

MA 18P 1912130000000000079
NEW

State of Maine



Master Agreement

Effective Date: 12/30/19

Expiration Date: 12/31/20

Master Agreement Description: Service Body, Enclosed Fiberglass, Brand FX, BFXB 60DLS

Buyer Information

William Allen 207-624-7871 ext. NULL WJE.Allen@maine.gov

Issuer Information

Jessica Norton 207-624-8226 ext. Jessica.h.norton@MAINE.GOV

Requestor Information

Jessica Norton 207-624-8226 ext. Jessica.h.norton@MAINE.GOV

Agreement Reporting Categories

Authorized Departments

Vendor Information

Vendor Line #: 1

Vendor ID

VC1000063218

Vendor Name

MESSER TRUCK EQUIPMENT

Alias/DBA

Vendor Address Information

170 WARREN AVE

WESTBROOK, ME 04092

US

Vendor Contact Information

Jeff Messer
207-854-9751 ext. 202
jeff@messerte.com

Commodity Information

Vendor Line #: 1

Vendor Name: MESSER TRUCK EQUIPMENT

Commodity Line #: 1

Commodity Code: 76507

Commodity Description: Service Body, Enclosed Fiberglass, Brand FX, BFXB 60DLS W/Ca

Commodity Specifications:

Commodity Extended Description: Master Agreement for Enclosed Fiberglass Service Body - Brand FX Model BFXB 60DLS with Canopy allowing MaineDOT and other departments to purchase units on an as needed basis.

Quantity	UOM	Unit Price
0.00000		0.000000
Delivery Days	Free On Board	
0		
Contract Amount	Service Start Date	Service End Date
0.00		
Catalog Name	Discount	
Bodies	0.0000 %	
	Discount Start Date	Discount End Date
	12/30/19	12/31/20

Please see authorized signatures displayed on the next page

Each signatory below represents that the person has the requisite authority to enter into this Contract.
The parties sign and cause this Contract to be executed.

State of Maine - Department of Administrative and Financial Services

DocuSigned by:
 12/30/2019
A4D4AF6018C54FC...

Signature Date

Laurie A. Andre, Director, Procurement Services

Messer Truck Equipment

DocuSigned by:
 12/30/2019
AD2F24A735FB427...

Signature Date

Ted Smith SALES MANAGER

Print Representative Name and Title

RIDERS

<input checked="" type="checkbox"/>	The following riders are hereby incorporated into this Contract and made part of it by reference: (check all that apply)
<input checked="" type="checkbox"/>	Rider A – Scope of Work and/or Specifications
<input checked="" type="checkbox"/>	Rider B – Terms and Conditions
<input type="checkbox"/>	Rider C - Exceptions
<input checked="" type="checkbox"/>	Bid Cover Page and Debarment Form – Appendix A from RFQ
<input checked="" type="checkbox"/>	Municipality Political Subdivision and School District Participation Certification – Appendix D from RFQ
<input checked="" type="checkbox"/>	Price sheet (attach excel spreadsheet to post on website)
<input checked="" type="checkbox"/>	Other – Certifications (Appendix E) and MaineDOT Terms and Conditions (Appendix F) from RFQ

RIDER A
Scope of Work and/or Specifications
MA 191213-079

Commodity: Service Body, Enclosed Fiberglass, Brand FX, BFXB 60DLS W/Canopy

Master Agreement Competitive Bid RFQ: 17D 191025-141

Contract Period: Through December 31, 2020. The State of Maine with vendor approval can opt to issue up to two (2) one (1) year extensions.

Vendor Contact Person: The vendor contact person will help consumers place orders, inquire about orders that have not been delivered, all shipping issues, quality issues and any issues pertaining to the Master Agreement (MA) contract. All orders not submitted through a Delivery Order will be sent through the vendor contact person. The vendor contact person for this MA is:

Name: Ted Smith

Tel: 207-854-9751

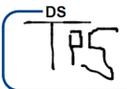
Email: ted@messerte.com

Prices: Prices are with shipping terms of “Free on Board (FOB) – Destination”. The State intends for this to mean that all goods shall be priced to include shipping charges, if any, to the State’s desired location. The “FOB – Destination” shipping term is also intended to mean that the State shall not bear any responsibility for the goods in question until the State takes possession of them at the destination point of delivery.

Quantities: It is understood and agreed that the MA will cover the actual quantities required by the State over the length of the contract.

Ordering Procedures: Delivery Orders (DO) will be created in AdvantageME for all orders over \$5000.00. If a DO is used, the DO will be emailed to the email address referenced on the MA as a .pdf file.

Using Departments: Any State of Maine Department or Agency can use this Master Agreement Contract. The primary using department of this MA is The Department of Transportation.



Municipalities, political subdivisions and school districts may also utilize this MA at the contracted prices, terms and conditions.

Delivery: The vendor is responsible for the delivery of material in first class condition at the point of delivery, and in accordance with good commercial practice.

Appendix B

STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
DIVISION OF PROCUREMENT SERVICES

DETAILED SPECIFICATIONS

RFQ # 17D 191025-141

**Enclosed Fiberglass Service Body - Brand FX Model BFXB 60DLS with
Canopy or Approved Equal
REPOSTED**

Intent: The purpose and intent of this specification is to describe 9 Ft. Enclosed Fiberglass Service Body. (Body shall be designed to be transferable to future chassis) To be mounted on a latest model Ford F-350 with 60" CA dimension, dual rear wheels, 6.2-liter gas engine with automatic transmission. MaineDOT estimates two (2) units during the initial period however the state reserves the right to order more or less as needed (depending on funding) for duration of the Master Agreement. (**Prefer Brand FX Service Body Model BFXB 60DLS with canopy or approved equal**).

Completeness

The price quoted in any proposal submitted shall include all items of labor, materials, and other costs necessary to fully complete the manufacture and delivery of the service body pursuant to these specifications.

Any part or detail which makes the service body complete and ready for service shall not be omitted, even though such part or detail is not mentioned in these specifications.

Conformity

All parts not specified shall be manufacturer's best quality and shall conform in materials, design, or workmanship to the best practice known in the service body industry. All parts shall be new and in no case, will used, reconditioned or obsolete parts be accepted. The parts on all platform/rack body provided by the manufacturer should be interchangeable.

Required Documents: All bids must include the following documents. Bids received without them may be rejected.

- **Appendix A:** Bid Cover Page and Debarment Form (Pages 10-11 of this document)
- **Appendix B:** Completed Specifications Responses (Pages 12-19 of this document)
- **Appendix D:** Municipality Political Subdivision and School District Participation Certification (Page 21 of this document)
- **Appendix E:** Certifications (Pages 22-25 of this document)
- **Appendix F:** MaineDOT Terms and Conditions (Pages 26-31 of this document)
- **Cost Response Sheet, Quote on Company Letterhead**
- **Product Data/Information Sheets**
- **Warranty Information**

INSTRUCTIONS FOR COMPLETING TECHNICAL SPECIFICATION SHEET

Please complete the checklist for technical specifications set forth below.

Electronically enter responses directly into the text-enabled fields next to each specification, including actual dimensions when applicable. Each Bidder must

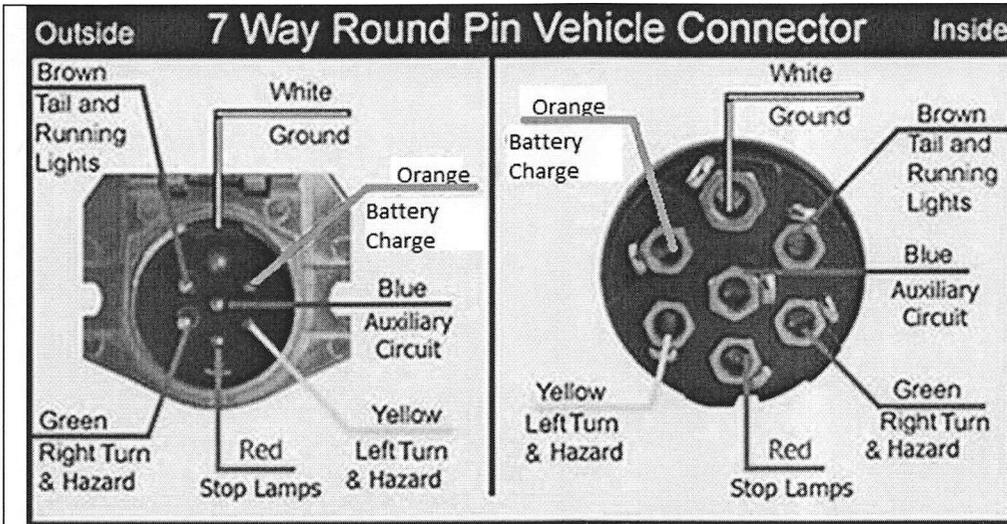
indicate whether it can meet the technical specifications by inserting an “X” next to each specification. The “X” will demonstrate that the Bidder’s offering meets the technical specification. If a Bidder cannot meet a technical specification, then the Bidder must give an explanation for each exception and for equipment that is not available or that will be dealer installed. All explanations must be provided in detail on separate pages along with the justification as to why the alternative equipment or deliverables will be as good as the equipment or deliverables described in the detailed specifications for desired items. A copy of the vendor specification proposal must be provided. Following these instructions is essential for proper bid evaluation.

If a Bidder fails to provide requested information or if information on a quote is found to be false or misleading, the quote will be rejected as unresponsive.

The award will be made on a best value basis to the vendor that either meets or most closely meets the specifications, while taking price and delivery into consideration.

The following abbreviations must be used:		<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center; width: 30%;">X</td> <td style="text-align: center;">Standard or as specified</td> </tr> <tr> <td style="text-align: center;">N/A</td> <td style="text-align: center;">Not Available</td> </tr> <tr> <td style="text-align: center;">DI</td> <td style="text-align: center;">Dealer Installed</td> </tr> <tr> <td style="text-align: center;">AE</td> <td style="text-align: center;">Approved Equal</td> </tr> </table>			X	Standard or as specified	N/A	Not Available	DI	Dealer Installed	AE	Approved Equal
X	Standard or as specified											
N/A	Not Available											
DI	Dealer Installed											
AE	Approved Equal											
	1.0 BODY SHELL	Abbreviation	Actual Dimension	Notes								
1.1	Body shall be fiberglass with aluminum bulkhead.	X										
1.2	Body shall have a one-piece compartment top and back.	X										
1.3	Total body length shall be a minimum of 108 inches.	X										
1.4	Total body width shall be a minimum of 94 inches.	X										
1.5	Total body interior height shall be a minimum of 73 inches.		71” to the outside edges									
1.6	Floor width shall be a minimum of 54 inches.	X										

1.7	Front corner of body shall have stainless steel or aluminum diamond plate to prevent road debris damage to body. Corners need to be rounded to prevent sharp edges.	X		
1.8	Rear mud flaps	X		
1.9	Flow through ventilation system.	X		
1.10	Manufacturer's standard LED light system with adequate supports to wiring to prevent sagging wiring. Must conform to FMVSS-108 Standard.	X		
1.11	All wiring to be enclosed by protective tubing with all connections to be either soldered with shrink tubing or enclosed in watertight junction boxes.	X		
1.12	Each side pack model to be mounted separately to floor and substructure) in the event of damage, one can be removed and repaired or replacement).	X		
1.13	Manufacturer's standard step type bumper with recess and anti-skid surface, bolted securely to truck chassis frame. Minimum twelve 12" treadplate rear tail shelf extension.	X		
1.14	Hitch shall be a class V, rated minimum 16,000 lbs. gross trailer weight, minimum 2 square receiver opening with 7-prong Round pin trailer plug-in (see Wire Diagram below). RV plugs will not be accepted.	X		
1.15	Lights shall be LED and recessed mounted in shock resistant rubber grommets and loom protected wires.	X		
1.16	Rear marker lights (see diagram below)	X		



	2.0 FLOOR & UNDERSTRUCTURE	Abbreviation	Actual Dimension	Notes
2.1	Floor shall be a minimum of 1/8 steel plate with a medium pattern tread plate floor.	X		
2.2	Floor shall have an access plate sized for fuel tank sending unit and pump replacement.	N/A		The manufacturer is not able to build this into the floor. Messer is not able to cut this in either.
2.3	Crossmembers at the front and rear of the body shall be a minimum of 4" high 3/16" formed steel.	X		
2.4	Intermediate and extension crossmembers shall be a minimum of 4" high 10 gauge formed steel.	X		
2.5	Longitudinals shall be a minimum of 3 full-length formed 14-gauge steel "hat" channel.	X		
2.6	Channel reinforcement across the rear of the body shall be a minimum of 12 gauge "hat" channel.	X		
2.7	Complete under side of body shall be full prepped and undercoated with a rock guard material.	X		
2.8	All accessories shall be mounted with stainless steel fasteners. All nuts shall be self-locking Teflon style.	X		

2.9	Steel tread floor.	X		
3.0 CANOPY, DOORS & HINGES				
		Abbreviation	Actual Dimension	Notes
3.1	Rear doors shall be double panel doors, of solid one-piece fiberglass construction.	X		
3.2	Door design shall be recessed for continuous positive contact with the door seal.	X		
3.3	Doors shall incorporate stainless steel rod hinge pins.	X		
3.4	Hinges and latches shall be of heavy-duty stainless steel in design.	X		
3.5	All vertical doors shall have spring loaded door retainers which are easily detachable to allow the door to swing 180°. Shall have a door hold back device for when doors are swung fully opened.	X		
3.6	Horizontal doors shall have heavy-duty coated cable supports which are easily removable to allow the door to drop down.	X		
3.7	All doors shall have an automotive type square-bulb seal in a full perimeter protective channel. Seal shall be unbroken at the striker.	X		
3.8	Body shall have double rear doors, with spring loaded door retainers to hold door open. While easily detachable retainer to allow the door to swing 180°.with a door holder to hold doors secured when fully opened.	X		
3.9	There shall be manufacturer's standard size windows located in rear doors.	X		
3.10	Canopy shall have front window minimum size of 12" x 40".	N/A		The largest window the manufacturer can install is a 10" x 42"
3.11	Canopy shall have a minimum of two LED interior lights.	X		

3.12	Canopy shall be a minimum height of 46".	X		
3.13	All compartments shall have stainless steel latches.	X		Each latch is a silver stainless steel, and the trim around the latch is a black stainless steel.
3.14	Two grab handles positioned just inside rear doors.	X		
3.15	Aluminum Tailskirt	X		
4.0 SHELVING		Abbreviation	Actual Dimension	Notes
4.1	Shelving and compartment partitions shall be removable allowing for the creation of various compartment interior arrangements.	X		
4.2	Four (4) full-length Canopy shelving shall be furnished as standard; 18" between shelves.	X		
4.3	Four (4) full-height compartment partitions shall be furnished as standard.	X		
4.4	Compartment shelving shall be adjustable on 2" centers.	X		
4.5	Compartment shelving shall be made from fiberglass, and slotted for dividers on 2" centers.	X		
4.6	Shelving shall have flex-glow compartment lighting or equivalent.	X		
5.0 PRIME PAINT		Abbreviation	Actual Dimension	Notes
5.1	Body shall be minimum 0.5 mm gel coated CAT Industrial Yellow (DuPont No. 3133 or equivalent).	X		This will be painted by the manufacturer in the color requested
5.2	All compartments and interior shall be painted gray or white: a. Step 1 – Metal Surfaces must be clean and free of any rust deposits. b. Step 2 – Condition metal plates with	X		The interior of each compartment is the natural fiberglass white. The interior of each compartment can

	<p>good grade of metal conditioner.</p> <p>c. Step 3 – Spray prime coat of rust inhibiting, non-sanding primer to a 2-mil dry thickness.</p> <p>d. Step 4 – Spray to a dry thickness of 2-mils with an automotive color coating of DuPont Chroma-One, Sherwin Williams Ultra Single, or approved equal.</p>			be painted by Messer Truck Equipment for an additional fee.
	6.0 WARRANTY	Abbreviation	Actual Dimension	Notes
6.1	Manufacturer's standard warranty will apply.	X		
6.2	Terms and conditions of warranty must be provided with bid proposal.	X		
6.3	Manufacturer's warranty will start with the vehicle in-service date.	X		For the Master Agreement, the manufacturer made an exception to begin at the "in-service" date.
	7.0 GENERAL	Abbreviation	Actual Dimension	Notes
7.1	Bid price to include body, bumper and trailer hitch to fit latest Ford F350 chassis with a 60-inch CA and dual rear wheels. Delivery to Maine DOT Fleet Services, 66 Industrial Drive Augusta, Maine included.	X		
7.2	Option for mounting/install completed body unit bid separately.	X		This can be done. A separate quote would be necessary to exclude labor.
7.3	Backup alarm conforming to SAEJ 994 and OHSA requirements.	X		97 DB
7.4	All components shall be E-Coat priming and corrosion protection.	X		
7.5	All terminals, ground and power shall have anti corrosion spray.	X		This would need to be written into any future spec from the state or a municipality

7.6	Fuel/DEF full hoses shall have hose clamps not wire ties.	X		
7.7	Be it known that these specifications are a minimum and that bids will be evaluated based on price, warranty, manufacturers performance data, delivery schedule, parts availability and other items deemed appropriate.	X		
7.8	Bidders are required to provide sufficient information with their bid such as manufacturer's brochures, etc. and to certify that they have service facilities in Maine, staffed with trained service technicians and stocked with repair parts for the equipment that is bid. Failure to provide this information may cause the bid to be rejected. MainesDOT reserves the right to reject any and all bids.	X		We will stock certain items, latches & door seal. This body from this manufacturer does NOT have a history of needing replacement parts.
7.9	Bidders shall supply a specification sheet with their bid proposals.	X		
7.10	Exceptions to specifications shall be listed on a separate paper and noted as exceptions and submitted with bid proposal. If exceptions are not listed as such it shall be considered that the vendor will comply with all specifications as listed.	X		
7.11	All exterior trailer wiring shall be professionally installed and run in suitable weather resistant loom or conduit (professionally secured). Using Factory trailer harness.	X		
7.12	All wire splices/connectors (if applicable) shall be shrink tube barrel type or soldered and shall be sealed with weather proof automotive type shrink tubing. Scotch lock type (wire piercing) connectors are not acceptable in any application.	X		
7.13	Make	BrandFX		

	Model	BFXB60DLS	
	Price	\$ 22,072.40 each	
	8.0 INSTALLED OPTION PRICING (additional cost items)	Prices	Notes
8.1	Body Painted Color	\$ N/A each	Included in the cost of the body. The paint code listed in 5.1 from Appendix B would be used. A body <u>must</u> go through the paint & gelcoat process while it is being built. It cannot be made as a raw fiberglass body.
8.1	Labor to install complete body, bumper, hitch and delivery.	\$ 2,101.00	

RIDER B
TERMS AND CONDITIONS

- 1. DEFINITIONS:** The following definitions are applicable to these standard terms and conditions:
 - a. The term “Buyer” or “State” shall refer to the Government of the State of Maine or a person representing the Government of the State of Maine.
 - b. The term “Department” or “DAFS” shall refer to the State of Maine Department of Administrative and Financial Services.
 - c. The term “Bureau” or “BGS” shall refer to the State of Maine Bureau of General Services.
 - d. The term “Division” shall refer to the State of Maine Division of Purchases.
 - e. The term “Contractor”, “Vendor”, or “Provider” shall refer to the organization that is providing goods and/or services through the contract to which these standard terms and conditions have been attached and incorporated.
 - f. The term “Contract” or “Agreement” shall refer to the contract document to which these standard terms and conditions apply, taking the format of a Buyer Purchase Order (BPO) or Master Agreement (MA) or other contractual document that is mutually agreed upon between the State and the Contractor.

- 2. WARRANTY:** The Contractor warrants the following:
 - a. That all goods and services to be supplied by it under this Contract are fit and sufficient for the purpose intended, and
 - b. That all goods and services covered by this Contract will conform to the specifications, drawing samples, symbols or other description specified by the Division, and
 - c. That such articles are merchantable, good quality, and free from defects whether patent or latent in material and workmanship, and
 - d. That all workmanship, materials, and articles to be provided are of the best grade and quality, and
 - e. That it has good and clear title to all articles to be supplied by it and the same are free and clear from all liens, encumbrances and security interest.

Neither the final certificate of payment nor any provision herein, nor partial nor entire use of the articles provided shall constitute an acceptance of work not done in accordance with this agreement or relieve the Contractor liability in respect of any warranties or responsibility for faulty material or workmanship. The Contractor shall remedy any defects in the work and pay any damage to other work resulting therefrom, which shall appear within one year from the date of final acceptance of the work provided hereunder. The Division of Purchases shall give written notice of observed defects with reasonable promptness.

3. TAXES: Contractor agrees that, unless otherwise indicated in the order, the prices herein do not include federal, state, or local sales or use tax from which an exemption is available for purposes of this order. Contractor agrees to accept and use tax exemption certificates when supplied by the Division as applicable. In case it shall ever be determined that any tax included in the prices herein was not required to be paid by Contractor, Contractor agrees to notify the Division and to make prompt application for the refund thereof, to take all proper steps to procure the same and when received to pay the same to the Division.

4. PACKING AND SHIPMENT: Deliveries shall be made as specified without charge for boxing, carting, or storage, unless otherwise specified. Articles shall be suitably packed to secure lowest transportation cost and to conform to the requirements of common carriers and any

applicable specifications. Order numbers and symbols must be plainly marked on all invoices, packages, bills of lading, and shipping orders. Bill of lading should accompany each invoice. Count or weight shall be final and conclusive on shipments not accompanied by packing lists.

5. DELIVERY: Delivery should be strictly in accordance with delivery schedule. If Contractor's deliveries fail to meet such schedule, the Division, without limiting its other remedies, may direct expedited routing and the difference between the expedited routing and the order routing costs shall be paid by the Contractor. Articles fabricated beyond the Division's releases are at Contractor's risk. Contractor shall not make material commitments or production arrangements in excess of the amount or in advance of the time necessary to meet delivery schedule, and, unless otherwise specified herein, no deliveries shall be made in advance of the Division's delivery schedule. Neither party shall be liable for excess costs of deliveries or defaults due to the causes beyond its control and without its fault or negligence, provided, however, that when the Contractor has reason to believe that the deliveries will not be made as scheduled, written notice setting forth the cause of the anticipated delay will be given immediately to the Division. If the Contractor's delay or default is caused by the delay or default of a subcontractor, such delay or default shall be excusable only if it arose out of causes beyond the control of both Contractor and subcontractor and without fault of negligence or either of them and the articles or services to be furnished were not obtainable from other sources in sufficient time to permit Contractor to meet the required delivery schedule.

6. FORCE MAJEURE: The State may, at its discretion, excuse the performance of an obligation by a party under this Agreement 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 State 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 Agreement.

7. INSPECTION: All articles and work will be subject to final inspection and approval after delivery, notwithstanding prior payment, it being expressly agreed that payment will not constitute final acceptance. The Division of Purchases, at its option, may either reject any article or work not in conformity with the requirements and terms of this order, or re-work the same at Contractor's expense. The Division may reject the entire shipment where it consists of a quantity of similar articles and sample inspection discloses that ten (10%) percent of the articles inspected are defective, unless Contractor agrees to reimburse the Division for the cost of a complete inspection of the articles included in such shipment. Rejected material may be returned at Contractor's risk and expense at the full invoice price plus applicable incoming transportation charges, if any. No replacement of defective articles of work shall be made unless specified by the Division.

8. INVOICE: The original and duplicate invoices covering each and every shipment made against this order showing Contract number, Vendor number, and other essential particulars, must be forwarded promptly to the ordering agency concerned by the Vendor to whom the order is issued. Delays in receiving invoice and also errors and omissions on statements will be considered just cause for withholding settlement without losing discount privileges. All accounts are to be carried in the name of the agency or institution receiving the goods, and not in the name of the Division of Purchases.

9. ALTERATIONS: The Division reserves the right to increase or decrease all or any portion of the work and the articles required by the bidding documents or this agreement, or to eliminate all or any portion of such work or articles or to change delivery date hereon without invalidating this Agreement. All such alterations shall be in writing. If any such alterations are made, the contract amount or amounts shall be adjusted accordingly. In no event shall Contractor fail or refuse to continue the performance of the work in providing of articles under this Agreement because of the inability of the parties to agree on an adjustment or adjustments.

10. TERMINATION: The Division may terminate the whole or any part of this Agreement in any one of the following circumstances:

- a. The Contractor fails to make delivery of articles, or to perform services within the time or times specified herein, or
- b. If Contractor fails to deliver specified materials or services, or
- c. If Contractor fails to perform any of the provisions of this Agreement, or
- d. If Contractor so fails to make progress as to endanger the performance of this Agreement in accordance with its terms, or
- e. If Contractor is adjudged bankrupt, or if it makes a general assignment for the benefit of its creditors or if a receiver is appointed because of its insolvency, or
- f. Whenever for any reason the State shall determine that such termination is in the best interest of the State to do so.

In the event that the Division terminates this Agreement in whole or in part, pursuant to this paragraph with the exception of 8(f), the Division may procure (articles and services similar to those so terminated) upon such terms and in such manner as the Division deems appropriate, and Contractor shall be liable to the Division for any excess cost of such similar articles or services.

11. NON-APPROPRIATION: Notwithstanding any other provision of this Agreement, if the State does not receive sufficient funds to fund this Agreement and other obligations of the State, if funds are de-appropriated, or if the State does not receive legal authority to expend funds from the Maine State Legislature or Maine courts, then the State is not obligated to make payment under this Agreement.

12. COMPLIANCE WITH APPLICABLE LAWS: Contractor agrees that, in the performance hereof, it will comply with applicable laws, including, but not limited to statutes, rules, regulations or orders of the United States Government or of any state or political subdivision(s) thereof, and the same shall be deemed incorporated herein by reference. Awarding agency requirements and regulations pertaining to copyrights and rights in data. Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers and records of the Contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions. Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed. Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act, (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000). Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

13. INTERPRETATION: This Agreement shall be governed by the laws of the State of Maine as to interpretation and performance.

14. DISPUTES: The Division will decide any and all questions which may arise as to the quality and acceptability of articles provided and installation of such articles, and as to the manner of performance and rate of progress under this Contract. The Division will decide all questions, which may arise as to the interpretation of the terms of this Agreement and the fulfillment of this Agreement on the part of the Contractor.

15. ASSIGNMENT: None of the sums due or to become due nor any of the work to be performed under this order shall be assigned nor shall Contractor subcontract for completed or substantially completed articles called for by this order without the Division's prior written consent. No subcontract or transfer of agreement shall in any case release the Contractor of its obligations and liabilities under this Agreement.

16. STATE HELD HARMLESS: The Contractor agrees to indemnify, defend, and save harmless the State, its officers, agents, and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, material men, laborers and other persons, firm or corporation furnishing or supplying work, services, articles, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Contractor in the performance of this Agreement.

17. SOLICITATION: The Contractor warrants that it has not employed or written any company or person, other than a bona fide employee working solely for the Contractor to solicit or secure this Agreement, and it has not paid, or agreed to pay any company, or person, other than a bona fide employee working solely for the Contractor any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from the award for making this Agreement. For breach or violation of this warranty, the Division shall have the absolute right to annul this agreement or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gifts, or contingent fee.

18. WAIVER: The failure of the Division to insist, in any one or more instances, upon the performance of any of the terms, covenants, or conditions of this order or to exercise any right hereunder, shall not be construed as a waiver or relinquishment of the future performance of any such term, covenant, or condition or the future exercise of such right, but the obligation of Contractor with respect to such future performance shall continue in full force and effect.

19. MATERIAL SAFETY: All manufacturers, importers, suppliers, or distributors of hazardous chemicals doing business in this State must provide a copy of the current Material Safety Data Sheet (MSDS) for any hazardous chemical to their direct purchasers of that chemical.

20. COMPETITION: By accepting this Contract, Contractor agrees that no collusion or other restraint of free competitive bidding, either directly or indirectly, has occurred in connection with this award by the Division of Purchases.

21. INTEGRATION: All terms of this Contract are to be interpreted in such a way as to be consistent at all times with this Standard Terms and Conditions document, and this document shall take precedence over any other terms, conditions, or provisions incorporated into the Contract.

Appendix A

**STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
DIVISION OF PROCUREMENT SERVICES**

BID COVER PAGE and DEBARMENT FORM

Bidder's Organization Name: MESSER TRUCK EQUIPMENT		
Chief Executive - Name/Title: JEFFREY W. MESSER		
Tel: 207-854-9751	Fax: 207-854-8042	E-mail: jeff@messerte.com
Headquarters Street Address: 170 WARREN AVENUE		
Headquarters City/State/Zip: WESTBROOK, ME 04092		
<i>(provide information requested below if different from above)</i>		
Lead Point of Contact for Bid - Name/Title: TED P SMITH		
Tel: 207-854-9751	Fax: 207-854-8042	E-mail: ted@messerte.com
Street Address: 170 WARREN AVENUE		
City/State/Zip: WESTBROOK, ME 04092		

By signing below Bidder affirms:

- Their bid complies with all requirements of this RFQ;
- This bid and the pricing structure contained herein will remain firm for a period of 180 days from the date and time of the bid opening;
- That no personnel currently employed by the Department or any other State agency participated, either directly or indirectly, in any activities relating to the preparation of the Bidder's proposal;
- That no attempt has been made or will be made by the Bidder to induce any other person or firm to submit or not to submit a proposal; and
- The undersigned is authorized to enter into contractual obligations on behalf of the above-named organization.

Name: TED P. SMITH	Title: SALES MANAGER
To have your bid accepted, this Appendix MUST have an actual wet signature or utilize Docu Sign or Adobe Sign forms of electronic signature.	
Authorized Signature: 	Date: 11-22-2019

Debarment, Performance, and Non-Collusion Certification

By signing this document, I certify to the best of my knowledge and belief that the aforementioned organization, its principals, and any subcontractors named in this proposal:

- a. Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from bidding or working on contracts issued by any governmental agency.*
- b. Have not within three years of submitting the proposal for this contract been convicted of or had a civil judgment rendered against them for:

 - i. fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state or local government transaction or contract.*
 - ii. violating Federal or State antitrust statutes or committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;*
 - iii. are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and*
 - iv. have not within a three (3) year period preceding this proposal had one or more federal, state or local government transactions terminated for cause or default.**
- c. Have not entered into a prior understanding, agreement, or connection with any corporation, firm, or person submitting a response for the same materials, supplies, equipment, or services and this proposal is in all respects fair and without collusion or fraud. The above-mentioned entities understand and agree that collusive bidding is a violation of state and federal law and can result in fines, prison sentences, and civil damage awards.*

- Failure to provide this certification may result in the disqualification of the Bidder’s proposal, at the discretion of the Department.**

To the best of my knowledge all information provided in the enclosed proposal, both programmatic and financial, is complete and accurate at the time of submission.

Name: TED P. SMITH	Title: SALES MANAGER
To have your bid accepted, this Appendix MUST have an actual wet signature or utilize Docu Sign or Adobe Sign forms of electronic signature.	
Authorized Signature: 	Date: 11-22-2019

Appendix D

STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
DIVISION OF PROCUREMENT SERVICES

MUNICIPALITY POLITICAL SUBDIVISION and SCHOOL DISTRICT PARTICIPATION
CERTIFICATION

RFQ # 17D 191025-141

**Enclosed Fiberglass Service Body - Brand FX Model BFXB 60DLS with
Canopy or Approved Equal
REPOSTED**

The Division of Procurement Services is committed to providing purchasing opportunities for **municipalities, political subdivisions and school districts** in Maine by allowing them access, through our vendors, to our contract pricing. A bidder's willingness to extend contract pricing to these entities will be taken into consideration in making awards.

Will you accept orders from political subdivisions and school districts in Maine at the prices quoted?

Yes

X Yes, with conditions as follows: This agreement is good for 1 year from the date below. It will be reviewed annually by Messer Truck Equipment and the manufacturer to determine if the current pricing can be extended for another 12 months.

No

Name of Company: MESSER TRUCK EQUIPMENT

Address: 170 WARREN AVENUE, WESTBROOK, ME 04092

Signature:  _____

Date: 11-22-2019

SUPPLIER PART NUMBER	SUPPLIER NAME	MANUFACTURER NAME	ITEM DESCRIPTION	EXTENDED DESCRIPTION	UNIT OF MEASURE	LIST PRICE	DELIVERY DAYS
BFXB60DL	MESSER TRUCK EQUIPMENT	Brand FX	Service Body, Enclosed Fiberglass, Painted, BFXB60DL	One year warranty	EA	\$19,971.40	154
INSTALL-BFXB60DL	MESSER TRUCK EQUIPMENT	MESSER TRUCK EQUIPMENT	Installation Service Body, Brand FX BFXB60DL	NA	EA	\$2,101.00	30

Appendix E

**RFQ # 17D 191025-141
Enclosed Fiberglass Service Body - Brand FX Model BFXB 60DLS with
Canopy or Approved Equal
REPOSTED**

CERTIFICATIONS

1.0 NONCOLLUSION BIDDING CERTIFICATION

By submission of this Bid, each Bidder and each person signing on behalf of any Bidder certifies, and in the case of a joint bid, each party certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief:

1. The prices in this Bid have been arrived at independently without collusion, consultation, communication or agreement, for the purpose of restricting competition as to any other matter relating to such prices with any other Bidder or with any other competitor;
2. Unless otherwise required by law, the prices which have been quoted in this Bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor; and,
3. No attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a Bid for the purpose of restricting competition.

11-22-2019
Dated

TED P. SMITH
Printed name of Person Bidding



Authorized Signature

SALES MANAGER
Title

2.0 EQUIPMENT PERFORMANCE AND WARRANTY DATA

The information provided on this form will be used in determining operating costs of the equipment. Bidder must complete this form and submitted with bid. Bids received without this information will be considered non-responsive to the bid.

1. EQUIPMENT: Fiberglass Service Body

2. DESCRIBE THE PROCESS FOR THE SUBMISSION OF WARRANTY CLAIMS FOR REIMBURSEMENT OUTLINED AND SUBMITTED WITH THE BID. (written process to follow for reimbursement of warranty claims)

3. EQUIPMENT INFORMATION:

YEAR: 2019 EQUIPMENT MAKE: Brand FX

EQUIPMENT MODEL: Model BFXB 60DLS

4. MANUFACTURER’S RECOMMENDED PREVENTATIVE MAINTENANCE SCHEDULE MUST BE PROVIDED

5. BASIC EQUIPMENT WARRANTY DESCRIPTION

This warranty covers defects in materials and workmanship, under normal conditions of use, for a period of one year from the date of shipment. In addition, BrandFX warrants that for a period of 10 years from the date of shipment, composite (i.e., fiberglass) components will not corrode or otherwise deteriorate in a manner that leads to the decomposition of such components in a manner that completely penetrates the composite component (the product will not “rust through”). This warranty covers non-matching gelcoats (within 30 days of a customer’s receipt of the affected gelcoat product) but only if BrandFX received a wet sample of automotive paint in the desired color before the colored product was manufactured. Please note that cracks, scuffs, scratches, and other minor blemishes in a gelcoat are normal after use, and are not covered by this warranty

6. NAME/LOCATION OF REPAIR FACILITY(S) (BOTH AUTHORIZED WARRANTY, PARTS & SERVICE PER REQUESTED LOCATION). It is desired that at least one facility is located within 75-mile radius each region headquarters: Scarborough, Augusta, Dixfield, Bangor and Presque Isle.

WARRANTY AND SERVICE FACILITIES

ADDRESS 1: 170 WARREN AVENUE, WESTBROOK, ME 04092

ADDRESS 2:

ADDRESS 3:

ADDRESS 4:

ADDRESS 5:

CONTACT NAME: ANTHONY POMERLEAU

TELEPHONE: 207-854-9751

EQUIPMENT PARTS PROVIDER: MESSER TRUCK EQUIPMENT

ADDRESS: 170 WARREN AVENUE, WESTBROOK, ME 04092

CONTACT NAME: ANTHONY POMERLEAU

TELEPHONE: 207-854-9751

Attach written explanation describing the locations of the facilities, the contact name and number at each facility, the times the facilities will be available for use, the qualifications of the staff at the facilities and how the vendor will provide warranty and service at these service facilities.

Bidder certifies that they have service facilities in Maine, staffed with trained service technicians and stocked with repair parts for the equipment which is bid.

This form must be reproduced and completed for any additional equipment warranty/facility information.

11-22-2019

Dated



Signature

TED P. SMITH

Print Name

MESSER TRUCK EQUIPMENT

Company Name

3.0 SPECIFICATION COMPLIANCE

The bidder hereby certifies that the equipment(s) being bid in response to this invitation meet or exceed these specifications and that where a deviation from the specifications exists, the bidder has obtained written approval of those exceptions prior to submitting this bid.

If a conflict exists between these specifications and Federal and/or State laws, the Federal and/or State laws shall prevail and the bidder must alert the purchaser to any such conflicts.

11-22-2019

Dated

TED P. SMITH

Printed name of Person Bidding



Authorized Signature

SALES MANAGER

Title

Appendix F

RFQ # 17D 191025-141 Enclosed Fiberglass Service Body - Brand FX Model BFXB 60DLS with Canopy or Approved Equal REPOSTED

MaineDOT TERMS AND CONDITIONS

A. AGREEMENT

The Vendor shall deliver the equipment ordered in accordance with this Agreement and governed by these Terms and Conditions.

B. INDEPENDENT CAPACITY

In providing the equipment under the Agreement, the Vendor shall act independently and not as an agent of the State of Maine.

C. STATUS REPORTS

Prior to the start of work, the Vendor shall furnish MaineDOT with a proposed progress schedule in MaineDOT's standard format. The Vendor will outline the various phases of work that will need to be completed in order to meet the schedule set forth by MaineDOT.

During equipment assembly, the successful bidder shall submit to MaineDOT's Fleet Representative, a Monthly Status Report of accomplishments from the preceding month. The progress report shall be used to keep team members and MaineDOT's Fleet Representative informed about project status and issues. Information will include:

- a. A written statement describing the work accomplished during the period and to date.
- b. An estimate of the percentage of work completed within the specified services.
- c. Any information needed from MaineDOT to complete the project and avoid delays.
- d. The successful bidder's action plan to remedy and address any non-conforming or unacceptable work submitted to Department.
- e. Document anticipated problems and possible solutions.

These progress reports shall be submitted to MaineDOT on a **monthly basis**. Failure to submit could result in non-payment of the invoice, or be considered as a default, and shall be recorded in the Vendor's Performance Evaluation. If work is temporarily delayed, the Vendor may suspend submittal of the monthly progress reports with written approval from MaineDOT. The Vendor shall be responsible for addressing any action that may be required to keep the project on schedule.

MaineDOT shall have a period of 15 business days after receipt of the submissions to complete the review and make any necessary comments. Following the review, the Vendor will make any revisions and corrections requested by MaineDOT.

D. PAYMENT AND OTHER PROVISIONS

MaineDOT anticipates paying the selected Vendor for goods and services received, on the basis of net 30 payment terms following acceptance of the equipment, the receipt of an acceptable title and required documents, and an accurate and acceptable invoice. An invoice will be considered accurate and acceptable if it contains the State of Maine Agreement number, correct pricing information relative to the Agreement, and provides any required supporting documents, as applicable, and any other specific and agreed-upon requirements listed within the Agreement.

MaineDOT reserves the right to pay for the equipment purchased by any of several available means, which include but may not be limited to check, EFT, and/or procurement card. Vendors are advised that state statute precludes sellers from imposing a surcharge on credit or debit card purchases (text follows):

“9-A MRSA §8-303 (2): A seller in a sales transaction may not impose a surcharge on a cardholder who elects to use a credit card or debit card in lieu of payment by cash, check or similar means.”

E. WARRANTY

For a period of one (1) year following equipment delivery and acceptance (the “Warranty period”), Vendor unconditionally warrants and guarantees that the equipment shall be free from defects in parts and workmanship. If MaineDOT discovers any defects during the Warranty period, the Vendor’s obligation will be to repair or replace the equipment or refund the purchase price, at MaineDOT’s sole option subject to the following requirements as applicable:

- Replacement will be with new equipment matching the specifications within this Agreement.
- Reimbursement will be for the total purchase price of the equipment including the cost of returning the equipment.
- All Repairs including the cost of transporting the equipment will be borne by the Vendor. All repairs will be warranted free from defects in parts and workmanship for a one year period following the repair.

The Vendor hereby assigns to MaineDOT the right to enforce all manufacturer’s warranties or guarantees on the equipment.

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

In the event of a breach of Vendor’s warranty obligations, MaineDOT shall notify Vendor in writing of the breach and grant Vendor 30 days to cure the breach. Should Vendor fail to cure the breach, MaineDOT may pursue whatever remedies may be available.

F. DAMAGES

Time is of the essence in the delivery of the equipment specified herein, and in event of delay(s) in the delivery of the equipment beyond the date set forth in the Agreement, or beyond authorized extensions thereof MaineDOT may impose liquidated damages. Because it is difficult to determine the actual amount of the damage by reason of such delay it is therefore agreed that the Vendor will pay the sum of one hundred dollars (\$100.00) per unit for each calendar day(s) delay in delivery as liquidated damages and not as a penalty.

These damages shall be deducted from any monies due, or which may thereafter become due to the Vendor or may be recovered by through any lawful means.

G. SET-OFF RIGHTS

MaineDOT shall have all of its common law, equitable and statutory rights of set-off.

H. FORCE MAJEURE

Either party may be excused from performance under this Agreement to the extent the failure to perform is caused by acts of God or of the public enemy, fire, floods, epidemics, quarantine, restrictions, strikes, labor disputes, and freight embargos, or other causes beyond the party's reasonable control. In the event of such event of force majeure, the affected party shall provide the other party written notice of the cause of delay within fifteen (15) days from the beginning of any such delay. The time of performance shall be excused to extent of the duration of any such event of force majeure, or such period of time as may be mutually agreed upon by the parties.

I. INDEMNIFICATION

The Vendor shall indemnify and hold harmless MaineDOT and its officers, agents, and employees from and against any and all claims, liabilities, and costs, including reasonable attorney fees, for any or all injuries to persons or property or claims for money damages, including claims for violation of intellectual property rights, arising from the negligent acts or omissions of the Vendor, its employees or agents, officers or Subcontractors in the performance of work under this Agreement; provided, however, the Vendor shall not be liable for claims arising out of the negligent acts or omissions of MaineDOT, or for actions taken in reasonable reliance on written instructions of MaineDOT.

This indemnification provision shall survive any termination or expiration of the Agreement.

J. DEFAULT, TERMINATION

- i. MaineDOT reserves the right to terminate this Agreement or any part hereof, for its sole convenience. Thirty (30) days advance written notice shall be provided in the case of a termination for convenience. In the event of such termination, Vendor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Vendor shall be paid for all work on a percentage completed basis, as mutually agreed upon by the parties, up to the date of termination under this Paragraph 14.A.
- ii. MaineDOT shall have the right to terminate this Agreement in the event of a material breach or default by Vendor of its obligations hereunder that is not cured within thirty (30) days from the date of receipt by Vendor of written notice of such breach from MaineDOT. If the breach or default, by its nature, cannot be cured within such thirty (30) day period, then Vendor shall have such additional time (not to exceed thirty (30) additional days) as may be necessary to cure the breach or default, provided Vendor has exercised reasonable commercial efforts and taken appropriate action to begin cure of the breach or default within the initial thirty (30) day cure period.

- iii. MaineDOT shall have the right to terminate this Agreement immediately upon written notice to Vendor in the event (i) Vendor, or any director, officer or employee of Vendor assigned to this Project is convicted of a criminal offense directly related to information technology services; or (ii) proceedings in bankruptcy are commenced against Vendor or if a receiver is appointed and such case or proceeding shall continue undismissed, or unstayed and in effect, for a period of one hundred twenty (120) days. Notwithstanding the foregoing, if a conviction of an employee assigned to this Project, officer or director, relates to individual and/or personal actions of such employee, officer or director and not the policy or directive of Vendor and, upon such conviction, Vendor shall terminate or otherwise remove such employee, officer or director and take such other steps to reasonably ensure the propriety of Vendor' delivery of information technology services, then MaineDOT shall not have a right to terminate this Agreement pursuant to the foregoing clause (i) of this Section 14 (C).
- iv. Vendor shall have the right to terminate this Agreement in the event of a material breach or default by MaineDOT of its obligations hereunder that is not cured within thirty (30) days from the date of receipt by MaineDOT of written notice of such breach from Vendor. If the breach or default, by its nature, cannot be cured within such thirty (30) day period, then MaineDOT shall have such additional time (not to exceed thirty (30) additional days) as may be necessary to cure the breach or default, provided MaineDOT has exercised reasonable commercial efforts and taken appropriate actions to begin cure of the breach or default within the initial thirty (30) day cure period.
- v. Vendor shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement 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.

K. DELIVERY AND ACCEPTANCE

Time is of the essence in the delivery of the equipment. The Vendor shall execute the work continuously and diligently. Delivery of the units shall occur in accordance with the terms and conditions outlined in the resulting Agreement.

- i. Production of the units shall be conducted as a continuous production with no breaks or inserts of other orders or types of equipment.
- ii. Delivery shall be restricted to Monday through Friday, between the hours of 8 AM and 4 PM.
- iii. The Vendor will contact MaineDOT Fleet Services 24 hrs. prior to delivery with an estimated time of arrival.
- iv. Units furnished under this Agreement shall be delivered in first class condition, complete and ready for operation, and the Vendor shall assume all costs, responsibilities, and risk of loss related to damage that may have occurred in the delivery of the units.

- v. When units are delivered, certificates or releases signed by representatives of MaineDOT Fleet Services are understood to be a simple acknowledgment of receipt of the units only, and will NOT constitute an acceptance of the condition of the units or their conformance with the terms and conditions of the Agreement specifications.
- vi. Upon delivery, MaineDOT may conduct such tests as may be required to determine to its own satisfaction that the units appear to be in conformance with the terms, conditions, and requirements of the Agreement specifications.

Acceptance shall occur following final inspection by authorized employees of MaineDOT Fleet Service, receipt of the titles and all requested documentation. The Vendor will be notified, in writing, of acceptance/non-acceptance within fifteen calendar (15) days of delivery to the location specified in this Agreement.

L. RIGHT TO SUSPEND WORK

MaineDOT has the right to suspend any or all work at any time for any reason as it deems necessary. Consultant may receive payment for the portion of services completed through the date of suspension.

M. COPYRIGHT AND LICENSES - PATENTS AND COPYRIGHTS

Data and publication rights to any documents, produced under the terms of Agreement are the property of MaineDOT. The Vendor shall not copyright the material produced under the terms of the Agreement without written approval of MaineDOT, except to the extent necessary to protect its rights pursuant to the following paragraph.

The Parties to this Agreement mutually agree that, if patentable discoveries, intellectual property and software, or inventions should result from work described therein, all rights accruing from such discoveries or inventions shall be the sole property of MaineDOT.

N. CLAIMS AND DISPUTES

General

To preserve any claim arising out of the Agreement, the Parties shall comply with and exhaust all provisions of this Section. Unless otherwise agreed to in writing, the Vendor shall continue to perform its services during any dispute resolution process. If the Vendor continues to perform, MaineDOT shall continue to make payments in accordance with the Agreement of amounts not in dispute.

Negotiation with MaineDOT's Fleet Representative

The Vendor shall promptly notify MaineDOT's Fleet Representative, or their designee, in writing, of disputes that could significantly affect scope, schedule or compensation. After such notice, the Vendor and MaineDOT's Fleet Representative shall promptly negotiate in good faith to resolve the dispute. MaineDOT's Fleet Representative will promptly issue a decision.

Review by Director

If the Vendor desires a review of MaineDOT's Fleet Representative's decision, then the Vendor shall promptly request in writing that MaineDOT's Director of the applicable Bureau or Office review the Fleet Representative's decision. The Director or its designee(s) shall promptly notify the Vendor in writing of the result of the review.

Dispute Resolution

If the dispute remains unresolved after negotiation and review as set forth above, the Parties may proceed to mediation by selecting a mediator acceptable to both.

If the Parties are unable to resolve the dispute through mediation, either party may seek judicial review through a civil action commenced in the Superior Court of Maine, Kennebec County.

O. CONTROLLING LAWS

The Agreement referred to in these Terms and Conditions is governed by the applicable laws of the Federal Government and the State of Maine.

Laws to Be Observed

The Vendor shall comply with all applicable Federal, State and local laws, rules, regulations, orders, and ordinances affecting the work including, without limitation all environmental, wage, labor, equal opportunity, safety, patent, copyright, or trademark laws. The Vendor shall indemnify MaineDOT and hold MaineDOT harmless against any and all claims or liabilities arising from or based upon the violation or alleged violation of any such Law caused directly or indirectly by or through the Vendor.

P. ENTIRE AGREEMENT/BINDING EFFECT/MODIFICATION/ASSIGNMENT

This Agreement sets forth the entire agreement of the parties with regard to the subject herein. This Agreement may not be modified except by a written amendment executed by both parties.

Neither MaineDOT nor the Vendor may assign, sublet, or transfer any rights under or interest (including, but without limitation, monies that are due or may become due) in the Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written Consent To Assignment, no assignment shall release or discharge the assignor from any duty or responsibility under the Agreement.

Q. SEVERABILITY

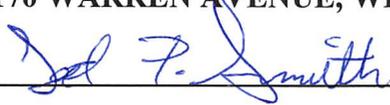
The invalidity or unenforceability of any particular provision or part thereof of this Agreement shall not affect the remainder of said provision or any other provisions, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

R. NON-WAIVER

If MaineDOT fails or refuses to enforce any provision in the Agreement that shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of the Agreement.

Name of Company: MESSER TRUCK EQUIPMENT

Address: 170 WARREN AVENUE, WESTBROOK, ME 04092

Signature:  _____

Date: 11-22-2019