12683.00 Appleton

Reinforced Concrete Pipe

Updated 10/18/2007

STATE PROJECT

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. A signed and dated copy of SPECIAL PROVISION 102.7.3 ACKNOWLEDGMENT OF BID AMENDMENTS

    c. A completed schedule of Items

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

    e. The completed Contractor Information Sheet

3. For security and other reasons, all Bid Packages which are mailed to Maine Department of Transportation, 16 State House Station, Augusta, Maine 04330-0016, 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 in Augusta located at 24 Child Street in Augusta. Other means, such as U.S. Postal's Service Express Mail has proven not to be reliable.

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 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: _____

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/vendorinfo/vss.htm .

CONTRACTOR INFORMATION

_____ _____

(Date) **(Signature)**

_____

(Name and Title Printed)

_____

(Contractor Name)

_____

Vendor Customer Number

Mailing Address:

_____

Street/PO Box **City** **State** **Zip**

_____ _____ _____

phone **fax** **email**

Sole Proprietorship - Partnership - (circle one)

Corporation – Company - Association - Estate - (circle one)

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 **"REINFORCED CONCRETE PIPE"** 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 **July 9, 2008,** and at that time and place publicly opened and read.

Description: **PIN# 12683.00 REINFORCED CONCRETE PIPE (as per Appendix A-Itemized List)**

Location: **Delivered to Appleton, Maine**

Outline of Work: Supply **Reinforced Concrete Pipe** for MaineDOT

Bids (quotes) are requested

For general information regarding Bidding and Contracting procedures, contact Scott Bickford at (207)624-3410. Our webpage at http://www.state.me.us/mdot/project/design/homepg.htm contains a copy of the Plan Holders List, written portions of bid amendments, and bid results. For Project-specific information fax all questions to **Gail MacMunn** at (207)624-3431. Questions received after 12:00 noon of Monday prior to bid date will not be answered. **There will be no Bid Bond, Performance 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 888-516-9364.

Bid proposal packages are available at http://www.maine.gov/mdot/comprehensive-list-projects/project-information.php Bid proposal packages can 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
June 18, 2008

Jeffrey L. Adams
Program Manager
Highway Program

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)

MAINE DEPARTMENT OF TRANSPORTATION

CONTRACT TO PURCHASE SUPPLIES, MATERIALS AND/OR EQUIPMENT FOR A SPECIFIC PROJECT

This Agreement (the "Contract") is entered into between the Maine Department of Transportation ("Department" or "MaineDOT") with its principal office located at Child Street, Augusta, Maine, and a mailing address of 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 _____, and a mailing address of_____ and a telephone number as follows: _____.

The Vendor Customer Number of the Contractor is _____.

MaineDOT, pursuant to 23 M.R.S.A. §52, requested bids for the sale and delivery of the Materials, Supplies, and Equipment (the "Materials") described in attached Appendix A. The offer submitted by Contractor (the "Bid Price") is accepted by MaineDOT as the successful bid. The terms and conditions of the purchase of the Materials are set forth below:

A. Deliverables.

The Contractor agrees to provide the Materials known as Item 534.71 **Reinforced Concrete Box Pipe**, more specifically described in Appendix A for use in MaineDOT Project No. **PIN 12683.00 Appleton** (the "Project").

B. Time.

This Contract becomes effective on the date last signed below. The Contractor agrees to deliver the Materials on or before **August 29, 2008**. This Contract expires December 31, 2008**.**

C. Bid Price.

The Bid Price(s) offered by Contractor and accepted by MaineDOT are as provided in Appendix A. These Bid Prices will serve as a basis for the Contract amount set forth in section F below

D. Contract Documents.

Contractor agrees to comply with the Special Provisions for Purchase of Project Materials attached hereto as Appendix B which is incorporated into the Contract as part of its terms and conditions. This Contract may be amended, modified, or supplemented in writing only.

E. Certifications.

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

1. All of the statements, representations, covenants, and/or certifications required or set forth in Appendix B are accurate as of the date of this Contract.

2. The Contractor certifies that it has not been debarred, suspended, declared ineligible or voluntarily excluded from contracts by the Federal Government or any state agency within the last 3 years.

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

4. The person signing below is legally authorized by the Contractor to sign this Contract on behalf of the Contractor and to legally bind the Contractor to the terms of the Contract.

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

Dated: _____

CONTRACTOR

_____

_____
(Name and Title Printed)

F. Award.

By signing below, an authorized representative of MaineDOT hereby accepts Contractor's offer and awards this Contract to Contractor in the amount of $_____ under the terms and conditions set forth above.

Dated: _____

MAINE DEPARTMENT OF TRANSPORTATION

_____

_____
(Name and Title Printed)

MAINE DEPARTMENT OF TRANSPORTATION

CONTRACT TO PURCHASE SUPPLIES, MATERIALS AND/OR EQUIPMENT FOR A SPECIFIC PROJECT

This Agreement (the "Contract") is entered into between the Maine Department of Transportation ("Department" or "MaineDOT") with its principal office located at Child Street, Augusta, Maine, and a mailing address of 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 _____, and a mailing address of_____ and a telephone number as follows: _____.

The Vendor Customer Number of the Contractor is _____.

MaineDOT, pursuant to 23 M.R.S.A. §52, requested bids for the sale and delivery of the Materials, Supplies, and Equipment (the "Materials") described in attached Appendix A. The offer submitted by Contractor (the "Bid Price") is accepted by MaineDOT as the successful bid. The terms and conditions of the purchase of the Materials are set forth below:

A. Deliverables.

The Contractor agrees to provide the Materials known as Item 534.71 **Reinforced Concrete Box Pipe**, more specifically described in Appendix A for use in MaineDOT Project No. **PIN 12683.00 Appleton** (the "Project").

B. Time.

This Contract becomes effective on the date last signed below. The Contractor agrees to deliver the Materials on or before **August 29, 2008**. This Contract expires December 31, 2008**.**

C. Bid Price.

The Bid Price(s) offered by Contractor and accepted by MaineDOT are as provided in Appendix A. These Bid Prices will serve as a basis for the Contract amount set forth in section F below

D. Contract Documents.

Contractor agrees to comply with the Special Provisions for Purchase of Project Materials attached hereto as Appendix B which is incorporated into the Contract as part of its terms and conditions. This Contract may be amended, modified, or supplemented in writing only.

E. Certifications.

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

1. All of the statements, representations, covenants, and/or certifications required or set forth in Appendix B are accurate as of the date of this Contract.

2. The Contractor certifies that it has not been debarred, suspended, declared ineligible or voluntarily excluded from contracts by the Federal Government or any state agency within the last 3 years.

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

4. The person signing below is legally authorized by the Contractor to sign this Contract on behalf of the Contractor and to legally bind the Contractor to the terms of the Contract.

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

Dated: _____

CONTRACTOR

_____

_____
(Name and Title Printed)

F. Award.

By signing below, an authorized representative of MaineDOT hereby accepts Contractor's offer and awards this Contract to Contractor in the amount of $_____ under the terms and conditions set forth above.

Dated: _____

MAINE DEPARTMENT OF TRANSPORTATION

_____

_____
(Name and Title Printed)

MAINE DEPARTMENT OF TRANSPORTATION

CONTRACT TO PURCHASE SUPPLIES, MATERIALS AND/OR EQUIPMENT FOR A SPECIFIC PROJECT

This Agreement (the "Contract") is entered into between the Maine Department of Transportation ("Department" or "MaineDOT") with its principal office located at Child Street, Augusta, Maine, and a mailing address of 16 State House Station, Augusta, Maine 04333-0016, and **ABC COMPANY** ("Contractor"), a corporation or other legal entity organized under the laws of the State of Maine _____ with its principal place of business located at **ABC Street, Town, State** and a mailing address of **ABC Sreet, Town, State** and a telephone number as follows: _____.

The Vendor Customer Number of the Contractor is **VC0000000000**.

MaineDOT, pursuant to 23 M.R.S.A. §52, requested bids for the sale and delivery of the Materials, Supplies, and Equipment (the "Materials") described in attached Appendix A. The offer submitted by Contractor (the "Bid Price") is accepted by MaineDOT as the successful bid. The terms and conditions of the purchase of the Materials are set forth below:

A. Deliverables.

The Contractor agrees to provide the Materials known as **REINFORCED CONCRETE PIPE**, more specifically described in Appendix A for use in MaineDOT Project No. **12988.00 WYMAN HILL, RUMFORD**.

B. Time.

This Contract becomes effective on the date last signed below. The Contractor agrees to deliver the Materials on or before **AUGUST 4, 2008**. This Contract expires December 31, 2008.

C. Bid Price.

The Bid Price(s) offered by Contractor and accepted by MaineDOT are as provided in **Appendix A**. These Bid Prices will serve as a basis for the Contract amount set forth in section F below

D. Contract Documents.

Contractor agrees to comply with the Special Provisions for Purchase of Project Materials attached hereto as Appendix B which is incorporated into the Contract as part of its terms and conditions. This Contract may be amended, modified, or supplemented in writing only.

SAMPLE

E. Certifications.

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

1. All of the statements, representations, covenants, and/or certifications required or set forth in Appendix B are accurate as of the date of this Contract.

2. The Contractor certifies that it has not been debarred, suspended, declared ineligible or voluntarily excluded from contracts by the Federal Government or any state agency within the last 3 years.

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

4. The person signing below is legally authorized by the Contractor to sign this Contract on behalf of the Contractor and to legally bind the Contractor to the terms of the Contract.

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

Dated: **____(Date Here)_____**

CONTRACTOR

(Sign Here)

_____

(Print Name & Title Here)

_____

(Name and Title Printed)

F. Award.

By signing below, an authorized representative of MaineDOT hereby accepts Contractor's offer and awards this Contract to Contractor in the amount of $_____ under the terms and conditions set forth above.

Dated: _____

MAINE DEPARTMENT OF TRANSPORTATION

_____

_____

(Name and Title Printed)

SAMPLE

APPENDIX A
Description of Materials, Supplies Equipment and Bid Price
SCHEDULE OF ITEMS
BID PAGE

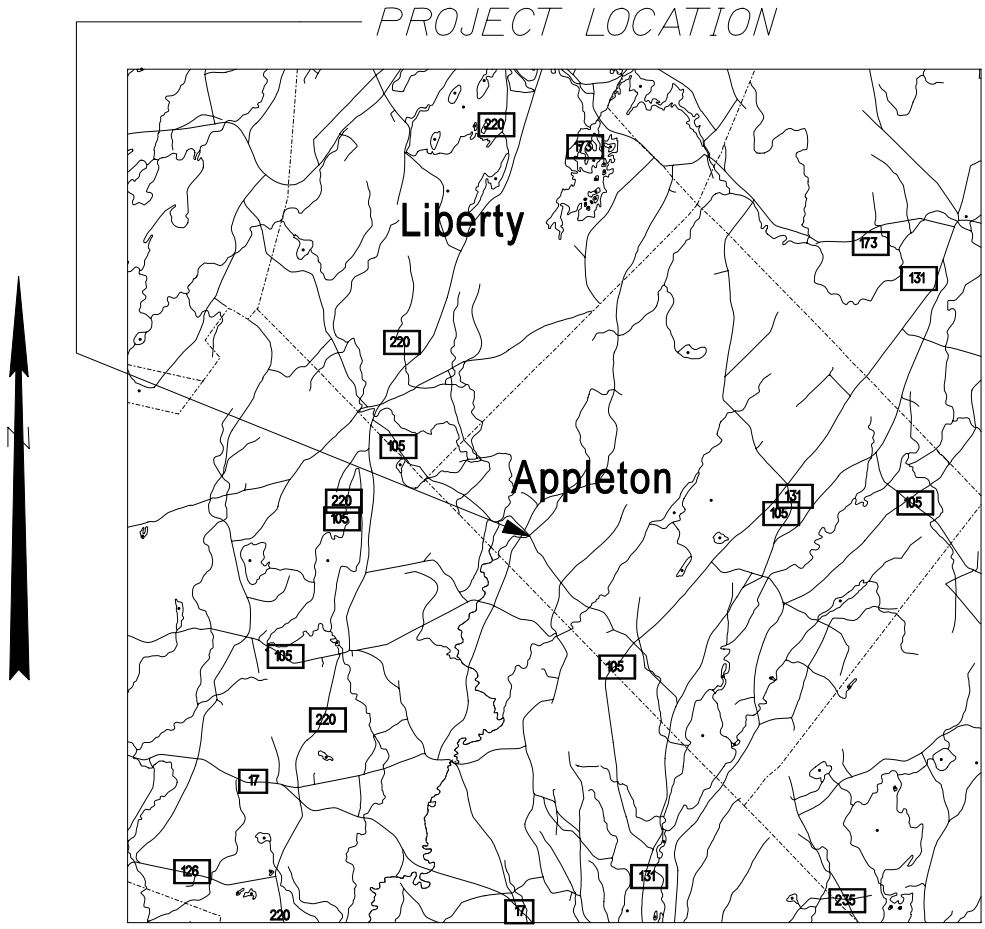
The pipes must meet the requirements of Special Provisions and State of Maine, Department of Transportation, Standard Specifications, Revision of December 2002 including, but not limited to Section 603.02 Materials.

		Price
Structure #1	**1 lump sum**	**$_____**

96” dia. Reinforced Concrete Pipe.

PIN 12683.00
APPLETON, STATE ROUTE 105

PROJECT LOCATION



LAYOUT SCALE

Scale in Feet

PIN 12683.00
Rte. 105, Appleton
Culvert Supply and Delivery
May 21, 2008

SPECIAL PROVISION
SECTION 107
Time
(Contract Time)

1. The contractor will be allowed to commence production of the Reinforced Concrete Pipe as soon as all required submittals have been received and approved by MaineDOT. The Contractor shall coordinate with the MaineDOT for delivery of the pipe as outlined in Special Provision 603.

2. The completion date for pipe delivery and supply is August 29th, 2008.

Special Provision

Description The Contractor shall supply and deliver 72 linear feet of 96" diameter Class IV reinforced concrete pipe. The pipe shall meet all requirements as outlined in Section 603.02 Materials of the State of Maine Department of Transportation, Standard Specifications Revision of December of 2002. The pipe sections will have OSHA approved positive locking lifting apparatus (systems) installed in each section of pipe. The Contractor shall supply the necessary shackles for lifting connections to be used by the Department and or its Subcontractors.

Delivery The anticipated date that the Department will be ready for delivery will be between the dates of July 15th 2008 and August 29th 2008.

The pipe shall be delivered to Appleton, Maine at the location of the project on State Route 105 approximately 2.97 miles south of the intersection of State Route 220 and State Route 105 (see location map). The Maine DOT shall provide means of unloading the pipe. Delivery of all sections of the pipe shall be coordinated for the same day.

Coordination The Maine DOT will give 10 days notice prior to requesting delivery of the Reinforced Concrete Pipe. The Contractor shall coordinate with Randall Barrows, State Project Construction Superintendent in order to coordinate the delivery in conjunction with work being done by State forces. The Maine DOT Region 2 phone number is 624-8200.

Basis of Payment The accepted quantity of Reinforced Concrete Pipe will be paid for at the contract lump sum prices, complete and accepted, which shall be full compensation for furnishing, delivering and supplying the lifting connections. No price adjustments will be made to the lump sum prices.

Pay Item	Pay Unit
96" dia. Reinforced Concrete Pipe	Lump Sum

Appendix B

Maine Department of Transportation
Special Provisions for the Purchase of
Supplies, Materials or Equipment for a Specific Project
Pursuant to 23 MRSA § 52

1) **WARRANTY.** Contractor warrants:

   a) That all articles and services to be supplied by it under this contract are fit and sufficient for the purpose intended;
   b) That all articles and services covered by this contract will conform to the specifications, drawing samples, symbols or other description specified by the Department;
   c) That such articles are merchantable, good quality and free from defects whether patent or latent in material and workmanship;
   d) That all workmanship, materials and articles to be provided are of the best grade and quality; and,
   e) That it has good and clear title to all articles to be supplied by it and the same are free and clear from all liens, encumbrances and security interest.

   Neither the final certificate of payment nor any provision herein, nor partial nor entire use of the articles provided shall constitute an acceptance of work not done in accordance with this Contract or relieve the Contractor from liability in respect of any warranties or responsibility for faulty material or workmanship. The Contractor shall remedy any defects in the materials and articles delivered pursuant to this Contract and pay any damages resulting from such defects which shall appear within 1 year from the date of final acceptance of the materials and articles provided hereunder. The Department shall give written notice of observed defects with reasonable promptness.

2) **TAXES.** Contractor agrees that, unless otherwise indicated in this Contract, the prices herein do not include federal, state or local sales, or use the tax from which an exemption is available for purposes of this order. Contractor agrees to accept and use tax exemption certificates when supplied by the Department as applicable. In case it shall ever be determined that any tax included in the prices herein was not required to be paid by Contractor, Contractor agrees to notify the Department and to make prompt application for the refund thereof, to take all proper steps to procure the same and when received to pay the same to the Department.

3) **PACKING & SHIPMENT.** Deliveries shall be made as specified without charge for boxing, shipping or storage, unless otherwise specified. Articles shall be suitably packed to secure lowest transportation cost and to conform with the requirements of common carriers and any applicable specifications. Order numbers and symbols must be plainly marked on all invoices, packages, bills of lading and shipping orders. Bill of lading should accompany each invoice. Count or weight shall be final and conclusive on shipments not accompanied by packing lists. Shipping terms F.O.B. destination.

Maine Department of Transportation
Special Provisions for the Purchase of
Supplies, Materials or Equipment for a Specific Project
Pursuant to 23 MRSA § 52

4) **DELIVERY.** Delivery should be strictly in accordance with delivery schedule. If Contractor's deliveries fail to meet such schedule, the Department, without limiting its other remedies, may direct expedited routing, and the difference between the expedited routing and the order routing costs shall be paid by the Contractor. Articles fabricated beyond the Department's releases are at Contractor's risk. Contractor shall not make material commitments or production arrangements in excess of the amount or in advance of the time necessary to meet delivery schedule. Unless otherwise specified herein, or receipt of written approval, no deliveries shall be made in advance of the Department's delivery schedule. Neither party shall be liable for excess costs of deliveries or defaults due to causes beyond its control and without its fault or negligence, provided, however, that when the Contractor has reason to believe that the deliveries will not be made as scheduled, written notice setting forth the cause of the anticipated delay will be given immediately to the Department. If the Contractor's delay or default is caused by the delay or default of a subcontractor, such delay or default shall be excusable only if it arose out of causes beyond the control of both Contractor and subcontractor and without fault of negligence or either of them and the articles or services to be furnished were not obtainable from other sources in sufficient time to permit Contractor to meet the required delivery schedule.

5) **INSPECTION.** All articles and work will be subject to final inspection and approval after delivery, notwithstanding prior payment, it being expressly agreed that payment will not constitute final acceptance. The Department at its option may either reject any article or work not in conformity with the requirements and terms of this order, or re-work the same at Contractor's expense. The Department may reject an entire shipment of similar articles if a sample inspection discloses that ten (10%) percent of the articles inspected are defective. This may be waived if the Contractor agrees to reimburse the Department for the cost of a complete inspection of the articles included in such shipment. Rejected material will be returned at Contractor's risk and expense at the full invoice price plus applicable transportation charges, if any. No replacement of defective articles of work shall be made unless specified by the Department.

6) **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.

7) **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.

8) **DEPARTMENT'S REPRESENTATIVE.** The Contract Administrator shall be the Department's representative during the period of this Contract. He/she has authority to curtail services if necessary to ensure proper execution. He/she 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.

9) **CHANGES IN THE WORK.** The Department may make changes to its order, the Contract Amount will be amended accordingly, these changes will not invalidate this Contract. In no event shall Contractor fail or refuse to continue the performance of its obligations under this Contract because of the inability of the parties to agree on an adjustment or adjustments. Any monetary adjustment or any substantive change in the articles or materials shall be in the form of an amendment, signed by both parties and approved by the MaineDOT. Said amendment must be effective prior to delivery of the articles or materials.

10) **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 Contract shall in any case release the Contractor of its liability under this Contract.

11) **PERSONNEL.** The Contractor warrants that it has not employed or contracted with any company or person, other than for assistance with the normal study and preparation of a proposal, to solicit or secure this Contract and that it has not paid, or agreed to pay, any company or person, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from the award for making this Contract. For breach or violation of this warranty, the Department shall have the right to annul this Contract without liability or, in its discretion to otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Maine Department of Transportation
Special Provisions for the Purchase of
Supplies, Materials or Equipment for a Specific Project
Pursuant to 23 MRSA § 52

12) **STATE EMPLOYEES NOT TO BENEFIT.** No individual employed by the State 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 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. 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.

13) **MATERIAL SAFETY DATA SHEETS.** All manufacturers, importers, suppliers, or distributors of hazardous chemicals doing business in this State must provide a copy of the current material safety data sheet for any hazardous chemical to their direct purchasers of that chemical.

14) **ACCESS TO RECORDS.** The Contractor shall maintain all books, documents, payrolls, papers, accounting records and other evidence pertaining to this Contract and make such materials available at its offices at all reasonable times during the period of this Contract and for such subsequent period as specified under Maine Uniform Accounting and Auditing Practices for Community Agencies (MAAP) rules. The Contractor shall allow inspection of pertinent documents by the Department or any authorized representative of the State of Maine or Federal Government, and shall furnish copies thereof, if requested.

15) **TERMINATION.** The performance of work under the Contract may be terminated by the Department 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 including but not limited to the following circumstances:
   (a) The Contractor fails to make delivery of articles, or specified materials;
   (b) If Contractor defaults under any other term or condition of this contract;
   (c) If Contractor so fails to make progress as to endanger the performance of this contract in accordance with its terms; or,
   (d) If Contractor is adjudged bankrupt, or if it makes a general assignment for the benefit of its creditors or if a receiver is appointed on account of its insolvency.

   Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which the performance of its obligations 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 accordingly.

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

17) **GOVERNING LAW.** This Contract is pursuant to 23 M.R.S.A. §52, and 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.

18) **STATE HELD HARMLESS.** The Contractor agrees to indemnify, defend and save 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. This indemnification includes 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.

19) **NOTICE OF CLAIMS**. The Contractor shall give the Department 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.

20) **NON-APPROPRIATION.** Notwithstanding any other provision of this Contract, if the State does not receive sufficient funds to fund this Contract and other obligations of the State, if funds are de-appropriated, or if the State does not receive legal authority to expend funds from the Maine State Legislature or Maine courts, then the State is not obligated to make payment under this Contract.

21) **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.

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22) **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.

23) **DEBARMENT, SUSPENSION, INELIGIBILITY, OR EXCLUSION.** By signing the Contract, the Contractor certifies that it has not been debarred, suspended, declared ineligible or voluntarily excluded from contracts by the Federal Government or any state agency within the last 3 years.

24) **SET-OFF RIGHTS.** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any monies due to the Contractor under this Contract up to any amounts due and owing to the State with regard to this Contract, any other Contract, any other Contract with any State department or agency, including any Contract for a term commencing prior to the term of this Contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State 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.