

AGREEMENT

This agreement, made and entered into as of the ___ day of January, 2017 by and between the State of Vermont, a sovereign State of the United States of America, acting through its Department of Corrections, with its principal office in the Town of Waterbury, county of Washington and State of Vermont (the "STATE") and the Town of St. Johnsbury, a municipal corporation organized and existing under the laws of the State of Vermont and having its principal office in the town of St. Johnsbury, county of Caledonia, State of Vermont (the "TOWN").

WHEREAS, the STATE owns and operates a work camp located westerly of U.S. Route 5 South within the Town of St. Johnsbury (the "FACILITY"); and

WHEREAS, the STATE holds a permit from the TOWN limiting the capacity of the FACILITY to one hundred twelve (112) beds; and

WHEREAS, the STATE is desirous of converting 56 beds previously utilized by work camp inmates to the use of 50 inmates meeting the criteria outlined below; and

WHEREAS, the TOWN, subject to the satisfaction of certain conditions as hereinafter provided, is willing to authorize the incarceration of a maximum of 50 inmates meeting the criteria outlined below; and

WHEREAS, the parties have each determined that it is to their mutual advantage and benefit to authorize the incarceration of a maximum of 50 inmates meeting the criteria outlined below subject to certain terms and conditions upon which they have reached agreement; and

WHEREAS, the TOWN and STATE are desirous of reducing their agreement to writing.

NOW THEREFORE in consideration of the mutual benefits and covenants hereinafter set forth and contained, the STATE and the TOWN hereby agree as follows:

1. READINESS TO SERVE PAYMENTS

On or before August 1, 2017, and annually thereafter, the STATE will pay to the TOWN the sum of Fifty Thousand Dollars (\$50,000) (the "State Payment") as readiness to serve payments in recognition of the basic municipal services provided to the STATE by the TOWN, including by way of example, fire protection, police protection and highway maintenance and repair. Specifically excluded however are those fee-based services which are now or may in the future be provided by the TOWN such as water service, sewage disposal service, refuse removal services and the like, all of which shall be subject to such terms of service and fees as the TOWN may from time to time impose.

2. ADJUSTMENT OF PAYMENTS

The Parties agree to meet prior to June 1 of each year of this Agreement to renegotiate the State Payment as necessary. If mutual agreement cannot be reached, this agreement shall terminate immediately.

3. ADDITIONAL CONSIDERATION

As additional consideration for this Agreement, the STATE will make available to the TOWN services provided by service crews ("Service Crews") from the Facility as appropriate and available, including, when appropriate and available, at least two (2) days of work crew services per week. Representatives of the STATE and TOWN will meet every thirty (30) days to assess those projects (the "PROJECTS") which the TOWN proposes to be performed by Service Crews to determine the appropriateness of the proposed project and the ability of the Service Crews to successfully complete the projects. A mutually agreed upon schedule and work plan for the PROJECTS will be submitted for approval to the superintendent of the FACILITY and the Town Manager of St. Johnsbury for each thirty (30) day period during the term of this Agreement. In the event an agreement cannot be reached, the Commissioner of Corrections will appoint a representative to meet with the Town's Board of Selectmen to negotiate a settlement of the differences. The STATE will make every effort to meet the stated needs of the TOWN, but reserves the right to make the determination of the availability as well as physical ability of the persons assigned to the Service Crews to perform the tasks required of them to complete the Projects.

4. PRIORITY FOR ST. JOHNSBURY PROJECTS

The TOWN acknowledges that the STATE may have the capacity to assign Service Crews from the FACILITY to projects being carried on by other governmental agencies and not-for-profit entities. The STATE however agrees that the TOWN shall receive priority over any other entity for the use of Service Crews for any scheduled work plan mutually agreed upon by the STATE and TOWN.

5. SERVICE CREW ELIGIBILITY CRITERIA

The STATE and the TOWN mutually agree that no offenders who are currently serving a sentence arising out of a conviction of or plea of guilty to a violent felony shall be eligible to be assigned to Service Crews. As a current practice, any offender with a past conviction for felony violence must meet all classification criteria for work camp eligibility. An offender with a prior conviction of a violent felony or one currently serving a sentence arising out of a conviction of or plea of guilty to a violent misdemeanor, who otherwise meets the eligibility criteria, may be assigned to Service Crews as long as prior notice to the TOWN is made by writing or email to the TOWN, which shall have the right for cause to object to such an assignment.

6. EXISTING COLLECTIVE BARGAINING AGREEMENTS

Service Crews shall not be assigned PROJECTS which result in a reduction in force among employees subject to any collective bargaining agreements to which the TOWN is a part.

7. UTILIZATION OF THE FACILITY

The STATE shall continue to operate a work camp housed in the FACILITY with a maximum capacity of fifty-six (56) inmates confined therein, subject to the conditions below. The STATE may utilize the remaining space in the FACILITY for the confinement, correctional treatment, and rehabilitation of a maximum of fifty (50) inmates if they (a) are not serving a sentence for the conviction of a sex offense, unless the inmate was a resident of Caledonia County at the time of his or her conviction of the sex offense(s); (b) have been classified as minimum custody by the STATE utilizing the Department of Corrections' custody level instrument; and (c) have completed their minimum sentences

(d) **Modifications:**

Except as otherwise provided, this Agreement shall not be modified except by written agreement signed by the parties.

(e) **Entire Agreement:**

This Agreement supersedes all prior understandings, representations, negotiations, and correspondence between the parties, constitutes the entire agreement with respect to the matters described herein, and shall not be modified or affected by any course of dealing or course of performance.

(f) **Partial Invalidity:**

If any provision of this Agreement is held to be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired.

(g) **Non-Waiver:**

The failure of either parties at any time to require performance by the other of any provisions of this agreement shall in no way affect the parties right to enforce such provision, nor shall the waiver by either party of any breach of any provision of this Agreement be taken or held to be a waiver of any further breach of the same provision or any other provision.

(h) **Counterparts:**

This Agreement may be executed in any number of counterparts and each fully executed counterpart shall be deemed an original.

(i) **Notices:**

All notices, approvals, request, consents, and other communications given pursuant to this Agreement shall be in writing and shall be deemed to have been duly given when received if hand delivered, telecopied, sent by courier service or sent by United States certified or registered mail, addressed as follows:

If to the TOWN:

Town of St. Johnsbury
Attn: Town Manager
Pomerleau Building
51 Depot Square, Ste. 3
St. Johnsbury, VT 05819-2288

With copy to:

Edward R. Zuccaro, Esq.
Zuccaro & Willis, P.C.
P.O. Box 97, 1330 Main Street
St. Johnsbury, VT 05819
Fax: 802-748-1118

If to the STATE:

Department of Corrections
Attn: Commissioner
NOB 2 South
280 State Drive
Waterbury, VT 05671-2000

With copy to:

Michael Touchette
Department of Corrections
NOB 2 South
280 State Drive
Waterbury, VT 05671-2000

In WITNESS WHEREOF, the parties have signed this Agreement as of the date first written above,

STATE OF VERMONT

By: _____
Lisa M. Menard, Commissioner of Corrections

TOWN OF ST. JOHNSBURY

By: _____
Chad Whitehead, Town Manager

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