

FRANKLIN COUNTY COMMISSIONERS MEETING AGENDA

LOCATION: Franklin County Superior Courtroom

DATE AND TIME: August 6, 2024 @ 10:00 A.M.

The Franklin County Commissioners' meetings are open to the public. This meeting is also available virtually via [Video Conferencing, Cloud Phone, Webinars, Chat, Virtual Events | Zoom](#). Here is the meeting ID# 492 510 0482 passcode 030621.

APPOINTMENTS: None

NEW BUSINESS:

- 1. Clerk's Report**
- 2. Treasurer's Report**
- 3. Davis Abatement**
- 4. Plog – River Stabilization/USDA**
- 5. Snow Contracts – Sign**
- 6. TIF Scholarships**

OLD BUSINESS:

MISCELLANEOUS:

WARRANTS: County AP, ARPA, UT, TIF, Non-Profit and Payroll

ADJOURNMENT:

Meeting Packets are available to view by clicking on the link below:

[Agendas & Minutes - Franklin County, Maine \(franklincountymaine.gov\)](https://www.franklincountymaine.gov/agendas-minutes)

**County Commissioner's Meeting
Agenda Discussion and Analysis
August 20, 2024**

Appointments: None at this time.

Agenda Item: Clerk's Report

Comments: Minutes from the August 6, 2024, meeting

- The Franklin County Detention Center addition bid process is underway.
- Interviews for the Opioid Settlement Committee have been scheduled to take place today after the Commissioner's meeting.
- Hayden York called and was concerned that we misinterpreted his e-mail. He stated that he does have the equipment to fulfill the County Snow Contract for West Freeman. This was a miscommunication.
- The Maine DOT Local Road Assistance Program (LARP) requires us to complete the form indicating that we received funds in the amount of \$45,476 for fiscal year 2024-2025, and how last year's LARP funds were spent. The completed form is in your flower folder.
- The Courthouse will be closed on Tuesday, September 24, 2024 for staff to attend the MCCA Conference. The Commissioners office will continue to be closed on September 25, 2024 and will open late on September 26, 2024 to attend the MCCA Conference as Franklin County is hosting this year's conference.

Recommended: Motion to approve and sign the August 6, 2024, Minutes.

Treasurer's Report: Included in Commissioners Packet

Recommendation:

3. Davis Abatement

Comments: The County received a letter from Mr. Chris Davis on June 14, 2024, which was outside the 60-day period to appeal the Town's decision letter that was dated March 1, 2024. We sent the letter to Mark Bower, and I have enclosed the email he sent to the Commissioners stating that the board does not have jurisdiction over this case. Mr. Davis is aware of this however wants to discuss this with the Commissioners on August 20th.

Recommendation: None at this time

4. Plog – River Stabilization/USDA

Comments: Naomi Henderson came into the office asking for assistance from the Commissioners to apply for the Natural Resource Conservation Service for emergency funds to stabilize the bank of Sandy River that is dangerously close to the corner of the Raymond Plog's home. The Commissioners must sign the letter of intent enclosed in the packet to initiate the process. This grant requires a 25% match, which the County can require the homeowner to pay in a separate agreement. I have informed Ms. Henderson that the family can apply to the TIF for the match in a separate application.

Recommendation: Motion: Authorize the chair to sign the letter of intent to the Natural Resource Conservation Service.

5. Snow Contracts - Sign

Comments: The Parking lot and West Freeman Snowplow Contracts are in your packet for your review and approval.

Recommendation: Motion to authorize County Administrator to sign both Contracts.

6. TIF Scholarships

Comments: The TIF Committee has reviewed and made recommendations for the scholarships which can be found in your flower folder.

Recommendation: Motion to approve TIF Scholarships

PAM PRODAN, TREASURER - August 20, 2024

Current cash and investment (CDARS) balances

General Fund Operating Cash \$2,278,992.22
General Fund Payroll Cash \$64,889.58 (cr.)
General Fund CDARS \$750,708.96
ARPA Fund Cash \$375,144.89
ARPA Fund CDARS \$2,583,241.88
UT General Fund Cash \$724,598.87
UT General Fund CDARS \$1,013,315.64
UT TIF Fund Cash \$479,952.23
UT TIF CDARS: \$3,647,936.37

Interest rates (each rate is current as of the date indicated on the most recent bank statement)

General Fund Operating Cash 4.00% 7/31/2024 All invested with Intrafi Cash Service at Androscoggin Savings Bank
General Fund Payroll Cash 3.00% 6/30/2024 All invested with Intrafi Cash Service at Androscoggin Savings Bank
General Fund CDARS 4.92698% 7/25/2024 All invested at Androscoggin Savings Bank
ARPA Fund Cash 3.50% 7/31/2024 All invested with Intrafi Cash Service at Franklin Savings Bank
ARPA Fund CDARS 3.70% 8/08/2024 All invested at Franklin Savings Bank
UT General Fund Cash \$4.00% 7/31/2024 All invested with Intrafi Cash Service at Androscoggin Savings Bank
UT General Fund CDARS 4.92698% 7/25/2024 All invested at Androscoggin Savings Bank
UT TIF Fund Cash 4.00% 6/30/2024 All invested with Intrafi Cash Service at Androscoggin Savings Bank
UT TIF CDARS: 4.92698% 7/25/2024 All invested at Androscoggin Savings Bank

Town Tax Payments

The due date for the first of two payments is September 1, with a grace period until interest starts on November 1. A Town Tax Payment report is coming in September

Warrants

AP Warrants for signatures 08/06/2024 (Amounts are as of noon Friday before the meeting and may change):

AP County Warrant \$313,186.29
AP ARPA Warrant \$122,724.85
AP UT Warrant \$5,155.72
AP UT TIF Warrant \$16,229.80
AP Nonprofit Warrant \$50,00.00
Payroll Warrant
Pay period from 7/21/2024 to 8/3/2024 \$194,482.71

Town of Industry
1033 Industry Road
Industry, Me. 04938
207-778-5050

NOTICE OF PROPERTY TAX ABATEMENT REQUEST

William Davis
140 Stone Hill Road
Farmington, ME. 04938

March 1, 2024

PROPERTY REVIEWED
Owner of record Christopher Davis
Map U05 Lot 009
Acc # 188

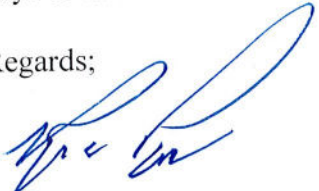
FINDINGS

After a careful review of the assessments of your property, the following determination has been made:

No abatement will be granted. When the Application was filed with this office you were not the owner of record. Further, this abatement request has been denied on or about July 2017. The county records show that the County Commissioners took no action on this matter on September 5, 2017.

To appeal the assessor's or municipal officer's decision, a taxpayer must file a written appeal within 60 days of the issuance of the notice from the assessor or within 60 days of the deemed denial. The local board of assessment review or county commissioners must provide written notice of the decision on an appeal within 60 days of receiving the appeal. If the taxpayer agrees, the local board of assessment review or the county commissioners may extend the deadline. If the local board of assessment review or the county commissioners do not provide written notice of the decision, the appeal is deemed denied after 60 days from the date the appeal is received. The State Board of Property Tax Review is not subject to a decision issuance deadline and may take longer than 60 days to issue a decision.

Regards;


Roger W. Peppard C.M.A.
Assessor's Agent
Industry, Maine

Aug 6

Chris Davis

37 Quarry Dr.
Readfield, ME
(207) 446-5051
cbdavis15@yahoo.com

6/14/2024

County Commissioners

140 Maine St, Suite 3
Farmington, ME 04938

Dear Commissioners,

In response to the Town of Industry's letter, dated March 1st, 2024, I request an abatement be granted. The reason being, when the application was filed for a tax exemption of the cemetery, located on map V05 lot 009, I was the legal owner of the property.

The town letter states the county record reporting that the County Commissioners took no action on this matter on or about September 5th, 2017. Since no action was taken at that time, when the property was in my father's, William R. Davis, ownership.

We wish to be given the opportunity to be heard by the county commissioners so we can state our case.

I will be traveling on a family vacation this summer from 6/23 to 7/13. It would be appreciated, in response to this letter, to send any follow up correspondence to both my address and my fathers, as he will be available.

His address is: William R. Davis

140 Stone Hill Rd.

Farmington, ME 04938

Sincerely,



Chris Davis

Jamie Sullivan

From: Mark A. Bower <mbower@jensenbaird.com>
Sent: Saturday, July 20, 2024 5:36 PM
To: Jamie Sullivan
Subject: RE: Abatement Matter

Hi Jamie,

It appears that the local assessor's decision was dated March 1, 2024. Under the applicable statute, the taxpayer had 60 days to file an appeal to the County Commissioners. See 36 M.R.S. § 844. This appeal is dated June 14, 2024. Therefore, an appeal would have been due by 4/30/24. As such, I don't believe the Commissioners have any jurisdiction over this appeal, unless there are other facts that are not apparent from the limited documents that have been provided.

However, even if there is no jurisdiction, the Commissioners will still need to have this on an agenda to make that finding and to issue a decision on the appeal – within 60 days of the date of the appeal (June 14, 2024). The decision would likely conclude simply that the Commissioners lack jurisdiction over the appeal because it was not filed within 60 days of the local assessor's decision.

Please let me know if you need anything further on this matter. Thanks.

-- Mark

Mark A. Bower
Attorney



10 Free Street	D: (207) 518-5907
P.O. Box 4510	F: (207) 775-7935
Portland, ME 04112	Email: mbower@jensenbaird.com
www.JensenBaird.com	Bio: Mark A. Bower Jensen Baird

From: Jamie Sullivan <JSullivan@franklincountymaine.gov>
Sent: Friday, July 19, 2024 12:11 PM
To: Mark A. Bower <mbower@jensenbaird.com>
Subject: Abatement Matter

Good Afternoon Attorney Bower,

Attached hereto please find correspondence from Chris Davis and William Davis with respect to an abatement denial from the Town of Industry. Please advise.

Thank you for your attention to this matter.

Thank you,



Franklin County, Maine

August 20, 2024

Matt Walker
Natural Resources Conservation Service
967 Illinois Ave.
Bangor Maine, 04401

Dear Mr. Walker:

We request Federal assistance under the provisions of section 216 of the Flood Control Act of 1950, Public Law 81-516 or section 403 of the Agricultural Credit Act of 1978, Public Law 95-334, to restore damages sustained in Franklin County by the December Flood 2023 on December 18, 2023. This work is needed to safeguard lives and property from an imminent hazard. The recent storms have undermined the bank and shifted the river putting their home in jeopardy of collapsing into the river if another major storm strikes. The riverbank was rip rapped after the 1987 storm, but all of that armoring washed away in the December storm taking down several large trees and the erosion has advanced following the more recent storms. It is now within just a few feet of the building, so the situation is critical. The river is also beginning to come close to undermining the highway along this stretch as well.

We are a governmental corporation organized under the laws of the State of Maine with a mailing address of 140 Main Street, Suite 3, Farmington, ME 04938 with a legal interest in or responsibility for the values threatened by the watershed emergency. We understand, as sponsors of emergency watershed protection measures, that our responsibilities will include:

- Contributing a share of the project costs, as determined by NRCS, by providing funds or eligible services necessary to undertake the activity.
- Obtaining any necessary real property rights, water rights, and regulatory permits.
- Agreeing to provide for any required operation and maintenance of the completed emergency measures.

140 MAIN STREET, SUITE 3 · FARMINGTON, MAINE 04938 · (207) 778-6614

TERRY BRANN
District #1

LANCE HARVELL
District #2

BOB CARLTON
District #3

AMY BERNARD
County Administrator
ABernard@franklincountymaine.gov



Franklin County, Maine

We have exhausted or have insufficient funding or other resources available to provide adequate relief from applicable hazards. We acknowledge that NRCS will not provide funding for activities undertaken by a sponsor prior to the signing of an agreement between NRCS and the sponsor.

The names, addresses, and telephone numbers of the administrative and technical contact persons in our organization are as follows:

Franklin County
Attention: Amy Bernard, County Administrator
140 Main Street, Suite 3
Farmington, Maine 04938
(207) 778-6614
abernard@franklincountymaine.gov

Please contact them for any additional information that you might need in assessing our request.

Sincerely,

Lance Harvell
Franklin County Commissioner Chair

140 MAIN STREET, SUITE 3 · FARMINGTON, MAINE 04938 · (207) 778-6614

TERRY BRANN
District #1

LANCE HARVELL
District #2

BOB CARLTON
District #3

AMY BERNARD
County Administrator
ABernard@franklincountymaine.gov

Jamie Sullivan

From: Cattrell, Adam - FPAC-NRCS, ME <adam.cattrell@usda.gov>
Sent: Friday, May 31, 2024 2:29 PM
To: Jamie Sullivan
Subject: RWP Program Sponsor information

Raymond Plog owns a house on the banks on the sandy river. During the December 2023 storm the stream bank eroded closer to the house and flooded the basement. USDA – Natural Resources Conservation Service (NRCS) administers the Emergency Watershed Protection Program (EWPP) to provide assistance in cases like this. These projects require a local sponsor for the project. The link below lays out what is required of the sponsor. The sponsor is responsible for securing local funding (typically from the landowner), hiring the contractor for the construction and agrees to provide the maintenance for the project (which is minimal).

The complete guide is located here: [EWPP National Sponsor's Guide - October 2021.pdf \(usda.gov\)](#)

Feel free to reach out if you have any questions,

Adam Cattrell PE
State Conservation Engineer
Maine

 **Natural Resources Conservation Service**
U.S. DEPARTMENT OF AGRICULTURE
967 Illinois Ave, Bangor, ME, 04401
p: (207) 990-9555 | c: (207) 852-2996
e: adam.cattrell@usda.gov | w: www.nrcs.usda.gov/Maine

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**United States
Department of
Agriculture**

National Sponsor Guide

Emergency Watershed Protection Program

United States Department of Agriculture
Natural Resources Conservation Service
www.nrcs.usda.gov

October 2021

Non-discrimination Statement and Complaint Policy

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Persons with Disabilities

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible agency or USDA's [Technology & Accessible Resources Give Employment Today \(TARGET\) Center](#), which can also be reached by phone at (202) 720-2600 (voice and TTY). Or, contact USDA through the Federal Relay Service at (800) 877-8339.

Program information may be made available in languages other than English.

To File a Complaint

To file a program discrimination or Equal Employment Opportunity (EEO) complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at www.usda.gov/oascr and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992.

Submit your completed complaint form or letter to USDA by (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-940; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov. Individuals who are deaf, hard of hearing, or have speech disabilities may also file a complaint through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (in Spanish).

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1 Introduction

Information in this guide can help project sponsors working through the Emergency Watershed Protection (EWP) Program. It covers basic information about the Program and provides links to websites with more details.

1.1 The EWP Program

The EWP Program was established in 1978. Through the EWP Program, areas damaged by a natural disaster may get federal assistance to recover watershed function. EWP Program assistance is offered in the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.

1.2 Laws, Regulations, and NRCS Policies

The United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) manages the EWP Program by following the federal laws and policies listed here:

Statutory Authorities

Section 216 of Public Law 81-516 (33 U.S.C. Section 701b-1)

Section 403 of Title IV of Public Law 95-334, the Agricultural Credit Act of 1978, as amended

Program Regulation and Policy

EWP Program requirements are detailed in the—

- [Code of Federal Regulations](#) (CFR): 7 CFR Part 624 and 7 CFR Part 654
- [NRCS EWP Program policy manual](#)

1.3 NRCS Contacts

District Conservationist

Your main point of contact for the EWP Program is your District Conservationist. You can find contact information for your nearest NRCS Service Center and District Conservationist on the [NRCS Service Center Locator Map](#).

State EWP Program Manager

EWP Program Managers coordinate program efforts in each state. Contact information for your state's EWP Program Manager, and more information about the Program, can be found on the [NRCS EWP Program web page](#).

State Conservationist

State Conservationists make sure that program recovery efforts meet the laws, regulations, and policies of the EWP Program. You can find contact information for your State Conservationist in the [NRCS State Offices Directory](#).

2 Program Overview

The EWP Program helps communities recover after natural disasters like floods, fires, windstorms, ice storms, hurricanes, typhoons, tornadoes, earthquakes, volcanic actions, slides, and drought.

When natural disasters strike, damage caused by wind and water can interfere with a watershed's ability to drain properly and safely. Sudden impairments such as debris-clogged drainage channels or unstable streambanks can lead to additional flooding and erosion, which can threaten lives and property. Federal assistance through the EWP Program can help state, local, and tribal governments implement emergency recovery measures to relieve imminent hazards in a watershed.

2.1 Program Administration

EWP Program assistance may be made available to project sponsors when the President declares a major disaster or when an NRCS State Conservationist declares that a natural event impaired a watershed's function. In either case, NRCS undertakes the emergency measures necessary and manages the program efforts. When necessary, NRCS coordinates EWP assistance with other agencies such as the Federal Emergency Management Agency (FEMA) and the U.S. Forest Service.

FEMA Coordination

The EWP Program and FEMA's Public Assistance Program sometimes work in response to the same major disaster events. In the 2018 Memorandum of Understanding between NRCS and FEMA, both agencies committed to establishing an Interagency Coordination and Operation (ICO) plan for improving coordination. The ICO Plan was approved in 2020 and establishes disaster response incident operations.

In the ICO Plan, the determination for applicable funding authority was highlighted. For NRCS to have authority for an emergency measure, NRCS must determine YES for all these questions to have EWP Program authority:

1. Are the measures for runoff retardation and soil-erosion prevention?
2. Has NRCS deemed the measures necessary to safeguard lives and property from floods, drought, and the products of erosion?
3. Has fire, flood, or any other natural occurrence caused a sudden impairment of that watershed?

Therefore, the determination of NRCS authority resides with NRCS, and NRCS does not have a way to make determinations on what emergency work could have been eligible for EWP Program assistance.

2.2 Program Assistance

In most situations, NRCS delivers assistance—technical and financial—to a project sponsor that meets program requirements (see Section 3.2). NRCS can only provide assistance directly to a landowner when NRCS determines that the best way to restore watershed function is by purchasing a floodplain easement. It is important to note that NRCS will not provide funding for activities undertaken by a sponsor prior to the signing of the agreement between NRCS and the sponsor (see Section 5.4).

Technical Assistance

NRCS offers its expertise to help sponsors decide how to deal with damage and to guide them through the EWP Program process. When natural disasters impair watershed function, NRCS checks to see if damaged sites are eligible for assistance and identifies actions to take that can help prevent additional flooding and soil erosion.

Once financial assistance is approved (see below) and allocated for an EWP project, NRCS also provides technical assistance to complete the planning, design, and construction oversight of the recovery measures.

Financial Assistance

Through the EWP Program, NRCS may pay up to 75 percent of the cost of construction of eligible recovery measures. For communities designated as limited resource areas, NRCS may pay up to 90 percent of construction costs. Limited resource areas are determined by using the most recent national census information. To find out if your community qualifies as a limited resource area, please find a map on the National EWP Program webpage (<https://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/landscape/ewpp/>) and discuss with your EWP POC. The agreement between NRCS and the sponsor will include who is responsible for contracting the construction of the emergency measures.

3 Sponsor Requirements

NRCS must work with a project sponsor to provide EWP Program assistance. The one exception is when NRCS decides the best option is to purchase a floodplain easement. When this happens, NRCS can provide assistance directly to a landowner. Otherwise, private landowners seeking EWP Program assistance must work through a qualified sponsor.

3.1 Sponsor Eligibility

A project sponsor must be a state, a state agency, a legal subdivision of a state government, a local unit of government, or a Native American Tribe or Tribal organization with a legal interest in or responsibility for the areas threatened by a watershed emergency.

3.2 Sponsor Requirements

Project sponsors must be able to—

- Obtain all necessary property rights, water rights, and permits.
- Provide their share of the construction costs.
- Cover any unreimbursed expenses.
- Operate and maintain any completed recovery measures.

3.3 Sponsor Contribution

Sponsors must share in the cost of construction.

NRCS can typically cover up to 75 percent of construction costs while a project sponsor pays at least 25 percent of the cost. For limited resource areas, the cost share is 90/10.

The sponsor's part of the cost-share can be met using—

- cash
- goods or services (e.g., equipment, materials, construction management)
- a combination of cash, goods, and services

The NRCS State Conservationist determines if and what goods and services can be used to meet the sponsor's portion. Equipment, materials, and construction quality control are some examples of goods and services, also called "in-kind services," that may qualify.

Sponsors cannot use funds received from a Federal grant as their matching share for EWP recovery measures.

4 Program Requirements

EWP Program assistance may be made available when a watershed emergency exists. A watershed emergency means that a natural event such as a flood, tornado, or wildfire caused a sudden watershed impairment and life and/or property is at risk.

4.1 Program Eligibility

While NRCS will check to see if damaged sites qualify for program assistance, the following definitions can help sponsors get a sense of the program criteria NRCS uses to determine eligibility.

- **Watershed impairment**
A significant natural event suddenly lowered the ability of a watershed to function properly or safely. The damage must be from recent disaster event(s) and not have happened over time, like when typical rainstorms gradually erode a streambank. Also, because an impairment must be sudden and due to a significant event, the impairment cannot be due to a lack of maintenance.
- **Imminent threat**
Another strong natural event in the near future could cause major property damage or threaten human life. The threats may be at the damaged site: upstream or upslope, downstream or downslope. They also might be exigent—an emergency that demands immediate action.
- **Property**
Property is defined as any man-made structure permanently affixed to the land, like houses, buildings, roads, utilities, structures, and dams. Orchards, crops growing, and standing timber are not viewed as property by the EWP Program as they might be eligible for other USDA emergency programs.

As part of the eligibility determination, NRCS must consider some of the limitations of the EWP Program. Those limitations are listed below:

- The same structural practices are limited to two installations within a ten-year period. So, if a structural solution fails twice, the only EWP solution remaining is the purchase of a floodplain easement.
- EWP assistance will not be used to perform maintenance. A sponsor may be asked to provide a structures O&M plan to ensure that EWP work is not in fact maintenance.
- EWP assistance will not be used to repair, rebuild, or maintain private or public transportation facilities, public utilities, or similar facilities.
- NRCS EWP funds will not be provided on any Federal lands if such assistance is found to augment the appropriations of other Federal agencies. For Federal lands, it is the Federal land management department or agency that is responsible for securing funding to undertake emergency repair activities within lands under its control.
- EWP assistance is not available for repair or rehabilitation of nonstructural management practices, such as conservation tillage. This is a clarifying limit to focus EWP on threats to property or human life.

- EWP assistance is not provided to repair coastal erosion to beaches, dunes, and shorelines, including those along the Great Lakes. Remember that the “W” in EWP stands for watershed.
- EWP assistance is not available if the recovery measures are eligible for assistance under the Emergency Conservation Program (ECP) administered by the Farm Service Agency. EWP differs significantly from ECP because a sponsor is required for EWP recovery work. Also, unlike ECP, EWP recovery assistance may not be applied on cropland.

4.2 Eligible EWP Work

NRCS staff will then check each damaged area to try to plan an eligible solution using EWP Program assistance. The answer to all of the following questions must be **Yes** for NRCS to fund an emergency measure at a site:

- Does the proposed solution provide protection from additional flooding or soil erosion?
- Does it reduce threats to life or property from a watershed impairment?
- Does it restore the hydraulic capacity to the natural environment to the maximum extent practical?
- Is it economically and environmentally defensible and technically sound?

Technical Soundness

All engineering work must follow the requirements of the [National Engineering Manual](#). Design work must follow requirements of the NRCS conservation practice standards detailed in Section IV of the [Field Office Technical Guide](#) (FOTG). Construction of the recovery measures must follow specifications found in the [National Engineering Handbook \(NEH\) Part 642](#). All structural engineering designs completed by the sponsors must be signed and sealed by registered Professional Engineer (PE) in the state.

5 Program Process

NRCS and sponsors work together on EWP Program recovery efforts.

When it's safe to visit a damaged site, NRCS gets to work checking the amount of damage. Sponsors may contact the NRCS District Conservationist or State EWP Program Manager and request assistance to assess damage that may be causing a watershed impairment.

Sponsors play an important role in the EWP Program from the point that they request assistance. Sponsors may help to choose and prioritize potential program sites. They share in both the cost and the construction of recovery efforts and are responsible for the operation and maintenance of the completed works.

A general outline of the EWP process and sponsor involvement is shown in the table below:

	EWP PROGRAM PROCESS	SPONSOR ACTIONS
1	A sponsor may submit a request to NRCS for EWP assistance	Contact the local NRCS District Conservationist or State EWP Program Manager to discuss submitting a request
2	NRCS determines whether EWP is applicable and prepares an initial cost estimation and damage survey report (DSR)	Contribute DSR team members
3	Funding (if available) is allocated for implementation of the emergency measures identified in an approved DSR	Prepare forms needed to receive federal assistance
4	Enter into a Project Agreement	In cooperation with NRCS, define the responsibilities and activities to be carried out
5	Design and Construct Recovery Measures	If sponsor is responsible for design and/or construction, complete these activities as assigned in the Project Agreement
6	Request Cost Reimbursement	Follow process in the Project Agreement
7	Perform Operation and Maintenance	If NRCS determines a need for O&M, the sponsor will provide necessary O&M

On the pages that follow is information to help you anticipate events that may happen as part of the EWP Program process. If you have any questions about the information in this guide, please contact your NRCS District Conservationist.

Also, on the pages that follow are links to websites where you can find forms and documents that NRCS may ask you to fill out and send in. More forms, documents, and instructions may also be found in the [Sponsor Resources](#) section of the [NRCS EWP Program](#) website.

5.1 Request Program Assistance

To be considered for EWP Program assistance, a project sponsor must make a formal request for assistance to the NRCS State Conservationist (contact information in Section 1.3).

The request needs to share basic information about the sponsor's organization, the date of the natural disaster event, and details on the location and scope of the problems. It must also tell NRCS that your organization agrees to—

- Contribute your share of project costs.
- Obtain all land rights and permits.
- Perform and cover the costs of any operation and maintenance (O&M).

Finally, the letter must state that your organization will not have enough resources to put in place disaster recovery measures without getting assistance through the EWP Program.

Time limit: 60 days

NRCS can only consider requests for assistance received within 60 days from either the date of the disaster event or the date damaged sites could be safely accessed.

Forms &

Documents: [Sample form letter](#)

Register in SAM

The System for Awards Management (SAM) is a federal procurement database. NRCS can only enter into an EWP Program agreement (see Section 5.4) with sponsors that have an active registration in SAM. If your organization is not already registered in SAM when you request EWP Program assistance, immediately start the process on the [SAM website](#). Also, the sponsor must have an active SAM registration for the duration of the agreement and up through final payment.

5.2 Evaluate Sites and Complete DSRs

When NRCS receives a sponsor's letter asking for assistance, the State Conservationist assigns staff to a Damage Survey Report (DSR) team that reviews and evaluates the damages referenced in the letter. Because sponsors must provide cost share and resources to the recovery effort, they can also help to choose and prioritize possible locations where recovery measures will be installed as part of the EWP Program response. For this reason, NRCS may ask that someone who can represent the sponsor go with the DSR Team on the site visits.

Damage Survey Report

NRCS staff evaluates the sites record what they find during a site visit on a DSR. The DSR contains information about—

- the sponsor
- damaged sites and their eligibility for program assistance
- proposed recovery measures
- the cost of restoration versus its benefit
- environmental and social impacts

The completed DSR will describe the proposed recovery measures, along with an estimate of what it will cost to complete the measures. They consider how recovery measures might affect a community and if property owners and other stakeholders will find the work acceptable. NRCS will emphasize measures that are the most economical and are to be accomplished by using the least damaging practical construction techniques and equipment that retain as much of the existing characteristics of the landscape and habitat as possible.

CPA-52 Environmental Evaluation Worksheet

As part of the site evaluation, NRCS staff take care to account for and estimate the potential impact on the environment of implementing recovery measures. Efforts must be made to avoid or minimize adverse environmental impacts associated with the implementation of emergency measures, to the extent practicable, giving special attention to protecting cultural resources and fish and wildlife habitat. Findings get reported on the CPA-52 Environmental Evaluation Worksheet, which NRCS must complete with each DSR. You can find more information about the CPA-52 Environmental Evaluation Worksheet on the [USDA NRCS Environmental Compliance web page](#).

Time limit: 60 days

For a project to be considered for program funding, the NRCS State Conservationist must submit the DSRs within 60 days from receipt of a sponsor's formal letter of request.

5.3 Funding of Emergency Measures

If national EWP funds are available, funds will be provided to the NRCS State Conservationist for the proposed EWP measures identified in the DSR.

When there is not enough federal money or it is not available, the DSR gets put on a waitlist. When this happens, there is no guarantee that NRCS money will eventually be supplied for the project. So, while a DSR is on the waitlist, NRCS suggests that sponsors do the following:

- Look for other funding.
- Notify NRCS if any part of the project gets done by other means.
- Notify NRCS if conditions change at any sites listed on a DSR.

If the condition at any site gets worse, to the point that the danger is severe, tell your District Conservationist right away.

5.4 Enter into a Project Agreement

Before EWP Program work can begin, the sponsor and NRCS must enter into a project agreement. NRCS cannot reimburse a sponsor for costs on work started before the project agreement gets signed by both parties. The agreement sets up the responsibilities and cost share of both NRCS and a sponsor, and who will complete the design, contract administration, and construction inspection of the emergency's measures.

A project agreement describes the scope of the recovery measures. It explains, in detail, the financial assistance and technical assistance that NRCS will provide. Also, in it are plans for making sure that recovery measures meet a certain level of quality.

NRCS staff help sponsors locate and understand documents that must be turned in with a project agreement. They also create a statement of work and because every project has different needs and resources, statements of work look different.

5.5 Design and Construct Recovery Measures

Sponsors and NRCS work together to put recovery measures in place. If the sponsor is responsible for design, the process starts with a pre-design meeting hosted by the sponsor and attended by technical representatives and engineers. During this meeting, the sponsor and NRCS set design limits and the project schedule. If a sponsor is responsible for design, NRCS can provide technical assistance funding to reimburse a portion of sponsor costs related to project design and construction administration. A sponsor may complete the design and contact work internally or hire a consultant. NRCS will work with the sponsor during the design phase to coordinate any needed reviews and concurrence of the design. If NRCS is responsible for design, NRCS completes the design and construction contracting to implement the project.

Other documents needed to be completed include the plan of operations (for force account agreements) and the quality assurance plan (QAP) as well as an operation and maintenance (O&M) plan.

Plan of Operations

When sponsors agree to supply construction services as part of their cost share, a plan of operations must be developed. In the plan are quantity and cost estimates.

Construction Quality Assurance Plan

The QAP lays out details like when and how often testing and inspections happen as well as who must complete these tasks. Also listed in the QAP are critical milestones when more testing and inspections need to happen.

Operation and Maintenance Plan

The O&M plan defines what actions the sponsor will do to ensure the EWP recovery measures function as designed once construction is complete. Items may include mowing, reseeding vegetation, removing sediment, reshaping earth fill, replacing rock riprap, and so on.

During the design and construction phases, project sponsors may have to—

- Get any necessary real property rights, water rights, and regulatory permits.
- Request contractor bids.
- Manage and pay on construction contracts.
- Keep documentation of construction and technical service costs.
- Inspect constructed recovery measures.

NRCS staff also inspects implemented recovery measures to make sure they meet approved plans and specifications, are stable, and can survive another major natural event.

An EWP Program project is thought of as complete when all tasks and inspections are done and have been accepted by NRCS.

Time limit: 220 days (10 days for exigent situations where the threat is immediate)

Construction of recovery measures must be done within 220 calendar days (10 days for exigencies) from the day that program funds are allocated to the NRCS State Conservationist for the recovery measures.

Forms &

Documents: Listed here are some forms and documents often referenced and used during the design and construction of recovery measures.

- [FOTG Conservation Practice Standards](#)
- [QAP template – Structural Work](#)
- [QAP template – Debris Removal](#)
- [QAP template – Typical Inspection](#)
- [O&M plan sample](#)

5.6 Request Reimbursement of Costs

Once there is a signed agreement, any work items that are completed and approved by NRCS can be submitted for reimbursement if they are the responsibility of the sponsor. Sponsors do not have to wait until a project is complete to request reimbursement of their eligible costs and expenses. Sponsors can submit reimbursement requests as often as each month. Once NRCS approves a request, payment is made by electronic funds, usually within 14 days.

To help make the reimbursement of construction costs go smoothly, sponsors can save and submit supporting documentation that provides as much detail as possible. Listed here are some documents commonly required. Note that NRCS may request additional documentation not shown on this list.

Construction reimbursement:

- Construction invoices
- Contractor proof of payment (showing items and quantities installed)
- Certification by the engineer of record
- Other: quantity calculations, rock weight tickets, etc.

In-kind construction reimbursement:

- Employee timesheets (including hourly rate)
- Equipment operation logs (including type, dates, hourly rate, time in operation)
- Other: material type, quality, quantities

Technical and administrative service reimbursement:

- Consultant invoices
- Proof of payment
- Employee timesheets (including hourly rate)

Time limit: 90 days

Sponsors must submit final requests for reimbursement within 90 calendar days from when the EWP agreement ends.

Forms &

Documents: [SF-270 Request for Advance or Reimbursement](#)

5.7 Perform Operation and Maintenance

Sponsors are required to make sure that a recovery measure continues to function as designed. They do so by carrying out O&M tasks on structural recovery measures put in place. Sponsors are responsible for O&M costs.

The need for an O&M agreement will be determined by the NRCS State Conservationist on non-Federal lands. For Federal lands, the Federal agency is responsible for operating and maintaining emergency measures.

O&M tasks get defined in the O&M plan during the design. A sponsor's O&M responsibilities begin when construction is completed and extend for the duration of the time required for the emergency measure to serve the purpose for which it is installed. NRCS monitors any recovery measures put in place and communicates any concerns to project sponsors.

6 Program Forms and Documents

Sponsors are required to complete and submit specific forms and documents throughout the EWP Program process. Some have already been mentioned in previous sections of this guide. Those mentioned and additional forms and documents that you can expect to submit are listed, linked to, and described here.

[ADS-78 Real Property Assurances](#) (federal contract only)

This USDA NRCS form is used by a sponsor to provide assurances to NRCS regarding real property rights. The form must be completed and submitted prior to the implementation of recovery measures funded through EWP Program financial assistance.

[Attorney's Title of Opinion Form Letter](#) (federal contract only)

The attorney's title of opinion form letter certifies that the sponsor has adequate title, right, permission, and authority over the property on which EWP Program recovery measures will be implemented.

[Certification of Lobbying](#)

This document certifies that a sponsor has not been involved in lobbying activities that may have influenced or resulted in the award of EWP Program assistance.

[Quality Assurance Plan Templates](#)

A quality assurance plan (QAP) outlines the responsibilities of a sponsor to ensure that recovery measures are installed in accordance with project plans and specifications. QAPs identify all the individuals who will perform various quality assurance tasks. QAPs outline the frequency and timing of inspections and designate items of work that require continuous inspection versus intermittent or periodic inspection. Sponsors can use the following templates for completing QAPs.

- [QAP template – Structural Work](#)
- [QAP template – Debris Removal](#)
- [QAP template – Typical Inspection](#)

[Operation and Maintenance \(O&M\) Plan Template](#)

Sponsor tasks related to the operation and maintenance of recovery measures get defined in the O&M plan during the design of a project. The O&M plan identifies items that will require maintenance, cost estimates, the timing of inspections, and the length of time that a sponsor will be required to complete operation and maintenance on recovery measures. Here is a [sample O&M plan](#).

[Request for Assistance Form Letter](#)

Sponsors can use this form letter to submit a formal request for assistance. Using this template will ensure all required elements of a formal request are provided. Remember that NRCS can only consider requests for assistance received within 60 days from either the date of the disaster event or the date damaged sites can be safely accessed.

SF-424 Forms

To receive EWP Program assistance the following SF-424 federal forms must be completed by a sponsor:

- SF-424: Application for Federal Assistance
- SF-424C: Budget Information (Construction Programs)
- SF-424D: Assurances (Construction Programs)

Fillable PDFs and instructions can be accessed through the web page link provided.

SF-270 Form Request for Advancement or Reimbursement

Form SF-270 is a federal form used to request reimbursement for eligible costs that a sponsor has already paid to design or implement EWP Program recovery measures. This form must be submitted along with supporting documentation. Sponsors will be paid by electronic funds transfer (EFT) approximately 14 days after NRCS approves the request.

7 Frequently Asked Questions

7.1 Program Eligibility

Q: What damage is commonly eligible for recovery under the EWP Program?

A: Head-cutting gullies, severely eroded stream banks and drainage ditches, wildfire damage, debris in channels, sediment deposits in creeks and drainage ditches, channel stabilization at culverts and bridges, landslides causing a watershed impairment, and so on.

Q: What amount of debris or sediment in a channel would cause a watershed impairment and thus be eligible for removal under the EWP Program?

A: While channel blockages are site-specific, if debris or sediment blocks more than 25 percent of the cross-sectional area, it is likely to pose a threat.

Q: What is an example of a landslide threat that is eligible for program assistance?

A: A hillside adjacent to a road experiences a slope failure during a storm event. The slide has filled a major channel or large ditch and is causing severe flooding onto the road. Removal of the slide material and stabilization of the site may qualify for program assistance.

7.2 Program Limitations

Q: What types of damage are not eligible for program assistance?

A: Pre-existing damage or damage resulting from regular storm events is not eligible for program assistance. Other program limitations include damage—

- that threatens farmland, woodland, or pastureland only
- to beaches, dunes, or shorelines
- to structures installed by other federal agencies, such as canals and drainage channels built by the USACE

Q: Can program assistance be used to repair infrastructure (e.g., roads, bridges, etc.)?

A: Program assistance can be used to relieve a threat to infrastructure, not repair infrastructure.

Q: Can program assistance be used to construct a new channel to provide the drainage necessary for protection from flooding that creates a threat to life and property?

A: NRCS will only provide assistance for measures that restore the hydraulic capacity to the natural environment to the maximum extent practical.

7.3 Program Process

Q: Which sites must have a site-specific O&M plan?

A: The need for an O&M agreement will be determined by the NRCS State Conservationist. Most structural work will require an O&M plan. Some non-structural work, like debris removal, may not require an O&M agreement.

Q: How neat and detailed do construction drawings need to be?

A: The amount of detail should be commensurate with the complexity of the site. There should be enough detail for NRCS to determine if the construction meets the program's intent and for a contractor to perform the construction.

Q: Do all engineering plans need to have a professional engineer (PE) seal?

A: Yes, except for sites where only debris removal is occurring. Further, NRCS engineers review all engineering plans and specifications and must concur with the recovery measures.

Q: Who performs the final inspections of implemented recovery measures?

A: This depends on who is responsible for the construction phase. When the sponsors are responsible for construction, NRCS will confirm that they align with previously concurred plans. If NRCS finds any critical deficiencies, the sponsor must correct them before NRCS can make a final reimbursement.

8 Document Links

- Service Center Locator
<https://offices.sc.egov.usda.gov/locator/app>
- State EWP Program Manager
<https://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/landscape/ewpp/>
- State Conservationist Directory
<https://www.nrcs.usda.gov/wps/portal/nrcs/main/national/contact/states/>
- NRCS EWP Program Managers and Limited Resource Area Counties Map
<https://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/landscape/ewpp/>
- Code of Federal Regulations (CFR): 7 CFR Part 624 and 7 CFR Part 654
<https://www.ecfr.gov/current/title-7/subtitle-B/chapter-VI/subchapter-C/part-624>
<https://www.ecfr.gov/current/title-7/subtitle-B/chapter-VI/subchapter-F/part-654>
- EWP Program Manual
<https://directives.sc.egov.usda.gov/RollupViewer.aspx?hid=26433>
- National Engineering Manual
<https://directives.sc.egov.usda.gov/OpenNonWebContent.aspx?content=43502.wba>
- Field Office Technical Guide
<https://efotg.sc.egov.usda.gov/> Conservation Practice Standards in Section IV
- National Engineering Handbook (NEH) Part 642
<https://directives.sc.egov.usda.gov/OpenNonWebContent.aspx?content=37328.wba>
- SAM Website
<https://sam.gov/content/home>
- CPA-52 Environmental Evaluation Worksheet
<https://www.nrcs.usda.gov/resources/guides-and-instructions/nrcs-environmental-evaluation-cpa-52-worksheet-tools-and-training>
- SF-270 Request for Advance or Reimbursement
<https://www.grants.gov/forms/post-award-reporting-forms.html>
- ADS-78 Real Property Assurances
<https://directives.sc.egov.usda.gov/OpenNonWebContent.aspx?content=30969.wba>
- Certification of Lobbying
<https://www2.ed.gov/fund/grant/apply/appforms/ed80-013.pdf>
- SF-424 Forms
<https://www.grants.gov/forms/sf-424-family.html>

**FRANKLIN COUNTY
WEST FREEMAN TOWNSHIP
SNOW REMOVAL AND TREATMENT AGREEMENT**

THIS SNOW REMOVAL AND TREATMENT AGREEMENT (the “Agreement”) is made this ____ day of August, 2024, by and between **Franklin County, Maine**, a governmental corporation organized under the laws of the State of Maine with a mailing address of 140 Main Street, Suite 3, Farmington, Maine 04938 (the “County”) and **Fenwick Construction LLC**, with a mailing address of P.O. Box 182, Kingfield, Maine 04947 (the “Contractor”).

In consideration of the mutual covenants and promises contained herein, the parties hereto agree as follows:

1. Scope of Work. The Contractor is being retained to remove snow from certain roads located in Freeman Townships as listed in *Exhibit A* attached hereto, which is hereby incorporated into this Agreement by reference (the “Roads”). The Contractor is also being retained to apply sand and salt to the Roads when required. The removal of snow and the placement of sand and salt on the Roads shall collectively be referred to herein as the “Services.” The Contractor agrees to provide the Services as herein described between September 30, 2024 and April 30, 2025. Services for additional roads not listed in *Exhibit A* may be provided, upon the same terms and conditions as described in this Agreement, upon mutual agreement of the parties.

2. Start/Continuation of Services. The Contractor shall start to perform the Services at any time when snow or slush has accumulated on the Roads either from actual snowfall or drifting caused by wind to a depth of two (2) inches. The Contractor shall perform the Services continuously until all the Roads are properly cleared of snow; provided, however, after cessation of a storm the Roads shall be kept free of snow that accumulates by cause of drifting. Snow shall be removed to the outside edges of the shoulders of the Roads, or beyond the edges when directed by the County Commissioners or the Road Supervisor. Snowbanks on the outside edges of the shoulders of the Roads shall be “winged back” when directed by the County. In addition, the placement of sand and salt on the Roads shall occur within a reasonable time after such roads have become coated with ice or packed snow. The application of salt and sand shall occur as frequently as may be necessary for the safety of users of the Roads.

3. Equipment; Salt and Sand. The Contractor shall be responsible for the provision of all materials and personnel required to perform the Services consistent with the terms of this Agreement. Such equipment shall include, without limitation, all trucks, plows, and equipment necessary to screen all sand required for the proper performance of the Services. The County shall provide road salt, with any additional road salt necessary for the Contractor to satisfactorily perform to the Services to be provided by the Contractor. The Contractor will provide all sand necessary for satisfactory completion of the Services; provided, however, that the Contractor must screen such sand to a maximum gradation of ½”.

4. Standard of Performance. The Contractor shall perform the Services to the satisfaction of the County, which shall have the right of inspection at all times and whose approval and acceptance of said Services shall be a condition precedent to the County’s remittance of

payments under Paragraph 5 of this Agreement. In the event of a dispute as to the amount, nature, or scope of the Services required by this Agreement, the decision and judgment of the County shall be final and binding.

5. Contract Price; Payment. The County agrees to pay the Contractor the sum of **\$84,125.00** (the "Contract Price") for the Services performed pursuant to this Agreement, payable to Contractor as follows:

- \$16,825.00 payable on or before December 16, 2024;
- \$16,825.00 payable on or before January 20, 2025;
- \$16,825.00 payable on or before February 17, 2025;
- \$16,825.00 payable on or before March 17, 2025; and
- \$16,825.00 payable on or April 30, 2025.

6. Performance Bond. Within fifteen (15) calendar days of the effective date of this Agreement, the Contractor shall furnish the County with a performance bond in the 30 % of the total amount of the Contract Price specified in Paragraph 5 of this Agreement, issued by a bonding company licensed to do business in the state of Maine. No payment of any portion of the Contract Price shall occur unless and until the Contractor has provided proof of a sufficient performance bond, to the satisfaction of the County.

7. Liens. Final payment under this Agreement shall not become due until the Contractor, if required by the County, has delivered to the County a complete release of all liens arising out of the Agreement, or receipts in full in lieu thereof and, if required in either case, an affidavit that so far as it has knowledge or information, the Contractor has secured all releases and receipts for all the labor and materials for which a lien could be filed. However, the Contractor may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the County to indemnify it against any lien. If any lien remains unsatisfied after all payments are made, the Contractor shall refund to the County all monies that the County may be compelled to pay in discharging such a lien, including all costs and reasonable attorney's fees.

8. Insurance. Contractor and its subcontractors (if any) shall obtain and maintain throughout the term of this Agreement, at no expense to the County, the following insurance coverages through an insurance carrier licensed to do business in the State of Maine:

- a. **Commercial General Liability Insurance** in the amount of not less than **\$100,000.00**, combined single limit.
- b. **Automobile Liability Insurance** in the amount of **\$100,000.00**, combined single limit.
- c. **Workers' Compensation Insurance** in the amounts required by Maine law or evidence of exemption therefrom and **Employers' Liability Insurance**, as necessary and required by Maine law. In case any class of the Contractor's employees are engaged in hazardous work under this Agreement and not protected by the Maine Workers' Compensation Act,

the Contractor shall provide for the protection of its employees not otherwise protected.

All insurance policies shall name the County and its officers, agents, and employees, as additional insureds, except for purposes of Workers' Compensation Insurance, in which case the Contractor and its subcontractors may instead provide a written waiver of subrogation rights against the County. Prior to the commencement of the Services, the Contractor (and any subcontractors) shall deliver satisfactory certificates of insurance to the County. The Contractor must also provide written notice to the County at least 10 days prior to the cancellation, non-renewal, material modification, or expiration of any policies, and replacement certificates shall be delivered to the County immediately.

The Contractor shall not commence performing the Services until it has obtained all insurance coverages required under this paragraph and all insurance policies have been approved by the County.

9. Independent Contractor. The parties agree that the Contractor, and its agents and employees, during the performance of this Agreement, shall act in an independent capacity as independent contractors or the agents or employees of an independent contractor, and not as officers, employees or agents of the County. The Contractor shall employ any personnel needed to fulfill the obligations of this Agreement and shall be solely responsible for complying with applicable federal, state and local laws, ordinances, rules and regulations, including but not limited to worker's compensation law, employment security law and minimum wage law.

10. Breach. If the Contractor fails to perform the Services as described in this Agreement, such failure shall constitute a breach of this Agreement. In the event of such a breach, the County Commissioners or their designee shall immediately give verbal notice to the Contractor and order it to perform the Services within a reasonable period of time. If the Contractor fails or refuses to perform the Services within the time specified by the County, the County shall have the following remedies, in addition to any other remedies available at law or equity:

a. The County may verbally terminate the Agreement with immediate effect, provided that such verbal termination shall be followed with a written notice of termination within five (5) business days;

b. The County may hire a substitute contractor to perform the Services for the remainder of the Contract Term;

c. The County may deduct and withhold any amount due to the Contractor for prior Services performed and apply that amount to any cost incurred by the County as a result of termination or substitution.

11. Measure of Damages. In the case of either termination, substitution, or both, the Contractor shall reimburse the County for all reasonable expenses incurred in completing the Contractor's obligations and duties under this Agreement, plus any incidental and consequential damages suffered by the County as a result of the breach and the substitution or termination,

including but not limited to any attorney's fees incurred by the County in enforcing this Agreement. Provision for such compensation from the Contractor to the County shall be an express condition of the bond required by Paragraph 6 of this Agreement.

12. Remedies Cumulative. The rights and remedies provided for in this Agreement are cumulative and the use of one remedy shall not be interpreted to exclude or waive the right to use another.

13. Indemnification. The Contractor shall indemnify and hold harmless the County and its officers, agents, and employees from any and all claims, demands, loss, damages, or expenses of any nature whatsoever, which may be incurred by reason of death or bodily injury to person, injury to property, or any other loss, damage or expense sustained by the Contractor, any person, firm or corporation employed by the Contractor, or any other person involved in the receipt or provision of the Services provided by the Contractor under this Agreement, except for liability for damages referred to above which result from the sole negligence or willful misconduct of the County, its officers, employees, or agents. The Contractor, at its sole expense, cost, and risk, shall defend any and all actions, suits, or other proceedings that may be brought or instituted against the County, its officers, agents, or employees on any such claim, demand, or liability and shall pay or satisfy any judgment that may be rendered against the County or its officers, agents, or employees in any action, suit, or other proceedings as a result thereof. Under no circumstances shall this paragraph be construed to waive or otherwise limit any of the defenses, immunities, or limitations of liability available to the County under the Maine Tort Claims Act, 14 M.R.S. § 8101, *et seq.*, or other applicable law. The provisions of this paragraph shall survive the term of this Agreement indefinitely.

14. Assignment. This Agreement may not be assigned without the prior written consent of the County.

15. Subcontracts. The Contractor shall not sublet any part of this Agreement without the prior written permission of the County. The Contractor agrees that it is fully responsible to the County for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by it.

16. Remedies; Governing Law. Except as otherwise agreed by the parties in writing, all disputes, claims, counterclaims, and other matters arising out of or relating to this Agreement shall be decided by a Maine court of competent jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Maine without regard to its choice of law principles.

17. Severability; Construction. If any provision of this Agreement shall be found invalid or unenforceable, the remainder of this Agreement shall be interpreted so as best to reasonably effect the intent of the parties. If any provision of this Agreement conflicts with any of its exhibits, this Agreement shall control.

18. Entire Agreement. This Agreement, including any exhibits thereto, constitutes the entire understanding and agreement of the parties with respect to its subject matter and supersedes

all prior and contemporaneous agreements or understandings, inducements or conditions, express or implied, written or oral, between the parties.

19. Non-Waiver. The failure to enforce, or successive failures to enforce any provision of this Agreement by either party shall not render the same invalid or impair the right of either party, its successors or assigns, to enforce the same in the event of any subsequent breach.

20. Headings. Section headings in this Agreement are inserted herein for convenience only and are not intended to be used as aids to interpretation and are not binding on the parties.

21. Notices. Any notice, demand, or request with respect to this Agreement shall be in writing and shall be effective only if it is delivered by personal service or mailed, certified mail, return receipt requested, postage prepaid, to the address set forth above. Such communications shall be effective when they are received by the addressee; but if sent by certified mail in the manner set forth above, they shall be effective 3 days after being deposited in the mail. Any party may change its address for such communications by giving notice to the other party in conformity with this section.

22. Term of Contract: Plow seasons of 2024-25 (\$84,125), 2025-26 (\$84,125), 2025-26 (\$84,125).

Notices hereunder shall be addressed as follows:

TO COUNTY: Amy Bernard, County Administrator
Franklin County, Maine
140 Main Street, Suite 3
Farmington, Maine 04938

TO CONTRACTOR: TELLIS FENWICK, JR
PO BOX 182
KINGFIELD MAINE 04947

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first written.

Fenwick Construction:

FRANKLIN COUNTY, MAINE:

Tellis Fenwick Jr
Its Owner, duly authorized

Amy Bernard
Its County Administrator, duly authorized.

**EXHIBIT A:
LIST OF ROADS
WEST FREEMAN TOWNSHIP**

- a. **State Aide #1:** from the Strong Town Line over Foster Hill to the Kingfield Town Line (total of 8.26 miles);
- b. **State Aide #2:** from State Aide #1, at Bradbury Corner, so-called, to the Salem Town Line (total of 1.59 miles);
- c. **State Aide #3:** from State Aide #1 over Gilkey Hill, so-called, to State Aide #3 (total of 1.48 miles);
- d. **State Aide #4:** from State Aide #1 over Baker Hill, so-called, to Salem Town Line (total of 1.46 miles);
- e. **State Aide #5:** from Strong Town Line to Black Brook, so-called (total of .50 miles);
- f. **No. 335, the Baston Road:** from State Aide #3 to Baston Turn, so-called (total of .10 miles);
- g. **No. 339, the Roy Cook Road:** (total of 3.25 miles);
- h. **No. 341:** from the end of State Aide #3, to the Cook Road (total of .92 miles);
- i. **No. 1101, the Freeman Ridge Road:** from the New Portland Town Line to the Bray Place (total of 1.55 miles);
- j. **No. 312, the Dr. Weymouth Road:** from State Aide #1 to the Dr. Weymouth Drive (total of .64 miles)
- k. **No. 330:** from the junction of State Aide #5 up to the Mile Square Extension to the Avon Bus Turn around (total of .70 miles)

**FRANKLIN COUNTY
COUNTY PARKING LOTS
SNOW REMOVAL AND ROAD TREATMENT AGREEMENT**

THIS SNOW REMOVAL AND ROAD TREATMENT AGREEMENT (the “Agreement”) is made this ____ day of August, 2024, by and between **Franklin County, Maine**, a governmental corporation organized under the laws of the State of Maine with a mailing address of 140 Main Street, Suite 3, Farmington, Maine 04938, hereinafter referred to as the “County” and **E.L. Vining & Sons, Inc.**, a Maine Corporation with a mailing address of 523 Town Farm Road, Farmington, Maine, hereinafter referred to as the “Contractor”.

In consideration of the mutual covenants and promises contained herein, the parties hereto agree as follows:

1. Scope of Work. The Contractor is being retained to remove snow from certain parking lots located in the Town of Farmington, Franklin County as listed in *Exhibit A* attached hereto, which is hereby incorporated into this Agreement by reference (the “Parking Lots”). The Contractor is also being retained to apply sand and salt to the Parking Lots as specified in this Agreement. The removal of snow and the placement of sand and salt on the Parking Lots shall be collectively referred to herein as the “Services.” The Contractor agrees to provide the Services as herein described between October 1 and April 30 of the Initial Term and each Renewal Term (if applicable), both as defined below. Services for additional Parking Lots and walkways not listed in *Exhibit A* may be provided, upon the same terms and conditions as described in this Agreement, upon mutual agreement of the parties.

2. Term; Renewal. This Agreement shall have an initial term of one (1) year, running between October 1, 2024 and September 30, 2025 (the “Initial Term”). Unless otherwise terminated by mutual agreement of the parties, or due to the Contractor’s breach of this Agreement pursuant to Paragraph 11, below, the Contractor shall have the option to renew this Agreement for two (2) subsequent terms: October 1, 2025 to September 30, 2026 and October 1, 2026 to September 30, 2027 (each a “Renewal Term”). The Contractor shall provide the County written notice of its intent to renew the Agreement at least sixty (60) days prior to the end of the Initial Term and the first Renewal Term. Failure of the Contractor to provide such notice by the appointed deadline shall result in the termination of the Agreement at the end of the given Term. Unless otherwise agreed by the parties in writing, each Renewal Term shall be on the same terms and conditions as the Initial Term.

3. Start/Continuation of Services. The Contractor shall start to perform the Services at any time when snow or slush has accumulated on the Parking Lots either from actual snowfall or drifting caused by wind to a depth of three (3) inches. The Contractor shall perform the Services continuously until all the Parking Lots are properly cleared of snow; provided, however, after cessation of a storm the Parking Lots shall be kept free of snow that accumulates by cause of drifting. Snow shall be removed from the Church Street Parking Lot within 48 hours after the storm. In addition, the placement of sand and salt on the Parking Lots shall occur within a reasonable time after such Parking Lots have become coated with ice or packed snow. The

application of salt and sand shall occur as frequently as may be necessary for the safety of users of the Parking Lots.

4. Equipment; Salt and Sand. Except as expressly provided for herein, the Contractor shall be responsible for the provision of all materials and personnel required to perform the Services consistent with the terms of this Agreement. Such equipment shall include, without limitation, all trucks, plows, and equipment necessary to screen all sand required for the proper performance of the Services. The Contractor shall provide sand and salt necessary to satisfactorily perform to the Services to be provided, however, that the Contractor must screen such sand to a maximum gradation of ½”.

5. Standard of Performance. The Contractor shall perform the Services to the satisfaction of the County, which shall have the right of inspection at all times and whose approval and acceptance of said Services shall be a condition precedent to the County's remittance of payments under Paragraph 6 of this Agreement. In the event of a dispute as to the amount, nature, or scope of the Services required by this Agreement, the decision and judgment of the County shall be final and binding.

6. Contract Price; Payment. The County agrees to pay the Contractor the sum of **\$22,715.00** (the “Contract Price”) for the Services performed pursuant to this Agreement, payable to Contractor as follows:

- \$4,543.00 payable on or before December 15, 2024;
- \$4,543.00 payable on or before January 15, 2025;
- \$4,543.00 payable on or before February 15, 2025;
- \$4,543.00 payable on or before March 15, 2025; and
- \$4,543.00 payable on or before April 30, 2025.

7. Performance Bond. Within fifteen (15) calendar days of the effective date of this Agreement, the Contractor shall furnish the County with a performance bond in the total amount of the Contract Price specified in Paragraph 6 of this Agreement, issued by a bonding company licensed to do business in the state of Maine. No payment of any portion of the Contract Price shall occur unless and until the Contractor has provided proof of a sufficient performance bond, to the satisfaction of the County. The Contractor shall provide an updated performance bond, meeting the requirements of this Agreement prior to the beginning of each Renewal Term, if applicable.

8. Liens. Final payment for each Term shall not become due until the Contractor, if required by the County, has delivered to the County a complete release of all liens arising out of the Agreement, or receipts in full in lieu thereof and, if required in either case, an affidavit that so far as it has knowledge or information, the Contractor has secured all releases and receipts for all the labor and materials for which a lien could be filed. However, the Contractor may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the County to indemnify it against any lien. If any lien remains unsatisfied after all payments are made, the Contractor shall refund to the County all monies that the County may be compelled to pay in discharging such a lien, including all costs and reasonable attorney's fees.

9. Insurance. Contractor and its subcontractors (if any) shall obtain and maintain throughout the term of this Agreement, at no expense to the County, the following insurance coverages through an insurance carrier licensed to do business in the State of Maine:

- a. **Commercial General Liability Insurance** in the amount of not less than **\$1,000,000.00**, combined single limit.
- b. **Automobile Liability Insurance** in the amount of **\$1,000,000.00**, combined single limit.
- c. **Workers' Compensation Insurance** in the amounts required by Maine law or evidence of exemption therefrom and **Employers' Liability Insurance**, as necessary and required by Maine law. In case any class of the Contractor's employees are engaged in hazardous work under this Agreement and not protected by the Maine Workers' Compensation Act, the Contractor shall provide for the protection of its employees not otherwise protected.

All insurance policies shall name the County and its officers, agents, and employees, as additional insureds, except for purposes of Workers' Compensation Insurance, in which case the Contractor and its subcontractors may instead provide a written waiver of subrogation rights against the County. Prior to the commencement of the Services, the Contractor (and any subcontractors) shall deliver satisfactory certificates of insurance to the County. The Contractor must also provide written notice to the County at least 10 days prior to the cancellation, non-renewal, material modification, or expiration of any policies, and replacement certificates shall be delivered to the County immediately.

The Contractor shall not commence performing the Services until it has obtained all insurance coverages required under this paragraph and all insurance policies have been approved by the County.

10. Independent Contractor. The parties agree that the Contractor, and its agents and employees, during the performance of this Agreement, shall act in an independent capacity as independent contractors or the agents or employees of an independent contractor, and not as officers, employees or agents of the County. The Contractor shall employ any personnel needed to fulfill the obligations of this Agreement and shall be solely responsible for complying with applicable federal, state and local laws, ordinances, rules and regulations, including but not limited to worker's compensation law, employment security law and minimum wage law.

11. Breach. If the Contractor fails to perform the Services as described in this Agreement, such failure shall constitute a breach of this Agreement. In the event of such a breach, the County Commissioners or their designee shall immediately give verbal notice to the Contractor and order it to perform the Services within a reasonable period of time. If the Contractor fails or refuses to perform the Services within the time specified by the County, the County shall have the following remedies, in addition to any other remedies available at law or equity:

a. The County may verbally terminate the Agreement with immediate effect, provided that such verbal termination shall be followed with a written notice of termination within five (5) business days;

b. The County may hire a substitute contractor to perform the Services for the remainder of the Contract Term;

c. The County may deduct and withhold any amount due to the Contractor for prior Services performed and apply that amount to any cost incurred by the County as a result of termination of substitution.

12. Measure of Damages. In the case of either termination, substitution, or both, the Contractor shall reimburse the County for all reasonable expenses incurred in completing the Contractor's obligations and duties under this Agreement, plus any incidental and consequential damages suffered by the County as a result of the breach and the substitution or termination, including but not limited to any attorney's fees incurred by the County in enforcing this Agreement. Provision for such compensation from the Contractor to the County shall be an express condition of the bond required by Paragraph 7 of this Agreement.

13. Remedies Cumulative. The rights and remedies provided for in this Agreement are cumulative and the use of one remedy shall not be interpreted to exclude or waive the right to use another.

14. Indemnification. The Contractor shall indemnify and hold harmless the County and its officers, agents, and employees from any and all claims, demands, loss, damages, or expenses of any nature whatsoever, which may be incurred by reason of death or bodily injury to person, injury to property, or any other loss, damage or expense sustained by the Contractor, any person, firm or corporation employed by the Contractor, or any other person involved in the receipt or provision of the Services provided by the Contractor under this Agreement, except for liability for damages referred to above which result from the sole negligence or willful misconduct of the County, its officers, employees, or agents. The Contractor, at its sole expense, cost, and risk, shall defend any and all actions, suits, or other proceedings that may be brought or instituted against the County, its officers, agents, or employees on any such claim, demand, or liability and shall pay or satisfy any judgment that may be rendered against the County or its officers, agents, or employees in any action, suit, or other proceedings as a result thereof. Under no circumstances shall this paragraph be construed to waive or otherwise limit any of the defenses, immunities, or limitations of liability available to the County under the Maine Tort Claims Act, 14 M.R.S. § 8101, *et seq.*, or other applicable law. The provisions of this paragraph shall survive the term of this Agreement indefinitely.

15. Assignment. This Agreement may not be assigned without the prior written consent of the County.

16. Subcontracts. The Contractor shall not sublet any part of this Agreement without the prior written permission of the County. The Contractor agrees that it is fully responsible to the

County for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by it.

17. Remedies; Governing Law. Except as otherwise agreed by the parties in writing, all disputes, claims, counterclaims, and other matters arising out of or relating to this Agreement shall be decided by a Maine court of competent jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Maine without regard to its choice of law principles.

18. Severability; Construction. If any provision of this Agreement shall be found invalid or unenforceable, the remainder of this Agreement shall be interpreted so as best to reasonably effect the intent of the parties. If any provision of this Agreement conflicts with any of its exhibits, this Agreement shall control.

19. Entire Agreement. This Agreement, including any exhibits thereto, constitutes the entire understanding and agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous agreements or understandings, inducements or conditions, express or implied, written or oral, between the parties.

20. Non-Waiver. The failure to enforce, or successive failures to enforce any provision of this Agreement by either party shall not render the same invalid or impair the right of either party, its successors or assigns, to enforce the same in the event of any subsequent breach.

21. Headings. Section headings in this Agreement are inserted herein for convenience only and are not intended to be used as aids to interpretation and are not binding on the parties.

22. Notices. Any notice, demand, or request with respect to this Agreement shall be in writing and shall be effective only if it is delivered by personal service or mailed, certified mail, return receipt requested, postage prepaid, to the address set forth above. Such communications shall be effective when they are received by the addressee; but if sent by certified mail in the manner set forth above, they shall be effective 3 days after being deposited in the mail. Any party may change its address for such communications by giving notice to the other party in conformity with this section.

Notices hereunder shall be addressed as follows:

TO COUNTY:

Amy Bernard, County Administrator
Franklin County, Maine
140 Main Street, Suite 3
Farmington, ME 04938

TO CONTRACTOR:

E.L. Vining
563 Town Farm Road
Farmington, Maine 04938

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first written.

E.L. Vining

FRANKLIN COUNTY, MAINE:

By: _____
Kevin L. Vining
Its: Owner, duly authorized

By: _____
Amy Bernard
Its: County Administrator,
duly authorized

**EXHIBIT A:
LIST OF PARKING LOTS**

- 1. Church Street, Farmington, Maine Parking Lot (Courthouse)**
- 2. 123 County Way, Farmington, Maine (Sheriff's Department Parking Lots)**