

**PREQUALIFICATION FOR
ON CALL AND EMERGENCY
WELL DRILLING
AND
RELATED WORK

STATEWIDE**

2019

Updated 04/28/17

STATE PROJECT

BIDDING INSTRUCTIONS

1. Use pen and ink to complete all paper Bids. Signatures shall be original. Stamped and copied signatures will not be accepted.
2. As a minimum, the following must be received prior to the time of Bid opening:

For a Paper Bid:

- a) a copy of the Notice to Contractors, b) the completed Acknowledgement of Bid Amendments form, c) the completed Prequalification Application, d) two copies of the completed and signed Contract, Offer & Award form, e) the completed Prequalification Supplemental, if applicable, and f) any other certifications or Bid requirements listed in the Bid Documents as due by Bid opening.
3. All Bid Packages which are mailed or sent express, shall be provided in double (one envelope inside the other) envelopes, for security and other reasons. The *Inner Envelope* shall have the following information provided on it:
Bid Enclosed - Do Not Open
WIN or Title: Prequalification For On Call and Emergency Well Drilling & Related Work
Town, Regions or Location: Statewide
Date of Bid Opening:
Name of Contractor with mailing address and telephone number:

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

Double Envelope: Bid Enclosed
WIN or Title: Prequalification For On Call and Emergency Well Drilling & Related Work
Town, Regions or Location: Statewide
Date of Bid Opening:
Name of Contractor:

If a paper Bid is to be sent express, please take note that overnight services do not always arrive in time. Packages using express services should be sent to Maine Department of Transportation, 24 Child Street, Augusta, Maine as the package is delivered directly to the DOT Headquarters Building, Mailroom.

If a paper bid is to be mailed, the mailing address is Maine Department of Transportation, 16 State House Station, Augusta, ME 04333-0016. Allow additional working days for this mail to pass through the state mail system as well as the US Postal Service since this mail is not delivered directly to the Department. This mail is delivered to the state mail system, sorted and then delivered to the Department of Transportation.

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

Bid Enclosed: Do Not Open
WIN or Title: Prequalification For On Call and Emergency Well Drilling & Related Work
Town, Regions or Location: Statewide
Date of Bid Opening:
Name of Contractor:

Bids are not accepted by email or FAX.

If you need further information regarding Bid preparation, call the DOT Contracts Section at (207) 624-3410.

For complete bidding requirements, refer to Section 102 of the Maine Department of Transportation, Standard Specifications, November 2014 Edition.

NOTICE

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

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

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

NOTICE

Bidders:

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

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

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

RFI No: _____

Date _____ **Time** _____

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

Question(s): _____

[illegible]

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

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

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Vendor Registration

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

<http://www.maine.gov/purchases/venbid/index.shtml>

STATE OF MAINE DEPARTMENT OF TRANSPORTATION NOTICE TO CONTRACTORS

Sealed Bids addressed to the Maine Department of Transportation, Augusta, Maine 04333 and endorsed on the wrapper "Bids for **PREQUALIFICATION FOR ON CALL AND EMERGENCY WELL DRILLING AND RELATED WORK** in **STATEWIDE** 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 **November 13, 2019** 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 Well Drilling and Related Work

Location: Various locations within the State of Maine

Outline of Work: MaineDOT is seeking contractors to provide well drilling work, furnish and install associated water and treatment systems, water lines, and restoration landscaping 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, project name and identification number should be in the subject line. Questions received after 12:00 noon of Friday prior to bid date will not be answered. Bidders shall not contact any other Departmental staff for clarification of Contract provisions, and the Department will not be responsible for any interpretations so obtained. TTY users call Maine Relay 711.

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

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

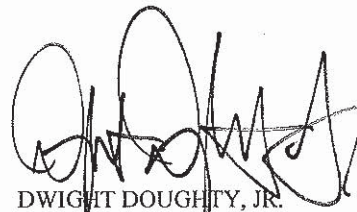
Each Bid must be made upon blank forms provided by the Department.

This Contract is subject to all applicable State Laws.

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

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

Augusta, Maine
October 23, 2019



DWIGHT DOUGHTY, JR.
HYDROGEOLOGIST
ENVIRONMENTAL OFFICE

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: _____

CSN: _____

CONTRACT, OFFER & AWARD
for the
Construction of Wells

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 Maine, with its principal place of business and mailing address located at _____, and a telephone number of (207) _____.

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 Construction of Wells

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 as specified or indicated in the Assignment including Extra Work in conformity with the Assignment and the Contract (hereinafter “Work”). The Work includes construction, maintenance during construction, warranty as provided in the Contract, and other incidental work.

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

The Contractor agrees to complete all Work in each Assignment, except warranty work, on or before the Completion Date in the Assignment. All work under this Contract must be assigned on or before **December 1, 2019**. The Contract Completion Date is **December 1, 2021**.

C. Price.

The original Contract amount is **Two Hundred Thousand Dollars and no cents (\$200,000.00).** The Contract amount of individual Assignments will be determined by as described in the Special Provisions. 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 Contract documents as defined in the Standard Specifications, November 2014 Edition as updated through advertisement, Supplemental Specifications, Special Provisions, Appendices and Contract. 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/or certifications required or set forth in the Bid and the Bid Documents and the Contract are still complete and accurate as of the date of this Agreement.
2. The Contractor knows of no legal, contractual, or financial impediment to entering into this Contract.
3. The person signing below is legally authorized by the Contractor to sign this Contract on behalf of the Contractor and to legally bind the Contractor to the terms of the Contract.

F. Offer.

The undersigned, having carefully examined the Standard Specifications November 2014 Edition, Supplemental Specifications, Special Provisions, Appendices and Contract contained herein for **Prequalification for On Call and Emergency Well Drilling and Related Work**, on which applications will be received until the time specified in the "Notice to Contractors" do(es) hereby offer to enter into this contract to supply all the materials, tools, equipment and labor to construct the whole of the Work in strict accordance with the terms and conditions of this Contract.

The Offeror agrees to perform the work required at the bid or agreed prices for the Assignments in strict accordance with the terms of this solicitation, and to provide the appropriate insurance if this offer is accepted by the Government in writing.

As Offeror also agrees:

First: Bidder 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 as provided in the contract documents or upon a Force Account basis as provided in the State of Maine Department

of Transportation, Standard Specifications, November 2014 Edition, Section 109 and as addressed in the contract documents.

Second: To begin and complete the Work within the time limits given in the Assignments and the Contract.

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

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

CONTRACTOR

Date

(Signature of Legally Authorized Representative
of the Contractor)

(Name and Title Printed)

G. Award.

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

MAINE DEPARTMENT OF TRANSPORTATION

(Date)

By: _____
Dwight Doughty, Jr., Hydrogeologist

CTM: _____

CSN: _____

CONTRACT, OFFER & AWARD
for the
Construction of Wells

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 Maine, with its principal place of business and mailing address located at _____, and a telephone number of (207) _____.

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 Construction of Wells

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 as specified or indicated in the Assignment including Extra Work in conformity with the Assignment and the Contract (hereinafter “Work”). The Work includes construction, maintenance during construction, warranty as provided in the Contract, and other incidental work.

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

The Contractor agrees to complete all Work in each Assignment, except warranty work, on or before the Completion Date in the Assignment. All work under this Contract must be assigned on or before **December 1, 2019**. The Contract Completion Date is **December 1, 2021**.

C. Price.

The original Contract amount is **Two Hundred Thousand Dollars and no cents (\$200,000.00).** The Contract amount of individual Assignments will be determined by as described in the Special Provisions. 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 Contract documents as defined in the Standard Specifications, November 2014 Edition as updated through advertisement, Supplemental Specifications, Special Provisions, Appendices and Contract. 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/or certifications required or set forth in the Bid and the Bid Documents and the Contract are still complete and accurate as of the date of this Agreement.
2. The Contractor knows of no legal, contractual, or financial impediment to entering into this Contract.
3. The person signing below is legally authorized by the Contractor to sign this Contract on behalf of the Contractor and to legally bind the Contractor to the terms of the Contract.

F. Offer.

The undersigned, having carefully examined the Standard Specifications November 2014 Edition, Supplemental Specifications, Special Provisions, Appendices and Contract contained herein for **Prequalification for On Call and Emergency Well Drilling and Related Work**, on which applications will be received until the time specified in the "Notice to Contractors" do(es) hereby offer to enter into this contract to supply all the materials, tools, equipment and labor to construct the whole of the Work in strict accordance with the terms and conditions of this Contract.

The Offeror agrees to perform the work required at the bid or agreed prices for the Assignments in strict accordance with the terms of this solicitation, and to provide the appropriate insurance if this offer is accepted by the Government in writing.

As Offeror also agrees:

First: Bidder 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 as provided in the contract documents or upon a Force Account basis as provided in the State of Maine Department

of Transportation, Standard Specifications, November 2014 Edition, Section 109 and as addressed in the contract documents.

Second: To begin and complete the Work within the time limits given in the Assignments and the Contract.

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

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

CONTRACTOR

Date

(Signature of Legally Authorized Representative
of the Contractor)

(Name and Title Printed)

G. Award.

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

MAINE DEPARTMENT OF TRANSPORTATION

(Date)

By: _____
Dwight Doughty, Jr., Hydrogeologist

APPENDIX A

SPECIAL PROVISION
FOR
PREQUALIFICATION FOR ON CALL OR EMERGENCY WELL DRILLING AND
RELATED WORK

Contract Time. The Department will assign work under this contract on or before December 1st. The Contractor shall to complete all Work in each Assignment, except warranty work, on or before the Completion Date in the Assignment. If Assignments made on or before December 1st, necessitate Work being performed after December 1st, a contract modification shall be written to extend the Contract Completion Date, allowing the Contractor to complete work for the specific Assignment only. The Contract Completion Date shall not be extended beyond December 1, 2021.

Invoices and Payments. The Department will pay the Provider as follows: Invoices will be submitted for payment listing work location, property owners, actual hours and dates of service, items, equipment and materials.

Contract Administrator. The contract administrator for this contract will be:

David Philbrook, the Environmental Engineering Technician or their designee
16 SHS Augusta, ME 04333-0016.

Contractor Requirements. The Contractor must have a minimum of two (2) years of experience performing well construction work in the State of Maine.

The Contractor and the Master Well Driller must be licensed by the Maine Water Well Drilling Commission for water well drilling and pump installation. The licenses must be in good standing. Other services may be included in the Assignment that also require licenses, such as pump installation, electrical work, plumbing installation, water testing and treatment, site access and restoration, water line installation and well abandonment. All pump installers must comply with National Electrical Code requirements.

The Contractor must be able to be notified and respond within 6 hours when MaineDOT has an emergency.

Assignments. Preference will be given to Contractors willing and able to perform the complete list of services required for each project in a timely manner.

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.

As scheduled work arises, the Department will solicit quotes from all Contractors prequalified for on call and emergency well drilling and related work that indicated a willingness to perform work in that county, that have signed a contract to perform work, and indicated that they are willing to provide the items of work required. Solicitations for quotes will include drilling and casing per foot, a drive shoe and a cap and other items of work expected. Quotes will be compared using estimated length for casing and drilling and other items indicated on request for quotes. The Work will be given to the prequalified, contracted bidder, with the lowest responsible quote and the ability to complete the Work (the "Assignment") in the allotted time. 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. If no Contractor is willing and able to provide all of the work, then quotes may be solicited for a portion of the work. Contractors are not required to submit quotes nor accept work.

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

In the case an emergency arises, that the Department has determined the work required can best be addressed using one of these contracts, and there is insufficient time to get quotes, the Department will contact one of the Contractors qualified for prequalification for on call or emergency well drilling and related work. The Department will select a Contractor to call based on an evaluation of rates, experience and equipment, geographic proximity, response time and determination of what is in the best interest of the State. Upon mutual agreement, an Assignment Letter will then be sent stating the price, payment, and time. The Work described in this letter will become part of the Contract.

Not all Well Construction work will be done under these contracts. These Contracts will not include Work that falls under Capital Work Plan, Program projects or separately advertised projects. Work will also be done by the Department, by other means not associated with this solicitation.

Failure to Perform. If a Contractor fails to work when required or performs it in an unsatisfactory manner, or fails to meet other contractual requirements, the Department reserves the right to immediately terminate the Contract by written Notice of Termination. In this event, the Department may complete the work with its own forces or enter into an Assignment Letter with another entity for the Completion of the Work, or use such other methods as in the opinion of the Department are required to complete the Work.

Wage Rates. The State Wage Rates do not apply to this work.

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 ½ 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.

Superintendence. The salary or expense of anyone connected with the Contractor above the grade of laborer is included for payment in related items.

STATE OF MAINE DEPARTMENT OF TRANSPORTATION
CONTRACTOR PREQUALIFICATION PROCEDURES
Well Drilling and related Work

PREQUALIFICATION PROCEDURE

Contractors desiring to perform or bid on Well Drilling and related 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 information from other published sources of industry information, information from transportation departments in other states, the Federal Highway Administration, and 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”.

1. Unsatisfactory and/or insufficient Contractor experience, licensing or applicable knowledge and experience significantly below industry standards.

STATE OF MAINE DEPARTMENT OF TRANSPORTATION
CONTRACTOR PREQUALIFICATION PROCEDURES
Well Drilling and related Work

2. Safety record significantly below industry standards or a Worker's compensation Experience Modifier Rate exceeding 1.25.
3. Findings of violations through Maine Well Driller's Commission.
4. Terminations, suspensions, defaults, disbarment, conviction of bid crimes, or other irregularities with respect to any federal, state, or local government or procurement agencies.
5. Civil rights or environmental record significantly below industry standards.
6. A pattern of unsupported claims.
7. Deceptive, evasive or fraudulent statements or omissions contained in the Application, made or omitted at any interview or hearing, or otherwise made to or omitted from the Department.
8. 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.

Contractors may submit a request for prequalification and a new contract no earlier than 30 days prior to contract expiration. The request for prequalification 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
ON CALL AND EMERGENCY WELL DRILLING AND RELATED WORK

[Name]

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 _____.

The Contractor has the following organizational structure.

() individual () corporation () partnership
() limited liability company () joint venture () other: _____

Please list all Predecessor and Related Entities below.

Maine Department of Transportation
CONTRACTOR'S PREQUALIFICATION APPLICATION

For
ON CALL AND EMERGENCY WELL DRILLING AND RELATED WORK

3. Services and Qualifications

Counties in which Contractor is willing to perform work (Check all that apply)	
☐	Androscoggin
☐	Aroostook
☐	Cumberland
☐	Franklin
☐	Hancock
☐	Kennebec
☐	Knox
☐	Lincoln
☐	Oxford
☐	Penobscot
☐	Piscataquis
☐	Sagadahoc
☐	Somerset
☐	Waldo
☐	Washington
☐	York

License Number of Master Well Driller under which the work will be performed: _____

License Number of Company under which the work will be performed: _____

Is license in good standing? YES _____ NO _____

Using the Contractor's OSHA 300 Log and statements provided by applicable insurance, provide your company's Worker's Compensation Experience Modification Rate (EMR) for the past (3) three years. If the Contractor does not have an EMR, attach explanation detailing why the Contractor is exempt.

List all violations through Maine Well Driller's Commission below or on an attached sheet.

Maine Department of Transportation
CONTRACTOR'S PREQUALIFICATION APPLICATION

For
ON CALL AND EMERGENCY WELL DRILLING AND RELATED WORK

Preference will be given to contractors willing and able to perform all of the work required for each project.

Summary of Well Drilling and Related Work	
Contractor/Subcontractor is willing to provide (Check all that apply)	
Well drilling	
Water system	
Treatment systems	
Water lines	
Installation of access to drilling site	
Restoration landscaping	
Emergency Response (In the event emergency work is needed, can the Contractor submit a quote, mobilize and begin work within 24 hours)	

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

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 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 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 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 above is YES, provide full details, including a summary of your position, on attached sheets <i>(check off whether yes or no here)</i>	Yes	No

Maine Department of Transportation
CONTRACTOR'S PREQUALIFICATION APPLICATION
For
ON CALL AND EMERGENCY WELL DRILLING AND RELATED WORK

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]

By: _____
[Name and Title Printed]

APPENDIX B

SPECIAL PROVISIONS
FOR STATE FUNDED CONSTRUCTION OF WELLS

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 services 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. 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. **CHANGES IN THE WORK.** The Department may order changes in the work, 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 compensation, time, quality, or other Contract requirements shall be by written Contract Modification, signed by both parties.

5. **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.
6. **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 service 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.
7. **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. 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.
8. **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. 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. **WARRANTY OF NO COLLUSION.** The Bidder hereby certifies that it has not, directly or indirectly, entered into any agreement, participated in any collusion or otherwise taken 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.

10. **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 Project Records available for inspection and must provide MaineDOT with copies at all reasonable times without cost or liability to MaineDOT.
11. **TERMINATION.** The performance of work under the Contract may be terminated by MaineDOT in whole or in part whenever for any reason the Contract Administrator shall determine that such termination is in the best interest of the Department. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of the work under the Contract is terminated and the date on which such termination becomes effective. The Contract shall be equitably adjusted to compensate for such termination and modified in writing to reflect adjustments.
12. **GOVERNMENTAL REQUIREMENTS.** The Contractor warrants and represents that it will comply with all governmental ordinances, laws and regulations.
13. **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.
14. **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.

15. **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.

16. **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.
17. **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.
18. **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.
19. **HEALTH AND SAFETY**

Contractor's Safety Program. The Contractor shall comply with all applicable federal, State, and local laws including all applicable laws and regulations of governing safety, health, and sanitation.

Specific Emergency Planning. The Contractor shall ensure that essential police, fire, rescue, and ambulance services have reasonable and timely access to and through the

Project Limits. The Contractor shall, as appropriate, contact all emergency service providers in the area, discuss potential impacts on emergency operations (including water supply for fire suppression), and minimize any negative impacts.

20. **ENVIRONMENTAL REQUIREMENTS**

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.

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.

21. **QUALITY AND STANDARDS.** If there is no applicable standard set forth in this Contract for a particular item of work, then the Contractor shall perform that item of work in accordance with industry standards prevailing at the time of bid. Materials and manufactured products incorporated into the work shall be new unless otherwise specified, free from defect, and in conformity with the contract. 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.

22. **WARRANTY PROVISIONS.** The Contractor unconditionally warrants and guarantees that the Work will be free from warranty defects for one year unless otherwise stated 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.

23. **PAYMENT.** The Contractor shall submit an itemized invoice to the Department for services 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 Service
- Description and location of the Work.

The Department will approve complete and correct invoices for accepted Work invoiced at bid prices. The Department may require that the Contractor submit backup documentation including copies of receipts, invoices, and itemized payments to Subcontractors. 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 Department may withhold payments claimed by the Contractor on account of:

- Incomplete or incorrect invoices
- Defective or Non-conforming Work.
- Damage to a third party.
- Claims filed or reasonable evidence indicating probable filing of claims.
- The Contractor's failure to pay Employees, Suppliers and/or Subcontractors.
- Regulatory non-compliance or enforcement.

- All other causes that the Department reasonably determines negatively affect the State's interest.

24. **RESPONSIBILITY FOR DAMAGE TO WORK.** The Contractor shall bear all risk of loss relating to the Work until Final Acceptance, regardless of cause, including completed Work, 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.
25. **RESPONSIBILITY FOR PROPERTY OF OTHERS.** The Contractor shall, at its expense, be responsible for all damage to public or private property of any kind resulting from any act, omission, neglect, or misconduct of the Contractor. 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.
26. **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 Department 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.

27. **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.

SPECIAL PROVISIONS
ADDITIONS AND REVISIONS TO STANDARD SPECIFICATIONS

SPECIAL PROVISION SECTION 101
CONTRACT INTERPRETATION

101.2 Definitions. Add the following:

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

101.2 Definitions 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.”

SPECIAL PROVISION SECTION 102
BIDDING

102.6 Bid Guaranty Delete the entire section 102.6.

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

“The Bidder must Deliver its Bid 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, WIN, 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. For a related provision, see Section 102.11 - "Bid Responsiveness".

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.”

SPECIAL PROVISION SECTION 103
AWARD AND CONTRACTING

Amend this Section by adding the following:

“103.1a Tie Bids - In the case where two responsive bids from responsible bidders are equal monetarily, the Department shall determine the apparent low bidder by flipping a coin. The coin shall have sides clearly marked as heads and tails. The contractor whose first letter in their official company name that comes first in the alphabet shall be heads.

If there are three bids, each bidder will flip the coin and the bidder with the odd toss will be the winner. (i.e. if the results are two heads and a tails, the bidder who had tails is the winner). For a three way tie, bidders may flip their own coin or have the Contracts Engineer flip for them.

The coin flip will occur at the next bid opening by the Contracts and Specifications Engineer or a designee. The tied bidders may attend the coin flip in person or watch on the internet as they choose.”

In 103.3.2 Notice of Determination Revise this section by removing sections A – M and replacing with the following A - K:

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

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 PROVISION SECTION 104
GENERAL RIGHTS AND RESPONSIBILITIES

104.3.8A. Federal Wage Rates and Labor Laws Delete the entire section 104.3.8A. Federal Wage Rates do not apply to this work.

104.3.8B State Wage Rates and Labor Laws Delete the entire section 104.3.8B.