# SERVICE AND CONSTRUCTION

# PATCH HEATERS, CULVERT STEAMERS & PRESSURE WASHERS PREVENTATIVE MAINTENANCE & REPAIR

(NO WIN PROJECT)

# REGION 2

# 2015

# MAINTENANCE & OPERATIONS

# STATE PROJECT

# BIDDING INSTRUCTIONS

1. Use pen and ink to complete all paper bids.

2. As a minimum, the following are to be completed and must be received prior to the time of bid opening:

    a. A copy of the Notice to Contractors
    b. the completed Acknowledgement of Bid Amendments form
    c. the completed Schedule of Items in Appendix A
    d. two (2) copies of the completed and signed Contract Agreement for Transportation Related Work form
    e. The completed Contractor Information Sheet
    f. Any other certifications or Bid requirements listed in the Bid Documents as due by Bid opening

3. Include prices for all items in the Schedule of Items

4. For security and other reasons, all Bid Packages which are mailed or sent express, shall be provided in double (one envelope inside the other) envelopes. The *Inner Envelope* shall have the following information provided on it:

    Bid Enclosed - Do Not Open
    Title:
    Town or Region:
    Date of Bid Opening:
    Name of Contractor with mailing address and telephone number:

    In Addition to the usual address information, the *Outer Envelope* should have written or typed on it:

    Double Envelope: Bid Enclosed
    Title:
    Town or Region:
    Date of Bid Opening:
    Name of Contractor:

    Hand-carried Bids may be in one envelope, and should be marked with the following information:

    Bid Enclosed: Do Not Open
    Title:
    Town or Region:
    Name of Contractor:

5. If a paper Bid is to be hand carried, deliver directly to the Reception Desk using the "Public Entrance" which is located on the Capitol Street side of the DOT Headquarters Building in Augusta. http://www.maine.gov/mdot/mainedotdirections.htm. If a paper Bid is to be sent express, "FedEx First Overnight" delivery is suggested as the package is delivered directly to the DOT Headquarters Building, Mailroom, in Augusta located at 24 Child Street in Augusta. Other means, such as U.S. Postal's Service Express Mail has proven not to be reliable. If a paper bid is to be mailed, the mailing address is Maine Department of Transportation, 16 State House Station, Augusta, ME 04333-0016.

6. If you need further information regarding Bid preparation, call the DOT Contracts Section at (207) 624-3410. For complete bidding requirements, refer to Section 102 of the Maine Department of Transportation, Standard Specification, November 2014 Edition.

November 05, 2014
Supersedes September 19, 2012

# NOTICE

**The Maine Department of Transportation is attempting to improve the way Bid Amendments/Addendums are handled, and allow for an electronic downloading of bid packages from our website, while continuing to maintain an optional plan holders list.**

**Prospective bidders, subcontractors or suppliers who wish to download a copy of the bid package and receive a courtesy notification of project specific bid amendments must fill out the on-line plan holder registration form and provide an email address to the MDOT Contracts mailbox at: MDOT.contracts@maine.gov. Each bid package will require a separate request.**

**Additionally, interested parties will be responsible for reviewing and retrieving the Bid Amendments from our web site, and acknowledging receipt and incorporating those Bid Amendments in their bids using the Acknowledgement of Bid Amendment Form.**

# NOTICE

Bidders:

Please use the attached "Request for Information" form when submitting questions concerning specific Contracts that have been advertised for Bid, include additional numbered pages as required. RFI's may be faxed to 207-624-3431, submitted electronically through the Departments web page of advertised projects by selecting the RFI tab on the project details page or via e-mail to RFI-Contracts.MDOT@maine.gov.

These are the only allowable mechanisms for answering Project specific questions. Maine DOT will not be bound to any answers to Project specific questions received during the Bidding phase through other processes.

When submitting RFIs by Email please follow the same guidelines as stated on the "Request for Information" form and include the word "RFI" along with the Project name and Identification number in the subject line.

State of Maine
Department of Transportation

**RFI No: _____**

# REQUEST FOR INFORMATION

**Date _____ Time _____**

---

**Information Requested for:**

**WIN(S): _____ Town(s): _____ Bid Date: _____**

**Question(s):_____**

_____

_____

_____

_____

_____

_____

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_____

_____

_____

Request by:

**Company Name**:_____**Phone:(_____)_____**

**Email: _____ Fax: (_____)_____**

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**Complete this form and fax to 207-624-3431, Attn: Project Manager (name listed on the "Notice to Contractors"), or Email questions to RFI-Contracts.MDOT@maine.gov, Please include the word "RFI" along with the Project Name and Identification Number in the Subject line, or electronically by using the RFI Tab located on the Individual Projects Detail page.**

## Vendor Registration

Prospective Bidders must register as a vendor with the Department of Administrative & Financial Services if the vendor is awarded a contract. Vendors will not be able to receive payment without first being registered. Vendors/Contractors will find information and register through the following link –
http://www.maine.gov/purchases/venbid/index.shtml

# CONTRACTOR INFORMATION

**Contractor Name:** _____

**Mailing Address:** _____

**Vendor Customer Number:** _____

**Contact Information (Primary Contact):** _____

**Phone:** _____ **Cell Phone:** _____

**Fax:** _____

**Email:** _____

**Mailing Address (if different from above):** _____

_____

**The company has the following organizational structure:**

☐ **Sole Proprietorship** ☐ **Limited Liability Company**

☐ **Partnership** ☐ **Joint Venture**

☐ **Corporation** ☐ **Other:** _____

_____ _____

**(Date)** **(Signature)**

_____

**(Name and Title Printed)**

# STATE OF MAINE DEPARTMENT OF TRANSPORTATION
# NOTICE TO CONTRACTORS

Sealed Bids addressed to the Maine Department of Transportation, Augusta, Maine 04333 and endorsed on the wrapper "Bids for **Region 2 Patch Heaters, Culvert Steamers & Pressure Washers Preventative Maintenance & Repair"** will be received from contractors at the Reception Desk, Maine DOT Building, Capitol Street, Augusta, Maine, until 11:00 o'clock A.M. (prevailing time) on August 5, 2015 and at that time and place publicly opened and read. Bids will be accepted from all bidders. The lowest responsive bidder must demonstrate successful completion of projects of similar size and scope to be considered for the award of this contract.

Description: Annual Preventative Maintenance and repair services for oil fired burner equipment.

Location: Various locations in the counties of Kennebec, Knox, Sagadahoc, Somerset and Waldo Maine.

Outline of Work: Provide all labor, equipment and applicable tools to perform annual preventative maintenance and perform repair services as needed for patch heaters, culvert steamers, and pressure washers within Region 2, Mid-Coast Maine area.

For general information regarding Bidding and Contracting procedures, contact George Macdougall at (207) 624-3410. Our webpage at http://www.maine.gov/mdot/contractors/ contains a copy of the Schedule of Items, Plan Holders List, written portions of bid amendments, drawings, bid results and an electronic form for RFI submittal. For Project-specific information fax all questions to **Gail Iler** at (207) 624-3431, use electronic RFI form or email questions to RFI-Contracts.MDOT@maine.gov, project name and identification number should be in the subject line. Questions received after 12:00 noon of Friday prior to bid date will not be answered. Bidders shall not contact any other Departmental staff for clarification of Contract provisions, and the Department will not be responsible for any interpretations so obtained. TTY users call Maine Relay 711.

Bid Documents, specifications and bid forms are available at http://www.maine.gov/mdot/contractors/. They may be seen at the Maine DOT Building in Augusta, Maine, and at the Department of Transportation's Regional office in Augusta. They can be obtained at no cost at the Department at 24 Child Street, Augusta, ME, between the hours of 8:00 a.m. to 4:30 p.m., may be requested by telephone at (207) 624-3536 between the hours of 8:00 a.m. to 4:30 p.m., or from Maine Department of Transportation, Attn.: Mailroom, 16 State House Station, Augusta, Maine 04333-0016.

**There will be no bid bonds, performance bonds or payment bond required.**

Each Bid must be made upon blank forms provided by the Department.

This Contract is subject to all applicable State Laws.

All work shall be governed by "State of Maine, Department of Transportation, Standard Specifications, November 2014 Edition", price $10 [$15 by mail], and Standard Details, November 2014 Edition, price $10 [$15 by mail]. They also may be purchased by telephone at (207) 624-3536 between the hours of 8:00 a.m. to 4:30 p.m. Standard Detail updates can be found at http://www.maine.gov/mdot/contractors/publications/ .

The right is hereby reserved to the Maine DOT to reject any or all bids.

Augusta, Maine
July 15, 2015

BRIAN BURNE, HIGHWAY MAINTENANCE ENGINEER
BUREAU OF MAINTENANCE & OPERATIONS

**SPECIAL PROVISION 102.7.3**
**ACKNOWLEDGMENT OF BID AMENDMENTS**

With this form, the Bidder acknowledges its responsibility to check for all Amendments to the Bid Package. For each Project under Advertisement, Amendments are located at http://www.maine.gov/mdot/contractors/ . It is the responsibility of the Bidder to determine if there are Amendments to the Project, to download them, to incorporate them into their Bid Package, and to reference the Amendment number and the date on the form below. The Maine DOT will not post Bid Amendments any later than noon the day before Bid opening without individually notifying all the planholders.

| Amendment Number | Date |
|---|---|
| | |
| | |
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| | |
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| | |
| | |

The Contractor, for itself, its successors and assigns, hereby acknowledges that it has received all of the above referenced Amendments to the Bid Package.

CONTRACTOR

_____ _____
Date Signature of authorized representative

_____
(Name and Title Printed)

CTM: _____
TEDOCS# _____
CSN _____

# MAINE DEPARTMENT OF TRANSPORTATION
# CONTRACT AGREEMENT
# TRANSPORTATION RELATED WORK

This CONTRACT is made on the date last signed below, by and between the State of Maine, acting through and by its Department of Transportation ("Department" or "MaineDOT"), an agency of state government with its principal administrative offices located at Child Street, Augusta, Maine, with a mailing address at 16 State House Station, Augusta, Maine 04333-0016, and _____ **("Contractor")** a corporation or other legal entity organized under the laws of the State of _____, with its principal place of business located at _____, with a mailing address of _____ and a telephone number of _____ .

The Vendor Customer Number of the Contractor is _____.

The following attachments are hereby incorporated into this Contract by reference:

Appendix A – Special Provisions – Specifications of Work to be Performed
Appendix B - Special Provisions for State Funded Transportation Related Maintenance Services

The Department and the Contractor, in consideration of the mutual promises set forth in this Contract ( hereinafter "Contract") hereby agree as follows:

**A. The Work.**

The Contractor agrees to complete all work described in Appendix A – Special Provisions – Specifications of Work to be Performed and under the terms of the Contract for **Patch Heaters , Culvert Steamers & Pressure Washers Preventative Maintenance & Repair** and under the terms of the Contract, in various **towns** in the Counties of **Kennebec, Knox, Lincoln Sagadahoc, Somerset**, and **Waldo,** Maine.

The Contractor shall be responsible for furnishing all supervision, labor, equipment, tools supplies, facilities, permanent materials and temporary materials and services required to perform the Work including quality control, all required documentation at the conclusion of the project, warranting its work and performing all other work indicated in the Contract.

The Department shall have the right to alter the nature and extent of the Work as provided in the Contract; payment to be made as provided in the same.

**B. Time.**

This contract commences on September 2, 2015 or when executed, whichever is latest and expires on **September 1, 2016**. At the Department's discretion and upon mutual agreement with the Contractor, the contract may be extended for time and money, under all the terms of this contract, at bid prices up to three (3) additional 1 year periods.

**C. Price.**

The quantities given in the Schedule of Items in Appendix A of the Bid Package will be used as the basis for determining the original contract amount and the amount of this offer
is_____
**$_____.** The Maine DOT does not guarantee the use of any or all of the Contract amount.

**D. Contract.**

This Contract, which may be amended, modified, or supplemented in writing only, consists of the State of Maine, Department of Transportation, Standard Specifications, November 2014 Edition, Sections 101, 102, 103 and 111, Supplemental Specifications, Special Provisions Contract, Agreement, Appendices and any amendments. It is agreed and understood that this Contract will be governed by the documents listed above.

**E. Certifications.**

1. All of the statements, representations, covenants, and/or certifications required or set forth in the Bid and the Bid Documents, and the Contract are still complete and accurate as of the date of this Agreement.

2. The Contractor knows of no legal, contractual, or financial impediment to entering into this Contract.

3. The person signing below is legally authorized by the Contractor to sign this Contract on behalf of the Contractor and to legally bind the Contractor to the terms of the Contract.

**F. Agreement.**

The undersigned, having carefully examined the site of work, scope of work, Appendices contained herein for transportation-related services, State of Maine, Department of Transportation, Standard Specifications, November 2014 Edition, Sections 101, 102, 103 and 111, Special Provisions, Contract Agreement and Appendices, hereby agrees to supply all the services, materials, tools, equipment and labor to complete the whole of the work in strict accordance with the terms and conditions of this Contract at the prices agreed to in Appendix A.

The Contractor agrees to perform the work required at the prices specified above in accordance with the terms of this Contract and to provide the appropriate insurance.

Contractor also agrees:

First: Contractor agrees to perform extra work, not described in Appendix A, which may be ordered by the Department, and to accept as full compensation the amount determined upon basis as provided in the contract documents.

Second: Contractor understands that Work may commence upon contract execution, unless provided elsewhere in this contract and that Work must be completed within the time limits given in this Contract.

Third: Contractor further agrees to provide insurance as required by this Contract.

Fourth: That this offer shall remain open for 30 calendar days after the date of opening of bids.

Fifth: The Bidder hereby certifies, to the best of its knowledge and belief that: the Bidder has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of competitive bidding in connection with its bid, and its subsequent contract with the Department.

IN WITNESS WHEREOF, the Contractor, for itself, its successors and assigns, hereby executes two duplicate originals of this Contract and thereby binds itself to all covenants, terms, and obligations contained in the Contract Documents.

CONTRACTOR

_____ _____

Date (Signature of Legally Authorized Representative of the Contractor)

_____

(Name and Title Printed)

**G. Award.**

Your offer is hereby accepted. This award consummates the Contract, and the documents referenced herein.

MAINE DEPARTMENT OF TRANSPORTATION

_____ _____

Date By:

_____

(Name and Title Printed)
Bureau of Maintenance & Operations

CTM: _____
TEDOCS# _____
CSN _____

# MAINE DEPARTMENT OF TRANSPORTATION
# CONTRACT AGREEMENT
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The Contractor shall be responsible for furnishing all supervision, labor, equipment, tools supplies, facilities, permanent materials and temporary materials and services required to perform the Work including quality control, all required documentation at the conclusion of the project, warranting its work and performing all other work indicated in the Contract.

The Department shall have the right to alter the nature and extent of the Work as provided in the Contract; payment to be made as provided in the same.

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This contract commences on September 2, 2015 or when executed, whichever is latest and expires on **September 1, 2016**. At the Department's discretion and upon mutual agreement with the Contractor, the contract may be extended for time and money, under all the terms of this contract, at bid prices up to three (3) additional 1 year periods.

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The quantities given in the Schedule of Items in Appendix A of the Bid Package will be used as the basis for determining the original contract amount and the amount of this offer
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3. The person signing below is legally authorized by the Contractor to sign this Contract on behalf of the Contractor and to legally bind the Contractor to the terms of the Contract.

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IN WITNESS WHEREOF, the Contractor, for itself, its successors and assigns, hereby executes two duplicate originals of this Contract and thereby binds itself to all covenants, terms, and obligations contained in the Contract Documents.

CONTRACTOR

_____ _____

Date (Signature of Legally Authorized Representative of the Contractor)

_____

(Name and Title Printed)

**G. Award.**

Your offer is hereby accepted. This award consummates the Contract, and the documents referenced herein.

MAINE DEPARTMENT OF TRANSPORTATION

_____ _____

Date By:

_____

(Name and Title Printed)
Bureau of Maintenance & Operations

CTM: _____
TEDOCS# _____
CSN _____

# MAINE DEPARTMENT OF TRANSPORTATION
# CONTRACT AGREEMENT
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The Vendor Customer Number of the Contractor is **_VC000000000_**.

The following attachments are hereby incorporated into this Contract by reference:

Appendix A – Special Provisions – Specifications of Work to be Performed
Appendix B - Special Provisions for State Funded Transportation Related Maintenance Services

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The Contractor shall be responsible for furnishing all supervision, labor, equipment, tools supplies, facilities, permanent materials and temporary materials and services required to perform the Work including quality control, all required documentation at the conclusion of the project, warranting its work and performing all other work indicated in the Contract.

The Department shall have the right to alter the nature and extent of the Work as provided in the Contract; payment to be made as provided in the same.

SAMPLE

**B. Time.**

This contract commences on September 2, 2015 or when executed, whichever is latest and expires on **September 1, 2016**. At the Department's discretion and upon mutual agreement with the Contractor, the contract may be extended for time and money, under all the terms of this contract, at bid prices up to three (3) additional 1 year periods.

**C. Price.**

The quantities given in the Schedule of Items in Appendix A of the Bid Package will be used as the basis for determining the original contract amount and the amount of this offer
is_____
**$_____.** The Maine DOT does not guarantee the use of any or all of the Contract amount.

**D. Contract.**

This Contract, which may be amended, modified, or supplemented in writing only, consists of the State of Maine, Department of Transportation, Standard Specifications, November 2014 Edition, Sections 101, 102, 103 and 111, Supplemental Specifications, Special Provisions Contract, Agreement, Appendices and any amendments. It is agreed and understood that this Contract will be governed by the documents listed above.

**E. Certifications.**

1. All of the statements, representations, covenants, and/or certifications required or set forth in the Bid and the Bid Documents, and the Contract are still complete and accurate as of the date of this Agreement.

2. The Contractor knows of no legal, contractual, or financial impediment to entering into this Contract.

3. The person signing below is legally authorized by the Contractor to sign this Contract on behalf of the Contractor and to legally bind the Contractor to the terms of the Contract.

SAMPLE

**F. Agreement.**

The undersigned, having carefully examined the site of work, scope of work, Appendices contained herein for transportation-related services, State of Maine, Department of Transportation, Standard Specifications, November 2014 Edition, Sections 101, 102, 103 and 111, Special Provisions, Contract Agreement and Appendices, hereby agrees to supply all the services, materials, tools, equipment and labor to complete the whole of the work in strict accordance with the terms and conditions of this Contract at the prices agreed to in Appendix A.

The Contractor agrees to perform the work required at the prices specified above in accordance with the terms of this Contract and to provide the appropriate insurance.

Contractor also agrees:

First: Contractor agrees to perform extra work, not described in Appendix A, which may be ordered by the Department, and to accept as full compensation the amount determined upon basis as provided in the contract documents.

Second: Contractor understands that Work may commence upon contract execution, unless provided elsewhere in this contract and that Work must be completed within the time limits given in this Contract.

Third: Contractor further agrees to provide insurance as required by this Contract.

Fourth: That this offer shall remain open for 30 calendar days after the date of opening of bids.

Fifth: The Bidder hereby certifies, to the best of its knowledge and belief that: the Bidder has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of competitive bidding in connection with its bid, and its subsequent contract with the Department.

SAMPLE

IN WITNESS WHEREOF, the Contractor, for itself, its successors and assigns, hereby executes two duplicate originals of this Contract and thereby binds itself to all covenants, terms, and obligations contained in the Contract Documents.

CONTRACTOR

**(Date here)** **(Sign here)**

_____ _____

Date (Signature of Legally Authorized Representative of the Contractor)

_____

(Name and Title Printed)

**G. Award.**

Your offer is hereby accepted. This award consummates the Contract, and the documents referenced herein.

MAINE DEPARTMENT OF TRANSPORTATION

_____ _____

Date By:

_____

(Name and Title Printed)
Bureau of Maintenance & Operations

SAMPLE

APPENDIX A
SPECIAL PROVISION
SPECIFICATIONS OF WORK TO BE PERFORMED

Contractor _____

**Bid prices must be quoted as specified on this worksheet. The Department will reject bids if any one of the following occurs:** the Bid is not Delivered to the precise location and by the precise time set forth in the Notice to Contractors or any applicable Bid Amendment, the Bid is not signed by a duly authorized representative of the Bidder, the unit or lump sum price for any required item is not provided or is illegible as determined by the Department, or the Bid contains any conditional or alternate Bidding language. The Bidder will have no opportunity to cure the above Non-curable Bid Defects. For a related provision see Standard Specification, Section 102.11 – Bid Responsiveness

## Bidders are required to Bid all items in Bid.

The basis for award will be the lowest responsive bid as determined by the Department.

**See following pages Appendix A Schedule of Items Worksheets**

**Appendix A Worksheet**
**MaineDOT Region 2** **15-Jun-15**
**Preventive Maintenance and Repair Services for Patch Heaters, Culvert Steamers, and Pressure Washers**

| Physical Address | Unit Type | Contact | Serial | Model | Make | Model Yea | License Plat | Est Qty per Service/Year | Unit Price per Service | Bid Amount = Est Qty X Unit Price |
|---|---|---|---|---|---|---|---|---|---|---|
| **Richmond Maint Lot** | Pressure Washer | Adam Carlton 592-3479 | 274806 | | Alkota | 2014 | N/A | | | |
| Route 138, 4.9 mi. south | Pressure Washer/W Gardiner | | 254100 | | Alkota | 2014 | N/A | | | |
| of Gardiner/Richmond T/L | Culvert Steamer | | 22273 | | Alkota | 2003 | T55-054 | | | |
| at Richmond Corner on | Patch Trailer | | 4S9PD2024AM097610 | | Spaulding | 2010 | T28-088 | | | |
| the east side | | | | | | | | | | |
| 737-2665 | | | | | | | | | | |
| Lump sum annual service cost for items listed at this site | | | | | | | | 1 Service/Year | $ | $ |
| | | | | | | | | | | |
| **Edgecomb Maint Lot** | | | | | | | | | | |
| Rte 1, 0.4 mi. east of the | Pressure Washer | George James 215-0314 | 244219 | | Alkota | 2007 | N/A | | | |
| Wiscasset/Edgecomb T/L | | | | | | | | | | |
| on the north side of the road. | Patch Trailer | | 4S9PD2027AM097620 | | Spaulding | 2010 | T28-090 | | | |
| 882-5512 | | | | | | | | | | |
| | | | | | | | | | | |
| Lump sum annual service cost for items listed at this site | | | | | | | | 1 Service/Year | $ | $ |
| | | | | | | | | | | |
| **Washington Maint Lot** | | | | | | | | | | |
| Rte 17, 0.5 mi. west of the | Pressure Washer | Luke Gould 215-0362 | 249076 | | Alkota | 2008 | N/A | | | |
| Washington/Union T/L on the | Pressure Washer/Randolph | | 226307 | | Alkota | 2005 | N/A | | | |
| east side of the road. | Culvert Steamer | | 97062 | | Aladin | 2006 | T82-109 | | | |
| 845-2387 | Patch Trailer | | 4S9PD2023AM097615 | | Spaulding MFG | 2010 | T28-085 | | | |
| | | | | | | | | | | |
| Lump sum annual service cost for items listed at this site | | | | | | | | 1 Service/Year | $ | $ |
| | | | | | | | | | | |
| **Waldoboro Maint Lot** | | | | | | | | | | |
| Old Rte 1, 0.5 mi west of the | Pressure Washer | Paul Stilphen 441-0796 | 251132 | | Alkota | 2015 | N/A | | | |
| Warren/Waldoboro T/L on | Culvert Steamer | | 494 | | Alkota | 1994 | T55-480 | | | |
| east side of the road. | Patch Trailer | | 4S9PD2029AM097621 | | Spaulding MFG | 2010 | T28-086 | | | |
| 832-5202 | | | | | | | | | | |
| | | | | | | | | | | |
| Lump sum annual service cost for items listed at this site | | | | | | | | 1 Service/Year | $ | $ |
| | | | | | | | | | | |
| **Searsport Maint Lot** | | | | | | | | | | |
| Rte 1, 4.7 mi. east of the | Pressure Washer | | 260733 | | Alkota | 2014 | N/A | | | |
| Belfast/Searsport T/L on | Pressure Washer/Northport | Dan Ward 441-0892 | 274803 | | Alkota | 2015 | N/A | | | |
| left side of the road. | Patch heater | | 4S9PD2128BM097688 | | Spaulding | 2011 | T28-106 | | | |
| 548-6694 | | | | | | | | | | |
| | | | | | | | | | | |
| Lump sum annual service cost for items listed at this site | | | | | | | | 1 Service/Year | $ | $ |

**Appendix A Worksheet**
**MaineDOT Region 2** **15-Jun-15**
**Preventive Maintenance and Repair Services for Patch Heaters, Culvert Steamers, and Pressure Washers**

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| **Knox Maint Lot** Rte 137, 2.4 mi. east of the side of the road. 568-3425 | Pressure Washer | Pat Cronin 592-3061 | 253687 | | Alkota | 2009 | N/A | | | |
| | Patch heater | | 4S9PD212XBM097789 | | Spaulding | 2011 | T28-104 | | | |
| Lump sum annual service cost for items listed at this site | | | | | | | | 1 Service/Year | $ | $ |
| **Fairfield Maint Lot** Rte 201, 0.2 mi. north of the I-95/Rte 201 intersection on the west side of the road. 453-9537 | Pressure Washer | | 250002 | 216AX4X | Alkota | 2009 | N/A | | | |
| | Culvert Steamer | Roland Clement 215-4546 | X157888 | 5305A | Alkota | 1993 | T55-474 | | | |
| | Patch heater | | 4S9PD212XBM097692 | | Spaulding | 2011 | T28-107 | | | |
| Lump sum annual service cost for items listed at this site | | | | | | | | 1 Service/Year | $ | $ |
| **N Augusta Maint Lot** Bogg Rd, 0.2 mi. northeast of jct with Rte 27 and 11 on east side of the road. | Pressure Washer/ Belgrade | | 254099 | | Alkota | 2010 | N/A | | | |
| | Pressure Washer | Tony Pelotte 592-1687 | 251733 | | Alkota | 2009 | N/A | | | |
| | Culvert Steamer | | 167354 | | Alkota | 1994 | T55-482 | | | |
| | Patch heater | | 4SP9D2126BM097690 | | Spaulding | 2011 | T28-105 | | | |
| Lump sum annual service cost for items listed at this site | | | | | | | | 1 Service/Year | $ | $ |
| **Winthrop Maint Lot** Metcalf Rd,0.7 mi. from jct of Metcalf Rd. and Main St.on right side of the road. 377-8117 | Pressure Washer | Terry Fitzgerald 557-5385 | 252236 | | Alkota | 2009 | N/A | | | |
| | Culvert Steamer | | 2B600C-1 | | Kubota | 1993 | T55-477 | | | |
| | Patch Trailer | | 4SPD2025AM097616 | | Spaulding MFG | 2010 | T28-089 | | | |
| Lump sum annual service cost for items listed at this site | | | | | | | | 1 Service/Year | $ | $ |
| **China Maint Lot** Rte 3, 1.2 mi. east of the Vassalboro/China T/L on the west side of the road. 445-2244 | Pressure Washer/Montville | | 260732 | | Alkota | 2014 | N/A | | | |
| | Pressure Washer | Cy Adams 215-3128 | 246401 | | Alkota | 2001 | N/A | | | |
| | Culvert Steamer | | 87856 | Mod #45-530GD | Aaladin | 2004 | T55-937 | | | |
| | Patch Trailer | | 4S9PD2027AM097617 | | Spaulding MFG | 2010 | T28-087 | | | |
| Lump sum annual service cost for items listed at this site | | | | | | | | 1 Service/Year | $ | $ |
| Hourly rate for Repair services during regular business hours as defined in Appendix A | | | | | | | | **Est Hours 60** | $ | $ |
| Parts Allowance for Estimated parts per year - (This item not bid. The value added to total contract value) | | | | | | | | | | **$4,000.00** |
| **TOTAL BID** | | | | | | | | | | $ |

**Propser's Name:** _____ **Signature** _____ **Date:** _____
**(Legally authorized Representative of Proposer)**

Contract Administrator The Contract Administrator for this contract will be:

Maurice Hinkley, Transportation Operations Manager
Maine Department of Transportation
66 Industrial Drive
State House Station 98
Augusta, ME 04333-0016

The Contractor shall contact the Contract Administrator, in order to coordinate the work. The Contractor shall submit invoices to the Contract Administrator as described in this contract.

Contractor Requirements

The Contractor must possess boiler operator license and may be requested to submit copies of license or certificates when required by the State of Maine, or by the Department.

Contract Time

The Contractor will be allowed to commence work on or after the execution date.

Scope and Specifications of Work to be Performed

Work covered by this contract consists of providing all labor and furnishing all equipment, supplies, materials and other applicable tools/items needed to perform the Work

A. PREVENTIVE MAINTENANCE

a. Provide one annual preventive maintenance on units listed in Appendix A Worksheet at the time intervals listed below:

- First year preventive maintenance will be completed before October 15, 2015
- Second year preventive maintenance will be completed between September 1, 2016 and October 15, 2016.
- Third year preventive maintenance will be completed between September 1, 2017 and October 15, 2017

b. Preventive maintenance must be scheduled and coordinated with Contract Administrator for each location listed on the Appendix A worksheet prior to

service. Work to be performed during MaineDOT operating hours. Work scheduled at designated locations must be complete before moving on to the next scheduled area.

c. Annual preventive maintenance to each unit shall include but not limited to the following:

1. All safety devices will be cleaned, overhauled and adjusted as necessary.
2. All burners and heat-chambers will be cleaned and inspected.
3. All controls will be cleaned and calibrated.
4. All electrical connections will be inspected and tightened if required.
5. All corroded components will be cleaned and reported.
6. All units will be started to ensure trouble-free operations.
7. All equipment will be fired, tested and adjusted for maximum efficiency.
8. All burner assemblies will be cleaned and adjusted as specified by the manufacturers' specifications.
9. All filters will be replaced with pleated filters
10. All motors, bearing, valves and other equipment requiring lubrication will be cleaned, lubricated and adjusted.
11. All motors, pumps, fans couplings, seals and mounts will be inspected and adjusted.
12. Belts will be inspected and replaced as required.
13. Defective and inoperative equipment will be identified and reported immediately.
14. Burner nozzle will be replaced with manufacturers recommended size and style at each annual preventative service.

B. REPAIR SERVICE

a. Provide repair services to burner units on equipment listed in Appendix A Worksheet as requested by MaineDOT. Proposal should include hourly rates for performing work in the Region 2 locations. Service hours shall be measured by the actual hours actually performed to the nearest quarter hour. The hourly rates shall be full compensation for performing the work, travel costs, miscellaneous materials and items, and all overhead and incidentals necessary to complete the work. **Hourly rates to begin upon arrival at the location and end with the departure from the facility. Travel time shall not be measured for payment** and will be considered incidental to the hourly rate. Burner unit replacement parts shall be billed on an itemized invoice. Miscellaneous items and materials shall not be billed separately, but shall be considered incidental to related items.

b. Contractor must perform service within one week of call when required by the MaineDOT.

C. Service reports stating date, time, technician's name, work completed, location of unit, unit type and noting any obvious problems or recommendations for repairs will be completed and left on site.

D. Contractor shall update or place service log on each unit and indicate date of service, type of service performed and technician's name.

E. Service and parts needed over and above what is specified in this agreement must be authorized by the MaineDOT prior to any work performance or replacement.

F. Changes made to equipment list will be in writing and additional equipment may be added to various locations. Prices will be agreed upon between the Department and Contractor.

G. Travel to sites, truck costs, disposal fees, miscellaneous materials and items, and all overhead expenses will be considered incidentals and will not be measured for payment.

Method of Measurement and Basis of Payment

The estimated hours for Repair Work in no way guarantees that the MaineDOT will assign Work for any or all of the total amount.

For Repair Work, the Contractor shall be paid by the hour for each accepted hour Work is performed for the Department. All Travel time, including traveling to and from the work site(s) will be considered incidental and shall not be measured for payment. The total amount of hours will be rounded off to the nearest ¼ hour. No truck costs, disposal fees, miscellaneous materials, expenses, mileage, meals, phones nor all overhead expenses will be paid. Accepted quantities will be paid for at hourly rates bid which shall include full compensation for all equipment, labor, materials and incidentals required. Regular hourly rate will be applied to the hours of Monday through Friday from 7 AM to 3:30 PM

For Preventative Maintenance Work, the Department will pay for the accepted quantities of Preventative Maintenance Work at each location at the Contract Lump Sum price, such payment being full compensation for all labor, equipment, materials and incidentals for performing the work identified in this contract including cleaning, calibration, testing, adjusting and all other work required. All Travel time, including traveling to and from the work site(s) will be considered incidental and shall not be measured for payment. No truck costs, disposal fees, miscellaneous materials, expenses, mileage, meals, phones nor all overhead expenses will be paid.

Replacement parts shall be billed on an itemized invoice. Parts will be paid for up to $500 without approval and greater than $500 with approval.

Allowable Work Times

The Contractor shall perform work only during the following times Monday through Friday, 7:00AM through 3:30 PM except for they may not work on holidays as defined in Appendix B unless otherwise directed by the Department.

Changes

The Department may increase or decrease Pay Item quantities from the estimated quantities shown in the Bid Documents, and such increase or decrease shall not be considered Extra Work. Except as expressly provided otherwise in this Contract, the Contractor shall be paid for actual Work authorized and performed at the Unit Prices contained in the Contractor's Bid. The Contractor accepts such payment as full and complete compensation.

Default and Termination

The Contractor is in Default of the Contract if the Contractor:

A. Fails to provide labor, Equipment or Materials specified in the Contract,
B. Fails to perform the Work with sufficient labor, Equipment, or Materials to assure the timely Completion of the Work,
C. Fails to perform Work when specified in the Contract.
D. Performs Defective Work neglects or refuses to repair or correct Unacceptable Work when directed by the Department;
E. Becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency that could affect the Work in any way,
F. Continues to perform Work after the Department directs that Work be stopped,
G. In any other manner, fails to perform the Work in Substantial Conformity with any material provision of the Contract.
H. Fails to obtain prior approval from the Contract Administrator when specified in the contract.
I. Fails to perform Quality Work. If the Department determines that the Contractor should return to the same location, same furnace, to resolve the same original issue within 30 Heating Days then the Work performed was not Quality Work. Heating days will be measured from October 15 through April 15.
J. Fails to submit proper invoices identifying work and unit or does not complete and submit accurate service reports and service logs.

Failure by the Contractor to perform the Work when required or to substantially meet other contractual requirements will result in the following actions:

1st Incident: If the Contractor does not take corrective action within 2 days upon receipt of verbal warning, the Department will issue a written warning.

2nd Incident: The Department will issue a written warning.

3rd Incident: The Department may (A) give written Notice of Default to the Contractor and immediately terminate the Contract by written Notice of Termination, or (B) take prosecution of the Work away from the Contractor without violating the Contract.

If Default occurs, the Department may give written Notice of Default to the Contractor. Failure to give Notice of Default is in no way a waiver by the Department of any provision of the Contract. In this event, the Department may enter into an Agreement with another entity for the Completion of the Work, or use such other methods as in the opinion of the Department are required for the Completion of the intent of the Contract in an acceptable and timely manner. Termination of the Contract or portion thereof shall not relieve the Contractor of its Contractual responsibilities for the Work completed (including warranty obligations), nor shall it relieve the Surety of its obligation for claims arising from the Work or the Contract. The Department will pay for all Accepted items of Work as of the date of Termination at agreed upon prices. The Contractor shall make all Work records available to the Department upon request regarding payment under this Section.

# SPECIAL PROVISIONS
# ADDITIONS AND REVISIONS TO STANDARD SPECIFICATIONS

## SPECIAL PROVISION SECTION 101
## CONTRACT INTERPRETATION

101.2 Definitions Add the following:

MaineDOT The Department of Transportation of the State of Maine, as established by 23 MRSA §4205 et seq. for the administration of Highway, Bridge, and other public Works; acting through the Commissioner and his/her duly authorized representatives.

101.2 Definitions Contract Completion Date Delete the entire section and replace with the following:

"The required completion date of all Work pursuant to the Contract, except warranty work. The Contract Completion Date is usually on the Contract form."

101.2 Definitions Contract Execution Delete the entire section and replace with the following:

"Execution of the Contract by the Commissioner or their authorized agent by signing the Contract form which action, upon written notification to the Contractor, forms a Contract as provided in Section 103.8 - Execution of Contract by Department."

101.2 Definitions Contractor Delete the entire section and replace with the following:

"After the Department has executed the Contract by cosigning the Contract form provided in the Bid Documents, previously signed by the successful bidder, the Successful Bidder in a low Bid process becomes the Contractor. The Contractor will be the single point of responsibility for all Contract obligations to the Department. The Contractor shall be an independent Contractor with respect to the Department and shall not be an employee, agent, or representative of the Department. Alternatively, "Contractor," with a lower case "c," may mean a firm engaged in construction Work.

## SPECIAL PROVISION SECTION 102
## BIDDING

102.6 Bid Guaranty Delete the entire section 102.6.

102.7.1 Location and Time Delete the entire section and replace with the following:

The Bidder must Deliver its Bid and Bid Guaranty in a sealed envelope to the exact location and before the precise time (as determined by the Department) specified in the Notice to Contractors or any applicable Bid Amendment. The sealed envelope must be labeled with the Bidder's name, the Work location, Title, and the words “Bid Enclosed”. As a minimum, the Bidder will submit a Bid Package consisting of the Notice to Contractors, the completed Acknowledgement of Bid Amendments form, the completed Schedule of Items, 2 copies of the completed Contract form, and any other Certifications or Bid Requirements listed in the Bid Book. For a related provision, see Section 102.11 - "Bid Responsiveness".

102.11.2 Curable Bid Defects A. Change “Contract Agreement Offer and Award forms” to Contract form.

## SPECIAL PROVISION SECTION 103
## AWARD AND CONTRACTING

103.5 Award Conditions Replace the first paragraph with the following:

The Apparent Successful Bidder must provide and/or perform all of the items listed in this Section 103.5 within 14 Days of Receipt of the Notice of Intent to Award. Unless indicated otherwise, all items must be Delivered to the Department’s Bureau of Maintenance & Operations.

103.5.1 Performance and Payment Bonds Delete the entire section 103.5.1.

103.5.4 Execution of Contract By Bidder Delete the entire section and replace with the following:

“The properly completed and signed Contract form provided with the Bid constitutes the Bidder’s offer. Once the Department has received the insurance, and any other pre-award items required, the Department will sign and execute the Contract. The point of Contract execution is when the Contractor receives written notice that the contract has been signed by the Department and executed.”

APPENDIX B

April 24, 2015

SPECIAL PROVISIONS
FOR STATE FUNDED TRANSPORTATION RELATED MAINTENANCE WORK

1. **BENEFITS AND DEDUCTIONS** If the Contractor is an individual, the Contractor understands and agrees that he/she is an independent contractor for whom no Federal or State Income Tax will be deducted by the Department, and for whom no retirement benefits, survivor benefit insurance, group life insurance, vacation and sick leave, and similar benefits available to State employees will accrue. The Contractor further understands that annual information returns, as required by the Internal Revenue Code or State of Maine Income Tax Law, will be filed by the State Controller with the Internal Revenue Service and the State of Maine Bureau of Revenue Services, copies of which will be furnished to the Contractor for his/her Income Tax records.

2. **INDEPENDENT CAPACITY** In the performance of this Contract, the parties hereto agree that the Contractor, and any agents and employees of the Contractor shall act in the capacity of an independent contractor and not as officers or employees or agents of the State.

3. **DEPARTMENT'S REPRESENTATIVE** The Contract Administrator shall be the Department's representative during the period of this Contract. The Contract Administrator has authority to curtail Work if necessary to ensure proper execution of the Contract, to take actions needed to assure that the Contractor's Work conforms with the Contract, to decide questions regarding quality and acceptability of Work, to suspend Work, to reject Unacceptable or Unauthorized Work and to refuse to approve Progress and Final Payments until Unacceptable or Unauthorized Work is corrected. The Contract Administrator shall certify to the Department when payments under the Contract are due and the amounts to be paid. He/she shall make decisions on all claims of the Contractor. Unless authorized by the Contract Administrator, other Departmental employees are not authorized to alter or waive the provisions of the Contract or to issue instructions contrary to the Contract.

The Department has the authority to inspect all Materials and every detail of the Work. The Contractor shall provide the Department with safe access to all portions of the Work in Conformity with all applicable OSHA requirements. The Contractor shall furnish the Department with all information and assistance required to make a detailed inspection.

4. **CONTRACT ADMINISTRATOR** All progress reports, correspondence and related submissions from the Contractor shall be submitted to the Department's Project Manager who is designated as the Contract Administrator on behalf of the Department for this Contract, except where specified otherwise in this Contract.

5. **CHANGES IN THE WORK** The Department shall have the right to alter the nature and extent of the Work as provided in the Contract, the Contract Amount being adjusted accordingly. In no event shall Contractor fail or refuse to continue the performance of its obligations under this Contract because of the inability of the parties to agree on an adjustment or adjustments. Any changes to the Contract that affect scope, compensation, time, quality, or other Contract requirements shall be by written Contract Modification, signed by both parties.

6. **SUBCONTRACTS** The Contractor is responsible for assuring that its subcontractors have sufficient skill and experience to perform the pursuant to the Contract. The Contractor is responsible for subcontractors that it employs and for coordinating and managing its subcontractors. The Contractor agrees to indemnify, defend, and hold harmless MaineDOT from and against all claims and causes of action arising out of any act or omission of Contractor's subcontractors, their agents, representatives, and employees. The Contractor agrees to indemnify the MaineDOT and hold it harmless from any claims asserted by, against or on behalf of Contractor's subcontractors. Included in this release is the

Contractor's agreement to waive any claims against MaineDOT to recover losses allegedly suffered by a subcontrator. If Work under this Contract is performed pursuant to subcontracts, the Contractor's obligations are not diminished and the Contractor remains responsible for all Work under the Contract.

7. **SUBLETTING, ASSIGNMENT OR TRANSFER** The Contractor shall not sublet, sell, transfer, assign or otherwise dispose of this Contract or any portion thereof, or of its right, title or interest therein, without written request to and written consent of the Contract Administrator. No subcontracts or transfer of the Contract shall in any case release the Contractor of its liability under this Contract.

8. **EQUAL EMPLOYMENT OPPORTUNITY** During the performance of this Contract, the Contractor agrees as follows:

a. The Contractor shall not discriminate against any employee or applicant for employment relating to this Contract because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation, unless related to a bona fide occupational qualification. The Contractor shall take affirmative action to ensure that applicants are employed and employees are treated during employment, without regard to their race, color, religion, sex, age, national origin, physical or mental disability, or sexual orientation.

   Such action shall include but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of this nondiscrimination clause.

b. The Contractor shall, in all solicitations or advertising for employees placed by or on behalf of the Contractor relating to this Contract, state that all qualified applicants shall receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation.

c. The Contractor shall send to each labor union or representative of the workers with which it has a collective bargaining Contract, or other Contract or understanding, whereby it is furnished with labor for the performance of this Contract a notice to be provided by the contracting agency, advising the said labor union or workers' representative of the Contractor's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The Contractor shall inform the contracting Department's Equal Employment Opportunity Coordinator of any discrimination complaints brought to an external regulatory body (Maine Human Rights Commission, EEOC, Office of Civil Rights) against their agency by any individual as well as any lawsuit regarding alleged discriminatory practice.

e. The Contractor shall comply with all aspects of the Americans with Disabilities Act (ADA) in employment and in the provision of Work to include accessibility and reasonable accommodations for employees and clients.

f. Contractors and subcontractors with contracts in excess of $50,000 shall also pursue in good faith affirmative action programs.

g. The Contractor shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Contract so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

9. **EMPLOYMENT AND PERSONNEL** The Contractor shall not engage any person in the employ of any State Department or Agency in a position that would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. The Contractor shall not engage on a full-time, part-time or other basis pursuant to this Contract any personnel who are or have been at any time during the period of this Contract in the employ of the State of Maine, except regularly retired employees, without the written consent of the Department. Further, the Contractor shall not engage on this project on a full-time, part-time or other basis during the period of this Contract any retired employee of MaineDOT who has not been retired for at least one year without the written consent. The Contractor shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Contract so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

10. **STATE EMPLOYEES NOT TO BENEFIT** No individual employed by the State of Maine at the time this Contract is executed or any time thereafter shall be admitted to any share or part of this Contract or to any benefit that might arise therefrom directly or indirectly that would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. No other individual employed by the State at the time this Contract is executed or at any time thereafter shall be admitted to any share or part of this Contract or to any benefit that might arise therefrom directly or indirectly due to his employment by or financial interest in the Contractor or any affiliate of the Contractor, without the written consent of the Department. The Contractor shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Contract so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

11. **WARRANTY OF NO COLLUSION** The Contractor hereby certifies that it did not, directly or indirectly, enter into any agreement, participate in any collusion or otherwise take any action in restraint of competitive bidding in connection with this Contract. For breach or violation of this warranty, MaineDOT shall have the right to annul this Contract without liability. Further, MaineDOT shall have the right to recover the full amount of such fee, commission, gift, or the value of consideration that may have been transferred by the Contractor in violation of this clause.

12. **RECORDS; ACCESS** The Contractor and its subcontractors shall maintain all books, documents, payrolls, papers, accounting records and information of any type on any medium ("Project Records") that pertain to this Contract for such period as specified under Maine Uniform Accounting and Auditing Practices for Community Agencies (MAAP) rules. Upon request by MaineDOT, the Contractor and its subcontractors shall make Work Records available for inspection and must provide MaineDOT with copies at all reasonable times without cost or liability to MaineDOT.

13. **TERMINATION AND FAILURE TO PERFORM** The Department may terminate this Contract with or without cause upon 7 days written notice. Termination of the contract shall not relieve the Contractor of its contractual responsibilities for the work completed prior to termination (including warranty obligations), nor shall it relieve the Surety of its obligation for claims arising from the Work or the Contract. The Department will pay for all accepted items of Work completed prior to the date of Termination at agreed upon prices.

If for any reason the Contractor is unable to complete the work in an acceptable manner the Department may give written Notice of Default to the Contractor, which will outline the required remedies. Any delay by the Department in providing a written Notice of Default shall in no way constitute a waiver by

the Department of any provision of the Contract. If the Department determines the default is not curable, the notice of default shall also include the date of termination. Termination of the Contract or portion thereof shall not relieve the Contractor of its Contractual responsibilities for the Work completed.

In addition the Department may enter into an Agreement with another entity for the Completion of the Work, or use such other methods as in the opinion of the Department are required for the Completion of the intent of the Contract in an acceptable and timely manner.

14. **GOVERNMENTAL REQUIREMENTS** The Contractor warrants and represents that it will comply with all governmental ordinances, laws and regulations including all applicable laws and regulations of OSHA.

15. **GOVERNING LAW** This Contract shall be governed in all respects by the laws, statutes, and regulations of the United States of America and of the State of Maine. Any legal proceeding against the State regarding this Contract shall be brought in State of Maine administrative or judicial forums. The Contractor consents to personal jurisdiction in the State of Maine.

If, in the performance of this Agreement, there arises a dispute between the Contractor and MaineDOT that cannot be resolved by the parties to the Contract, the parties may agree to submit the dispute to non-binding Alternate Dispute Resolution. All disputes shall be governed by Maine law, and all actions shall be filed in the Kennebec Superior Court, in Augusta Maine.

16. **STATE HELD HARMLESS** The Contractor agrees to indemnify, defend and hold harmless the State, its officers, agents and employees from any and all claims, costs, expenses, injuries, liabilities, losses and damages of every kind and description (hereinafter in this paragraph referred to as "claims") resulting from or arising out of the performance of this Contract by the Contractor, its employees, agents or subcontractors. Claims to which this indemnification applies include, but are not limited to, the following: (i) claims suffered or incurred by any Contractor, subcontractor, materialman, laborer and any other person, firm, corporation or other legal entity providing work, services, materials, equipment or supplies in connection with the performance of this Contract; (ii) claims arising out of a violation or infringement of any proprietary right, copyright, trademark, right of privacy or other right arising out of publication, translation, development, reproduction, delivery, use, or disposition of any data, information or other matter furnished or used in connection with this Contract; (iii) Claims arising out of a libelous or other unlawful matter used or developed in connection with this Contract; (iv) claims suffered or incurred by any person who may be otherwise injured or damaged in the performance of this Contract; and (v) all legal costs and other expenses of defense against any asserted claims to which this indemnification applies. This indemnification does not extend to a claim that results solely and directly from (i) the Department's negligence or unlawful act, or (ii) action by the Contractor taken in reasonable reliance upon an instruction or direction given by an authorized person acting on behalf of the Department in accordance with this Contract.

The Department's employees and other representatives act solely as representatives of the Department when conducting and exercising authority granted to them under the Contract. Such persons have no liability either personally or as Department employees.

17. **NOTICE OF CLAIMS** The Contractor shall give the Contract Administrator immediate notice in writing of any legal action or suit filed related in any way to the Contract or which may affect the performance of duties under the Contract, and prompt notice of any claim made against the Contractor by any subcontractor which may result in litigation related in any way to the Contract or which may affect the performance of duties under the Contract.

18. **INSURANCE** The Contractor shall provide signed, valid, and enforceable certificate(s) of insurance complying with this Section. All insurance must be procured from insurance companies licensed or approved to do business in the State of Maine by the State of Maine, Bureau of Insurance. The Contractor shall pay all premiums and take all other actions necessary to keep required insurances in effect for the duration of the Contract obligations, excluding warranty obligations.

Workers' Compensation For all Work performed by the Contractor and any subcontractor, the Contractor and each subcontractor shall carry Workers' Compensation Insurance or shall qualify as a self-insurer with the State of Maine Workers' Compensation Board in accordance with the requirements of the laws of the State of Maine. If maritime exposures exist, coverage shall include United States Long Shore and Harbor Workers coverage.

Commercial General Liability With respect to all Work performed by the Contractor and any subcontractors, the Contractor and any subcontractors shall carry commercial general liability insurance in an amount not less than $400,000.00 per occurrence and $2,000,000.00 in the Aggregate. The coverage must include products, completed operations, and Contractual liability coverages. The Contractual liability insurance shall cover the Contractor's obligations to indemnify the Department as provided in this Contract. The coverage shall also include protection against damage claims due to use of explosives, collapse, and underground coverage if the Work involves such exposures. The Department shall be named as additional insured on the Commercial General Liability insurance policies carried by the Contractor that are applicable to the Work.

Automobile Liability The Contractor shall carry Automobile Liability Insurance covering the operation of all motor vehicles including any that are rented, leased, borrowed, or otherwise used in connection with the Project. The minimum limit of liability under this Section shall be $400,000.00 per occurrence.

Claims. Each insurance policy shall include a provision requiring the insurer to investigate and defend all named insured's against any and all claims for death, bodily injury or property damage, even if groundless.

19. **SEVERABILITY** The invalidity or unenforceability of any particular provision or part thereof of this Contract shall not affect the remainder of said provision or any other provisions, and this Contract shall be construed in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

20. **INTEGRATION** All terms of this Contract are to be interpreted in such a way as to be consistent at all times. If the Contractor discovers any ambiguity, error, omission, conflict, or discrepancy related to the Contract, the Contractor must notify MaineDOT of the ambiguity or waive claims resulting from any such ambiguity. In the case of ambiguity the following components of the Contract shall control in the following descending order of priority:

Contract Agreement, Transportation Related Maintenance Work
Bid Amendments (most recent to least recent)
Appendix A – Special Provision Specifications of Work to be Performed or Request for Proposals
Appendix B – Special Provisions for State Funded Transportation Related Maintenance Work
Appendix C – Special Provisions
Any remaining appendices in alphabetical order.
Any remaining Special Provisions
The Department's Notice to Contractors and any amendments

21. **FORCE MAJEURE** The Department may, at its discretion, excuse the performance of an obligation by a party under this Contract in the event that performance of that obligation by that party is prevented by an act of God, act of war, riot, fire, explosion, flood or other catastrophe, sabotage, severe shortage of fuel, power or raw materials, change in law, court order, national defense requirement, or strike or labor dispute, provided that any such event and the delay caused thereby is beyond the control of, and could not reasonably be avoided by, that party. The Department may, at its discretion, extend the time period for performance of the obligation excused under this section by the period of the excused delay together with a reasonable period to reinstate compliance with the terms of this Contract.

22. **FURNISHING OF OTHER PROPERTY RIGHTS, LICENSES AND PERMITS** The Contractor shall acquire, at its sole expense, all property rights outside the Project Limits needed for construction staging, yarding, construction, waste disposal, or other Project-related purpose. The Contractor shall also acquire, at its sole expense, all licenses, Permits and other permissions that are necessary or appropriate to perform the Work that are not furnished by the Department.

23. **ALLOWABLE WORK TIMES** Work can be performed at any time except Saturdays, Sundays, Holidays and state government closure days, unless expressly specified otherwise in this Contract. Holidays are defined as New Year's Day, Martin Luther King Day, President's Day, Patriot's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, the Friday after Thanksgiving Day, and Christmas Day. If a Holiday occurs on a Sunday, the following Monday shall be considered a Holiday. If a Holiday occurs on a Saturday, the preceding Friday shall be considered a Holiday. Saturday, Sunday or Holiday work must be approved by the Department. The Contractor is solely responsible for the planning and execution of Work in order to complete the Work within the Contract Time.

24. **SET-OFF RIGHTS** MaineDOT shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, MaineDOT's right to withhold and take possession of monies due to the Contractor under this Contract up to any amounts the Contractor owes to the State of Maine pursuant to this Contract or any other contract, including any contract for a term commencing prior to the term of this Contract, plus any amounts that Contractor owes the State of Maine for any reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. MaineDOT shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Controller.

25. **WORKERS AND EQUIPMENT** The Contractor shall at all times provide all Superintendents, forepersons, laborers, inspectors, Subcontractors, subconsultants, Equipment, Materials, and Incidentals as needed to perform the Work in Conformance within the Contract Time. The Contractor shall provide all safeguards, safety devices, and protective Equipment and take all other action that is necessary to continuously and effectively protect the safety and health of all persons from hazards related to the Work.

Any person employed by the Contractor or by any Subcontractor or any officer or representative or agent of the Subcontractor, who, in the opinion of the Contract Administrator, is intemperate or disorderly, shall be removed immediately by the Contractor or Subcontractor employing such person. The employee shall not be employed again in any portion of the Work without prior approval from the Contract Administrator. Should the Contractor fail to remove such person or persons as required above or fail to furnish suitable and sufficient personnel for the proper prosecution of the Work, the Contract Administrator may suspend the Work by written notice until such orders are complied with.

All persons employed by or through the Contractor, except for registered trainees, shall have sufficient skill and experience to perform the Work properly. The Department may require that the Contractor discharge any such person who the Department determines jeopardizes safety of any person or the Project without cost or liability to the Department. If the Department determines that such person's performance jeopardizes the intent of the Contract otherwise, the Department may, but is not required, to notify the Contractor of such a determination. Such notice, or lack thereof, does not affect the Contractor's duties regarding Workers. Upon Receipt of such notice, the Contractor shall take any action it determines necessary to fulfill its obligations under the Contract.

## 26. **ENVIRONMENTAL REQUIREMENTS**

Temporary Soil Erosion and Water Pollution Control If the Work involves excavation or placement of soil, the Contractor shall stabilize the area on a daily basis and comply with all applicable federal, state, and local laws, rules, regulations, permit requirements and conditions.

Hazardous Materials If the Contractor encounters any condition that indicates the presence of uncontrolled petroleum or hazardous Materials, the Contractor shall immediately stop Work, notify the Department, treat any such conditions with extreme caution, and secure the area of potential hazard to minimize health risks to Workers and the public, and to prevent additional releases of contaminants into the environment. Such conditions include the presence of barrels, tanks, unexpected odors, discoloration of soil or water, an oily sheen on soil or water, excessively hot earth, smoke, or any other condition indicating uncontrolled petroleum or hazardous Materials. The Contractor shall continue Work in other areas of the Project unless otherwise directed by the Department. The Contractor shall comply with all federal, State, and local laws concerning the handling, storage, treatment, and disposal of uncontrolled petroleum or hazardous Material.

Waste Materials All waste materials shall be disposed of in accordance with all federal, State, and local laws.

Environmental Non-compliance - Remedies and Costs The Contractor shall be in non-compliance if it, or Subcontractors at any tier, fail to comply with the terms of this Contract or any applicable environmental or land use law or regulation including Project specific permit conditions.

If the Contractor is in non-compliance, the Department may, at its discretion:

A. Withhold all Progress Payments, or any portion thereof, during the period the Contractor is in non-compliance;

B. Remedy such non-compliance using State forces or another Contractor and deduct all costs incurred by the Department from Progress Payments. Such costs include direct costs, Project Engineering costs, and Contractor costs from amounts otherwise due the Contractor, and/or

C. Suspend the Work for cause and without cost or liability to the Department. Said suspension shall continue until the Contractor has addressed all non-compliance issues as directed by the Department.

The Contractor shall be responsible for any fines and penalties assessed by environmental or land use regulatory agencies due to such non-compliance. Such penalties may be withheld from amounts otherwise due the Contractor.

27. **QUALITY AND STANDARDS** Materials and manufactured products incorporated into the work shall be new unless otherwise specified, free from defect, and in conformity with the contract. When material is fabricated or treated with another material or where any combination of materials is assembled to form a finished product, any or all of which are covered by specifications, the Department may reject the finished product if any of the components do not comply with the specifications. The Department may reject materials not conforming to the Specifications at any time, and the Contractor shall remove them immediately from the project site unless otherwise instructed by the Department. The Contractor shall not store or use rejected materials on any Department project.

If there is no applicable standard set forth in this contract for particular Work, then the Contractor shall perform that Work in accordance with industry standards prevailing at the time of bid. If the Department determines that Work is non-conforming, the Contractor shall remove, replace, or otherwise correct all unacceptable work as directed by the Department at the expense of the Contractor, without cost or liability to the Department.

28. **WARRANTY PROVISIONS** The Contractor unconditionally warrants and guarantees that the Work will be free from warranty defects for one year or as otherwise specified in this Contract. If the Department discovers any warranty defects during the warranty period, the Contractor agrees to perform all remedial work, at no additional cost or liability to the Department. Remedial Work will be completed within two weeks unless a more immediate response is required for safety or convenience, as determined by the Department.

The Contractor hereby assigns to the Department the right to enforce all manufacturer's warranties or guarantees on all materials, equipment or products purchased for the work that exceed the nature or duration of the warranty obligations assumed by the Contractor under this Contract.

The Contractor agrees that the warranty obligations provided by this Contract shall be reported as an outstanding obligation in the event of bankruptcy, dissolution, or the sale, merger, or cessation of operations of the Contractor.

29. **PAYMENT** The Contractor shall submit an itemized invoice to the Department for Work monthly, at the completion of the Work or as otherwise noted in the Contract documents for approval and payment. At a minimum, invoices shall include the following information:

Contractor name, address & Contract Number
Invoice Date & Number
Dates of Work
Description and Location of Work
Quantities at the Prices contained in the Contractor's Bid

The Department will approve complete and correct invoices for accepted Work invoiced at bid prices. Payments to the Contractor shall be full compensation for furnishing all labor, equipment, materials, services, and incidentals used to perform all Work under the Contract in a complete and acceptable manner, and for all risk, loss, damage, or expense of any kind arising from the nature or execution of the Work. The Contractor shall pay all taxes, charges, fees, and allowances. Except as expressly provided otherwise in this Contract, all such taxes, charges, fees, and allowances are Incidental to the Contract. Most items are exempt from Maine sales tax. The Contractor shall Bid in accordance with the Maine statutory exemption from sales tax. The Department may require that the Contractor submit backup documentation including copies of receipts, invoices, and itemized payments to Subcontractors. The Acceptance by the Contractor of the final payment, as evidenced by cashing of the final payment check, constitutes a release to the Department from all claims and liability under the Contract.

The Department may withhold payments claimed by the Contractor on account of:

A. Incomplete, Inaccurate or Incorrect Invoices,
B. Defective Work or non-conforming Work,
C. Damages for Non-conforming, Defective or Unauthorized Work or Equipment,
D. Damage to a third party,
E. Claims filed or reasonable evidence indicating probable filing of claims,
F. Failure of the Contractor to make payments to Subcontractors or for Materials or labor,
G. Regulatory non-compliance or enforcement,
H. Failure to submit Documentation
I. All other causes that the Department reasonably determines negatively affect the State's interest.

30. **RESPONSIBILITY FOR DAMAGE TO WORK** Except for damage to Project caused by Uncontrollable Events, the Contractor shall bear all risk of loss relating to the Work until Final Acceptance, regardless of cause, including completed Work, temporary Structures, and all other items or Materials not yet incorporated into the Work.

The Contractor shall, at its sole expense, rebuild, repair, restore, or replace such damaged Work or otherwise make good any losses that arise from such damage ("rebuilding, etc."). If the Contractor fails to Promptly commence and continue such rebuilding, etc., the Department may, upon 48 hours advance written notice, commence rebuilding, etc. of the damaged property without liability to the Department with its own forces or with Contracted forces and all costs will be deducted from amounts otherwise due the Contractor.

31. **RESPONSIBILITY FOR PROPERTY OF OTHERS** The Contractor shall not enter private property outside the Project Limits without first obtaining permission from the Owners.

The Contractor shall be responsible for all damage to public or private property of any kind resulting from any act, omission, neglect, or misconduct of the Contractor until Final Acceptance. The preceding sentence includes damage to vehicles passing through the Work area.

The Contractor shall, at its sole expense, rebuild, repair, restore, or replace such damaged property or otherwise make any good losses that arise from such damage ("rebuilding, etc."). If the Contractor fails to commence and continue such rebuilding, etc. in a timely manner, the Department may, upon 48 hours advance written notice, commence rebuilding, etc. of the damaged property without liability to the Department with its own forces or with Contracted forces, and all costs will be deducted from amounts otherwise due the Contractor.

32. **NOTICE REQUIRED** When the Contractor becomes aware of facts or circumstances that may cause the Contractor to seek additional compensation, time, or any other change in Contract requirements ("Issue"), then the Contractor shall notify the Contract Administrator within 48 hours and before commencing any part of the Work relating to the Issue. The notice must describe the basic nature and extent of the Issue.

The written notice or confirmation will be known as a "Notice of Issue for Consideration". The Contractor will not be entitled to any additional compensation, time, or any other change to Contract requirements without a timely Notice of Issue for Consideration.

33. **ENTIRE CONTRACT** This document contains the entire Contract of the parties, and neither party shall be bound by any statement or representation not contained herein. No waiver shall be deemed to have been made by any of the parties unless expressed in writing and signed by the waiving party. The parties expressly agree that they shall not assert in any action relating to the Contract that any implied waiver occurred between the parties which is not expressed in writing. The failure of any

party to insist in any one or more instances upon strict performance of any of the terms or provisions of the Contract, or to exercise an option or election under the Contract, shall not be construed as a waiver or relinquishment for the future of such terms, provisions, option or election, but the same shall continue in full force and effect, and no waiver by any party of any one or more of its rights or remedies under the Contract shall be deemed to be a waiver of any prior or subsequent rights or remedy under the Contract or at law.

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33. **ENTIRE CONTRACT** This document contains the entire Contract of the parties, and neither party shall be bound by any statement or representation not contained herein. No waiver shall be deemed to have been made by any of the parties unless expressed in writing and signed by the waiving party. The parties expressly agree that they shall not assert in any action relating to the Contract that any implied waiver occurred between the parties which is not expressed in writing. The failure of any party to insist in any one or more instances upon strict performance of any of the terms or provisions of the Contract, or

to exercise an option or election under the Contract, shall not be construed as a waiver or relinquishment for the future of such terms, provisions, option or election, but the same shall continue in full force and effect, and no waiver by any party of any one or more of its rights or remedies under the Contract shall be deemed to be a waiver of any prior or subsequent rights or remedy under the Contract or at law.