

CONTRACT & SPECIFICATIONS

FOR

**WATERFRONT IMPROVEMENTS
PHASE 2 - CONTRACT No. 2
LWCF 23-00909
BOWDOINHAM, MAINE**

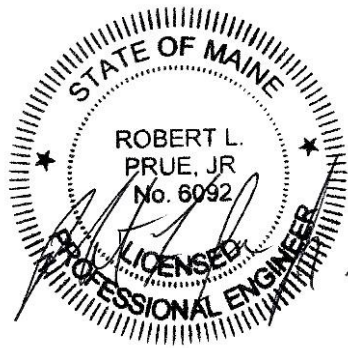
**PINE TREE ENGINEERING, INC.
BATH, MAINE**

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FOR

**WATERFRONT IMPROVEMENTS
PHASE 2 - CONTRACT No. 2
LWCF 23-00909
BOWDOINHAM, MAINE**

AUGUST 2024



**PINE TREE ENGINEERING, INC.
BATH, MAINE**

Project No. 21018

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SECTION 1

Invitation to Bid

**SECTION 1
INVITATION TO BID**

Bids shall be submitted in a sealed envelope or package with the type of bid clearly indicated on the outside:

“Bid For: Waterfront Improvements, Phase 2 - Contract No. 2, LWCF 23-00909 — Bowdoinham, Maine”

TO: Nicole Briand, Town Manager
Town of Bowdoinham
13 School Street
Bowdoinham, Maine 04008

The bids will be opened and read aloud at the **Bowdoinham Town Office** on **August 22, 2024** at **9:00 a.m.**

The project involves site improvements including common borrow, site grading, gravel base, hot mix asphalt paving, storm drains, slipform concrete curbing, landscaping, utility installation, and miscellaneous sitework items at the Town’s Waterfront Park on River Road.

This project is funded, in part, by the federal Land and Water Conservation Fund (LWCF) program, LWCF #23-00909.

Build America Buy America requirements

- i. As required by Section 70914 of the Bipartisan Infrastructure Law (also known as the Infrastructure Investment and Jobs Act), P.L. 117-58, on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance program for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products under this program.
- ii. Recipients of an award of Federal financial assistance are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:
 1. all iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
 2. all manufactured products used in the project are produced in the United States —this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
 3. all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

- iii. The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

Electronic copies of the Bid Documents (full sets only) may be obtained from:

Pine Tree Engineering, Inc.
53 Front Street
Bath, Maine 04530
Tel: (207) 443-1508
Fax: (207) 442-7029
pte@pte-maine.com

upon receipt of payment of **\$60.00** (nonrefundable) and an additional **\$80.00** (nonrefundable) shall be charged for paper documents if they are requested. The Documents may be examined at the Bowdoinham Town Office and the following locations:

1. Associated General Contractors of Maine
188 Whitten Road
Augusta, Maine 04330
2. Construction Summary of Maine
734 Chestnut Street
Manchester, NH 03104
3. Pine Tree Engineering, Inc.
53 Front Street
Bath, Maine 04530

All bidders must furnish the following:

1. A completed Bid Form.
2. Experience Record (see Section 2-D)
3. A list of all subcontractors to be utilized on the project.
4. A bid security in the amount of 5% of the total bid in the form of a Bid Bond or certified check, made out to the Town of Bowdoinham.

The successful bidder must furnish the following:

1. Certificate of Insurance (in accordance with Section 3, Article 26)
2. 100% Construction Performance Bond
3. 100% Construction Payment Bond

The Town of Bowdoinham will have thirty (30) calendar days within which to accept or reject any bid. All work shall be completed by **June 20, 2025**. Liquidated damages in the amount of **\$250** per day are contained in the Contract.

The Town of Bowdoinham reserves the right to adjust quantities contained in the Bid Form as needed in order to stay within the project budget.

Town of Bowdoinham reserves the right to reject any and all bids and to waive any technical or legal deficiencies, and to accept any bid which is deemed to be in the best interest of the Town of Bowdoinham, not necessarily the lowest bid.

By: Nicole Briand, Town Manager

END OF SECTION

SECTION 2

2-A	Instructions to Bidders
2-B	Bid Form
2-C	Contract Agreement
2-D	Experience Record
2-E	Bid Bond
2-F	Performance Bond
2-G	Payment Bond
2-H	Notice of Award
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**SECTION 2-A
SHORT FORM
INSTRUCTIONS TO BIDDERS**

1. At the time of the opening of Bids, each bidder will be presumed to have inspected the Site and to have read and to be thoroughly familiar with the Plans and Contract Documents, including all Addenda. The failure or omission of any Bidder to receive or examine any form, instrument, or document shall in no way relieve any Bidder from obligation in respect to his Bid. The Owner reserves the right to accept or reject any or all Bids as may best serve the interest of the Owner.
2. Subject to the Owner's right, reserved herein, to accept or reject any or all Bids, the Contractor shall be selected on the basis of the lowest dollar value of an acceptable Base Bid, or any combination of Base Bid plus Alternate Bids. An acceptable bid is a duly submitted bid from a responsive and responsible bidder.
3. Each Bidder agrees to waive any claim it has or may have against the Owner, the Architect/Engineer, and their respective employees, arising out of or in connection with the administration, evaluation, or recommendation of any bid.
4. Maine State Sales and Use Taxes should not be included in your quotation for the permanent installation of material and equipment as the Owner is exempt from the payment of such taxes.
5. No Bid may be withdrawn during a period of thirty (30) calendar days immediately following the opening thereof.
6. No Contract may be assigned, sublet or transferred without the written consent of the Owner.
7. The selected General Contractor will be required to furnish a 100% Contract Performance Bond and a 100% Contract Payment Bond.
8. All bidders are required to furnish a statement of their construction experience and a list of all subcontractors.

The selected Contractor may also be required to furnish a listing of their accomplishments and financial responsibility.
9. Payment of 95% of the Contract Amount shall be made within thirty (30) calendar days of substantial completion. The Owner shall retain five percent (5%) of the payment due the Contractor as part security for the fulfillment of the Contract by the contractor.

10. The Bid shall be based on the materials, methods, equipment and products as specified and as shown on the drawings.

Any materials, methods, equipment or products not herein specified, but deemed worthy of consideration by any General Contractor, may be introduced by a separate letter attached to his Bid. He shall state the cost comparison with the specified materials, methods, equipment or products and the reason for the suggested substitution.

It shall be understood by the General Contractor that the attached letter describing the proposed change will not be used in determining the low bid proposal submitted.

11. If, in the performance of this Contract, a dispute arises between the Owner and the Contractor which cannot be resolved by the engineer, then this dispute shall be settled by litigation.
12. OSHA - Safety Regulations. This Project is subject to compliance with all requirements of the Occupational Safety and Health Administration, Volume 36, No. 105 of the Federal Register, U.S. Department of Labor published Saturday, May 29, 1971, as amended.
13. All bid items must be completed. Unit prices govern and shall be used to determine bid total in case of discrepancies.
14. (a) All foreign corporations intending to do business in the State of Maine must comply with the provisions of 13-A M.R.S.A., Chapter 12. Any Foreign Corporation receiving notice of Award of Contract shall contact the Secretary of State for the purpose of complying with this Statute.

(b) All individuals not residents of this State must comply with the provisions of Title 14, M.R.S.A., Section 704.

(c) It may be necessary for the Contractor to submit to the Owner documentary evidence that the above provisions have been complied with.
15. Liquidated Damages. If the Contractor should fail to complete the Work on or before the time set forth in the Contract Documents plus approved time extensions, the Owner may retain an amount equal to \$250.00 per day for damages caused by failure to complete the Work within the approved time.

END OF SECTION

**SECTION 2-C
CONTRACT AGREEMENT - SHORT FORM**

THIS AGREEMENT made the ____ day of _____, **2024**, by and between the **Town of Bowdoinham** duly authorized and empowered by virtue of the laws of the State of Maine hereinafter called the Owner and _____ hereinafter called the Contractor.

WITNESSETH,

That the Owner and the Contractor for the consideration hereinafter named agree as follows:

ARTICLE 1, SCOPE OF WORK

The Contractor shall furnish all of the materials and perform all the work described in the specifications entitled:

**Waterfront Improvements
Phase 2 - Contract No. 2
LWCF 23-00909
Bowdoinham, Maine**

Prepared by Pine Tree Engineering, Inc. acting as and in these contract documents entitled the Engineer, and shall do everything required by this Agreement, the general conditions and special provisions of the contract, the specifications and the drawings.

ARTICLE 2, TIME OF COMPLETION

The work to be performed under this contract shall be completed on or before **June 20, 2025**.

ARTICLE 3, THE CONTRACT SUM

The Owner shall pay the Contractor for the performance of the Contract, subject to additions and deductions provided by approved change orders in current funds as follows: \$_____

ARTICLE 4, CONTRACT BONDS

The Contractor shall furnish the Owner the approved payment and performance bonds (as per Article 27 of the standard general conditions) in the amount of 100% of the contract amount.

ARTICLE 5, LIQUIDATED DAMAGES (per Article 42 of the standard general conditions)

If the Contractor should fail to complete the work on or before the time set forth in the contract documents plus approved time extensions, the Owner may retain as amount equal to **\$250.00** per day for damages caused by failure to complete the work within the approved time.

ARTICLE 6, PAYMENTS

CONTRACTOR shall submit Applications for Payment in accordance with Article 24 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

6.1 *Progress Payments: Retainage.* OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment as recommended by ENGINEER on or about the 1st day of each month during construction as provided in paragraphs 6.1.1. and 6.1.2. below. All such payments will be measured by the schedule of values as provided in the General Requirements.

6.1.1 Prior to Substantial Completion progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as ENGINEER shall determine, or OWNER may withhold, in accordance with Article 25 of the General Conditions.

95 % of Work completed (with the balance being retainage).

95 % (with the balance being retainage) of materials and equipment not incorporated in the Work (but delivered suitably stored and accompanied by documentation satisfactory to OWNER as provided in Article 24 of the General Conditions).

6.1.2 Upon Substantial Completion in an amount sufficient to increase total payments to CONTRACTOR to 95 % of the Contract Price (with the balance being retainage), less such amount as ENGINEER shall determine, or OWNER may withhold in accordance with Article 24 of the General Conditions.

6.2 *Final Payment.* Upon final completion and acceptance of the Work in accordance with Article 24 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said Article 24.

ARTICLE 7, THE CONTRACT DOCUMENTS

The general conditions of the contract, instructions to bidders, the proposal, the special provisions, the appendices, the specifications and the drawings, together with this agreement, form the contract, and they are as fully a part of the enumeration of the specifications and drawings.

The following addenda have been acknowledged:

The Owner and the Contractor hereby agree to the full performance of the covenants herein.

IN WITNESS WHEREOF the parties hereto have executed this agreement in the day and year first above written.

(CONTRACTOR)

Witness

Printed Name, Title

TOWN OF BOWDOINHAM

Witness

Nicole Briand, Town Manager

END OF SECTION

**SECTION 2-D
EXPERIENCE RECORD**

Experience of the Bidder on work similar to the Owner's project (**Waterfront Improvements, Phase 2 - Contract No. 2, LWCF 23-00909 — Bowdoinham, Maine**) is reflected by the following projects:

Project No. 1 Owner: _____
Project Description: _____
Contact Person: _____
Telephone No.: _____
Year Completed: _____
Contract Amount: \$ _____

Project No. 2 Owner: _____
Project Description: _____
Contact Person: _____
Telephone No.: _____
Year Completed: _____
Contract Amount: \$ _____

Project No. 3 Owner: _____
Project Description: _____
Contact Person: _____
Telephone No.: _____
Year Completed: _____
Contract Amount: \$ _____

Bidder's Name: _____

Address: _____

Signature: _____

(Printed Name and Title)

END OF SECTION

**SECTION 2-E
BID BOND**

Any singular reference to Bidder, Surety, Owner or other party shall be considered plural where applicable.

BIDDER (*Name and Address*):

SURETY (*Name, and Address of Principal Place of Business*):

OWNER (*Name and Address*):

BID

Bid Due Date:

Description (*Project Name— Include Location*):

BOND

Bond Number:

Date:

Penal sum _____ \$ _____
(Words) (Figures)

Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.

BIDDER

SURETY

Bidder's Name and Corporate Seal (Seal)

Surety's Name and Corporate Seal (Seal)

By: _____
Signature

By: _____
Signature (Attach Power of Attorney)

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

Note: Addresses are to be used for giving any required notice.

Provide execution by any additional parties, such as joint venturers, if necessary.

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond shall be Owner's sole and exclusive remedy upon default of Bidder.
2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation shall be null and void if:
 - 3.1 Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
 - 3.2 All Bids are rejected by Owner, or
 - 3.3 Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions shall not in the aggregate exceed 120 days from the Bid due date without Surety's written consent.
6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety and in no case later than one year after the Bid due date.
7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.
11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.

END OF SECTION



**SECTION 2-F
PERFORMANCE BOND**

CONTRACTOR *(name and address):*

SURETY *(name and address of principal place of business):*

OWNER *(name and address):*

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount:

Description *(name and location):*

BOND

Bond Number:

Date *(not earlier than the Effective Date of the Agreement of the Construction Contract):*

Amount:

Modifications to this Bond Form: None See Paragraph 16

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

Contractor's Name and Corporate Seal *(seal)*

Surety's Name and Corporate Seal *(seal)*

By: _____
Signature

By: _____
Signature *(attach power of attorney)*

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.
2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after:
 - 3.1 The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
 - 3.2 The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
 - 3.3 The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.
4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.
5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
 - 5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;
 - 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;
 - 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or
- 5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:
 - 5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
 - 5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.
6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.
7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:
 - 7.1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
 - 7.2 additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and
 - 7.3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.
8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.
9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.
10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

11. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

14. Definitions

14.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be

received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

14.2 Construction Contract: The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

14.3 Contractor Default: Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

14.4 Owner Default: Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

14.5 Contract Documents: All the documents that comprise the agreement between the Owner and Contractor.

15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

16. Modifications to this Bond are as follows:

END OF SECTION

**SECTION 2-G
PAYMENT BOND**

CONTRACTOR *(name and address):*

SURETY *(name and address of principal place of business):*

OWNER *(name and address):*

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount:

Description *(name and location):*

BOND

Bond Number:

Date *(not earlier than the Effective Date of the Agreement of the Construction Contract):*

Amount:

Modifications to this Bond Form: None See Paragraph 18

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

_____ *(seal)*

Contractor's Name and Corporate Seal

_____ *(seal)*

Surety's Name and Corporate Seal

By: _____
Signature

By: _____
Signature *(attach power of attorney)*

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.
2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.
4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.
5. The Surety's obligations to a Claimant under this Bond shall arise after the following:
 - 5.1 Claimants who do not have a direct contract with the Contractor,
 - 5.1.1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
 - 5.1.2 have sent a Claim to the Surety (at the address described in Paragraph 13).
 - 5.2 Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).
6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.
7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:
 - 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
 - 7.2 Pay or arrange for payment of any undisputed amounts.
 - 7.3 The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.
8. The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
9. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.
11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
12. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or

(2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

13. Notice and Claims to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.
14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

16. Definitions

- 16.1 **Claim:** A written statement by the Claimant including at a minimum:
1. The name of the Claimant;
 2. The name of the person for whom the labor was done, or materials or equipment furnished;
 3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;
 4. A brief description of the labor, materials, or equipment furnished;
 5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
 6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
 7. The total amount of previous payments received by the Claimant; and

8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.

16.2 **Claimant:** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms of "labor, materials, or equipment" that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

16.3 **Construction Contract:** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

16.4 **Owner Default:** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

16.5 **Contract Documents:** All the documents that comprise the agreement between the Owner and Contractor.

17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

18. Modifications to this Bond are as follows:

END OF SECTION

**SECTION 2-H
NOTICE OF AWARD**

TO: (CONTRACTOR)

PROJECT DESCRIPTION: **Waterfront Improvements
Phase 2 - Contract No. 2
LWCF 23-00909
Bowdoinham, Maine**

The OWNER has considered the BID submitted by you for the above described WORK in response to its Invitation to Bid dated **August 2024** and Instruction to Bidders.

You are hereby notified that your BID has been accepted for items in the amount of \$_____.

You are required by the Instruction to Bidders to execute the Agreement and furnish the required Contractor's Performance Bond, Payment Bond, and Certificate of Insurance within fifteen (15) calendar days from the date of this Notice to you.

If you fail to execute said Agreement and to furnish said BONDS within fifteen (15) calendar days from the date of this Notice, said OWNER will be entitled to consider all your rights arising out of the OWNER'S acceptance of BID as abandoned and as a forfeiture of your BID Bond. The OWNER will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this NOTICE OF AWARD to the OWNER.

Dated this ___ day of _____, 2024.

TOWN OF BOWDOINHAM

By: _____
Nicole Briand, Town Manager

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF AWARD is hereby acknowledged.

By: _____

this the _____ day of _____,

By: _____

Title: _____

END OF SECTION

SECTION 3

Standard General Conditions

**SECTION 3-A
STANDARD GENERAL CONDITIONS
FOR
CONTRACT WORK
INDEX TO ARTICLES OF GENERAL CONDITIONS**

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ARTICLE 1, DEFINITIONS

Whenever the following terms are used in these Specifications or the Contract, the intent and meaning shall be interpreted as follows:

Bid Proposal: The written offer of the Bidder, on a Form prescribed to perform the Work specified.

Bid Security: The security designated in the Proposal, furnished by the bidder as a guaranty of good faith to enter into a Contract with the Owner, if the Contract is awarded to that bidder.

Bidder: Any Individual, Partnership, or Corporation submitting a Proposal for the performance of the Work under the terms of the contract, and acting directly or through a duly Authorized Representative.

Calendar Days: Consecutive Days, as occurring on a calendar, without regard to the day of the week, month, year, or Religious, National or Local Holiday.

Change Order: A written Agreement between the Owner and the Contractor, operating as a supplement to the Contract, covering correction of: Omissions, errors, and discrepancies between the Plan and the Proposal or estimates; or any alternations in the Plans; or additional requirements; Work, Materials, and Incidentals required to complete the construction of the Project in an acceptable manner, and setting forth the basis of compensation, if any. Before any Change Order modifies or becomes a part of the Work it must be duly signed by the Contractor, and the Owner, and approved by the Engineer.

Contract: A written Agreement between the Owner and Successful Bidder, by which the Contractor is bound to perform the Work specified, in accordance with Plans, Specifications, General Conditions, and Special Provisions, which are a part of the Contract Documents together with all Supplemental Agreements by which the Owner is bound to compensate the Contractor at mutually established and accepted rates or prices.

Contract Documents: The Contract Documents consist of the Contract, General Conditions, Special Provisions, the Specifications including all Addenda and all other modifications thereof incorporated in the documents before their execution.

Contractor: The individual, Partnership, or Corporation undertaking the execution of the work under the terms of the Contract with the Owner, and acting directly or through a duly authorized representative.

Engineer: The engineering corporation whose name appears on the drawings and/or Specifications for the Project, acting directly or through a duly authorized representative.

Final Completion: The work is completed and acceptable to the Owner in accordance with the Contract Documents.
MDECD: Maine Department of Economic and Community Development.

MDOC: Maine Department of Conservation.

MDOT: Maine Department of Transportation.

Owner: The Town, acting through its duly Authorized Representative.

Plans: All official Drawings or Reproductions of Drawings pertaining to the Work provided for in the Contract and such Working Plans as may be furnished or approved by the Owner or Engineer from time to time.

Project: The entire improvement proposed by the Owner to be constructed in part or in whole pursuant to these Specifications and Contract Documents. Where the word "Job" appears it shall mean the Project.

Provide: The word "provide" shall mean furnish and install including connections to services if required, unless specified otherwise.

Resident Inspector: The Authorized Representative of the Engineer.

Subcontractor: The Individual, the Firm or Corporation undertaking the execution of a part of the Work under the terms of the Contract by virtue of a written Agreement between himself/herself and the Contractor.

Substantial Completion: The work has progressed to a point that it can be fully utilized for its intended purpose by the Owner.

Superintendent: The Representative of the Contractor, authorized by the Contractor to receive and fulfill instructions from the Engineer.

Supplemental Agreement: A Supplement Agreement is any Agreement entered into between the Contractor and the Owner with the approval of the Engineer subsequent to the execution of the Contract.

Surety: The individual, Partnership, or Corporation which is bound with and for the Contractor to insure the Contractor's faithful performance of the Contract and for the Contractor's payment of the bills for Labor, Materials and Equipment by the Contractor.

ARTICLE 2. INTENT, CORRELATION AND EXECUTION OF DOCUMENTS

The intent of the Contract Documents is to prescribe a complete Work or Improvements. The Plans, including all revisions, The General Conditions for contract Work, the Special Provisions, Instructions to Bidders, the proposal, Contract, Contract Bond, and all other sections of the specifications, including all Addenda, all dated and on file in the Town Hall prior to the time set for receiving proposals and as prepared by the Engineer, shall each become a part of the Contract Documents, and all Proposals must be based on a full compliance therewith. Any Supplemental Agreements entered into subsequent to the Contract will become a part of said Contract.

The Contract Documents are complementary, and what is called for by any one shall be as binding as if called for by all. The intention of the documents is that, UNLESS OTHERWISE SPECIFIED, the Contractor shall furnish all Labor, Materials, Items, Articles, Tools, Transportation, Insurance, Services, Necessary supplies, Operations, or Methods and incidentals that may be reasonably required to construct and complete the Project in a manner necessary for the proper execution of the work. Any deviations from the Specifications which may be required by the exigencies of the construction, or because of error, will in all cases, be determined by the Engineer, and authorized in writing subject to approval by the Owner. Materials or Work described in words which so applied have a well-known technical or trade meaning shall be held to refer to such recognized standards. Since the Specifications cover the dimensions and features of the work and do not set forth the analysis of the design, it is the duty of the Contractor fulfilling them to ascertain the true intent in any case where it is doubtful. In the event of a conflict between the requirements of the Plans and Specifications, the Plans shall govern.

Work not covered under any heading, section, branch, class or trade of the Specifications, shall not be supplied unless it is shown on Drawings or is reasonably inferable therefrom as being necessary to produce the intended results.

The Contractor shall take no advantage of any apparent error or omission in the Plans and Specifications, and the Engineer shall be permitted to make such corrections and interpretations as may be deemed necessary for the fulfillment of the intent of the Plans and Specifications. Where errors or omissions appear in the Contract Documents, the Contractor shall promptly notify the Engineer in writing of such errors or omissions. Inconsistencies in the Contract Documents are to be reported before Proposals are received, whenever found.

The Contractor shall, upon the acceptance of a Contract and before commencing work, contact the Engineer and request a pre-construction conference. The purpose of this conference shall be to make certain that the Contractor understands the scope of work, the requirements of the Contract Documents, and to fully discuss the lines of communication. It will also serve:

1. To introduce the members of the Engineering firm and the representative of the Owner and define their responsibilities in connection with this project.
2. To emphasize any special provisions applicable to the project.
3. To establish the work progress schedule and set up a procedure for prompt review of all shop drawings required.
4. To provide the Contractor with an opportunity to discuss points of doubt and any apparent inconsistencies noted in the plans and specifications before proceeding to purchase material or execute the work.

During the further progress of this work, meetings will be held as necessary to review the work progress schedule and the general progress and any other questions which might affect the execution of this contract.

ARTICLE 3, DETAIL DRAWINGS AND INSTRUCTIONS

The Engineer shall furnish, with reasonable promptness, additional instructions by means of drawing or otherwise, necessary for the proper execution of the work. All such drawings and instructions shall be consistent with the contract documents, and reasonably inferable therefrom.

The work shall be executed in conformance therewith and the Contractor shall do no work without proper drawings and instructions.

Immediately after being awarded the contract, the Contractor shall, if requested, prepare an estimated progress schedule and submit same for Engineer's approval. It shall indicate the dates for the starting and completion of the various stages of construction.

ARTICLE 4, COPIES FURNISHED

Unless otherwise provided in the Contract Documents, the Contractor will be furnished, free of charge, all copies of drawings, and specifications reasonably necessary for the execution of the work.

ARTICLE 5, SHOP DRAWINGS

All shop drawings required for the project shall be submitted to the Engineer for the Engineer's approval. All field measurements shall be checked and verified by the Contractor.

ARTICLE 6, DRAWINGS AND SPECIFICATIONS ON THE WORK

The Contractor shall keep one copy of all drawings and specifications on the job site, in good order, available to the Engineer and Representative of the Engineer.

ARTICLE 7, OWNERSHIP OF DRAWINGS

All drawings, specifications and copies thereof furnished by the Engineer are the property of the Owner, subject to restrictions on their use imposed by the Engineer. They are not to be used on other work, and, with the exception of the signed contract set, are to be returned to the Owner on request, at the completion of the work.

ARTICLE 8, SAMPLES (TEST RESULTS)

The Contractor shall furnish for approval, with reasonable promptness, all samples and test results as directed by the Engineer. The Engineer shall check and approve such samples and test results, with reasonable promptness, only for conformance with the design concept.

ARTICLE 9, MATERIALS, APPLIANCES, EMPLOYEES

Unless otherwise stipulated, the Contractor shall provide and pay for all materials, labor, water, tools, equipment, light, power, transportation and facilities necessary for the execution and completion of the work.

Whenever an article or material is defined by describing a proprietary product, or by using the name of a manufacturer, the term "Or approved Equal", if not inserted, shall be implied. The specific article or material mentioned shall be understood as establishing minimum standards as to the type, function, standard of design, durability, efficiency and quality desired and shall not be construed so as to exclude other manufacturer's products of comparable quality, design and efficiency.

Any material or products not specified in the Bidding Documents but being worthy of consideration may be introduced by the Contractor by a separate letter attached to the proposal. The Contractor shall state the cost comparison with the specified material and the reason for the suggested substitution. The proposed change will not be used in determining the low Bid Proposal.

The Contractor shall guarantee the Contractor's work against any defects in workmanship and materials for a period of one year from the date of final completion.

Materials shall be new, free from defects, perfect and complete, unless otherwise stipulated. Materials specified or shown on the drawings shall be applied or installed according to the directions of the manufacturer, or the recommendations of an association dealing primarily with the material, unless specifically designated otherwise. The scope of the direction furnished shall include the application of experienced personnel to each trade involved. In no case shall the installation be below the standard recommended by the manufacturer or association.

The Contractor shall be responsible to the Owner for the suitability of materials furnished to comply fully with the specification.

The Contractor shall pay promptly all employees as their pay falls due, all bills for materials, supplies and services going into the work, and all bills for insurance, Worker's Compensation coverage, Federal and State Unemployment Compensation, and Social Security charges applicable to said project. Before final settlement is made, the Contractor and all Subcontractors shall furnish to the Owner affidavits that all said payments have been made.

The Contractor shall at all times enforce strict discipline and good order among those employed, and shall not employ on the work any unfit person or anyone not skilled in the work assigned.

ARTICLE 10, ROYALTIES AND PATENTS

The Contractor shall, for all time, secure to the Owner the free and undisputed right to the use of any and all patented articles or methods used in the work and shall defend at the Contractor's expense any and all patented articles or methods used in the work and shall defend at the Contractor's expense any and all suits for infringement or alleged infringement of such patents, and in the event of adverse award under patent suits, the Contractor shall pay such awards and hold the Owner harmless in connection with any patent suits that may arise as a result of installation made by the Contractor and as to any awards made thereunder.

ARTICLE 11, SURVEYS, PERMITS, LAWS, TAXES AND REGULATIONS

The Owner shall furnish all surveys unless otherwise specified.

Permits and licenses necessary for the prosecution of the work shall be secured and paid for by the Owner. Easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the Owner, unless otherwise specified.

The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the work as drawn and specified. If the Contractor observes that the drawings and specifications are at variance therewith, the Contractor shall promptly notify the Engineer in writing and any necessary changes shall be adjusted as provided in the contract for changes in the work. If the Contractor performs any work knowing it to be contrary to such laws, ordinances, rules and regulations and without such notice to the Engineer, the Contractor shall bear all costs arising therefrom.

Adherence to the codes promulgated by the BOARD OF CONSTRUCTION SAFETY RULES AND REGULATIONS is required by statute. Copies of the latest Rules and Regulations may be obtained from the Department of Labor and Industry, State Office Building, Augusta, Maine.

ARTICLE 12, LABOR AND WAGES

All Contractors and Subcontractors shall conform to the labor laws of the State of Maine, and all other laws, ordinances, and legal requirements affecting the work in Maine.

In the employment of laborers preferences shall first be given to residents of the State who are qualified to perform the work to which the employment relates, and, if they cannot be obtained in sufficient numbers, then to citizens of the United States.

ARTICLE 13, CONDITION AND CARE OF SITE AND PROTECTION OF THE WORK

The Contractor shall continuously maintain adequate protection of all contracted work from damage and shall protect the property from injury or loss arising in connection with this contract, and shall make good any such damage, injury or loss. The Contractor shall adequately protect adjacent property as provided by law and the contract documents.

The Contractor shall take all necessary precautions for the safety of employees on the work, and shall comply with all applicable provisions of Federal, State, and Municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to the premises where the work is being performed. The Contractor shall erect and properly maintain at all times, as required by the conditions and progress of the work, all necessary safeguards for the protection of workmen and the public and shall post danger signs warning against the hazard created by such features of construction materials; and the Contractor shall designate a responsible member of this organization on the work, whose duty shall be the prevention of accidents. The name and position of any person so designated shall be reported to the Engineer by the Contractor.

The Contractor shall return all improvements on or about the site which are not shown to be altered, removed, or otherwise changed to the condition which existed prior to the start of work on the project. The Contractor shall protect all existing buildings, structures, or other features from damage by any operation in connection with the project. Utilities encountered shall be protected and maintained in service until moved, or abandoned. The Contractor shall exercise care in work around such utilities as may be shown on the drawings or otherwise found, which are not to be moved, replaced or abandoned.

The Contractor shall protect existing trees, and other features, which are to remain, from damage during completion of the work. If necessary, tree trunks shall be boxed, and barricades set up at sufficient distance to prevent damage to major tree branches.

Should the work or material of this or any other Contractor employed by the Owner become damaged when reasonably protected, the same shall be replaced by the Contractor originally furnishing the same at the expense of the Contractor who caused the damage.

In an emergency affecting the safety of life or of the work or of adjoining property, the Contractor, without special instruction or authorization from the Engineer or Owner, is hereby permitted to act, at the Contractor's discretion, to prevent such threatened loss or injury, and the Contractor shall so act, without appeal, if so authorized or instructed. Any compensation claimed by the Contractor on account of emergency work shall be determined by agreement.

ARTICLE 14, INSPECTION OF WORK

The Engineer and the Engineer's representatives and the Owner, shall at all times have access to the work whenever it is in preparation or progress. The Contractor shall provide proper facilities for such access and for inspection.

Prior to completing the work, the Contractor shall give timely notice to the Engineer and the Owner that the work is ready for inspection. Work will remain visible until such inspection is complete. If any work should be completed without approval or consent of the Engineer or Owner, it must be prepared for examination at the Contractor's expense.

After approval by the Engineer and Owner, any reexamination of questioned work may be ordered by the Engineer and, if so ordered, the work must be prepared for examination by the Contractor. If such work be found in accordance with the contract documents, the Owner shall pay the cost of reexamination. If such work is found not in accordance with the contract documents, the Contractor shall pay such cost, unless it is found that the defect in the work was caused by a Contractor employed as provided in Article 32, and in that event the Owner shall pay such cost.

ARTICLE 15, SUPERINTENDENCE: SUPERVISION

The Contractor shall employ, during work progress, a competent superintendent and any necessary assistants. The superintendent shall not be changed except with the consent of the Owner unless the superintendent proves to be unsatisfactory to the Contractor and ceases to be employed by the Contractor. The superintendent shall represent the Contractor in the Contractor's absence and all directions given to the superintendent shall be binding as if given to the Contractor. Important directions shall be confirmed in writing to the Contractor. Other directions shall be confirmed on written request in each case. The Engineer shall not be responsible for the acts or omissions of the superintendent or the superintendent's assistants.

The Contractor shall give efficient supervision to the work, using best skill and attention. The Contractor shall carefully study and compare all drawings, specifications and other instructions and shall at once report to the Engineer any error, inconsistency or omission which the Contractor may discover, but shall not be liable to the Owner for any damage resulting from any errors or deficiencies in the contract documents or other instructions by the Engineer.

ARTICLE 16, CHANGES IN THE WORK

The Owner reserves the right to increase or decrease any or all of the items of work indicated in the plans, proposal, and contract, or to eliminate any one or more of such items, without invalidating the contract. As the work progresses, the Owner may make such alterations in the specifications or in the character of the work, as may be considered necessary or desirable in order to complete the project. Such changes shall not invalidate the contract. All such work shall be executed under the conditions of the original contract except that any claim for extension of time caused thereby shall be adjusted at the time of ordering such change.

In giving instructions, the Engineer shall have authority to make minor changes in the work, not involving extra cost, and not inconsistent with the purposes of the project, but otherwise, except in an emergency endangering life or property, no extra work or change shall be made unless in pursuance of a duly signed Change Order.

Should the Contractor encounter during the progress of the work, latent conditions at the site materially differing from those shown on the drawings or in the specifications, or unknown conditions of an unusual nature differing materially from those already encountered in such work, the attention of the Engineer shall be immediately called to such conditions before they are disturbed. The Engineer shall promptly investigate the conditions and if they do so materially differ, the contract shall, with the approval of the Owner be modified by a Change Order to provide for any increase or decrease in cost resulting from such conditions.

Should such alterations be productive of increased unit cost, or result in decreased unit cost to the Contractor, a fair and equitable sum therefore shall be agreed upon in writing before such work is begun, and shall be added to or deducted from the contract amount, as the case may be, by means of a written Change Order. The Change Order shall state the nature of the change, the locations, the itemized estimate of unit quantities, the basis for payment and the reason for the change.

When the Change Order has been properly signed by all parties (Contractor, Engineer, Owner) it shall become a part of the contract.

The value of any such extra work or change shall be determined in one or more of the following ways:

- a. By estimate and acceptance in a lump sum.
- b. By unit prices named in the contract or subsequently agreed upon.
- c. By cost and a fixed fee.

If one of the above methods is agreed upon, the Contractor, after receiving an order as above, shall proceed with the work.

Under case (c), the Contractor shall keep and present in such form as the Engineer may direct, a correct account of the cost, together with vouchers. In any case, the Engineer shall certify to the amount, including reasonable allowance for overhead and profit, due to the Contractor. Pending final determination of value, payments on account of changes shall be made on the Engineer's certificate.

When the subparagraphs (a) and (c) above are used to determine the value of the work, the allowance for overhead and profit combined, included in the total expense to the Owner, shall be based upon the following schedule:

For the Contractor, for any work performed by the Contractor's own forces, 15% of the cost;

For each Subcontractor, for work performed by the Subcontractor's own forces, 15% of the cost;

For the Contractor, for work performed by a Subcontractor, 5% of the Subcontractor's cost, before overhead and profit.

Cost shall be limited to the following: Cost of materials, cost of delivery, cost of labor, including Social Security, Old Age and Unemployment Insurance (labor cost may include a pro-rata share of foremen's time, only in case an extension of contract time is granted on account of the change); Worker's Compensation Insurance; rental value of power tools and equipment.

Overhead shall include the following: Bond Premium, supervision, wages of time keepers, watchmen and clerks, small tools, incidentals, general office expense, and all other expenses not included in "Cost".

If the net value of a change results in a credit from the Contractor or Subcontractor the credit given shall be the net cost without overhead or profit. The cost as used herein shall include all items of labor, materials and equipment.

ARTICLE 17, CLAIMS FOR EXTRA COSTS

If the Contractor claims that any instructions by drawings or otherwise involve extra cost under this contract, the Contractor shall give the Engineer written notice thereof within 10 days after the receipt of such instructions, and in any event before proceeding to execute the work, except in emergency endangering life or property, and the procedure shall then be as provided for changes in the work. No such claim shall be valid unless so made.

ARTICLE 18, DEDUCTIONS FOR UNCORRECTED WORK

If the Engineer and Owner deem it inexpedient to correct work not done in accordance with the contract, an equitable deduction from the contract amount shall be made therefor.

ARTICLE 19, DELAYS AND EXTENSION OF TIME

If the Contractor is delayed at any time in the progress of the work by any act or neglect of the Owner or the Engineer, or of any employee of either, or by any separate Contractor employed by the Owner, or by changes ordered in the work, or by strikes, lockouts, fire, unusual delay in transportation, unavoidable casualties or any causes beyond the Contractor's control, or by any cause which the Engineer shall decide to justify the delay, then the time of completion shall be extended for such reasonable time as the Engineer may decide.

No such extension shall be made for delay occurring more than seven days before claim therefor is made in writing to the Engineer. In case of a continuing cause of delay, only one claim is necessary.

If no such schedule or agreement stating the dates upon which drawings shall be furnished is made, then no claim for delay shall be allowed on account of failure to furnish drawings until two weeks after demand for such drawings and not then unless such claim be reasonable.

This article does not exclude the recovery of damages for delay by either party under other provisions in the contract documents.

ARTICLE 20, CORRECTION OF WORK

The Contractor shall promptly remove from the premises all work condemned by the Engineer as failing to conform to the contract, whether incorporated or not, and the Contractor shall promptly replace and re-execute the work in accordance with the contract and without expense to the Owner and shall bear the expense of making good all work of other Contractors destroyed or damaged by such removal or replacement.

If the Contractor does not remove such condemned work within a reasonable time, fixed by written notice, the Owner may remove it and may store the material at the expense of the Contractor. If the Contractor does not pay the expenses of such removal within ten days' time thereafter, the Owner may, upon ten days' written notice, sell such materials at auction or at private sale and shall account for the net proceeds thereof, after deducting all the costs and expenses that should have been borne by the Contractor.

The Contractor shall remedy any defects due to faulty materials or workmanship and pay for any damage to other work resulting therefrom, which shall appear within a period of one year from the date of final completion. The Owner shall give notice of observed defects with reasonable promptness. All questions arising under this Article will be decided by the Engineer notwithstanding final payment.

ARTICLE 21, OWNERS RIGHT TO DO WORK

If the Contractor should neglect to prosecute the work properly or fail to perform any provision of this contract, the Owner, after three days' written notice to the Contractor may, without prejudice to any other remedy the Owner may have, make good such deficiencies and may deduct the cost thereof from the payment, then or thereafter due the Contractor, provided, however, that the Engineer shall approve both such action and the amount charged to the Contractor.

ARTICLE 22, OWNERS RIGHT TO TERMINATE CONTRACT

If the Contractor should be adjudged a bankrupt, or if the Contractor should make a general assignment for the benefit of the Contractor's creditors, or if a receiver should be appointed on account of the Contractor's insolvency, or if the Contractor should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to supply enough properly skilled workmen or proper materials, or if the Contractor should fail to make prompt payment to Subcontractors or for material, or labor, or persistently disregard laws, ordinances or the instructions of the Engineer, or otherwise be guilty of a substantial violation of any provision of the contract, then the Owner, upon the certificate of the Engineer that sufficient cause exists to justify such action, may without prejudice to any other right or remedy and after giving the Contractor, and the Contractor's surety, seven days' written notice, terminate the employment of the Contractor and take possession of the premises and of all materials, tools and appliances thereon and finish the work by whatever method the Owner may deem expedient. In such case the Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the contract amount shall exceed the expense of finishing the work including compensation for additional engineering, managerial and administrative services, such excess shall be paid to the Contractor. If such expense shall exceed such unpaid balance, the Contractor shall pay the difference to the Owner.

The expense incurred by the Owner as herein provided and the damage incurred through the Contractor's default, shall be certified by the Engineer.

ARTICLE 23, THE CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE CONTRACT

If the work should be stopped under an order of any court, or other public authority, for a period of thirty days, through no act or fault of the Contractor or of anyone employed by the Contractor, then the Contractor may, upon seven days' written notice to the Owner and the Engineer, terminate this contract and recover from the Owner payment for all work executed and any proven loss sustained upon any plant or materials and reasonable profit and damage.

Should the Engineer fail to issue any certificate for payment, through no fault of the Contractor, within seven days after the Contractor's formal request for payment, or if the Owner should fail to pay to the Contractor within 30 days after presentation, any sum certified by the Engineer, then the Contractor may, upon seven days' written notice to the Owner and the Engineer, stop the work or terminate this contract as set out in the preceding paragraph.

ARTICLE 24, PAYMENTS

The Contractor shall, if requested, before the first application for payment, submit to the Engineer a "Contract Cost Breakdown" form which is attached to, and becomes a part of the specifications. This form shall be supported by such evidence as to its correctness as the Engineer may direct and, unless found to be in error, shall be approved by the Engineer and used as a basis for payments.

The Contractor shall submit to the Engineer an application for each payment including receipts or other vouchers, showing the Contractor's payments for materials and labor, including payments to Subcontractors as required by Article 34.

Application for payment as the work progresses may be made of the Owner but not more often than once a month, unless due to unusual circumstances the Owner may approve more frequent payment. Said Requisition of payments shall be based on the proportionate quantities of the various classes of work completed or incorporated in the work in accordance with the work progress schedule and the value thereof determined from the Contract Cost Breakdown. Payments, upon authorization of the Engineer, may be made on account of materials not incorporated in the work but delivered and suitably stored at the site. Such payments shall be conditioned upon submission by the Contractor of bills of sale, or such other procedure as will adequately protect the Owner's interest including applicable insurance.

In the event any materials as delivered but not yet incorporated in the work, have been included in any said "Requisition for Payment" and payment thereon made and said materials thereafter deteriorate, become damaged or destroyed or for any reason whatsoever become unsuitable or unavailable for use in the work, then the full amount allowed therefore in any previous Requisition shall be deducted from the gross value of any subsequent payment or final payment unless the Contractor shall satisfactorily replace said material.

The Owner shall retain five percent (5%) of each application for payment from the Contractor. This retainage shall be held by the Owner until final acceptance of the work.

After said "Requisition of Payment" has been prepared by the Contractor in the required number of copies, it shall be submitted to the Engineer for approval. The Engineer shall verify and approve the "Requisition for Payment", and forward all copies to the Owner for processing for payment by the Owner.

No certificate issued nor payment made to the Contractor, nor partial or entire use or occupancy of the work by the Owner, shall be an acceptance of any work or materials not in accordance with this contract. Final payment shall be due 30 days after final acceptance of the work by the Owner, provided the Contractor has submitted evidence that all payrolls, suppliers and Subcontractors have been paid. The making and acceptance of the final payment shall constitute a waiver of all claims by the Owner, other than those arising from unsettled liens, from faulty work or materials appearing within one year after final completion or from requirement of drawings or specifications, and of all claims by the Contractors, except those previously made and still unsettled.

ARTICLE 25, PAYMENTS WITHHELD

The Engineer may withhold or, on account of subsequently discovered evidence, nullify the whole or a part of any certificate to such extent as may be necessary in the Engineer's reasonable opinion to protect the Owner from loss on account of:

- a. Defective work not remedied.
- b. Claims filed or reasonable evidence indicating probable filing of claims.
- c. Failure of the Contractor to make payments properly to Subcontractors or for materials or labor.
- d. A reasonable doubt that the contract can be completed for the balance then unpaid.
- e. Damage to another Contractor.

When the above grounds are removed, payment shall be made for amounts withheld because of them.

ARTICLE 26, CONTRACTOR'S INSURANCE REQUIREMENTS

The Contractor shall not commence work under this contract until the Contractor has obtained all insurance required under this paragraph and such insurance has been approved by the Owner, nor shall the Contractor allow any Subcontractor to commence work until all similar insurance required of the Subcontractor has been so obtained and approved.

A. Compensation Insurance. The Contractor shall take out and maintain during the life of the contract, Worker's Compensation Insurance for all of the Contractor's employees employed at the site of the project, and, in case any work is sublet, the Contractor shall require the Subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the Contractor.

In case any class of employees engaged in hazardous work under this contract at the site of the project is not protected under the Worker's Compensation Statute, the Contractor shall provide and shall cause each Subcontractor to provide for the protection of the Subcontractor's employees not otherwise protected.

B. Public Liability and Property Damage Insurance. The Contractor and Subcontractor shall take out and maintain during the life of the contract such public liability and property damage insurance as shall protect them from claims and damages which may arise from operations under this contract, whether such operations shall be by themselves or by anyone directly or indirectly employed by them, and the types and amounts of each insurance shall not be less than:

<u>Description</u>	<u>Coverage</u>	<u>Each Occurrence</u>
1. Contractor's Liability	B.I. P.D.	\$ 1,000,000 \$ 500,000
2. Contractor's Protective Liability	B.I. P.D.	\$ 1,000,000 \$ 500,000
3. Vehicle Liability, to Include Owned, Hired or Non-Owned	B.I. P.D.	\$ 1,000,000 \$ 500,000
4. Special Hazards Insurance. Full coverage for damage or loss resulting from explosion of blasting, collapse and underground damage in the amounts and manner specified in this article, paragraph B, item 1 and 2 above, ordinarily, excluded from coverage, is to be provided in accordance with the requirements of the proposal for the specified project.		

C. Builder's Risk Insurance (Does Not Apply to This Project)1. New Buildings

The Contractor shall effect and maintain "Builder's Risk Insurance" naming the Owner and the Subcontractor as their interest may appear, as insured for the perils of fire, extended coverage, vandalism and malicious mischief upon the entire structure on which the work of this contract is to be up to one hundred percent of the contract amount upon the Standard Builder's Risk Completed Value Form as promulgated by the New England Insurance Rating Association.

Copies of the Certificate of Insurance shall be forwarded to the Owner prior to starting any work.

2. Renovations and/or Additions Within Existing Buildings

Coverage will be provided by the Owner by means of an addition to the existing fire insurance schedule. Coverage shall include the Contractor's interest and all Subcontractors. A Certificate of insurance will be furnished to the General Contractor, if requested. Any deductible amount is the responsibility of the Contractor. Any other insurance desired by the Contractor for exposures beyond that provided by the Owner's policy will be the responsibility of the Contractor.

D. Certificates of Insurance The General Contractor shall furnish the Engineer with four (4) copies of a Certificate or Certificates of Insurance as provided in Paragraphs B & C above. Said Certificates of Insurance, in addition to the amount of coverage, shall carry a statement worded as follows: "In the event of cancellation or expiration of any of the foregoing policies, ten (10) days' written notice by the insurance company shall be mailed to the Owner and Engineer.

ARTICLE 27, CONTRACT BONDS

The Contractor shall furnish to the Town upon execution of the Contract, a Contract Performance Bond and a Contract Payment Bond each for the full amount of the Contract and issued by a surety company or surety companies authorized to do business in the State of Maine as approved by the Owner. The Bonds shall allow for any addition or deductions to the Contract.

The Contract Bonds shall continue in effect for one year after final acceptance of each Contract to protect the Owner's interest in connection with the one year guarantee of workmanship and materials and to assure settlement of claims, for the payment of all bills for labor, materials, and equipment by the Contractor.

ARTICLE 28, DAMAGES

A. The Contractor shall indemnify and hold harmless the Owner and the Engineer and their agents and employees from and against all claims, damages, losses and expenses including attorneys' fees arising out of or resulting from the performance of the work, provided that any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible property (other than the work itself) including the loss of use resulting therefrom, and (b) is caused in whole or in part by any negligent act or omission of the Contractor, any Subcontractor, anyone directly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

B. In any and all claims against the Owner or the Engineer or any of their agents or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph A shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under Worker's Compensation Acts, disability benefit acts or other employee benefit acts.

C. The obligations of the Contractor under Paragraph A shall not exceed to the liability of the Engineer, the Engineer's agents or employees arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications, or (2) the giving of or the failure to give directions or instructions by the Engineer, the Engineer's agents or employees provided such giving or failure to give is the primary cause of the injury or damage.

ARTICLE 29. LIENS

Neither the final payment nor any part of the retained percentage shall become due until the Contractor, if required, shall deliver to the Owner a complete release of all liens arising out of this contract, or receipts in full in lieu thereof and, if required in either case, an affidavit that so far as the Contractor has knowledge or information the releases and receipts include all the labor and material for which a lien could be filed; but the Contractor may, if any Subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the Owner, to indemnify the Owner against any lien. If any lien remains unsatisfied after all payments are made, the Contractor shall refund to the Owner all moneys that the latter may be compelled to pay in discharging such a lien, including all costs and reasonable attorney's fee.

ARTICLE 30. ASSIGNMENT

Neither party to the contract shall assign the contract or sublet it as a whole without the written consent of the other, nor shall the Contractor assign any money due or to become due to the Contractor hereunder, without the previous written consent of the Owner.

ARTICLE 31. MUTUAL RESPONSIBILITY OF CONTRACTORS

Should the Contractor cause damage to any separate Contractor on the work the Contractor agrees, upon due notice, to settle with such Contractor by Arbitration, if the Contractor will so settle. If such separate Contractor sues the Owner on account of any damage alleged to have been so sustained, the Owner shall notify the Contractor, who shall defend such proceedings at the Contractor's expense and if any judgment against the Owner arise therefrom, the Contractor shall pay or satisfy it and pay all costs incurred by the Owner.

ARTICLE 32. SEPARATE CONTRACTS

The Owner reserves the right to let other contracts in connection with this work under similar general conditions. The Contractor shall afford other Contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and coordinate the Contractor's work with theirs.

If any part of the Contractor's work depends for proper execution or results upon the work of any other Contractor, the Contractor shall inspect and promptly report to the Engineer any defects in such work that render it unsuitable for such proper execution and results. The Contractor's failure to inspect and report shall constitute an acceptance of the other Contractor's work as fit and proper for the reception of the Contractor's work, except as to defects which may develop in other Contractor's work after the execution of the Contractor's work.

To insure the proper execution of the Contractor's subsequent work the Contractor shall measure work already in place and shall at once report to the Engineer any discrepancy between the executed work and the drawings.

ARTICLE 33. SUBCONTRACTS

The Contractor shall not sublet any part of this contract without the written permission of the Owner.

The Contractor shall submit in writing to the Engineer for approval a complete list of the names of all particular items of work the Contractor proposes to furnish and the names of the Subcontractors to whom the Contractor proposes to sublet work, prior to signing of the Contract. The Subcontractors named shall be reputable firms of recognized standing with a record of satisfactory work. The Contractor shall not employ any Subcontractor or use any material until they have been approved, or where there is reason to believe the work will not be accomplished in accordance with the contract documents. The complete list of Subcontractors and materials must be submitted for approval to the Engineer and Owner.

The Contractor agrees to be fully responsible to the Owner for the acts and omissions of the Contractor's Subcontractors and of persons either directly or indirectly employed by them, as the Contractor is for the acts and omissions of persons directly employed by the Contractor.

Nothing contained in the contract documents shall create any contractual relation between any Subcontractor and the Owner.

ARTICLE 34. RELATIONS OF CONTRACTOR AND SUBCONTRACTOR

The Contractor agrees to bind every Subcontractor and every Subcontractor agrees to be bound by the terms of the contract documents, the drawings and specifications as far as applicable to their work, including the following provisions of this article, unless specifically noted to the contrary in a subcontract approved in writing as adequate by the Owner or Engineer.

The Subcontractor agrees:

- A. To be bound to the Contractor by the terms of the contract documents, drawings and specifications and to assume toward the Contractor all the obligations and responsibilities that the Contractor, by those documents, assumes toward the Owner.
- B. To submit to the Contractor applications for payment in such reasonable time as to enable the Contractor to apply for payment as specified.
- C. To make all claims for extras, for extensions of time and for damages for delays or otherwise, to the Contractor in the manner provided in the general conditions for like claims by the Contractor upon the Owner, except that the time for making claims for extra cost is one week.

The Contractor agrees:

- D. To be bound to the Subcontractor by all the obligations that the Owner assumes to the Contractor under the contract documents, drawings and specifications, and by all the provisions thereof affording remedies and redress to the Contractor from the Owner.
- E. To pay the Subcontractor, upon the payment of certificates, the amount allowed to the Contractor on account of the Subcontractor's work to the extent of the Subcontractor's interest therein.
- F. To pay the Subcontractor on demand for the Subcontractor's work or materials as far as executed and fixed in place, less the retained percentage, at the time the certificate should be issued, even though the Engineer fails to issue it for any cause not the fault of the Subcontractor.
- G. To make no demand for liquidated damages or penalty for delay in any sum in excess of such amount as may be specifically named in the Subcontract.

ARTICLE 35. ENGINEER'S STATUS

The Engineer or appointed agent shall be the Owner's representative during the construction period and the Engineer shall observe the work in progress on behalf of the Owner. The Engineer shall have the authority to act on behalf of the Owner. The Engineer shall have authority to act on behalf of the Owner only to the extent expressly provided in the contract documents or otherwise in writing, which shall be shown to the Contractor. The Engineer shall have authority to stop the work whenever such stoppage may be necessary in the Engineer's reasonable opinion to insure the proper execution of the contract.

The Engineer shall be, in the first instance, the interpreter of the conditions of the Contract and the judge of its performance. The Engineer shall use the powers under the Contract to enforce its faithful performance by the Contractor.

In case of the termination of the employment of the Engineer, the Owner shall appoint a capable and reputable Engineer whose status under the contract shall be that of the former Engineer.

ARTICLE 36, CASH ALLOWANCES

The Contractor shall include in the contract sum all allowances named in the contract documents and shall cause the work so covered to be done by such Contractors and for such sums as the Engineer may direct, the contract amount being adjusted in conformity therewith. The Contractor declares that the contract amount includes such sums for expenses and profit on account of cash allowances as the Contractor deems proper. No demand for expenses or profit other than those included in the contract amount shall be allowed. The Contractor shall not be required to employ for any such work persons against whom the Contractor has a reasonable objection.

ARTICLE 37, USES OF PREMISES

The Contractor shall confine all apparatus, the storage of materials and the operations of the Contractor's workmen to limits indicated by law, ordinances, permits or directions of the Engineer and shall not unreasonably encumber the premises with the Contractor's materials.

The Contractor shall not load or permit any part of the structure to be loaded with a weight that will endanger its safety. The Contractor shall enforce the Engineer's instructions regarding signs, advertisements, fires and smoking.

ARTICLE 38, CUTTING, PATCHING AND DIGGING

The Contractor shall do all cutting, fitting or patching of work that may be required to make its several parts come together properly and fit it to receive or be received by work of other Contractors shown upon, or reasonably implied by, the drawings and specifications for the completed structure, and shall make good after them as the Engineer may direct.

Any cost caused by defective or ill-timed work shall be borne by the party responsible therefore. The Contractor shall not endanger any work by cutting, excavating or otherwise and shall not cut or alter the work of any other Contractor without the consent of the Engineer. All cutting, patching and digging must be approved by the Engineer. All cutting, patching and digging in or about the building shall be done under the supervision of the general Contractor who shall be responsible to see that the work is neatly done, and in a manner that will not endanger the structure or harm the component parts, and that patching and backfilling shall be done to restore the structure and surfaces to its original conditions.

ARTICLE 39, LAYOUT OF WORK

The Contractor shall be responsible for the correct staking out of the new work on the site, and shall employ a competent Engineer/Surveyor to locate the work on the site. The Contractor's Engineer/Surveyor shall run the axis lines locating the work, establish correct datum points and check each line and point on the site to insure their correctness. All such lines and points shall be carefully preserved throughout the construction.

The Contractor shall lay out all work from dimensions given on plans. The Contractor shall take measurements and verify dimensions of existing or old work, if any, that affect the Contractor's work or to which the Contractor's work is to be fitted. The Contractor alone shall be responsible for the correctness of all measurements and shall verify all grades, lines, levels, elevations and dimensions shown on the drawings and report any errors or inconsistencies to the Engineer prior to commencing work.

ARTICLE 40, WORKMANSHIP

All workmanship, materials or equipment, either at the site or intended for it shall conform in all respects with the requirements of all the contract documents, and shall be strictly first class, workmanlike installation and the best obtainable from the crafts and trades. The Engineer's decision on the quality of work shall be final.

All labor shall be performed by mechanics skilled in their respective trades. Prior to submitting a proposal, the Contractor shall become familiar with the local labor conditions, skilled and unskilled.

If, in the opinion of the Contractor, any work is indicated on the drawings or specified in such manner as would make it impossible to produce work of the highest quality, or should discrepancies appear between drawings, or drawings and specifications, the Contractor shall refer the same in writing to the Engineer for interpretation before proceeding with the work.

If the Contractor fails to make such reference, no excuse will be entertained thereafter for failure to carry out the work in a satisfactory manner.

The Contractor's work shall be guaranteed against any defects in workmanship and materials for a period of one year from the date of final completion.

ARTICLE 41, CLEANING UP

The Contractor shall at all times keep the premise free from accumulation of waste materials or rubbish caused by the Contractor's employees or work, and at the completion of the work the Contractor shall remove all rubbish from and about the building and all tools, scaffolding and surplus materials and shall leave the work "Broom Clean" or its equivalent, unless more exactly specified.

In the case of failure to comply by the Contractor, the Owner may perform the clean-up and deduct the cost from any monies due the Contractor.

ARTICLE 42, LIQUIDATED DAMAGES

If the Contractor should fail to complete the work on or before the time set forth in the contract documents plus approved time extensions, the Owner may retain liquidated damages as contained in the Contract Documents.

ARTICLE 43, DISPUTES

If in the performance of the Contract, a dispute arises between the Owner and the Contractor which cannot be resolved by the Engineers then this dispute may be settled by litigation.

END OF SECTION

SECTION 4

Summary of Work

SECTION 4 SUMMARY OF WORK

1. Description

Work under this contract:

- A. Work under this Contract includes all work required for the Waterfront Improvements Phase 2 - Contract No. 2 project, for the Town of Bowdoinham, Maine. In general, the work involves site improvements including common borrow, site grading, gravel base, hot mix asphalt paving, storm drains, slipform concrete curbing, landscaping, utility installation, and miscellaneous sitework items at the Town's Waterfront Park on River Road.

The Contractor shall supply all material, labor and equipment required to complete all work required by the Specifications to affect a complete job.

The Contractor is responsible for submitting an itemized invoice to the Town that details the trees purchased.

- B. Specific items of work are included, but are not limited to:

1. Installation of erosion control measures. A silt barrier shall be installed along the downgradient perimeter of all disturbed areas.
2. Trench excavation and backfill for installation of electrical conduits for future use, enclosed storm drainage system, and water service installation. Concrete removal is required in some trenches in the area of the former building footprint.
3. Installation of electrical pull boxes, meter panel, and solar lights.
4. Installation of walkways.
5. Installation of gravel subbase, base, and hot mix asphalt pavement. All granular materials/aggregates and hot mix asphalt pavement shall conform to MaineDOT Standard Specifications, (latest revision) unless otherwise noted on the construction drawings. The placement and compaction shall be in accordance with these specifications. This includes walkway paving (2" of 9.5 mm), and parking lot base paving (2" of 19.0 mm) and surface paving (1 1/4" of 9.5 mm).
6. Installation of common borrow to fill the site to finished grade.
7. Installation of slipform concrete curb as indicated on the plans.
8. Pavement markings shall be installed as indicated on the plans.
9. Accessible parking signs shall be installed as shown on the plans. The white ADA symbols shall be painted on the pavement with a blue background as shown on the plans, as well as the 4" white lines delineating the accessible aisles and parking stalls.
10. Landscaping as shown on the plans, including loam, seed mixes & mulch, tree, shrub, and perennial plantings.
11. Apply erosion control mix to all other disturbed areas.

12. Incidental work will include, but not be limited to:

- a) Dust control within the project area is the Contractor's responsibility.
- b) Providing all items necessary to result in a complete and functioning project, even if not specified. Materials not specified, but necessary, shall be of the Contractor's choice for no additional cost to the Owner.

2. **General Notes**

- A. Care shall be taken to prevent damage to the project area. All disturbed areas are to be repaired per Specification, or in the case of disturbance beyond pay limits shall be restored or repaired to a condition at least equal to that existing prior to the beginning of work.
- B. The Contractor is responsible for job site safety and shall comply with all pertinent OSHA regulations.
- D. The Contractor is responsible for contacting the Dig-Safe Center at 1-888-DIGSAFE, and complying with their requirements.
- E. The Contractor is responsible for erosion and sediment control, and shall install measures such as silt fence, hay bales, temporary mulching in accordance with the Maine Erosion and Sediment Control BMPs, latest edition.

END OF SECTION

SECTION 5

Construction Specifications

5-A	Traffic Control
5-B	Existing Utilities & Underground Structures
5-C	Erosion and Sedimentation Control
5-D	Common Excavation, Filling, and Grading
5-E	Aggregate Surface, Base and Subbase Course Gravel
5-F	Hot Mix Asphalt Pavement
5-G	Pavement Markings
5-H	Slipform Concrete Curb
5-I	Loam, Seed & Mulch
5-J	Water Service Connections
5-K	Drainage System
5-L	Landscaping
5-M	Mobilization

5-A TRAFFIC CONTROL

1. Description

Furnish all material and labor to provide traffic control during all construction activities.

2. Material

- A. Post-mounted construction warning signs where roadways will be reclaimed or reconstructed.
- B. Portable construction signs for overlays, temporary lane closures, etc.
- C. Cones, drums, and barricades as needed around work areas.
- D. Trained flaggers with proper safety equipment such as high visibility vests and stop/slow signs.

3. Execution

Traffic control shall include:

- A. Construction signs in accordance with MaineDOT Maintenance of Traffic in Construction Zones standards.
- B. Trained flaggers shall be utilized for lane closures, and when construction equipment or construction personnel are within the travelway.
- C. No road closure is allowed. A minimum of one lane of traffic shall be maintained at all times, although short (approximately 5 minutes) interruptions of traffic flow are allowable.
- D. Other traffic control devices such as cones, drums, barricades, and delineators shall be utilized as needed.

5-B EXISTING UTILITIES & UNDERGROUND STRUCTURES

1. Description

- A. Any existing utilities shown on the drawings are shown diagrammatically and it is not to be inferred that the locations shown are precise. The Contractor shall coordinate with all applicable utility owners prior to excavation in areas where it is reasonable to expect the presence of existing utilities, whether shown on the drawings or not.
- B. The Contractor shall be responsible for any and all damage to any existing utilities, caused by his efforts. The Contractor shall contact the effected utility as soon as any damage is uncovered. The utility shall make the determination as to who makes the necessary repairs.
- C. In areas where existing underground structures are shown or suspected the Contractor shall carefully uncover such structures to such extent as to enable the Engineer to determine what adjustments if any need to be made to accommodate the presence or removal of such structure.
- D. Should uncharted or incorrectly charted piping or other utilities be encountered during excavation, consult the Engineer immediately for directions as to procedure. Cooperate with Owner and utility companies in keeping respective services and facilities in operation. Repair damaged utilities to satisfaction of utility owner.
- E. Do not interrupt existing utilities serving facilities occupied and used by Owner or others, except when permitted in writing by Engineer and then only after acceptable temporary utility services have been provided.

5-C EROSION AND SEDIMENTATION CONTROL

1. Description

Furnish all material and labor to install erosion and sedimentation control devices. The Contractor is responsible for erosion and sediment control, and shall install measures such as silt fence, hay bales, and temporary mulching in accordance with the "Maine Erosion and Sediment Control BMPs," March 2003. This item is incidental to the items contained on the Bid Form.

2. Material

Materials for erosion and sedimentation control shall include:

- Silt fence
- Hay bales
- Stone check dams
- Wood chip berms
- Temporary mulch

3. Execution

- A. All erosion and sedimentation control devices shall be installed around and within work areas prior to beginning work.
- B. All erosion and sedimentation control devices shall be inspected weekly and following rain events. Any repair or maintenance required shall be completed immediately.
- C. Temporary erosion and sedimentation control devices, such as silt fence, shall be removed following the establishment of proper vegetative cover.

5-D COMMON EXCAVATION/FILLING/GRADING

1. Description

Furnish all material, labor, and equipment to perform the common excavation, filling, and grading required. This work shall also include incidental clearing and tree removal required for the execution of the project.

2. Material

A. Suitable material shall be utilized for other portions of the work as needed as approved by the Engineer.

B. All excess material shall be removed from the site by the Contractor.

C. Fill delivered to the site shall be equivalent to Granular Borrow (MDOT 703.19).

3. Execution

A. Roadway excavation shall be maintained in such condition that the excavation surface will be well drained in conformance to the lines and grades shown on the plans.

1) Temporary drains, drainage ditches, and culverts shall be constructed to intercept and divert water that may adversely affect the condition of the excavation and the prosecution of the work.

2) Excavation, in general, shall proceed in an upgrade direction. Subgrades shall be promptly graded and rolled to minimize absorption of water.

3) Adjacent ditches shall be graded to the extent that puddles will not form.

B. Ditch excavation shall conform to the line and grade shown on the plans.

A. The degree of finish for grading ditches and slopes, both fill slopes and cut slopes, shall be that obtainable from machine operations.

B. Ditches shall be graded to the extent that puddles will not form.

C. Stone check dams in conjunction with the erosion and sedimentation control specified in Item 5I shall be utilized following the construction of ditches and slopes.

5-E AGGREGATE SUBBASE AND BASE COURSE GRAVEL

1. Description

Furnish all material and labor to install aggregate subbase and base course gravel as shown on the plans. This item will be measured in-place, not truck measure.

2. Material

- A. Aggregate base course gravel shall meet standards set by MaineDOT Standard Specifications, latest edition, Section 304, and Subsection 703.06(a), Type A and Type B.
- B. Aggregate subbase course gravel shall meet standards set by MaineDOT, latest edition, Section 304, and Subsection 703.06(c), Type D.
- C. Use finer aggregate base course gravel as needed for the surface fine grading.

3. Execution

- A. Gravel shall be constructed over a properly prepared subgrade in accordance with requirements of Section 304 of the above reference. When fill material is required to achieve the proper subgrade elevation, this fill material shall meet the requirements of Section 703.19 (Granular Borrow, material for underwater backfill) of the above reference. Excavated material from the project may be utilized for fill material if it meets the Granular Borrow specification.
- B. Maximum lift of 12 inches, compacted to 95% density.
- C. Specified thickness shall be in-place after compaction. Match any gravel disturbed with new gravel.
- D. Where new and existing gravel join, taper to form a smooth transition of grades and widths.

5-F HOT MIX ASPHALT PAVEMENT

1. Description

Furnish all labor, material and equipment to install hot mix asphalt pavement on the roadway and parking areas as shown on the plans.

2. Material

A. Installation of hot mix asphalt paving shall meet standards set by MaineDOT "Specifications, Highways and Bridges" latest edition, Section 403, Hot Bituminous Pavement.

B. Thickness (compacted) shall be a total of:

Roadway & Parking Areas

- 1-1/4" comprised of 9.5 mm for the wearing course.
- 2" comprised of 19.0 mm for the base course

Driveway

- 2" comprised of 9.5 mm for the driveways, walkways, sidewalks, and incidentals.

3. Execution

A. Pavement shall be constructed over a properly prepared base in accordance with requirements of the above reference.

B. Apply tack coat between the wearing course and base course in accordance with Section 409 of the above reference.

C. Patch any pavement disturbed to match existing pavement. Install butt joints at all driveway and roadway pavement matches.

D. Where new and existing pavement join, taper to from a smooth transition of grades and widths.

E. Clean-up and remove all excess pavement and miscellaneous debris from the site.

5-G PAVEMENT MARKINGS

1. Description

Furnish all material, labor, and equipment to install the pavement markings as indicated on the plans.

- A. Provide 4" white lines for each paved parking space and accessible walkway (path), as applicable.
- B. Provide a white ADA symbol of 5' minimum height on a blue background, as applicable.
- C. Provide traffic directional arrows, as applicable.
- D. Provide 4" double yellow centerlines, as applicable.

2. Material

Submit paint catalog material verifying that it complies with TT-P85 alkyd paint, schedule of paint application, and ambient temperature limits, as well as pavement surface conditions. The name, address, and experience of the painting subcontractor shall be provided for Owner acceptance.

3. Execution

Apply pavement markings in general conformance with MaineDOT's latest edition of standard specifications. All work shall be done by a pavement striping subcontractor.

A. Installation

- i. All painting shall be done during warm, dry conditions.
- ii. All paint shall be applied at a 16 mil thickness, minimum, on a clean surface.

B. Field Quality Control

- A. Application conditions shall be dry, with ambient temperature of 50°F and rising.
- B. All deficiencies shall be corrected to the Owner's satisfaction.

5-H SLIPFORM CONCRETE CURB

1. Description

Furnish all labor, material and equipment to install slipform concrete curb as shown on the plans.

2. Material

Installation of slipform concrete curbing shall meet standards set by MaineDOT "Specifications, Highways and Bridges" latest edition, Section 609, Special Provision, Structural Concrete (Slipform Concrete Curb).

3. Execution

- A. Install slipform concrete curb on hot mix asphalt base pavement with epoxy resin adhesive.
- B. Provide a 7" reveal from the finished gutter grade.
- C. Provide proper curing and sealing as specified in Section 609 Special Provision.
- D. Protect slipform concrete curb after placement. The concrete shall be allowed to cure for at least 72 hours.

5-I LOAM, FERTILIZE SEED AND MULCH

1. Description

Furnish all labor, material, and equipment required to complete all finish site work of disturbed/excavated areas, including furnishing loam, finish grading, fertilizing, seeding, and mulching.

2. Materials

A. The Contractor shall stockpile and re-use the loam from the site to the extent that is feasible. Imported loam shall be equivalent to MaineDOT specification 615.

B. Grass seed shall contain a mixture of annual and perennial seeds such as the following mixture by weight:

Creeping Red Fescue	50%
Kentucky Bluegrass	30%
Annual Ryegrass	20%

C. Seed mixtures for meadow seed mix, berm seed mix, and upland seed mix are shown on the planting schedule of Sheet 11 of the plans.

D. Starter fertilizer shall be spread on the prepared surface.

E. Mulch material shall consist of hay or straw reasonably free from noxious weeds, and spread by a mechanical mulcher (not by hand).

3. Execution

A. All disturbed areas shall be loamed (4" depth), fertilized, seeded, and mulched, and subsequently maintained as needed to achieve proper vegetative growth.

B. The soil shall be hand-raked in lawn areas to achieve a smooth surface blending into the undisturbed areas.

C. Starter fertilizer shall be applied at the rate of 30 pounds per 1,000 square feet.

D. The seed mixture shall be sown at the rate of 3 pounds per 1,000 square feet. Mulch shall be applied to all seeded areas the same day as seeding.

5-J WATER SERVICE CONNECTIONS

1. Description of Work

- A. Furnish all labor, materials, equipment and supervision necessary to install, replace, or relocate water service connections damaged during construction, as required for proper installation of pipe and structures as shown on the Drawings, or as directed by the Engineer.
- B. All work shall be performed in accordance with the requirements of the Maine Plumbing Code and special requirements of the local Water District/Department Representative.
- C. The codes in force represent the minimum acceptable standards for materials and construction. Where this specification required better quality or materials which differ from the codes, this requirement is binding upon the Contractor regardless of lesser code standards.

2. Materials

- A. The materials specified shall comply with the standards of the Appendix of AWWA C800-66.
- B. Corporations shall be manufactured by Ford, Hayes, MacDonald or approved equal. Inlet shall have AWWA taper. Outlet shall have a compression pack or grip joint.
- C. Curb stops shall be packed joint ball valves as manufactured by Ford, Hayes, MacDonald, or equal. Ball curb stops shall not have drains. Inlet shall have copper packed or grip joints. Outlet shall have copper packed or grip joints.
- D. Service lines shall be IPS Polyethylene Tubing SIDR-9 (200 psi).

3. Execution

- A. Excavation shall be in accordance with the provisions of Section 5-D.
- B. Services shall be bedded in sand or suitable native material from 6" below the pipe to 6" above the pipe.
- C. Bedding shall be thoroughly compacted in 6" layers around the pipe.
- D. Backfilling shall comply with applicable provisions of Section 5-D.
- E. Bring to grade as directed by the local Water District/Department Representative or the Engineer.

5-K DRAINAGE SYSTEM

1. Description

Furnish all material, labor, and equipment to furnish and install the culverts and ditches required to provide a complete, functioning system.

2. Material

- A. Smooth-lined high density polyethylene (HDPE) culverts shall be installed with riprap inlet and outlet protection, and existing stone or granite headwalls to be replaced in a similar fashion utilizing the same materials.
- B. Grass-lined drainage channels shall be lined with biodegradable straw matting along the ditch bottom and seeded and mulched.
- C. Stone-lined drainage channels shall be lined with geotextile and shaped with 12" of riprap (crushed/angular) with a diameter of 6" - 8".
- D. MaineDOT Type B and C Underdrains shall be installed with sand or stone underdrain backfill material.
- E. Smooth-lined HDPE Storm drain pipes.
- F. Precast concrete catchbasins and drain manholes.

3. Execution

A. Culvert Installations

- 1) Remove and salvage existing culverts that are suitable for reuse by the Town. Culverts that are suitable for reuse shall be stored at the site for collection by the Town. Culverts that are unsuitable for reuse shall be disposed directly by the Contractor.
- 2) Existing roadway base material to be salvaged and stockpiled for reuse following the culvert installation. Unsuitable road base material shall be replaced with gravel.
- 3) Excavation for buried pipe shall be to a point 6 inches below the bottom of the pipe or to stable firm soil.
- 4) Bedding of the pipes shall be suitable native material or clean coarse gravel, free of stones over 2 inches and free of organic contamination clogs, ice, or other materials which may affect the pipes' integrity. Bedding shall be carried to a point 6 inches above the top of the pipe.
- 5) All trench backfill, between the bedding and gravel base course, shall be native material unless deemed unsuitable.

- 6) Install salvaged roadway base gravel material, or new gravel if the existing gravel base is unsuitable or insufficient.
- 7) All bedding, backfill, and gravel courses to be thoroughly compacted by a mechanical compactor in lifts not to exceed 12 inches.
- 8) Install inlet and outlet riprap protection.

B. Ditching

- 1) Excavate and grade roadside ditches from shoulder break to the bottom of the channel to the backslope. Work will include removal of stumps and brush.
- 2) Install biodegradable straw matting in the center of grass-lined ditch, followed by seeding and mulching.
- 3) Install geotextile and 6" - 8" riprap (12" depth) for stone-lined ditches, with seeding and mulching on exposed inslopes and backslopes.

C. Shoulder Grading

- 1) Grade from the shoulder break to the edge of right-of-way or until positive drainage away from the roadway is achieved. Work will include removal of stumps and brush.
- 2) Install seeding and mulching on all disturbed areas.

5-L LANDSCAPING

1. Description

- A. Contract shall include all labor, materials, services, equipment and accessories necessary to furnish and install plant material in complete accordance with the specifications, applicable Drawings, and applicable federal, state, and local codes..
- B. Project Conditions, the Contractor shall be responsible for calling DIG SAFE 1-888-DIG-SAFE. The exact location of all existing utilities, structures and underground utilities, which may not be indicated on the drawings, shall be determined by the Contractor
- C. Warranty, all plant material (lawns, trees, shrubs, perennials, etc.) and planting supplies (bark mulch, etc.) shall be warranted for one year from the date of completion of the landscaping installation, and plant material shall be alive and in satisfactory growth at the end of the guarantee period. All replacement stock shall be subject to the same warranty requirements as the original stock
- D. The Contractor is responsible for submitting an itemized invoice that details the trees purchased to the Town.

2. Materials

- A. Top Soil / Loam - Topsoil shall be friable, sandy loam, typical of cultivated topsoils found in the locality. It shall be taken from a well drained, arable site, and free of subsoil, stones over one (1) inch, clods, sticks, roots, objectionable extraneous matter, noxious weeds, roots, rhizomes of "Witch Grass" (*Agropyron repens*), other undesirable grasses, or toxic materials. Stockpiled topsoil may be used if it meets these specifications.
- B. Planting Mix- Furnish and place a minimum of 12 inches of planting mix in all planting beds. Planting mix shall consist of three (3) parts natural topsoil / loam and (1) part compost.
- C. Plant Stock - Plant Material shall be first quality stock, true to species, variety and size as specified on the drawings and delivered to the site. Bareroot stock of any kind is unacceptable.
- D. Mulch - Shredded bark mulch (Dark Brown in Color) shall consist of soft wood bark fragments of such size and texture as to successfully resist washing or blowing under normal conditions, but capable of being easily and uniformly spread around the plants.
- E. Guying and Staking Material - See planting details on plans.
- F.

- G. Water shall not contain elements toxic to plant life. It shall be tanked to the site by contractor unless other arrangements have been made with the Owner.

3. Execution

- A. General Preparation - Prior to beginning the work of this section, verify that site grading and preparation have been properly completed. All work under this section is to be done as shown on drawings and as specified herein and in strict accordance with standard horticultural practices. All planting bed areas shall be properly treated with herbicide or cleared of vegetation prior to placement of planting mix or plants.
- B. Layout - Plant material locations and bed outlines shall be staked on the project site by the Contractor and approved by the Landscape Architect or Engineer before any plant pits or beds are excavated. Plant material locations may be shifted slightly by the contractor to meet insurmountable field conditions. (e.g. utilities, ledge)
- C. Installation of Trees, Shrubs and Perennials - Install according to details provided on plan,
- D. Edging Planting Beds - Bed shapes shall be as indicated on the landscape plan. Edges shall be a non jagged, manually cut and flowing lines at a 2" minimum depth from base of lawn after mulching.
- E. Mulching - Bark mulch for planting beds shall be installed to a minimum depth of three inches (3") in all bed areas where planting is specified on the drawings and 6 inches outside the edge of individual plant pits on all sides.
- F. Staking and Guying - Install according to details on plan and within 24 hours of planting.
- G. Pruning - Dead and broken branches shall be removed. Deciduous trees and shrubs shall be pruned to reduce total amount of anticipated foliage by 1/5. Typical growth habit of individual plants shall be retained with as much height and spread as is practicable. Tree leaders shall not be pruned, topped off, or broken. Trimmings shall be removed from the site.
- H. Clean-up - The Contractor shall remove all debris, excavated material, excess fill, rocks, and other excess material caused by this work, from the site upon completion of his portion of the work.

5-M MOBILIZATION1. **Basis of Payment**

- A. The lump sum price for mobilization shall be full compensation for all labor, materials, and equipment required to mobilize to the site and to demobilize from the site. The lump sum price shall also provide full compensation of all work incidental thereto for which payment is not provided under other items, such as bonds, insurance, etc. The amount for mobilization shall not exceed 10% of the total contract price. This item is eligible for payment following the contract signing provided that all signage is installed and the contractor has begun significant work activities on the site.

END OF SECTION