TOWN OF RAYMOND

MOWING/SNOW REMOVAL CONTRACT

This Independent Contractor Agreement ("Agreement") is entered into as of this **[____]** day of May, 2012, by and between the Town of Raymond, Maine a municipality located in the County of Cumberland (the "Town") and Innovative Distribution Services, a Maine corporation (the "Contractor").

1. The Services. The Contractor shall provide to and perform for the Town the services more particularly described on **Exhibit A** (the "Services").

2. Term. This contract signed on this **[____]** day of May, 2012, will begin on July 1, 2012 and shall remain valid until June 30, 2015 unless terminated prior to that date pursuant to the terms herein. In the event of a default by one party, the other party may terminate this Agreement immediately upon written notice to the other party.

3. Contractor Fee; Payment. In consideration of the Contractor providing the Services, the Town will make twelve (12) equal monthly payments of $2,232.50 (totaling $26,790 annually) by check made out to Innovative Distribution Services mailed to PO Box 1357, Raymond, Maine 04071 or some other address as provided to the Town in writing by the Contractor.

4. Performance. The Contractor shall perform all Services diligently and in a good, professional and first class manner, using high quality materials, equipment and workmanship and by utilizing sufficiently trained, qualified, and appropriately experienced personnel (including supervisors when appropriate) to complete the Services in a safe and timely manner in accordance with professional standards for the field of expertise and in a manner which does not unduly interfere with the Town's operations.

5. Contractor Warranties. The Contractor represents and warrants that: (a) the Contractor shall obtain and maintain, at its expense and at all times during the term of this Agreement, all necessary and/or appropriate licenses, permits, training or other authorizations which may be necessary to perform the Services in a safe, timely and workmanlike manner; (b) the Contractor shall maintain all equipment in a manner necessary to ensure the Services are provided in a safe and timely manner; (c) at all times, the Contractor shall maintain insurance, at its own expense, in accordance with the requirements set forth in the Request for Proposal; (d) the Contractor shall deliver to the Town a certificate of insurance evidencing that all such coverages are in full force and effect before starting to perform the Services, and if the Contractor's insurance shall expire or terminate before the end of the Term of this Agreement, the Contractor shall deliver a new certificate of insurance evidencing the new policies of insurance not less than ten (10) days before the new policies go into effect; (e) the Contractor has the power and authority to enter into and perform under this Agreement; (f) the Contractor is not bound or in any way restricted by any other agreement(s) that will prevent timely performance of the Services as described herein; (g) the Contractor shall deliver the Services in a competent, professional and workmanlike manner; (h) the Contractor will utilize best efforts to deliver the Services within the agreed timetable; (i) the Contractor is a validly existing business entity in good standing in the State of Maine; and (j) the Contractor has no litigation pending against it that will or may impact the Contractor's ability to complete the Services.

9. Indemnification. The Contractor agrees to defend, indemnify, and hold harmless, the Town, the Town's officers, agents and employees, against every claim, suit, loss, liability, expense, fines, demands or damage whatsoever (including, but not limited to, the reasonable expenses of investigation and defending against any claim or suit, any amount paid in settlement thereof, and reasonable attorneys' fees), which they or any of them may incur or become obligated to pay in any action, claim or proceeding against any of them by reason of or arising out of any claims based on or resulting from any act or omission of the Contractor or a breach of any term or condition of this Agreement, including, without limitation, the foregoing representations. Nothing herein shall, nor is intended to, waive any defense, immunity or limitation of liability which may be available to the Town or its respective officers, agents and employees, under the Maine Tort Claims Act or any other privileges or immunities provided by law. The Contractor agrees that the Town may, at its election, control the defense of any action or claim that is within the scope of the Contractor's responsibility to defend hereunder at Contractor's cost and expense. In any event, the Contractor and the Town agree to cooperate with each other in the defense of any action or claim (whether controlled by the Contractor or the Town) and shall keep each other apprised of all material developments in, and shall consult with each other concerning, any such action or claim. The Contractor shall not admit any liability or settle any such action or claim without first obtaining Town's consent.

6. Independent Contractor. While performing service under this Agreement, the Contractor shall at all times remain an independent contractor and not an employee of the Town. The Contractor shall exercise independent judgment with regard to the manner in which the functions required under the Agreement are performed and Town shall not exercise supervision or control over the Contractor. The Contractor has no authority to enter into any contracts binding on the Town, nor to create any obligations on the part of the Town. The Contractor shall remain solely responsible for payment of all state and federal income and employment taxes, social security and unemployment contributions, and the Town shall have no responsibility therefor. In the event any state or federal agency shall determine that the Contractor is not an independent contractor for payroll withholding purposes, the Town shall be entitled to deduct from amounts otherwise due to the Contractor all state and federal withholding amounts and taxes which may be required by law. The Contractor shall provide all equipment and materials required for the performance of the Services.

10. Default and Remedies. If the Contractor fails to perform the Services as required by this Agreement or otherwise defaults under this Agreement, including the failure to meet any of the Contractor warranties listed in Section 5 of this Agreement, the Town, may, in its sole discretion and in addition to any other rights at law or in equity, (1) send notice of the default to the Contractor and demand strict performance of the terms of this Agreement; (2) cancel and terminate this Agreement upon written notice to the Contractor; or (3) cure the default, without notice to the Contractor, and deduct the cost to cure and any direct and consequential damages from any payment due to the Contractor or, if no further payments are due to the Contractor, then the Contractor shall, immediately on presentation of an invoice, reimburse the Town for the cost of curing the Contractor's default and such direct or consequential damages.

13. Waiver. No failure to enforce the terms of this Agreement shall constitute a waiver of any contractual right under this Agreement. A waiver of any breach of this Agreement must be in writing and signed by an officer or other authorized representative of the waiving party. No such waiver shall be construed to affect or imply a subsequent waiver of the same provision or a subsequent breach of this Agreement.

14. Governing Law; Reimbursement of Costs and Expenses. This Agreement shall be governed by and construed in accordance with the laws of the State of Maine and the exclusive jurisdiction and venue for any disputes arising hereunder shall be resolved in the state or federal courts located in Cumberland County, Maine. The Contractor agrees to reimburse the Town for all costs and expenses, including, without limitation, reasonable attorneys' fees, incurred by the Town in enforcing any provision of this Agreement.

15. Mediation. If a dispute arises under this Agreement that the parties are unable to resolve through direct negotiations, the parties agree to engage jointly the services of a professional mediator and to participate in good faith in such mediation. If the dispute is not resolved as a result of such mediation within thirty (30) days after such mediation is commenced or such longer period to which the parties may agree, each party shall be free to pursue any legal or equitable action as it considers appropriate.

17. Amendments. No modification or amendment of the provisions of this Agreement shall be effective unless in writing specifically referring hereto and signed by both parties. This Agreement sets forth the entire agreement between the parties with respect to the subject matter covered herein and supersedes any and all prior or contemporaneous agreements, understandings or representations not specifically stated herein.

18. Savings Clause. The invalidity or non-enforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or non-enforceable provisions were omitted.

19. Nonappropriation of Funds. In the event no funds or insufficient funds are appropriated and budgeted for payments due from the Town to the Contractor under this Agreement, the Town or the Contractor may elect to terminate this Agreement in accordance with this paragraph. A party's election to terminate must be exercised by delivering its prior written notice of its intent to terminate together with a certified statement by an authorized official indicating that insufficient sums have been appropriated by the Town for the ensuing fiscal year of the Town.

Signatures appear on the following page.

INNOVATIVE DISTRIBUTION SERVICES

_____ _____

Lawrence Taylor, President Date

Contractor's Company Name: Innovative Distribution Services (IDS)
Company Address: PO Box 1357, Raymond, Maine 04071
Contact Name and Telephone: Kenwood Freeley (Project Manager), 207-650-6577/207-797-2519
Federal Taxpayer (FID-EIN): 01-054-6613

THE TOWN OF RAYMOND

_____ _____

Don Willard, Town Manager Date