

Dated this 27th day of November 2008

008.113.9.CC

DEPARTMENT FOR REGIONAL DEVELOPMENT

With

BELFAST CITY COUNCIL

AGREEMENT

Ciaran Quigley
Director of Legal Services
City Hall
BELFAST
BT1 5GS

THIS AGREEMENT made on the 27th day of November 2008 between
THE DEPARTMENT FOR REGIONAL DEVELOPMENT herein called 'the Department' and
BELFAST CITY COUNCIL herein called 'the Council'
SCOPE OF THE AGREEMENT

WHEREAS:

1. By virtue of Article 9 of the Roads (NI) Order 1993 the Department is empowered to take such steps as it considers reasonable and practicable to prevent snow or ice interfering with the safe passage of persons using a road and for that purpose may enter into agency arrangements with any persons for the treatment of roads affected by snow and ice.
2. The Council is empowered by Sections 104 and 105 of the Local Government Act (NI) 1972 to exercise functions on behalf of and to enter into arrangements with a government department for the supply services.
3. The Department is desirous of entering into an arrangement with the Council whereby during extreme conditions following heavy snow falls or prolonged freezing the Council will assist the Department with ice and snow removal from footways and pedestrian areas and the treatment of such areas affected by snow or ice by the provision of labour, material, and vehicles which in the opinion of the Council is necessary to effect such works (hereinafter called 'the Works'). The Works shall be undertaken and provided by the Council during the period commencing on the 1st November 2008 to 31st October 2011 (hereinafter called "the Works Term"). The parties to this agreement shall review the agreement at the expiration of the Works Term. If the parties agree, the agreement may be extended on an annual basis, with a review at the end of each year.
4. The Department shall require as a prerequisite of the Council entering into such agreement a risk assessment carried out by them to assess and diminish such risks to which their employees would be exposed.

NOW IT IS HEREBY AGREED as follows: -

1. (1) In consideration of the Council undertaking the Works in accordance with this agreement during the Works Term the Department shall on the signing of this agreement pay to the Council an initial annual Service Fee of £4,975.14, such Service Fee being in accordance with the Service Fee scale currently in force and as agreed between the

Department and the Northern Ireland Local Government Association. Should this agreement be extended under clause 3, then the Service Fee shall be reviewed annually.

- (2) Where the Council is only able to undertake the Works for part of the Work Term payment of the Service Fee shall be reduced and the reduction shall be calculated on a pro-rata monthly basis.
 - (3) Where the Council has undertaken the Works for the Works Term or part thereof and subsequently is unable to provide the Works for the agreed whole or part Works Term the Council shall refund to the Department the relevant monthly portion of the Service Fee in respect of any month during which the Council is unable to undertake the Works.
 - (4) For the purpose of clarification of the monthly calculation the undertaking of the Works by the Council for part only of a month shall be deemed to constitute one whole month and the pro rata for 1 month's service shall be one fifth of the annual Service Fee.
2. Subject to clause 5 the Council shall during extreme conditions following heavy snowfalls or prolonged freezing assist the Department with the works for the footways and pedestrian areas set out in Appendix 1 as in the opinion of the Department is necessary.
 3. The works shall be carried out by the Council only on receipt of a request from the Department and in circumstances when it is practicable for the Council to respond. The Council shall on such receipt inform the Department immediately whether it is practicable in the opinion of the Council. For the avoidance of doubt the Council shall be under no obligation to carry out any works where, in the reasonable opinion of the Council, it would be dangerous for its employees to do so.
 4. A request by the Department for assistance with the Works should be made in writing by the Department's Section Engineer to the Council's nominated representative.
 5. It shall be the discretion of the Council to provide assistance with the works and to inform the Department accordingly.
 6. The Department shall provide any salt free of charge.
 7. The Council shall only respond to requests for assistance with the Works during the normal operational hours of its street cleansing workforce ie Monday to Saturday 0800 to 1600 hours.

8. The Council shall provide sufficient supervisory staff for the personnel employed to carry out the Works and will work in close liaison with the Department's Roads Service Section Engineer's staff in order to maximise efforts and co-ordinate the deployment of the Department's Roads Service and the Council's workforce.

9. (1) The Council shall subject to the provisions in clause 9 (4) and subject to the exceptions set out in clause 9 (2) indemnify and keep indemnified the Department against all losses and claims in respect of

(a) injuries to any of the Council's servants or agents or damage to any of the equipment or other property of the Council or its servants or agents.

(b) death of or injury to any person and

(c) loss of or damage to any property

which may arise out of or in consequence of the execution of the Works and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto.

(2) The exceptions referred to in clause 9 (1) which are the responsibility of the Department are:-

(a) death of or injury to persons or loss of or damage to property resulting from any act, neglect or breach of statutory duty done or committed by the Department, its servants, agents or other contractors (not being employed by the council) or for or in respect of any claim, demands, proceedings, damages, costs, charges and expenses in respect thereof or in relation thereto and

(b) any allegations or particulars of claim pleaded in proceedings challenges to the reasonableness of the Department's gritting policy and, specifically, any decision to request the assistance of the Council under clause 3.

(3) The Department shall subject to clause 9 (4) indemnify the Council against all claims, demands, proceedings, damages, costs, charges and expenses in respect of the matters referred to in the exceptions in clause 9 (2).

(4) The respective liability of the Council and the Department to indemnify each other

under clause 9 (1) and clause 9 (3) shall be reduced in proportion to the extent that the act or neglect of either party, its servants, agents or contractors may have contributed to the said death, injury, loss or damage.

10. Either party to this agreement may propose any amendment to any clause for agreement by the other party or to terminate the agreement and shall, subject to the agreement of the other party, do so by serving 3 months written notice of any proposed amendment to any clause or, as the case may be, the notice of intention to terminate the agreement.

IN WITNESS whereof the Department has caused its Official Seal and the Council has hereunto affixed its Corporate Seal the day and year first herein WRITTEN.

PRESENT when the Official Seal of
THE DEPARTMENT FOR REGIONAL
DEVELOPMENT was affixed hereto:

A. Murray

PRESENT when the Corporate Seal of
BELFAST CITY COUNCIL was affixed
hereto: -

Tom M. C.
LORD MAYOR

[Signature]
CHIEF EXECUTIVE

DIRECTOR OF LEGAL SERVICES

HRES 6/2/08

LOCATION OF STREET CLEANSING/REFUSE COLLECTION
PERSONNEL

DEPOT	NO. OF PERSONNEL
Dunbar Link	20

Appendix Two lists the dispersal of available workforce