

SAFETY PATROL

I-295

FREEPORT TO SCARBOROUGH

WIN: 025228.18

2018

Updated 04/28/17

STATE PROJECT

BIDDING INSTRUCTIONS

1. Use pen and ink to complete all paper Bids.
2. As a minimum, the following 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, including bid unit prices and the Maine Business and Economic Impact (circle answers), d) two copies of the completed and signed Contract Agreement for Transportation Related Maintenance Work form e) the completed Contractor Information Sheet, and f) any other certifications or Bid requirements listed in the Bid Documents/RFP as due by Bid opening.
3. Include prices for all items in the Schedule of Items.
4. All Bid Packages which are mailed or sent express, shall be provided in double (one envelope inside the other) envelopes, for security and other reasons. The *Inner Envelope* shall have the following information provided on it:
 - Bid Enclosed - Do Not Open
 - Title: Safety Patrol
 - Towns, Regions or Location: Freeport to Scarborough
 - 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: Safety Patrol
- Towns, Regions or Location: Freeport to Scarborough
- Date of Bid Opening:
- Name of Contractor:

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.

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

- Bid Enclosed: Do Not Open
- Title: Safety Patrol
- Towns, Regions or Location: Freeport to Scarborough
- Date of Bid Opening:
- Name of Contractor:

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 Specifications, November 2014 Edition.

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.

RFI No: _____

Date _____ **Time** _____

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

Question(s):_____

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

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

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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 **RFP for Safety Patrol** in the town/city of **Freeport to Scarborough**" 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 October 3, 2018, and at that time and place publicly opened and read. Bids will be accepted from all bidders. The Apparent Successful Bidder must demonstrate successful completion of projects of similar size and scope to be considered for the award of this contract.

Description: Safety Patrol

WIN 025228.18

Location: In Cumberland County, project is located on I-295 from Freeport to Scarborough

Outline of Work: Safety Patrolling and other incidental work.

The basis of award will be determined using the criteria set forth in the Proposal Evaluation section of this Request for Proposal.

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, 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 can be viewed and obtained digitally at no cost 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 Scarborough. They may be obtained from the Department at 24 Child Street, Augusta, Maine 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 04330-0016

There will be no bid bond, performance bond 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
September 12, 2018


STEPHEN LANDRY,
STATE TRAFFIC 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

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 MAINTENANCE 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 - Request for Proposal, Specifications of Work to be Performed

Appendix B – Special Provisions for State Funded Transportation Related
Maintenance Work

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 Provision – Specifications of Work to be Performed, Request for Proposal for Safety Patrol, and under the terms of the Contract for **Safety Patrol** from **Freeport to Scarborough**, 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 November 1, 2018, or when contract is executed, whichever is latest and expires two years from the start date. Contract Renewal: Following the initial term of the contract, MaineDOT may opt to renew the contract for two renewals under

all terms of this contract at bid prices; the first renewal for two years and the second renewal for one year renewal period and subject to continued availability of funding and satisfactory performance.

For each additional renewal period of the Contract, beyond the initial Contract period, a 2% escalation factor shall also be added to bid prices.

C. Price.

The quantities given in the Schedule of Items of the Bid Package will be used as the basis for determining the original Contract amount and that the amount of this offer is

\$_____. The Contract amount will be determined by the actual work authorized and performed and the prices included in Appendix A. 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, Special Provisions, Contract Agreement and Appendices. It is agreed and understood that this Contract will be governed by the documents listed above.

E. Certifications.

By signing below, the Contractor hereby certifies that to the best of the Contractor's knowledge and belief:

1. All of the statements, representations, covenants, and certifications required or set forth in the Contract are still complete and accurate as of the date of this contract.
2. The Contractor knows of no legal, contractual, or financial impediment that prevents Contractor from 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, State of Maine, Department of Transportation, Standard Specifications, November 2014 Edition, Sections 101, 102, 103 and 111, Special Provisions, Contract Agreement and Appendices contained herein, 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: That this offer shall remain open for 30 calendar days after the date of opening of bids.

Fourth: The Contractor hereby certifies, to the best of its knowledge and belief that: the Contractor 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.

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

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.
documents referenced herein.

This award consummates the Contract, and the

MAINE DEPARTMENT OF TRANSPORTATION

Date

By:

(Name and Title Printed)
Maintenance & Operations

CTM: _____

TEDOCS# _____

CSN _____

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The Vendor Customer Number of the Contractor is _____.

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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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all terms of this contract at bid prices; the first renewal for two years and the second renewal for one year renewal period and subject to continued availability of funding and satisfactory performance.

For each additional renewal period of the Contract, beyond the initial Contract period, a 2% escalation factor shall also be added to bid prices.

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2. The Contractor knows of no legal, contractual, or financial impediment that prevents Contractor from 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, State of Maine, Department of Transportation, Standard Specifications, November 2014 Edition, Sections 101, 102, 103 and 111, Special Provisions, Contract Agreement and Appendices contained herein, 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.

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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.
documents referenced herein.

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MAINE DEPARTMENT OF TRANSPORTATION

Date

By:

(Name and Title Printed)
Maintenance & Operations

CTM: _____

TEDOCS# _____

CSN _____

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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 – Request for Proposal, Safety Patrol

Appendix B – Special Provisions for State Funded Transportation Related
Maintenance Work

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By signing below, the Contractor hereby certifies that to the best of the Contractor's knowledge and belief:

1. All of the statements, representations, covenants, and certifications required or set forth in the Contract are still complete and accurate as of the date of this contract.
2. The Contractor knows of no legal, contractual, or financial impediment that prevents Contractor from entering into this Contract.
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The undersigned, having carefully examined the site of work, scope of work, State of Maine, Department of Transportation, Standard Specifications, November 2014 Edition, Sections 101, 102, 103 and 111, Special Provisions, Contract Agreement and Appendices contained herein, 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.

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Fourth: The Contractor hereby certifies, to the best of its knowledge and belief that: the Contractor 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.

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

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.

DATE HERE

Date

CONTRACTOR

SIGN HERE

(Signature of Legally Authorized Representative
of the Contractor)

PRINT NAME HERE

(Name and Title Printed)

G. Award.

Your offer is hereby accepted.
documents referenced herein.

This award consummates the Contract, and the

MAINE DEPARTMENT OF TRANSPORTATION

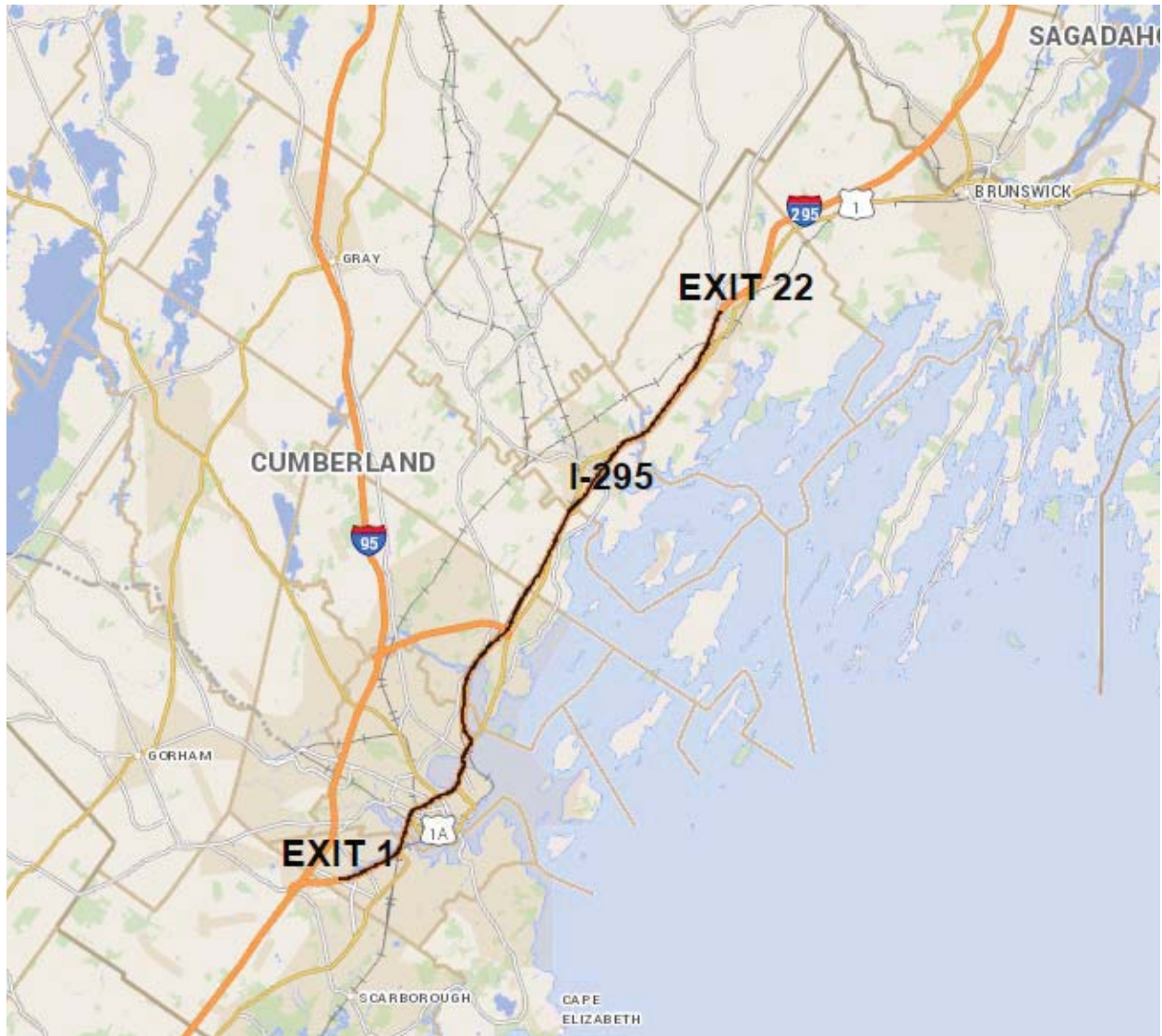
Date

By:

(Name and Title Printed)

Maintenance & Operations

Service Patrol Route I-295, Exit 1 to Exit 22



APPENDIX A
REQUEST FOR PROPOSAL
SPECIFICATIONS OF WORK TO BE PERFORMED

Company Name: _____

SCHEDULE OF ITEMS

The Department will reject bids if any one of the following occurs:

- a) 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,
- b) the Bid is not signed,
- c) the unit price for any item is not provided or is unreadable.

Do not make handwritten changes to the bid documents.

The Bidder will have no opportunity to cure the above Non-curable Bid Defects. For clarification, questions, comments/recommendations use the "Request for Information" form as directed in the Bid Book instructions. For a related provision see Standard Specification, Section 102.11 – Bid Responsiveness.

1. Schedule of Items

Section 0001				
Item #	Item Description	Unit Price (\$/per Hour)	Estimated Quantity & Units for TWO YEAR	Bid Amount = (Est. Qty. X Unit Price)
1	Safety Patrol (VEHCILE and OPERATOR) *	\$	5,100 hours	
TOTAL BID				\$

* As specified in Part VI Method of Measurement and Basis of Payment

(Print Respondent's Name and Title)

Signature

Date

Maine Business and Economic Impact Consideration:

The Maine Business and Economic Impact Consideration for this Bid will be scored based on the information provided by Bidders in the Maine Business and Economic Impact Consideration and the point allocations.

Bidder shall indicate their Maine business and economic impact by completing the questions below on the “Maine Business and Economic Impact” section. The Bidder shall not make variations or alterations when responding to these questions. The use of this information in making contract award decisions is required in accordance with Executive Order 2017-003, which states “Evaluators of competitive bids for goods and services shall give consideration to the investment in the State by business enterprises as a best-value criterion. Consideration for Maine business enterprises may result in low cost or top scoring bids not being considered as the best-value for the State of Maine.”

SECTION 0002			
Maine Business and Economic Impact	<i>Circle one answer for each row</i>		
% of employees that are Maine Residents	0 0 points	1 – 74% 1 points	75 – 100 % 2 points
% of payroll paid to Maine Residents last calendar year	0 0 points	1 – 74% 1 points	75 – 100 % 2 points
Bidder currently pays Maine Income or corporate taxes		No 0 points	Yes 2 points
Bidder currently pays property taxes to government entities in Maine		No 0 points	Yes 2 points
Bidder currently purchases services and/or supplies from Maine businesses		No 0 points	Yes 2 points

Bidders are required to fill out bid and Maine Business and Economic Impact Consideration

(Print Respondent's Name and Title)

Signature

Date

**APPENDIX A
REQUEST FOR PROPOSALS
SPECIFICATIONS OF WORK TO BE PERFORMED**

PART I - INTRODUCTION

A. PURPOSE

The Maine Department of Transportation “Department” is seeking proposals to provide a Safety Patrol “SP” on Interstate 295 southbound and northbound between Scarborough and Freeport, as defined in these bid documents. This document provides instructions for submitting bids, the procedure and criteria by which the Contractor will be selected and the contractual terms which will govern the relationship between the Department and the selected Contractor.

The goal of this Contract is to provide the expeditious removal of disabled or crashed vehicles, and small non-hazardous debris, from the Travel Way thus reducing the traffic delays and congestion that result from those breakdowns, crashes and spills. Rapid removal is made possible by the presence of safety patrol vehicles “VEHICLES” located on the interstate during hours of peak traffic. The SP facilitates a quicker response time to non-recurring incidents such as breakdowns and crashes, thus reducing the total time needed to clear the incident from the highway and restore normal traffic flow. The SP will include, as the minimum, the followings:

- Assisting stranded motorist,
- Providing the initial report, response or verification of event,
- Providing initial traffic control and scene safety for responders and victim,
- Supporting the incident commander, as needed, to manage the lane closure and protect the incident site, victim and responding personnel,
- Communicating resources needed to the TMC and
- Assisting in quick response of debris, disabled vehicles or crashes in or along the travel portion of the roadway.

All SP services will be provided **FREE OF CHARGE** to the motorist.

Before submitting the Bid, the Bidder may seek third-party organizations (SPONSOR) to contribute monies to lower the hourly unit price. The SPONSORS may have their logo, company identification, or other means of advertising placed on the VEHICLE and other written material where the SP is featured.

Traffic History

Length: 22 miles, Interstate 295 - Scarborough to Freeport

Posted Speeds: 55, 50, 65 MPH

AADT (2017):

Exit 1 to Exit 2	39,427
Exit 3 to Exit 4	82,030
Exit 4 to Exit 5	72,370
Exit 5 to Exit 6	74,970
Exit 6 to Exit 7	74,570
Tukey Bridge	86,550
Exit 9	67,580
Exit 9 to Exit 10	52,490
Exit 11 to Exit 15	57,090
Exit 17 to Exit 20	55,100
Exit 22 to Exit 28	49,180

Reported Incidents per year: approximately 4,000

Reported Crashes per year: approximately 640

B. DEFINITIONS/ACRONYMS

The following terms and acronyms shall have the meaning indicated below as referenced in this Contract:

“MSP” Maine State Police

“RFP” Request for Proposal

“Special Events” means sports complex events, municipal or city events, weather, and other events that have been or are identified as such by the Department.

“SP” Safety Patrol services provided within this contract

“VEHICLE” Safety Patrol Vehicle means the vehicle meeting the specifications set forth in this contract and used by a Contractor for this Interstate Safety Patrol Contract.

“OPERATOR” Safety Patrol Vehicle Operators means a driver who is the properly licensed and trained operator of each Safety Patrol Vehicle.

“SPONSOR” means a third-party organization that has contributed monies to have their logo, company identification, or other means of advertising placed on the Safety Patrol Vehicles.

“TMC” MaineDOT Traffic Management Center

PART II - SCOPE OF WORK

A. GENERAL SCOPE

The OPERATORS will assist motorists whose vehicles have suffered minor mechanical failure or have been involved in minor crashes. The SP shall be able to accomplish the following duties:

- Move vehicles: Expedite quick clearance practices using a push bumper or towing strategy to remove vehicles (vehicle with gross weight of up to 10,000 pound) and large debris from the travel portion of the roadway.
- Remove obstacles and objects from the roadway to include debris and other hazards.
- Provide fuel up to one gallon.
- Provide water to person(s) being assisted or for overheated vehicles.
- Change flat tires.
- Provide mechanical assistance such as jump starts, minor mechanical repairs, tire inflation.
- Assist stranded motorists with communication by allowing calls to repair facilities, other business or individual to assist him/her or by calling the TMC to request towing service.
- Provide a ride to a safe place or drop-off location to wait if vehicle is disabled.
- Clean up minor vehicle fluid spills.
- Share information with other responders and the TMC.
- Act as the Department's representative in the Incident Command Structure.
- Request and confirm emergency services have been contacted when warranted.
- Provide information and updates to the TMC.
- Protect the incident scene, when necessary, with the appropriate temporary traffic control devices.
- Assist other responding agencies, at the scene, such as law enforcement, fire and rescue, Emergency Medical Services, and other response agencies as needed.

1. General Requirements:

- a. When necessary, the OPERATOR will place the appropriate temporary traffic control devices to protect the scene. The temporary traffic control devices include their VEHICLE combined with the use of the 28 inch cones and flares.
- b. If a closure estimated to last longer than thirty (30) minutes in duration, the TMC in consultation with the OPERATOR will determine if a long-term lane or roadway closure will be required. If the determination that the long-term closure is required, the appropriate maintenance crew will be notified to respond with the appropriate equipment. A long-term lane or roadway closure is considered to be any closure that will result in a two (2) hour closure.

- c. At the beginning of each service call, or upon finding any disabled vehicles the OPERATOR will notify the TMC of location, model, color and plate number of disabled vehicle. At the end of each service call the OPERATOR will notify the TMC.
- d. The Contractor will be required to complete a log of each motorist assist and a log of total miles driven each shift and submit to the Department on a weekly Basis. The Contractor is responsible for preparing this form and submitting it for the Department's approval prior to beginning this service. Motorist assist logs will also include data collection points of detection, verification, lane clearance, and roadway clearance times. The logs shall be accurate, legible, neat and completed at the end of each shift. The information provided in these logs may be used to assist the Department assess the performance of the Contractor in achieving performance objectives such as:
 - Reduced roadway clearance time
 - Reduced incident clearance time
 - Reduced secondary incidents
- e. At the end of each service call, the motorist will be asked to fill out and send into the Department a self-addressed stamped post card evaluating the service he received. If an OPERATOR receives more than one unfavorable review over a six-shift span, he will be counseled, a second such situation will result in a warning, a third will result in a suspension from working under the Contract and fourth will be cause for removal from working under the Contract. The Contractor is responsible for creating this post card and submitting it for the Department's review and approval prior to beginning this service. The Contractor is also responsible for producing and keeping an adequate supply of these postcards through the life of this Contract.
- f. No compensation of any type (tips, etc.) can be accepted by the OPERATOR from the motorist. Stealing is prohibited. The selected Contractor and/or its employees/OPERATORS will not be allowed to recommend tows, or recommend repair/body shops. Failure to adhere to this requirement will result in an immediate dismissal of the OPERATOR. Multiple and continual violations by more than one OPERATOR may result in more severe actions up to and including Contract termination.
- g. The OPERATOR will, unless so directed differently by a law enforcement officer, follow traffic laws.
- h. The VEHICLE will be kept continuously on patrol within its assigned beat except when actively responding to an incident. The OPERATOR shall be actively working except for permitted scheduled breaks (two non-consecutive 15-minute breaks per 8-hour shift). A thirty-minute lunch will not be paid for by the Department. Breaks must be taken within 5 miles of the patrol zone. The TMC must be contacted at the time of the VEHICLE removal and upon its return to active patrol status.

- i. In the event that the SP does not show up to perform the required patrol for any reason, the Contractor shall compensate the Department for such non-operation at the rate of \$55 per lost hour that exceeds 24 consecutive or non-consecutive hours during a 12-month period.

2. **Unattended Vehicles:**

Unattended vehicles not interfering with traffic and not posing a safety hazard will also be reported to the TMC by the OPERATOR but no further action will be necessary by the OPERATOR unless so directed to do so by the TMC or Police.

3. **Mechanically Disabled Vehicle - (Problem not readily apparent or repair time exceeds ten (10) minutes):**

If the problem with a disabled vehicle is easily diagnosed and can be typically remedied within the 10 minutes, the OPERATOR will perform the needed service. To get the vehicle started, for example, the OPERATOR will change flat tires, provide fuel, provide battery “jump” starts, temporarily tape or repair cooling system hoses and refill radiators if the problem can typically be remedied within 10 minutes. OPERATORS should plan on spending no more than 10 minutes in attempting to repair a disabled vehicle.

4. **Crashed Vehicle:**

Under no circumstances should an OPERATOR attempt to repair a crashed vehicle in order to make it mobile. For example, OPERATOR shall not use pry bars or winch cables to pull fenders away from tires, change tires damaged as a result of a crash, or remove/repair any body parts. All crashed vehicles of non-reported crashed shall be removed as promptly as possible from the travel way to Shoulder.

5. **Assistance to Police:**

There may be some instances where OPERATORS may be requested to lend assistance to Police. OPERATORS shall follow the instructions of the Police at the scene of any incident. The instructions of the Police on the scene shall override and supersede any conflicting obligations or duties of the Contractor or the OPERATOR set forth herein.

B. SAFETY PATROL AREA

The OPERATOR will patrol **I-295 from Freeport, exit 22, to Scarborough, exit 1**, in such a manner so that the VEHICLE is kept continuously patrolling its beat except in accordance with this section.

- The detection of damaged or disabled vehicles will be primarily via the TMC, Police or by the OPERATOR. However, OPERATOR will also be dispatched via two-way radio or cellular phone to an incident location by the TMC.

- The VEHICLE will remain in the assigned patrol route and will only give assistance outside the patrol route at the direction of the TMC or the Police. The Department may adjust or revise the patrol route during the life of the Contract.
- Should the OPERATOR be required to arrange for the service of a tow truck, they will immediately inform the TMC or the Police. Only the Department or the Police will be permitted to secure the services of a tow truck.

C. MOTORIST DROP-OFF LOCATIONS

A list of approved Drop-off locations will be determined by the Contractor and the Department prior to starting the SP. The OPERATOR shall transport the vehicle occupants to the closest drop-off location in the direction of travel. The motorists can request to call a specified towing firm ("personal request") or to call a relative/friend to assist them. Should it be impossible to transport the vehicle occupants to a safe area where they can wait for assistance, the OPERATOR then shall immediately call the TMC to inform them of this and the OPERATOR will wait with the disabled vehicle and its occupants until the Police arrive. Police have full authority over the incident when present.

D. DAMAGE COMPLAINTS

Upon receiving a damage complaint from a motorist assisted by the Contractor, that the Contractor damaged their VEHICLE while lending assistance, the Contractor shall notify the Department regarding the nature of the damage complaint and its disposition. The Contractor shall reply to the motorist by telephone within twenty-four (24) hours of receiving the damage complaint notification. If necessary, the Contractor shall send either its authorized representative or its insurance company representative to inspect the vehicle and complete an incident report within 48 hours after receiving the damage complaint.

If the investigation shows that damage to the vehicle could have been caused by the Contractor, the Contractor shall (within a reasonable period of time after receipt of the damage complaint) negotiate in good faith to try and resolve the issue and shall report to the Department the result of the negotiations.

All repair costs resulting from these damage complaints are the responsibility of the Contractor.

E. CRASHES INVOLVING PATROL VEHICLE

Should the VEHICLE become involved in any type of crash, the following procedures will be followed:

1. The OPERATOR, if able, will immediately inform the Police and the TMC of the exact nature of the crash and request necessary assistance (ambulance, tow truck) from the Police including the presence of a police patrol officer to investigate the crash and prepare a crash report (required by law for reportable crash).

2. If the crash is non-reportable (vehicles can be moved, no injuries and no fatalities), all vehicles should be removed from the travel way as soon as possible. If not, the crash scene should be protected by signs, cones and flares as may be necessary.
3. The OPERATOR will adhere to current Maine laws and regulations regarding post-crash procedures, including but not limited to, the exchange of driver information (names, addresses, phone number, and insurance information) and never flee the scene of the crash.
4. The OPERATOR may only resume the patrol of his area when requirements 1, 2 and 3 above have been satisfied and:
 - a) The MSP, or local Police have prepared a written crash report or have instructed the OPERATOR that they are unable to do so (applies to non-reportable crashes only).
 - b) The VEHICLE is in a condition to resume patrolling.
 - c) The OPERATOR is physically able to resume patrolling.
 - d) The Department's approval has been given to resume patrolling.
5. Should the OPERATOR be unable to resume their patrol area, the Contractor must have a fully qualified OPERATOR ready to cover the patrol area on the next regularly scheduled shift.
6. Repairs to the damaged VEHICLE must be made as quickly as possible. The Department and Contractor will meet and review the damaged VEHICLE to determine a reasonable length of time to complete all repairs.
7. Every crash involving the VEHICLE will be reviewed by a committee consisting of a representative of the Contractor, the Department and, if applicable, the Police. The main purpose of this review effort will be to ensure that the VEHICLE is operated in the safest manner possible. Should it be determined by the committee that the crash in question could have been avoided by the OPERATOR, then the OPERATOR may be subject to the following disciplinary actions:
 - a) First Avoidable Crash- Letter of Reprimand.
 - b) Second Avoidable Crash- 1 Week Suspension from working under the Contract.
 - c) Third Avoidable Crash- 1 Month Suspension from working under the Contract.
 - d) Fourth Avoidable Crash- Removal from working under the Contract.

Although each crash will be weighed on its own merits, OPERATOR's multiple and continual violations by more than one OPERATOR may result in more severe actions up to and including Contract termination.

These violations are not intended to be an exhaustive list. The Department reserves the right to characterize any unsatisfactory action as a violation and subject to the above actions.

F. HOURS OF OPERATION

The contract will be one hourly rate for the VEHICLE and OPERATOR and will only include those hours while actually on patrol. Travel time hours, defined as travel to and from the assigned patrol route and not traveling during the shift, will not be paid for and are not part of the Contract. Fueling of the VEHICLE and replenishing of expendables will not be paid for and are not part of the contract. Supplies and fuel should be replenished before or after the shift unless approved by the TMC.

The Department has established the initial hours of service of the Contractor.

- The weekend following Columbus Day to the week prior to Memorial Day weekend (32 weeks) the VEHICLE will operate (1280 hrs.):
 - o Monday – Friday from 11:00 am– 7:00 pm
- The weekend prior to Memorial through the Columbus Day weekend (20 weeks) the VEHICLE will operate (1140 hrs.):
 - o Monday through Thursday 11:00 am– 7:00 pm,
 - o Friday 11:00 am to 8:00 pm,
 - o Saturday 10:00 am to 8:00 pm,
 - o Sunday 12:00 pm to 6:00 pm.
- The VEHICLE will operate on Holiday's and special events as requested.

The hours of service for the SP designated by the Department are based upon the relevant local factors affecting traffic congestion such as commuting hours, special events and maybe adjusted as conditions change. The Department will notify the Contractor two week before making permeant daily or weekly changes to the schedule. Yearly Holiday and Special Events will be scheduled Quarterly.

The Contractor may be required to patrol for non-scheduled special events with 24 hours of notice. VEHICLE shifts may be temporarily changed or extended (such as being called out earlier for special events) at the contract hourly rate. SP may also be called out on the weekends at the contract hourly rate. These changes in the normal work shift must and can only be made and authorized by a representative of the Department.

The SP **will not** normally operate on the following holidays:

- NEW YEARS DAY
- THANKSGIVING DAY
- CHRISTMAS DAY

G. SP VEHICLE AND ACCESSORY REQUIREMENTS

1. The Contractor will retrofit and accessorize the VEHICLE, at his cost, to conform to all the vehicle and equipment specifications contained in **Part III, VEHICLE SPECIFICATIONS**.

Prior to commencement of service, the Department will inspect the vehicle designated for the SP to ensure that the VEHICLE can meet vehicle requirements set forth in this Contract. Succeeding inspections will occur periodically as mandated by the Department. Any unsafe or poorly maintained vehicle conditions will be repaired by the Contractor within 48 hours.

The Contractor will be deemed out of service whenever the VEHICLE is unable, unsafe or unsuitable to perform the SP scheduled hours. The Contractor may ask for approval to utilize an alternate vehicle if the VEHICLE requires major repairs.

The VEHICLE must have a current Maine Vehicle Registration and must meet Maine Vehicle Insurance Requirements.

2. VEHICLE Equipment

The VEHICLE will be equipped at the Contractor's expense (unless otherwise noted) as per **Part III, VEHICLE SPECIFICATIONS**.

3. Pre-Operation Inspection

The OPERATOR will be required to complete a pre-operation inspection of the vehicle as well as inventory all the VEHICLE equipment called for in **Part III, VEHICLE SPECIFICATIONS**, prior to the start of each shift. An inspection/inventory sheet will be completed prior to the start of each shift. The preparation and printing of the inspection inventory sheet is the responsibility of the Contractor. These will be kept on file by the Contractor and will be made available to the Department upon demand. Any item missing must be replaced before the start of the shift. The Department reserves the right to be present at any and all pre-operation inspections and to prohibit the commencement of any patrol if the equipment in the VEHICLE is not in conformance with **Part III, VEHICLE SPECIFICATIONS**. Should this occur and the correction cannot be made before the patrol is scheduled to begin, then the VEHICLE will be placed out of service.

4. Vehicle Identification and Markings

Each VEHICLE will contain the following identification on each side:

- A vehicle identification number
- The Department symbol
- The name "Safety Patrol" or similar type of name.
- Sponsorship identifiers, if applicable.

It is the responsibility of the Contractor to insure the proper preparation and application of the SPONSOR logo onto the VEHICLE, except as set forth below or by Federal Regulation, company names, logos, advertising or other markings are prohibited. The Contractor will be required to keep the vehicle clean and in good appearance.

5. Fuel

The Contractor will supply, at his cost, all items required for the operation of the VEHICLE including but not limited to fuel, oil, antifreeze, lubricants etc. The Contractor will also supply to any motorists who have run out of fuel a minimum of one (1) and a maximum of two (2) gallons of gasoline or diesel fuel at no cost to either the motorist or the Department.

H. EMPLOYEES (OPERATOR) REQUIREMENTS

1. General

The Contractor is responsible for ensuring all OPERATORS have a safe driving record. All OPERATORS shall be 21 years of age or older. Potential OPERATORS will be subject to driving record and criminal background checks by the Department. Potential OPERATORS shall be sufficiently experienced in the tasks to provide safe and proper service and must be capable of demonstrating their operating abilities prior to beginning their first day of work and at any point throughout the life of the contract. Additionally, the OPERATORS will be expected to exercise reasonable judgment in carrying out their duties.

No firearms or weapons will be allowed on the OPERATOR or in the VEHICLE.

2. License Required

All OPERATORS must have a current Maine Driver's license.

3. Special Training and Knowledge

The Contractor, at their cost, will ensure the OPERATORS complete a special Safety Patrol Training Program created and taught by the Contractor or a training organization. The Contractor shall include education on the details of the Safety Patrol Program, minor vehicle repair, customer service, roadside service safety, and first aid.

No person will be allowed to begin patrolling as an OPERATOR without attending this mandatory training class. At the end of each 12-month period from the notice to begin the Safety Patrol, the Contractor will prepare and conduct, at its own cost, a refresher training course (during non-patrolling hours) for the OPERATORS. A Contractor utilizing an OPERATOR who has not completed the mandatory training class and the refresher course may, following an investigation of the circumstances, have its contract terminated. The OPERATORS may be required to attend training sessions twice per year at the Department's discretion.

All vehicles must come equipped with the FHA Report No. FHWA-HOP-10-014, *Field Operators Guide for Safety/ Patrols*. All OPERATORS are required to become familiar with this manual prior to beginning patrolling.

This training program and refresher course requires approval by the Department prior to implementation and must insure that the OPERATOR be fully knowledgeable in the following areas:

- a) Customer Service
- b) Minor vehicle repair
- c) SP Contract requirements and limitations
- d) The Department Pocket Guide - Temporary Traffic Control Work Zone
- e) Emergency Warning Lights
- f) American Red Cross (or equivalent) First Aid and CPR
- g) Review of Routes and Geographic area
- h) Incident Management Concept Courses ICS 100 and ICS 700
- i) Hazardous Materials, fires extinguisher and Blood Borne Pathogens
- j) Fire eradication

4. Uniform and Other OPERATORS Equipment

It shall be the responsibility of the Contractor to provide all the OPERATORS with at least two uniforms that will be kept clean and will be immediately replaced if they become torn or stained. The uniform will consist of a collared long or short sleeved shirt and long pants or trousers. The uniform or a class 3 vest over the shirt shall meet the most current ANSI reflective standards on the front and back. The final uniform must be approved by the Department. This uniform will only be worn while patrolling the assigned areas or while traveling to and from the assigned area. The Contractor will also supply OPERATORS with protective shoes or boots, jackets, rain gear and hard hats, all of which shall meet both OSHA safety standards and ANSI reflective standards. The Department may direct Contractor will, if and when directed by the Department, coordinate with the Department to add such logos or other identifying markings to the uniforms at the expense of the Contractor.

The Contractor will also supply the OPERATORS with a photo identification card which contains only their name and current photo and no reference to any private tow company. This card will be prominently displayed on their uniform.

5. Driving and/or working under the influence of Drugs or Alcohol

Any use of alcohol or illegal drugs is grounds for immediate removal of the OPERATOR from working under the Contract. Continued violation by different OPERATORS is grounds for immediate cancellation of the Contract.

6. OPERATOR Behavior

It is anticipated and expected that all OPERATORS will be considered as representatives of the Department and their appearance and behavior in front of the

general public will be impeccable. Violations of proper behavior and etiquette will not be tolerated. Such violations are listed as follows:

- Poor grooming, poor personal hygiene
- Dirty, torn or worn uniforms
- Sleeping during working hours
- Unsafe acts or violations of traffic laws
- Leaving motorists in unsafe areas, such as in a median or alone on a narrow shoulder without another tow truck or police vehicle present.
- Foul language or inappropriate hand gestures
- Yelling or being rude
- Falsifying information orally or in written form
- Damaging a motorist's vehicle due to a careless act
- Insubordination
- Demeaning the Department or the Safety Patrol Program
- Arriving to patrol area later or leaving patrol area early
- Failure to utilize or wear proper safety gear

Although each case will be weighed on its own merits, violation of ANY of the above items by the OPERATOR will be dealt with as follows:

- First Offense: Written reprimand
- Second Offense: 1 Week suspension from working under the Contract
- Third Offense: 1 Month suspension from working under the Contract
- Fourth Offense: Removal from working under the Contract

Multiple and continual violations by more than one OPERATOR may result in more severe actions up to and including Contract termination.

These violations are not intended to be an exhaustive list. The Department reserves the right to characterize any unsatisfactory action as a violation and subject to the above actions.

PART III - VEHICLE SPECIFICATIONS

Contractor will supply, at his cost, a vehicle, components, equipment, supplies and tools capable of handling all the requirements as set forth in this contract. The VEHICLE design should start with the type of vehicle to be deployed and progress to the equipment that will be installed on

the vehicle as well as carried in the vehicle. The factors to consider for the patrol vehicle to meet the Purpose, Scope and requirements set forth in the Contract should include:

1. Vehicle Design Considerations:

- a) Crew cab with four doors: Transport stranded motorists to a safe location, or the ability to keep some equipment properly stowed in the rear of the cab.
- b) Body style: The goal is to house all the VEHICLE support equipment in an organized and secured manner so it does not become a hazard or projectile during a crash. The vehicle body style may include a basic utility style body with compartment doors on the side, a covered or customized utility body, a van, a pickup truck with or without a cap, or a tow truck style body.
- c) Four Wheel Drive: Ability to safely drive in all weather conditions and drive off-road to maneuver on side slopes or through mud and debris.
- d) Engine and drivetrain: Capacity to haul the combined weight of the vehicle including all the equipment installed on the vehicle as well as tools and equipment the vehicle will be required to carry.

2. Vehicle Components

- a) Push Bumper or towing strategy: Move a disabled or damaged vehicle, weighing up to 10,000 pounds, off the travel way onto the shoulder.
- b) Reflective tape or decals on all four sides of the vehicles: reflective chevrons on the rear of the vehicle designed to National Fire Protection Association (NFPA) standard and emergency lighting should be included on all service patrol vehicles.
- c) Lights/Light Bar: Visually warn other vehicles of the VEHICLE presence. They may range from rotating lights to light-emitting diodes (LED) or strobes. The VEHICLE will be clearly marked with sufficient emergency lighting to warn approaching motorists and provide protect protection while assisting a motorist.
- d) Truck-mounted arrow board: The Arrow Board utilized on the VEHICLE will be in accordance with the Manual of Uniform Traffic Control Devices MUTCD, Section 6F.61. It will be a Type B Arrow Board, with a minimum size of 60" x 30", ¾ mile minimum legibility distance, appropriate for orations on high-speed roadways and will meet all display specifications in Figure 6F-6 of Section 6F-61, of the MUTCD. The arrow board shall be connected to a control box mounted in the cab within reach of the driver.
- e) Spot Lights: Ensure visibility of the incident scene. The spot lights can be installed in a variety of positions, including in front of the driver and passenger doors, on the roof, or on a tripod after being detached from the vehicle for mobile scene lighting. The detachable lighting can be powered by a generator or portable battery pack.
- f) Forward and backwards Camera: Ability to monitor event and traffic conditions in both directions. These videos will provide visual assistance to the TMC when warranted.
- g) Backup Alarm: Audibly notify surrounding responder/citizens when the vehicle is put in reverse. The alarm shall warn responders near the rear of the VEHICLE that it is backing up and to be aware.
- h) Plug-In Jumper Cable or Booster Box: Safely and conveniently jump start batteries of stranded vehicles.

- i) Grab handles and exit steps shall be furnished to provide “optimum safety” for field personnel. Non-skid tape is unacceptable.

3. Vehicle Equipment

- a) Fire Extinguishers: One rechargeable fire extinguisher shall be vehicle mounted and one shall be mounted in the cab for easy and quick access
- b) First-aid kit shall be mounted in the utility body.
- c) Siren/Air Horn: Audibly warn other roadway users of the VEHICLE’s presence. The alarm will provide a method of gaining roadway users’ attention while it navigates to an incident scene, at the scene and conducting traffic control operations, or when working near or directing traffic.
- d) Global Positioning System: Share location of the vehicle with the TMC by Global Positioning System (GPS) or Automatic Vehicle Location (AVL) technology.
- e) Radios: The Department will provide a two-way radio for the Contractor to install. A portable radio that the OPERATOR can carry outside of the vehicle is also useful.
- f) Hands Free Cellular: Communicate between the OPERATOR and the SP dispatchers or TMC operators while operating the SP. A Hands Free Cellular device will facilitate safer vehicle operation by allowing the OPERATOR to use both hands to operate the vehicle while communicating via cellular communications devices.
- g) Mobile Device: Provide Mobile Device allowing the OPERATOR the ability to enter information using a keyboard into the system which is connected wirelessly to the TMC or SP dispatch system. Information can be provided to the OPERATOR on the device in graphical, textual or image formats providing more data at the scene for the OPERATOR to use in response activities.
- h) Air Compressor: Inflate low pressure tires or spare tires for motorists. The compressors may also be used to power tools such as impact wrenches. There are many types of air compressors with differing mounting configurations to suit the needs of the service patrol. Some of the compressors such as the gas-powered versions, need to be mounted on the outside of the vehicle, but there are also electric versions which can be mounted under the hood or inside of one of the compartments of the vehicle.

Optional equipment that may assist in efficiently and effectively meeting the mission and general duties:

- i) *Winches optional: Remove wrecked/disabled vehicles and large debris from the roadway, where the circumstances do not allow for the use of a push bumper. An example of this application would be when the wheels of a wrecked vehicle are immobile due to the collision.*
- j) *Generator Optional: Provide electrical power to the scene of an incident including powering removable scene lighting or other pieces of equipment. Many types and styles of generators can be deployed on an SP vehicle. The generators must be mounted in a well-ventilated compartment of the vehicle or remain portable, enabling them to be used in areas that the patrol vehicle may not be able to access.*

4. Vehicle Supplies/Tools:

- a) Temporary Traffic Control Devices: 28 inch cones and highway flares.
- b) Hazardous Material Containment to contain small quantity spills with spill containment and absorbent materials, and other tools that may be needed for support at an incident scene.
- c) Personal Protective Equipment (PPE): All PPE must meet the MUTCD and OSHA standards, including class 3 safety vests, class 3 pants, hard hats, safety glasses, work gloves, latex gloves, hand sanitizer, and first aid kits
- d) Other Tools and Accessories include:
 - Stop/Slow Paddle Basic
 - Lug Wrenches (standard and metric) Basic
 - Tire Repair Kits (If used provide instruction) Basic
 - Tire Pressure Gauge Basic
 - Small Hand Tools (screw drivers, wrenches, hammer, wire cutters, etc.) Essential
 - Electrical/Duct tape Basic
 - Jumper cables Basic
 - Water for Overheated Vehicles Basic
 - Gasoline Basic
 - Diesel Basic
 - Drinking Water and Cups Essential
 - First Aid Kit (Commensurate with Training Level) Essential
 - Blood Borne Pathogens Kit Optional
 - Extra Safety Vests Basic
 - Chains/J Hooks/Tow Straps/Rope Basic
 - Pry Bar Basic
 - Brooms Basic
 - Shovels Basic
 - Trash Bags Basic
 - Bucket for Debris Cleanup Basic
 - Flashlight or Headlamp
 - Hand Cleaner/Sanitizer and Rags/Paper Towels Basic
 - Gloves

Optional tools that may assist in efficiently and effectively meeting the mission and general duties:

- *Battery Powered Tools Optional*
- *Reference Manuals Basic*
- *Light Sticks (carried by some agencies but require certain storage requirements) Optional*

- *Advance Warning Signs*
- *Floor Jack Optional*
- *Air Tank Optional*
- *Bailing Wire Optional*
- *Lockout Kits (Check agency policies and if allowed provide training on usage) Optional*
- *Jump Start Box Optional Cardiopulmonary Resuscitation (CPR) Kit Optional*
- *Bolt Cutters Optional*
- *Leaf Blowers (Gas powered) Optional*
- *Cut-Off Saw (Proper safety equipment, training and, certification if required) Optional*
- *Chain Saw (Proper safety equipment, training and, certification if required) Optional*
- *HAZMAT Plug and Dyke Kit (Training Item) Optional*
- *Diesel Off-Load Pump (Training Item) Optional*
- *HAZMAT Spill Pool (Training Item) Optional*

5. Vehicle Requirements:

The following shall indicate the **MINIMUM** requirements including all parts, accessories, equipment and safety features consider standard, whether mentioned herein or not.

- a. **Standards, Codes Rules and Regulations** - Each unit shall comply with all current applicable Federal Motor Vehicle Safety Standards, Federal and Maine Exhaust Emission and Noise Standards and Environmental Protection Agency (EPA) and Occupational Safety and Health Administration (OSHA) requirements, with appropriate decals stating compliance.
 - The equipment shall be manufactured as per good engineering practice. Standard manufacturing practices and tolerances shall be in accordance with the latest codes, Federal and State standards and practices.
 - Unit shall bear the latest applicable Maine Official Inspection Sticker as required for permanent license plates by Maine State Inspection Laws.
- b. **Scope of Supply** - All design, workmanship, techniques and materials shall in every respect be in accordance with the most current accepted practice in the industry.
 - All equipment, materials, parts and components shall be properly functioning and satisfy this specification.
 - Each unit shall be free of dealer signs and/or emblems.

- Unless otherwise specified, the VEHICLE shall include all specified accessories, parts, equipment, and options which are listed in the Manufacturer's specifications as standard or optional equipment for the indicated model, and which have been factory installed and immediately operative. Parts alliance equipment components specified and need to be provided which are not available through the equipment provided by the manufacturer shall conform to the best quality standard known to that industry, both product and installation, and shall be immediately operative. Units provided in a condition considered to be below customer acceptance level will not be accepted. Items which determine this acceptance level shall include, but not limited to, the general appearance of the interior and exterior of the cab and body for completeness and quality workmanship, lubrication and fluid levels with leaks corrected, mechanical operation of the unit and all systems and electrical components operation. The above items are pre-delivery items.
 - The VEHICLE shall be clean, lubricated, serviced, assembled, adjusted and ready for "Immediate Operation".
 - The VEHICLE shall include completely filled tanks for all fluids including fuel, and hydraulic fluid.
 - Safety features and items available for the proposed VEHICLE shall be furnished and installed whether mentioned herein or not to reasonably protect the user, Public, and Vendor from needless liability exposure.
- c. **Performance** - The units provided shall have been engineered and designed to produce practical and efficient servicing.
- This specification, including all specified components to be retrofitted on existing units, and their Installation, shall be reviewed and approved by the successful "Manufacturer's Engineering Department," that would perform the retrofit.
 - The power package required must be compatible with respect to the engine, transmission, axles, hydraulic system, and power steering to meet the requirements specified herein.
 - Each unit shall be protected from -25 to -40 degrees F with a 50-50 mix of permanent type ethylene glycol anti-freeze. Low silicate type anti-freeze for diesel engines only.
 - The ratio of the rear axle and transmission shall be geared to maintain a road speed of approximately 60 mph operating at maximum G.V.W.R without exceeding recommended engine rpm value.
 - The vehicle shall have a grade-ability of 35% when loaded to maximum G.V.W.R without exceeding the engine manufacture's recommended maximum rpm based on a maximum net torque.
- d. **Documentation** - The VEHICLE shall include the proper notarized form(s) to apply for Maine title and license. "Certificate of origin" statement is required for all existing SPs. A "vehicle history report" may also be required for existing trucks being retrofitted. The materials required in this contract are subject to reproduction for the Department's internal use only. By signature on this bid proposal, the

Contractor authorizes the Department to reproduce any material including printed materials and training aids, submitted in fulfillment of this contract.

- e. **Inspection** - All designs, workmanship, materials and procedures shall be, at all times and places, subject to the inspection by the Department personnel. Should any item fail to meet these specifications, the item shall be made to comply with the contract by replacing or correcting the said item at the Contractor's expense.
- f. **Warranty Requirements** - In the event that a breakdown occurs, the CONTRACTOR shall make the complete repair at no cost to the Department throughout the length of the Contract.
- g. **Delivery** - A detailed delivery schedule of all outfitted trucks shall be provided after award to inform the Department on the delivery. Delivery time must be specified and such phrases as "as required" "as soon as possible" or "prompt" have no meaning and maybe the cause for rejecting the bid.

PART IV - ADVERTISING GUIDELINE

Contractor may seek third-party organizations (SPONSOR) to contribute monies to lower the hourly unit price. The SPONSORS may have their logo, company identification, or other means of advertising placed on the VEHICLE and other written material where the SP is featured.

The Contractor shall identify SPONSORS in their proposal. The successful Bidder will be required to develop and submit a Sponsorship Plan for the Department's approval. The approved Sponsorship Plan will be included in the signed contract between the Contractor and the Department. Changes to the Sponsorship Plan after signing the Contract will require a revised Contract. The Department will have final approval of any and all SPONSORS.

1. Advertising can be officially included in or on the following:

- a) VEHICLE - Blinking lights, revolving messages or signs that may distract the motorist or OPERATOR will not be allowed on VEHICLES.
- b) Highway signage can be posted in the Freeport Rest Area and the tourist information center advising motorists of SP sponsorship in accordance with official highway signage rules and regulations and Maine state law.
- c) Reference to the Safety Patrol program on the Department web site.
- d) All written material where the SP is featured.
- e) All press/media releases issued by the Department involving the SP.
- f) Customer Satisfaction Feedback postcards can note the sponsorship.

2. The Contractor and SPONSOR are responsible for the creation, production, installation and maintenance of all advertising on the VEHICLE. **The advertisement will not be allowed on the passenger and driver's side door.** This area is reserved for the Department logo.
3. Advertising text shall consist solely of the SPONSOR's name and a description of the SPONSOR's business, which may include a motto regularly used to promote SPONSOR's business, but will in no event express an opinion of any kind beyond promotion of the SPONSOR's business or contain any language designed to do anything other than describe the services provided by the SPONSOR, including but not limited to any language intended to or tending to promote any particular religion, political viewpoint, lifestyle or ideology. Images in the advertising shall be limited to the SPONSORS's logo or trademark and inoffensive images that in the Department's sole judgment are suitable to be viewed by children and adults travelling the interstate.

Under no circumstance will obscene or sexually suggestive wording or imagery be allowed on any advertising.

4. The Contractor will work cooperatively with the Department regarding all necessary markings and placement of advertising. Advertising will not be allowed that would, in the Department's judgment, impair the functioning of safety lighting, devices or markings.

PART V - CONTRACT TIME

This contract is for 2 years and commences when contract is signed by the Department. Please note that the dates below are estimated and may be adjusted, as necessary, to comply with all procedural requirements associated with this Contract and the contracting process. The actual contract start date will be established by an executed Contract.

Contract Renewal: Following the initial term of the contract, the Department may opt to renew the contract for two renewals under all terms and conditions of original contract, the first renewal for two years and the second renewal for one year renewal periods, as shown in the table below, and subject to continued availability of funding and satisfactory performance.

For each additional renewal period of the Contract, beyond the initial Contract period, a 2% escalation factor shall also be added to bid prices.

The term of the anticipated contract, is defined as follows:

Period	Start Date	End Date
Initial Period of Performance	(11/01/2018)	(11/01/2020)
Renewal Period #1	(11/01/2020)	(11/01/2022)
Renewal Period #2	(11/01/2022)	(11/01/2023)

PART VI - METHOD OF MEASUREMENT AND BASIS OF PAYMENT

Method of Measurement

The SP will be paid on an hourly basis for services rendered by the SP during the normal hours of operation. The hourly rate shall be full compensation for VEHICLE and OPERATOR at the compensatory rate as set forth in the Contract. This hourly rate shall be only for those hours when the VEHICLES are actually on patrol as called for in **Part II, Section A, B, and F**, of this Contract. No hourly rates will be paid for in such situation as:

- When the VEHICLE is not on actual patrol.
- Removal of the VEHICLE from the Interstate for longer than 15 minutes as permitted under **Part II, Section A, GENERAL SCOPE** of these specifications.
- Operator travel time as per **Part II, Section F, HOURS OF OPERATION** of Operations of these specifications.
- VEHICLE Maintenance as per **Part II, Section G, SP VEHICLE AND ACCESORY REQUIREMENTS** of these specifications.

Additional hours of patrol, when required by the Department, as specified in **Part II, Section F, HOURS OF OPERATION** shall be paid at the contract hourly rate and paid in quarter hour increments.

Disabled vehicles discovered on the Interstate with the operator present, just at the end of a shift period or discovered by the OPERATOR while returning to the Contractor's location, will be handled in a normal response manner even if this means staying out beyond the normal end of the shift period. The OPERATOR must not drive past a disabled vehicle when the operator is present. The OPERATOR will immediately contact the TMC. The Contractor will be reimbursed for this overtime at a straight time rate paid in quarter hour increments. The OPERATORS daily log, incident information form and motorists post card evaluation, will be used to document this overtime work.

Disabled vehicles discovered on the Interstate without the operator present Contractor location will be immediately reported to the TMC. If the disabled vehicle poses no hazard, then no further action by the OPERATOR is necessary. If the TMC or Police instruct the OPERATOR to stay with the disabled vehicle, the Contractor will then be reimbursed for any overtime in the same manner as if the vehicle had been discovered with the operator present.

Invoicing

Accepted quantities will be paid for at unit price per hour in quarter hour increments which shall include full compensation for the SP (VEHICLE and OPERATOR) and any training, equipment, labor, materials, supplies and incidentals required as specified in the Contract. Mobilization and reports will not be paid for separately and shall be considered incidental to the per hour rate.

The Department will pay based upon prices bid and the invoices provided and approved by the Department. Invoice should include quantity of hours and Operator's name, dates of service, and a copy of the Motorist and mileage log sheets for the billing period.

The Contractor shall submit an invoice and supporting documentation for work performed during the previous two weeks to the TMC. Once the TMC confirms acceptance of services, the Contractor shall invoice the Department for authorized work performed. Invoices need to be broken down and in accordance with Contract Terms and Conditions. Payments to the Contractor may be withheld if required log sheets are not submitted with the invoices. Payments may be withheld for failure to submit log sheets. Payment of the invoice will be remitted to the Contractor in accordance with the Contract Terms and Conditions.

Failure to Perform and Termination

Failure by the Contractor to operate the SP during the agreed upon operational hours will result in these actions listed in the Deficiency and Damages Table.

DEFICIENCY AND DAMAGES TABLE		
Non-Operation	The contractor SHALL NOTIFY THE Department immediately.	
Non-Operations exceeds 24 consecutive or non-consecutive hours during a 12-month period.	The contractor SHALL NOTIFY THE Department immediately. The Department will issue a written warning.	The Maine DOT shall reduce the Contractors payment at the rate of \$55 per lost hour that exceeds 24 hours.
1st and 2nd Non-Operation that exceed three consecutive days	The Department may give written Notice of Default to the Contractor and terminate the Contract by written Notice of Termination.	The Contractor may within 10 days of receipt of written notice compensate the Department for such non-operation at the rate of \$55 per lost hour.
3rd Non-Operation that exceeds three consecutive days	The Department may (A) give written Notice of Default to the Contractor and terminate the Contract by written Notice of Termination or (B) take prosecution of the Work away from the Contractor without violating the Contract.	The Department may, at its option, allow the Contractor an opportunity to cure the subsequent violation(s) by compensation to the Department for such non-operation at the rate of \$55 per lost hour.
Non-Operation for more than 72 consecutive or non-consecutive hours during a 12-month period	The Department may immediately terminate this Agreement with written notice without an opportunity for the Contractor to cure or may, at its option, allow the Contractor to cure by compensation of the Department.	The Department may, at its option, allow the Contractor an opportunity to cure the subsequent violation(s) by compensation to the Department for such non-operation at the rate of \$55 per lost hour.

PART VII - PROPOSAL SUBMISSION REQUIREMENTS

1. General Information

Bidders shall ensure that all information required herein is submitted with this proposal. Provision of inaccurate information or failure to provide all completed and required information may result in the Proposal being disqualified as non-responsive or receiving a reduced score. Bidders should be mindful of the Evaluation Criteria that are indicated in this Contract and shall provide information in the proposal that will permit an objective evaluation thereof. The Department reserves the right to reject any or all bids.

Bidder's Proposal shall include all items listed in the "Bidding Instructions" and information requested in Section 2 Proposal Content below.

- a. Proposal Format for narrative Section I through Section IV should be typed or printed on 8.5" x 11" paper with a maximum of 11 pages.
- b. Schedule of Items is to be used for bid price submittal. No variations or alterations are to be made to this sheet.
- c. Bidders name should appear on all attachments submitted.
- d. Bidders are asked to respond to each Section below. Number each response of the Proposal to correspond to the relevant section.

2. Proposal Content

At a minimum, your Proposal package should include all items listed in the Bidding Instructions along with the following:

Section I – Bidder's Qualifications and Experience (25 Points)

The Bidders are required to submit evidence of compliance with Contractor Requirements set forth in this Contract.

Provide Bidder's history and experience of work related specifically to the Scope of Work in this RFP. Written documentation setting forth the experience of the Bidder and SPONSORS who will be performing the Work specified in the contract documents, including a description of similar contracts completed in the last five years that highlight the Bidder's and SPONSORS related experience. Such information shall include:

- a. References:
 - Provide at least two (2) public agency references. References shall clearly state the time period of service, services rendered, quality of work, and conformance to contract requirements (if known). References must not be older than five (5) years old. Provide current contact information for each reference and identify the key personnel associated with the project. Section "A" may be duplicated to provide additional references.

b. Previous Work Experience:

- Provide a summary of previous experience providing similar goods and services or for the key personnel directly involved in the program. Qualifications will only be considered from Bidders that engage in the business of performing services similar to those described in this RFP. Bidders must be able to produce evidence that their key personnel have an established satisfactory record of performance for a minimum of five (5) years.

c. Key Personnel:

- Identify all key management personnel responsible for administering the drug and alcohol testing program, payroll services and staffing who will be assigned to perform work under this contract, their relevant knowledge, experience, qualifications and number of years performing work related specifically to the Scope of Work in this RFP.

d. Ability to Provide Required Assets and Qualified Drivers:

- Demonstrate ability to secure the assets required in the Scope of Work for patrolling. Evidence must be provided that the Bidder has sufficient financial support and organization to execute the service if awarded a contract. The term “organization” as used herein shall be construed to mean a well-established company in line with the best business practices in the industry.
- Demonstrate ability to provide replacement assets within two (2) days of any breakdown or other situation that would render VEHICLE out of service.
- Demonstrate ability to provide trained OPERATORS without a lapse in service.

e. Sponsorship Program (*if applicable*)

- Identify experience working with advertising agencies or sponsors and the ability to develop a SPONSORSHIP PROGRAM as described in the Contract

f. Promote a Positive Public Image of the Program:

- Statement of Contractor’s policy regarding Contractor employee conduct, asset maintenance, and appearance to promote a positive public image of the Program.

Section II – Project Understanding and Implementation Program (25 Points)

This section should describe the Bidder’s understanding of SP purpose and goal of this program as illustrated in the Scope of Work. The proposal should include a detailed accounting of how the firm will meet the business requirements and specifications as detailed in the Scope of Work.

- a. Clearly demonstrate an understanding and knowledge of the key components of the project as detailed in the Scope of Work.
- b. Demonstrate an understanding of the program objectives and goals including the availability and commitment of personnel assigned to the project, Bidder’s response times, and performance metrics.
- c. The Bidder shall provide an implementation of the project outlining all tasks necessary to transition into the new program.

Section III –Safety Protocols, Safety Record and Training Program (10 points)

Proposal should clearly demonstrate the Contractor's Safety Program, Training Program and protocol for operators. In addition to the Safety Program, the Contractor's Safety record must be provided.

- a. Proposal should include Contractor's required safety training, on-scene protocol, and applicable compliance reviews.
- b. The Proposal should describe how the training program will be developed and implemented.
- c. Proposal shall include all the Bidder's / key personal field incidents within the past five (5) years.
- d. If safety issues exist in the past, how were they addressed?

Section IV - Cost (30 Points)

Proposal cost/price shall be payment in full for satisfactory performance of Motorist Safety Patrol services as described in the specifications and as stated in Part VI – Method of Measurement and Basis of Payment Section of this contract.

All actions/services/equipment/vehicles that the Contractor must provide to satisfactorily administer, supervise, plan, prepare, repair, supply, operate, and perform SP as described in this Contract, shall be deemed included in the hourly rate of payment submitted by the bidder, and shall not be paid for separately. The Bidder must include the cost of all such items in the hourly pay unit figures it submits in response to this bid.

Proposal cost/price shall be firm through the entire term of the contract unless stated in the contract.

Section V – Maine Business and Economic Impact Consideration (10 Points)

The Maine Business and Economic Impact Consideration for this Bid will be scored based on the information provided by Bidders in the Maine Business and Economic Impact Consideration and the point allocations.

Bidder shall indicate their Maine business and economic impact by completing the questions on the "Maine Business and Economic Impact" section. The Bidder shall not make variations or alterations when responding to these questions. The use of this information in making contract award decisions is required in accordance with Executive Order 2017-003, which states "Evaluators of competitive bids for goods and services shall give consideration to the investment in the State by business enterprises as a best-value criterion. Consideration for Maine business enterprises may result in low cost or top scoring bids not being considered as the best-value for the State of Maine."

Section VI - Innovations and Value Added (up to 10 additional points)

The Department encourages bidders to include innovations or creative solutions that support the objectives of the program. An innovative firm will be most competitive. In this section, provide example(s) of innovations that your firm has successfully implemented in a program of similar scope, as well as innovative solutions that you recommend implementing to improve the SP. Proposal includes:

- a. Innovative solutions and creative ideas to address challenges or opportunities to improve the patrol program such as recording and updating performance data electronically, in a format transferrable to the Department in real-time.
- a. Proposal highlights experiences, knowledge, management capabilities and other internal strengths that uniquely position your firm to implement proposed ideas.
- b. Innovative and Value Added proposals are included in the Bid Price.

PART VIII – PROPOSAL EVALUATION, SCORING AND BASIS OF AWARD

1. The scores will be based on a 100-point scale, with up to an addition 10 points for innovation. The Evaluation Committee will review each Proposal and score on the basis of the following weighted criteria:

Section	Criteria	Weight
I	Bidder's Qualifications & Experience	25%
II	Project Understanding and Implementation Program	25%
III	Safety Record and Safety Protocols	10%
IV	Costs (Schedule of Items)	30%
V	Maine Business & Economic Impact Consideration	10%
VI	Innovations & Value added (up to 10 additional points)	Extra Points

2. The Evaluation Committee will be composed of at least 3 reviewers who will judge the merits of the Proposals in accordance with the criteria defined in this RFP. The goals of the evaluation process are to ensure fairness and objectivity in review of the Proposals and to ensure that the contract is awarded to the Bidder whose Proposal best satisfies the criteria of the RFP at a reasonable/competitive cost. The Department reserves the right to communicate with Bidders, if needed, to obtain clarification of information contained in the proposals received. Changes to Proposals will not be permitted during any interview/presentation process.

3. The Evaluation Committee will use a consensus approach to evaluate the Proposals. Members of the Evaluation Committee will not score the Proposals individually but instead will arrive at a consensus as to assignment of points on each category of each Proposal.
4. The responsive Bidder receiving the highest number of evaluation points based upon the Proposal's satisfaction of the criteria established in the RFP which regarding the consideration Maine business enterprise is considered as best-value for the State of Maine, all as determined by the Department may be offered the contract for SP. The Department reserves the right to reject any or all bids and may not award all the positions.
5. The Cost section will be scored as follows:
 - a. Scoring the Cost Proposal: The cost proposed in the Schedule of Items, Section 0001, for conducting all the functions specified in this RFP for two year will be assigned a score according to a mathematical formula. The lowest bid will be awarded 30 points. Proposals with higher bid values will be awarded proportionately fewer points calculated in comparison with the lowest bid.

The scoring formula is:

$$\frac{(\text{lowest submitted cost proposal divided by the cost of proposal being scored}) \times 30}{= \text{pro-rated score}}$$

6. Maine Business and Economic Impact will be scored using the total number of points the bidder receives from answering the information in the Schedule of Items, Section 0002.
7. The responsive Bidder receiving the highest number of evaluation points based upon the Proposal's satisfaction of the criteria established in the RFP as determined by the Department may be offered the contract. The Department reserves the right to reject any or all bids.
8. No Best and Final Offers: The Department will not seek a best and final offer (BAFO) from any Bidder in this procurement process. All Bidders are expected to provide their best value pricing with the submission of their proposal.
9. Issuance of this RFP in no way constitutes a commitment by the Department to award a contract, to pay costs incurred in the preparation of a response to this request, or to pay costs incurred in procuring or contracting for services, supplies, physical space, personnel or any other costs incurred by the Bidder.
10. The successful bidder will receive written notification of the award and the results will be posted on the Department's website.
11. Part V information contained in proposals submitted for the State's consideration will be held in confidence until all evaluations are concluded and the award notification has been made. At that time, the full content of the proposals become public record and is therefore available for public inspection upon request.

12. By submitting a Proposal, the Bidder agrees and assures that the specifications are adequate, and the bidder accepts the terms and conditions herein. Any exceptions should be noted in the Proposal. The State reserves the right to reject any or all proposals based on the exceptions presented, without obligation to communicate or negotiate with the bidder.
13. The details of the evaluation process will be provided to interested parties, upon request, after selection of the apparent successful proposals.

The Department will review the submissions and determine if the submitted evidence or information satisfies the Department's requirement that the bidder is qualified to properly carry out the terms of the Contract.

Bidders shall ensure that all information required herein is submitted. Provision of inaccurate information or failure to provide all completed and required information may result in the Bidder being determined to be "Not Qualified" or disqualified as non-responsive. Within 14 days, the Department will review the submissions and determine if the available evidence or information satisfies the Department requirement that the bidder is qualified to properly carry out the terms of the Contract. The Department reserves the right to communicate in writing with Bidders, if needed, to obtain additions to and/or clarification of information contained in the submittals received. The Bidder shall have 3 days to submit additions and clarifications in writing. The Bidder will have no additional opportunity to submit or clarify information. The Department will not provide an opportunity for the Bidder to meet to present evidence.

Based on these submissions, the Department will make one of the following determinations:

1. Qualified - The Contractor has satisfied the requirements and demonstrated to the Department's satisfaction that it is responsible, can meet the Requirements set forth in this contract, and is qualified to perform this type of work.
2. Not Qualified - Bidder is not qualified to properly carry out the terms of the Contract and/or the submission does not meet specifications and accepted standards and is not acceptable, as determined by the Department.

There is no Appeal process and the determination of "Not Qualified" is final. The Department will reject the bid as non-responsive, and the Award process will proceed without the unqualified Bidder.

The Department will notify the Bidder of its determination in writing. If a determination of "Not Qualified" is rendered, the notice will set forth reasons to the extent practical. Such reasons may include the following:

- A. Not meeting contract Contractor requirements
- B. Insufficient experience
- C. Default(s) or termination(s) on past or current Contracts.

- D. Failure on past or current contracts to pay or settle all bills for labor, Materials or services. Failure on past or current contracts to comply with directives of the Department, to fulfill warranty obligations or to provide closeout documentation.
- E. "Below Standard" performance as determined from Department's Contractor's Performance Rating process.
- F. Insufficient bonding capability or Inability of the Contractor to obtain or retain performance or Payment Bonds meeting MaineDOT requirements, or a pattern of unsupported Claims.
- G. Failure to accept an Award of a Contract made by the Department to the Contractor.
- H. Making materially false, deceptive, or misleading Statements or omissions, whether or not under oath, regarding a claim on prior Contracts or on the Contractor's Prequalification Application or the Post-Bid Qualifications submittals.
- I. Failure to provide information requested by the Department in a timely manner.
- J. Debarment, suspension or a denial of prequalification or 'award of contract' by any federal, State, or local governmental procurement agency or the Contractor's Agreement to refrain from Bidding as part of the settlement with any such agencies or any of the reasons contained in Section 102.02 of the "Rules Regarding Debarment of Contractors", Maine Department of Transportation Register 17-229, Chapter 102 (October 2, 1985).
- K. Failure to demonstrate ability to do work to the satisfaction and at the sole discretion of the Department.
- L. Number of personnel working directly for the Contractor with applicable knowledge and experience is significantly below industry standards.
- M. Safety Record, Environmental Record, Civil Rights or Equal Opportunity Record significantly below industry standards.
- N. Serious misconduct that the Department reasonably determines will substantially and adversely affect the cost, quality or timeliness of Work, or the safety of Workers or the public, any deceptive, evasive or fraudulent statements or omissions contained in the Proposal, made or omitted at any interview or hearing, or otherwise made to or omitted from the Department; or any other substantial deficiencies in experience or conduct that are clearly below industry standards and that clearly demonstrate in the sole discretion of the Department, that the Contractor is "Not Qualified".

Default and Termination

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

1. Fails to provide labor, Equipment, Materials or Reports specified in the Contract, fails to perform Work when specified in the Contract. Deemed to be in violation of any federal, state or local statutes, laws or regulations.
2. Becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency that could affect the Work in any way,
3. Continues to perform Work after the Department directs that Work be stopped,
4. In any other manner, fails to perform the Work in Substantial Conformity with any material provision of the Contract.
5. Terminated or ceases to operate in accordance with the Contract for a period exceeding three consecutive days. If the Safety Patrol fails to operate in accordance with this Agreement for a period exceeding three consecutive days the Contractor may, on the first two such occasion, cure said violation within 10 days of receipt of written notice by compensating the Department for such non-operation at the rate of \$55 per lost hour. If there is a third failure within the same 12-month period the Department may immediately terminate the Contract by written notice without an opportunity for Contractor to cure or may, at its option, allow the Contractor to cure the subsequent violation(s) by compensation of the Department
6. At any time, the Safety Patrol fails to operate during the agreed upon operational hours, and the Contractor fails to cure such violation within 10 days of receipt of written notice from the Department of such failure by compensating the Department for such non-operation at the rate of \$55 per lost hour that exceeds 24 consecutive or non-consecutive hours during a 12-month period. If the Safety Patrol fails to operate in accordance with this Agreement for more than 72 consecutive or non-consecutive hours during a 12-month period, the Department may immediately terminate this Agreement with written notice without an opportunity for Contractor to cure or may, at its option, allow the Contractor to cure by compensation of the Department for the excess hours as described above.

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 REVISIONS
ADDITIONS AND REVISION TO STANDARD SPECIFICATIONS

SPECIAL PROVISIONS 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 ADD the following:

“Apparent Highest Scored Bidder A Bidder that receives the Evaluation Committee’s highest total score using the weighted criteria in the bid documents. The Apparent Highest Scored Bidder may not be Awarded the Contract if a) the Bid is later found to be non-responsive in accordance with Section 102.11, b) the Bidder is found to be not responsible, c) the Bidder fails to comply with all applicable pre-Award Conditions, other pre-execution requirements of the Contract, d) consideration for Maine business enterprises results in low cost bids not being considered as the best-value for the State of Maine or e) the Department chooses not to Award a Contract.”

101.2 Definitions Apparent Low Bidder Delete the section in its entirety.

101.2 Definitions Apparent Successful Bidder Delete the section in its entirety and replace with the following:

“Apparent Successful Bidder The Bidder with the highest scored responsive Bid which regarding the consideration Maine business enterprise is considered as best-value for the State of Maine, all as determined by the Department. A responsive responsible Bidder, usually the Apparent Highest Scored Bidder, that is Awarded the Contract. The Department may not execute the Contract with the Apparent Successful Bidder if a) the Apparent Successful Bidder fails to comply with all applicable pre-Award conditions or other pre-execution requirements of the Contract or b) if the Department chooses not to Award a Contract.”

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 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.

101.2 Definitions Successful Bidder Delete the section in its entirety and replace with the following:

“Successful Bidder The highest scored, responsive, responsible bidder, which regarding the consideration Maine business enterprise is considered as best-value for the State of Maine and to whom the Department intends to award the Contract. This status is evidenced by a “Notice of Intent to Award” Letter sent to the Successful Bidder

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 Project, WIN and 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".

102.11.1 Non-curable Bid Defects E. Delete the entire section 102.11.1 E and replace with the following:

- (1) “The unit price and bid amount is not provided if the item quantity is not one or lump sum, or
- (2) the unit price, bid amount or lump sum price is not provided if the item quantity is one or lump sum or

- (3) the lump sum contract price is not provided or
- (4) the unit price, bid amount or lump sum price is illegible as determined by the Department.”

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

102.11.2 Curable Bid Defects Add the following after 102.11.2 E:

“F. If a submitted bid contains any additional conditions or alternate bidding language, the Bidder may cure the defect by removing all conditions and alternate language or the Department will reject the bid as non-responsive.”

102.11.2 Curable Bid Defects ADD the following:

“G. The questions asked under “Maine Business and Economic Impact Consideration” in the Schedule of Items, have not been completed.

Upon Notification, the Bidder may be given five (5) business days to complete the questions regarding Maine Business and Economic Impact in the Schedule of Items. After the five (5) days has elapsed and no response has been submitted, no points will be calculated for this criteria.”

SPECIAL PROVISION SECTION 103 AWARD AND CONTRACTING

103.1.1 Unit Prices Govern Add the following at the end of the paragraph:

“If the item quantity is one and either a unit price or bid amount is not provided, the unit price or bid amount omitted shall be determined mathematically by the Department.”

103.1 Analysis of Bids Add the following at the end of the section:

“103.1.4 Bids for goods and services Evaluators of competitive bids for goods and services shall give consideration to the investment in the State by business enterprises as a best-value criterion. Consideration for Maine business enterprises may result in low cost or top scoring bids not being considered as the best-value for the State of Maine.”

103.4 Notice of Award Delete the section in its entirety and replace with the following:

“The Department has 30 Days following Bid Opening to Deliver a written Notice of Intent to Award and request insurance, special certifications, and other information from the Apparent Highest Scored Bidder. If a notice of Intent to Award is not sent within 30 days of receipt of the Bid Opening, the Apparent Successful Bidder may withdraw its Bid without forfeiture of its Bid Guaranty or Bidding eligibility. If the Department and the Apparent Successful Bidder agree, an extension beyond the 30 days of the Bid and Bid

prices may occur and the Bid remains viable. For a related provision, see Section 103.5 Award Conditions.”

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 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.”

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 subcontractor. 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.