



CHIPS FUNDS UTILIZATION AGREEMENT

The following Agreement is between the Town of Portville Highway Superintendent, hereinafter referred to as "Highway Superintendent" and the Town of Portville Legislative Body, hereinafter referred to as "Town Board", entered into this 29th day of October, 2009.

The purpose of this Agreement is to formalize the Highway Superintendent's use of any NYS DOT CHIPS funds, hereinafter referred to as "CHIPS funds", in the calendar years 2010, 2011, 2012, and 2013 as a condition of the Town Board approving the purchase of a new 10-wheel, 20 ton, plow truck, hereinafter referred to as "Truck".

The Highway Superintendent agrees that:

1. The purchase order of Truck shall specify that the configuration shall be NYS DOT CHIPS qualified and cost no more than \$194,000 and shall be received no earlier than April 2, 2010 and no later than September 1, 2010; and,
2. Any and all CHIPS funds allocated to the Town of Portville, hereinafter referred to as "Town", in 2010 shall be used solely and in its entirety for the repayment of cash outlay or incurred debt regarding the purchase of Truck; and,
3. The Truck shall be maintained in a manner that will not void any near- and long-term warranty and that Truck must remain in good and safe service for not less than 10 years as is mandated by the NYS DOT CHIPS program.

The Town Board agrees that:

1. Given the availability of 2009 engine emission qualifying configured Truck, a purchase order shall be issued by October 30, 2009 for Truck not to exceed \$194,000 and to be in compliance with the qualifying requirements to be eligible for CHIPS funds; and,
2. An annual Bond Anticipation Note, hereinafter referred to as "BAN", shall be acquired by Town Supervisor within 15 days of receipt of Truck for an amount equal to the net balance of the Truck invoice less the equivalent 2010 CHIPS funds; and,
3. The Town Board directs the Town Supervisor to use DA Unallocated Funds, DB Unallocated Funds or B Unallocated Funds to pay an amount equal to the equivalent 2010 CHIPS funds; and,
4. The Town Board directs the Town Supervisor in each succeeding year to pay down no less 20% of the 2010 BAN plus that year's annual interest using funds from B Fund, DB Fund, B Unallocated Funds, or DB Unallocated Funds based on the discretion of the Town Supervisor.
5. The Town Board reserves the right to refinance, reallocate funds, or increases taxes to mitigate this debt at its discretion through decisions made in a public meeting.

This agreement shall be binding to the Highway Superintendent and members of the Town Board regardless of incumbents. Town Board approval for the Town Supervisor to sign this agreement has been given by authority of a passed motion of the majority of Town Board members as reflected in the Minutes of the Special Board Meeting held Thursday at 9AM October 29, 2009 at 1102 Olean Portville Road, Portville, NY 14770.

SIGNATURE ON FILE

Stuart Frost
Highway Superintendent

SIGNATURE ON FILE

H.W. Keeley
Town Supervisor