

RESOLUTION

of the

Tompkins County Soil and Water Conservation District

Resolution No.: 2016-23

Date: 5/9/2016

*Authorizing the Board Chair to sign an agreement on behalf of the District, which authorizes the District Manager to directly contract with the Superintendent, District Managers or persons holding similar public office in other municipalities, and/or Districts who possess similar authorization for the borrowing or lending of materials and supplies and the exchanging, leasing, renting of machinery and equipment, including the operations thereof, for the purpose of aiding the District Manager in the performance of his/her duties.*

**WHEREAS**, all municipalities, as well as Districts, including the Tompkins Co. SWCD have the power and authority to contract for the purpose of renting, leasing, exchanging or borrowing of machinery and equipment, with or without operators, with other municipalities or Districts, and

**WHEREAS**, all municipalities, as well as Districts, including the Tompkins Co. SWCD have the power and authority to borrow or lend materials and supplies to other municipalities or Districts, and

**WHEREAS**, it is hereby determined that the Tompkins County SWCD, as well as other municipalities and Districts have machinery and equipment which is not used at all times but lie idle during certain periods, and

**WHEREAS**, it is determined that the Tompkins Co. SWCD, as well as other municipalities and Districts often have materials and supplies on hand which are not immediately needed, and

**WHEREAS**, it is hereby determined that by the renting, borrowing, exchanging or leasing of machinery and equipment and the borrowing or lending of materials and supplies, the municipalities and other Districts may avoid the necessity of purchasing certain needed machinery and equipment and the purchasing of or keeping a large inventory of certain extra materials and supplies, thereby saving the taxpayers money, and

**WHEREAS**, all municipalities and Districts have the power and authority to contract for the purpose of renting, leasing, exchanging or borrowing of machinery and equipment, with or without operators, with other municipalities or Districts, and

**WHEREAS**, all municipalities and Districts have the power and authority to borrow or lend materials and supplies to other municipalities, and

**WHEREAS**, it is hereby determined that the Tompkins Co. SWCD, other municipalities, as well as other Districts have machinery and equipment which is not used at all times but lie idle during certain periods, and

**WHEREAS**, it is recognized and determined, from a practical working arrangement, that no program of borrowing, exchanging, leasing or renting of machinery and equipment or borrowing or lending of materials can be successful if each individual arrangement or agreement has to receive prior approval by the District Board and governing board of each of the other municipalities and Districts which may be

parties to such agreements, since such agreements must often be made on short notice and at times when governing board are not in session, and

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

**WHEREAS**, it is the intent of this District's Board to give the District Manager the authority to enter into renting, exchanging, borrowing and lending agreements with the persons serving in similar capacities in other municipalities and or Districts without the necessity of obtaining approval of the District Board prior to the making of each individual agreement, and

**WHEREAS**, a standard contract has been prepared which is expected to be adopted and placed into effect in other municipalities and Districts which contract will grant the person holding the position comparable to that of superintendent or District Manager authority to make similar agreements, and

**WHEREAS**, it is hereby determined that it will be in the best interests of the Tompkins County SWCD to be a party to such an agreement.

**NOW THEREFORE BE IT RESOLVED**, by the Tompkins County Soil and Water Conservation District Board of Directors that,

- 1.) The District Secretary is authorized and directed to file a copy of the contract set forth in this resolution with the Designated Filing Agent and with the Chief Executive Officer of the following municipalities:
  - a. Towns of: Caroline, Danby, Dryden, Enfield, Groton, Ithaca, Lansing, Newfield, Ulysses
  - b. Villages of: Cayuga Heights, Dryden, Freeville, Groton, Lansing, Trumansburg
  - c. City of: Ithaca
  - d. Counties: Tompkins
  - e. Soil and Water Conservation Districts: Cayuga, Cortland, Tioga, Chemung, Schuyler, Seneca
- 2.) This resolution will take effect immediately.

Board Chairman Signature \_\_\_\_\_

Approvals:

Dan Carey: Present- Y( ) N ( ) , Vote- Y( ) N( )

Alan Teeter: Present- Y( ) N ( ) , Vote- Y( ) N( )

David McKenna: Present- Y( ) N ( ) , Vote- Y( ) N( )

Jim Dennis: Present- Y( ) N ( ) , Vote- Y( ) N( )

Aaron Ristow: Present- Y( ) N ( ) , Vote- Y( ) N( )

**CONTRACT OF SHARED SERVICES  
RENTING, LEASING OF MACHINERY AND EQUIPMENT  
EXCHANGING BORROWING EQUIPMENT;  
BORROWING OR LENDING OF MATERIALS AND SUPPLIES**

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

**“Designated Filing Agent”** shall mean the central place where all similar contracts for shared services are filed as agreed upon by all participating municipalities and Districts.

**“Municipality”** shall mean any city, county, District or village which 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 a resolution to that effect with the designated filing agent as defined herein.

**“District”** District or Soil and Water Conservation District means a county whose board of supervisors (County Legislature) has by resolution declared said county to be a soil and water conservation district.

**“Contract”** shall mean the text of this agreement which 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 and District filing the same, and upon such filing each filing municipality or District accepts the terms of the contract to the same degree and effect if each chief executive officer had signed each individual contract.

**“Shared Services”** shall mean any service provided by one municipality or District for another municipality or District that is consistent with the purposes and intent of this contract and shall include but shall not be limited to:

- 1.) the renting, exchanging, or lending of machinery, tools and equipment, with or without operators, conditioned upon the obtaining of equal value through the provision of a similar service by the borrower of substantially equal or equal value;
- 2.) the borrowing or lending of supplies between municipalities and Districts on a temporary basis conditioned upon the replacement of such supplies or conditioned upon the obtaining of substantially equal or 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 substantially equal or equal to the borrowed supplies;
- 3.) the providing of a specific service for another municipality, or District conditioned on such other municipality or District providing a similar service, or a service of substantially equal or equal value, in exchange.

**“District Manager”** shall mean, in the case of a county, the District Manager of the Soil and Water District, or the person having the power and authority to perform the duties generally performed by the District Manager of the county Soil and Water.

§ 2. The undersigned municipality or District 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 or District which has filed a similar contract in the office of the designated filing agent and which has sent a notice of such filing to the officer signing this agreement and the Manager of the District of Tompkins County Soil and Water.

§ 3. The undersigned municipality or District by this agreement grants unto the District Manger the authority to enter into any shared service agreement with any other municipality, or District or other municipalities subject to the following terms and conditions.

- a. The Tompkins County SWCD agrees to rent or exchange or borrow from any municipality or District any and all materials, machinery and equipment, with or without operators, which it may need for the purposes of the District . The determination as to whether such machinery, with or without operators, is needed by the District shall be made by the District Manager. The value of materials or supplies borrowed from another municipality or District 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 or District Manager.
- b. The Tompkins County SWCD agrees to rent, exchange or lend to any municipality or District any and all materials, machinery, and equipment, with or without operators, which such municipality or District may need for its purposes. The determination as to whether such machinery or material is available for renting, exchanging or lending shall be made by the Superintendent or District Manager. In the event the Superintendent or District Manger determines that it will be in the interests of the District to lend to any other municipality or District, the Superintendent or District is hereby authorized to lend to another municipality or District. The value of supplies or materials loaned to another municipality or District may be returned to the Tompkins Co. SWCD 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 mutual agreement of the respective Superintendents or District Manager.

An operator of equipment rented or loaned to another municipality or District, when operating such equipment for the borrowing municipality or District, shall be subject to the direction and control of the Superintendent or District Manager of the borrowing municipality or District 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.

When receiving the services of an operator with a machine or equipment, the receiving Superintendent or District Manger 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 or District by which the operator is employed.

- c. The lending municipality or District 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 or District shall be held harmless by the borrowing municipality or District.

d. Each municipality or District 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 or District Manager. 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 a service shall be evidence of the acceptance of the offer to rent, exchange or lend.

§ 5. In the event any shared agreement is made without the memorandum at the time of receipt of the shared service, the Superintendent or District Manager receiving the shared service shall, within five (5) days thereof, send to the provider a memorandum identifying the type, time and date of the acceptance of the shared service. In the event such shared service related to or included the receipt of any materials or supplies, such memorandum shall identify such materials or supplies and the time and place of delivery.

#### **AGREE ON A FORM OF THE MEMORANDUM.**

§6. In the event a municipality or District Manager wishes to rent machinery or equipment from another municipality or District or in the event a municipality or District 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 as 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 §3c of this agreement, shall be considered the machinery of and the employee of the municipality or District owning the machinery and equipment.

§8. In the event machinery or equipment is being operated by an employee of the owning municipality or District is damaged or otherwise in need of repair while working for another municipality or District, the municipality or District 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 or District such municipality or District shall be responsible for such repairs.

- §9. Records shall be maintained by each municipality or District setting forth all machinery rentals, exchanges, borrowings or other shared services. Such records will be available for inspection by any municipality or District which has shared services with such municipality or District
- §10. 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.
- §11. Any action taken by the Superintendent or District Manager 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 District budget for such purposes.
- §12. A record of all transactions that have taken place as a result of the Municipalities/District participating in the services afforded by this contract shall be kept by the Superintendent or District Manager and a statement thereof, in a manner satisfactory to the District Board, shall be submitted to the District Board semi-annually 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 with the designated filing agent, unless the District 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 has been signed or filed with the designated filing agent with the invalid persons modified or eliminated.
- §14. Any party to this contract may revoke such contract by sending a notice of such revocation to the designated filing agent and a copy thereof to each participating municipality or District filing as required by paragraph 1 of this contract, within the definition of "Municipality" or "District". 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. This contract shall be reviewed each year by the District Board and shall expire five (5) years from the date of its signing by the Board Chair. The District Board may extend or renew this contract at the termination thereof for another five (5) year period.

State of New York )  
 )SS:  
 County of \_\_\_\_\_ )

*On this, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me a notary public, the undersigned officer, personally appeared \_\_\_\_\_, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained.*

*In witness hereof, I hereunto set my hand and official seal.*

\_\_\_\_\_  
*Notary Public*

**Tompkins SWCD Board Chair** \_\_\_\_\_