

**STATEWIDE
RAILROAD MAINTENANCE**

Maintenance & Operations

STATE PROJECT

APPLICATION/CONTRACT INSTRUCTIONS

1. Complete the 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. The completed Application
 - d. Two (2) copies of the completed and signed Contract Offer, Agreement, & Award form
 - e. Completed Appendix B
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.

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> .

STATE OF MAINE DEPARTMENT OF TRANSPORTATION
NOTICE TO CONTRACTORS
&
CONTRACTOR PREQUALIFICATION
RAILROAD CONSTRUCTION AND MAINTENANCE

Sealed Applications addressed to the Maine Department of Transportation, 16 State House Station, Augusta, Maine 04333-0016 and endorsed on the wrapper "**Prequalification Application for Railroad Maintenance Statewide**" 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 **April 22, 2009**.

Description: Prequalification Application for Railroad Maintenance

Location: Statewide

Outline of Work: Contractors desiring to perform or bid on construction, maintenance or demolition on Railroad infrastructure on an Emergency or On Call basis State wide between March 31, 2009 and March 31, 2012 must prepare and submit this application and enter into contracts, except as noted in the procedure.

The intent of this proposal is to receive numerous applications. Contracts will be entered into with multiple Contractors.

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 application date will not be answered. Applicants 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.

Packages are available at <http://www.maine.gov/mdot/comprehensive-list-projects/project-information.php> 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.

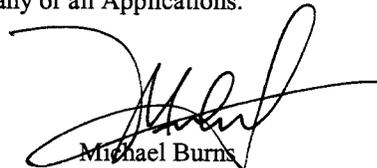
Each Application must be made upon the attached form provided by the Department.

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.maine.gov/mdot/contractor-consultant-information/contractor_cons.php

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

Augusta, Maine
April 1, 2009



Michael Burns
Asst. Director, Maintenance & Operations

**SPECIAL PROVISION 102.7.3
ACKNOWLEDGMENT OF BID AMENDMENTS**

With this form, the Bidder acknowledges its responsibility to check for all Amendments to the Bid Package. For each Project under Advertisement, Amendments are located at <http://www.maine.gov/mdot/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)

STATE OF MAINE DEPARTMENT OF TRANSPORTATION
CONTRACTOR PREQUALIFICATION PROCEDURE
RAILROAD MAINTENANCE

Contractors desiring to perform or bid on construction, maintenance or demolition on Railroad infrastructure on an Emergency or On Call basis State wide between March 31, 2009 and March 31, 2012 must submit a properly completed Application by the date in the notice unless one of the exceptions to prequalification listed below of this Procedure applies.

All Contractors must be prequalified in accordance with the provisions of this Procedure to be eligible to be awarded a Contract, EXCEPT that such prequalification is not required if:

- A. the Contractor's bid price is \$ 5,000 or less;
- B. the Contractor is contracted pursuant to a separate process specific to that project such as private equipment rental;
- C. the Department waives the requirement for prequalification for good cause shown and in the best interest of the State.

The Contractor must honestly, accurately and completely supply all information requested in the Application. Applications will not be considered received until the Department has received a properly completed Application including all required supporting data.

A Committee shall review all information provided in the Application. The Committee or its designees may (a) contact any person or entity necessary to verify and/or supplement any of the information requested by or provided in the Application and any other Significant information. Whenever the Committee determines that the nature or extent of the information provided in the Application is insufficient or indicates that the Contractor is not qualified, the Committee will, contact the Contractor to seek additional information. The Contractor will submit all additional information requested by the Committee.

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

QUALIFIED: Sufficient information exists to determine that the Contractor is likely to respond to an emergency and construct acceptable repairs in a timely manner using acceptable processes.

NOT QUALIFIED: The information demonstrates that it is unlikely that the Contractor can respond to an emergency and construct acceptable repairs in a timely manner using acceptable processes.

STATE OF MAINE DEPARTMENT OF TRANSPORTATION
CONTRACTOR PREQUALIFICATION PROCEDURE
RAILROAD MAINTENANCE

Grounds for Determination of “Not Qualified”

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

- (1) Unsatisfactory and/or insufficient Contractor experience.
- (2) Number of personnel with applicable knowledge and experience significantly below industry standards.
- (3) Insufficient equipment to respond to emergencies.
- (4) A denial of prequalification or award of contract, disbarment, or other irregularities with respect to any federal, state, or local government or procurement agencies.
- (5) Other substantial deficiencies that are clearly below industry standards and that clearly demonstrate that the Contractor is “Not Qualified”.

If the Contractor is found to be qualified, the Department will deliver to the Contractor a “Notice of Prequalification” and award a contract. If the Department determines that the Contractor is not qualified, said Notice will also set forth the specific reasons therefore to the extent practical and no contract will be awarded.

Appeals and Definitions will be those described in the Maine Department of Transportation Contractor’s Prequalification Procedure.

Maine Department of Transportation
**CONTRACTOR'S PREQUALIFICATION
APPLICATION**
For
RAILROAD MAINTENANCE

1. Basic Information

Name of Contractor: _____
[Same as on Cover Page of This Application]

Contact Person(s): _____

Telephone No: _____ Fax No: _____ E-mail: _____

Address: _____

Vendor Customer No: _____

2. Organizational Structure & History

2.1 The Contractor is duly organized under the laws of the State of

_____.

2.2 The Contractor has the following organizational structure.

individual corporation partnership
 limited liability company joint venture other: _____

2.3 Please list all Predecessor Entities below (or on attached sheets if necessary).

2.4 Please list all Related Entities below (or on attached sheets if necessary).

2.5 If organized in any state other than Maine or in a foreign country, are you in compliance with all laws and regulations necessary to legally do business in the State of Maine? (Example: filings with the Maine Secretary of State.)

YES _____ NO _____

Maine Department of Transportation
**CONTRACTOR'S PREQUALIFICATION
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RAILROAD MAINTENANCE

3. Experience

3.1 Summary of Contractor Experience. With respect to each of the following Project Types, list the approximate number of years of experience that the Contractor has as a prime contractor or as a subcontractor with primary responsibility.

<u>Project Type</u>	<u>Years</u>
Railroad Track Construction and Rehabilitation	_____
<input type="checkbox"/> Production tamping and regulating. <input type="checkbox"/> Spot tamping <input type="checkbox"/> Tie installation and removal. <input type="checkbox"/> Switch construction and installation. <input type="checkbox"/> Bridge deck replacement. <input type="checkbox"/> Ditching. <input type="checkbox"/> Culvert repair and replacement.	
Railroad Buildings	
<input type="checkbox"/> Inspection and repair.	
Railroad Bridge Inspection	_____
<input type="checkbox"/> Identify, report, and repair.	
Railroad Inspection	_____
<input type="checkbox"/> Identify defects. <input type="checkbox"/> Provide a written report. <input type="checkbox"/> Estimate the repair and repair.	
Railroad Signal Services	_____
<input type="checkbox"/> Maintain all.	
Railroad Maintenance Services	_____
<input type="checkbox"/> Provide a written statement of past services.	

[Attach additional sheets as necessary.]

Maine Department of Transportation
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3.2 Most Recently Completed Contracts. Please provide the following information regarding the last six contracts completed by the Contractor. Please list in reverse chronological order (most recently completed project first, next most recently completed project, etc.). [Please feel free to provide this information on attached sheets in another format as long as it contains all the information requested.]

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

3.3 Contracts in Progress. Please provide the following information regarding all contracts currently in progress, in descending order of contract amount. [Please feel free to provide this information on attached sheets in another format as long as it contains all the information requested.]

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

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3.4 Provide an alphabetical listing of all states in which the state Department of Transportation (or analogous agency) has awarded the Contractor (or any Predecessor Entities and Related Entities) a contract during the last five years.

- | | |
|----------|-----------|
| 1. _____ | 6. _____ |
| 2. _____ | 7. _____ |
| 3. _____ | 8. _____ |
| 4. _____ | 9. _____ |
| 5. _____ | 10. _____ |

[Attach additional sheets as necessary.]

4. Insurance

Can your firm provide proof of insurability in the following categories:

1. Commercial General Liability (CGL) of \$1,000,000.00 per occurrence, and 2,000,000.00 in the aggregate.
2. Automobile of \$1,000,000.00 per occurrence.
3. Workers Compensation in accordance with the requirements of the laws of the State of Maine.
4. Owner & Contractors Protective Liability \$1,000,000.00 per occurrence and - \$2,000,000.00 in the Aggregate.
5. Railroad Protective Liability of \$1,000,000.00 per occurrence as needed.

A Certificate of insurance must be submitted to the Department prior to execution of a contract. MaineDOT must be named additional insured on the CGL policy.

5. Debarment, Suspension, Ineligibility, or Exclusion:

5.1 Has your firm been debarred, suspended, declared ineligible or voluntarily excluded from contracts by the Federal Government or any state agency within the last 5 years?

Yes No If yes, briefly explain below.

5.2 Terminations/Suspensions/Defaults

(1) Within the last five years has a contract of the Contractor (or any Predecessor Entities or Related Entities) been terminated or suspended for cause?

Maine Department of Transportation
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(2) Within the last five years, has the Contractor (or any Predecessor Entities or Related Entities) been considered in default of a contract that was not cured within the time frame allowed by the contract?

5.3 Claims History. Within the last five years, has the Contractor (or any Predecessor Entities or Related Entities) been a party to a Claim with an originally claimed amount in excess of \$50,000?

YES _____ NO _____

If YES, please provide full details for each Claim on attached sheets including (a) whether the Claim was brought by or against the Contractor (or any Predecessor Entities or Related Entities), (b) the nature of the dispute underlying the Claim, (c) originally claimed amounts, (d) the resolution of such Claims (including the amount) or if unresolved, the current status of such Claims, and (e) the name, address and phone number of the primary adverse party who can be contacted for additional information, and (f) a written summary of your position on the matter (if desired).

5.4 Bid or other Crimes. Within the last 10 years, has the Contractor (or any Predecessor Entities or Related Entities), or any officers, owners or Key Personnel of the same ever been indicted on, convicted of, or plead or consented to a violation of a bid crime including bid collusion or any other crime involving fraud or knowing misrepresentation?

YES _____ NO _____

If YES, please provide full details on attached sheets. Please feel free to include a written summary of your position on the matter.

Maine Department of Transportation
**CONTRACTOR'S PREQUALIFICATION
APPLICATION**
For
RAILROAD MAINTENANCE

5. Certifications

By signing below, the person signing below hereby certifies as follows:

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

CONTRACTOR

Date

[Signature]

By: _____
[Name and Title Printed]

CONTRACT AGREEMENT, OFFER & AWARD

AGREEMENT made on the date last signed below, by and between the State of Maine, acting through and by its Department of Transportation (Department), 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

_____ a corporation or other legal entity organized under the laws of the State of _____, with its principal place of business located at _____.

The Vendor Customer Number of the Contractor is _____.

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

- Appendix A - Special Provisions for Railroad Maintenance Work, statewide
- Appendix B - Equipment and Labor Rates for 2009

The Department and the Contractor, in consideration of the mutual promises set forth in this Agreement (the "Contract"), hereby agree as follows:

A. The Work.

The Contractor agrees to complete all Work as specified or indicated in the Assignment Letter and Contract including Extra Work in conformity with the Assignment Letter and Contract, for the **Railroad Maintenance Work, statewide**. The Work includes construction, maintenance during construction, warranty as provided in the Assignment Letter and 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 Assignment Letter and the Contract.

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

B. Time.

The Contractor agrees to complete all Work, except warranty work, on or before the Completion Date listed in the Assignment Letter. All work under this Contract must be completed by **March 31, 2012**. The parties may mutually agree to adjust the rates

provided and incorporated as Appendix B of this Contract on an annual basis and under all of the terms of this Contract.

C. Price.

The original Contract amount is **One Hundred twenty five thousand Dollars and no Cents (\$125,000.00)**. The actual Contract amount will be determined by the actual work performed at the rates described in Appendix B and individual assignment letters. The Maine DOT does not guarantee the use of any or all of the Contract amount. Contractor may negotiate a revised Appendix B - Equipment and Labor Rates once a year.

D. Contract.

This Contract, which may be amended, modified, or supplemented in writing only, consists of the Contract documents as defined in the Standard Specifications, Revision of December 2002, Standard Details Revision of December 2002 as updated through advertisement, Supplemental Specifications, Special Provisions, Contract Agreement; and Contract Bonds. It is agreed and understood that this Contract will be governed by the documents listed above.

E. Certifications.

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

1. All of the statements, representations, covenants, and/or certifications required or set forth in the Bid and the Bid Documents and the Contract are still complete and accurate as of the date of this Agreement.
2. The Contractor knows of no legal, contractual, or financial impediment to entering into this Contract.
3. The person signing below is legally authorized by the Contractor to sign this Contract on behalf of the Contractor and to legally bind the Contractor to the terms of the Contract.

F. Offer.

The undersigned, having carefully examined the Standard Specifications Revision of December 2002, Standard Details Revision of December 2002 as updated through

advertisement, Supplemental Specifications, Special Provisions, and Contract Agreement; contained herein for **Railroad Maintenance Work, statewide**, do(es) 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 Appendix B - Equipment and Labor Rates and the prices in the Assignment Letters.

The Offeror agrees to perform the work required at the price specified above and in accordance with the bids provided in the attached Appendix B - Equipment and Labor Rates and the Assignment Letters in strict accordance with the terms of this solicitation, and to provide the appropriate insurance and bonds if this offer is accepted by the Government in writing.

As Offeror also agrees:

First: To do any extra work, not covered by the attached Assignment Letters, which may be ordered by the Department, and to accept as full compensation the amount determined upon a "Force Account" basis as provided in the Standard Specifications, Revision of December 2002, and as addressed in the contract documents.

Second: To complete the Work within the time limits given in the Assignment Letters

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

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

CONTRACTOR

Date

(Signature of Legally Authorized Representative
of the Contractor)

(Name and Title Printed)

G. Award.

Your offer is hereby accepted.
documents referenced herein.

This award consummates the Contract, and the

MAINE DEPARTMENT OF TRANSPORTATION

Date

(Signature)

(Name and Title Printed)

CONTRACT AGREEMENT, OFFER & AWARD

AGREEMENT made on the date last signed below, by and between the State of Maine, acting through and by its Department of Transportation (Department), 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

_____ a corporation or other legal entity organized under the laws of the State of _____, with its principal place of business located at _____.

The Vendor Customer Number of the Contractor is _____.

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

- Appendix A - Special Provisions for Railroad Maintenance Work, statewide
- Appendix B - Equipment and Labor Rates for 2009

The Department and the Contractor, in consideration of the mutual promises set forth in this Agreement (the "Contract"), hereby agree as follows:

A. The Work.

The Contractor agrees to complete all Work as specified or indicated in the Assignment Letter and Contract including Extra Work in conformity with the Assignment Letter and Contract, for the **Railroad Maintenance Work, statewide**. The Work includes construction, maintenance during construction, warranty as provided in the Assignment Letter and 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 Assignment Letter and the Contract.

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

B. Time.

The Contractor agrees to complete all Work, except warranty work, on or before the Completion Date listed in the Assignment Letter. All work under this Contract must be completed by **March 31, 2012**. The parties may mutually agree to adjust the rates

provided and incorporated as Appendix B of this Contract on an annual basis and under all of the terms of this Contract.

C. Price.

The original Contract amount is **One Hundred twenty five thousand Dollars and no Cents (\$125,000.00)**. The actual Contract amount will be determined by the actual work performed at the rates described in Appendix B and individual assignment letters. The Maine DOT does not guarantee the use of any or all of the Contract amount. Contractor may negotiate a revised Appendix B - Equipment and Labor Rates once a year.

D. Contract.

This Contract, which may be amended, modified, or supplemented in writing only, consists of the Contract documents as defined in the Standard Specifications, Revision of December 2002, Standard Details Revision of December 2002 as updated through advertisement, Supplemental Specifications, Special Provisions, Contract Agreement; and Contract Bonds. It is agreed and understood that this Contract will be governed by the documents listed above.

E. Certifications.

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

1. All of the statements, representations, covenants, and/or certifications required or set forth in the Bid and the Bid Documents and the Contract are still complete and accurate as of the date of this Agreement.
2. The Contractor knows of no legal, contractual, or financial impediment to entering into this Contract.
3. The person signing below is legally authorized by the Contractor to sign this Contract on behalf of the Contractor and to legally bind the Contractor to the terms of the Contract.

F. Offer.

The undersigned, having carefully examined the Standard Specifications Revision of December 2002, Standard Details Revision of December 2002 as updated through

advertisement, Supplemental Specifications, Special Provisions, and Contract Agreement; contained herein for **Railroad Maintenance Work, statewide**, do(es) 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 Appendix B - Equipment and Labor Rates and the prices in the Assignment Letters.

The Offeror agrees to perform the work required at the price specified above and in accordance with the bids provided in the attached Appendix B - Equipment and Labor Rates and the Assignment Letters in strict accordance with the terms of this solicitation, and to provide the appropriate insurance and bonds if this offer is accepted by the Government in writing.

As Offeror also agrees:

First: To do any extra work, not covered by the attached Assignment Letters, which may be ordered by the Department, and to accept as full compensation the amount determined upon a "Force Account" basis as provided in the Standard Specifications, Revision of December 2002, and as addressed in the contract documents.

Second: To complete the Work within the time limits given in the Assignment Letters

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

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

CONTRACTOR

Date

(Signature of Legally Authorized Representative
of the Contractor)

(Name and Title Printed)

G. Award.

Your offer is hereby accepted.
documents referenced herein.

This award consummates the Contract, and the

MAINE DEPARTMENT OF TRANSPORTATION

Date

(Signature)

(Name and Title Printed)

CONTRACT AGREEMENT, OFFER & AWARD

AGREEMENT made on the date last signed below, by and between the State of Maine, acting through and by its Department of Transportation (Department), 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 (Name of the firm bidding the job)

a corporation or other legal entity organized under the laws of the State of _____, with its principal place of business located at (address of the firm) _____.

The Vendor Customer Number of the Contractor is (VCXXXXXXXXXX).

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

- Appendix A - Special Provisions for Emergency/On call highway work in Region 1
- Appendix B - Equipment and Labor Rates for 2009

The Department and the Contractor, in consideration of the mutual promises set forth in this Agreement (the "Contract"), hereby agree as follows:

A. The Work.

The Contractor agrees to complete all Work as specified or indicated in the Assignment Letter and Contract including Extra Work in conformity with the Assignment Letter and Contract, for the **Emergency/On Call Highway Construction in Region 1**. The Work includes construction, maintenance during construction, warranty as provided in the Assignment Letter and 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 Assignment Letter and the Contract.

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

B. Time.

The Contractor agrees to complete all Work, except warranty work, on or before **February 28, 2011**.

C. Price.

The original Contract amount is **One Million Dollars and no Cents (\$1,000,000.00)**. The actual Contract amount will be determined by the actual work performed at the rates described in Appendix B and individual assignment letters. The Maine DOT does not guarantee the use of any or all of the Contract amount. Contractor may negotiate a revised Appendix B - Equipment and Labor Rates once a year.

The original Contract amount will be used as the basis for determining the amounts of the required Performance Surety Bond and Payment Surety Bond each being 100% of the amount of this Contract.

D. Contract.

This Contract, which may be amended, modified, or supplemented in writing only, consists of the Contract documents as defined in the Standard Specifications, Revision of December 2002, Standard Details Revision of December 2002 as updated through advertisement, Supplemental Specifications, Special Provisions, Contract Agreement; and Contract Bonds. It is agreed and understood that this Contract will be governed by the documents listed above.

E. Certifications.

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

1. All of the statements, representations, covenants, and/or certifications required or set forth in the Bid and the Bid Documents and the Contract are still complete and accurate as of the date of this Agreement.
2. The Contractor knows of no legal, contractual, or financial impediment to entering into this Contract.
3. The person signing below is legally authorized by the Contractor to sign this Contract on behalf of the Contractor and to legally bind the Contractor to the terms of the Contract.

F. Offer.

The undersigned, having carefully examined the Standard Specifications Revision of December 2002, Standard Details Revision of December 2002 as updated through advertisement, Supplemental Specifications, Special Provisions, Contract Agreement;

and Contract Bonds contained herein for **Emergency/On Call Highway Construction in Region 1**, do(es) 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 Appendix B - Equipment and Labor Rates and the prices in the Assignment Letters.

The Offeror agrees to perform the work required at the price specified above and in accordance with the bids provided in the attached Appendix B - Equipment and Labor Rates and the Assignment Letters in strict accordance with the terms of this solicitation, and to provide the appropriate insurance and bonds if this offer is accepted by the Government in writing.

As Offeror also agrees:

First: To do any extra work, not covered by the attached Assignment Letters, which may be ordered by the Department, and to accept as full compensation the amount determined upon a "Force Account" basis as provided in the Standard Specifications, Revision of December 2002, and as addressed in the contract documents.

Second: That the bid bond at 5% of the bid amount or the official bank check, cashier's check, certificate of deposit or U. S. Postal Money Order in the amount given in the "Notice to Contractors", payable to the Treasurer of the State of Maine and accompanying this bid, shall be forfeited, as liquidated damages, if in case this bid is accepted, and the undersigned shall fail to abide by the terms and conditions of the offer and fail to furnish satisfactory insurance and Contract bonds under the conditions stipulated in the Specifications within 15 days of notice of intent to award the contract.

Third: To complete the Work within the time limits given in the Assignment Letters.

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 agreement, participated in any collusion, or otherwise taken any action in restraint of competitive bidding in connection with its bid, and its subsequent contract with the Department.

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

CONTRACTOR

(Date Here)
Date

(Sign Here)
(Signature of Legally Authorized Representative
of the Contractor)

(Print Name Here)
(Name and Title Printed)

G. Award.

Your offer is hereby accepted.
documents referenced herein.

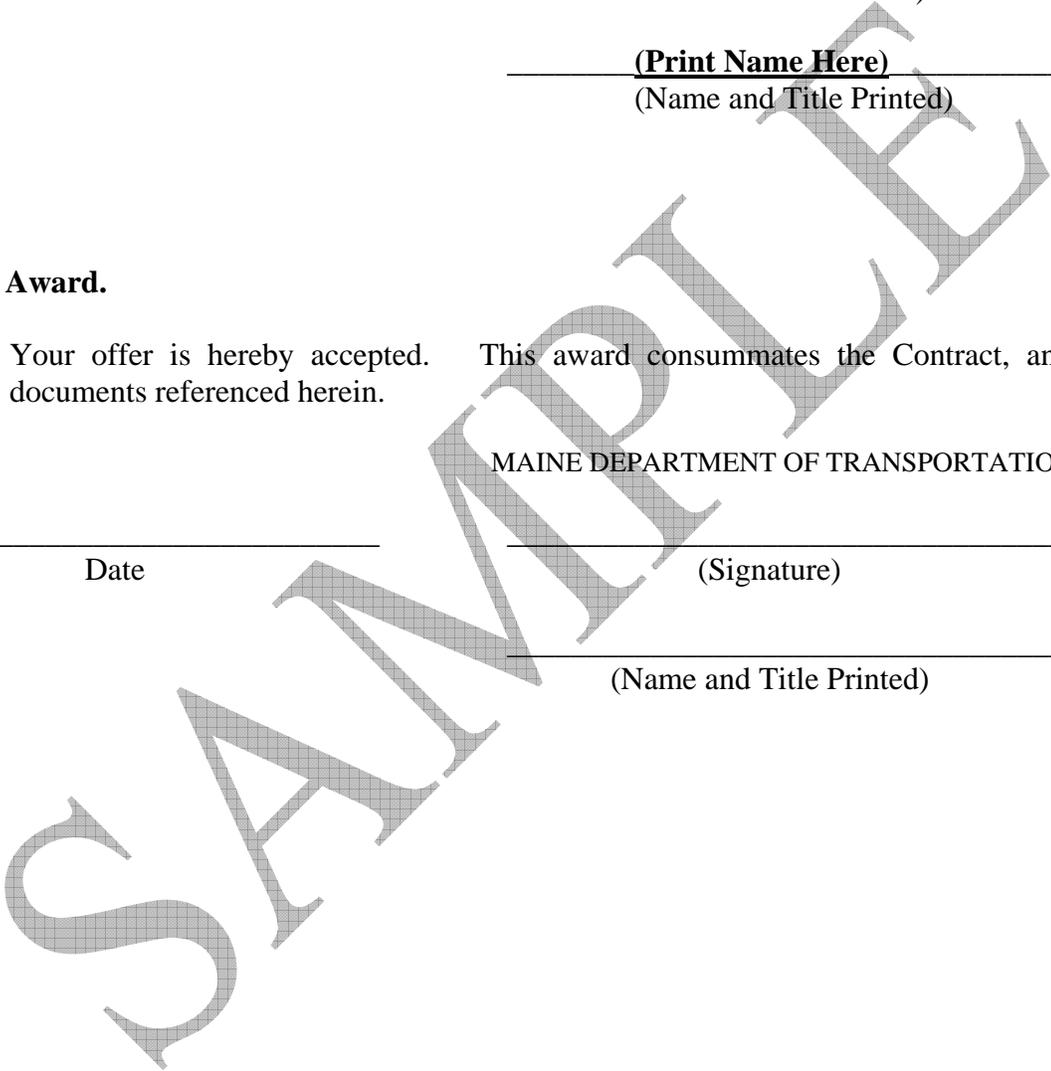
This award consummates the Contract, and the

MAINE DEPARTMENT OF TRANSPORTATION

Date

(Signature)

(Name and Title Printed)



NOTICE TO CONTRACTORS - PREFERRED EMPLOYEES

Sec. 1303. Public Works; minimum wage

In the employment of laborers in the construction of public works, including state highways, by the State or by persons contracting for the construction, preference must first be given to citizens of the State who are qualified to perform the work to which the employment relates and, if they can not be obtained in sufficient numbers, then to citizens of the United States. Every contract for public works construction must contain a provision for employing citizens of this State or the United States. The hourly wage and benefit rate paid to laborers employed in the construction of public works, including state highways, may not be less than the fair minimum rate as determined in accordance with section 1308. Any contractor who knowingly and willfully violates this section is subject to a fine of not less than \$250 per employee violation. Each day that any contractor employs a laborer at less than the wage and benefit minimum stipulated in this section constitutes a separate violation of this section. [1997, c. 757, §1 (amd).]

APPENDIX A
SPECIAL PROVISIONS
FOR RAILROAD MAINTENANCE WORK

Contract Administrator The contract administrator for this contract will be:

Name: Jeffrey Beecher
Title: Multi Modal Maintenance Supervisor
Address: 16 State House Station, Augusta Maine 04333

Assignment Letters

The dollar amount of this Contract is in no way a guarantee that the Department will Assign Work for any or all of the total amount.

As work arises, the Department will prepare an Assignment Letter stating the nature of the Work, Price and method of payment, and any time constraints. The Work described in this letter will become part of the Contract.

Work will be assigned under these contracts according to the following process: The Contractor with the lowest bid for the particular Assignment will have first option to enter into a contract to perform work pursuant to an Assignment Letter. If this Contractor is unable to accept the work, then the Contract Administrator will contact the firm that submitted the next lowest bid to see if that bidder will accept the assignment. If that next low bidder is unable to enter into the contract, then the Contract Administrator will contact the next lowest bidder, and subsequent bidders in ascending order of the amount of their bids, until a bidder accepts the assignment.

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

If Default occurs, the Department may give written Notice of Default to the Contractor. Failure to give Notice of Default is in no way a waiver by the Department of any provision of the Contract.

Invoices and Payments The Department will pay the Provider as follows: The Provider shall invoice the Department when specified work outlined in the Assignment Letter has been completed. Invoices shall be submitted by the Contractor to the Department for payment. Invoices shall include the following minimum information:

Contractor name, address & Contract Number
Invoice Date & Number
Dates of Service
Breakdown of Work

The Department will pay based upon the invoices provided. The Department may request that the Contractor submit backup documentation including copies of receipts, invoices, and itemized payments to Subcontractors. The Contractor agrees to waive all claims related to the timing and amount of such estimates.

The Acceptance by the Contractor of the final payment, as evidenced by cashing of the final payment check, constitutes a release to the Department from all claims and liability under the Contract. Upon Final Acceptance, the Contractor is released from further obligation, except for warranty obligations provided for in this Contract.

Payments to the Contractor shall be full compensation for furnishing all labor, Equipment, Materials, services, and Incidentals used to perform all Work under the Contract in a complete and acceptable manner, and for all risk, loss, damage, or expense of any kind arising from the nature or prosecution of the Work.

No payments due the Contractor will be adjusted for inflation. No interest shall be due and payable on any payment due the Contractor.

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. Regulatory non-compliance or enforcement,
- H. All other causes that the Department reasonably determines negatively affect the State's interest.

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

Insurance

The Contractor shall supply proof of insurance as detailed in Standard Specifications, Section 110 – Indemnification, Bonding and Insurance before this Contract will be signed by the Department.

Railroad Protective Liability The Contractor shall carry Railroad Protective Liability insurance in an amount not less than \$1,000,000.00.

APPENDIX B
SPECIAL PROVISION
EQUIPMENT AND LABOR RATES FOR 2009
For
RAILROAD MAINTENANCE

List Equipment and Labor Rates for 2009 on this sheet or attach a separate sheet.

The actual Contract amount will determined by the actual work performed at the rates described in Appendix B and individual assignment letters. The Department and the Contractor may mutually agree to adjust the rates given in Appendix B - Equipment and Labor Rates once a year.