

## **Snow Removal and Sanding Contract**

### **PARTIES**

This contract made and entered on the \_\_\_\_\_ day of \_\_\_\_\_, 2024 between the inhabitants of the Town of Embden, a body corporate, located in Embden, Somerset County, State of Maine, {Hereinafter referred to as "Town"} and \_\_\_\_\_ of \_\_\_\_\_, Maine {hereinafter referred to as "Contractor" or "you"}. When this contract refers to Contractor, it also includes your agents and employees.

### **INDEPENDENT CONTRACTOR**

Throughout the performance of this contract, you are acting in an independent capacity and not as an officer, agent, or employee of the Town. Any additional personnel needed by you to fulfill your duties under this contract shall be employed or retained by you, and you shall be solely responsible for complying with all state and federal laws, including, but not limited to workers compensation law, employment security law, and minimum wage law. As an independent contractor, you are also responsible for maintaining your vehicles and equipment in a safe, operable, and legal condition.

### **INSURANCE**

The Contractor shall obtain and maintain, throughout the term of this contract, liability insurance in an amount not less than \$1,000,000 sufficient to cover any and all claims, demands, and causes of action of any nature whatsoever, which may arise from Contractor's acts or omissions in the performance of this contract. The Contractor shall provide proof of insurance or financial resources sufficient to satisfy the requirements of the Maine worker's compensation act. A Certification of Liability insurance and workers compensation insurance shall be provided to the selectpersons of the Town of Embden on or before October 1<sup>st</sup> of each contract year, and upon their request. Such certification shall include a provision, from you or your insurance carrier, giving a 30 day notice to the Town of intention to cancel said coverage.

## **BOND**

The Contractor shall furnish a performance bond, satisfactory to the selectpersons of the Town, in the amount equal to 70% of the annual contract price. In addition, you shall keep said bond in full force and effect until the expiration of the contract term. The Contractor shall provide proof of such bond to the selectpersons of the Town on or before October 1<sup>st</sup> of each contract year, and upon request. The purpose of the performance bond is to make money available to the Town in the event you do not complete part or all of your duties under this contract.

## **INDEMNIFICATION**

The Contractor hereby agrees to hold the Town harmless for any claim(s) for death, injury, property damage or other loss, which may result from the Contractor's performance or failure to perform any of the duties set forth in this contract. In the event such a claim is made against the Town, You will defend the Town and will pay any amounts (indemnify) for which the Town may be held liable in a legal action for such claims.

## **BREACH OF CONTRACT**

The Contractor's failure to perform according to the terms of this Contract in the time and manner specified shall be considered a breach of the contract. If the Town determines that reasonable corrective action may be taken to remedy the breach, the Town will provide the Contractor with oral notice of the corrective action to be taken. The Contractors will then be required to perform within a reasonable time. "Reasonable Time" may vary depending on the nature of the breach and the road and weather conditions. In the event that the Contractor does not perform his duties within the time stated, or in the event that the Town determines that, the breach cannot be reasonable corrected, the Town shall have the following options:

### **1. TERMINATE THE CONTRACT**

The Town may terminate the contract by providing to the Contractor written notice of the termination of the contract and the grounds therefore. The contract shall be deemed terminated on the date notice of the contract termination is given. The Contractor will be paid for all work which is satisfactorily done through the time of termination; the remainder of the money due the Contractor, but unearned, under this contract may be used to hire another person or agency to perform the work. In addition, the Town may use money from the performance bond to cover the cost of performing this contract.

### **2. SUBSTITUTION**

The Town may hire a substitute Contractor to plow, salt and sand the roadways for any period of time the Town considers necessary. This substitute will be paid with money from the

Contractors bond or from the remainder of the money due the Contractor, but unearned, under the contract, or both.

### **3. OTHER REMEDIES**

The Town may seek any other legal or equitable remedy available to enforce this contract. In the event the Town brings suit to enforce this contract and prevails on its claim, the Contractor shall reimburse the Town its costs, attorney fees, or any other reasonable fees incurred in that action. The foregoing remedies are not exclusive of one another; the Town may use any or all of them.

## **SUPERVISION AND CONTROL**

As an independent contractor, you have the right and duty to supervise your own employees, agents, and equipment. Unless otherwise specified in this contract, the selectpersons for the Town of Embden shall have the right to inspect your activities under this contract to determine whether your performance is satisfactory, to provide you with any required notice under this contract relating to your performance or nonperformance hereunder, to make all decisions concerning termination of the contract and remedies to be sought by the Town for any and all such breaches. Oral notice regarding contract termination or the demand that corrective action shall be taken may be given to the Contractor by one selectperson.

## **AMENDMENT, SEVERABILITY, & JURISDICTION**

This agreement can be amended only by written consent of the Town and you. In the event any term, condition, or provision of this agreement is held invalid by a court of competent jurisdiction, the invalidity of any such covenant term, condition, or provision shall in no way affect any other term, condition, or provision herein contained. Agreement is governed by the laws of the State of Maine. The Contract plus Exhibit A, map, and Sand Shed Agreement is the entire agreement between parties.

## **SALT**

The Contractor shall purchase up to 210 tons of salt, for use in preparing the salt/sand stockpile and "Hot Loads" to be stored in the sand shed until ready to be used. The Contractor shall provide receipts of the purchase of salt (e.g. invoices, delivery slips, etc.) before the Town of Embden makes payment to the contractor. The Town of Embden will provide the Contractor with a Contractor's Sales Tax exemption certificate as salt is for Municipal use only.

## **CONTRACTOR'S DUTIES**

The Contractor shall salt, sand and remove snow, slush and ice from all roadways and areas of the Town identified in Exhibit A, which is attached hereto by reference and incorporated into this contract by reference, {hereafter referred to as "roadways"} as designated below. The term of this contract shall be from October 15<sup>th</sup>, 2024 to April 15<sup>th</sup>, 2027.

1. The Contractor shall remove snow and slush from the roadways when accumulations caused by snow, slush, freezing rain or drifting equal or exceed two (2) inches in depth. In case of freezing rain, the Contractor shall begin sanding and salting the roadways when the roadways begin to glaze with ice, when sanding and salting is necessary to ensure public safety, or on order from the Selectpersons of Embden or the Town Road Commissioner. The accumulations shall be removed to the outside edge of the shoulders of the roadways to allow adequate room for accumulation; intersections and corners of the roadways shall be maintained in such a manner as to assure adequate visibility and safety. The Contractor shall push the accumulations beyond the outside edge of the roadways at designated locations in order to permit proper drainage and to ensure public safety when and as directed by the Board of Selectpersons or the Town Road Commissioner.

2. The Contractor shall have a minimum of four (4) snow removal and sanding vehicles including one grader with wing ready/available at all times to perform the Contractor's obligations under this contract. Said equipment will be maintained in a safe and legal condition, in compliance with all applicable state and local laws, rules and regulations. The Selectmen have the right to inspect the equipment used by the contractor at any time. The sanding vehicles shall be equipped with either tailgate or hopper sanders, and these instruments shall be properly calibrated to ensure an even per mile application of sand and salt to the roadways.

**VEHICLE IDENTIFICATION**

The four (4) vehicles are identified (i.e. registration, serial or VIN numbers) as:

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3. The Contractor agrees to provide sufficient sand for the operations required by this contract. The Town estimates that a minimum of 100 cubic yards for each centerline mile of road will be required and needs to be provided by you.

A. Maximum graduation of sand shall be ½ inch, and all sand will be screened before use on the road.

B. The Contractor will mix 90 to 110 pounds of salt with each cubic yard of sand before sand is stockpiled and shall maintain salt in bulk storage to be added to loads of sand when accumulations warrant.

C. Sanding trucks will be equipped with sanders capable of calibrating the amount of salt/sand spread per mile to insure even application.

D. The Contractor is responsible for maintenance of salt/sand stockpile(s). By execution of this contract, the Contractor warrants that the salt/sand stockpile(s) are in compliance with local, State, and State environmental rules, regulations, and statutes. The Contractor agrees to indemnify the Town of Embden for all liability, claims, demands and cause of action or damages incurred as a result of the use of or stockpiling of the salt/sand.

E. The Contractor agrees to have all salt/sand stockpiled by October 15<sup>th</sup> of each year. The Contractor will not be paid until tally sheets of salt/sand are submitted to the Selectpersons of Embden.

F. The Contractor will keep all fire hydrants clear of snow after each storm to ensure they they will be accessible for use.

4. The Contractor will fill the sand shed to its capacity with sand and a minimum of 210 tons of salt stockpiled on or before October 15<sup>th</sup> of each year for the duration of this contract. The sand shall be mixed with salt: No less than 90 pounds of salt shall be mixed with each cubic yard of sand. Once mixed, the salt/sand mixture may be stockpiled at the Town sand shed. The Contractor shall have an additional 60 tons of salt to be used for "Hot Loads" during the winter. The contractor shall provide any additional sand and salt in the event that the capacity of the sand shed is depleted prior to the snow season's end.

5. The Contractor shall provide receipts for purchase of all sand and salt to the Board of Selectpersons before the Town of Embden makes payment to the contractor. All sand and salt shall become property of

the Town of Embden.

6. The Contractor shall be solely responsible for all payments of cost and bills, which include but are not limited to claims for labor, materials, equipment, repairs, sand, fuel, utilities, and other items which are incurred by the Contractor in the performance of this contract. The Town of Embden will not pay such bills.

7. The Contractor and his agents shall strictly comply with all state, and municipal laws, rules, regulations and ordinances when performing his obligations under the terms of this contract.

8. You will reimburse the Town for the repair/replacement of guard rails, guard rail posts, and any other Town property which is damaged by reason of snow removal operations under this Agreement, if the Municipal Officers determine that such damage could have been avoided by you or your employees. Additionally, you will reimburse Town inhabitants for the replacement of their mailboxes and mailbox posts, if the Municipal Officers determine that such damage could have been avoided by your or your employees.

9. The duties of the Contractor shall be done to the satisfaction of the Selectpersons of the Town of Embden.

10. The Contractor may not sell, transfer or assign his duties under this contract to any other person or entity without the written consent of the Selectpersons.

11. The Contractor shall make a reasonable amount of salt/sand available to the citizens of Embden for non-commercial use at their residence(s) driveway and walkway(s) only. The Contractor shall control the use of said salt/sand and recommend action to the Selectmen to prevent the abuse of this privilege.

## **RECORDS**

The Contractor shall maintain an accurate record of all snow plowing and snow removal services performed under this agreement. A monthly verbal report to a Selectman by the Contractor shall qualify as a "record". Monthly payments shall not be made without this "record". The Contractor shall be present at one regular scheduled Selectman's meeting bi-monthly (every other month minimum) starting in October and ending in April of the subsequent calendar year.

**CONTRACT BID**

As consideration for the services provided under the terms of this contract;

The Town will pay you the sum of \_\_\_\_\_ for the 2024-2025 snow season.

The Town will pay you the sum of \_\_\_\_\_ for the 2025-2026 snow season.

The Town will pay you the sum of \_\_\_\_\_ for the 2026-2027 snow season.

**PAYMENT SCHEDULE**

Payments to the Contractor shall be made following receipt, to the Board of Selectpersons, the monthly report outlined in the previous section entitled "RECORDS":

**2024-2025 snow season**

The Town shall pay \$75,000 on satisfactory completion of items 3 thru 5 (See Contractor's Duties) and proof of bond and insurances. The Town will pay you the balance of the agreed contract amount in six equal payments commencing November 15, 2024 and the final payment on April 15<sup>th</sup>, 2025.

**2025-2026 snow season**

The Town shall pay \$75,000 on satisfactory completion of items 3 thru 5 (See Contractor's Duties) and proof of bond and insurances. The Town will pay you the balance of the agreed contract amount in six equal payments commencing November 15, 2025 and the final payment on April 15<sup>th</sup>, 2026.

**2026-2027 snow season**

The Town shall pay \$75,000 on satisfactory completion of items 3 thru 5 (See Contractor's Duties) and proof of bond and insurances. The Town will pay you the balance of the agreed contract amount in six equal payments commencing November 15, 2026 and the final payment on April 15<sup>th</sup>, 2027.

In Witness whereof, the parties or their duly authorized agents execute this agreement on the \_\_\_\_\_ day of \_\_\_\_\_, 2024

For the Contractor:

For the Town of Embden:

\_\_\_\_\_

[Name of Contractor]

\_\_\_\_\_

[1<sup>st</sup> Selectperson]

\_\_\_\_\_

[2<sup>nd</sup> Selectperson]

\_\_\_\_\_

[3<sup>rd</sup> Selectperson]



## **Exhibit A**

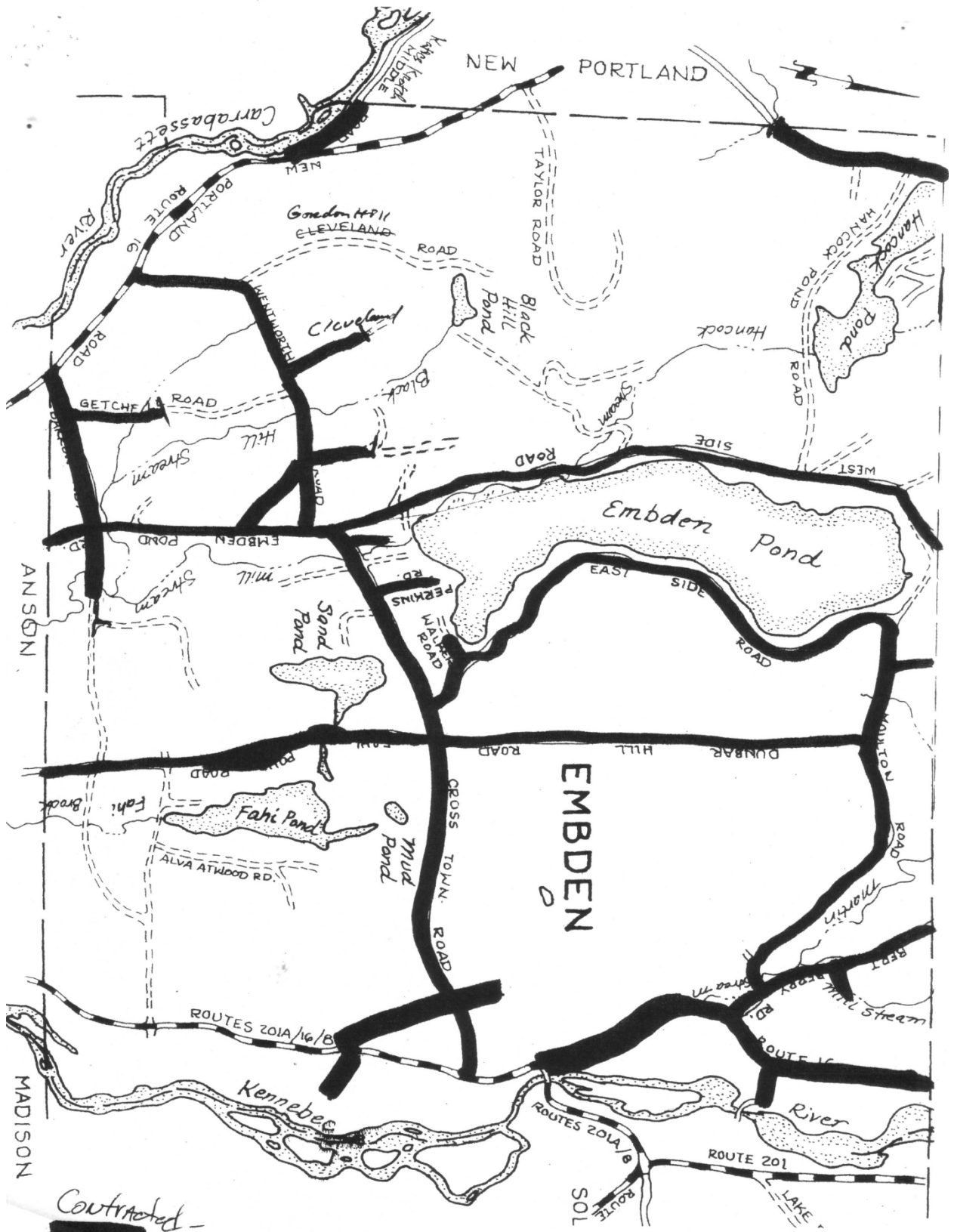
### Areas to Plow & Sand:

Embden Town Office  
Parking Area by Mullin's Cove/East Shore Road  
Parking Area at the Boat Launch  
Road Designations (See Chart Below)

### **Road Designation and Centerline Mileage**

| <b><u>Road/Street</u></b>                                      | <b><u>Length of Centerline Miles</u></b> |
|--|--|
| Barron Road  | 1.15                                     |
| Bert Berry Road  | 1.69                                     |
| Cleveland Road   | 0.59                                     |
| Concord Corner Road  | 0.31                                     |
| Creamer Road   | 0.64                                     |
| CrossTown Road   | 4.24                                     |
| Dunbar Hill Road   | 3.05                                     |
| East Shore Road  | 4.26                                     |
| Ellis Road   | 0.29                                     |
| Embden Pond Road at Anson Town Line to CrossTown Road          | 1.93                                     |
| Embden Pond Road-CrossTown Road intersection to Hertzberg Road | 4.09                                     |
| Embden Town Office Parking Lot                                 | 0.10                                     |
| Fahi Pond Road   | 3.83                                     |
| Farmer Road  | 0.32                                     |

|   |              |
|---|--------------|
| Getchell Road   | 0.74         |
| Hancock Pond Road   | 1.36         |
| Hertzberg Road  | 0.70         |
| Katie's Crotch Road                                       | 0.50         |
| Kennebec River Road from Solon Bridge to Embden Town Line | 3.12         |
| Kilowatt Drive  | 0.50         |
| Mill Road   | 0.40         |
| Moulton Road  | 3.10         |
| Murphy Road   | 0.90         |
| Perkins Road  | 0.70         |
| Piper Road  | 0.29         |
| Slipp Road  | 0.74         |
| Station Road  | 0.90         |
| Walker Road   | 0.20         |
| Wentworth Road  | 2.58         |
| <hr/>   |              |
| <b>Total of Centerline Miles</b>                          | <b>43.22</b> |



Contracted -

## SAND SHED AGREEMENT

This agreement is made and entered into, between the inhabitants of the Town of Embden, a body corporate and politic, located in Embden, County of Somerset and State of Maine, hereinafter referred to as the "Town", and \_\_\_\_\_ of \_\_\_\_\_, County of Somerset and State of Maine, hereinafter referred to as "Contractor".

WHEREAS the Town and Contractor have on this date entered into an agreement whereby the Contractor will provide snow removal and sanding services to the Town of Embden for the period beginning on October 15<sup>th</sup>, 2021 and ending on April 15, 2024, the parties hereto wish to establish their respective rights and responsibilities with respect to the use of the Town of Embden sand shed. During the term of this agreement, the Town of Embden will provide routine maintenance and maintain hazard insurance on the Sand Shed.

The Town of Embden reserves the right to use the building from May 1<sup>st</sup> to September 15<sup>th</sup> of each year for the duration of this agreement for its sole purpose of storage of summer equipment and road supplies. Any damages that may occur and the resulting maintenance required to correct the situation within this time frame shall be the Towns sole responsibility. An inspection of the building by all parties, before and after use by each party, shall be conducted as a measure to designate responsibility for maintenance and repairs.

During the term of this agreement, the Contractor shall be responsible for snow removal from the sand shed premises and for the repair of any damage caused to the property by the Contractor, his agents, subcontractors or employees.

**THIS AGREEMENT** is entered into, in duplicate originals, this \_\_\_\_ Day of \_\_\_\_\_, 2021.

\_\_\_\_\_

Contractor:

\_\_\_\_\_

1<sup>st</sup> Selectperson:

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2<sup>nd</sup> Selectperson:

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3<sup>rd</sup> Selectperson

