

**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 **July 1, 2024** and shall terminate on **June 30, 2029**, unless terminated earlier as provided in this Agreement with option for one (1) five (5) year renewal ("renewal term") upon the parties' mutual 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 begin the work as required by this Agreement;
    - iv. fails to perform the work with sufficient workers and equipment or materials to meet the terms of the Agreement;
    - v. discontinues the prosecution of the work;
    - vi. fails to resume work which has been discontinued within a reasonable time after notice to do so;
    - vii. subcontracts any of the work without the approval of the Town;
    - viii. 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

- ix. fails to perform the Work in substantial conformity with any material provision of the Agreement as determined by the Town;
- x. fails to pay by the Town due dates any of the following: Town real estate taxes, personal property taxes, public sewer utilities and any existing fines;
- 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. **Bonds and Insurance:** The Contractor shall provide bonds and insurance certificates conforming to this Agreement by August 1 of each year. Each Winter Season's initial payment will be contingent upon the Town having this information on file.
5. **Payment:**
- A. The Town agrees to pay the Contractor the "Base Lump Sum" payment of \_\_\_\_\_ each season, for all work conforming to the terms of this Agreement. For each additional year (renewal term) of the Agreement year, a 2% escalation factor shall also be added to the Base Lump Sum. Each Winter Season's total payment shall be made in six installments as specified below:
    - Sand & Salt Piles payment of \_\_\_\_\_. Paid on completion but not prior to October 1, annually.
    - Remainder of this Agreement obligations will be paid in six (6) equal monthly payments, starting November 15, annually. This schedule may be modified in the event of Contractor breach.
  - 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:** Town 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 \$1,000,000.00 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. **Performance and Payment Bonds.** The performance and payment bonds are required if the annual payment amount of this Agreement is greater than, or becomes greater than (through annual adjustments), \$100,000. If required, said bonds must be in the amount of 100% of the contract price and must be procured from a company that is (1) organized and operating in the United States licensed or approved to do business in the State of Maine by the State of Maine Department of Business

Regulation, Bureau of Insurance and (2) listed on the latest Federal Department of the Treasury listing for “Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies”. The bonds must be payable to the “Treasurer – Town of Benton” and must be on the Town’s forms (or exact copies thereof) or must not contain any significant variations from said forms as determined in the sole discretion of the Town. If By issuing, executing, or becoming potentially obligated under a bond, the surety agrees to be bound by all of the terms of the Agreement documents, including those related to the Town’s self-help remedy provided in the Agreement.

A performance bond must be produced within fifteen (15) days of Agreement execution. If the bond is not furnished within the time frame the Municipal Officers may terminate this Agreement without notice.

14. **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.
15. **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.
16. **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.
17. **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.

18. **General Provisions**
  - a) Definition. The work “compact” is defined by 23 M.R.S.A. § 1001.
  - b) 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.
19. **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:

20. **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**

21. **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: Selectman

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

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

Name: \_\_\_\_\_  
Title: Selectman

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

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

Name: \_\_\_\_\_  
Title: Selectman

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 remove the snow (whether accumulating from snowfall or drifting), control ice, and perform all other work indicated in this Agreement in compliance with all the terms, conditions, and representations of the same on the sections of roads and identified additional areas listed below (“the Work”):

Approximately thirty-two (32) miles of state-aid and town roadways.

#### Additional Areas

1. School bus routes will receive first priority.
2. Benton Grange Hall Yard
3. Pumping Station Yard
4. Town Office Yard - The **Town Office Yard** will be cleared of snow to the **entrance handrails**. Access to the **Town Office yard** and mailbox must be **cleared 45 minutes before the office is due to open** (If Contractor is unsure of said hours please contact the Town Office). The snowbanks will be kept back from the road to keep clear the view from the driveway.
5. Sand & Salt Shed - Maintain the entrance and yard clear of sand and salt at all times. The Contractor will repair any damage to the landscaping at the entrance to the shed at the end of each season without spreading salted material over the land.

Contractor is responsible for payment of the Sand and Salt Shed electricity bill.

### PROPERTY DAMAGE

Contractor agrees to reimburse the Town for the replacement of guardrail, guardrail posts, signs, sign post, guard posts, or use of Town’s Sand Shed damaged by the Contractor if resulting from the Contractor’s negligence as determined by the Town’s Representative, at which time the Contractor will be responsible for reimbursing the Town for all replacement costs associated with these items.

Contractor agrees to replace or fix properly installed mailboxes which are damaged by the work performed under this Agreement.

### WORK STANDARDS

1. Contractor will ensure all staff and subcontractors performing work associated with this Agreement will attend Maine Department of Transportation (MDOT) training.
2. Contractor will ensure all staff and subcontractors performing work associated with this Agreement will following MDOT’s precautions for plowing, sanding and salting.
3. The Contractor shall be familiar with the principles of anti-icing and shall utilize an anti-icing approach to prevent the snow and ice from bonding to the pavement surface throughout winter storms. A sand/salt mixture shall only be used when temporary traction is needed in specific areas or when pavement temperatures are too low for salt to work effectively (below 15 degrees F with no increasing trend).
4. The Contractor shall commence plowing and material application operations no later than when snow on the pavement has reached a depth of one-half inch if the snow is wet and one inch if dry. Operations will continue until the highways are cleared of snow to the outside shoulders. During severe storms or drifting, plows will be operated so as to maintain two-way traffic. Immediately after the extreme conditions have subsided snow will be removed to the outside of the shoulders of the highways.



Contractor's equipment must be located within a 10-mile radius of the project. Contract must have supervisory personnel or radio equipped vehicles situated so that messages of urgency can reach the plowing or sanding vehicles within a half-hour period.

5. The Contractor shall use appropriate methods and practices of plowing and material application to ensure continuity of operations with adjacent plow routes that may be addressed by municipal forces, state forces, or other contractors. Such methods shall also assure that the speed of the plows is low enough to assure efficient plowing and material use and that appropriate care is taken to minimize the potential for damage to personal property adjacent to the highway (such as mailboxes).
6. The Contractor shall pay particular attention to the commuter hours that exist Monday through Friday during the morning hours from 4 a.m. through 8 a.m. and during the evening commuter hours from 4 p.m. through 7:00 p.m. These hours will require a higher level of service in the form of shorter plowing cycle times and additional material usage. Conversely, between the hours of 10 p.m. and 4 a.m., longer cycle times and less material usage is normal; however, the Contractor shall maintain a presence on the route to assure that conditions remain acceptable.
7. The Contractor shall work such that the roadway shall be returned to the satisfaction of the Town Road Commissioner including on roadways so that three and one half feet of pavement will be exposed on each side of the center line. During the day following the end of each storm, the Contractor shall also assure that all snow banks are pushed back to sufficiently allow snow storage for subsequent storms.

### **EQUIPMENT REQUIREMENT(S)**

The Contractor must furnish the equipment listed in its "Bid for Snow Removal & Ice Control Contract" (as noted below), plus such additional equipment that may be necessary 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:

1. Three (3) trucks equipped with snowplow, wing and sanders.
2. One (1) truck with snowplow and wing.
3. One (1) front end loader.
4. Equipment for proper distribution of liquid calcium.

All plows and sand trucks that are to be used in the Town of Benton will be used only as outlined in this Agreement. No equipment shall be allowed to plow or sand other towns' roads -- they will turn at town lines. Should this Section be violated the Municipal Officers shall have the right to terminate this Agreement.

### **SAND & SALT REQUIREMENT(S)**

1. The Contractor agrees to provide sufficient sand, salt and other necessary materials (such as liquid CaC1 or MgC1) for operations required by this contract. The Town estimates that an anti-icing approach, with properly calibrated equipment, will require approximately 15 tons of salt, in addition to approximately 80 cubic yards of sand (mixed with 4 tons of salt) for occasional specific traction needs.
2. The salt for the contact can be ordered through the MaineDOT Region Office and the cost will be deducted from the Contractor's regular agreement payments at a rate equal to the Town's per ton cost as specified in the salt contract that is in effect at that time.
3. The Contractor will provide sufficient sand and salt for operations required by this Agreement. The Town estimates that an anti-icing approach, with properly calibrated equipment, will require approximately 2,500 yards of screened sand and 100 pounds of salt to each cubic yard of sand. Sand will be passed through a one-half inch by three inch screen. This work may be supervised by one or more Municipal Officers. As required any additions to the sand pile or roads will be



- A. Contractor will pay for the initial allotment of 2,500 yards of sand and 100 pounds of salt to each cubic yard of sand.
  - B. The Town will reimburse the Contractor for any additional approved sand needs. The Contractor will document the need and obtain approval from the Town.
  - C. The Town will reimburse the Contractor for any additional approved allowance of salt and liquid calcium. The Contractor will document the need and obtain approval from the Town.
4. Maximum gradation of winter sand shall be ½ inch, and all sand will be screened to that size prior to use on the roadways.
  5. The Contractor must mix between 90-110 pounds of salt with each cubic yard of sand before the sand is stockpiled.
  6. Trucks must be equipped with either tailgate or hopper sanders, which are capable of calibrating the amount of sand and/or salt spread per mile to ensure consistent application and to avoid the use of excessive quantities. The Contractor agrees to comply with the directions of the Town's Representative concerning the application of pure salt.
  7. Contractor agrees to pay particular attention to the sanding of railroad crossings, hills, curves and intersections, and to apply extra sand and salt to such locations when necessary. Plow blades shall be raised sufficiently at railroad crossings to prevent damages to the rail tracks. Any residue of snow on the tracks shall be removed by hand if necessary.
  8. The Contractor agrees to specify the intended location of sand/salt stockpiles (<http://www.state.me.us/dep/blwq/docstand/sandsalt/index.htm>). If the Contractor does not have the ability to use an existing approved site for a sand/salt stockpile, it must be stated in the submittal and the Town will discuss potential options with the bidder. If the bidder is ultimately unsuccessful in obtaining a suitable location for a sand/salt stockpile, this shall be grounds for dismissal of the bid. The Contractor agrees to indemnify the Town for any liability, claims, demands, causes of action or damages incurred as a result of the use of, or stockpiling of sand and salt.
  9. Stockpiles of sand will be so located as to permit minimum travel time to critical areas and deadheading for reloading. The maximum distance between sand/salt stockpiles shall be twenty (20) miles.
  10. Contractor agrees to have all sand/salt stockpiles established by October 1, of each year that this contract is in effect.
  11. The Contractor shall, at the end of each storm event, report the total material quantities used in performing the Work to the Town's designated representative. Such quantities shall also be maintained in a season log that indicates the types of materials used by the corresponding dates of the storm events that occurred throughout each winter season. This seasonal log must be submitted to the following address prior to final payment at the end of each Winter Season: *Town of Benton, 1279 Clinton Avenue, Benton, ME 04901.*
  12. In the event that sufficient sand remains in the shed at the end of a winter season, Contractor and Town may agree to pile and mix a lesser amount of sand and salt than 2500 additional yards. The lesser amount shall be agreed by both parties and deducted from that year's contract at the rate of \$10.00 per mixed and piled yard (or such other amount proposed by the Contractor, as part of the bid).
  13. Liquid Calcium may be used as long as it is used in accordance with procedures provided by MDOT.

## **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. Ensure school bus routes receive first priority.
  - D. Maintain the sand and salt shed entrance and yard clear of sand and salt at all times.

## **PRICING**

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

**RIDER B  
PRICING**

Description	PRICING				
	7/1/2024 – 6/30/2025	7/1/2025 – 6/30/2026	7/1/2026 – 6/30/2027	7/1/2027 – 6/30/2028	7/1/2028 – 6/30/2029
Sand & Salt Piles					
Plowing, Sanding & Salting (Appendix A)					
<b>Total</b>					

Percent increase for the optional five (5) year renewal term: \_\_\_\_\_ per year

\*Terms for payment are provided in **Exhibit 2 Town of Benton Contract for Services.**