

**EXHIBIT 2  
TOWN OF BENTON  
CONTRACT FOR SERVICES**

This Contract for Services ("Agreement") entered into this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the **Town of Benton**, hereinafter referred to as the "**Town**" and \_\_\_\_\_, hereinafter referred to as "**Contractor**".

**WITNESSETH**, that for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the Town, the Contractor hereby agrees with the Town to provide the products and services described in this agreement, and the following Riders and related documents, hereby incorporated into this Agreement and made part of it by reference:

1. Rider A - Specifications of Work to be Performed
2. Rider B – Pricing
3. Contract Amendments as required
4. Instructions to Bidders
5. Exhibit 1 – Bid Proposal Form
6. Addenda signed by the Town
7. Contractor's Bid

**WHEREAS**, the Town desires to enter into a contract for professional services, and the Contractor represents itself as competent and qualified to accomplish the specific requirements of this Agreement to the satisfaction of the Town;

**NOW THEREFORE**, in consideration of the mutual promises contained herein, the parties hereby agree as follows:

This Agreement, along with any documents identified, which are incorporated by reference, constitutes the entire Agreement between the parties, and there are no other or further written or oral understandings or agreements with respect thereto.

1. **Scope of Work:** The specifications of work are defined in Rider A.
2. **Term:** This Agreement shall commence on **December 21, 2022** and shall terminate on **March 31, 2023**, unless terminated earlier as provided in this Agreement.
3. **Termination.**
  - a) Notwithstanding any other provision of this Agreement, the Contractor and/or the Surety shall be in default and the Town, in its sole discretion may terminate this Agreement, if the Contractor and/or the Surety:
    - i. fails to produce the bonds identified in Section 13 of this Agreement within fifteen (15) days of execution of this Agreement;
    - ii. fails to produce the certificate of insurance identified in Section 12 of this Agreement;
    - iii. fails to ensure all personal and business amounts recorded in the Town's financial system which are paid by bill due date; Including real estate taxes, personal property taxes, public sewer utilities, and any existing fees and fines. This will be reviewed annually on January 1<sup>st</sup>, Town Treasurer will provide report summarizing the amounts due, each category will be listed separately with the amount owed. Contractor will have thirty (30) days to resolve remaining amounts owed or the Contractor will be in breach of the Agreement which will result in the termination of the Agreement;
    - iv. fails to begin the work as required by this Agreement;
    - v. fails to perform the work with sufficient workers and equipment or materials to meets the terms of the Agreement;
    - vi. discontinues the prosecution of the work;

- vii. fails to resume work which has been discontinued within a reasonable time after notice to do so;
- viii. subcontracts any of the work without the approval of the Town;
- ix. becomes insolvent, files for bankruptcy, allows any final judgment to stand against him unsatisfied for a period of ten days, or makes an assignment for the benefit of creditors without authorization by the Town; of
- x. fails to perform the Work in substantial conformity with any material provision of the Agreement as determined by the Town;
- xi. fails to perform the Work in a satisfactory manner as determined solely by the Town.

The Town may remedy such noncompliance with Town or contracted forces and terminate the Agreement and/or deduct the cost thereof from payments otherwise due the Contractor.

Notice of termination, and the reasons for such, shall be provided in writing by certified mail or personal delivery to the Contractor. In emergency situations, notice may be provided verbally with written notice mailed or delivered as soon thereafter as practicable.

At its sole option, the Town, in the event that circumstances allow, may provide the Contractor with an opportunity to cure any of the above deficiencies without waiving its right to terminate.

- b) The Town may terminate this Agreement for convenience for any reason that is in the best interest of the Town. Such reason may include non-appropriation of funds by the Maine legislature. Terminations caused without the fault or and for reasons beyond the control of the Contractor shall be considered terminations for convenience. The Town will notify the Contractor of such terminations by sending a Notice of Termination for Convenience. In such case of a termination for convenience, all work completed as of the date of termination will be paid by prorating by date all remaining amounts payable under this Agreement. Contractor agrees it will have no claim for any other amounts including consequential damages, lost profits, or lost opportunity costs.
  - c) The Town may hire a substitute Contractor for any period of time considered in the best interest of the Town. The substitution will be paid with money from the performance bond. If there are problems obtaining the performance bond money, substitutions will be paid from the remainder of any money due under this Agreement.
4. **Insurance:** The Contractor shall provide insurance certificates conforming to this Agreement by April 1 of each year.
5. **Payment:**
- A. The Town agrees to pay the Contractor each season, for all work conforming to the terms of this Agreement and as outlined in Rider B, Pricing.
  - B. No additional expenses will be reimbursed.
6. **Applicable Law:** This Contract shall be governed and interpreted according to the laws of the State of Maine.
7. **Administration:** Road Commissioner or Designated Municipal Officer shall be the Town's authorized representative in all matters pertaining to the administration of the terms and conditions of this Agreement.
8. **Conflict of Interest:** No officer or employee of the Town shall participate in any decision relating to this contract which affects his or her personal interest in any entity in which he or she directly or indirectly has interest. No employee of the Town shall have any interest, direct or indirect, in this contract or proceeds thereof.

9. **Entire Contract:** This Contract sets forth the entire agreement between the parties on the subject matter hereof and replaces and supersedes all prior agreements on the subject, whether oral or written, express or implied. This Agreement is the entire agreement between the Town (including Town's employees and other End Users) and Contractor. In the event that Contractor enters into terms of use agreements or other agreements, policies or understandings, whether on Contractor's purchase order, website, electronic, click-through, verbal or in writing, with Town's employees or other End Users, such agreements shall be null, void and without effect, and the terms of this Agreement shall apply. Town will not be bound to any other terms and conditions set forth in any documents, agreements or policies posted on Contractor's website unless such terms and conditions are set forth in this Agreement. Contractor may not unilaterally change any term or condition of this Agreement.
10. **Subcontracting.** The Contractor may not subcontract or otherwise transfer any interest in this Agreement without prior written approval by the Town. Any work performed by a Subcontractor before approval is at the Contractor's sole risk. All subcontracts of the Contractor, and all lower tier subcontracts, must contain or reference all applicable provisions of the Agreement. The Contractor must promptly pay all legitimate subcontractor and supplier claims. The contractor agrees that the Town may retain and deduct monies otherwise due the Contractor in an amount necessary to such claims.
11. **Property Damage. Contractor** agrees to reimburse the Town as outlined in Rider A, Property Damage.
12. **Insurance.** The Contractor must provide signed, valid and enforceable certificate(s) of insurance complying with this Section. All insurance must be procured for insurance companies licensed or approved to do business in the State of Maine by the State of Maine, Department of Business Regulation, Bureau of Insurance. The Contractor must pay all premiums and take all other actions necessary to keep said insurance in effect for the duration of the Agreement obligations.
  - A. **Workers' Compensation Insurance.** The Contractor must/shall carry Workers' Compensation Insurance or shall qualify as a self-insurer with the State of Maine Workers' Compensation Board, all in accordance with the requirements of the laws of the State of Maine.
  - B. **Automobile.** The Contractor must carry Automobile Liability Insurance covering the operation of all motor vehicles including any which are rented, leased, borrowed or otherwise used in connection with the project in an amount not less than \$1,000,000.00 per occurrence.
  - C. **Commercial General Liability.** With respect to all operations performed by the Contractor and any subcontractors, the Contractor and any subcontractors shall carry commercial general liability or other coverage affording equal or greater protection as determined by the Town, in an amount not less than \$500,000.00 per occurrence and \$1,000,000.00 in the aggregate. This insurance section and the purchase of insurance by the Contractor shall not be interpreted as a waiver of any immunity provided by law including that provided by the Maine Tort Claims Act, 14 M.R.S.A. §8101, et. seq.
  - D. The Town of Benton shall be named as Additional insured on the Commercial General Liability insurance. Certificates of Insurance for all the above shall be filled with: Town of Benton, Municipal Officers, 1279 Clinton Avenue, Benton, ME 04901.
  - E. Certificates of Insurance shall be filed prior to the date of performance under this Agreement. Said certificates, in addition to proof of coverage, shall contain the statement pertaining to written notification in the event of cancellation, with a thirty (30) day notification period. The Town reserves the right to change the insurance requirement as required to support operational requirements.
13. **Non-Discrimination:** The Contractor agrees to comply with the nondiscrimination and affirmative action provisions at 5 M.R.S.A. § 784 (2), which are hereby incorporated by reference. In the execution of the agreement, the Contractor shall not discriminate on the basis of race, color, religion, sex, sexual orientation, transgender status or gender expression, national origin or citizenship status, age, disability, genetic information, or veteran status and shall provide reasonable accommodations to qualified individuals with disabilities upon request. The Town encourages the employment of qualified individuals with disabilities.

14. **Indemnification.** The Contractor hereby indemnifies, defends and holds harmless the Town and its municipal officers, directors, employees, agents and consultants from and against all claims, actions, torts, costs, losses, and damages for bodily injury (including sickness, disease or death) and/or tangible property damage arising out of or resulting from the performance of the Work by the Contractor, and its subcontractors, sub-consultants, engineers, suppliers, any individuals or entities directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. Damages covered by the preceding sentence include, but are not limited to; all dispute resolution costs including court costs, attorney's fees, and the fees of engineers, arbitrators, and other professionals related to dispute defense and preparation.
15. **Confidentiality:** The contractor shall comply with all laws and regulations relating to confidentiality and privacy including but not limited to any rules or regulations of the Town.
16. **Force Majeure:** Neither party shall be liable to the other or be deemed to be in breach of this Contract for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include, but are not limited to, acts of God or of a public enemy, fires, flood, epidemics, strikes, embargoes. Dates or time of performance shall be extended to the extent of delays excused by this section provided that the party whose performance is affected notifies the other promptly of the existence and nature of such delay.

In the event of a disaster, as declared by FEMA or MEMA, this contract may be amended orally for the duration of the disaster and its cleanup, but you will be compensated for extraordinary performance only to the extent that the Town receives Federal or State reimbursement.

17. **General Provisions**

- a) **Funding.** This Agreement, including any extensions thereof, is made subject to available budgetary appropriations and shall not create any obligation on behalf of the Town in excess of such appropriations.

18. **Notices:** Unless otherwise specified in an attachment hereto, any notice hereunder shall be in writing and addressed to the persons and addresses below.

**To the Town:**

Town of Benton  
1279 Clinton Avenue  
Benton, Maine 04901

Attn: **Town of Benton, Town Clerk**

**To Contractor:**

Company Name:  
Contact Name:  
Address:  
Phone Number:  
Fax Number:

19. **Invoices:** Unless otherwise specified in an attachment hereto, invoices and questions regarding invoices will be directed to:

Town of Benton  
1279 Clinton Avenue  
Benton, Maine 04901

Attn: **Town of Benton, Treasurer**

20. **Order of Precedence:** In the event of any conflict among the documents in this agreement, the following order of precedence shall apply:

- A. Terms and conditions of this Agreement
- B. Rider A - Specifications of Work to be Performed
- C. Rider B – Pricing
- D. Contract Amendments as required
- E. Instructions to Bidders
- F. Exhibit 1 – Bid Proposal Form
- G. Addenda signed by the Town
- H. Contractor's Bid

**SIGNATURES**

By signing below, the undersigned represent that they are duly authorized to sign this Agreement and hereby agree for said parties to all the terms of this Agreement as of the date last signed below.

**CONTRACTOR**

LEGAL NAME: \_\_\_\_\_

BY: \_\_\_\_\_  
(signature)

Name: \_\_\_\_\_  
(print or type)

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**TOWN OF BENTON**

BY: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: Select Person

Date: \_\_\_\_\_

BY: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: Select Person

Date: \_\_\_\_\_

BY: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: Select Person

Date: \_\_\_\_\_

## **RIDER A**

### **SCOPE OF WORK TO BE PERFORMED**

The Contractor agrees to the **Scope of Work to be Performed** as follows:

#### **SCOPE OF WORK**

Contractor agrees to perform snow management service specifications include;

1. Contract to provide snow removal and salting and sanding of the:
  - Town Office walkways,
  - Town Office mailbox, and
  - 31 fire hydrants located in the Town of Benton.
2. Contractor shall commence snow removal on Town Office walkways at a trigger depth of 0" during Town Office hours. The contractor will be responsible for tracking snow events and initiating snow operations.
3. Contractor shall continue to carryout sidewalk snow removal operations for the duration of the snow event for walkways, mailbox and fire hydrants, while maintaining a maximum allowance of 1" accumulation. This applies to typical snow events and may be affected during heavy snow events.
4. Contractor shall ensure that walkways are cleared of snow and ice prior to 7 AM as well as 5 PM. The exception would be if the snow event is still producing snow during specified hours in which the contractor to the best of his ability will maintain the least amount of accumulation possible on all surfaces.
5. Contractor shall push all snow from walkways to designated snow storage areas. Designated snow storage areas will be utilized to store as much snow volume as possible.
6. Contractor may use sand from Town's sand shed for maintaining areas noted in this specification. Town will also provide salt to help reduce impact of ice on walkways.
7. Contractor agrees to use sand and salt for all included walkways.
8. Contractor agrees to provide 24-hour contact information to the Road Commissioner. All requests for service will be provided a proper response within 60 minutes from request being made.
9. Contractor shall maintain a 0 tolerance for snow and ice and shall apply salt or salt sand as needed.

#### **EQUIPMENT REQUIREMENTS**

Contractor agrees to provide all necessary equipment to perform this contract in an efficient and effective manner. At the start of each season and as required throughout, the Town shall have the full authority to accept or reject any and all equipment that is used to perform the Work.

Required minimum equipment list:

- Snow blowing machine
- Truck with plow
- Shovels

#### **PERFORMANCE TERMS AND CONDITIONS**

1. **Employees:** The Contractor shall employ only competent and satisfactory personnel and shall provide a sufficient number of employees to perform the required services efficiently and in a manner satisfactory to the Town. If the Town Contract Administrator notifies the Contractor in writing that any person employed on this Contract is incompetent, disorderly, or otherwise unsatisfactory, such person shall not again be utilized in the execution of this Contract without the prior written consent of the

Contract Administrator.

2. **Business and Performance Reviews:** Recognizing that successful performance of this contract is dependent on favorable response, the Contractor shall meet at least quarterly with the Contract Administrator or designee for a business and performance review to evaluate operations and make necessary adjustments. These meetings will normally be conducted electronically but shall be face-to-face on demand. As part of these reviews, the Town reserves the right to review equipment specifications quarterly and update equipment specifications accordingly. Contractor shall provide a single point of contact (i.e., relationship manager) and shall notify Town in writing and in advance whenever there is a change to that single point of contact.
3. **Other Conditions:** The Contractor shall ensure staff and subcontractors;
  - A. Perform required duties for the Town prior to their private contracts.
  - B. Follow priorities set by Municipal Officers.
  - C. The Contractor shall ensure all personal and business amounts recorded in the Town's financial system which are paid by bill due date; including real estate taxes, personal property taxes, public sewer utilities, and any existing fines. This will be reviewed annually on September 1st, Town Treasurer will provide report summarizing the amounts due, each category will be listed separately with the amount owed. Contractor will have Thirty (30) days to resolve remaining amounts owed or the Contractor will be in breach of the Agreement which will result in the termination of the Agreement.

## **PRICING**

Refer to RIDER B. Pricing will be valid for the term of the Agreement.

## RIDER B PRICING

The Town agrees to pay the Contractor as outlined in the table below after work is complete and invoice is submitted:

<b>Timeframe</b>	<b>Invoice Amount</b>
December 21, 2022 – December 31, 2022	
January 2023	
February 2023	
March 2023	