

AGREEMENT OF MUNICIPAL COOPERATION

THIS AGREEMENT of municipal cooperation, made this ____ day of January 2024, by and between the TOWN BOARD OF THE TOWN OF MEXICO, Oswego County, New York, hereinafter referred to as " MEXICO ", and the TOWN BOARD OF THE TOWN OF NEW HAVEN, Oswego County, New York, hereinafter referred to as " NEW HAVEN", all of the parties hereto sometimes collectively or individually referred to hereinafter as "Town", "Towns", "Municipality" or "Municipalities".

WITNESSETH:

WHEREAS, this Agreement is made pursuant to General Municipal Law, Article 5-G; and

WHEREAS, all municipalities, including the Town of MEXICO and the Town of NEW HAVEN, have the power and authority to contract for the purpose of renting, leasing, exchanging, borrowing or maintaining of machinery and equipment, with or without operators, with other municipalities, and;

WHEREAS, all municipalities, including the Town of MEXICO and the Town of NEW HAVEN, have the power and authority to borrow or lend materials and supplies to other municipalities, and;

WHEREAS, it is hereby determined that the Town of MEXICO and the Town of NEW HAVEN and other municipalities have machinery and equipment which is not used during certain periods, and;

WHEREAS, it is determined that the Town of MEXICO and the Town of NEW HAVEN and other municipalities often have materials and supplies on hand which are not immediately needed, and;

WHEREAS, it is hereby determined that by renting, borrowing, exchanging, leasing or maintaining highway machinery and equipment and the borrowing or lending of materials and supplies, the Town of MEXICO, the Town of NEW HAVEN and other municipalities may avoid the necessity of purchasing certain needed highway machinery and equipment and the purchasing of or storing of a large inventory of certain extra materials and supplies, thereby saving the taxpayers money, and;

WHEREAS, it is recognized and determined, from a practical working arrangement, that no program of borrowing, exchanging, leasing, renting or maintaining of highway machinery and equipment or borrowing or lending of materials can be successful if each individual arrangement or agreement has to receive prior approval from the Town Board of each municipality which may be parties to such agreements, since such agreements must often be made on short notice and at times when Town Boards are not in session, and;

WHEREAS, it is incumbent upon each municipality to design a simple method whereby materials and supplies, equipment and machinery, including the operators thereof, may be obtained or maintained with a minimum of paperwork and inconvenience and with a swift approval process, and;

WHEREAS, it is the intent of the Town of MEXICO and the Town of NEW HAVEN to give the highway Superintendent the authority to enter into renting, exchanging, borrowing, lending or maintaining arrangements with the persons serving in similar capacities in other municipalities without the necessity of obtaining approval of the Town Board prior to the making of each individual arrangements, and;

WHEREAS, it is hereby determined that it will be in the best interests of the Town of MEXICO and Town of NEW HAVEN to be a party to such shared services arrangements;

NOW THEREFORE, it is hereby agreed as follows:

1. For purposes of this Agreement, the following terms shall be defined as follows:

- a. "Municipality" shall mean any city, county, town or village that has agreed to be bound by a contract of shared services identical in terms and effect with this contract and has filed a certified copy of this contract to that effect with the designated filing agent as defined herein.
- b. "Contract" shall mean the text of this Agreement that is identical in terms and effect with similar agreements, notwithstanding that each such contract is signed only by the chief executive officer of each participating municipality filing the same, and upon such filing each filing municipality accepts the terms of the contract to the same degree and effect as if each chief executive officer had signed each individual contract.
- c. "Shared Service" shall mean any service provided by one municipality for another municipality that is consistent with the purposes and intent of this Agreement and shall include but shall not be limited to:
 - i. the renting, exchanging, or lending of highway machinery, tools and equipment, with or without operators.
 - ii. the borrowing or lending of supplies between municipalities on a temporary basis conditioned upon the replacement of such supplies or conditioned upon the obtaining of equal value through the provision of a service by the borrower or by the lending of equipment by the borrower, the value of which is equal to the borrowed supplies.
 - iii. the providing of a specific service for another municipality, conditioned on such other municipality providing a similar service, or a service of equal value, in exchange.

- iv. the maintenance of machinery or equipment by a municipality for other municipalities.
- d. "Superintendent" shall mean the town Superintendent of highways..
- 2. The undersigned municipalities have caused this Agreement to be executed and to bind themselves to the terms of this contract and will consider this contract to be applicable to any municipality, which has approved a similar contract and filed such contract with the clerk of the undersigned municipality.
- 3. The undersigned municipalities by this Agreement grants unto their Superintendents the authority to enter into any shared service arrangements with each other subject to the following terms and conditions:
 - a. The Town of MEXICO and Town of NEW HAVEN agree to rent, exchange or borrow from each other any and all materials, machinery and equipment, with or without operators, which they may need for the purposes of their Town. The determination as to whether such machinery, with or without operators, is needed by either Town, shall be made by their Superintendent. The value of the materials or supplies borrowed from the other municipality under this Agreement may be returned in the form of similar types and amounts of materials or supplies, or by the supply of equipment or the giving of services of equal value, to be determined by mutual agreement of the respective Superintendents.
 - i. The equipment shall at all times be owned by the lending Town and shall be the sole and exclusive property of the lending Municipality. The borrowing municipality shall have no rights or property interest in the equipment, except for the right to use the equipment pursuant to this Agreement in the normal operation of the Highway Department activities of the borrowers. The equipment is to be used by borrowing municipality only within the borrowing municipality.
 - ii. The borrowing municipality shall keep the equipment at all times free and clear from all claims, levies, liens, encumbrances, and process. The borrowers shall give the lenders immediate written notice of any such attachment or other judicial process affecting any article of equipment subject to this Agreement.
 - iii. The borrowing municipality shall not pledge, lend, create a security interest in, sublet or part possession with the equipment or any part thereof or attempt in any other manner to dispose of the equipment, or remove the equipment or any part thereof from the borrowing municipality, without prior written permission of the lending municipality.

- iv. The borrowing municipality shall cause the equipment to be operated and maintained in accordance with the applicable vendor's or manufacturer's manual of instructions, by competent and qualified personnel employed by the borrowing municipality. The borrowing municipality shall, at their own cost and expense, provide fuel, lubrication, oil, minor repairs and materials as needed for the safe and efficient operation of the equipment.
 - v. The borrowing municipality shall maintain accurate written records of the (1) days and hours that the equipment is used hereunder, (2) the names of the operators, (3) the locations where the equipment is used, and (4) any accidents arising during such operation or damage to the equipment. The borrowing municipality shall promptly furnish a copy of said records to the lending municipality upon request, therefore.
 - vi. The borrowing municipality shall at all times comply with any applicable statutes, local laws, codes, rules and regulations in connection with the use and repair of the equipment and shall take reasonable steps to assure similar compliance by the officers and employees of the borrowing municipality who use or repair the equipment.
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- b. An operator of equipment rented or loaned to the other municipality, when operating such equipment for the borrowing municipality, shall be subject to the direction and control of the Superintendent of the borrowing municipality in relation to the manner in which the work is to be completed. However, the method by which the machine is to be operated shall be determined by the operator.
 - c. When receiving the services of an operator with a machine or equipment, the receiving Superintendent shall make no request of any operator which would be inconsistent with any labor agreement that exists for the benefit of the operator in the municipality by which the operator is employed.
 - d. The lending municipality shall be liable for any negligent acts resulting from the operation of its machinery or equipment by its own operator. In the event damages are caused as a result of directions given to perform work, then the lending municipality shall be held harmless by the borrowing municipality. The borrowers assume liability for, and shall defend, indemnify, protect, save and keep harmless the Municipality and Highway Superintendent, and their officers, employees, and agents from and against all losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements, including legal expenses of any kind and nature imposed upon, incurred by, or asserted against the Municipality and/or Highway Superintendent in any way relating to or arising out of this Agreement or the use of the equipment. The indemnities contained in this section shall continue in full force and effect, notwithstanding the termination of this Agreement or the return of the equipment.

- e. Each municipality shall remain fully responsible for its own employees, including salary, benefits, and Workers Compensation.
4. The renting, borrowing, or leasing, repairing, or maintaining of any particular piece of machinery or equipment, or the exchanging or borrowing of materials or supplies, or the providing of a specific service shall be evidenced by the signing of a memorandum by the Superintendent. Such memorandum may be delivered to the other party via mail, personal delivery, facsimile machine, or any other method of transmission agreed upon. In the event there is no written acceptance of the memorandum, the receipt of materials or supplies or the acceptance of a service shall be evidence of the acceptance of the offer to rent, exchange or lend.
 5. In the event any shared services arrangement is made without a memorandum at the time of receipt of the shared service, the Superintendent receiving the shared service shall within five days thereof, send to the provider a memorandum identifying the type, time and date of the acceptance of the repair or maintenance shared service. In the event such shared service related to or included any materials or supplies, such memorandum shall identify such materials or supplies and time and place of delivery.
 6. In the event a municipality wishes to rent machinery or equipment from the other municipality or in the event a municipality wishes to determine the value of such renting for the purposes of exchanging shared services of a comparable value, it is agreed that the value of the shared service shall be set forth in the memorandum.
 7. All machinery and the operator, for purposes of Workers Compensation, liability and any other relationship with third parties, except as provided in paragraph e of section three of this Agreement, shall be considered the machinery of, and the employee of, the municipality owning the machinery and equipment.
 8. In the event machinery or equipment being operated by an employee or the owning municipality is damaged or otherwise in need of repair while working for another municipality, the municipality owning the machinery or equipment shall be responsible to make or pay for such repairs. In the event machinery or equipment is operated by an employee of the borrowing, receiving or renting municipality, such municipality shall be responsible for such repairs. The borrowers shall be responsible for any damage to the equipment while in the borrower's possession and shall pay to the Town the value of so much of the equipment, or any part thereof, as may be damaged or destroyed. Such payment shall be made within 30 days after the Town Board of the borrowing municipality audits and approves for payment the lending Municipality's voucher with respect thereto.
 9. The lenders or their officers, employees, and agents may, at any time, inspect the equipment, and, upon prior arrangements may, at any time, inspect the equipment, and, upon prior notification to the borrowers, enter the borrowing municipality's highway garage or storage area for the purpose of inspecting the equipment and the manner in which it is being used.

10. Records shall be maintained by each municipality setting forth all machinery rentals, exchanges, borrowings, repair or maintenance and other shared services. Such records will be available for inspection by any municipality which has shared services with such municipality,
11. Upon default in the payment of any payment required hereunder, or upon a breach of any other condition of this Agreement to be performed or observed by the borrowers, the lenders shall have the right without notice or demand to terminate this Agreement. If upon any termination of this Agreement the borrowers fail or refuse to forthwith deliver the equipment to the lenders, the lenders shall have the right to enter the highway garage or storage area of the borrowing municipality, or any other premises where the equipment may be found, upon prior notice to the borrowers, and to take possession of and remove the equipment without legal process. The borrowers release any claim or right of action from trespass or damages caused by reason of such entry and removal.
12. In the event a dispute arises relating to any repair, maintenance, or shared service, and in the event such dispute cannot be resolved between the parties, such dispute shall be subject to mediation.
13. Any party to this Agreement may revoke such contract by filing a notice of such revocation with the Town Clerk
14. Upon the revocation of such contract, any outstanding obligations shall be settled within thirty days of such revocation, unless the parties with whom an obligation is due agree in writing to extend such date of settlement.
15. Any action taken by the Superintendent pursuant to the provisions of this contract shall be consistent with the duties of such officials and expenditures incurred shall not exceed the amounts set forth in the Town budget for highway purposes.
16. The record of all transactions that have taken place as a result of the Town of MEXICO and Town of NEW HAVEN participating in the services afforded by this contract shall be kept by the Superintendent of each municipality and a statement thereof, in a manner satisfactory to the Town governing board, shall be submitted to the Town Board on or before the first day of November of each year following the filing of the contract, unless the Town Board requests the submission of records at different times and dates.
17. If any provision of this Agreement is deemed to be invalid or inoperative for any reason, that part shall be deemed modified to the extent necessary to make it valid and operative, or if it cannot be so modified, then severed, and the remainder of the Agreement shall continue in full force and effect as if the contract had been signed with the invalid portion so modified or eliminated.

18. This agreement shall run for five (5) years from the signing date and upon the 5th year anniversary of the signing shall automatically renew itself for another five (5) years unless either party gives written notice at least thirty (30) days prior to the 5th year renewal date that they wish to terminate the agreement.
19. Copies of this Agreement shall be sent to the Clerk and the Superintendent of each municipality that is a party to this Agreement and with which the Superintendent anticipates engaging in shared services. No shared services shall be conducted by the Superintendent except with the Superintendent of a municipality that has completed a shared services contract and has sent a copy thereof to the clerk of his or her municipality and the Superintendent.

IN WITNESS THEREOF, the said Town of MEXICO and Town of NEW HAVEN have, by order of each of their Town Boards, caused these presents to be subscribed by the Town Supervisor and the seal of the Town to be affixed and attested by the Clerk thereof, this _____ day of January of 2024.

Town of NEW HAVEN

Town of MEXICO

Daniel Barney, Town Supervisor

Eric Behling, Town Supervisor

ATTESTATION

Jennifer Woolson, Town Clerk

Nicole Wild, Town Clerk