Sign Shop Roof

PIN 14923.10

BIDDING INSTRUCTIONS

1. Complete the bid forms with pen and ink.

2. The following are to be completed and returned with the bid:

    a. A copy of the Notice to Contractors

    b. Two (2) copies of the completed and signed Contract Offer, Agreement, & Award form

    c. The completed Contractor Information Sheet

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

    Bid Enclosed - Do Not Open
    Title:
    Town:
    Date of Bid Opening:
    Name of Contractor with mailing address and telephone number:

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

    Double Envelope: Bid Enclosed
    Title:
    Town:
    Date of Bid Opening:
    Name of Contractor:

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

    Bid Enclosed: Do Not Open
    Title:
    Town:
    Name of Contractor:

4. If a paper Bid is to be sent, Federal Express overnight delivery is suggested as the package is delivered directly to the DOT Headquarters Building located at 16 Child Street in Augusta. Other means, such as U.S. Postal's Service Express Mail has proven not to be reliable.

January 30, 2004
Supercedes February 11, 2003

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 a planholders 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 provide an email address to Diane Barnes or Mike Babb at 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.

The downloading of bid packages from the MDOT website is not the same as providing an electronic bid to the Department. Electronic bids must be submitted via http://www.BIDX.com. For information on electronic bidding contact Larry Childs at Larry.Childs@maine.gov.

NOTICE

Bidders:

Please use the attached "Request for Information" form when faxing questions and comments concerning specific Contracts that have been Advertised for Bid. Include additional numbered pages as required. Questions are to be faxed to the number listed in the Notice to Contractors. This is the only allowable mechanism 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.

State of Maine
Department of Transportation

REQUEST FOR INFORMATION

Date _____ Time _____

Information Requested: **PIN:** _____ **Town(s):** _____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

Request by: _____ **Phone: (_____)**_____
Bid Date: _____ **Fax: (_____)**_____

Complete top portion of form and transmit to the number listed in the Notice to Contractors

RFI No: _____ **RFI received:** _____

Response:_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

Response By:_____ Date: _____

STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES
DIVISION OF PURCHASES
BURTON M. CROSS BUILDING, 4TH FLOOR
9 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0009

JOHN ELIAS BALDACCI
GOVERNOR

REBECCA M WYKE
COMMISSIONER

BETTY M. LAMOREAU
DIRECTOR

July 2, 2007

Dear State of Maine Bidder:

As you may be aware, the State of Maine is implementing a new integrated financial, procurement and cash management system called AdvantageME. AdvantageME includes a synchronized Vendor Self Service (VSS) application. When we go live, we invite you to register in VSS so that you can receive and respond to our solicitations and receive awards (contracts and/or purchase orders) from the state.

The AdvantageME system will go live on July 5, 2007, and the VSS application will be available for new vendor registration at noon on that date. In the meantime, you're welcome to use the link below to access the text and video demos we have prepared to assist you in registering as a vendor with the State of Maine.

http://www.maine.gov/purchases/vendorinfo/vss.htm

We are also establishing a help desk, which will be available to you when the system goes live. On or after July 5, you can contact the help desk by telephone at (207) 624-7889 or by email at VSS.helpdesk@maine.gov.

We look forward to doing business with you through AdvantageME.

Sincerely,

Betty M. Lamoreau

Betty M. Lamoreau, Director

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 "Bid for **Sign Shop Roof**" will be received from contractors at the Reception Desk, Maine DOT Building, Child Street, Augusta, Maine, until 11:00 o'clock A.M. (prevailing time) on **September 12, 2007**, and at that time and place publicly opened and read.

Description: PIN 14923.10

Location: Project is located in Augusta in Kennebec County

Outline of Work: Repair sign shop roof and other incidental work.

For general information regarding Bidding and Contracting procedures, contact Scott Bickford at (207)624-3410. For Project-specific information fax all questions to **Gail MacMunn** at (207)624-3431. Questions received after 12:00 noon of Friday prior to bid date will not be answered. **There will be no Bid Bond or Payment Bond required.** 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. Hearing impaired persons may call the Telecommunication Device for the Deaf at (207) 624-3007.

Bid proposal packages are available at http://www.maine.gov/mdot/comprehensive-list-projects/project-information.php and may also be obtained at no cost at the MaineDOT building in Augusta, Maine or by telephone at 207-624-3536 between the hours of 8:00 A.M. and 4:30 P.M.

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

This Contract is subject to all applicable Federal Laws.

All work shall be governed by "State of Maine, Department of Transportation, Standard Specifications, Revision of December 2002", price $10 [$13 by mail], and Standard Details, Revision of December 2002, price $20 [$25 by mail] Standard Detail updates can be found at http://www.state.me.us/mdot/project/design/homepg.htm

The right is hereby reserved to the MDOT to reject any or all Bids.

Augusta, Maine
August 29, 2007

Michael Burns
Assistant Director
Maintenance and Operations

Augusta
14293.10 Sign Shop Roof
August 3, 2004
Supercedes March 17, 2004

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/comprehensive-list-projects/project-information.php 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)

CONTRACT, AGREEMENT, OFFER & AWARD

This CONTRACT is made on the date last signed below, by and between the State of Maine, acting through and by its Department of Transportation ("Department" or "MaineDOT"), an agency of state government with its principal administrative offices located at Child Street, Augusta, Maine, with a mailing address at 16 State House Station, Augusta, Maine 04333-0016, and _____ **("Contractor")** a corporation or other legal entity organized under the laws of the State of _____, with its principal place of business located at _____, with a mailing address of _____, telephone number _____ .

The Vendor Customer Number of the Contractor is _____.

The Department and the Contractor, in consideration of the mutual promises set forth in this Contract and Appendix A - Specifications of Work to be Performed, Appendix B - Special Provisions , The Department's Notice to Contractors and any amendments ("Contract"), and Standard Specifications, Revision of December 2002 as updated through advertisement Sections 101, 102, 103, and 111 hereby agree as follows:

A. The Work.

The Contractor agrees to complete all Work as specified or indicated in the Contract including Extra Work in conformity with the Contract, PIN No. 14923.10 Rehabilitation of Sign Shop Roof, in the City of Augusta, County of Kennebec, Maine. 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 inspection, testing and documentation, all required documentation at the conclusion of the project, warranting its work and performing all other work indicated in the Contract.

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

B. Time.

The Contractor agrees to complete all Work, except warranty work, on or before **December 14, 2007.** **T**he Department may deduct from moneys otherwise due the Contractor, not as a penalty but as Liquidated Damages, in accordance with Sections 107.7 and 107.8 of the State

of Maine Department of Transportation Standard Specifications, Revision of December 2002 and related Special Provisions.

C. Price.

The Offer, which is also the original contract amount, is **_____ ($_____).**

D. Contract.

This Contract, which may be amended, modified, or supplemented in writing only, consists of the following documents:

1) Offer and Award
2) Appendix B - Special Provisions
3) Appendix A - Specifications of Work to be Performed
4) The Department's Notice to Contractors and any amendments
5) Standard Specifications, Revision of December 2002, Sections 101, 102, 103, and 111

E. Certifications.

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

1. All of the statements, representations, covenants, and certifications required or set forth in the Bid Documents and the Contract are still complete and accurate as of the date of this Bid.

2. The Contractor knows of no legal, contractual, or financial impediment that prevents Contractor from entering into this Contract.

3. The person signing below is legally authorized by the Contractor to sign this Bid and to legally bind the Contractor to the terms of the Contract.

F. Offer.

The undersigned has carefully examined the Bid Documents, Special Provisions and the other Contract Documents for the Project located in Augusta, Maine described above in Part A as PIN 14923.10 Rehabilitation of Sign Shop Roof and is familiar with the Work necessary to perform the Contract for which this bid is being submitted. _____, the Bidder, does hereby bid and 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 at the unit prices in the attached Schedule of Items.

First: Bidder agrees to perform extra work, not described in Appendix A and the Schedule of Items, both of which are attached, which may be ordered by the Contract Administrator, and to accept as full compensation the amount determined upon a Force Account basis as provided in the State of Maine Department of Transportation, Standard Specifications, Revision of December 2002, and as addressed in the contract documents.

Second: Bidder understands that Work may commence upon Contract Execution, unless provided elsewhere in the contract and that Work must be completed within the time limits given in this Contract. Bidder further agrees to provide insurance as required by this Contract if this offer is accepted by MaineDOT in writing.

Third: This offer shall remain open for 30 calendar days after the date of opening of bids.

Fourth: The Bidder hereby certifies, to the best of its knowledge and belief that the Bidder has not, either directly or indirectly, entered into any Contract, 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)
_____	_____
Witness	(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: Michael Burns

Assistant Director, Maintenance & Operations

_____

Witness

CONTRACT, AGREEMENT, OFFER & AWARD

This CONTRACT is made on the date last signed below, by and between the State of Maine, acting through and by its Department of Transportation ("Department" or "MaineDOT"), an agency of state government with its principal administrative offices located at Child Street, Augusta, Maine, with a mailing address at 16 State House Station, Augusta, Maine 04333-0016, and _____ **("Contractor")** a corporation or other legal entity organized under the laws of the State of _____, with its principal place of business located at _____, with a mailing address of _____, telephone number _____ .

The Vendor Customer Number of the Contractor is _____.

The Department and the Contractor, in consideration of the mutual promises set forth in this Contract and Appendix A - Specifications of Work to be Performed, Appendix B - Special Provisions , The Department's Notice to Contractors and any amendments ("Contract"), and Standard Specifications, Revision of December 2002 as updated through advertisement Sections 101, 102, 103, and 111 hereby agree as follows:

A. The Work.

The Contractor agrees to complete all Work as specified or indicated in the Contract including Extra Work in conformity with the Contract, PIN No. 14923.10 Rehabilitation of Sign Shop Roof, in the City of Augusta, County of Kennebec, Maine. 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 inspection, testing and documentation, all required documentation at the conclusion of the project, warranting its work and performing all other work indicated in the Contract.

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

B. Time.

The Contractor agrees to complete all Work, except warranty work, on or before **December 14, 2007. T**he Department may deduct from moneys otherwise due the Contractor, not as a penalty but as Liquidated Damages, in accordance with Sections 107.7 and 107.8 of the State

of Maine Department of Transportation Standard Specifications, Revision of December 2002 and related Special Provisions.

C. Price.

The Offer, which is also the original contract amount, is **_____ ($_____)**.

D. Contract.

This Contract, which may be amended, modified, or supplemented in writing only, consists of the following documents:

1) Offer and Award
2) Appendix B - Special Provisions
3) Appendix A - Specifications of Work to be Performed
4) The Department's Notice to Contractors and any amendments
5) Standard Specifications, Revision of December 2002, Sections 101, 102, 103, and 111

E. Certifications.

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

1. All of the statements, representations, covenants, and certifications required or set forth in the Bid Documents and the Contract are still complete and accurate as of the date of this Bid.

2. The Contractor knows of no legal, contractual, or financial impediment that prevents Contractor from entering into this Contract.

3. The person signing below is legally authorized by the Contractor to sign this Bid and to legally bind the Contractor to the terms of the Contract.

F. Offer.

The undersigned has carefully examined the Bid Documents, Special Provisions and the other Contract Documents for the Project located in Augusta, Maine described above in Part A as PIN 14923.10 Rehabilitation of Sign Shop Roof and is familiar with the Work necessary to perform the Contract for which this bid is being submitted. _____, the Bidder, does hereby bid and 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 at the unit prices in the attached Schedule of Items.

First: Bidder agrees to perform extra work, not described in Appendix A and the Schedule of Items, both of which are attached, which may be ordered by the Contract Administrator, and to accept as full compensation the amount determined upon a Force Account basis as provided in the State of Maine Department of Transportation, Standard Specifications, Revision of December 2002, and as addressed in the contract documents.

Second: Bidder understands that Work may commence upon Contract Execution, unless provided elsewhere in the contract and that Work must be completed within the time limits given in this Contract. Bidder further agrees to provide insurance as required by this Contract if this offer is accepted by MaineDOT in writing.

Third: This offer shall remain open for 30 calendar days after the date of opening of bids.

Fourth: The Bidder hereby certifies, to the best of its knowledge and belief that the Bidder has not, either directly or indirectly, entered into any Contract, 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)
_____	_____
Witness	(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: Michael Burns

Assistant Director, Maintenance & Operations

_____

Witness

APPENDIX A
SPECIFICATIONS OF WORK TO BE PERFORMED

Repair of EPDM roof
At MDOT Sign shop on Capitol Street Augusta Me.

- Remove the existing roofing down to deck and dispose of according to Federal, State and Local laws and regulations concerning the handling, storage, treatment and disposal of the materials.
- Underlament shall be treated as an asbestos containing material and handled, stored, treated and disposed of in accordance with all Federal, State and local laws. Test results are available at MDOT for viewing.
- Install wooden nailers at perimeters as required
- Install one layer of 1.5" polyisocyanurate insulation or (approved equal) mechanically fastened to the deck with roof system manufacturer approved screws and plates
- Fully adhere a .060" EPDM membrane, manufactured by Carlisle SynTec or Firestone Building Products to the insulation
- Install new .032" or approved equal, white colored aluminum edge strip at all perimeter
- Install new flashing at all walls and roof penetrations per manufacturer's specifications
- Remove and replace siding, as required, to install new flashing at walls. If siding is damaged it shall be replaced in kind
- Install new vent stacks boots at each existing vent stack
- Install steel V- type snow wedges behind each plumbing vent
- Install a single row of ice protection pads under eaves of roof
- Create a proper tie-in to existing roofs
- This work shall include a 10 year warranty from manufacturer
- It is the bidders responsibility to visit work site and measure roof before submitting bid, Roof is approximately 144'x 25'

APPENDIX B
SPECIAL PROVISIONS

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.. The Contract Administrator shall certify to the Department when payments under the Contract are due and the amounts to be paid. He/she shall make decisions on all claims of the Contractor, subject to the approval of the Commissioner of the Department. Unless authorized by the Contract Administrator, other Departmental employees are not authorized to alter or waive the provisions of the Contract or to issue instructions contrary to the Contract.

The Department has the authority to inspect all Materials and every detail of the Work. The Contractor shall provide the Department with safe access to all portions of the Work in Conformity with all applicable OSHA requirements. The Contractor shall furnish the Department with all information and assistance required to make a detailed inspection.

4. **CONTRACT ADMINISTRATOR** All progress reports, correspondence and related submissions from the Contractor shall be submitted to:

Name: _____

Title: _____
Address: _____

who is designated as the Contract Administrator on behalf of the Department for this Contract, except where specified otherwise in this Contract.

5. **CHANGES IN THE WORK** The Department may order changes in the work, the Contract Amount being adjusted accordingly. . Any changes to the Contract that affect compensation, time, quality, or other Contract requirements shall be by written Contract Modification, signed by both parties.

6. **SUBCONTRACTS** The Contractor shall at all times provide all Superintendents, forepersons, laborers, inspectors, Subcontractors, subconsultants, Equipment, Materials, and Incidentals needed to perform the Work in Conformance with the Contractor's Schedule of Work and within the Contract Time.

Any person employed by the Contractor or by any Subcontractor or any officer or representative or agent of the Subcontractor, who, in the opinion of the Contract Administrator, is intemperate or disorderly, shall be removed immediately by the Contractor or Subcontractor employing such person.

The Contractor is responsible for assuring that its subcontractors have sufficient skill and experience to perform the pursuant to the Contract. The Contractor is responsible for subcontractors that it employs and for coordinating and managing its subcontractors. The Contractor agrees to indemnify, defend, and hold harmless MaineDOT from and against all claims and causes of action arising out of any act or omission of Contractor's subcontractors, their agents, representatives, and employees. The Contractor agrees to indemnify the MaineDOT and hold it harmless from any claims asserted by, against or on behalf of Contractor's subcontractors. Included in this release is the Contractor's agreement to waive any claims against MaineDOT to recover losses allegedly suffered by a subcontrator. If Work under this Contract is performed pursuant to subcontracts, the Contractor's obligations are not diminished and the Contractor remains responsible for all Work under the Contract.

7. **SUBLETTING, ASSIGNMENT OR TRANSFER** The Contractor shall not sublet, sell, transfer, assign or otherwise dispose of this Contract or any portion thereof, or of its right, title or interest therein, without written request to and written consent of the Contract Administrator. No subcontracts or transfer of the Contract shall in any case release the Contractor of its liability under this Contract.

8. **EQUAL EMPLOYMENT OPPORTUNITY** During the performance of this Contract, the Contractor agrees as follows:

a. The Contractor shall not discriminate against any employee or applicant for employment relating to this Contract because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation, unless related to a bona fide occupational qualification. The Contractor shall take affirmative action to ensure that applicants are employed and employees are treated during employment,

without regard to their race, color, religion, sex, age, national origin, physical or mental disability, or sexual orientation.

Such action shall include but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of this nondiscrimination clause.

b. The Contractor shall, in all solicitations or advertising for employees placed by or on behalf of the Contractor relating to this Contract, state that all qualified applicants shall receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation.

c. The Contractor shall send to each labor union or representative of the workers with which it has a collective bargaining Contract, or other Contract or understanding, whereby it is furnished with labor for the performance of this Contract a notice to be provided by the contracting agency, advising the said labor union or workers' representative of the Contractor's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The Contractor shall inform the contracting Department’s Equal Employment Opportunity Coordinator of any discrimination complaints brought to an external regulatory body (Maine Human Rights Commission, EEOC, Office of Civil Rights) against their agency by any individual as well as any lawsuit regarding alleged discriminatory practice.

e. The Contractor shall comply with all aspects of the Americans with Disabilities Act (ADA) in employment and in the provision of 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.

9. **EMPLOYMENT AND PERSONNEL** The Contractor shall not engage any person in the employ of any State Department or Agency in a position that would constitute a

violation of 5 MRSA § 18 or 17 MRSA § 3104. The Contractor shall not engage on a full-time, part-time or other basis pursuant to this Contract any personnel who are or have been at any time during the period of this Contract in the employ of the State of Maine, except regularly retired employees, without the written consent of the State Purchases Review Committee. 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 of the State Purchases Review Committee. The Contractor shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Contract so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

10. **STATE EMPLOYEES NOT TO BENEFIT** No individual employed by the State of Maine at the time this Contract is executed or any time thereafter shall be admitted to any share or part of this Contract or to any benefit that might arise therefrom directly or indirectly that would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. No other individual employed by the State at the time this Contract is executed or at any time thereafter shall be admitted to any share or part of this Contract or to any benefit that might arise therefrom directly or indirectly due to his employment by or financial interest in the Contractor or any affiliate of the Contractor, without the written consent of the State Purchases Review Committee. The Contractor shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Contract so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

11. **WARRANTY OF NO COLLUSION** The 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.

12. **RECORDS; ACCESS.** The Contractor and its subcontractors shall maintain all books, documents, payrolls, papers, accounting records and information of any type on any medium ("Project Records") that pertain to this Contract for such period as specified under Maine Uniform Accounting and Auditing Practices for Community Agencies (MAAP) rules. Upon request by MaineDOT, the Contractor and its subcontractors shall make Project Records available for inspection and must provide MaineDOT with copies at all reasonable times without cost or liability to MaineDOT.

13. **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.

14. **GOVERNMENTAL REQUIREMENTS** The Contractor warrants and represents that it will comply with all governmental ordinances, laws and regulations.

15. **GOVERNING LAW** This Contract shall be governed in all respects by the laws, statutes, and regulations of the United States of America and of the State of Maine. Any legal proceeding against the State regarding this Contract shall be brought in State of Maine administrative or judicial forums. The Contractor consents to personal jurisdiction in the State of Maine. The Contractor shall comply with all applicable federal, State, and local laws governing safety, health, and sanitation including all applicable laws and regulations of OSHA. The Contractor shall provide all safeguards, safety devices, and protective Equipment and take all other action that is necessary to continuously and effectively protect the safety and health of all persons from hazards related to the Work.

16. **STATE HELD HARMLESS** The Contractor agrees to indemnify, defend and hold harmless the State, its officers, agents and employees from any and all claims, costs, expenses, injuries, liabilities, losses and damages of every kind and description (hereinafter in this paragraph referred to as "claims") resulting from or arising out of the performance of this Contract by the Contractor, its employees, agents or subcontractors. Claims to which this indemnification applies include, but are not limited to, the following: (i) claims suffered or incurred by any Contractor, subcontractor, materialman, laborer and any other person, firm, corporation or other legal entity providing work, services, materials, equipment or supplies in connection with the performance of this Contract; (ii) claims arising out of a violation or infringement of any proprietary right, copyright, trademark, right of privacy or other right arising out of publication, translation, development, reproduction, delivery, use, or disposition of any data, information or other matter furnished or used in connection with this Contract; (iii) Claims arising out of a libelous or other unlawful matter used or developed in connection with this Contract; (iv) claims suffered or incurred by any person who may be otherwise injured or damaged in the performance of this Contract; and (v) all legal costs and other expenses of defense against any asserted claims to which this indemnification applies. This indemnification does not extend to a claim that results solely and directly from (i) the Department's negligence or unlawful act, or (ii) action by the Contractor taken in reasonable reliance upon an instruction or direction given by an authorized person acting on behalf of the Department in accordance with this Contract.

The Department's employees and other representatives act solely as representatives of the Department when conducting and exercising authority granted to them under the Contract. Such persons have no liability either personally or as Department employees.

17. **NOTICE OF CLAIMS** The Contractor shall give the Contract Administrator immediate notice in writing of any legal action or suit filed related in any way to the Contract or which may affect the performance of duties under the Contract, and prompt notice of any

claim made against the Contractor by any subcontractor which may result in litigation related in any way to the Contract or which may affect the performance of duties under the Contract.

18. **LIABILITY 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. 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 $100,000.00 per occurrence and $400,000.00 in the Aggregate. The coverage must include products, completed operations, and Contractual liability coverages, and Insurance Services Office (ISO) form #CG25031185 or equivalent. 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.

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 $300,000.00 per occurrence.

Administrative & General Provisions

A. Additional Insured Each policy with the exception of Workers' Compensation and Professional Liability insurance shall name the Department of Transportation as an additional insured.

19. **SEVERABILITY** The invalidity or unenforceability of any particular provision or part thereof of this Contract shall not affect the remainder of said provision or any other provisions, and this Contract shall be construed in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

20. **INTEGRATION** All terms of this Contract are to be interpreted in such a way as to be consistent at all times. If the Contractor discovers any ambiguity, error, omission,

conflict, or discrepancy related to the Contract, the Contractor must notify MaineDOT of the ambiguity or waive claims resulting from any such ambiguity. In the case of ambiguity the following components of the Contract shall control in the following descending order of priority:

Bid Amendments (most recent to least recent)
Appendix B – Special Provisions
Appendix A - Specifications of Work to be Performed
Any remaining appendices in alphabetical order.
Standard Specification sections 101, 102, 103 and 111

21. **FORCE MAJEURE** The Department may, at its discretion, excuse the performance of an obligation by a party under this Contract in the event that performance of that obligation by that party is prevented by an act of God, act of war, riot, fire, explosion, flood or other catastrophe, sabotage, severe shortage of fuel, power or raw materials, change in law, court order, national defense requirement, or strike or labor dispute, provided that any such event and the delay caused thereby is beyond the control of, and could not reasonably be avoided by, that party. The Department may, at its discretion, extend the time period for performance of the obligation excused under this section by the period of the excused delay together with a reasonable period to reinstate compliance with the terms of this Contract.

22. **FURNISHING OF OTHER PROPERTY RIGHTS, LICENSES AND PERMITS** The Contractor shall acquire, at its sole expense, all property rights outside the Project Limits needed for construction staging, yarding, construction, waste disposal, or other Project-related purpose. The Contractor shall also acquire, at its sole expense, all licenses and Permits necessary to perform the Work that are not furnished by the Department.

23. **ALLOWABLE WORK TIMES** Work can be performed at any time except Sundays and Holidays, unless expressly specified otherwise in this Contract, including any applicable Permit conditions. If a Holiday occurs on a Sunday, the following Monday shall be considered a Holiday. Sunday or Holiday work must be approved by the Department, except that the Contractor may work on Martin Luther King Day, President's Day, Patriot's Day, the Friday after Thanksgiving, and Columbus Day without the Department's approval. The Contractor is solely responsible for the planning and execution of Work in order to complete the Work within the Contract Time.

24. **SET-OFF RIGHTS** MaineDOT shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, MaineDOT's right to withhold and take possession of monies due to the Contractor under this Contract up to any amounts the Contractor owes to the State of Maine pursuant to this Contract or any other contract, including any contract for a term commencing prior to the term of this Contract, plus any amounts that Contractor owes the State of Maine for any reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. MaineDOT shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Controller.

25. **WORKERS AND EQUIPMENT** The Contractor shall at all times provide all Superintendents, forepersons, laborers, inspectors, Subcontractors, subconsultants, Equipment, Materials, and Incidentals needed to perform the Work in Conformance within the Contract Time.

Any person employed by the Contractor or by any Subcontractor or any officer or representative or agent of the Subcontractor, who, in the opinion of the Resident, is intemperate or disorderly, shall be removed immediately by the Contractor or Subcontractor employing such person. The employee shall not be employed again in any portion of the Work without prior approval from the Resident.

Should the Contractor fail to remove such person or persons as required above or fail to furnish suitable and sufficient personnel for the proper prosecution of the Work, the Resident may suspend the Work by written notice until such orders are complied with.

All persons employed by or through the Contractor, except for registered trainees, shall have sufficient skill and experience to perform the Work properly. The Department may require that the Contractor discharge any such person who the Department determines jeopardizes safety of any person or the Project without cost or liability to the Department. If the Department determines that such person's performance jeopardizes the intent of the Contract otherwise, the Department may, but is not required, to notify the Contractor of such a determination. Such notice, or lack thereof, does not affect the Contractor's duties regarding Workers. Upon Receipt of such notice, the Contractor shall take any action it determines necessary to fulfill its obligations under the Contract.

26. **HEALTH AND SAFETY**

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

Project Specific Emergency Planning Unless the Contract provides for closure of an existing facility, 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 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.

Compliance with Health and Safety Laws The Contractor shall comply with all applicable federal, State, and local laws governing safety, health, and sanitation including all applicable laws and regulations of OSHA.

27. ENVIRONMENTAL REQUIREMENTS

Temporary Soil Erosion and Water Pollution Control The Contractor shall provide continuous and effective soil erosion and water pollution control in compliance with Section 656 - Temporary Soil Erosion and Water Pollution Control.

Environmental Non-compliance - Remedies and Costs The Contractor shall be in non-compliance if it, or Subcontractors at any tier, fail to comply with the terms of this Contract or any applicable environmental or land use law or regulation including Project specific permit conditions.

If the Contractor is in non-compliance, the Department may, at its discretion:

A. Withhold all Progress Payments, or any portion thereof, during the period the Contractor is in non-compliance;

B. Remedy such non-compliance using State forces or another Contractor and deduct all costs incurred by the Department from Progress Payments. Such costs include direct costs, Project Engineering costs, and Contractor costs from amounts otherwise due the Contractor, and/or

C. Suspend the Work for cause and without cost or liability to the Department. Said suspension shall continue until the Contractor has addressed all non-compliance issues as directed by the Department.

The Contractor shall be responsible for any fines and penalties assessed by environmental or land use regulatory agencies due to such non-compliance. Such penalties may be withheld from amounts otherwise due the Contractor.

28. MATERIAL QUALITY

Materials and manufactured products incorporated into the work shall be new unless otherwise specified, free from defect, and in conformity with the contract.

When material is fabricated or treated with another material or where any combination of materials is assembled to form a finished product, any or all of which are covered by specifications, the Department may reject the finished product if any of the components do not comply with the specifications.

Materials shall meet the requirements of the contract at the time they are incorporated into the work.

The Department may reject materials not con-forming to the Specifications at any time, and the Contractor shall remove them immediately from the project site unless otherwise instructed by the Department. The Contractor shall not store or use rejected materials on any Department project.

29. WARRANTY PROVISIONS

Warranty By Contractor The Contractor unconditionally warrants and guarantees that the project will be free from warranty defects for one year from the date of Final Acceptance. Final Acceptance includes receipt of all conforming closeout documentation.

If the Department discovers any warranty defects during the warranty period, the Contractor agrees to promptly perform all remedial work at no additional cost or liability to the Department.

Warranty Definitions Notwithstanding any other provision of the Contract, the following words or phrases have the following definitions for the purposes of the Contractor's warranty obligation under this Contract.

Warranty Defects Conditions that result from material, manufacture, or workmanship and that are not in conformity with the Contract or with industry standards applicable to the work prevailing at the time of submission of the bid. Warranty defects do not include (A) normal wear and tear, and (B) conditions caused by occurrences clearly beyond the Contractor's control and not attributable to material, manufacture, or workmanship. Examples of such excepted occurrences might be fires, floods, abnormally poor weather for the site of work, accidents, improper use, improper maintenance, vandalism, or acts of God.

Emergency Emergency means necessary for public safety or convenience, as determined by the Department.

Promptly Unless an emergency, "Promptly" means in the first construction season after the Contractor has been notified of the defect(s), but always within one year of such notice. In case of emergency, Promptly means within 48 hours.

Remedial Work "Remedial Work" means all work necessary to make the item in like new condition as reasonably determined by the Department and performed in accordance with the Contract and in a good and skillful manner. Remedial Work includes all design, permitting, project management, supervision, materials, and labor, including erosion control and traffic control.

Remedial Work Procedure and Requirements Within (30) Days of being notified of warranty defects, the Contractor shall submit to the Department for approval a Remedial Work Plan including the scope of work, conceptual work methods, schedule, construction phasing, and other significant aspects of the work (the "Work Plan"). Unless otherwise provided by the Department in writing, any work commenced prior to Department's approval of the Work Plan will be at the Contractor's sole risk. Before starting any on-site work, the Contractor shall deliver to the Department certificates of insurance complying with Section 18. Liability Insurance.

If (A) the Contractor fails to submit a Remedial Work Plan, (B) the Contractor does not comply otherwise with written instructions from the Department, or (C) a State of emergency exists in which delay would cause serious risk of loss or damage, then the Department may perform or Contract for such remedial work and the Contractor will be responsible for all claims, costs, damages, losses, and expenses arising out of such work including fees and charges of engineers, consultants, attorneys, dispute resolution professionals, and court costs.

Upon a final inspection satisfactory to the Department, the Department will issue a written acceptance of the remedial work. The Contractor warrants and guarantees all remedial work to be free from warranty defects for one year after such acceptance.

Other Warranty Provisions The Contractor hereby assigns to the Department the right to enforce all manufacturer's warranties or guarantees on all materials, equipment or products purchased for the work that exceed the nature or duration of the warranty obligations assumed by the Contractor under this Contract.

The Contractor agrees that the warranty obligations provided by this Contract shall be reported as an outstanding obligation in the event of bankruptcy, dissolution, or the sale, merger, or cessation of operations of the Contractor.

30. **PAYMENT**

Payment for Materials Obtained and Stored Acting upon a request from the Contractor and accompanied by Receipted bills, the Department will pay for all or part of the value of acceptable, non-perishable Materials that are to be incorporated in the Work, including Materials that are to be incorporated into the Work, not delivered on the Work site, and stored at places acceptable to the Department.

Materials paid for by the Department are the property of the Department, but the risk of loss shall remain with the Contractor. Payment for Materials does not constitute Acceptance of the Material. If Materials for which the Department has paid are later found to be unacceptable, then the Department may withhold amounts reflecting such unacceptable Materials from payments otherwise due the Contractor.

In the event of Default, the Department may use or cause to be used all paid-for Materials in any manner that is in the best interest of the Department.

Right to Withhold Payments The Department may withhold payments claimed by the Contractor on account of:

A. Defective Work,
B. Damages for Non-conforming Work,
C. Failure to provide the Department the opportunity to inspect the Work,
D. Damage to a third party,
E. Claims filed or reasonable evidence indicating probable filing of claims,
F. Failure of the Contractor to make payments to Subcontractors or for Materials or labor,

G. Substantial evidence that the Project cannot be completed for the unpaid balance,
H. Substantial evidence that the amount due the Department will exceed the unpaid balance,
I. Regulatory non-compliance or enforcement,
J. Failure to submit Closeout Documentation
K. All other causes that the Department reasonably determines negatively affect the State's interest.

Taxes, Fees, Allowances, and Notices The Contractor shall pay all taxes, charges, fees, and allowances and give all notices necessary and incidental to the due and lawful prosecution of the Work. Except as expressly provided otherwise in this Contract, all such taxes, charges, fees, and allowances are Incidental to the Contract.

Most items are exempt from Maine sales tax. The Contractor shall Bid in accordance with the Maine statutory exemption from sales tax located at 36 M.R.S.A. §1760, subsections (2) and (61).

31. **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 Resident 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.

32. **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

SECTION 102
DELIVERY OF BIDS

102.1.1 Basic Requirements Delete the entire section and replace with the following: "To be eligible to Bid, prospective Bidders must (A) demonstrate the successful completion of at least five similar projects, (B) not have been debarred or suspended from Bidding, and (C) not be in Default with respect to any outstanding Contract with the Department, unless the Department grants written permission to Bid despite such Default. For related provisions, see Sections 102.9 - Bid Opening and 103.3 - Post-Bid Qualification."

102.7.1 Location and Time Add the following sentence "As a minimum, the Bidder will submit a Bid Package consisting of the Notice to Contractors, the completed Acknowledgement of Bid Amendments form, 2 copies of the completed Agreement, Offer, & Award form, and any other Certifications or Bid Requirements listed in the Bid Book."

102.11.1 Non-curable Bid Defects Replace E. with "E. The unit price and bid amount is not provided or a lump sum price is not provided or is illegible as determined by the Department."

SECTION 103
AWARD AND CONTRACTING

103.3.1 Notice and Information Gathering Change the first paragraph to read as follows: "After Bid Opening and as a condition for Award of a Contract, the Department may require an Apparent Successful Bidder to demonstrate to the Department's satisfaction that the Bidder is responsible and qualified to perform the Work."

SECTION 107
TIME

107.3.1 General Add the following: "If a Holiday occurs on a Sunday, the following Monday shall be considered a Holiday. Sunday or Holiday work must be approved by the Department, except that the Contractor may work on Martin Luther King Day, President's Day, Patriot's Day, the Friday after Thanksgiving, and Columbus Day without the Department's approval."

107.7.2 Schedule of Liquidated Damages Replace the table of Liquidated Damages as follows:

From More Than	Up to and Including	Amount of Liquidated Damages per Calendar Day
$0	$100,000	$100
$100,000	$300,000	$200
$300,000	$500,000	$400
$500,000	$1,000,000	$575

$1,000,000	$2,000,000	$750
$2,000,000	$4,000,000	$900
$4,000,000	and more	$1,875

SPECIAL PROVISION
SECTION 656
Temporary Soil Erosion and Water Pollution Control

The following information and requirements will constitute the Soil Erosion and Water Pollution Control Plan for this Project. The soil erosion and water pollution control measures associated with this work are as follows:

1. All work shall be done in accordance with the latest revision of the Maine Department of Transportation Best Management Practices for Erosion and Sediment Control (a.k.a. Best Management Practices manual or BMP Manual). The "Table of Contents" of the latest version is dated "1/19/00" (available at http://www.state.me.us/mdot/mainhtml/bmp/bmpjan2000.pdf.) **Procedures specified shall be according to the BMP Manual unless stated otherwise.**
2. The on-site person responsible for implementation of this plan, shall be the Contractor's Superintendent or other supervisory employee (the "Environmental Coordinator") with the authority to immediately remedy any deficient controls and shall provide the Resident with their numbers (telephone number, cellular phone and pager numbers, if applicable) where the Environmental Coordinator can be reached 24 hours a day.
3. If the Work includes the handling or storage of petroleum products or Hazardous Materials including the on site fueling of Equipment, the Resident must be provided with a Spill Prevention Control and Countermeasure Plan (SPCCP) plan. At a minimum, the SPCCP shall include:
   - The name and emergency response numbers (telephone number, cellular phone and pager numbers, if applicable) of the Contractor's representative responsible for spill prevention;
   - General description and location of (1) handling, transfer, storage, and containment facilities of such products or Materials ("activities and facilities") and (2) potential receptors of such products or Materials including oceans, lakes, ponds, rivers, streams, wetlands, and sand and gravel aquifers ("sensitive resources") including the distances between said activities and facilities and said sensitive resources;
   - Description of preventative measures to be used to minimize the possibility of a spill including Equipment and/or Materials to be used to prevent discharges including absorbent Materials,
   - A contingency response plan to be implemented if a spill should occur including a list of emergency phone/pager numbers including the Contractor's representative, MDEP Spill Response, the Resident, and local police and fire authorities. For a related provision, see *Standard Specification, Section, 105.2.2 - Project Specific Emergency Planning*.
4. The Environmental Coordinator must inspect and maintain daily all controls for the duration of the project.
5. Any costs related to this plan shall be considered incidental to the contract.