

**ON CALL**

**GARAGE AND OVERHEAD DOOR  
REPAIR, REPLACEMENT, MAINTENANCE  
AND RELATED WORK**

**STATEWIDE**

**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 are to be completed and must be received prior to the time of bid opening:
  - a. A copy of the Notice to Contractors
  - b. The completed Acknowledgement of Bid Amendments form
  - c. The completed Prequalification Application
  - d. Two (2) copies of the completed and signed Contract, Offer & Award form
  - e. Any other certifications or Application requirements listed in the Application Documents as due by Application opening.

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

Bid Enclosed - Do Not Open

Title: Garage and Overhead Door Repair, Replacement and Maintenance

Town: Statewide

Date of Bid Opening:

Name of Contractor:

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

Double Envelope: Bid Enclosed

Title: Garage and Overhead Door Repair, Replacement and Maintenance

Town: Statewide

Date of Bid Opening:

Name of Contractor:

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

Bid Enclosed: Do Not Open

Title: Garage and Overhead Door Repair, Replacement and Maintenance

Town: Statewide

Name of Contractor:

4. If a paper Bid is to be hand carried, deliver directly to the Reception Desk using the “Public Entrance” which is located on the Capitol Street side of the DOT Headquarters Building in Augusta. <http://www.maine.gov/mdot/mainedotdirections.htm>. If a paper Bid is to be sent express, “FedEx First Overnight” delivery is suggested as the package is delivered directly to the DOT Headquarters Building, Mailroom, in Augusta located at 24 Child Street in Augusta. Other means, such as U.S. Postal’s Service Express Mail has proven not to be reliable. If a paper bid is to be mailed, the mailing address is Maine Department of Transportation, 16 State House Station, Augusta, ME 04333-0016.
5. If you need further information regarding Bid preparation, call the DOT Contracts Section at (207) 624-3410. For complete bidding requirements, refer to Section 102 of the Maine Department of Transportation, Standard Specification, November 2014 Edition.

# 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](mailto: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](mailto: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.



### **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

Applications addressed to the Maine Department of Transportation, Augusta, Maine 04333 and endorsed on the wrapper "Application for Prequalification for Garage and Overhead Door Repair, Replacement, Maintenance and Related Work in the State of Maine" 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 January 31, 2018 and at that time and place publicly opened and read. Applications will be accepted from all bidders. All applicants must demonstrate successful completion of projects of similar size and scope to be considered for the award of this contract.

Description: Prequalification Application and Contract for Garage and Overhead Door Repair, Replacement, Maintenance, Installation and Related Work

Location: Within the State of Maine

Outline of Work: MaineDOT is seeking contractors to perform garage and overhead door repair, replacement, maintenance, installation and related work, in various locations throughout the state. Contractors desiring to be prequalified and under contract must prepare and submit this application and enter into a contract.

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](mailto: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 Offices in Scarborough, Augusta, Dixfield, Bangor and Presque Isle. They can be obtained at no cost at the Department at 24 Child Street, Augusta, ME, between the hours of 8:00 a.m. to 4:30 p.m., may be requested by telephone at (207) 624-3536 between the hours of 8:00 a.m. to 4:30 p.m, or from Maine Department of Transportation, Attn.: Mailroom, 16 State House Station, Augusta, Maine 04333-0016.

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

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

This Contract is subject to all applicable Federal and State Laws. This contract is subject to compliance with the Disadvantaged Business Enterprise program requirements as set forth by the Maine Department of Transportation.

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  
January 10, 2018



BRIAN T. BURNE  
HIGHWAY MAINTENANCE ENGINEER  
BUREAU OF MAINTENANCE & OPERATIONS

**SPECIAL PROVISION 102.7.3  
ACKNOWLEDGMENT OF BID AMENDMENTS**

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

Amendment Number	Date

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 – Special Provision - 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, and under the terms of the Contract for **Garage and Overhead Door Repair, Replacement, Maintenance and Related Work**, in Maine.

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

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

**B. Time.**

This contract commences on February 1, 2018 or when executed, whichever is latest and expires on **January 31, 2023**. The Contractor agrees to complete all Work in each Assignment, except warranty work, on or before the Completion Date in the Assignment.

**C. Price.**

The original Contract amount is **Five Hundred Thousand Dollars and no cents (\$500,000.00)**. 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. The actual Contract amount will be determined by the actual Work performed at the rates described in individual assignment letters.

**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, Division 100 - General Conditions, 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, Division 100 - General Conditions, 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.

The Contractor agrees to perform the work required at the bid or agreed prices for the Assignments 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 is to begin and end within the time limits given in the Assignments and the Contract.

Third: 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 \_\_\_\_\_

**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 – Special Provision - 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, and under the terms of the Contract for **Garage and Overhead Door Repair, Replacement, Maintenance and Related Work**, in Maine.

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

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

**B. Time.**

This contract commences on February 1, 2018 or when executed, whichever is latest and expires on **January 31, 2023**. The Contractor agrees to complete all Work in each Assignment, except warranty work, on or before the Completion Date in the Assignment.

**C. Price.**

The original Contract amount is **Five Hundred Thousand Dollars and no cents (\$500,000.00)**. 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. The actual Contract amount will be determined by the actual Work performed at the rates described in individual assignment letters.

**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, Division 100 - General Conditions, 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, Division 100 - General Conditions, 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.

The Contractor agrees to perform the work required at the bid or agreed prices for the Assignments 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 is to begin and end within the time limits given in the Assignments and the Contract.

Third: 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 \_\_\_\_\_

**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 ABC COMPANY (“Contractor”) a corporation or other legal entity organized under the laws of the State of ME, with its principal place of business located at 123 ANY STREET, TOWN, ST 000000, with a mailing address of PO BOX XXX, TOWN, ST 00000, and a telephone number of (123)456-7890.

The Vendor Customer Number of the Contractor is VC000000000.

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

- Appendix A – Special Provision - 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, and under the terms of the Contract for Garage and Overhead Door Repair, Replacement, Maintenance and Related Work in Maine.

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

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

**B. Time.**

This contract commences on February 1, 2018 or when executed, whichever is latest and expires on **January 31, 2023**. The Contractor agrees to complete all Work in each Assignment, except warranty work, on or before the Completion Date in the Assignment.

**C. Price.**

The original Contract amount is **Five Hundred Thousand Dollars and no cents (\$500,000.00)**. 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. The actual Contract amount will be determined by the actual Work performed at the rates described in individual assignment letters.

**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, Division 100 - General Conditions, 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, Division 100 - General Conditions, 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.

The Contractor agrees to perform the work required at the bid or agreed prices for the Assignments 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 is to begin and end within the time limits given in the Assignments and the Contract.

Third: 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

**STATE OF MAINE DEPARTMENT OF TRANSPORTATION**  
**CONTRACTOR PREQUALIFICATION AND RENEWAL PROCEDURES**  
**Garage and Overhead Door**  
**Repair, Replacement, Maintenance, Installation and Related Work**

**PREQUALIFICATION PROCEDURE**

Contractors desiring to perform or bid on Garage and Overhead Door Work must submit a properly completed Application and sign a contract unless one of the exceptions to prequalification listed below of this Procedure applies. The prequalification process will be open continuously.

All Contractors must be prequalified in accordance with the provisions of this Procedure to be eligible to be awarded a Contract, EXCEPT that such prequalification is not required if (1) the Contractor is contracted pursuant to a separate process specific to that project or (2) the Department waives the requirement for prequalification for good cause shown and in the best interest of the State.

The Contractor must honestly, accurately and completely supply all information requested in the Application. Applications will not be considered received until the Department has received a properly completed Application including all required supporting data. A Committee shall review all information provided in the Application. The Committee or its designees may (a) contact any person or entity necessary to verify and/or supplement any of the information requested by or provided in the Application and (b) review any other Significant information. Whenever the Committee determines that the nature or extent of the information provided in the Application is insufficient or indicates that the Contractor is not qualified, the Committee will, within ten (10) Business Days of receipt of the application, contact the Contractor to seek additional information and, if desired by the Contractor, to schedule an interview to discuss the specific reasons that have caused that preliminary determination. The Contractor will submit all additional information requested by the Committee.

The Committee will evaluate all the information provided or obtained as a whole on a pass-fail basis to determine whether the Contractor is responsible and qualified. In doing so, the Committee will use the following descriptive categories.

**QUALIFIED:** Sufficient information exists to determine that the Contractor is likely to perform the work in a timely manner using acceptable processes.

**NOT QUALIFIED:** The information demonstrates that it is unlikely that the Contractor can perform the work in a timely manner using acceptable processes.

**Grounds for Determination of “Not Qualified”**

A finding by the Committee based upon substantial evidence that any one of the following conditions exists shall be sufficient grounds, though not mandatory grounds, for an overall determination of “Not Qualified”.

**STATE OF MAINE DEPARTMENT OF TRANSPORTATION**  
**CONTRACTOR PREQUALIFICATION AND RENEWAL PROCEDURES**

**Garage and Overhead Door**  
**Repair, Replacement, Maintenance, Installation and Related Work**

1. Not meeting Contractor Requirements.
2. Unsatisfactory and/or insufficient Contractor experience or experience significantly below industry standards.
3. Safety record significantly below industry standards.
4. No Safety Plan or Project Specific Safety Plan, or unacceptable Safety Plan or Project Specific Safety Plan.
5. Failure to pay or settle all bills for labor, Materials or services on past or current contracts.
6. Failure to fulfill warranty obligations on past or current contracts.
7. Failure to comply with directives of the Department on past or current contracts.
8. "Below Standard" performance as determined from the Department's Contractor's Performance Rating process.
9. Civil rights, equal opportunity, or environmental record significantly below industry standards.
10. A denial of prequalification or award of contract, disbarment or other irregularities with respect to any federal, state or local government or procurement agencies.
11. A pattern of unsupported claims.
12. Conviction of bid or other crime or indictment with substantial evidence regarding the same.
13. Deceptive, evasive, fraudulent or misleading statements or omissions regarding a claim on prior contracts or on the Contractor's Prequalification Application, at any interview or hearing, or otherwise made to or omitted from the Department.
14. Failure to provide information requested by the Department pursuant to the application.
15. 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).
16. Other 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.
17. Other substantial deficiencies that are clearly below industry standards and that clearly demonstrate that the Contractor is "Not Qualified".

If the Contractor is found to be qualified, the Department will notify the Contractor of Prequalification. Once a Contractor has furnished Certificates of Insurance complying with the Standard Specifications, and any other pre-executions conditions are met, the Department may execute and award a contract. If the Department determines that the Contractor is not qualified, said Notice will also set forth the specific reasons therefore to the extent practical and no contract will be awarded.

Appeals and Definitions will be those described in the Maine Department of Transportation Contractor's Prequalification Procedure, Revision December 5, 2016.

**STATE OF MAINE DEPARTMENT OF TRANSPORTATION**  
**CONTRACTOR PREQUALIFICATION AND RENEWAL PROCEDURES**  
**Garage and Overhead Door**  
**Repair, Replacement, Maintenance, Installation and Related Work**

**RENEWAL PROCEDURE**

Contractors may submit a request for prequalification renewal and a new contract no earlier than 30 days prior to contract expiration. The request for prequalification renewal shall be accompanied by a newly completed prequalification form including any changes to data from the prior application. The Department will determine if the Contractor is qualified. A Contractor shall furnish Certificates of Insurance complying with the Standard Specifications prior to contract award.

If the Contractor is found to be qualified, the Department will notify the Contractor of Prequalification. The Department may award a contract once pre-executions conditions are met.

Maine Department of Transportation  
**CONTRACTOR'S PREQUALIFICATION APPLICATION**  
For  
GARAGE AND OVERHEAD DOOR  
REPAIR, REPLACEMENT, MAINTENANCE AND INSTALLATION

\_\_\_\_\_  
[Legal Name of Contractor Applying for Prequalification, hereafter "Contractor" or "you"]

\*\*\*\*\*

**1. Basic Information**

Name of Contractor: \_\_\_\_\_

Contact Person(s): \_\_\_\_\_

Telephone No: \_\_\_\_\_ Cell No: \_\_\_\_\_ Fax No: \_\_\_\_\_

E-mail: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
\_\_\_\_\_

Physical Address: \_\_\_\_\_  
\_\_\_\_\_

Vendor Customer No.: \_\_\_\_\_

**2. Organizational Structure & History**

The Contractor is duly organized under the laws of the State of \_\_\_\_\_.

For the purpose of this Application, a Maine Business is one that currently meets each of the following criteria:

1. Physical location within the borders of Maine;
2. Employment of at least one Maine resident; and
3. Subject to State of Maine taxes such as:
  - a. Business Income or Corporate Income
  - b. Property
  - c. Employment – Unemployment, worker's compensation

Are you a Maine Business as defined in the Bid Documents? <input type="checkbox"/> Yes <input type="checkbox"/> No
--



Maine Department of Transportation  
**CONTRACTOR'S PREQUALIFICATION APPLICATION**  
 For  
 GARAGE AND OVERHEAD DOOR  
 REPAIR, REPLACEMENT, MAINTENANCE AND INSTALLATION

Please provide the following information regarding the last six (6) contracts related completed by the Contractor. Please list in reverse chronological order (most recently completed project first, next most recently completed project, etc.). [Please feel free to provide this information on attached sheets in another format as long as it contains all the information requested. Attach additional sheets as necessary.]

Contract Amount	Project Type & Location	Month/Year Completed	Name/Address Contact Person & Tel. # of Owner

If the Contractor does not have a history of satisfactory performance performing similar Work under contracts with the Department that meets the Contractor Requirements regarding experience, the Bidder shall submit evidence of compliance with Contractor requirements as set forth in Appendix A and this Contract and written documentation setting forth the experience of the Bidder, including a description of similar projects completed in the last five (5) years that highlight the Bidder's related experience. Such information shall include:

1. the Company's history and experience of work related specifically to the Scope of Work in this contract;
2. the name of the owner for whom the work was performed;
3. the name and telephone number of a contact person;
4. a description of the work performed by the Bidder or their subcontractor; and
5. the total construction cost of each project, and the value of work performed by the Bidder or their subcontractor.

The Bidder shall submit the relevant experience of the key personnel and supervisors who will be performing Work under this contract, their experience and number of years performing work related specifically to the Scope of Work in this contract.

Maine Department of Transportation  
**CONTRACTOR'S PREQUALIFICATION APPLICATION**

For  
 GARAGE AND OVERHEAD DOOR  
 REPAIR, REPLACEMENT, MAINTENANCE AND INSTALLATION

**4. Termination, Suspension, Default, Debarment, Claims, Crimes,  
 Civil Rights, Environmental Record, Safety**

	YES	NO
Within the last five (5) years, or since your last Prequalification Application has a contract of the Contractor (or any Predecessor Entities or Related Entities) been terminated or suspended for cause, been considered in default of a contract that was not cured within the time frame allowed by the contract?		
Within the last five (5) years, or since your last Prequalification Application has the Contractor (or any Predecessor Entities or Related Entities) been debarred for any reason by any federal, state, or local government or procurement agencies or refrained from bidding for any reason, such as suspension or agreement not to bid, or as part of the settlement of a Dispute of any type with any federal, state, or local government or procurement agencies?		
Within the last 10 years, has the Contractor (or any Predecessor Entities or Related Entities), or any officers, owners, or Key Personnel of the same ever been indicted on, convicted of, or plead or consented to a violation of a bid crime including bid collusion or any other crime involving fraud or knowing misrepresentation?		
Within the last five (5) years, or since your last Prequalification Application has the Contractor (or any Predecessor Entities or Related Entities) had any findings and/or rulings of sexual harassment, discrimination, or other civil rights violations against it?		
Within the last five (5) years, or since your last Prequalification Application has the Contractor (or any Predecessor Entities or Related Entities) been found to be in violation of any federal, state or local environmental law or regulation in an administrative, civil or criminal proceedings.		
Within the last five (5) years, or since your last Prequalification Application has the Contractor (or any Predecessor Entities or Related Entities) sustained any work related fatal accidents or received an OSHA (or state OSHA) citation?		
If the answer to any of the questions is YES, provide full details, including a summary of your position, on attached sheets.		

Maine Department of Transportation  
**CONTRACTOR'S PREQUALIFICATION APPLICATION**  
For  
GARAGE AND OVERHEAD DOOR  
REPAIR, REPLACEMENT, MAINTENANCE AND INSTALLATION

**5. Certifications**

By signing below, the person signing below hereby certifies and swears, as follows.

1. I have personal knowledge of all the information contained in this Application OR I am responsible for the accuracy of all such information
2. The information contained in this Application is true and complete.
3. I hereby authorize the Department to contact any person or entity necessary to verify or supplement any of the information requested by or provided in this Application without liability, and I hereby further authorize any person or entity contacted to provide any and all information requested without liability.
4. The Contractor has read, understands, and agrees to all terms of the Prequalification Procedure and this Application.
5. I am duly authorized by law and by the Contractor to sign this Application on behalf of the Contractor.

CONTRACTOR

\_\_\_\_\_

Date

\_\_\_\_\_

Signature

\_\_\_\_\_

Witness

\_\_\_\_\_

Name and Title Printed

**APPENDIX A**

SPECIAL PROVISION  
FOR  
GARAGE AND OVERHEAD DOOR REPAIR, REPLACEMENT, MAINTENANCE  
AND RELATED WORK

The MaineDOT is accepting applications with intent to award contracts with multiple bidders for the purpose of providing garage and overhead door repair, replacement, and maintenance services at MaineDOT facilities. Contract(s) will expire in January 2023. During the five (5) year contract period, applications will continue to be accepted from and contracts may be executed with other contractors for garage and overhead door repair, replacement, and maintenance services at MaineDOT facilities.

Scope of Work

As work arises, the MaineDOT will assign work to the Contractor. This work is to include but not limited to garage and overhead door repair, replacement, maintenance, installation and related work in MaineDOT garages, sheds, office buildings and other buildings within MaineDOT. The Contractor will supply qualified personnel, management, supervision, equipment, materials and all incidentals necessary to perform the work.

Contractor Requirements

The Bidder shall have a minimum of five (5) years of experience performing Garage and Overhead Door Repair, Replacement, Maintenance and Installation.

A Contractor must furnish Certificates of Insurance complying with the Standard Specifications and a compliant copy of the Contractor's Safety Plan.

In order to be considered for the award of this contract, the Bidder and key employees that will be assigned to the Work shall have successfully completed work of similar size and scope. The Contractor shall have and maintain current licenses, inspections, authorizations, ratings and registrations for the duration of the contract.

The Bidder shall be able to comply with the Contract Requirements, be able to deliver according to the contract schedule, and have a history of satisfactory performance.

The Contractor and the employees shall have the ability to work effectively with minimum supervision.

The Contractor and the employees shall adhere to a comprehensive Lockout/Tagout policy and have the knowledge and willingness to do so.

The Contractor and the employees shall adhere to all Electrical Codes and OSHA requirements and have the knowledge and willingness to do so.

The Contractor shall supply all necessary Personnel Protective Equipment needed to perform job duties and comply with established safety guidelines and procedures.

The Contractor shall supply all tools and equipment needed to perform assigned work.

The Contractor shall furnish and maintain a current contact list including phone numbers and emails so that at least two of the Contractor's supervisors, managers or owners may be reached at all times.

### Assignments

The Contract will obligate each Contractor to perform work pursuant to an Assignment depending upon the needs of the Department and according to the following terms.

As scheduled work arises, the Department will solicit quotes from prequalified Contractors under contract that indicated a willingness to perform work in county in which the project is located. Contractors shall have two business days to decline work or submit quotes unless otherwise stated in the request for quotes. The Work will be given to the prequalified, contracted bidder, that indicated the willingness to perform work in the applicable county, with the ability to complete the Work (the "Assignment") in the allotted time, with the lowest responsible, responsive bid which regarding the consideration of Maine business enterprise is considered as best value for the State of Maine, all as determined by the Department. The Contractor with the lowest cost may not be offered the work first when consideration for Maine business enterprises results in the lowest cost bids not being considered as the best-value for the State of Maine. The Department and the Contractor shall mutually agree to the cost basis, scope and schedule prior to the Contractor beginning the Assignment. Upon mutual agreement, an Assignment Letter stating the nature of the Work and any time constraints will then be sent to the successful Contractor. The Work described in this letter will become part of the Contract.

In the case an emergency arises for which the response time does not allow for the preparation of a bid solicitation, that the Department has determined the work required can best be addressed using one of these contracts, the Department will contact one or more of the Contractors Prequalified and under contract for Garage and Overhead Door Repair, Replacement, Maintenance and Installation. The Department will select a Contractor to call based on an evaluation of rates, experience and equipment, willingness to perform work in the applicable county, geographic proximity, response time, consideration of Maine business enterprise, and determination of what is in the best interest of the State. The Contractor shall have two hours to accept or decline. Upon

Garage and Overhead Door Repair, Replacement and Maintenance

Statewide

January 2, 2018

mutual agreement, an Assignment Letter stating the nature of the Work and any time constraints will then be sent to the successful Contractor. The Work described in this letter will become part of the Contract.

Contractors are not required to submit quotes nor accept work. If Contractors do not respond to requests for assignments and related quotes in the allotted time, The Department shall proceed as if the Contractor has declined the assignment.

The Contractor shall perform the Assignment in a timely and efficient manner. Failure to do so may result in the termination of this Contract.

Work not included in the assignment will be paid for at agreed prices or in accordance with Standard Specification, Section 109.7.5.

Not all Garage and Overhead Door Repair, Replacement, Maintenance and Installation will be done under these contracts. Some Work will be done by the Department and Work may be done by other means not associated with this solicitation, pursuant to a separate process specific to a project such as portions of a building construction project, and projects included in the Capital Work Plan or Building Program. The dollar amount of this Contract is in no way a guarantee that the Department will Assign Work for any or all of the total amount.

Allowable Work Times. Unless otherwise authorized, the Contractor shall perform work only during the following times Monday through Friday, 7:00AM through 3:30 PM except for they may not work on holidays as defined in Appendix B nor state government closure days. The Contractor is solely responsible for the planning and execution of Work in order to complete the Work before the Completion Date in the Assignment and within the Contract Time.

Contractor's Safety Program. If a copy of the Contractor's Safety Plan is not on file with the Contracts Section of the Department, the Contractor must submit, prior to Contract award, a project specific Safety Plan to the Department. The Contractor's Safety Plan shall identify and address job hazards of the expected contract work and shall comply with all applicable federal, State, and local laws governing safety including all applicable laws and regulations of OSHA.

Materials For Materials, not included in above items, that are incorporated in the permanent Work, the Contractor will receive the Actual Cost of Materials including freight and Delivery charges (but excluding any sale or use tax) plus a single 15 percent markup. For all Materials not incorporated in the permanent Work, the Contractor will receive the difference of actual value of such Material at the time of its use less the fair salvage value of Material when released, plus 15 percent of said difference. There shall be no markup on markups.

Equipment For all authorized usage of power-operated machinery, trucks, or other Equipment, the Contractor will receive the rental rates for the actual time to the nearest ¼ hour that such Equipment is on the project site and in operation on the Work. Time spent mobilizing will not be included for payment. Time spent servicing, maintaining, and changing attachments will not be paid for. The rental rates shall include the cost of all fuel oil, lubrication, supplies, necessary attachments, repairs and maintenance of any kind, depreciation, storage, insurance, small tools, and all other Incidentals.

Subcontractor Work When accomplishing Work not quoted, that utilizes Subcontractors, the Contractor will be allowed a maximum markup of 5% for profit and overhead on the Subcontractor's portion of the extra Work if the Department accepts the Subcontractor quote for extra Work.

Measurement and Payment The Department will pay based upon prices bid and the invoices provided and approved by the Department. The Contractor shall submit an itemized bill to the Contract Administrator in the Maine Department of Transportation for services at the completion of the Assignment and acceptance of the finished Work.

Wage Rates. If an Assignment exceeds \$50,000, State Wage Rates will be included in the solicitation and apply to that Work. Federal Wage Rates do not apply to this Work.

Default and Termination of Assignment The Contractor is in Default of the Assignment if the Contractor:

- A. Fails to adhere to obligations of the Assignment or Contractor Requirements.
- B. Fails to answer or reply to the Department within 2 hours of emergency notification of work.
- C. Fails to commence work or be onsite within the time limits given in the assignment after accepting an emergency assignment.
- D. Fails to provide sufficient labor, Equipment, or Materials to assure the timely Completion of the Assignment.
- E. After work on assignment has commenced, fails to continuously work on assignment without Department approval.
- F. Performs Defective Work neglects or refuses to repair or correct Unacceptable Work when directed by the Department.
- G. Continues to perform Work after the Department directs that Work be stopped.

If Default and Termination of Assignment occurs, the Department may give written Notice of Default and Termination of Assignment 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 award the Assignment to another Contractor 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 Assignment in an acceptable and timely manner.

Upon receiving a 2<sup>nd</sup> Default and Termination of Assignment, the Department may, in addition, consider this 2<sup>nd</sup> notification as a Default and Termination of Contract 2<sup>nd</sup> Incident written warning.

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

- A. Fails to provide labor, Equipment or Materials specified in the Assignment or Contract,
- B. Fails to perform the Work with sufficient labor, Equipment, or Materials to assure the timely Completion of the Assignment,
- C. Fails to perform Work when specified in the Assignment.
- D. Performs Defective Work neglects or refuses to repair or correct Unacceptable Work when directed by the Department;
- E. Becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency that could affect the Work in any way,
- F. Discontinues the Work without the Department approval,
- G. Continues to perform Work after the Department directs that Work be stopped,
- H. In any other manner, fails to perform the Work in Substantial Conformity with any material provision of the Contract.

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

1<sup>st</sup> Incident: If the Contractor does not take corrective action for a non-emergency Assignment within 2 days upon receipt of verbal warning, for an emergency Assignment within 3 hours after notification the Department will issue a written warning.

2<sup>nd</sup> Incident: The Department will issue a written warning.

3<sup>rd</sup> 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 (C) for if an emergency will count as 1<sup>st</sup> incident and no time to cure.

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 Assignment in an acceptable and timely manner. The Department will pay for all Accepted items of Work as of the date of Termination at agreed upon prices.

**SPECIAL PROVISION SECTION 101**  
**CONTRACT INTERPRETATION**

101.2 Definitions Add the following:

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

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

“All Bidders with the responsive responsible Bids as determined by the Department. A responsive responsible Bidder that is Awarded the Contract. The Department may not execute the Contract with the Apparent Successful Bidders 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:

“All responsive, responsible bidders 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 Bidders.”

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 Application 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 or Work location, Title, and the words “Bid Enclosed”. As a minimum, the Bidder will submit a Bid Package consisting of the Notice to Contractors, the completed Acknowledgement of Bid Amendments form, the completed Application, 2 copies of the completed Contract form, and any other Certifications or Bid Requirements listed in the Bid Book.

102.9 Bid Opening Delete the section in its entirety and replace with the following:

“Bids will be opened and publicly read at the time and place specified in the Notice to Contractors or any applicable Bid Amendments. The Department will read only the names of the Bidders. No other information will be made available prior to evaluation and award notification. Unit and lump sum prices are available for inspection by the Bidders immediately after Award. All Bids shall be sequestered until notification of award by the contracting agency after which time they become public record.

If, after the scheduled opening, the Department determines that there is not sufficient coverage of On-Call Services of the entire area being bid on, the Department may schedule a second bid opening date which extends the advertisement period of this Contract. Contractors will be notified of the new opening date by the normal Bid Amendment process. If the Bid Opening date is extended, any Bidders that have previously submitted Bids may choose **to** revise or **not to** revise their Bids. If the Bidder chooses to revise their Bid, they must resubmit a complete Bid Package which shall include a Bid and all other documents required in the Bid Documents and the original Bid will be returned to the Bidder. The Bid Package with the latest (newest) date shall replace all previously submitted packages.

The public reading of a Bid does not constitute a determination by the Department of whether the Bid is responsive or of whether the Bidder is responsible, though the Department may refuse to read Bids that are obviously non-responsive. Accordingly, the

Department may reject a Bid as non-responsive and/or determine a Bidder is not responsible or ineligible to Bid even if that Bidder's Bid is read at Bid Opening."

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 question which reads "Are you a Maine Business as defined in this Application?" in Appendix A has not been completed.

Upon Notification, the Bidder may be given 5 business days to complete the question regarding Maine Business in the Schedule of Items, Appendix A. After the 5 days has elapsed, the Bidder shall be compared as a non-Maine business."

SPECIAL PROVISION SECTION 103  
AWARD AND CONTRACTING

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 a payment bond, performance bond, insurance bond, special certifications, and other information from the Apparent Successful Bidders. If prequalification is required and an Apparent Successful Bidder is not prequalified at the time of Bid Opening, the Department shall have 15 days from the successful completion of the Prequalification process or 30 days following Bid Opening; whichever is longer. Once these pre-execution conditions are met, the Department will execute the Contract and notify the Contractor of the award with a written Notice of Award. If a Notice of Award is not sent within 30 days of receipt of the proper bonds, insurance, and other pre-award requirements, an Apparent Successful Bidder may withdraw its Bid without forfeiture of its Bid Guaranty or Bidding eligibility. The Notice of Intent to Award will set forth and/or reference the conditions that the Bidder must fulfill before Contract Execution. If the Department and an 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.”

103.5 Award Conditions Replace the first paragraph with the following:

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

103.5.1 Performance and Payment Bonds Delete the entire section 103.5.1.

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

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

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.