

**RESOLUTION NO. 38-3/17**

**RESOLUTION TO ALLOW SUPERVISOR TO SIGN A CONTRACT WITH THE COUNTY FOR SHARED HIGHWAY SERVICES**

WHEREAS, the County has presented to the Town of Yates a contract for shared Highway Services as follows:

**CONTRACT FOR SHARED HIGHWAY SERVICES**

1. For the purposes of this contract, the following terms shall be defined as follows:
  - a) "Municipality" shall mean any county, town or village which has agreed to be bound by a contract for shared services or equipment similar in terms and effect with the contract set forth herein, and has filed a copy of said contract with the clerk of the undersigned county/town or village.
  - b) "Contract" shall mean the text of this agreement which is similar in terms and effect with comparable 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 contract 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; in the case of a county, the county superintendent of highways, or the person having the power and authority to perform the duties generally performed by county superintendents of highways; in the case of a town, the town superintendent of highways; in the case of a village, the superintendent of public works.

2. The undersigned municipality has caused this agreement to be executed and to bind itself to the terms of this contract and it 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 municipality by this agreement grants unto the superintendent, the authority to enter into any shared service arrangements with any other municipality or other municipalities subject to the following terms and conditions:
  - a) The Town of Yates agrees to rent or exchange or borrow from any municipality and all materials, machinery and equipment, with or without operators, which it may need for the purposes of the county/town/village. The determination as to whether such machinery, with or without operators, is needed by the county/town/village shall be made by the Superintendent. The value of materials or supplies borrowed from another 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.
  - b) The Town of Yates agrees to rent, exchange or lend to any municipality any and all materials, machinery and equipment, with or without operators, which such municipality may need for its purposes. The determination as to whether such machinery of material is available for renting, exchanging or lending shall be made by the superintendent. In the event the superintendent determines that it will be in the interests of the Town of Yates to lend to any other municipality, the Superintendent is hereby authorized to lend to another municipality. The value of supplies or materials loaned to another municipality may be returned to the Town of Yates by the borrowing municipality in the form of similar types and amounts of materials or supplies, or by the use of equipment or receipt of services of equal value, to be determined by the respective superintendents.
  - c) The Town of Yates agrees to repair or maintain machinery or equipment for any county/town/village under terms that may be agreed upon by the superintendent, upon such terms as may be determined by the superintendent.
  - d) An operator of equipment rented or loaned to another 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.
  - e) 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.

- f) 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.
  - g) Each municipality shall remain fully responsible for its own employees, including salary, benefits and workers compensation.
4. The renting, borrowing or leasing 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 or by facsimile machine. In the event, there is no written acceptance of the memorandum, the using of the machinery, the receipt of the materials or supplies or the acceptance of service shall be evidence of the acceptance of the offer to rent, exchange or lend.
  5. In the event a municipality wishes to rent machinery or equipment from another municipality or in the event a municipality wishes to determine the value of such renting for 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.
  6. 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 “3” of this agreement, shall be considered the machinery of and the employee of the municipality owning the machinery and equipment.
  7. In the event machinery or equipment is being operated by an employee of the owning municipality and is damaged or otherwise in need of repair, as a result of operator negligence, while such employee is working for the borrowing, receiving or renting municipality, then the municipality owning such machinery or equipment shall be responsible to make or pay for such repairs. In the event the machinery or equipment is operated by an employee of the borrowing, receiving, or renting municipality, and is damaged or in need of repairs as a result of such operator’s negligence, then such municipality shall be responsible to make or pay for such repairs. Repairs and maintenance necessitated by ordinary wear and tear shall be made by the owning municipality.
  8. Records shall be maintained by each municipality setting forth all machinery rentals, exchanges, borrowings or other shared services. Such records will be available for inspection by any municipality which has shared services with such municipality.
  9. In the event any dispute arises relating to any shared service, and in the event such dispute cannot be resolved between the parties, such dispute shall be subject to mediation.

10. Any party to this contract may revoke such contract by filing a notice of such revocation. 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.
11. Any action taken by the Superintendent pursuant to the provisions of this contract shall be consistent with the duties of such official and expenditures incurred shall not exceed the amounts set forth in the county/town/village budget for highway purposes.
12. The record of all transactions that have taken place as a result of the Town of **Yates** participating in the services afforded by this contract shall be kept by the superintendent and a statement thereof, in a manner satisfactory to the county/town/village governing board, shall be submitted to the county/town/village board semiannually on or before the first day of June and on or before the first day of December of each year following the filing of the contract, unless the county/town/village board requests the submission of records at different times and dates.
13. 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 contract shall continue in full force and effect as if the contract had been signed or filed with the designated filing agent with the invalid portion so modified or eliminated.
14. This contract shall be reviewed each year by the Town of **Yates** and shall expire five years from the date of its signing by the Chief Executive Officer. The Town of **Yates** board may extend or renew this contract at the termination thereof for another five-year period.

RESOLVED, that the Yates Town Board authorizes the Yates Town Supervisor to sign said contract.