

Cumberland County Courthouse
Canopy for Judges Entrance
Portland, ME
BGS# 2977

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1 Court St.
Augusta, ME 04330

Date of Addendum: 10/25/2018

This ADDENDUM is issued to modify, explain or correct the Drawings and Specifications, and is hereby made a part of the Contract Documents.

NOTICE TO ALL BIDDERS: Please read the entire ADDENDUM for references to all aspects of the Work. This ADDENDUM shall be binding upon the Contractor and he shall furnish and install labor and materials indicated to be furnished and installed by him herein even though such Work is not graphically mentioned in the Drawings and Specifications.

In the 00 11 13 Notice to Contractors the following changes will be made:

- The completion date will be changed to February 28th, 2019.
- Bid Due date will change to November 30th, 2018.
- The mandatory pre-bid conference date will be changed to November 14th, at 8:30 AM in the ground floor lobby of the Cumberland County Courthouse.
- The original bid documents had a large construction project as an example for a contract. It is actually a small construction project, which I've attached an example of
- The reference below to a conduit for a possibly light in the future will be added to the project.

State of Maine CONSTRUCTION CONTRACT

Small Construction Project

(Contract value less than \$50,000)

(Indicate here if this is an under \$5,000 single source award:)

Agreement entered into by and between the State of Maine through the insert contracting entity name hereinafter called the **Owner** and insert Contractor company name, hereinafter called the **Contractor**.

BREM Project No.: insert number assigned by BREM (not the PIP number)

Other Project No.: _____

For the following Project: brief name of project at facility or campus name, municipality, Maine.

Brief Scope of Work: brief description of the general scope of the contractor's work
(Provide a detailed description of the work in Attachment A - Scope of Work)

The *Owner* and the *Contractor* agree as follows:

ARTICLE 1 COMPENSATION AND PAYMENTS

1.1 The Owner shall pay the Contractor to furnish all labor, equipment, materials and incidentals necessary for the construction of the work described in "Attachment A" the net firm Contract Sum amount of \$0.00.

1.2 The Contractor's requisition shall contain sufficient detail and supporting information for the Owner to evaluate and support the payment requested.

1.2.1 Payments are due and payable twenty-five working days from the date of receipt of a Contractor requisition which is approved by the Owner.

1.2.2 Provisions for late payments will be governed by 5 M.R.S. Chapter 144, *Payment of Invoices Received from Business Concerns*, and interest shall be calculated at 1% per month.

1.3 Contracts based on a not-to-exceed amount shall specify the hourly rates, unit prices or allowances in Attachment B - *Basis of Compensation*.

1.4 The Owner shall retain 5% of each payment due the Contractor as part security for the fulfillment of the contract, payable upon final completion of the work.

ARTICLE 2 TIME OF COMPLETION

2.1 The work of this Contract shall be completed on or before 31 December 2019.

ARTICLE 3 INELIGIBLE BIDDER

3.1 By signing this contract the Contractor attests that it has not been declared ineligible to bid on State of Maine projects. The Bureau of Real Estate Management (BREM) may disallow award of this contract to any Contractor if there is evidence that the Contractor or any of its Subcontractors, through their own fault, have been terminated, suspended for cause, debarred

from bidding, agreed to refrain from bidding as part of a settlement, have defaulted on a contract, or had a contract completed by another party.

3.2 By signing this contract the Contractor attests that it is not presently indicted for or otherwise criminally or civilly charged by a Federal, State or local government entity with commission of any of the following offenses and has not within a three-year period preceding this bid been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction, or contract under a public transaction, violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

3.3 The Contractor shall not make any award or permit any award (subgrant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs or State of Maine projects.

ARTICLE 4 CONTRACTOR'S RESPONSIBILITIES

4.1 The Contractor shall comply with all laws, codes and regulations applicable to the work.

4.2 The Contractor shall acquire all permits and third-party approvals applicable to the work not specifically identified as provided by the Owner. Costs for Contractor-provided permits and third-party approvals shall be included in the Contract Sum identified in Section 1.1 above.

4.3 The Contractor shall remain an independent agent for the duration of this Contract, shall not become an employee of the State of Maine, and shall assure that no State employee will be compensated by, or otherwise benefit from, this Contract.

4.4 The Contractor shall be responsible for any design cost, construction cost, or other cost incurred on the Project to the extent caused by the negligent acts, errors or omissions of the Contractor or their Subcontractors in the performance of work under this Contract.

ARTICLE 5 OWNER'S RESPONSIBILITIES

5.1 The Owner shall provide full information about the objectives, schedule, constraints and existing conditions of the project. The Owner has established a budget with reasonable contingencies that meets the project requirements.

5.2 By signing this contract the Owner attests that all State of Maine procurement requirements for this contract have been met, including approval of this project, and soliciting a minimum of three bids. Any single source award should be noted in Attachment B - Basis of Compensation.

ARTICLE 6 INSTRUMENTS OF SERVICE

6.1 The Contractor's use of the drawings, specifications and other documents known as the Consultant's Instruments of Service is limited to the execution of the Contractor's scope of work of this project unless the Contractor receives the written consent of the Owner and Consultant for use elsewhere.

ARTICLE 7 TERMINATION

7.1 Either party may terminate this Contract upon not less than seven days written notice to the other party should such other party fail to perform in accordance with the terms of this

Contract. The Owner may terminate this Contract, for the Owner's convenience and without cause, upon not less than seven days written notice to the Contractor.

ARTICLE 8 INDEMNIFICATION

8.1 The Contractor shall indemnify and hold harmless the Owner and its officers, agents and employees from and against any and all claims, liabilities and costs, including reasonable attorney's fees, for any or all injuries to persons or property, arising from the negligent acts or omissions of the Contractor, its employees, agents, officers or subcontractors in the performance of work under this Contract. The Contractor shall not be liable for claims arising out of the negligent acts or omissions of the Owner or for actions taken in reasonable reliance on written instructions of the Owner.

8.2 The Contractor shall notify the Owner promptly of all claims arising out of the performance of work under this Contract by the Contractor its employees or agents, officers or subcontractors.

8.3 This indemnity provision shall survive the termination of the Contract, completion of the project or the expiration of the term of the Contract.

ARTICLE 9 INSURANCE REQUIREMENTS

9.1 The Contractor shall provide, with each original of the signed Contract, an insurance certificate or certificates acceptable to the Owner and BREM. The Contractor shall submit insurance certificates to the Owner and BREM at the commencement of this Contract and at policy renewal or revision dates. The certificates shall identify the project name and BREM project number, and shall name the Owner as certificate holder and as additional insured for general liability and automobile liability coverages. The submitted forms shall contain a provision that coverage afforded under the insurance policies will not be canceled or materially changed unless at least ten days prior written notice by registered letter has been given to the Owner and BREM.

9.2 The Owner does not warrant or represent that the insurance required herein constitutes an insurance portfolio which adequately addresses all risks faced by the Contractor or its Subcontractors. The Contractor is responsible for the existence, extent and adequacy of insurance prior to commencement of work. The Contractor shall not allow any Subcontractor to commence work until all similar insurance required of the Subcontractor has been confirmed by the Contractor.

9.3 The Contractor shall procure and maintain primary insurance for the duration of the Project and, if written on a Claims-Made basis, shall also procure and maintain Extended Reporting Period (ERP) insurance for the period of time that any claims could be brought. The Contractor shall ensure that all Subcontractors they engage or employ will procure and maintain similar insurance in form and amount acceptable to the Owner and BREM. At a minimum, the insurance shall be of the types and limits set forth herein protecting the Contractor from claims which may result from the Contractor's execution of the Work, whether such execution be by the Contractor or by those employed by the Contractor or by those for whose acts they may be liable. All required insurance coverages shall be placed with carriers authorized to conduct business in the State of Maine by the Maine Bureau of Insurance.

- 9.3.1** The Contractor shall have Workers' Compensation insurance for all employees on the Project site in accordance with the requirements of the Workers' Compensation law of the State of Maine. Minimum acceptable limits for Employer's Liability are:

| | |
|--------------------------------|-------------------------|
| Bodily Injury by Accident..... | \$500,000 |
| Bodily Injury by Disease..... | \$500,000 Each Employee |
| Bodily Injury by Disease..... | \$500,000 Policy Limit |

When applicable, a Sole Proprietor, or Partner or Member of a Limited Liability Company shall provide evidence of an approved application for waiver from the Workers' Compensation Board regarding employment of a parent, spouse, domestic partner, or child.

- 9.3.2** The Contractor shall have Commercial General Liability insurance providing coverage for bodily injury and property damage liability for all hazards of the Project including premise and operations, products and completed operations, contractual, and personal injury liabilities. The policy shall include collapse and underground coverage as well as explosion coverage if explosion hazards exist. Aggregate limits shall apply on a location or project basis. Minimum acceptable limits are:

| | |
|---|-------------|
| General aggregate limit..... | \$2,000,000 |
| Products and completed operations aggregate | \$1,000,000 |
| Each occurrence limit..... | \$1,000,000 |
| Personal injury aggregate | \$1,000,000 |

- 9.3.3** The Contractor shall have Automobile Liability insurance against claims for bodily injury, death or property damage resulting from the maintenance, ownership or use of all owned, non-owned and hired automobiles, trucks and trailers. Minimum acceptable limit is:

| | |
|--------------------------------|-----------|
| Any one accident or loss | \$500,000 |
|--------------------------------|-----------|

- 9.4** The Owner has determined the appropriate coverage, verified the coverage with the State of Maine Division of Risk Management, and selected the proper option as follows. Property Insurance for this construction contract shall be as described below in section

9.4.1 Non-standard project insured by Contractor.

- 9.4.1** Non-standard project insured by the Contractor –
The Contractor shall procure and maintain property insurance naming the Owner, Contractor, and any Subcontractor as insureds as their interest may appear. "Non-standard project" means, in this Agreement, an unusual public improvement which is not a building structure, and is not currently insured nor would be insured by the State of Maine Division of Risk Management. Covered causes of loss form shall be all Risks of Direct Physical Loss, endorsed to include flood, earthquake, and transit. Unless specifically authorized in writing by the Owner, the limit of insurance shall not be less than the initial contract amount and coverage shall apply during the entire contract period and until the work is accepted by the Owner.

- 9.4.2** New construction insured by the Contractor –
The Contractor shall procure and maintain Builder's Risk insurance naming the Owner, Contractor, and any Subcontractor as insureds as their interest may appear. Covered causes of loss form shall be all Risks of Direct Physical Loss, endorsed to include flood, earthquake, transit and sprinkler leakage where sprinkler coverage is applicable. Unless specifically authorized in writing by the Owner, the limit of insurance shall not be less than the initial contract amount and coverage shall apply during the entire contract period and until the work is accepted by the Owner.

- 9.4.3** Renovations and additions to existing State-owned buildings insured by the State of Maine Division of Risk Management –
Builder's Risk insurance will be provided by the State of Maine in accordance with the terms and conditions of the State's property policy. The Owner shall notify the State of Maine Division of Risk Management concerning the project, including the nature and value of the work, planned start and completion date, and the name of the General Contractor. Said insurance coverage shall cover the interests of the Contractor and Subcontractor, as their interests may appear. Exclusions common to commercial property policies may be applicable. A Builder's Risk certificate of insurance will be furnished to the Contractor upon request.

The \$500 per occurrence deductible is the responsibility of the Contractor. Should the Contractor or Subcontractor desire coverage in excess of that maintained by the State, it must be acquired by the Contractor and at Contractor expense.

- 9.4.4** Renovations and additions to existing buildings not insured by the State of Maine Division of Risk Management –
The Contractor shall procure and maintain Builder's Risk insurance naming the Owner, Contractor and all Subcontractors as insureds as their interests may appear. The covered cause of loss form shall be Risks of Direct Physical Loss, endorsed to include flood, earthquake, testing and ensuing loss and shall include coverage for materials in transit and materials stored off site. Coverage shall be on a replacement cost and a completed value basis. Unless specifically authorized by the Owner, the limit of insurance shall not be less than the contract amount and coverage shall apply during the entire contract period until the Certificate of Substantial Completion is accepted by the Owner.

ARTICLE 10 DISPUTE RESOLUTION

10.1 A dispute between the parties which arises under this Contract which cannot be resolved through informal negotiation, shall be submitted to a neutral mediator jointly selected by the parties.

10.1.1 Either party may file suit before or during mediation if the party in good faith deems it to be necessary to avoid losing the right to sue due to a statute of limitations. If suit is filed before good faith mediation efforts are completed, the party filing suit shall agree to stay all proceedings in the lawsuit pending completion of the mediation process, provided such stay is without prejudice

10.2 If the dispute is not resolved through mediation, the dispute shall be settled by arbitration. The arbitration shall be conducted before a panel of three arbitrators. Each party shall select one arbitrator; the third arbitrator shall be appointed by the arbitrators selected by the parties. The arbitration shall be conducted in accordance with the Maine Uniform Arbitration Act (MUAA), except as otherwise provided in this section.

10.2.1 The decision of the arbitrators shall be final and binding upon all parties. The decision may be entered in court as provided in the MUAA.

10.2.2 The costs of the arbitration, including the arbitrators' fees shall be borne equally by the parties to the arbitration, unless the arbitrator orders otherwise.

10.2.3 In any arbitration between the Owner and the Contractor, the Owner shall have the right to consolidate related claims between Owner and Architect.

ARTICLE 11 MISCELLANEOUS PROVISIONS

11.1 This Contract shall be governed by the laws of the State of Maine.

11.2 The Owner and Contractor, respectively, bind themselves, their partners, successors, assigns and legal representatives to this Contract. Neither party to this Contract shall assign the Contract as a whole without written consent of the other party, which consent the Owner may withhold without cause.

11.3 Changes in the work to be performed- increasing, decreasing, or not changing the Contract Sum- must be approved by Owner, Consultant and Contractor prior to proceeding with the work. Change Orders shall be recorded on a form approved by BREM.

11.4 The Contractor and Subcontractors shall have no responsibility for the identification, discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials in any form at the project site. The Contractor shall avoid disruption of any hazardous materials or toxic substances at the project site and promptly notify the Owner in writing on the occasion of such a discovery.

11.5 Notwithstanding any other provision of this Agreement, if the Owner does not receive sufficient funds to fund this Agreement or funds are de-appropriated, or if the Owner does not receive legal authority from the Maine State Legislature or Maine Courts to expend funds intended for this Agreement, then the Owner is not obligated to make payment under this Agreement; provided, however, the Owner shall be obligated to pay for services satisfactorily performed prior to any such non-appropriation in accordance with the termination provisions of this agreement. The Owner shall timely notify the Consultant of any non-appropriation and the effective date of the non-appropriation.

11.6 The Contractor shall comply with the Maine Code of Fair Practices and Affirmative Action, 5 M.R.S. §784 (2).

11.7 The Contractor is prohibited from releasing, publishing or allowing publication of narrative, graphic, photographic or artistic representations of the Project unless expressly allowed in writing by the Owner. The Contractor shall not include the Owner's confidential or proprietary information in any project representations if the Owner has previously advised the Contractor in writing of the specific information considered by the Owner to be confidential or proprietary.

11.8 The Contractor shall conform to Maine statute (39-A M.R.S. §105-A (6)) by providing to the Workers' Compensation Board a list of all subcontractors and independent contractors on the job site and a record of the entity to whom that subcontractor or independent contractor is directly contracted and by whom that subcontractor or independent contractor is insured for workers' compensation purposes.

ARTICLE 12 OTHER PROVISIONS

(Insert any additional provisions to this Contract below. Any such provisions or other revisions to the standard Contract form are subject to approval by the Bureau of Real Estate Management.)

12.1 *There are no other provisions.*

BREM Project No.: _____

The Agreement is effective as of the date last executed by the parties.

OWNER

(Signature)

(Date)

(Printed name and title)

(Contracting entity name)

(Address)

(Telephone)

CONTRACTOR

(Signature)

(Date)

(Printed name and title)

(Company name)

(Address)

(Telephone)

(Vendor Number)

SCOPE OF WORK

Attachment A

Insert a detailed written description of the Contractor's scope of work. Reference and attach drawings if available.

BASIS OF COMPENSATION

Attachment B

Per § 1.2, contracts based on a not-to-exceed amount shall specify here the basis of compensation: hourly rates, or unit prices, or allowances.