

ATHEY

**ON CALL EQUIPMENT RENTAL
with an Operator**

REGIONS 1, 2, 3, 4 & 5

2023

(For the 2023 & 2024 Season)

Updated 05/15/2020

STATE PROJECT

MAINTENANCE & OPERATIONS

BIDDING INSTRUCTIONS

1. Use pen and ink to complete all paper Bids. Signatures shall be original. Stamped and copied signatures will not be accepted. Bids are not accepted by email or FAX.

NOTE: Electronic Bids will not be accepted for this bid.

2. As a minimum, the following should 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 Appendix A, d) two copies of the completed and signed Contract Agreement form, and e) any other certifications or Bid requirements listed in the Bid Documents as due by Bid opening.
3. Include prices for all items to be bid when completing Appendix A.
4. All Bid Packages which are mailed or sent express, shall be provided in double (one envelope inside the other) envelopes, for security and other reasons. The *Inner Envelope* shall have the following information provided on it:

Bid Enclosed - Do Not Open

WIN and/or Title: On Call Athey with an Operator

Towns, Regions or Location: Regions 1, 2, 3, 4 & 5

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 and/or Title: On Call Athey with an Operator

Towns, Regions or Location: Regions 1, 2, 3, 4 & 5

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 and that delivery may be affected by carrier volume, weather and other factors. Packages using express services should be sent directly to the DOT Headquarters Building, Maine Department of Transportation, 24 Child Street, Augusta. "FedEx First Overnight" delivery is suggested as the package is delivered directly to the DOT Headquarters Building, Mailroom, 24 Child Street, Augusta. Allow extra days for U.S. Postal Service Express Mail which has proven not to be reliable and sometimes does not deliver directly to the DOT Headquarters Building but instead delivers to the State of Maine Mail Distribution Center.

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 in addition to the US Postal Service as this mail is not delivered directly to the Department of Transportation.

If a paper Bid is to be hand carried, deliver directly to 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 and/or Title: On Call Athey with an Operator
Towns, Regions or Location: Regions 1, 2, 3, 4 & 5
Date of Bid Opening:
Name of Contractor:

Bidder should submit a Certificate of Insurance listing MaineDOT as additional insured and certificate holder when submitting a bid or shortly thereafter. Send Certificate of Insurance to suzanne.turcotte@wsp.com .

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, March 2020 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.

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 **ON CALL ATHEY – EQUIPMENT RENTAL WITH AN OPERATOR** in **REGIONS 1, 2, 3, 4 & 5**” will be received from contractors at the Reception Desk, MaineDOT Building, Capitol Street, Augusta, Maine, until 11:00 o’clock A.M. (prevailing time) **February 22, 2023** and at that time and place, publicly opened and read. Bids will be accepted from all bidders. Bids will be accepted from all bidders. All responsive bidders must demonstrate successful completion of projects of similar size and scope to be considered for the award of this contract. **Electronic Bidding will not be available for this bid.**

Description: On Call Athey with an Operator

Location: In Regions 1, 2, 3, 4 & 5

Outline of Work: Provide equipment with operators for use on construction and maintenance work on an as needed basis and other incidental work. Bidders may bid on one or more regions.

Basis of Award: The Department and each responsive, responsible bidder who meets the requirements and specifications may enter into a Contract. The Contractor with the lowest rate for the region for the particular equipment in the equipment category with the appropriate attachments and capabilities for the Region will have first option to furnish the equipment.

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/>. All publications and project specific documents may be obtained from the Maine Department of Transportation, **Attn.: Mailroom**, 24 Child Street, Augusta, Maine 04333-0016 or purchased by telephone at (207) 624-3536. All work shall be governed by *State of Maine, Department of Transportation, Standard Specifications, March 2020 Edition*, price \$10 [\$15 by mail], and *Standard Details, March 2020 Edition*, price \$10 [\$15 by mail]. *Standard Detail* updates can be found at <http://www.maine.gov/mdot/contractors/publications/>.

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

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

This Contract is subject to all applicable State Laws.

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

Augusta, Maine
February 1, 2023



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)

TEDOCS No. _____
MATS No. _____

MAINE DEPARTMENT OF TRANSPORTATION
Private Equipment Rental Agreement – with an Operator

ON CALL ATHEY - Bid Rates

This Private Equipment Rental Agreement (hereinafter referred to as “**Contract**”) is entered into by and between the **MAINE DEPARTMENT OF TRANSPORTATION** (hereinafter referred to as “**MaineDOT**”), an agency of state government with its principal administrative offices located at Child Street, Augusta, Maine, and _____, a corporation or other legal entity (hereinafter referred to as “**Contractor**”). The following attachments are hereby incorporated into this Contract by reference:

Appendix A –Rental Rates for Equipment with an Operator

MaineDOT and the Contractor, hereby agree that the Contractor shall provide the equipment described in Appendix A and a licensed experienced operator to perform construction and maintenance services (hereinafter referred to as “**Work**”) as requested and directed by MaineDOT and in accordance with the terms and conditions set forth below. This Contract is not a guarantee of work; Contractor shall be hired on an as needed basis during the term of this Contract.

1. **Work & Term.** The Contractor agrees to provide the equipment listed in Appendix A.

This Contract becomes effective on the date last signed by MaineDOT and that constitutes the earliest date for which Work may commence. The term of the Contract will be for the **2023 and 2024 Season ending December 31, 2024**. MaineDOT does not guarantee the use of any of the equipment listed in Appendix A.

2. **Equipment.** Contractor shall be responsible for all fuel, grease, oil, maintenance, servicing, operation, protection required for their equipment, in addition to mobilization and all other incidentals. Contractor shall provide for the required vehicle insurance, registration and licensing of any equipment used to perform the services herein.

3. **Contact Information.** All correspondence and reports will be sent to the individual below.

Contractor: _____

Attn: _____

Address: _____

Vendor Code: _____ **E-Mail:** _____

Tel#: _____ **Cell#:** _____ **FAX#:** _____

4. **Standard of Care and Correction of Errors.** Contractor hereby represents and warrants that the Contractor and its employees have the requisite skills, and expertise to perform all Work using the accepted standards of care in the Contractor's profession or occupation. If MaineDOT finds either the equipment or the operator to be unsatisfactory, the Contractor shall provide an immediate, acceptable replacement that conforms to the contract so as to avoid any impact on the project schedule. If Contractor is unable to provide such a replacement in a timely manner, MaineDOT reserves the right to hire a new Contractor to complete the Work.

5. **Insurance Requirements.**

Contractor Procured Insurance. Signed, valid, and enforceable Certificates of Insurance shall be provided to the MaineDOT upon execution of the Contract and whenever said policies are renewed thereafter during the period of the Contract. All insurance coverage must be provided by an insurance company or companies licensed or approved to do business in the State of Maine by the Maine Bureau of Insurance. Contractor shall pay all premiums and take all other actions necessary to keep required insurances in effect during such times as Contract obligations exist. Any requests for waivers, to the requirements below, shall be submitted to the MaineDOT.

Commercial General Liability Insurance. The Contractor and Sub-contractor(s) shall purchase and maintain a policy of Commercial General Liability or other coverage affording equal or greater protection as determined by the MaineDOT, in an amount not less than \$400,000 per occurrence and not less than \$2,000,000 in the aggregate. Such policy shall include products and completed operations as well as contractual liability coverage and must name MaineDOT as an additional insured.

Automobile Liability Insurance. The Contractor and Sub-contractor(s) shall carry Automobile Liability insurance covering the operation of all motor vehicles including any which are rented, leased, borrowed or otherwise used in connection with the project. The limit of liability under this section shall be no less than \$400,000 per occurrence and shall name MaineDOT as an additional insured.

Workers' Compensation Insurance. Contractor shall carry Workers' Compensation Insurance or shall qualify as a self-insurer in accordance with the requirements of the laws of the State of Maine.

6. **Rates.** Equipment will be paid for at the Period Equipment Rental Payment Rate per hour which is the rate bid and adjusted based on the variance in costs for the diesel fuel component of the work. Rate adjustments will be made upward or downward, as diesel prices increase or decrease. Adjustments will be as determined by the Department as follows:

Base Fuel Price: The base price of diesel fuel is the price per gallon shown as the weekly retail cost of diesel fuel for the U.S. On-Highway Diesel Fuel Prices, New England Subdistrict (PADD1A) found at <https://www.eia.gov/petroleum/gasdiesel/> for the date most immediately preceding the Bid Opening Date.

Period Fuel Price: The period price is the price per gallon shown as the weekly retail cost of diesel fuel for the U.S. On-Highway Diesel Fuel Prices, New England Subdistrict (PADD1A) found at <https://www.eia.gov/petroleum/gasdiesel/> for the date most immediately preceding the adjustment period dates of March 20 and August 1 of each year.

Base Equipment Rental Rate: The Base Equipment Rental Rate shall be the hourly rate bid.

Period Equipment Rental Rate: The Period Equipment Rental Rate is the rate bid and adjusted in accordance with the chart below.

Difference between Base Fuel Price and Period Fuel Price	Adjustment to Base Equipment Rental Rate to get Period Equipment Rental Rate
Increase of \$0.00 – \$0.49	No change
Increase of \$0.50 - \$1.49	Increase \$5.00
Increase of \$1.50 – \$2.49	Increase \$10.00
Increase of \$2.50 – \$3.49	Increase \$15.00
Decrease of \$0.00 - \$0.99	No change
Decrease of \$1.00 or more	Decrease \$5.00

Adjustment Period: The Equipment Rental Payment Rates will become effective on the second Saturday after the Adjustment period dates of March 20 and August 1 of each year and will remain in effect until the next period adjustment.

Mobilization to and from the jobsite will not be paid separately and will be considered incidental to the base rental rate.

Any rate established by bid shall be considered to be unique and therefore, not a basis for making changes in the published “Private Equipment Rates” found at www.maine.gov/mdot/csd/laborrates/ . Rates greater than published rates will only be paid when the rates are bid or suitable equipment and operators are not available at or below published rates. Mobilization to and from the jobsite will not be paid separately and will be considered incidental to the base rental rate.

7. **Assignments.** For Work paid at greater than the published rates, Work will be assigned under these agreements according to the following process: The Contractor with the lowest bid for the particular Equipment with the appropriate attachments and capabilities for the Region (the “Assignment”) will have first option to furnish the equipment. If this Contractor is unable to accept the Assignment, then the MaineDOT will contact the firm that submitted the next lowest bid to see if that Contractor will accept the Assignment and subsequent Contractors in ascending order of the amount of their bids, until a Contractor accepts the Assignment.
8. **Termination and Failure to Perform.** If, a Contractor accepts an assignment and then fails to furnish equipment when required or furnishes unsatisfactory equipment, or fails to meet other contractual requirements, the MaineDOT may issue a written warning. If the Contractor subsequently fails to furnish equipment when required or furnishes unsatisfactory equipment, or fails to meet other contractual requirements, the MaineDOT reserves the right to immediately terminate the Contract by written Notice of Termination. Any person employed by the Contractor, who, in the opinion of the MaineDOT, is intemperate or disorderly or jeopardizes safety of any person or the Project shall be removed immediately by the Contractor. The employee shall not be employed again in any portion of the Work without prior approval from the MaineDOT. All persons employed by or through the Contractor, shall have sufficient skill and experience to perform the Work properly. The MaineDOT may terminate this Contract with or without cause upon 7 days written notice.
9. **Hold Harmless.** The Contractor agrees to indemnify, defend, and holds harmless the MaineDOT and its officers, agents and employees from and against any liabilities, expenses (including reasonable attorney’s fees and court costs), claims and demands arising from:
 - a. bodily injury, including death, and property damage (public or private) that in any way arises out of the acts or omissions of the Contractor, its Subcontractors, or employees, in connection with the performance of this Agreement;

The language in the Agreement shall not constitute a waiver of any defense, immunity or limitation of liability that may be afforded the MaineDOT, or its officers, agents or employees, under the Maine Tort Claims Act (Title 14 M.R.S.A. 8101 et. seq.), and shall not constitute a waiver of any other privileges or immunities that may be afforded to the MaineDOT. This provision shall survive termination or expiration of this Agreement.

10. **Project Records.** Records shall be available for review by the MaineDOT or its designee, for a period of three (3) years following final payment. The Contractor shall keep records in such form as may be easily audited.

MaineDOT shall complete a Daily Work Verification Form and attest to the equipment, and hours to be measured for payment. This Report must be signed by a MaineDOT representative and the Contractor, and the Department and the Contractor shall each retain a copy of the completed form. If no Report is completed, accepted quantities of equipment rental will be determined by the MaineDOT.

11. **Representations.** By signing below, the Contractor hereby represents that to the best of the Contractor's knowledge and belief:

- a. The Contractor knows of no legal, contractual, or financial impediment to entering into this Contract.
- b. 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 this Contract.

12. **Dispute Resolution.** 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.

13. **Governing Law.** This Contract shall be governed by the laws of the Federal Government and the State of Maine. Contractor shall comply with all applicable federal, state, and local laws, including all applicable OSHA laws and regulations.

14. **Entire Contract.** This Contract consists of the State of Maine, Department of Transportation, Standard Specifications, March 2020 Edition, Sections 101, 102, 103, 104.5 & 105.10.2 and this agreement will be governed by the documents listed above. This document cannot be changed except through the execution of a written modification.

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

CONTRACTOR

(Signature of Legally Authorized Representative of the Contractor)
Signatures shall be original in ink.
Stamped and copied signatures will not be accepted.

(Name and Title Printed)

(Date)

Award:

Your offer is hereby accepted for (see marked boxes):

Region 1	<input type="checkbox"/>
Region 2	<input type="checkbox"/>
Region 3	<input type="checkbox"/>
Region 4	<input type="checkbox"/>
Region 5	<input type="checkbox"/>

This award consummates the Contract and the documents referenced herein.

MAINE DEPARTMENT OF TRANSPORTATION

(Approval Signature)

(Printed Signature & Title)

(Date)

MAINE DEPARTMENT OF TRANSPORTATION
Appendix A - Schedule of Items/Rental Rates for Equipment with an Operator
On Call Athey

Contractor Name: _____

Bidders may bid one or more Regions and may bid one or more equipment categories within the Region(s). Each Region/Equipment Category may or may not be awarded by The Department.

Contractors shall attach an Equipment & Rate List containing all of the required information or fill out the form below.

Equipment & Rates Attached

By signing below, the Bidder (1) represents that the Bidder has examined the Contract Agreement contained in the Bid Documents, the Contract, all documents referenced in said Contract, and the site and scope of work, (2) does hereby bid and offer to enter into this contract to construct and/or perform the Work in strict accordance with the terms and conditions of this Contract at the unit prices bid in the attached "Schedule of Items", (3) represents that the Bidder has given the Department notice of any errors or ambiguities related to the documents or the work that have been discovered by the Bidder, (4) represents that the above-named organization is the legal entity entering into the resulting contract with the Department if they are awarded the contract and, (5) represents that the undersigned is authorized to enter contractual obligations on behalf of the above-named organization.

Bidder acknowledges that the properly completed and signed Schedule of Items provided with the Bid constitutes the Bidder's offer and that this offer shall remain open for 30 calendar days after the date of opening of bids.

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.

Contractor Name: _____

Use pen and ink to complete paper bids. Signatures shall be original. Stamped and copied signatures will not be accepted.

_____ *Signature* _____ *Date*

_____ *(Print Bidder's Name and Title)*

- The Bid must be Delivered to the precise location and by the precise time set forth in the Notice to Contractors or any applicable Bid Amendment.
- Unit prices must be legible.
- Do not make handwritten changes to the bid documents.
- Fees must be included in Bid Prices.
- Bids are not accepted by email or FAX.
- Signatures are to be provided on both pages 5 & 7 of Rental Agreement

MAKE	TYPE	MODEL, YEAR	C. Y. CAPACITY	REGION(S)	HOURLY RENTAL RATE
Ex: Vanguard SP	Ex: 4-Wheel	Ex : 2008 FMC 3000, W/HOPPER	Ex: 5	Ex: Reg 5	Ex: \$00

Contracts will be executed for equipment listed in these bid documents. Rates furnished for additional pieces of equipment will not be used by the Department.

**Electronic bidding will NOT be available
for this bid.**

**Bids will NOT be accepted
by email or fax.**

**SIGNED PAPER BIDS ARE REQUIRED
and may be
mailed, sent express or hand delivered.**

For further information, see “BIDDING INSTRUCTIONS”
which are located near the front of the bid book.

TEDOCS No. _____
MATS No. _____

MAINE DEPARTMENT OF TRANSPORTATION
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ON CALL ATHEY - Bid Rates

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Appendix A –Rental Rates for Equipment with an Operator

MaineDOT and the Contractor, hereby agree that the Contractor shall provide the equipment described in Appendix A and a licensed experienced operator to perform construction and maintenance services (hereinafter referred to as “**Work**”) as requested and directed by MaineDOT and in accordance with the terms and conditions set forth below. This Contract is not a guarantee of work; Contractor shall be hired on an as needed basis during the term of this Contract.

1. **Work & Term.** The Contractor agrees to provide the equipment listed in Appendix A.

This Contract becomes effective on the date last signed by MaineDOT and that constitutes the earliest date for which Work may commence. The term of the Contract will be for the **2023 and 2024 Season ending December 31, 2024**. MaineDOT does not guarantee the use of any of the equipment listed in Appendix A.

2. **Equipment.** Contractor shall be responsible for all fuel, grease, oil, maintenance, servicing, operation, protection required for their equipment, in addition to mobilization and all other incidentals. Contractor shall provide for the required vehicle insurance, registration and licensing of any equipment used to perform the services herein.

3. **Contact Information.** All correspondence and reports will be sent to the individual below.

Contractor: _____

Attn: _____

Address: _____

Vendor Code: _____ **E-Mail:** _____

Tel#: _____ **Cell#:** _____ **FAX#:** _____

4. **Standard of Care and Correction of Errors.** Contractor hereby represents and warrants that the Contractor and its employees have the requisite skills, and expertise to perform all Work using the accepted standards of care in the Contractor's profession or occupation. If MaineDOT finds either the equipment or the operator to be unsatisfactory, the Contractor shall provide an immediate, acceptable replacement that conforms to the contract so as to avoid any impact on the project schedule. If Contractor is unable to provide such a replacement in a timely manner, MaineDOT reserves the right to hire a new Contractor to complete the Work.

5. **Insurance Requirements.**

Contractor Procured Insurance. Signed, valid, and enforceable Certificates of Insurance shall be provided to the MaineDOT upon execution of the Contract and whenever said policies are renewed thereafter during the period of the Contract. All insurance coverage must be provided by an insurance company or companies licensed or approved to do business in the State of Maine by the Maine Bureau of Insurance. Contractor shall pay all premiums and take all other actions necessary to keep required insurances in effect during such times as Contract obligations exist. Any requests for waivers, to the requirements below, shall be submitted to the MaineDOT.

Commercial General Liability Insurance. The Contractor and Sub-contractor(s) shall purchase and maintain a policy of Commercial General Liability or other coverage affording equal or greater protection as determined by the MaineDOT, in an amount not less than \$400,000 per occurrence and not less than \$2,000,000 in the aggregate. Such policy shall include products and completed operations as well as contractual liability coverage and must name MaineDOT as an additional insured.

Automobile Liability Insurance. The Contractor and Sub-contractor(s) shall carry Automobile Liability insurance covering the operation of all motor vehicles including any which are rented, leased, borrowed or otherwise used in connection with the project. The limit of liability under this section shall be no less than \$400,000 per occurrence and shall name MaineDOT as an additional insured.

Workers' Compensation Insurance. Contractor shall carry Workers' Compensation Insurance or shall qualify as a self-insurer in accordance with the requirements of the laws of the State of Maine.

6. **Rates.** Equipment will be paid for at the Period Equipment Rental Payment Rate per hour which is the rate bid and adjusted based on the variance in costs for the diesel fuel component of the work. Rate adjustments will be made upward or downward, as diesel prices increase or decrease. Adjustments will be as determined by the Department as follows:

Base Fuel Price: The base price of diesel fuel is the price per gallon shown as the weekly retail cost of diesel fuel for the U.S. On-Highway Diesel Fuel Prices, New England Subdistrict (PADD1A) found at <https://www.eia.gov/petroleum/gasdiesel/> for the date most immediately preceding the Bid Opening Date.

Period Fuel Price: The period price is the price per gallon shown as the weekly retail cost of diesel fuel for the U.S. On-Highway Diesel Fuel Prices, New England Subdistrict (PADD1A) found at <https://www.eia.gov/petroleum/gasdiesel/> for the date most immediately preceding the adjustment period dates of March 20 and August 1 of each year.

Base Equipment Rental Rate: The Base Equipment Rental Rate shall be the hourly rate bid.

Period Equipment Rental Rate: The Period Equipment Rental Rate is the rate bid and adjusted in accordance with the chart below.

Difference between Base Fuel Price and Period Fuel Price	Adjustment to Base Equipment Rental Rate to get Period Equipment Rental Rate
Increase of \$0.00 – \$0.49	No change
Increase of \$0.50 - \$1.49	Increase \$5.00
Increase of \$1.50 – \$2.49	Increase \$10.00
Increase of \$2.50 – \$3.49	Increase \$15.00
Decrease of \$0.00 - \$0.99	No change
Decrease of \$1.00 or more	Decrease \$5.00

Adjustment Period: The Equipment Rental Payment Rates will become effective on the second Saturday after the Adjustment period dates of March 20 and August 1 of each year and will remain in effect until the next period adjustment.

Mobilization to and from the jobsite will not be paid separately and will be considered incidental to the base rental rate.

Any rate established by bid shall be considered to be unique and therefore, not a basis for making changes in the published “Private Equipment Rates” found at www.maine.gov/mdot/csd/laborrates/ . Rates greater than published rates will only be paid when the rates are bid or suitable equipment and operators are not available at or below published rates. Mobilization to and from the jobsite will not be paid separately and will be considered incidental to the base rental rate.

7. **Assignments.** For Work paid at greater than the published rates, Work will be assigned under these agreements according to the following process: The Contractor with the lowest bid for the particular Equipment with the appropriate attachments and capabilities for the Region (the “Assignment”) will have first option to furnish the equipment. If this Contractor is unable to accept the Assignment, then the MaineDOT will contact the firm that submitted the next lowest bid to see if that Contractor will accept the Assignment and subsequent Contractors in ascending order of the amount of their bids, until a Contractor accepts the Assignment.
8. **Termination and Failure to Perform.** If, a Contractor accepts an assignment and then fails to furnish equipment when required or furnishes unsatisfactory equipment, or fails to meet other contractual requirements, the MaineDOT may issue a written warning. If the Contractor subsequently fails to furnish equipment when required or furnishes unsatisfactory equipment, or fails to meet other contractual requirements, the MaineDOT reserves the right to immediately terminate the Contract by written Notice of Termination. Any person employed by the Contractor, who, in the opinion of the MaineDOT, is intemperate or disorderly or jeopardizes safety of any person or the Project shall be removed immediately by the Contractor. The employee shall not be employed again in any portion of the Work without prior approval from the MaineDOT. All persons employed by or through the Contractor, shall have sufficient skill and experience to perform the Work properly. The MaineDOT may terminate this Contract with or without cause upon 7 days written notice.
9. **Hold Harmless.** The Contractor agrees to indemnify, defend, and holds harmless the MaineDOT and its officers, agents and employees from and against any liabilities, expenses (including reasonable attorney’s fees and court costs), claims and demands arising from:
 - a. bodily injury, including death, and property damage (public or private) that in any way arises out of the acts or omissions of the Contractor, its Subcontractors, or employees, in connection with the performance of this Agreement;

The language in the Agreement shall not constitute a waiver of any defense, immunity or limitation of liability that may be afforded the MaineDOT, or its officers, agents or employees, under the Maine Tort Claims Act (Title 14 M.R.S.A. 8101 et. seq.), and shall not constitute a waiver of any other privileges or immunities that may be afforded to the MaineDOT. This provision shall survive termination or expiration of this Agreement.

10. **Project Records.** Records shall be available for review by the MaineDOT or its designee, for a period of three (3) years following final payment. The Contractor shall keep records in such form as may be easily audited.

MaineDOT shall complete a Daily Work Verification Form and attest to the equipment, and hours to be measured for payment. This Report must be signed by a MaineDOT representative and the Contractor, and the Department and the Contractor shall each retain a copy of the completed form. If no Report is completed, accepted quantities of equipment rental will be determined by the MaineDOT.

11. **Representations.** By signing below, the Contractor hereby represents that to the best of the Contractor's knowledge and belief:

- a. The Contractor knows of no legal, contractual, or financial impediment to entering into this Contract.
- b. 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 this Contract.

12. **Dispute Resolution.** 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.

13. **Governing Law.** This Contract shall be governed by the laws of the Federal Government and the State of Maine. Contractor shall comply with all applicable federal, state, and local laws, including all applicable OSHA laws and regulations.

14. **Entire Contract.** This Contract consists of the State of Maine, Department of Transportation, Standard Specifications, March 2020 Edition, Sections 101, 102, 103, 104.5 & 105.10.2 and this agreement will be governed by the documents listed above. This document cannot be changed except through the execution of a written modification.

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

CONTRACTOR

(Signature of Legally Authorized Representative of the Contractor)
Signatures shall be original in ink.
Stamped and copied signatures will not be accepted.

(Name and Title Printed)

(Date)

Award:

Your offer is hereby accepted for (see marked boxes):

Region 1	<input type="checkbox"/>
Region 2	<input type="checkbox"/>
Region 3	<input type="checkbox"/>
Region 4	<input type="checkbox"/>
Region 5	<input type="checkbox"/>

This award consummates the Contract and the documents referenced herein.

MAINE DEPARTMENT OF TRANSPORTATION

(Approval Signature)

(Printed Signature & Title)

(Date)

MAINE DEPARTMENT OF TRANSPORTATION
Appendix A - Schedule of Items/Rental Rates for Equipment with an Operator
On Call Athey

Contractor Name: _____

Bidders may bid one or more Regions and may bid one or more equipment categories within the Region(s). Each Region/Equipment Category may or may not be awarded by The Department.

Contractors shall attach an Equipment & Rate List containing all of the required information or fill out the form below.

Equipment & Rates Attached

By signing below, the Bidder (1) represents that the Bidder has examined the Contract Agreement contained in the Bid Documents, the Contract, all documents referenced in said Contract, and the site and scope of work, (2) does hereby bid and offer to enter into this contract to construct and/or perform the Work in strict accordance with the terms and conditions of this Contract at the unit prices bid in the attached "Schedule of Items", (3) represents that the Bidder has given the Department notice of any errors or ambiguities related to the documents or the work that have been discovered by the Bidder, (4) represents that the above-named organization is the legal entity entering into the resulting contract with the Department if they are awarded the contract and, (5) represents that the undersigned is authorized to enter contractual obligations on behalf of the above-named organization.

Bidder acknowledges that the properly completed and signed Schedule of Items provided with the Bid constitutes the Bidder's offer and that this offer shall remain open for 30 calendar days after the date of opening of bids.

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.

Contractor Name: _____

Use pen and ink to complete paper bids. Signatures shall be original. Stamped and copied signatures will not be accepted.

_____ *Signature* _____ *Date*

_____ *(Print Bidder's Name and Title)*

- The Bid must be Delivered to the precise location and by the precise time set forth in the Notice to Contractors or any applicable Bid Amendment.
- Unit prices must be legible.
- Do not make handwritten changes to the bid documents.
- Fees must be included in Bid Prices.
- Bids are not accepted by email or FAX.
- Signatures are to be provided on both pages 5 & 7 of Rental Agreement

MAKE	TYPE	MODEL, YEAR	C. Y. CAPACITY	REGION(S)	HOURLY RENTAL RATE
Ex: Vanguard SP	Ex: 4-Wheel	Ex: : 2008 FMC 3000, W/HOPPER	Ex: 5	Ex: Reg 5	Ex: \$00

Contracts will be executed for equipment listed in these bid documents. Rates furnished for additional pieces of equipment will not be used by the Department.

**Electronic bidding will NOT be available
for this bid.**

**Bids will NOT be accepted
by email or fax.**

**SIGNED PAPER BIDS ARE REQUIRED
and may be
mailed, sent express or hand delivered.**

For further information, see “BIDDING INSTRUCTIONS”
which are located near the front of the bid book.

**SPECIAL PROVISION
EQUIPMENT RENTAL
ON CALL ATHEY
WITH AN OPERATOR**

This work shall consist of furnishing and operating equipment when needed by the MaineDOT.

The Department and each responsive, responsible bidder who meets the requirements and specifications may enter into a Contract to provide equipment with experienced operators to perform construction and maintenance work on an as needed basis. The Contractor with the lowest rate for the equipment in the equipment category with the appropriate attachments and capabilities will have first option to furnish the equipment.

Equipment.

Equipment required to operate on public ways shall be legally registered for the duration of the rental. This includes the Contractor renewing the registration prior to expiration during the rental.

Contractor shall provide fuel, oil and grease.

The equipment specifications and terms are as follows:

- Machine will be a rubber-tired belt loader. This machine will be capable of loading 12-yard trucks and handling ditching windrowed out by a grader

Schedule. The Contractor shall provide and operate the equipment intermittently, as needed by the MaineDOT. The MaineDOT will usually notify the Contractor at least 24 hours prior to scheduled contract work, however circumstances may require a more immediate response.

Performance. The MaineDOT reserves the right, to inspect the equipment and reject because of condition, and the Contractor shall have the option to replace the equipment with another acceptable, equivalent unit or the MaineDOT may assign the Work to another Contractor. Condition deficiencies may include, but are not limited to, equipment with excessive wear, broken parts, low hydraulic pressure, below standard operation, equipment that is not OSHA compliant or equipment with leaks that can get to the pavement, ground or into surface water.

In the event of a breakdown requiring repairs placing the equipment out of service for longer than three (3) working days, the Department and the Contractor may agree to a repair schedule or the MaineDOT may assign the Work to another Contractor.

For equipment unable to operate safely or requiring frequent repairs of more than five (5) working days (or any part thereof) within a 30-day period, the Contractor shall perform repairs to reduce repetitive breakdowns or may furnish an acceptable, equivalent replacement. Failure

to take proper corrective action may result in the MaineDOT assigning the Work to another Contractor.

Operators shall be experienced with the work being performed and have sufficient skill and experience to perform the Work properly. Operators determined by the MaineDOT to be below normal acceptable standards of production or workmanship shall be replaced with another acceptable operator or the MaineDOT may assign the Work to another Contractor. Operators shall have sufficient general knowledge of the related laws, regulations, specifications and practices to make informed decisions regarding compliance. Contractors may be required to demonstrate to the Department's satisfaction that the operator meets the requirements set forth in this contract and is qualified to perform the work.

If, a Contractor furnishes unsatisfactory equipment or operators, the MaineDOT may issue a written warning. If the Contractor subsequently furnishes unsatisfactory equipment or operators, the MaineDOT reserves the right to immediately terminate the Contract by written Notice of Termination.

Measurement and Payment.

The MaineDOT will measure and pay for equipment rental at the units and rates determined in Appendix A of the "Private Equipment Rental Agreement". Hourly measurements will be made to the nearest ½ hour.

Time spent moving to and from the site will not be paid. The Contractor may be paid for time spent moving within a project. A project is defined as continuous work in the same location or several different locations within a single region without interruption.

Prior to assigning work, the Department and the Contractor shall mutually agree to the assignment location(s), dates, time, duration, and criteria establishing payment hours.

Hourly work will be measured for payment in accordance with the criteria for payment hours established at the time the Contractor accepted the assignment and the contract.

This criteria for the hour at which payment begins could include:

- the scheduled show up time,
- the time the Contractor was on site and ready to work,
- the time physical work under this contract commenced,
- or other such time determined by the Department.

This criteria for the hour at which payment ends could include:

- the scheduled time,
- the time when work under this contract was done for the day,
- or other such time determined by the Department.

Hours to be measured for payment will be determined by the Department.

At the Departments discretion, the Contractor may be paid for hours spent in requested standby, for hours not worked during a scheduled day due to delays and schedule changes caused by the Department, and other circumstances for which the Contractor may be due compensation.

If scheduled equipment rental contract work is cancelled by the Department but not cancelled prior to 5:00 pm on the preceding day, the MaineDOT may pay the Contractor for 2 hours for the day on which scheduled work was canceled.

Equipment down time resulting from equipment failure will not be measurable for payment and not be included in payments for the day's work. The number of work hours will be reduced to exclude the down time. The minimum reduction shall be one-half hour.

The MaineDOT will pay an emergency callout at the hourly rate of three (3) times the bid hourly rate. This includes weekends, holidays, weekdays not under hire by the Department, and after hour emergency callouts. Equipment rental during an emergency will be measured for payment beginning no earlier than the time directed by the Department to send equipment to emergency site and end when the equipment is done as directed by the Department.

MaineDOT will determine if a callout is an emergency prior to assigning the work. An emergency is defined as an immediate need to protect the health and safety of the traveling public. An emergency may be caused by but not limited to an accident, natural disaster or unexpected incident.

The accepted quantities of equipment hours will be paid for at the contact unit price per hour, with no additional payment for overtime.

Bidding. As a minimum, the Bidder shall submit a bid Package consisting of the following:

- 1) A completed Appendix A and/or a separate attachment listing equipment description, capacity, rates
- 2) Two (2) copies of the completed and Private Equipment Rental Agreement – with an Operator form
- 3) Any Certifications or Bid Requirements listed in the Bid Book.

Award and Contracting. After Bid Opening and as a condition for Award of a Contract, the MaineDOT may require an Apparent Successful Bidder to demonstrate to the MaineDOT's satisfaction that the Bidder is responsible and qualified to perform the Work and that the equipment is acceptable to the MaineDOT.

The properly completed and signed Private Equipment Rental Agreement – with an Operator form provided with the Bid constitutes the Bidder's offer. Once the MaineDOT has received any other pre-award items required, the MaineDOT may sign the Private Equipment Rental Agreement – with an Operator form and execute the Contract.

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 Add the following:

“Contract Agreement form The Contract Agreement, Offer and Award, the Maine Department of Transportation Contract Agreement Transportation Related Maintenance Work, the Maine Department of Transportation Contract Agreement to Purchase Supplies, Materials and/or Equipment for a Specific Project, Contract Agreement to Purchase Materials and/or Equipment for a Project and Related Work, the Maine Department of Transportation Private Equipment Rental Agreement – with an Operator, the Maine Department of Transportation Private Equipment Rental Agreement – without an Operator, or other contract agreement contained in the bid documents.”

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 Holidays Amend this paragraph by adding “Juneteenth” between ‘Memorial Day’ and ‘Independence Day’.

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 Bid and Bid Guaranty in a sealed envelope to the exact location and before the precise time (as determined by the Department) specified in the Notice to Contractors or any applicable Bid Amendment. The sealed envelope must be labeled with the Bidder's name, the 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 Appendix A, 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".

102.9 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."

102.11.1 Non-curable Bid Defects Revise the item on the list of non-curable Bid Defects for which the Department will reject Bids as non-responsive that reads "The Bid is not signed by a duly authorized representative of the Bidder." by replacing it with the following:

"The Bid is not signed by a duly authorized representative of the Bidder.

- Properly submitted electronic bids meet this requirement.
- Paper bids must include either (1) one or more signed copies of the Contract Agreement form or (2) a signed copy of the Schedule of Items."

102.11.2 Curable Bid Defects Revise the section by replacing it with the following:

"Unless the Department waives a curable Bid defect, the Bidder must cure, within the time stated in the written notice by the Department, but not less than 24 hours, all other Bid Defects not listed in Section 102.11.1 - Non-curable Bid Defects that are identified by the Department. Failure to cure such Defects within said time may result in forfeiture of the Bidder's Bid Guaranty. Upon such failure, the Department may take any action in the best interests of the Department, including those set forth in Section 103.6 - Failure to Fulfill Award Conditions.

Such curable Bid Defects include, but are not limited to, the following.

The Bidder signs only one of the Contract Agreement Offer & Award forms.

Missing total sum of the items provided in the Schedule of Items.

The prices or signatures on the Bid or Bid Guaranty are not in ink or other non-erasable substance.

Failure to acknowledge Receipt and consideration of all Bid Amendments.

The Bid includes only one signed Contract Agreement form.

The Bid does not include a signed Contract Agreement form but does include a signed Schedule of Items.

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.

All other Defects that do not create a significant question as to the Bidder's total Bid amount or the Bidder's ability to complete the Work within the Contract Time or by the Contract Completion Date as determined by the Department.

When no specific region(s) are indicated by the bidder, the unit bid price shall be used for all regions included in the bid solicitation."

SPECIAL PROVISION SECTION 103
AWARD AND CONTRACTING

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 (if applicable), 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 105
GENERAL SCOPE OF WORK

105.10.2 Requirements Applicable to All Contracts Under section A, number 2, in the first sentence of the first paragraph, revise this Section by replacing the word “handicap” in two places with the word “disability” so it now reads:

“2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, State that all qualified applicants will receive consideration for employment without regard to race, color, sexual orientation, religious creed, sex, national origin, ancestry, age, physical disability, or mental disability.”