

**AGREEMENT FOR SHARING A LEE BOY ASPHALT PAVER
BETWEEN THE TOWNS OF
WEST STOCKBRIDGE AND RICHMOND**

THIS AGREEMENT is made on this 26th day August of 2020 pursuant to M.G.L. Chapter 40, Section 4A. This Agreement is made for the mutual public interest of the participating municipalities. The purpose of this Agreement is to provide for sharing of a LeeBoy asphalt paver among the participating municipalities who have executed this Agreement. The participating municipalities are the Towns of Richmond and West Stockbridge.

WHEREAS, the Town of Richmond has been designated as the Lead Town in the agreement with the Town of West Stockbridge; and

WHEREAS, the Town of Richmond has agreed to add the paver to the Town's insurance policy and to bill the Town of West Stockbridge for a proportionate share of this cost;

NOW THEREFORE, in consideration of the mutual covenants contained herein, the participating municipalities agree as follows:

SECTION 1. TERM

This Agreement shall be in effect for the life of the LeeBoy asphalt paver.

SECTION 2. EQUIPMENT

The equipment covered by this Agreement is one Bobcat LeeBoy asphalt paver (hereinafter "the paver"). The specifications of the paver to be purchased are attached to this Agreement (*see Attachment A*). The funds necessary to purchase the paver will be provided in equal proportions by the participating municipalities.

SECTION 3. LEAD TOWN

The Town of Richmond is designated as the Lead Town in this Agreement.

SECTION 4. MUNICIPAL REPRESENTATIVE

Each participating municipality shall designate in writing an authorized representative to perform the duties of this Agreement on its behalf and to provide any necessary consent or vote required by this Agreement.

SECTION 5. MAINTENANCE

Maintenance of the paver will be performed in accordance with the manufacturer's specifications. Only qualified personnel shall perform maintenance on the paver.

SECTION 6. REPAIRS

When the paver needs repairs, a participating municipality shall not perform any repairs or replacements in excess of \$150.00 without written authorization from the authorized representative of the other participating municipality. All repair costs shall be shared equally among the participating municipalities unless such repairs are the result of gross negligence.

If the repairs to the paver result from the gross negligence of a participating municipality then that municipality shall be solely responsible for the cost of the repair or if the cost of the repair is covered, in whole or in part, by insurance then it shall be the sole responsibility of that municipality to pay the deductible and any other costs. The authorized representatives of the participating municipalities shall determine whether a municipality has engaged in gross negligence, based on the following definitions:

"Negligence," without qualification, is failure of a responsible person, by omission or action, to exercise degree of care, which, in discharge of duty, a person of ordinary caution should exercise.

"Gross Negligence," is substantially higher in magnitude than simple inadvertence, but falls short of intentional wrong.

The participating municipality undertaking the repair shall submit the invoice for the cost of the repair to the Town of Richmond as soon as reasonably possible for payment.

SECTION 7. ANNUAL FEE

The costs of operating, maintaining, repairing and using the paver covered by this Agreement shall be shared equally among the participating municipalities. On or about July 1st of each year, the Lead Town shall submit invoices to the other participating municipality for the agreed upon annual costs. These invoices shall be due and payable within 30 days of receipt. The Town of Richmond shall deposit such funds in a separate account exclusively for the purpose of paver maintenance, repair, insurance and other minor incidental costs. All costs and charges shall be paid out of the paver account if funds are available. If the funds in the paver account become depleted each participating municipality agrees to share equally any additional costs for maintenance, repair, insurance and other minor incidental costs. Funds remaining at the end of each fiscal year shall remain in the paver account and be available for use in subsequent fiscal years. Funds remaining in the paver account at the end of this Agreement shall be disbursed equally amongst the participating municipalities.

SECTION 8. SCHEDULE OF USE

The authorized representative of each participating municipality shall agree to a written schedule or system for use of the paver, including emergency use. During the first year of this Agreement, each participating municipality will use the paver for a set period. In future years, the schedule will be set to accommodate, to the greatest extent possible, each participating municipalities' desired need for the use of the paver. The schedule may be amended in writing from time to time by a majority vote of the authorized representatives from participating municipalities. During extended periods of nonuse, the paver shall be garaged in the Lead Town.

SECTION 9. RECORDS

Any usage of the paver shall be recorded in a use log book that is kept inside the paver. Each participating municipality shall keep records as to any repairs or maintenance done to the paver and shall make those records available for inspection at the request of the other participating municipality. A copy of any records shall be submitted to the Town of Richmond on an annual basis.

SECTION 10. INSURANCE

The paver shall be adequately insured against fire, theft, damage, or injuries to person or property and all other liability. The cost of this insurance shall be divided equally among the participating municipalities. The Lead Town shall be responsible for securing such insurance levels to include but not be limited to, automobile liability, physical damage and comprehensive and collision coverage.

SECTION 11. STATUS OF EMPLOYEES

The paver and employees of a participating municipality shall be deemed to be in the service of that municipality when engaged in or performing any service under this Agreement. Each participating municipality represents that an employee assigned by it to operate the paver is adequately trained to perform such operation and has all the current necessary permits and licenses to do so. All claims for workers compensation or similar benefits made by said employees shall be the sole responsibility of the participating municipality by which such employees are employed.

SECTION 12. TERMINATION & DEFAULT

Each municipality may terminate its participation in this Agreement at the end of any fiscal year, as provided in M.G.L. Chapter 40, Section 4A, so long as at least sixty (60) days prior to its termination it provides written notice to the remaining participating municipality. A participating municipality who breaches a material term of this Agreement may be declared in default of this Agreement by vote of the authorized representatives of the participating municipalities. A participating municipality shall have sixty (60) days to remedy the breach of this Agreement; failure to do so shall result in its termination from this Agreement. In the event of termination, the participating municipality shall not be entitled to a return of its annual fee for the then current fiscal year and shall not be required to pay the annual fee for future fiscal years.

SECTION 13. AMENDMENTS

This Agreement may be amended from time to time, but only by mutual written agreement of all the participating municipalities.

SECTION 14. ENTIRE AGREEMENT

This Agreement represents the entire agreement between the participating municipalities relating to the sharing of the paver.

SECTION 15. SEVERABILITY

If any of the provisions of this Agreement are found to be in violation of any law, rule or regulation, all other provisions of this Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the participating municipalities have caused this Agreement to be signed by their representatives, whose signatures are hereto affixed.

N. P. [Signature] Alan B. Hanson R. W. Mayohut

Authorized Representative:

Title: Chairman

Town of West Stockbridge: Selectboard

Date: 8/26/20

Authorized Representative: _____

Title: _____

Town of Richmond: Selectboard

Date: _____

Authorized Representative: _____

Title: _____

Town of West Stockbridge: Select Board

Date: Aug 26, 2019

Erin Samarin Rogan Kavanagh Kathleen Kerosen

Authorized Representative: Marie Y Ryan

Title: Town Administrator