

**LEGAL NOTICE  
NOTICE TO BIDDERS**

**NOTICE IS HEREBY GIVEN**, that the Town Board of the Town of Thompson will receive bids in accordance with specifications prepared therefore which may be obtained without charge at the Office of the Town Clerk of the Town of Thompson, Town Hall, 4052 State Route 42, Monticello, New York for the following item:  
**Asphaltic Concrete Mixes – For Town-wide use, the Department of Highways and Participation by a Political Subdivision.**

Said bids shall be mailed or delivered so that they shall be received at the office of the said Town Clerk on or before 2:00 o'clock P.M., Prevailing Time, on Thursday, February 23, 2023 at which date and hour all bids shall be publicly opened and read.

By Order of the Town Board  
Dated Monticello, New York  
February 07, 2023

Marilee J. Calhoun  
Town Clerk

# TOWN OF THOMPSON

Town Hall, Town of Thompson  
Monticello, New York 12701  
Tel. (845) 794-2500

## COMPETITIVE BID PACKAGE INSTRUCTIONS TO BIDDERS SPECIFICATIONS BIDDER'S PROPOSAL

William J. Rieber, Jr.  
Supervisor

Michael Mednick  
Attorney for the Town

The enclosed Instructions to Bidders, Specifications and Bidder's Proposal are the forms upon which the Town of Thompson accepts competitive bids pursuant to the provisions of the General Municipal Law. As a bidder you are expected to know and understand the terms and conditions contained in this package. Your failure to comply with the terms and conditions upon which bids are accepted may result in disqualification of your bid. Be certain of the time when your bid must be submitted.

This is a bid prepared for:

## Asphaltic Concrete Mixes

( X ) Town - wide

( X ) Department of Highways; Only

( X ) Participation by a political subdivision

Town of Thompson Highway Department  
33 Jefferson St. Monticello, NY 12701  
Richard Benjamin Jr. Highway Superintendent

Bid Item: Asphaltic Concrete Mixes  
Phone # 845-794-5560  
E-mail [richhiway@gmail.com](mailto:richhiway@gmail.com)

### INSTRUCTIONS TO BIDDERS

- ( X ) **PRICE.** Price shall be net and shall include delivery of the material or item to the location specified, and if no location be specified, the Town Hall, 4052 Route 42, Monticello, New York 12701, and all transportation and delivery charges shall be prepaid to the point of delivery.
- ( X ) **TAXES.** Purchases by the Town of Thompson for its use are not subject to any sales, use or federal excise taxes and exemption certificates will be executed upon request and payment
- ( X ) **AWARD.** Award of the bid shall be made by the appropriate officer of the Town of Thompson. In cases where two or more responsible bidders submit identical bids as to price, the contract may be awarded to either of such bidders. The award shall be made on the most advantageous bid, on a quality versus price basis, taking into consideration the responsibility of the bidder and materials or items deemed to be best adapted to the uses of Town of Thompson. Failure on the part of the successful bidder to comply with all terms of the contract and specification as set forth herein, may result in disqualification of the bidder from future bidding, and/or termination of the contract. The Town of Thompson or department awarding the bid reserves the right to waive any formalities or reject any and all bids, or to accept any bid which its deems in the best interests of the Town of Thompson.
- ( X ) **INFORMATION FURNISHED WITH BID.** Bidder must submit with its bid detailed specifications, illustrated circulars and all other necessary data on the materials or items it proposes to furnish.
- ( ) **SECURITY DEPOSIT.** Each bid must be accompanied by a certified check or bond payable to the Town of Thompson in the amount of 5% of the gross bid price before trade-in allowance, if any. Such deposits will be returned to the unsuccessful bidders promptly and to the successful bidder upon performance of a contract of purchase or upon delivery of the aforementioned items or materials as the case may be. In the event that the successful bidder shall refuse or fail to comply with the terms of the contract herein set forth, all or a portion pf the security deposit may be retained by the Town as liquidated damages.

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- ( X ) **METHOD OF SUBMITTING BIDS.** All bids shall be made upon and in accordance with the forms which contain these instructions to bidders and the Specifications which shall be available from the **Town Clerk**. Bids to be submitted in sealed envelopes addressed to the **Town Clerk, Town Hall, Town of Thompson, 4052 Route 42, Monticello, New York 12701**, and shall bear upon the face there of the name and address of the bidder, clearly indicating that it is a bid for **Asphaltic Concrete Mixes** with the bid number, if any, set forth above.
- ( X ) **SUBMISSION AND OPENING OF BIDS.** Bids for consideration must be submitted to the above address or be in the possession of the **Town Clerk** not later than **2:00 P.M. on Thursday February 23, 2023** at which time the bids will be publicly opened and read. Bidder guarantees to meet standards established by the specifications. No bid may be withdrawn by any bidder for a period of 45 days from the date of bid opening.
- ( ) **BID AS CONTRACT.** This bid, including the Instructions to Bidders, Specifications, and Proposal annexed hereto, shall constitute a contract between the Town of Thompson and the bidder, upon acceptance and award, in accordance with its terms, unless otherwise provided herein. The "Standard Contract Rider" attached hereto shall apply to and be incorporated herein by reference. If there shall be a conflict between the terms of these instructions and the Standard Contract Rider, the terms of the standard Contract Rider shall prevail. For the purposes of the Standard Contract Rider, the term "Vendor" shall mean the bidder herein. Supervision of performance of this bid and contract shall be performed by the **Town Clerk**.
- ( ) **BID IS NOT CONTRACT,** if this bid is not a contract, the bidder shall be required to sign a separate contract setting forth the terms of agreement in such form as the Town shall acquire which shall contain terms and conditions similar to contracts prepared for similar items, materials and services to be provided to the Town. The failure to execute such contract shall be deemed a default under the terms of this bid.
- ( X ) **EQUAL OPPORTUNITY.** The bidder will return the bid proposal with the Contractor's Assurance on Equal Opportunity duly signed. A finding by any governmental agency that the bidder has discriminated against any individual shall be grounds for the termination of the contract to which this bid relates and ineligibility for any future contract with the Town, unless a certificate of compliance with any decision, ruling or order is obtained.

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**PARTICIPATION BY POLITICAL SUBDIVISIONS, FIRE DISTRICTS AND ANY OTHER DISTRICT IN A POLITICAL SUBDIVISION LOCATED IN WHOLE OR IN PART WITHIN THE COUNTY OF SULLIVAN.** The successful bidder shall upon order by participation by political subdivisions, fire districts and any other district in a political subdivision located in whole or in part within the County of Sullivan, provide the goods or services bid upon to such purchaser upon the same terms and conditions as bid for the Town of Thompson. The successful bidder shall be paid by each purchaser and the Town of Thompson shall not be liable to the successful bidder for any such purchases made pursuant to this paragraph. The Town of Thompson shall not be liable to any purchaser for non-performance of this contract in any manner and for any reason.

**SPECIAL SERVICES CONTRACT.** See attached rider.

**COMMON CONTROL PROVISIONS.** See attached rider.

**INSURANCE.** The provisions of paragraph 11 of the Standard Contract Rider are hereby modified to provide that insurance to be furnished to the Town by the bidder is as follows:

Public Liability Limits: **See attached insurance requirements if any**

Other Insurance

Limits: \$ Other

Except as modified with respect to limits of liability, all other provisions of said paragraph shall remain in full force.

**NOTE:** All boxes marked ( x ) are applicable to this contract.

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**NOTICE:** No contractor to whom this contract is let, granted or awarded, shall transfer, convey, sublet otherwise dispose of same, or his right, title and interest herein, including the performance of this contract, or the right to receive monies due or to become due, or of his power to execute this contract to any person or corporation without the prior written consent of the officer, board or agency which awarded this contract. In the event that the contractor shall, without prior written consent, assign, transfer, convey, sublet otherwise dispose of same, or his right, title and interest herein, including the performance of this contract, or the right to receive, monies due or to become due, or of his power to execute this contract to any person or corporation, or upon receipt by the Town of an attachment, levy, or execution on the proceeds due or to become due under this contract against the contractor, the Town and the officer, board or agency shall be relieved and discharged from any and all liability and obligations growing out of such contract to such contractor, and the person or corporation to which such contract shall have been assigned transferred, conveyed, sublet or otherwise disposed of, and such contractor and his assignees, transferees or sub lessees shall forfeit and lose all monies theretofore earned under this contract, except so much as may be required to pay his employees.

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## GENERAL SPECIFICATIONS

**GENERAL:** It is the intent of this specification to describe Asphaltic Concrete Mixes for the Town Thompson Highway Department.

**Contract Period:** One (1) year from the date that the bid is adopted. By mutual agreement of both parties, this contract may be extended for an additional One (1) year period under the same terms and conditions.

### NOTE TO BIDDERS:

All quantities specified are in **American Units**, and should be bid accordingly.

All successful bidders are required to supply a **minimum of 1000 tons** of asphaltic concrete daily.

Unless otherwise noted, bidder agrees to meet all specifications referred to in the **New York State Department of Transportation, Standard Specifications, Section 400, dated May 1st, 2008, or current addenda to date. Specifications can be found on internet at:**

<https://www.dot.ny.gov/main/business-center/engineering/specifications/english-spec-repository/section400.pdf>

### QUALITY CONTROL:

At any time the Town can request that a core sample and mix test be done by vendor, at the vendors expense to insure that the vendor is supplying the town with the proper mix designs for mix purchased. If the town does not agree with test findings they can request that the vendor supply a sample to be tested by test facility of the towns choice at vendors expense.

### BASIS OF AWARD:

For pickup by Town's trucks at vendor's plant. Purchase may be made to the vendor whose unit bid prices (F.O.B. bank or plant) combined with the Town's transportation cost results in the lowest total cost. Transportation cost shall be figured based on a ten (10) ton truck load roundtrip from vendor's bank or plant to a designated location within each zone.

### EXAMPLE:

\$60/Ton Unit Bid Price x 10 Tons (Truckload)	= \$600
Town Truck Roundtrip - 30 miles @ \$5/Mile	= \$150
<b>Total Cost</b>	<b>= \$750</b>

**ALTERNATE:** Failure of the awarded vendor to provide the materials as provided for in the specifications may result in termination of the award and disqualification of future awards.

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**GENERAL SPECIFICATIONS CONT'D.**

**ASPHALT PRICE ADJUSTMENTS:**

1. Asphalt price adjustments allowed will be based on the **February 2023** average of the F.O.B terminal price per **American Ton** of unmodified PG 64-22 binder without anti-stripping agent (base average F.O.B. terminal price). The new monthly average terminal price will be determined by the New York State Department of Transportation based on prices of pre-approved primary sources of performance graded binder in accordance with the New York State Department of Transportation Standard Specification.

**The February 2023 average is \$608.00 per American Ton.**

**NOTE:** The same grade of asphalt cement used in establishing the base average F.O.B. terminal price shall be used in establishing the new average F.O.B. terminal price. In the event that one or more of the New York State Department of Transportation pre-approved sources discontinue posting a price for asphalt cement, the base average F.O.B. terminal price shall not be recalculated.

2. The new average F.O.B. terminal price will be determined based on the above F.O.B. terminal prices posted on or about the 25<sup>th</sup> of each month, hereafter known as the "Adjustment Date", during the contract period starting with **February 14, 2023**. However, asphalt price adjustments, in accordance with the formula below, will be effective for deliveries made on and after the first of the month (i.e., **April 1<sup>st</sup>, 2023**) following the adjustment date.

3. The unit prices per **American Ton** of hot mix asphalt (HMA) purchased from any award based on this specification will be subject to adjustment based on the following formula:

New Monthly Adjustment = (per <b>American Ton</b> )	Average F.O.B. Terminal Price	-	Base Average F.O.B. Terminal Price	X	Total Allowable Petroleum %
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**NEW MONTHLY AVERAGE F.O.B. TERMINAL PRICE:**

The average F.O.B. terminal price for unmodified PG 64-22 binder without anti-stripping agent is as determined by the New York State Department of Transportation per New York State Department of Transportation Standard Specification

**BASE AVERAGE F.O.B. TERMINAL PRICE:**

The average F.O.B. terminal price of unmodified PG 64-22 binder without anti-stripping agent is as determined by the New York State Department of Transportation as of **February 2023**.



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### GENERAL SPECIFICATIONS CONT'D.

#### ASPHALT PRICE ADJUSTMENTS: (Cont'd.)

#### BASE AVERAGE F.O.B. TERMINAL PRICE:

The average F.O.B. terminal price of unmodified PG 64-22 binder without anti-stripping agent is as determined by the New York State Department of Transportation as of **February 2023**.

#### TOTAL % ASPHALT PLUS FUEL:

The percentage of total allowable asphalt and fuel for each item is as follows:

Item	% Asphalt	+ Fuel Allowance	Total % Asphalt + Fuel Allowance
403.118902	5.00	1%	6.00%
403.128902	3.50	1%	4.50%
403.138902	5.50	1%	6.50%
403.158902	8.25	1%	9.25%
403.178202	6.20	1%	7.20%
403.178902	6.20	1%	7.20%
403.198202	6.85	1%	7.85%
403.198902	6.85	1%	7.85%

**+Fuel Allowance represents allowance for energy (fuel, electricity, and natural gas) used in the production of asphalt. It is a cost associated with the product and not intended to represent any trucking or hauling of product.**

### GENERAL SPECIFICATIONS CONT'D.

#### ASPHALT PRICE ADJUSTMENTS: (Cont'd.)

Positive Price Adjustment number shall be added to original per American Ton Bid Price.

Negative Price Adjustment number shall be subtracted from original per American Ton Bid Price.

4. Work performed after the expiration of the contract, where no extension has been granted, resultant from purchase orders placed prior to expiration of the contract will receive the asphalt price adjustments applicable in effect during the last month of the contract. Asphalt price adjustments for any contracts that are extended will be based on the new average for the month in which the work is done applying the same base established for that contract.

5. Asphalt price adjustments allowed by this contract shall be calculated and applied to the original prices. **There will not be asphalt price adjustments unless the change amounts to more than \$0.100 per American Ton from the original price.** In these instances, prices will revert back to the original prices.

6. All asphalt price adjustments will be computed to three decimal places.

7. Should these provisions result in a price structure which becomes unworkable, detrimental or injurious to the State or in prices which are not truly reflective of market conditions or which are deemed by the Highway Superintendent to be unreasonable or excessive, and no adjustment in price is mutually agreeable, the Highway Superintendent reserves the sole right upon ten days written notice mailed to the contractor to terminate any contract resulting from this bid opening.

8. All asphalt price adjustments shall be published by the State and issued to all contract holders whose responsibility will be to attach the appropriate State notification (based on when the work was performed) to the payment invoice submitted to agency.

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### DETAILED SPECIFICATIONS

#### ASPHALTIC CONCRETE

**ASPHALTIC CONCRETE:** The Asphaltic Concrete to be provided shall be manufactured at a New York State approved plant. The material shall have been previously tested and shall meet all the requirements under the latest edition of the **New York State Department of Transportation, Standard Specifications, Section 400, dated May 1st, 2008, or current addenda to date.** found on web at <https://www.dot.ny.gov/main/business-center/engineering/specifications/english-spec-repository/section400.pdf> for the respective items included in the proposal under ASPHALTIC CONCRETE.

#### ITEM

**Vendor having more than one location in Sullivan County are required to bid each location.**

#### Asphaltic Concrete

Asphalt Concrete-Type I Base Course (Item 403.118902)	\$ _____ /
Asphalt Concrete-Type 2 Base Course (Item 403.128902)	\$ _____ /
Asphalt Concrete-Type 3 Binder Course (Item 403.138902)	\$ _____ /
Asphalt Concrete-Type 5 Shim Course (Item 403.158902)	\$ _____ /
Asphalt Concrete-Type 6 F2 Top Course (Item 403.178202)	\$ _____ /
Asphalt Concrete-Type 6 Top Course (Item 403.178902)	\$ _____ /
Asphalt Concrete-Type 7 F2 Top Course (Item 403.198202)	\$ _____ /
Asphalt Concrete-Type 7 Top Course (Item 403.198902)	\$ _____ /

Location of Plant: \_\_\_\_\_

Location of Plant #2: \_\_\_\_\_

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The undersigned certifies that the bid is submitted in full conformance with the specifications.  
If non-conformant an attachment to the bid shall be submitted detailing items of non-conformance and detailed specifications for the non-conforming items shall be attached. If, in the sole opinion of the Town of Thompson that non-conformance affects the durability of function of the bid item, and the bid will be rejected.

COMPANY \_\_\_\_\_  
PRINTED NAME \_\_\_\_\_  
SIGNATURE \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
TELEPHONE \_\_\_\_\_  
FAX \_\_\_\_\_  
EMAIL \_\_\_\_\_  
DATE \_\_\_\_\_

**DO NOT WRITE BELOW THIS LINE.**

ACCEPTED ( ) DATE: \_\_\_\_\_

REJECTED ( )

COMMENTS:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SIGNATURE: \_\_\_\_\_

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## PROPOSAL

TO: **TOWN BOARD OF THE TOWN OF THOMPSON**

The undersigned, having a principal place of business at the address set forth below being experienced and responsible for the performance of same, agrees to furnish and deliver to the Town of Thompson at the locations herein specified, or if no location is specified, or if no location is specified, to the Town Hall, Town of Thompson, Monticello, New York 12701, the following described item, material or service in accordance with the attached specifications and described in detail below.  
(attach additional material to Proposal, if necessary).

### **NON-COLLUSIVE BIDDING CERTIFICATION**

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid, each party thereto certifies as to its own organization, under the penalty of perjury, that to the best of his knowledge or belief:

- (1) The prices of this bid have been arrived at independently without collusion, consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor.
- 2) unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor.
- (3) no attempt has been made or will be made by any bidder to induce any other other person, partnership or corporation to submit or not to submit a bid for the purposes of restricting competition

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## TOWN OF THOMPSON STANDARD CONTRACT RIDER

Notwithstanding anything contained in the attached contract and unless such contract shall specifically state that a provision thereof modifies this rider, the following provisions shall apply to this contract and shall be interpreted as if more fully set forth therein:

1. **DEFINITIONS:** Unless the context requires a different meaning, the following terms shall have the meanings set forth herein:
  - I. "Town" shall mean Town of Thompson
  - II. "Board" shall mean the Town Board of the Town
  - III. "Supervisor" shall mean Town Supervisor.
  - IV. "Department Head" shall mean any official of the Town who is party to a contract or supervises a contract.
  - V. "State" shall mean the State of New York.
  - VI. "Vendor" or "Contractor" shall mean the party who is required to perform services or supply goods to the Town pursuant to this contract
  - VII. "Person" shall mean a natural person, corporation, partnership, firm or other entity.
2. **REPRESENTATIONS OF VENDOR:** The Vendor represents and warrants to the Town that:
  - I. Vendor has the knowledge and experience necessary to perform this contract and provide the services on Vendor's part to be provided hereunder.
  - II. Vendor has not filed or had filed against Vendor a petition in bankruptcy.
  - III. Vendor has not been convicted of a crime under the laws of the United States or of the State or any other state.
  - IV. Vendor has not been disqualified from performing any contract funded by the Federal government, the State, or the Commonwealth and that there is no proceeding pending or threatened against Vendor by any such governmental authority.
  - V. If required by this contract or applicable law, Vendor is licensed or employ\* employees who are licensed to perform the services to be provided pursuant to this contract.
  - VI. No officer or employee of the Town has an interest in this contract, which would disqualify the Vendor from performing this contract and receiving payment therefore.
  - VII. Vendor's facilities are accessible to the handicapped or will be made accessible to the handicapped in accordance with applicable regulations.
  - VIII. Vendor has disclosed, in writing, to the Town all facts relating to the representations herein made which are not as stated in this paragraph.

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**TOWN OF THOMPSON  
STANDARD CONTRACT RIDER**

- IX. Vendor agrees to comply with all terms of the Town's Sexual Harassment Policy and Vendor and all employees shall refrain from such conduct and shall report any allegations of such conduct. Failure to comply with this regulation shall be considered a breach of the Contract and cause immediate termination of this Contract.
3. **PAYMENTS:** The town shall pay to the vendor for services rendered pursuant to this contract the sum set forth in the attached contract.
- I. Payment shall be made as set forth in the annexed contract after submission to the Town by the vendor of a voucher prepared by and on Vendor's letterhead with Vendor's voucher properly certified as therein set forth which shall set forth which voucher shall set forth in detail the dates and description of all of the amount of the charges therefore for which claim for payment is made.
- II. Payment shall be made to the Vendor after approval of said voucher by the Town.
- III. Vendor shall supply such information as may be required by the Town for tax purposes including but not limited to Tax Payer Identification or Social Security Numbers and shall certify pursuant to Internal Revenue Service regulations, if required, as to such information as may be required by such regulations.
4. **APPROPRIATIONS:** If this contract is funded by a grant or contract between the Town and the State or Federal governments or is otherwise subject to legislative appropriation, the Town shall not be liable beyond the funds authorized by such legislation or provided by the State or Federal governments. In the event that such funding shall be terminated or reduced, this contract shall end on the effective date of notice of termination. The Town shall remain liable for all charges and expenses incurred prior to the date of termination. If funding is reduced below the level authorized by the Town and the parties do not desire to terminate this contract, funding shall be deemed to have been reduced to the amount authorized by the State or Federal government as set forth in notice given by the Town to the Vendor to which the Vendor shall consent
5. **PERFORMANCE OF THIS CONTRACT:** The performance of this contract will conform to the requirements of the Town or the State and its regulations. It is understood that funding to the Town by the State is contingent upon compliance with such requirements as may be imposed by the State.
6. **SINGLE AUDIT PROVISIONS:** If applicable, a Vendor shall provide the Town with an audit prepared by an independent auditor in accordance with the Single Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act if the Vendor has received, in any fiscal year, \$25,000.00 or more funds provided by a Federal financial assistance program from a Federal agency pursuant to this contract and all other contracts with the Town. The audit shall be filed with the Town within six (6) months after the close of Vendor's fiscal year, but the Town may extend such time to file such audit for a period not to exceed twelve (12) months after the close of Vendor's fiscal year. The audit shall be prepared at the sole cost and expense of Vendor, provided, however, that if allowed by the financial assistance program. Federal funds received by the Vendor may be applied to payment of the cost of the audit. A violation of this paragraph shall constitute a default under this contract.

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7. **AUDIT OF PAYMENT:** The Town (or any other agency or the State) shall have the right at any time during the term of this contract and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Vendor shall comply with any demand made by the Town to provide information with respect to the payment of monies hereunder during the period covered by this paragraph. The Vendor shall maintain its books and records in with generally accepted accounting principles or such other method of account which is approved in writing by the Town prior to the date of this contract. The revenues and expenditures of the Vendor in connection with this contract shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims or payment which are not fully documented may be disallowed. Vendor agrees to provide to or permit the Town to to examine or obtain copies of any documents relating to the payment of money to the Vendor or expenditures made by the Vendor for which made reimbursement is to the Vendor by the Town. The right of the Town hereunder shall not not be dependent upon the Town bringing any action to enforce this provision. The Vendor shall maintain all records required by this paragraph for 7 years after the date this contract is terminated or ends.
  
8. **MONITORING OF PERFORMANCE:** The Town (or any other agency or the State) shall have the right during the term of this contract and for the period limited by the applicable statute of limitations to insure that the services provided or to be provided by the Vendor have been provided as herein agreed. The Town shall have the right to monitor the total operations of the program, including but not limited to actual program activity and the preparation of progress reports and evaluations by the Town. The Vendor shall submit to the Town quarterly reports. The Town or the annexed contract may require more frequent or different reports as therein provided. [This provision which requires the submission of reports may be waived by the Town in writing, for good cause shown.] The Vendor hereby consents to the examination of Vendor's records and agrees to provide to or permit the Town to examine or obtain copies of any documents relating to the performance of this contract. The right of the Town hereunder shall not be dependent upon the Town bringing any maintain all records required by this paragraph for 7 years after the date this contract is terminated or ends.
  
9. **NON-DISCRIMINATION:**
  - I. Vendor shall not discriminate against any person who is to participate in or receive benefits under this contract on the basis of race, religion, creed, color, national origin, sex, disability or marital status.
  
  - II. The Vendor assures the Town that it will comply with all applicable laws and regulations prohibiting discrimination in employment on the grounds of race, religion, creed, color, national origin, sex, disability, marital status and other non-merit factors. The Vendor understands and agrees that this contract, understanding or agreement to which this assurance relates can be terminated upon a finding by any governmental agency that the undersigned is in violation of applicable discrimination laws and that such finding will also disqualify the Vendor for future contracts with the Town. The Vendor certifies to the Town that there is no pending or outstanding decision, ruling or order against Vendor finding the Vendor in violation of laws against discrimination nor is any such action pending or threatened.



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- III. No funds received by Vendor pursuant to this contract will be used for sectarian purposes or to further the advancement of any religion. If the Vendor is, or is deemed to be, a religious or denominational Institution or organization, or an organization operated by or under the control of a religious or denominational institution or organization. Vendor agrees that it will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion; it will not discriminate against any person who is eligible to participate in any program or activity provided pursuant to this agreement by Vendor on the basis of religion and will not limit the programs or activities or give preference to person on the basis of religion; it will not provide religious instruction or counseling, conduct religious worship or services, engage in religious proselytizing, or exert other religious influence in the provision of services for the use of facilities or furnishings funded in whole or part under this contract or any other agreement by the Town.
- IV. The Vendor shall attach the provisions of this paragraph to any subcontract which is executed pursuant to this contract
10. **COMPLIANCE WITH LAWS AND REGULATIONS:** The Vendor shall comply with all applicable Federal or State laws and regulations. If the Vendor or persons in Vendor's employ are required to be licensed by the State or any other agency, the Vendor shall employ the required licensed personnel and shall not permit or suffer any unlicensed personnel to perform any services required to be performed pursuant to this contract by a licensed employee. Upon Vendor's request, the Town will advise Vendor of references to or copies of all applicable regulations.
11. **INSURANCE:** The Vendor shall provide to the Town at Vendor's own cost and expense the following insurance coverage's by carriers satisfactory to the Town and licensed to do business in the State.
  - I. **PUBLIC LIABILITY:** insurance with policy limits of at least \$1,000,000, naming the Town as an additional insured.
  - II. **WORKER'S COMPENSATION and DISABILITY BENEFITS:** insurance covering employees of the as required by law.
  - III. **PROFESSIONAL LIABILITY** insurance with policy limits as may be common in the profession of the Vendor for each professional employee performing services under this contract.
  - IV. **ADDITIONAL INSURANCE** as the Town may require to cover the reasonable risks related to this contract, provided however, if such insurance coverage is required after (lie date of this contract and was not the usual coverage's carried for performance of work of a similar nature, then and in that event the Town shall pay lo the Vendor as additional compensation under this contract the reasonable premium for such insurance coverage.
  - V. **OTHER REQUIREMENTS:** Vendor shall provide to the Town certificates of insurance for each policy required to be provided or carried notice of cancellation\* to be given to the Town. The company issuing the policy shall be of sufficient size and amount of capital to cover the loss insured against. Ratings shall be determined upon review of same as set forth in A.M. Best ratings for the current year. The Town may waive in writing compliance with ratings.

Town of Thompson Highway Department  
33 Jefferson St. Monticello, NY 12701  
Richard Benjamin Jr. Highway Superintendent

Bid Item: Asphaltic Concrete Mixes  
Phone # 845-794-5560  
E-mail [richiway@gmail.com](mailto:richiway@gmail.com)

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12. **INDEMNIFICATION:** The Vendor shall indemnify and hold harmless the Town, its officers, employees, agents and servants from any and all claims filed against or liability for damages by the Town, its officers, employees, agents and servants arising as a result of performance of any act or, the omission or failure to perform any act required, intended or necessary to be performed by the Vendor pursuant to this contract. "Damages" for the purposes of this paragraph shall include but not be limited to compensatory and punitive damages of any kind, interest, court costs, disbursements, counsel fees, any related expense and other charge incurred by the Town, its officers, employees, agents. The Town shall give the Vendor notice of any claim or action filed by any person against the Town, its officers, employees, agents which is or may be related to Vendor's performance of this contract.
13. **EVENTS OF DEFAULT:** The following events shall constitute an event of default
- I. The failure of the Vendor to properly perform this contract or shall fail to file a report required to be filed hereunder.
  - II. The failure of the Vendor to perform any term, provision or covenant of this contract.
  - III. The failure of the Vendor to maintain adequate books and records of account or of performance of this contract.
  - IV. The filing by or against the Vendor of a petition in Bankruptcy or under any law relating to insolvency.
  - V. The assignment of the performance of this contract or of any funds due or to become due hereunder or permitting or suffering a levy or attachment to be made upon any such funds.
  - VI. The termination, lapse or cancellation of any insurance policy required to be provided or maintained hereunder.
  - VII. The failure of the Vendor to comply with any statute, rule or regulation applicable to the performance of this contract.
  - VIII. It shall be determined that any representation or certification made hereunder shall be false or shall become untrue.
14. **REMEDIES:**
- I. If the Vendor shall be in default under this contract, the Town at its option may:
    - (1) Terminate this contract. The Town shall remain liable for all approved services performed by Vendor prior to the termination date.
    - (2) Deduct from payment of any monies due the Vendor all charges for disallowed costs and expenses theretofore paid by the Town to the Vendor.
    - (3) Seek recovery of any monies overpaid, disallowed or otherwise not due the Vendor.
    - (4) Take any other action to protect the interest of the Town.
    - (5) Recover counsel fees, costs, disbursements and other expenses incurred by the Town to enforce the provisions of this contract
    - (6) The remedies provided to the Town are cumulative.

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- II. If the Town shall be in default under this contract, the Vendor may seek recovery of any monies due the Vendor, provided however, that in the event that the Town shall have disallowed costs or expenditures after audit and after notice to the Vendor, it shall be a condition precedent to the institution of any action or proceeding by the Vendor against the Town that Vendor shall have paid such amounts so claimed by the Town.
- III. The Town may procure, upon such terms and in such manner as the Town may deem appropriate, supplies or services similar to those so terminated, and the Vendor shall be liable to the Town for any excess costs for such similar supplies or services.
15. **NOTICES:** Notices required by this contract to be sent by one party to the other shall be sent by the Town to the Vendor at the address set forth herein and by the Vendor to the Town at 4052 Route 42, Monticello, New York 12701. Notices shall be mailed by certified mail, return receipt requested or delivered to the party personally. The parties may give written notice of a change of address.
16. **BINDING NATURE:** This contract shall bind the parties hereto their heirs and successors. The performance of any services to be performed pursuant to this contract by the Vendor shall not be assigned without the prior written consent of the Town. The Vendor shall not assign the payment of any monies due under this contract.
17. **AMENDMENT:** This contract may be modified only in writing.
18. **ADDITIONAL RIDERS AND APPENDICES:** Attached to this contract are additional riders and appendices or required provisions of law, budgets and operating plans, all of which provisions are a part of this contract and shall be complied with by the Vendor.
19. **FACSIMILE SIGNATURES AND TRANSMISSION:** This contract may be executed in several counterparts signed by each party separately and transmitted to the other party by facsimile transmission. Such contract shall be valid evidence of execution for all purposes except payment. For payment each party shall have a fully executed copy of this contract manually signed by each party. All documents required to be submitted by one party to the other may be transmitted by such party to the other by facsimile transmission.