. Box 1784, Breckenridge, Colorado 80424 (hereinafter referred to as the “Town”), and Highland Galloway whose address is P.O. Box 1646, Gypsum, Colorado 81637 (hereinafter referred to as the “Contractor”).

W I T N E S S E T H:

WHEREAS, the Town seeks to retain the services of a Contractor for the purpose of snow removal and sanding of the roads within the Town during the winter months; and

WHEREAS, the Contractor submitted to the Town a proposal for performance of winter and spring snow removal within the Town; and

WHEREAS, the Town has accepted Contractor’s proposal for winter and spring snow removal; and

WHEREAS, the Town and Contractor desire to enter into an agreement setting forth the terms and conditions of their agreement with respect to winter snow removal within the Town;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the Town and the Contractor agree as follows:

A. Term. The term of this Agreement shall be six (6) months, commencing at 12:00 a.m. on November 1, of the designated Snow Year and terminating at 11:59 p.m. on April 30, of the following year.

B. Contractor’s Obligations for Winter and Spring Snow Removal.

1. **General.** The Contractor agrees to remove snow from all roads and streets within the Town, and to apply sand as indicated herein, the boundaries of which are identified on the list attached here to as Exhibit “A”, and incorporated here by reference, during the winter and spring which, for the purposed of this Agreement, commences on November 1, of the Snow Year and concludes on April 30, of the following year. The Contractor should be aware that Exhibit “A” might not accurately identify all roads within the Town. The Contractor shall become familiar with all roads and streets within the Town prior to winter and spring and shall be responsible for maintenance thereof.

For purposes of this Agreement, to “remove snow” or “plow, “plowed,” or “plowing” shall mean that the Contractor uses vehicles and equipment specifically designed for the purpose of snow and ice removal and that the road is made reasonably passable for the common passenger vehicle.

2. **Additional Roads or Abandoned Roads**. In the event roads within the Town are abandoned or new roads are constructed within the Town, the Town shall notify Contractor in writing and any addition or reduction in costs for snowplowing and maintenance will be determined on a linear distance pro rata basis, or as otherwise agreed upon by both parties prior to each deletion and/or addition.
3. **Plowing Scheduling**. Under the terms of this Agreement it is the responsibility of the Contractor to ensure that all identified and known roads are completely plowed to the full extent of the roadways each and every day that plowing is required. During the designated Snow Year, plowing shall be required each and every time snow, or any additional snow, has accumulated to a total depth of four inches (4”) from the previous plowing. It is understood that no more than one (1) plowing per 24-hour day (12:00 a.m.-11:59 p.m.) will be required. That one (1) plowing shall be considered a normal maintenance plowing. Additional plowing requested by the Town Manager, or her designee, shall be considered an extra plowing. Extra plowings will be compensated at the rate stated in the Bid Schedule attached hereto as Exhibit “B” and incorporated herein by reference, and shall be paid to the Contractor in accordance with this Agreement.
4. **Road Blockage**. In the event of a partial or complete blockage of roads within the Town including, but not limited to, by avalanche, snow slide, drifting snow, fallen trees, rocks or other debris, Contractor will clear such blockage upon notification by the Town Manager, or her designee. Additional compensation of for each incident shall be at the rate stated in the Bid Schedule attached hereto as Exhibit “B” and incorporated herein by reference, and shall be paid to the Contractor.
5. **Additional Plowing Schedule**. In addition to the foregoing schedule, the Town Manager, or their designee, may require additional plowing as may be necessary. Such additional plowing shall be considered an extra plow and shall be compensated at the rate stated for extra maintenance, all roads or hourly, whichever is less, in the Bid Schedule attached hereto as Exhibit “B” and incorporated herein by reference, and shall be paid to the Contractor in accordance with the terms of this Agreement.
6. **Plowing**
 - a) Prior to the establishment of a snow pack on the roads and after break up of snowpack and where road gravel is evident in the roadway, the Contractor shall use its best efforts not to remove any of the existing road gravel. However, the Contractor cannot guarantee that some existing road gravel will not be removed during the normal course of plowing.

- b) Need for plowing shall be determined by a four (4") inch accumulation of snow evaluated at Town Hall, which site shall not be sheltered by trees nor particularly susceptible to drifting snow. The Contractor shall, in addition to the measurement at Town Hall be responsible for evaluating different areas of town Contractor shall be responsible for daily measurement of snowfall. However, the Town Manager or, in the Manager's absence, the Manager's designee, shall be the final arbitrator as to the determination of snow depth, and the Manager's determination shall be binding in all respects.
- c) Determine the need for plowing shall be made any time between the hours of 1:00 a.m. and 3:00 p.m. MDT. Removal operations shall begin within 1 hour of determination of need for plowing
- d) Failure to commence plowing within 2 hours of when there is a need for plowing as described above shall be considered Failure to Respond.
- e) The Contractor shall use its best efforts to avoid the pushing and piling of snow into or onto residents' driveways in a manner that will prevent a common passenger vehicle from exiting or entering the driveway without additional efforts to remove the accumulation of snow. The Contractor shall also use its best efforts to keep from damaging trees and other property along the roadways and turnarounds.

7. Snow Banks.

- a) The Contractor shall maintain, clear, and push back the snow banks as often and to the extent necessary to keep the roads plowed to the full width of the roadways and turnarounds. Affected driveways shall be cleared at the same time.
- b) Snow banks at road intersections shall be maintained and cleared to enable full visibility for traffic ingress and egress.
- c) Contractor shall take care to ensure that snow storage areas are selected to avoid damage to trees and other property and to minimize the impact upon Town property owners. A map of the Town and designated areas shall be highlighted.

- d) In the event that snow banks exceed ten feet (10') or snow storage areas become full, Contractor will remove excess snow through the use of dump trucks to be deposited at a pre-determined location approved by the Town. Cost for excess removal listed in the bid schedule Exhibit "B".
- e) No additional compensation shall be paid to contractor for pushbacks. A pushback is the action of relocating and stacking snow by the use of a snow plow blade or other equipment blade, scoop, or bucket inserted or pushed into snow and the lifting or stacking of the snow in order to gain height for improved storage capacity.

8. Snow Pack.

- a) Any time that the snow pack builds up to more than six (6) inches, the Contractor shall remove the build-up by cutting or scraping. The Town Manager or her designee shall determine the need for such removal. Removal operations will be performed only between the hours of 8:00 a.m. and 4:00 p.m. MDT. Effected driveways shall be cleared at the same time. No additional compensation will be paid to Contractor for the clearing of snow pack. Contractor is responsible for identifying and clearing of snow pack as needed.
- b) If, during spring melt or warm weather, in the reasonable opinion of the Town Manager, or her designee, the accumulation of slush renders any road or any part of a road impassable to normal vehicular traffic, or creates a driving hazard, slush removal operations will be required. Slush removal will be required only during the period that slush removal operations are effective, normally between noon and 4:00 p.m. MDT. No additional compensation will be paid for the clearing of slush.
- c) It shall be mandatory for the snow pack and slush be removed from all Town roads between March 1 and March 15.

9. Road Sanding.

- a) Areas to be routinely sanded will be designated by the Town Manager in consultation with the Contractor. For bidding purposes it can be assumed that approximately 1.5 lane miles of road throughout Town will need to be sanded.
- b) The Contractor shall supply sand spreading equipment and necessary sand to routinely sand certain segments of Town roads.
- c) Areas to be routinely sanded shall be addressed daily on an as-needed basis determined by the Town, during the designated Snow Year, except that it is understood that no more than one sanding per road/day will be required. One sanding per day shall be considered a normal maintenance sanding. Additional sanding shall be considered an extra sanding and

will be compensated at the rate stated in the Bid Schedule attached hereto as Exhibit "B" and incorporated herein by reference, and shall be paid to the Contractor in accordance with the terms of this Agreement.

- d) Town Manager or her designee shall determine the need for additional sanding.

10. **Obstruction by Vehicles.** In the event any road is partially or completely obstructed by a parked, stalled or abandoned vehicle, the Contractor shall make every effort to plow around the vehicle without damaging the vehicle. If this effort will create additional hazards, maintenance problems and/or visibility problems, the Contractor shall not be required to plow past the obstruction, provided, however, the Contractor shall notify, first the Town Marshal, and second, if the Town Police Chief cannot be reached, the Town Manager, as soon as possible, but not later than two (2) hours from Contractor's discovery of the situation so that it can be remedied. If the Town requests that the Contractor return to plow areas where vehicles have been moved, the Contractor shall be compensated at the hourly rate set forth on Exhibit "B". Notwithstanding any provision to the contrary, the Town shall not indemnify or hold the Contractor harmless for any Contractor caused damage to vehicles during the performance of the services under this Agreement.

C. Contractor's Responsibilities.

1. Contractor represents that it is fully experienced, properly qualified, licensed, equipped, organized and financed to perform the work under this Agreement.
2. Contractor shall furnish all equipment, supplies, labor and material necessary to carry out the work hereunder, which equipment and manpower is shown as Exhibit "C" attached hereto and incorporated herein by reference.
3. Contractor shall ensure that its employees and agents are fully trained in the operation of equipment to be utilized and will provide specific orientation/training with regard to the roads within the Town.
4. Contractor shall maintain Worker's Compensation Insurance, as required by law, on each and every employee of Contractor.
5. Contractor is responsible for monitoring snow fall and shall commence plowing when snow fall has accumulated to a total depth of four (4") inches from the previous plowing.

D. Contract Price.

1. **Winter and Spring Road Maintenance.** The Town hereby agrees to pay the Contractor six (6) fixed monthly payments of **Thirty-six thousand, three hundred-eighty and ten cents \$ 36,840.35** for all performance under this Agreement. These six (6) payments represent the total lump sum price for winter

snow removal for the entire designated Snow Year. Contractor is responsible for submitting monthly invoices on or before the 10th of each month beginning November 1st. The final lump sum payment shall be promptly made on or within a reasonable time on the last day of the designated Snow Year. Invoices are usually paid on the third Tuesday of each month but are paid in accordance with the Town's monthly invoice processing practices. In addition to the base amount agreed upon, a fuel charge of \$250 per plow will be assessed based on number of plows conducted in a single month.

2. **Disputes In Performance and Payment.** In the event the Town Manager disputes the services provided hereunder and notifies the Town Board prior to the first of the month, payment to the Contractor shall be delayed until such time that the dispute can be resolved. All payments will be paid for work performed; no amounts will be paid in advance. The lump sum price shall be inclusive of all labor, materials and equipment necessary to perform Contractor's obligations hereunder.
- E. Payment.** The Contractor shall invoice monthly for the pro-rata portion of any lump-sum items due as well as all extra work performed during the month. Invoice shall detail all work performed during the month, whether lump sum or extra. Detail shall include specific work performed, location, time started, time completed as well as the date and name of the individual authorizing any extra work on behalf of the Town. Invoices are due by the 10th of each month.
- F. Penalty.** If at any time the Contractor fails to perform his obligations within the time or times set forth herein, then the Contractor shall be penalized an amount as indicated in this Agreement, which shall be withheld from payments to the Contractor until such time as the failure has been corrected. The Contractor may appeal the imposition of any penalty to the discretion of the Board of Trustees.
- G. Assignments.** Contractor shall not assign any of this Agreement, or its rights hereunder, without prior written approval from the Town.
- H. Suspension or Termination for Convenience.** The Town reserves the right to suspend or terminate this Agreement. Notification of such suspension or termination will be made by the Town to the Contractor in writing and may include the whole or any specified part of the Agreement. If this Agreement, or a specified part hereof, is suspended or terminated by the Town, the Contractor will be paid a pro rata portion of the Contract Price, as determined by the Town based upon the part of the Agreement terminated and the percent of the work completed.
- I. Damage to Public or Private Property.**
1. If the Contractor damages public or private property, the Contractor will be responsible for its repair and or replacement within 30 days or within a reasonable time depending upon seasonal conditions.
 2. If the Contractor damages traffic control devices such that they no longer perform their intended function, the Contractor shall immediately notice the Town Manager and Town Police Chief and shall be responsible for all costs of repair. Where repairs involve actions capable of correction within 24 hours, the Contractor shall perform

such repairs.

- 3. If the Contractor fails to remedy damages pursuant to this Agreement, the Town will contract with someone else to do the repairs and deduct the expenses from the Contractor's scheduled payment or payments.

J. Liability Insurance. The Contractor shall provide the Town with a current certificate of General Liability Insurance showing limits of at least \$500,000 per person and \$1,000,000 per occurrence. The Town must be an additional insured party under the policy. The Town shall have no obligation to indemnify the Contractor for Contractor caused damages.

K. Non-compliance Penalty. The Town shall retain a retainment amounting to ten percent (10%) of each monthly invoice for a period not exceeding forty-five (45) days. Any non-compliance penalty, as defined in Paragraphs L and M below, or elsewhere in this agreement, will be deducted from this amount prior to payment.

L. Failure to Complete. In the event Contractor fails to complete required snow removal or sanding as required in this Agreement, a non-compliance penalty in the amount of \$2,500.00 per day shall apply.

M. Failure to Respond. In the event Contractor fails to respond to a request of the Town Manager, or her designee, to commence additional plowing, snow pack or slush removal as directed under the terms of this agreement, a non-compliance penalty in the amount of \$2,500.00 per day shall apply.

N. Notices. All notices, requests, demands, consents, and other communications pertaining to this Agreement shall be transmitted in writing and shall be deemed duly given when received by the parties at their addresses below or any subsequent addresses provided to the other party in writing.

Notice to Town: Town of Blue River
 P.O. Box 1784
 Breckenridge, Colorado 80424

With copy to: Robert Widner
 Widner Juran LLP
 13133 E. Arapahoe Road, Suite 100
 Centennial, Colorado 80112

Notice to Contractor: _____

With copy to: _____

O. Attorneys' Fees and Costs. In the event that legal action is necessary to enforce the provisions of this Agreement, the prevailing party shall be entitled to damages, if any,

and reasonable attorneys' fees and costs.

- P. Construction of Language.** The language used in this Agreement, and all parts thereof, shall be construed as a whole according to its plain meaning, and not strictly for or against any party. All parties have equally participated in the preparation of this Agreement.

- Q. Section Headings.** The section or paragraph headings contained within this Agreement are inserted for convenience only and shall not be construed to vary or add to the meaning of the Agreement.

- R. Severability.** If any covenant, term, condition, or provision contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such covenant, term, condition, or provision shall be severed or modified to the extent necessary to make it enforceable, and the resulting Agreement shall remain in full force and effect.

- S. Complete Agreement.** This Agreement embodies the entire agreement between Town and Contractor. Contractor represents that, in entering into this Agreement, it does not rely on any previous oral, written, or implied representation, inducement of understanding of any kind or nature.

- T. Subject to Annual Appropriation.** Consistent with Article X, Sec 20 of the Colorado Constitution, any financial obligation of the Town not performed during the fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

IN WITNESS WHEREOF, the parties execute this Contract Agreement on the day and year set forth above.

TOWN OF BLUE RIVER, COLORADO

By: _____
Toby Babich, Mayor

ATTEST:

Michelle Eddy

\Town Clerk

CONTRACTOR:

By: _____

TOWN OF BLUE RIVER

EXHIBIT "A"

Road Name	Other Comments	Length	Road Name	Other Comments	Length
Starlit Lane		0.225	Blue Rock Drive		0.190
97 Circle		0.653	Rock Springs Road		0.143
Aspen Meadows		0.159	Snowy Court	Dirt only	0.045
Kerrigan Court	No Summer Maintenance	0.060	Lakeshore Loop		0.419
Timber Court	No Summer Maintenance	0.050	Burntwood Lane		0.100
Cooney Court	No Summer Maintenance	0.040	Lakecrest Drive		0.100
Whispering Pines Circle	No Summer Maintenance	1.013	Twilight Trail		0.130
Fire Station	No Summer Maintenance	0.010	Tarn Trail		0.061
Town Hall	No Summer Maintenance	0.020	Trapper Place		0.090
Silverheels Road		0.140	Rivershore Drive	No Maintenance	0.185
Davis Court	No Summer Maintenance	0.359	Wagon Road		0.160
Fredonia Gulch Road	No Maintenance	0.120	Indiana Creek Road	No Summer Maintenance	1.397
Calle De Plata		0.165	Spruce Valley Drive	No Summer Maintenance	1.054
New Eldorado Lane	No Maintenance	0.057	Tarnwood Drive	No Summer Maintenance	0.294
Red Mountain Trail		0.120	Tarnwood Court	No Summer Maintenance	0.031
Sherwood Lane		0.266	Mt. Argentine Road	No Summer Maintenance	0.689
Blue Grouse Trail	Dirt only	0.220	Alpenview Road		0.220
Mountain View Trail		0.531	Crown Drive		0.560
Wilderness Drive		0.540	Gold Nugget Drive		0.380
Backland Court	Dirt only	0.070	Nugget Lane		0.060
Hinterland Trail	Dirt only	0.201	Spruce Creek Drive (CR800)		0.580
Grey Squirrel Lane		0.159	Golden Crown Lane		0.218
Creekside Drive		0.225	Lodestone Trail		0.050
Placer Trail	Dirt only	0.110	County 801	No Maintenance	
Royal Drive		0.230	Bryce Estates Road	Dirt only	0.165
Regal Circle		0.340	Tesemini Lane		0.143
Coronet Drive		0.680	Louise Placer Road		0.108
Bonanza Trail	Dirt only	0.130	Miners Court	Dirt only	0.037
Holly Lane	Dirt only	0.250	Conifer Drive	No Maintenance	0.066
Pennsylvania Creek Trail	Dirt only	0.150	Leap Year Trail		0.130
Blue River Road		0.890	Rio Azul	To Lot 1 Only	0.090
No-name Circle	Dirt only	0.020	Blue River Road Cistem	Clear to allow maintenance And Emergency Use	0.010
Mariposa Place		0.053			
Rustic Terrace #1		0.060			
Rustic Terrace #2		0.020			
				Total Mileage:	16.241

EXHIBIT "B"

BID SCHEDULE

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>QTY.</u>	<u>UNIT</u>	<u>UNIT PRICE</u>
1)	Winter Maintenance (All Roads)	Yr.	Lump-sum	_____
2)	Extra Maintenance Plowing (All Roads)	Ea.	Lump-sum	_____
3)	Extra Maintenance (Hourly)	Ea.	Hour	_____
4)	Sanding (Call-out)	Ea.	Occurrence	_____
5)	Road Blockage (Call-out)	Ea.	Occurrence	_____

EQUIPMENT RATES - CHANGED OR EXTRA WORK

<u>EQUIPMENT DESCRIPTION</u>	<u>HOURLY RATE</u>	<u>DAILY RATE</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

HOURLY LABOR RATES - CHANGED OR EXTRA WORK

<u>CLASSIFICATION</u>	<u>STRAIGHT TIME</u>	<u>OVERTIME</u>
_____	_____	_____
_____	_____	_____

EXHIBIT "C"

EQUIPMENT LIST AND MANPOWER FOR USE UNDER CONTRACT (Attach additional pages as necessary)

MANPOWER

LIST OF EQUIPMENT FOR USE UNDER CONTRACT (OWNED)

<u>Year:</u>	<u>Make:</u>	<u>Model:</u>	<u>Description & Additional Equipment:</u>
			(e.g. # of tire chains, 3 rd valve, Hydraulic Angle Blade, Wing Plow Etc.)

EQUIPMENT LIST (LEASED) (Attach name and contact information of lien holder)

<u>Year:</u>	<u>Make:</u>	<u>Model:</u>	<u>Description & Additional Equipment:</u>
			(e.g. # of tire chains, 3 rd valve, Hydraulic Angle Blade, Wing Plow Etc.)

EXHIBIT “D”

WINTER SNOW REMOVAL AND ROAD MAINTENANCE METHODOLOGY

NARRATIVE:

(Please briefly describe below or on attachment methodology for: plowing, snow bank removal, pack removal and road sanding. Please including but not limited to: equipment and manpower to be used, where equipment will be stored, where and when work will commence and general manner in which it will proceed.)

Exhibit "E"

The undersigned ("Contractor"), a party to the contract entered into on August ____, 2014 with the Town of Blue River ("Agreement") hereby agrees to comply with the requirements of this Addendum as a requirement of the Agreement.

Illegal Alien Workers. Contractor shall not knowingly employ or contract with an illegal alien to perform work under the Agreement or contract with a sub-contractor who knowingly employs or contracts with an illegal alien to perform work under the Agreement. Execution of this Addendum by Contractor shall constitute a certification by Contractor that it does not knowingly employ or contract with an illegal alien and that the Contractor has participated or attempted to participate in the Basic Pilot Employment Verification Program administered by the United States Department of Homeland Security, ("Basic Pilot Program") in order to confirm the employment eligibility of all employees who are newly hired for employment in the United States.

1. Contractor shall comply with the following:

(a) Contractor shall confirm or attempt to confirm the employment eligibility of all employees who are newly hired for employment in the United States through participation in the Basic Pilot Program. Contractor shall apply to participate in the Basic Pilot Program every three months until all Contractor requirements under this Agreement are completed or until Contractor is accepted into the Basic Pilot Program, whichever occurs earlier.

(b) Contractor shall not utilize the Basic Pilot Program procedures to independently undertake pre-employment screening of job applicants.

(c) Contractor shall require each subcontractor to certify that subcontractor will not knowingly employ or contract with an illegal alien to perform work under the Agreement. If Contractor obtains actual knowledge that a subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien the Contractor shall be required to:

i. Notify the subcontractor and the Town within three (3) days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

ii. Terminate the subcontract with the subcontractor if within three (3) days of receiving notice from the Contractor, the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

(d) Contractor shall comply with any reasonable request by the Department of Labor and Employment ("Department") made in the course of an investigation by the Department.

2. If Contractor violates any provision of this Addendum, Town may terminate the Agreement immediately and Contractor shall be liable to Town for actual and consequential damages of Town resulting from such termination and Town shall report such violation by Contractor to the Colorado Secretary of State as required by law.

Executed this ___ day of _____, 20__.

CONTRACTOR

BY: _____