

REQUEST FOR PROPOSALS
ON-CALL SERVICES FOR GENERAL FACILITIES & MECHANICAL MAINTENANCE
UNIVERSITY OF MAINE AT MACHIAS

RFP #OFM30-23

June 3, 2023

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REQUEST FOR PROPOSALS (RFP OFM30-23)
ON-CALL SERVICES FOR GENERAL FACILITIES & MECHANICAL MAINTENANCE

June 3, 2023

1.0 GENERAL INFORMATION

- 1.1 Definitions. The University of Maine at Machias will hereinafter be referred to as the “University.” Respondents to the Request for Proposals (RFP) shall be referred to as “Respondent” or “Respondent(s).”

The Respondent to whom the contract is awarded shall be referred to as the “Contractor.” Further Contractor shall be understood to include all employees of the Contractor assigned to perform work under the Contract.

The University of Maine System and other components of the University shall be referred to as “Multi-Institutional.”

- 1.2 Background/Overview. Established in 1968, the University of Maine System (UMS) unites seven distinctive public universities, comprising 10 campuses and numerous centers, in the common purposes of providing quality higher education while delivering on its traditional tripartite mission of teaching, research, and public service.

Maine’s largest educational enterprise, the University extends its mission as a major resource for the state, linking economic growth, the education of its people, and the application of research and scholarship.

A comprehensive public institution of higher education, UMS serves nearly 40,000 students annually and is supported by the efforts of more than 2,000 full-time and part-time faculty, more than 3,000 regular full-time and part-time staff, and a complement of part-time temporary (adjunct) faculty.

Reaching more than 500,000 people annually through educational and cultural offerings, the University of Maine System also benefits from more than two-thirds of its alumni population residing within the state; more than 123,000 individuals.

The System consists of the following seven universities: University of Maine (UMaine); University of Maine at Machias (UMM); University of Maine at Augusta (UMA); University of Maine at Presque Isle (UMPI); University of Maine at Farmington (UMF); University of Southern Maine (USM); and, University of Maine at Fort Kent (UMFK).

- 1.3 Purpose. The University of Maine System, acting through the University of Maine (University), is seeking proposals to provide labor, equipment and materials pricing for services listed in Article 1.4, which may include construction, for projects less than \$50,000.00. This RFP provides instructions for submitting proposals, the specifications of the work, the procedure and criteria by which Respondents may be selected, and the contractual terms which will govern the relationship between the University and the awarded Respondent(s).

Respondents should review 1.4 Scope of Work of this RFP to see the full Scope of Services/Products required for the service being requested.

It is the University’s intent to establish open contracts with Respondents who have the specified experience, qualifications, staff, training, and equipment necessary to perform the work. A single Respondent may receive awards for one or more of the areas listed.

A Contract award is not a guarantee of work. Contracts shall cover the actual needs of the University as determined by the Office of Facilities Management.

- 1.4 Scope of Work. The University is seeking proposals for services in the areas listed below. Work will be on an as-called basis. The shop manager or designee responsible for overseeing the service will initiate the call and represent the University accordingly. Both planned and unplanned maintenance work will be covered by the Contract. Services are normally scheduled during regular business hours but may be needed on an emergency basis after hours and on weekends and holidays. Upon request, Contractors may be required to provide materials to perform the work.

1.4.1 **Carpentry Services (Trade A).** Services shall be required for carpentry repair, replacement and minor remodeling.

- .1 Experience: Contractor's employees providing service must possess previous experience performing carpentry work, with five (5) years of experience preferred.
- .2 Contractor must be capable of providing the necessary technical personnel from its own work force to respond to services requests. Indicate in the response the number of employees in the Contractor's own workforce.
- .3 Tools and Materials: Contractor shall provide all necessary protective equipment, power and hand tools and related accessories, ladders, staging, scaffolding, appropriate motor vehicle(s), and safety equipment and signage for requested work. The University may provide materials for specific work which will be determined prior to work commencing. Contractor shall be required to remove and properly dispose of any demolition or non-usable materials. Contractor shall arrange for disposal of materials and invoice the University at cost for all disposal fees.
- .4 Contractor shall provide, at no additional cost, five (5) sets of scaffolding per project as needed. Any staging/scaffolding required over this allowance shall be charged to the University at agreed-upon rates.
- .5 Rentals: Contractor will, when appropriate and agreed to prior to work commencing, secure equipment rentals and invoice the University at cost plus fixed markup for equipment rental.
- .6 Minor remodeling to include sheetrock installation and finishing, interior/exterior painting, flooring replacement, and door/hardware installation.

1.5 Performance Terms and Conditions.

1.5.1 Experience. To be qualified for a specific trade, the Contractor shall have been in business for a minimum of the last three (3) consecutive years performing the work specified in this RFP.

1.5.2 Response Time. Unless otherwise provided for in the RFP for a services trade, Contractor shall have qualified personnel on site within two (2) hours of notification for emergency service requirements and within two (2) business days for scheduled or non-emergency work.

1.5.3 Employees.

- .1 All persons employed to perform the services under the Contract shall be employees of the Contractor and shall be well-trained in the service trade for which the Contractor has been awarded the Contract, including the use of equipment. The Contractor shall abide by all federal, state and local laws, rules and regulations. The Contractor shall provide a sufficient number of employees to perform the required services efficiently and in a manner satisfactory to the University. No person shall be allowed on the property who is not directly involved in the performance of the work. If the shop manager or designee notifies the Contractor in writing that any person employed in providing services under the Contract is incompetent, disorderly or otherwise unsatisfactory, such person shall not again be employed in the execution of the Contract Work without the written consent of the University's Executive Director of Facilities & Capital Management Services or authorized designee.
- .2 All employees must be currently licensed or certified in their respective field or trade area if applicable. If requested by the University, the Contractor shall provide evidence of such licensure. Refer to Section 1.4 for additional requirements specific to individual service trades.

- .3 All employees assigned to perform work under the service trade shall have prior experience performing the specified trade work. Refer to Section 1.4 for additional requirements specific to individual service trades.
- .4 Security. The safety and well-being of students, staff and visitors is of particular importance to the University. The Contractor shall take reasonable precautions to protect the University's students, staff and visitors. Reasonable precautions for work that involves sensitive functions or areas (e.g. unsupervised access to minors or access to security sensitive data) may require the Contractor to pay to conduct criminal history checks on employees or subcontractors.
- .5 Employee Identification. When working on University property, all Contractor employees shall wear a clearly displayed photo identification badge or uniform showing the name of the employee and company represented. Identification badges must be provided by the Contractor at the Contractor's expense. Badges must be worn but need not be clearly displayed when protective clothing or respiratory protection is required.

1.5.4 Non-discrimination and Workplace Safety. The Contractor shall abide by all federal, state and local laws, rules and regulations prohibiting discrimination in employment and controlling workplace safety. The Contractor shall provide all personal protective equipment (PPE) required by law for the service trade for which the Contractor has been awarded the Contract. Any violations of applicable laws, rules and regulations may result in termination of the Contract.

1.5.5 Protection and Security of Buildings and Property. The Contractor shall ensure adequate protection of the properties and adjacent properties from damage or loss in the performance of the work under the Contract. The Contractor shall assume total liability for any damage to buildings, grounds, surfaces, etc., or other property including vehicles, resulting from negligence of the Contractor or the Contractor's employees, or anyone working under the Contractor, in the performance of the work.

Sufficient keys required to perform services shall be supplied by the University to the Contractor. The Contractor shall be responsible for the replacement costs of lost keys. If the University determines that keys lost by the Contractor or its employees could compromise University security, the Contractor shall be responsible for paying all costs associated with re-keying designated locations affected by the lost keys.

1.5.6 Environmental Protection. The Contractor shall abide by all federal, state and local laws, rules and regulations regarding the protection of the environment. In accordance with reporting requirements, the Contractor shall disclose any environmental violations caused in the performance of this work to the University and applicable government agency. Any required Safety Data Sheets (SDS) will be maintained in a binder on site and shall be available for review by University personnel at all times. Chemicals and gasoline are to be stored in proper containers required by law. A violation of applicable laws, rules or regulations may result in termination of the Contract.

1.5.7 Equipment and Supplies. All equipment, tools and supplies required to carry out operations within the scope of the Contract service trade shall be provided by the Contractor. The Contractor shall have backup equipment available at all times to complete the work. When applicable, equipment must be licensed, registered, and insured and must comply with standard safety requirements. University equipment and tools shall not be available for use by the Contractor.

- .1 Unless otherwise provided for in this solicitation, the name of a certain brand, make or manufacturer does not restrict Respondents to the specific brand, make or manufacturer named; but conveys the general style, type, character, and quality of the article desired. Any article which the University, in its sole discretion, determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted. It is the Respondent's responsibility to clearly and specifically indicate the product being offered and to provide sufficient descriptive literature, catalog cuts and technical detail to enable the University to determine if the

product offered meets the requirements of the solicitation. Failure to furnish adequate data for evaluation purposes may result in declaring the proposal non-responsive. Unless the Respondent clearly indicates in Respondent's proposal that the product offered is an "equal" product, such proposal will be considered to offer the brand name products referenced in the solicitation.

- 1.5.8 Materials. Materials required to be supplied by the Contractor shall be new and shall be covered by manufacturer's warranty.
- 1.5.9 Property Damage. The Contractor shall be responsible for all costs associated with the repair of property damage occurring from the performance of the work under the Contract. Damaged property shall be restored to its original condition. The University requires the use of either rubber mats or plywood protection when tracked equipment is working on paved surfaces, to include loading and unloading of equipment.
- 1.5.10 Communications. The Contractor shall provide the shop manager or authorized designee with the names, addresses and phone numbers of contact persons who will be available 24 hours per day, 7 days per week to coordinate routine or emergency services.
- 1.5.11 Parking Regulations and Use of Walkways. The Contractor's vehicles and those of their employees working on campus must be registered with the University's Police Department. Unregistered vehicles on the University campus are subject to parking violation tickets and/or towing off campus. Contractors are advised that parking regulations are strictly enforced by campus police. Towing will be at the Contractor's expense. A copy of the regulations can be obtained by calling 207-581-4047.
- 1.5.12 Payments. Payment will be processed upon submittal and approval of an invoice for payment to University of Maine, Office of Facilities Management, 5765 Service Building, Orono ME 04469-5765 by the Contractor. Payment will be on a Net 30 basis unless discount terms are offered. Invoices must include the total number of hours worked, date(s) worked, the work order number associated with the work, the building being serviced, and other data as requested by the University. The invoice shall include the number of hours and price per hour of labor hours, and a breakdown of materials and equipment being charged.

The University uses several preferred methods of payment, including electronic payment systems. Bidders must indicate the ability to accept payment via any or all of these methods.
- 1.5.13 Project Quotes. All individual projects shall require a written, detailed, not-to-exceed time and materials quote prior to the commencement of the work. The quotes shall include a breakdown of the skill level and hourly cost of workers proposed, number of labor hours proposed and cost of materials required for the work. A Notice to Proceed (NTP), as appropriate, authorizing the work will be generated by the University based on the quote or estimate and sent to the Contractor. Work may commence upon execution of the NTP.

2.0 GENERAL TERMS AND CONDITIONS

- 2.1 Contract Administration. The Executive Director of Facilities & Capital Management Services, or an authorized designee, shall be responsible for administering and managing the day-to-day operations and specifications of the Contract. The Executive Director, or an authorized designee, shall have the authority to stop any job activities if they are not being performed in accordance with applicable regulations or guidelines or the requirements of the Contract.
- 2.2 Contract Documents. The awarded Respondent will be required to execute a contract in the form of the University of Maine System's Contractor/Consultant Agreement, a sample of which is attached as Appendix F. The Contract entered into by the parties shall consist of the Contractor/Consultant Agreement, the RFP (by reference), the awarded Respondent's submission (by reference), including all appendices or attachments and clarifications, the specifications within the RFP, including all modifications thereof, which shall be referred to collectively as the Contract Documents.

In the event of a conflict of terms, the following precedence will apply:

1. University of Maine System Consultant/Contractor Agreement.
2. Agreement Riders as required.
3. Contract Amendments/Modifications (as required).
4. The University's RFP.
5. Respondent's Submission.

- 2.3 **Contract Term.** The initial Contract term shall be for a period of no more than one (1) year commencing upon July 1, 2023 and concluding on June 30, 2024. Quoted pricing for labor, equipment, materials, and material discounts shall be firm for the initial term. With mutual written agreement of the parties, the Contract may be extended for up to four (4) additional one (1) year periods. The right is reserved to extend the Contract beyond the Contract Term if this is deemed to be in the best interest of the University.
- 2.4 **Contract Modification and Amendment.** The parties may adjust the specific terms of the Contract (except for pricing) where circumstances beyond the control of either party require modification or amendment. Any modification or amendment proposed by the Contractor must be submitted in writing to the Office of Facilities Management's shop manager for consideration. Any agreed upon modification or amendment must be in writing and signed by both parties.

As part of the submission, Respondent(s) shall make an explicit statement accepting as-is the University's standard Terms and Conditions of service as provided herein and as provided in the Contractor/Consultant Agreement.

It shall be noted the University, due to its public nature, will not:

- a. Provide any defense; or hold harmless or indemnify beyond the limits and provisions of the Maine Tort Claims Act;
- b. Waive any statutory or constitutional immunity;
- c. Apply the law of a state other than Maine;
- d. Procure types or amounts of insurance beyond those UMS already maintains or waive any rights of subrogation.
- e. Add any entity as an additional insured to UMS policies of insurance;
- f. Pay attorneys' fees, costs, expenses or liquidated damages;
- g. Promise confidentiality in a manner contrary to Maine's Freedom of Access Act;
- h. Permit an entity to change unilaterally any term or condition once the Contract is signed;
- i. Accept any references to terms and conditions, privacy policies or any other websites, documents or conditions referenced outside of the contract; or,
- j. Agree to automatic renewals for term(s) greater than month-to-month.

- 2.5 **Contract Understanding.** By submitting a response to the Request for Proposal, bid or other offer to do business with the University Respondent understands and agrees that:
- 2.5.1 The above Agreement provisions (Section 2.4) will not be modified and are thereby incorporated into any agreement entered into between University and Respondent; that such terms and conditions shall control in the event of any conflict with such agreement; and that Respondent will not propose or demand any contrary terms.
- 2.5.2 The above Agreement provisions (Section 2.4) will govern the interpretation of such agreement notwithstanding the expression of any other term and/or condition to the contrary.
- 2.5.3 Respondent agrees that the resulting Agreement will be the entire agreement between the University (including University's employees and other End Users) and Respondent and in the event that the Respondent requires terms of use agreements or other agreements, policies or understanding, whether on an order form, invoice, website, electronic, click-through, verbal or in writing, with University's employees or other End Users, such agreements shall be null, void and without effect, and the terms of the Agreement shall apply.

- 2.5.4 Respondent will identify at the time of submission which, if any, portion of its submitted materials are entitled to “trade secret” exemption from disclosure under Maine's Freedom of Access Act; that failure to so identify will authorize UMS to conclude no portions are so exempt; and that Respondent will defend, indemnify and hold harmless UMS in any and all legal actions that seek to compel UMS to disclose under Maine's Freedom of Access Act some or all of Respondent’s submitted materials and/or contract, if any, executed between UMS and Respondent.
- 2.6 Cancellation/Termination. If the Contractor defaults in its agreement to provide personnel or equipment to the University’s satisfaction, places University students or employees at significant risk of harm, or in any other way fails to provide service in accordance with the Contract terms, the University shall promptly notify the Contractor of such default and if adequate correction is not made within seven (7) days the University may take whatever action it deems necessary to provide alternate services and may, at its option, immediately cancel the Contract with written notice as provided in the Contract terms.
- Except for such cancellation for cause by the University, either the University or the Contractor may terminate the Contract by giving ten (10) days advance written notice to the other party. Cancellation does not release the Contractor from its obligation to provide goods or services per the terms of the Contract during the notification period.
- 2.7 Contract Value. Award is not a guarantee of work (Section 1.4). The value specified in Section 1.3 (less than \$50,000.00) shall be less than \$50,000.00 per project. The Contract shall cover the actual needs of the University throughout the term of the Contract which may result in a total cost per year in excess of \$50,000.00 for multiple projects. Pricing shall be firm for a minimum of one (1) year from the effective date of the Contract. After this period, notification of price increases must be furnished in writing to the Contract Administrator for approval. The University reserves the right to rebid the Contract if price changes are not acceptable.
- Materials shall be on a Cost Plus basis and shall be firm for the term of the Contract and any/all subsequent renewal(s) of the Contract.
- 2.8 Contract Validity. In the event one or more clauses of the Contract are declared invalid, void, unenforceable, or illegal, that shall not affect the validity of the remaining portions of the Contract.
- 2.9 Non-Waiver of Defaults. Any failure of the University to enforce or require the strict keeping and performance of any of the Terms and Conditions of the Contract shall not constitute a waiver of such terms, conditions or rights.
- 2.10 Clarification of Responsibilities. If the Contractor needs clarification of or deviation from the terms of the Contract, it is the Contractor’s responsibility to obtain written clarification or approval from the University’s Office of Facilities Management prior to deviating from the terms of the Contract.
- 2.11 Dispute Resolution/Litigation. The Contract and the rights and obligations of the parties hereunder shall be governed by and construed in accordance with the laws of the state of Maine without reference to its conflicts of laws principles. The Contractor agrees that any litigation, action or proceeding arising out of the Contract, shall be instituted in a state court in the state of Maine.
- 2.12 Indemnification. The Contractor agrees to the indemnification requirements as outlined in the indemnification article of the Contract, a sample of which is provided with this RFP (Appendix F).
- 2.13 Assignment. Neither party of the Contract shall assign the Contract without the prior written consent of the other, nor shall the Contractor assign any money due or to become due without the prior written consent of the University.
- 2.14 Equal Opportunity. In complying with the letter and spirit of applicable laws and pursuing its own goal of diversity, the University of Maine System shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, including transgender status or gender expression, national origin or

citizenship status, ancestry, age, disability, genetic information, or veterans status in employment, education and all other areas of the University System. The University provides reasonable accommodations to qualified individuals with disabilities upon request. The contractors, subcontractors and product suppliers submitting on this RFP must subscribe and adhere to same.

- 2.15 Sexual Harassment. The University is committed to providing a positive environment for all students and staff. Sexual harassment, whether intentional or not, undermines the quality of this educational and working climate. The University thus has a legal and ethical responsibility to ensure all students and employees can learn and work in an environment free of sexual harassment. Consistent with the state and federal law, this right to freedom from sexual harassment was defined as University policy by the Board of Trustees. Failure to comply with this policy could result in termination of the Contract without advance notice. Further information regarding this policy is available from the Director of Equal Opportunity, North Stevens Hall, 207-581-1226.
- 2.16 Contractor's Liability Insurance. During the term of the Contract agreement, the Contractor shall maintain the required insurance types and limits as described in the Contract, a sample of which is provided with this RFP (Appendix G).
- 2.17 Tobacco Free Policy. The University of Maine is a tobacco free campus. Compliance with the tobacco free policy is mandatory. This Section serves as notification to Respondents and Contractors of the policy and provides the parameters of compliance enforcement. Contractor shall be responsible for notifying its workers and subcontractors regarding the policy and for enforcement of the policy with same. Noncompliance will be managed as follows:
- 2.17.1 First offense – counseling of contractor employee.
- 2.17.2 Section offense – contractor employee removed from campus for the remainder of the Work.
- Additional information regarding the tobacco free policy is located at:
<https://umaine.edu/hr/umaine-policies/>
- 2.18 Independent Contractor. Whether the Contractor is a corporation, partnership, other legal entity, or an individual, the Contractor is an independent contractor. If the Contractor is an individual, the Contractor's duties will be performed with the understanding that the Contractor is a self-employed person, has special expertise as to the services which the Contractor is to perform and is customarily engaged in the independent performance of the same or similar services for others. The manner in which the services are performed shall be controlled by the Contractor; however, the nature of the services and the results to be achieved shall be specified by the University. The Contractor is not to be deemed an employee or agent of the University and has no authority to make any binding commitments or obligations on behalf of the University except as expressly provided herein. The University has prepared specific guidelines to be used for contractual agreements with individuals (not corporations or partnerships) who are not considered employees of the System.
- 2.19 Force Majeure. The Contractor shall not be held liable if the failure to perform under the Contract arises out of causes beyond the control of the Contractor. Causes may include, but are not limited to, acts of nature, fires, tornadoes, quarantine, and strikes other than by Contractor's employees.
- 2.20 Job Site Safety. The Contractor shall adhere to the Occupational Safety and Health Administration's (OSHA) most recently published Safety and Health Standards for Construction (29 CFR 1926), general Occupational Safety and Health Standards (29 CFR 1910), relevant Maine Department of Environmental Protection (DEP) and Environmental Protection Agency (EPA) regulations, and applicable University of Maine policies and procedures, for the duration of the Contract. The University shall inform the Contractor of the applicable University of Maine policies and procedures.

Contractor agrees to be responsible for initiating, maintaining and supervising all applicable site security, environmental controls, safety practices, and programs in the performance of the work or services in accordance with generally accepted practices, take all reasonable precautions to protect University property and the personal safety of University employees, students and other campus

visitors, and comply with any applicable laws, rules or regulations relating to safety of people and property.

Prior to the commencement of any phase of work, the Contractor shall submit the name(s) of the person(s) who is (are) responsible for job site safety and environmental management in the performance of the work and who is (are) familiar with the above referenced regulations and University Safety Management Policies.

Where any of the Contractor's operations occur in, on or within 50 feet of any door, window or air intake in a building occupied by University employees or students, the Contractor shall, not less than fourteen (14) days prior to the start of any operation, provide directly to the shop manager or designee, Safety Data Sheets (SDS) on all hazardous materials to be used in the operation. The shop manager or designee shall be responsible for ensuring proper precautions and notifications to the building occupants occur prior to the initiation of such operations.

The Contractor will include, in the submission package, a copy of the Contractor's safety/environmental compliance manual(s) covering all safety and environmental policies, procedures and work practices relevant to the scope of work the Contractor will or could perform at the University or its satellite facilities.

The Contractor shall develop and implement a site specific safety plan that addresses the specific hazards, controls, safety procedures, training, enforcement, and reporting requirements for all personnel. A Site Specific Work Practice and Safety Plan shall be provided to the shop manager or designee for work performed prior to the start of each phase of work. The Site Specific Work Practice and Safety Plan shall include:

- a. A description of work practices and procedures to be followed by the Contractor who will be employed to perform the phase of work. Such work practices may include, when applicable, but are not limited to, pedestrian and traffic control, fall protection, confined space entry, hazard communication, lockout and tagout, storm water pollution prevention, and spill prevention control and countermeasures.
- b. Copies of relevant training documents for employees of the Contractor (and subcontractors) performing the work, to include Competent Person certifications where applicable.
- c. Names(s) of the person(s) who is (are) responsible for job site safety for the specific phase of work.

- 2.21 Asbestos Removal. The University shall be responsible for tracking and coordinating the identification, removal and disposal of all Asbestos Containing Materials (ACM). The Contractor is responsible for performing basic visual assessments of all projects and maintenance work sites for suspected hazardous materials (materials not labeled) prior to commencing work. Where such materials are located, the Contractor shall stop work and communicate the need for material identification to the shop manager or designee who will notify the Associate Director. The Associate Director will then contact the Asbestos & Lead Project Manager who facilitates testing and identification of the material, completes Abatement Notifications, where applicable, and reports results of tests and/or abatement schedules to the shop manager or designee, who will then direct the Contractor.
- 2.22 Lockout and Tagout of Electrical Equipment. The Contractor shall adhere to the Occupational Health and Safety Administration's (OSHA) most recently published health and safety standards for Lockout and Tagout and shall ensure compliance with all state, University and local regulations relating to the lockout and tagout of electrical equipment procedures.
- 2.23 Confined Space Policy. Under the University's confined space policy, where areas are defined as permit-required confined spaces, the Contractor shall only enter these permit-required spaces under the auspices of a written confined space permitting program that meets the requirements of OSHA's Standard for Permit Required Confined Spaces. The Contractor, prior to entry into a permit-required confined space, must receive the following information from the University:

- 2.23.1 Elements, including the hazards identified and the University's experience with the space, that make the space in question a permit-required confined space.
- 2.23.2 Precautions or procedures the University has implemented for the protection of University employees in or near permit-required confined spaces where Contractor personnel will be working.
- 2.23.3 The University shall authorize entry per scope and location of each phase of the work. The Contractor shall coordinate confined space entry operations with the University and Contractor personnel who will be working in or near permit-required confined spaces during Contractor's work. The purpose of this coordination is to ensure employees of one Contractor do not endanger the employees of any other Contractor or employees of the University.
- 2.23.4 Contractor shall provide or perform the following prior to entry into a permit-required confined space:
- .1 Contractor shall inform the shop manager or designee of the permit-required confined space program the Contractor shall follow and of any hazards confronted or created in permit-required spaces, either through a debriefing or during the entry operation.
 - .2 Contractor shall obtain any available information regarding permit-required space hazards and entry operations from the University.
- 2.24 Fire Protection. The Contractor shall take all necessary precautions to ensure against fire during activities and operations. The Contractor shall be responsible for maintaining within contract limits an orderly and clean area and to promptly remove all combustible rubbish from the site. No rubbish shall be burned at the site. The Contractor shall provide and keep in working order, an adequate number of fire extinguishers, conveniently located and designed for the hazard at hand. For required hot work permits and fire watch, the Contractor shall contact the Office of Facilities Management and shall comply with the most recently published National Fire Protection Association Life Safety Code (NFPA 101) and applicable University of Maine policies and procedures for the duration of the Contract. The University shall inform the Contractor of the applicable University of Maine policies and procedures.
- Combustible materials shall be transported and stored on the site in conformance with state and local codes. No accumulation of inflammable rubbish shall remain in any building overnight.
- 2.25 Accident/Injury Notification. The shop manager or designee must be notified within one (1) hour or as soon as possible, but no later than twenty-four (24) hours, of any accident or injury that occurs during the course of the work performed under the Contract.
- 2.26 Solid Waste Removal. The Contractor shall be responsible for cleaning up and removing all waste materials created by the Contractor's operation from University premises by the end of the day. The Contractor shall promote waste reduction and recycling and follow University policies to reduce, reuse and recycle.
- 2.27 Liens. The Contractor shall keep the University free and clear from all liens asserted by any person or entity for any reason arising out of the furnishing of services or materials by or to the Contractor.
- 2.28 Warranty of Materials and Workmanship. Except as otherwise specified, all work shall be guaranteed by the Contractor against defects resulting from the use of inferior materials, equipment or workmanship for one (1) year from the date of final acceptance of the project by the University. Within two weeks' notification of defects by the University, the Contractor shall correct all defects and shall make good all damages to the structure, site, equipment, or contents resulting from the use of inferior materials, equipment and workmanship.
- 2.29 Pricing. Quoted prices shall be all inclusive. Included, but not limited to in the pricing, shall be transportation and trip charges, tools, expendables and small materials packages. Because these charges are included in the quoted prices, travel time shall not be charged. All hourly rates begin when work commences on site. Pricing shall be firm for the first year of the contract. Any price changes for

subsequent contract renewals shall be submitted in writing to the Contract Administrator sixty (60) days prior to the expiration date. Fuel surcharges will not be allowed.

- 2.30 **Mobilization/Demobilization.** Respondents shall provide a firm, fixed total price for mobilization/demobilization. If eight (8) continuous work hours are requested by the University, the University shall not pay any mobilization/demobilization fees. In the event less than eight (8) hours of work are required by the University, the University shall have the option to either pay for a minimum of eight (8) hours or pay the hourly rate plus any mobilization/demobilization charge, whichever is less. Mobilization/demobilization fees shall cover all costs associated with transporting scheduled labor and equipment to and from the site for each event. An event is work conducted within one day or consecutive workdays. Workdays planned to be consecutive but interrupted by weather, mechanical breakdown, Contractor scheduling conflicts, or other occurrences beyond the control of the University will count as one event. Contractor shall propose a firm fixed total price for mobilization/demobilization.

3.0 SUBMISSION AND SELECTION PROCESS

- 3.1 **Submission and Award Schedule.** The process schedule is **anticipated** to be as follows:

Submission Stage	Date
RFP advertised/posted	Saturday, June 3, 2023
Deadline for Questions, due no later than 4:00pm	Friday, June 9, 2023
Response to Questions, due no later than 4:00pm	Tuesday, June 13, 2023
Qualifications submissions due no later than 4:00pm	Friday, June 16, 2023
Notification of awarded and non-awarded Respondents	week of June 19, 2023

- 3.2 **Communication with the University.** It is the responsibility of the Respondent to inquire about any requirement of this RFP that is not understood. Responses to inquiries, if they change or clarify this RFP in a substantial manner, will be posted by addenda through the Office of Facilities Management's website (www.umaine.edu/ofm/contractors/advertisements). The University will not be bound by oral responses to inquiries or written responses other than addenda. Please direct all inquiries in writing to:

Saundra Binette, Capital Contracts Administrator
University of Maine
Office of Facilities Management
Saundra.binette@maine.edu

- 3.3 **Award of Contract(s).** The University will make the award on a total sum basis to the most responsive and responsible Respondent or Respondents. The University reserves the right to conduct any tests it may deem advisable and to make all evaluations.

The University reserves the right to waive minor irregularities. Scholarships, donations, or gifts to the University will not be considered in the evaluation of proposals. The University reserves the right to reject any or all proposals in whole or in part, and is not necessarily bound to accept the lowest cost proposal if that proposal is contrary to the best interests of the University. When there are tie proposals, there shall be a preference for "in-state respondents." When tie proposals are all from in-state or out-of-state respondents, the award will be made to the submission that arrives first at the Office of Facilities Management. Should the University determine in its sole discretion that only one Respondent is fully qualified, or that one Respondent is clearly more qualified than any other under consideration, a contract may be awarded to that Respondent without further action.

- 3.4 **Award Protest.** Respondents may appeal the award decision by submitting a written protest to the University of Maine System's Chief General Services Officer within five (5) business days of the date of the award notice, with a copy of the protest to the successful Respondent. The protest must contain a statement of the basis for the challenge.

- 3.5 **Confidentiality.** The University must adhere to the provisions of the Maine Freedom of Access Act (FOAA), 1 MRSA §401 et seq. As a condition of accepting a contract under this section, a contractor

must accept that, to the extent required by the Maine FOAA, responses to this solicitation, and any ensuing contractual documents, are considered public records and therefore are subject to freedom of access requests. The University will honor requests for confidentiality for information of a proprietary nature to the extent allowed by law. Respondents should clearly mark any information considered confidential and/or proprietary.

- 3.6 Costs of Preparation. Respondents assume all costs of preparation of the proposal and any presentations necessary to the proposal process.
- 3.7 Debarment. Submission of a signed proposal in response to this Request for Proposals is certification that the Respondent (or any subcontractor) is not currently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any state or federal department or agency. Submission is also agreement that the University will be notified of any change in this status.
- 3.8 Proposal Understanding. By submitting a proposal, the Respondent agrees and assures that the specifications are adequate, and the Respondent accepts the terms and conditions contained herein. Any exceptions should be noted in the response.
- 3.9 Proposal Validity. Unless specified otherwise, all proposals shall be valid for at least 90 days from the due date of the response.
- 3.10 Proposal Submission. A **SIGNED** original of the Proposal Form provided in this RFP must be submitted in a **sealed** envelope to:

Saundra Binette, Capital Contracts Administrator
University of Maine
Office of Facilities Management
5765 Service Building, Room 101J
Orono Maine 04469-5765

and received in Facilities Management by **4:00pm June 16, 2023**. Proposals received after the due date will be returned unopened. There will be no public opening of proposals (see Confidentiality clause). Respondents are strongly encouraged to submit proposals in advance of the due date to avoid the possibility of missing the due date because of unforeseen circumstances. Respondents assume the risk of the methods of dispatch chosen. The University assumes no responsibility for delays caused by any package or mail delivery service. Postmarking by the due date WILL NOT substitute for receipt of a proposal in Facilities Management. In the event of suspended University operations on the day proposals are due, submissions will be accepted on the next business day the University is open. Respondents may wish to call 207-581-SNOW (7669) to learn if University operations are suspended. Additional time will not be granted to any single Respondent, however, additional time may be granted to all Respondents when the University determines circumstances require it. Proposals must be submitted in a **sealed** envelope clearly marked as follows:

Name of Respondent
Address of Respondent
June 16, 2023
RFP OFM30-23 On-Call Services for General Facilities & Mechanical Maintenance
Trade Letter A

- 3.11 Non-Responsive Proposals: Failure to furnish adequate data for evaluation purposes or incomplete proposals may result in declaring a proposal non-responsive. The University will not consider non-responsive submissions; i.e.: those with material deficiencies, omissions, errors or inconsistencies or those that otherwise do not follow instructions. The University in its sole discretion will determine what is Non-Responsive.
- 3.12 Errors. Proposals may be withdrawn or amended by Respondents at any time prior to the proposal due date/time. After the proposal due date/time, proposals may not be amended. If a significant mistake

has been made by an apparent low respondent, the Respondent will be given the option of selling at the price given or withdrawing the proposal. If an extension error has been made, the unit price will prevail.

- 3.13 Multi-Institutional. The University will have the option to include products and services under this Agreement to additional University institutions, this includes any additional University institutions formed during the term of this agreement, all facilities utilized by an institution including those managed and/or owned by a third party, and additional entities, such as, the University College a division of University of Maine at Augusta.

The Community College System and Maine Maritime Academy, both public higher education institutions in the state, shall be permitted to piggyback off of the University's contract if they should so desire. The Contractor agrees to further provide the products and services, with all the same terms and conditions applicable, to these additional entities.

- 3.14 Evaluation Criteria. Submissions will be evaluated on criteria deemed to be in the University's best interests, including, but not limited to, the following:

Submission Requirements	Category	Points
Section 5.2, 5.3, 5.4, 5.5, Appendix D	Organization, Qualifications, Experience, and References	60
Section 5.1, Appendix C	Cost Response/Pricing	40
	Total Points	100

4.0 SUBMISSION INSTRUCTIONS

- 4.1 Respondent's Responsibility. Respondents shall ensure that all information required herein is submitted with the proposal. All information provided should be verifiable by documentation required by the University. Failure to provide all information, inaccuracy or misstatement may be sufficient cause for rejection of the proposal or rescission of an award. Respondents are encouraged to provide any additional information describing operational abilities. Responses to each requirement in Section 5 should be in order and clearly marked with the section number to which they respond.

Where possible, all materials submitted should be fully recyclable. Submissions shall be on standard 8.5 x 11, letter-sized paper and be clipped together without binding.

- 4.2 Brief Response. Respondents are asked to be brief in response to each criterion requested in Section 5.0 and to complete and submit all forms indicated in the submission list below. Form sections which do not apply to the trade letter Respondent is submitting for should be filled in with a "N/A" for that portion of the form.

4.2.1 Order of Submission and Labeling.

- .1 Appendix A – Proposal Form & Signature Page (provided).
- .2 Appendix B – Debarment, Performance and Non-Collusion Certification (provided).
- .3 Appendix C – Cost Response/Pricing (provided).
- .4 Appendix D – Organization Reference Form (provided).
- .5 Appendix E – Organization, Qualification, Experience Response (provided). Respondent is to provide a brief summary in response to Sections 5.2, 5.3, 5.4, and 5.5 of this RFP.

- 4.3 Additional Attachments. Respondents may not provide additional attachments beyond those specified in the RFP for the purpose of extending their response. Any such material, including brochures or other promotional material, will not be considered in rating the response and will not be returned.

- 4.4 Re-phrasing. Re-phrasing of the content provided in this RFP will, at best, be considered minimally responsive. The University seeks detailed yet succinct responses which demonstrate the Respondent's experience and ability to perform the trade services specified throughout this RFP.
- 4.5 NOTE: RESPONDENTS ARE NOT REQUIRED TO BE REGISTERED WITH THE UNIVERSITY OR ANY OTHER ENTITY IN ORDER TO SUBMIT A RESPONSE TO THIS RFP.

5.0 SUBMISSION REQUIREMENTS

- 5.1 Price Quotation. Provide all rates and pricing on the Cost Response/Pricing form (Appendix C) provided in this RFP. Pricing shall be firm for the first year of the Contract. Pricing shall include all costs, including tools, expendables, small materials packages, and transportation or other trip charges, but shall exclude specific materials as requested by the University. **Fuel surcharges will not be allowed.**
- 5.1.1 Billing time for rates shall begin when workers arrive on the job site and shall end when workers leave the job site.
- 5.1.2 If there are additional options or services not included in the offering, they must be identified and itemized as "optional" and include a description of the product or service and the costs of the option. All items identified in the response (including third party items required) will be considered free add-ons to the proposed solution at the prices included in this response unless expressly stated otherwise.
- 5.1.3 Respondents are encouraged to provide additional price incentives for providing an enterprise solution, multi-year or award of multiple institutions.
- 5.2 Business Profile. Respondent shall provide a brief history of Respondent's company, including number of years in business and number of employees. No financial statements are required to be submitted with the proposal. However, prior to an award, the University may request financial statements from the Respondent's company, credit reports and letters from the Respondent's bank and suppliers.
- 5.3 Prior Experience. Respondent shall provide a brief description of Respondent's prior experience performing similar services with service agreements for at least three (3) previous users of service. Include descriptions of services provided, locations, service agreement length, and performance success rate under each agreement.
- 5.3.1 Respondents shall provide the following regarding the service trade being proposed:
- .1 Number of years Respondent has provided the trade service.
 - .2 A list of clients for whom this work has been performed.
 - .3 Types of service provided.
 - .4 A list of employees, with job titles, and licenses as applicable, who performed the work.
- 5.4 Licenses. Respondents must confirm all employees who will perform work under the Contract possess the required licenses free from restrictions and encumbrances.
- 5.5 Response Time. Respondents must indicate response time from phone contact by the University until personnel arrive on site to start work.
- 5.6 Payment Method. Indicate Respondent's ability to accept electronic payments (Section 1.5.12).
- 5.7 References. Respondents must provide at least three (3) references who may be contacted for verification of the Respondent's professional qualifications to meet the requirements set forth herein. These references should be agencies for which the Respondent has provided services with a similar scope to the work to be performed under this RFP, including one long-standing customer (minimum of three year engagement) and one new customer (one who has been engaged with the Respondent for

less than one year). Provide company names with address, contact person, telephone number, and email address. The University strongly prefers clients from higher education institutions similar in size and requirements to the University of Maine.

A.1 Company Information and Signature Authorization. The undersigned agrees to the Terms and Conditions set forth in this Request for Proposals.

Organizational Name	
Chief Executive – Name/Title	
Telephone	
Fax	
Email	
Headquarters Street Address	
Headquarters City/State/ZIP	
Lead Point of Contact for Proposal Name/Title	
Telephone	
Fax	
Email	
Local Street Address	
PO Box (if applicable)	
Local City/State/ZIP	

- This proposal and the pricing structure contained herein will remain firm for a period of 90 days from the date and time of the proposal deadline.
- No personnel currently employed by the University or any other University agency participated, either directly or indirectly, in any activities relating to the preparation of the Respondent's submission.
- No attempt has been made or will be made by the Respondent to induce any other person or firm to submit or not to submit a proposal.
- The undersigned is authorized to enter into contractual obligations on behalf of the above-named organization.

A.2 Ability to provide services in accordance with Contract Terms & Conditions _____ Yes _____ No
(If no, provide an explanation in Proposal narrative to explain.)

A.3 *To the best of my knowledge all information provided in the enclosed proposal, both programmatic and financial, is complete and accurate at the time of submission.*

 Authorized Signature

 Date

 Printed Name and Title

NOTE: The University will NOT seek a best and final offer (BAFO) from any Respondent in this procurement process. All Respondents are expected to provide their best value pricing with the submission of their response. Respondents will NOT be given another opportunity to modify pricing once submitted.

Respondent's Organization Name: _____

University of Maine System
DEBARMENT, PERFORMANCE and NON-COLLUSION CERTIFICATION

RFP #OFM30-23
On-Call Services for General Facilities & Mechanical Maintenance
University of Maine at Machias

By signing this document, I certify to the best of my knowledge and belief that the aforementioned organization, its principals and any subcontractors named in this proposal:

- a. Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from bidding or working on contracts issued by any governmental agency.
- b. Have not within three years of submitting the proposal for this contract been convicted of or had a civil judgment rendered against them for:
 - i. Fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state or local government transaction or contract.
 - ii. Violating Federal or State antitrust statutes or committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
 - iv. Have not within a three (3) year period preceding this proposal had one or more federal, state or local government transactions terminated for cause or default.
- c. Have not entered into a prior understanding, agreement or connection with any corporation, firm or person submitting a response for the same materials, supplies, equipment, or services and this proposal is in all respects fair and without collusion or fraud. The above mentioned entities understand and agree that collusive bidding is a violation of state and federal law and can result in fines, prison sentences and civil damage awards.

Failure to provide this certification may result in the disqualification of the Respondent's proposal, at the University's discretion.

Date: _____

Name and Title (Printed)

Authorized Signature

Respondent's Organization Name: _____

- C.1 Labor Hourly Rates. Provide rates for all applicable labor classifications. Labor hourly rates shall be inclusive of all charges including, but not limited to, equipment (if not specified otherwise), travel, basic tools required of the trade (for example hand tools such as hammers, saws, drills, nail guns, etc., and ladders, vacuums, fans, etc.), standard materials packages and expendables. Regular working hours shall be Monday through Friday, 7:00am to 3:00pm. Provide rates for after hours, holiday and weekend work.

Labor	Regular Hours	OT/Weekend/Holiday Hours
Superintendent/Supervisor		
Site Foreman		
Laborer (skilled)		
Laborer (unskilled)		
Safety Person/Crew Leader		
Other (please specify):		
Other (please specify):		
Other (please specify):		
Other (please specify):		
Other (please specify):		

- C.2 Provide a fixed markup, if any, for materials based on wholesale cost: _____ %

- C.3 Equipment/Operator Rates. The following specific equipment shall be available when applicable and shall be priced individually per event usage as appropriate (for example moving services). In addition to the operator, rates shall be inclusive of all charges including, but not limited to, transportation or trip charges, small materials packages and expendables. Regular working hours shall be Monday through Friday, 7:00am to 3:00pm. Provide rates for after hours, holiday and weekend work. Fuel surcharges will not be allowed.

Equipment/Vehicle (specify types of equipment and vehicles & number available)	Equip Usage Rate (if applicable)	OT/Weekend/Holiday Hours

- C.4 Other Equipment/Service.

Rate

- .1 Markup Percentage for Rented Equipment (non-owned) _____ %
- .2 Discount Payment Terms, if applicable _____

Respondent's Organization Name: _____

INSTRUCTIONS: Provide a minimum of three (3) current professional references who may be contacted for verification of the Respondent's professional qualifications to meet the requirements set forth herein. The University strongly prefer references from higher education institutions similar in size and requirements to the University of Maine System, including those with multi-campus integrated solutions.

The University requests that the references include one long-standing customer (minimum of 3 year engagement) and one new customer (one who has been engaged with Respondent for less than one year).

REFERENCE #1	
Institution/Company Name	
Contact Name	
Contact Title	
Contact Phone Number	
Contact Email Address	
Relationship Length	

REFERENCE #2	
Institution/Company Name	
Contact Name	
Contact Title	
Contact Phone Number	
Contact Email Address	
Relationship Length	

REFERENCE #3	
Institution/Company Name	
Contact Name	
Contact Title	
Contact Phone Number	
Contact Email Address	
Relationship Length	

REFERENCE #4	
Institution/Company Name	
Contact Name	
Contact Title	
Contact Phone Number	
Contact Email Address	
Relationship Length	

APPENDIX E: ORGANIZATION, QUALIFICATION, EXPERIENCE RESPONSE Trade Letter(s): _____

Respondent's Organization Name: _____

Business Profile (see 5.2):

Prior Experience (see 5.3):

Licenses (see 5.4):

Response Time (see 5.5):

END OF REQUEST FOR PROPOSALS

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UNIVERSITY OF MAINE SYSTEM
CONTRACTOR/CONSULTANT AGREEMENT

This Contract entered into this day of , 2023, by and between the University of Maine System, acting through the University of Maine; 5765 Service Building; Orono ME 04469; hereinafter "University," and , hereinafter "Contractor."

WHEREAS, the University desires to enter into a contract for professional services, and the Contractor represents itself as competent and qualified to accomplish the specific requirements of this Contract to the satisfaction of the University to provide ;

NOW THEREFORE, in consideration of the mutual promises contained herein, the parties hereby agree as follows:

1. **Scope of Work:** The Contractor agrees to perform the Scope of Work as described in Attachment A, which may be amended from time to time by mutual consent of the parties in writing, and is hereby incorporated.
2. **Term:**
 - 2.1 **EFFECTIVE DATES:** This Contract shall commence on July 1, 2023 and shall terminate on June 30, 2024 unless terminated earlier as provided in this Contract with the option of four (4) one-year periods upon the parties' mutual agreement.
 - 2.2 **TERMINATION BY MUTUAL AGREEMENT OR WITH NOTICE:** This Contract may be terminated by mutual agreement of the parties in writing or by either party upon ten (10) days prior written notice to the other party.
 - 2.3 **TERMINATION FOR BREACH:** Notwithstanding any other provision, this Contract may be terminated immediately, upon written notice, in the event the University or the Contractor determines the other party has materially breached any term or condition of this Contract, provided that the party so notified shall be allowed thirty (30) days to cure any such breach.
 - 2.4 **EFFECT OF TERMINATION:** Upon termination of the Contract neither party shall have any further obligation hereunder except for those obligations which accrued prior to the date of termination, and except for the parties' indemnification obligations provided for in Section 11 of this Contract.
3. **Payment:**
 - 3.1 The University shall compensate the Contractor under this Contract on an individual project or service basis for actual labor, equipment, and materials costs. The total of all payments made for each individual project shall be less than Fifty Thousand Dollars (\$50,000.00). No payments shall be made over the agreed upon per project maximum without a written Modification to the Contract. Individual projects at or above \$50,000 will require the use of state of Maine wage rates.
 - 3.2 Payment shall be made within thirty (30) days of approval of each payment requisition, which details the work performed. All requests for payment shall be sent to:

Office of Facilities Management
University of Maine
5765 Service Building
Orono ME 04469-5765
4. **Conflict of Interest:** No officer or employee of the University shall participate in any decision relating to this Contract which affects his or her personal interest in any entity in which he or she directly or indirectly has interest. No employee of the University shall have any interest, direct or indirect, in this Contract or proceeds thereof.

5. **Modification:** This Contract shall only be modified by a formal written Modification, signed by both parties.
6. **Assignment:** This Contract, or any part thereof, shall not be assigned, transferred or subcontracted by the Contractor without the prior written consent of the University.
7. **Applicable Law:** This Contract shall be governed and interpreted according to the laws of the State of Maine without reference to its conflict of laws principles.
8. **Administration:** The University's authorized representative in all matters pertaining to the administration and day to day operations and activities of this Contract shall be as outlined in Section 20.1.
9. **Clarification of Responsibilities:** Whenever a conflict, contradiction, or discrepancy exists between any statutes, regulations, plans, or specifications, or if the Contractor requests clarification of its responsibilities hereunder, it is the Contractor's responsibility to obtain written clarification from the above named representative or designee prior to deviating from the terms of this Contract.
10. **Non-Discrimination:** In complying with the letter and spirit of applicable laws and pursuing its own goals of diversity, the University of Maine System does not discriminate on the grounds of race, color, religion, sex, sexual orientation, transgender status, gender, gender identity or expression, ethnicity, national origin, citizenship status, familial status, ancestry, age, disability physical or mental, genetic information, veteran or military status in employment, education, and all other programs and activities. The University provides reasonable accommodation to qualified individuals with disabilities upon request. General contractors, subcontractors, and product suppliers bidding on this project must subscribe and adhere to same.
11. **Indemnification:**
 - 11.1 The University agrees to indemnify and hold harmless the Contractor from and against any and all claims, actions, lawsuits, judgments, and costs, including reasonable attorney's fees, that the Contractor may become liable to pay or defend due to bodily injury or property damage caused by the negligent acts or omissions of the University, arising out of or in connection with the University's performance of its obligations under this Contract; PROVIDED that any liability of the University under this Contract shall be limited by the provisions and limitations of the Maine Tort Claims Act, 14 MRSA § 8101, et. seq.
 - 11.2 The Contractor shall indemnify, hold harmless and defend the University, its trustees, officers, employees and agents, from and against any and all losses, expenses, claims, lawsuits, damages, judgments, and costs, including reasonable attorney's fees, suffered or sustained by the University or for which the University may be held or become liable by reason of injury (including death) to persons or property or other causes whatsoever, in connection with the negligent acts, omissions or operations of the Contractor or any subcontractor under this Contract.
12. **Contract Validity:** In the event one or more clauses or sections of this Contract are declared invalid, void, unenforceable, or illegal, that declaration shall not affect the validity of the remaining clauses or sections of this Contract.
13. **Independent Contractor:** The contractor is an independent contractor of the University, not a partner, agent or joint venture of the University and neither party shall hold itself out contrary to these terms by advertising or otherwise, nor shall either party be bound by any representation, act or omission whatsoever of the other. The contractor, its employees and subcontractors, if any, is/are independent contractors for whom no Federal or State Income Tax will be deducted by the University, and for whom no retirement benefits, Social Security benefits, group health or life insurance, vacation or sick leave, Workers' Compensation or similar benefits available to University employees will accrue. The parties further understand that annual information returns as required by the Internal Revenue Code and Maine Income Tax Law will be filed by the University with copies sent to the Contractor. The contractor will be responsible for compliance with all applicable laws, rules and regulations involving, but not limited to, employment, labor, Workers' Compensation, hours of work, working conditions, payment of wages, and payment of taxes, such as unemployment, social security and other payroll taxes, including other applicable contributions from such persons when required by law.

14. **Intellectual Property:** Any information and/or materials, finished or unfinished, produced in performance of this Contract, and all the rights pertaining thereto, are the property of the University and shall be turned over to the University upon request.
15. **Licensing:** The contractor shall secure in its name and at its expense all federal, state and local licenses and permits required for operation under this Contract. Contractor shall provide proof of such licensure or permit to the University prior to commencing work under this Contract.
16. **Recordkeeping, Audit and Inspection of Records:** The Contractor shall maintain books, records and other compilations of data pertaining to the requirements of the Contract to the extent and in such detail as shall properly substantiate claims for payment under this Contract. All such records shall be kept for a period of seven (7) years or for such longer period as specified herein. All retention periods start on the first day after the final payment on this Contract. If a litigation, claim, negotiation, audit, or other action involving the records is commenced prior to the expiration of the applicable retention period, all records shall be retained until completion of the action and resolution of all issues resulting therefrom, or until the end of the applicable retention period, whichever is later. The University, the grantor agency (if any), or any of their authorized representatives shall have the right at reasonable times and upon reasonable notice, to examine and copy the books, records and other compilations of data of the Contractor pertaining to this Contract. Such access shall include on-site audits.
17. **Publicity, Publications, Reproductions, and Use of Contract's Products or Materials:** Unless otherwise provided by law or the University, title and possession of all data, reports, programs, software, equipment, furnishing, and any other documentation or product paid for with University funds shall vest with the University. The Contractor shall at all times obtain the prior written approval of the University before it or any of its officers, agents, employees, or subcontractors, either during or after termination of this Contract, makes any statement bearing on the work performed or data collected under this Contract to the press or issues any material for publication through any medium of communication. If the Contractor or any of its subcontractors publishes a work dealing with any aspect of performance under the Contract, or of the results and accomplishments attained in such performance, the University shall have a royalty free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, the publication.
18. **Confidentiality:** The Contractor shall comply with all laws and regulations relating to confidentiality and privacy including, but not limited to, any rules or regulations of the University.
19. **Force Majeure:** Neither party shall be liable to the other or be deemed to be in breach of this Contract for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include, but are not limited to, acts of God or of a public enemy, fires, flood, epidemics, strikes, embargoes, or unusually severe weather. Dates or time of performance shall be extended to the extent of delays excused by this section provided that the party whose performance is affected notifies the other promptly of the existence and nature of such delay.
20. **Notices:** Unless otherwise specified in an attachment hereto, any notice hereunder shall be in writing and addressed to the authorized representative of each party.
 - 20.1 The authorized representative of the University shall be:
 - 20.2 The authorized representative of the Contractor shall be:
21. **Insurance Requirements:** Required insurances shall be in accordance with those outlined in Attachment B, hereby incorporated.
22. **Tobacco Free Campus Policy:** On January 1, 2011 the University adopted a tobacco free campus policy. As of January 1, 2012 compliance with the tobacco free campus policy became mandatory. This Section serves as notification to Contractor of the policy and provides the parameters of compliance enforcement. Contractor

shall be responsible for notifying its workers and subcontractors regarding the policy and for enforcement of the policy with same. Noncompliance will be managed as follows:

- a. First offense – counseling of contractor employee.
- b. Second offense – contractor employee removed from campus for the remainder of the Work.

Additional information regarding the tobacco free campus is located at:

<https://umaine.edu/news/blog/2010/02/25/umaine-sets-tobacco-free-campus-date-at-jan-1-2011/>

23. Contractor shall obtain a University of Maine excavation permit for all campus excavation activities through the Office of Facilities Management.
24. Contractor shall have a lockout/tagout program in place prior to starting work that requires lockout/tagout activities.
25. Contractor, and subcontractors, shall comply with the following University of Maine System policies, as they pertain to the Work:
 - a. (campus specific) Parking policy: <https://umaine.edu/parking/rules-regulations/>;
 - b. Trenching and Excavation policy [http://www2.umaine.edu/SEM/Documents/Programs/Trenching and Excavation Safety Program.pdf](http://www2.umaine.edu/SEM/Documents/Programs/Trenching_and_Excavation_Safety_Program.pdf);
 - c. Confined Space policy; and,
 - d. (campus specific) Vehicle Idling policy:
<http://www2.umaine.edu/SEM/Documents/Policy/VehicleIdlePolicy.pdf>.For copies of these policies please contact the Project representative listed in Article 20.

26. **Multi-Institution Capabilities:**

- 26.1 The University will have the option to include products and services under this Agreement to additional University institutions, this includes any additional University institutions formed during the term of this agreement, all facilities utilized by an institution including those managed and/or owned by a third party, and additional entities, such as the University College, a division of University of Maine at Augusta.
- 26.2 The Community College System and Maine Maritime Academy, both public higher education institutions in the state, shall be permitted to piggyback off of the University's contract if they should so desire. The Contractor agrees to further provide the products and services, with all the same terms and conditions applicable, to these additional entities.

27. **Protection of Persons and Property:**

- 27.1 The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs including all those required by law and the University in connection with performance of the Agreement. The Contractor shall take reasonable precautions to prevent injury to employees on the Work, damage or loss to the Work, material and equipment to be incorporated therein, and other property at or adjacent to the site. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor.
- 27.2 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the University.
- 27.3 If the Contractor encounters a suspected hazardous material or substance not addressed in the contract documents, including, but not limited to, asbestos, polychlorinated biphenyl (PCB), or lead paint and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from this material or substance, the Contractor shall, upon recognizing the conditions, immediately stop work in the affected area and report the condition to the University in writing.

- 27.3.1 Upon receipt of the Contractor's written notice concerning the suspected material or substance, the University shall obtain the services of a licensed laboratory to verify the presence or absence of a hazardous material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. When the material or substance has been rendered harmless, Work in the affected area shall resume upon notice from the University.
- 27.4 The University shall not be responsible under this Section for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by this Contract. The University shall be responsible for materials or substances required by this Contract, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.
- 27.5 If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated by the University prior to the start of work or (2) unknown physical conditions of an unusual nature, that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities for the character of the Work, the Contractor shall promptly provide notice to the University before conditions are disturbed.
28. **Warranty and Repair:** The contractor warrants to the University that: (1) the materials and equipment furnished will be new and of good quality unless otherwise required or permitted by the University; (2) the Work will be free from defects; and (3) the Work will conform to the requirements of the Scope of Work. If, within one year of the date of final completion by the Contractor or within any longer period of time prescribed by law, any of the Work is found by the University to be erroneous, defective or not in conformance with the Scope of Work then, at the University's request, the Contractor shall, at the Contractor's sole expense, promptly remove such non-conforming Work and promptly replace and re-execute all Work in accordance with the Contract Documents, and shall restore any damage resulting from such removal, replacement and re-execution. Notwithstanding the foregoing, neither the University's payment to the Contractor, nor any repair attempts under any warranty or guarantee, nor any provision in this Contract, shall relieve the Contractor of its responsibility to complete all Work in accordance with this Contract and free of any defects in material or workmanship.
29. **Contractor's Responsibilities:**
- 29.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention to complete the Work in a good and workmanlike manner. The Contractor shall be solely responsible for construction means, methods, scheduling and coordinating all portions of the Work unless otherwise specified.
- 29.2 The Contractor shall prepare and furnish the University a construction schedule of work and keep it current.
- 29.3 The Contractor shall acquire all permits applicable for the work not specifically identified as provided by the University. Costs for Contractor-provided permits shall be included in the Contract Sum identified in Article 3 above.
- 29.4 The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting and patching shall be restored to the condition existing prior to the cutting, fitting and patching, unless otherwise required by the Scope of Work.
- 29.5 The University is committed to a resource management strategy which reduces to a minimum the production of waste material while reusing, recycling or composting as much as possible of the remaining materials. The contractor should strive to identify opportunities to reduce, reuse, or recycle waste from renovations or new construction.
30. **Taxes:** The University of Maine System is exempt from payment of taxes under the Maine Sales and Use Tax Law Title 36 Section 1760 for taxes on materials that are permanently incorporated into the real property

belonging to the University of Maine System. The University of Maine System is also exempt from the payment of Federal Excise Taxes on articles not for resale and from the Federal Transportation Tax on all shipments; exemption certificates for these taxes will be furnished when required. All quotations shall be less these taxes. The contractor shall pay all other taxes that have been or are legally enacted.

31. **Entire Contract:** This Contract sets forth the entire agreement between the University and the Contractor on the subject matter hereof and replaces and supersedes any and all prior contracts on the subject matter, whether oral or written, express or implied.

32. **Signatures:**

UNIVERSITY OF MAINE SYSTEM

Stewart A. Harvey
Executive Director of Facilities & Capital
Management Services

Date

Date

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ATTACHMENT B
CONTRACTOR'S LIABILITY INSURANCE

General Liability Insurance: During the term of this agreement, the Contractor shall provide General Liability insurance with coverage for premises and operations, products and completed operations, explosion, collapse and underground hazards, broad form property damage, contractual, personal and advertising injury liabilities. Insurance shall be provided on a standard Insurance Services Office (ISO) Commercial General Liability Form CG 00 01 12 04 or equivalent and shall include the following three endorsements or their equivalent:

1. Additional Insured – Owners, Lessees or Contractors – Scheduled Person or Organization (CG 20 10 07 04) with the University of Maine System, Office of Risk Management, Robinson Hall, 46 University Drive, Augusta ME 04330 listed as additional insured;
2. Additional Insured – Owners, Lessees or Contractors – Completed Operations (CG 20 37 07 04) with the University of Maine System, Office of Risk Management, Robinson Hall, 46 University Drive, Augusta ME 04330 listed as additional insured; and,
3. Designated Construction Project General Aggregate Limit (CG 25 03 03 97) as the Aggregate limits shall apply on a per location or job basis. The policy form and endorsements must be included on the certificate of insurance. The below required minimum insurance limits shall not be construed as a limitation of the University's rights under any insurance with higher limits and no insurance shall be endorsed to include such a limitation. General Liability insurance required minimum limits:

<u>Insurance Type</u>	<u>Coverage Limit</u>
1. General Aggregate	\$2,000,000
2. Products & Completed Operations Aggregate	\$2,000,000
3. Personal Injury Aggregate	\$1,000,000
4. Each Occurrence for Contracts Under \$1 million	\$1,000,000
5. Personal/Advertising Injury	\$1,000,000
6. Medical Payments (Any One Person)	\$5,000

Workers' Compensation: Contractor, including Independent Contractors, shall provide Workers' Compensation insurance with coverage on a statutory basis according to Maine Law* and apply to all personnel on the job site. Workers' Compensation insurance required minimum limits:

1. Coverage A (Workers' Compensation)	Statutory Limits
2. Coverage B (Employers Liability)	
a. Bodily injury by accident	\$500,000 each accident
b. Bodily injury by disease	\$500,000 each employee
c. Bodily injury by disease	\$500,000 policy limit

*Contractors who have been determined to have independent contractor status are required to provide the state of Maine predetermination of independent contractor status covering the term of the Contract. To obtain the predetermination, independent contractors must contact the state of Maine Workers' Compensation Board and request the WCB-266 independent contractor determination form. This applies only to Contractors who have been determined to be independent contractors by the state of Maine.

Vehicle Liability Insurance: Contractor shall provide Vehicle Liability insurance with coverage for all owned, hired/rented and non-owned** vehicles. Vehicle Liability insurance required minimum limit:

1. Combined Single Limit	\$1,000,000 each accident
or	
2. Split Limits	\$1,000,000 bodily injury \$1,000,000 property damage

****Hired/rented and Non-Owned Vehicle Liability insurance covers vehicles used by the Contractor that are not owned by the individual or firm. This type of coverage by itself is acceptable if the Contractor does not own any vehicles.**

The University of Maine System shall be named as an Additional Insured on the Commercial General Liability insurance. Please also list the project description.

Property Insurance: The University will provide property insurance coverage up to the total amount of the Project. Coverage shall be included for the Contractor and all Subcontractors, as their interests may appear, while involved in the Project and until the work is completed or the contractor is otherwise advised in writing. This insurance is limited to the "all risk" type coverage provided under the University's master property insurance for direct physical loss or damage to the building or building materials related to the project, subject to standard policy limitations and exclusions. The contractor is responsible for a \$10,000 per claim deductible. Any other insurance desired by the Contractor beyond that covered by the University's insurance, or to cover the \$10,000 deductible, is the responsibility of the Contractor. This contract stands as verification of the University's property insurance coverage on the project and no further verification will be provided.

WAIVERS OF SUBROGATION

The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this Attachment or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

CERTIFICATES OF INSURANCE

Certificates of Insurance for the above insurance coverages shall be submitted prior to the date of performance under this Contract to:

Sandra Binette
Office of Facilities Management
University of Maine
5765 Service Building
Orono ME 04469
or via email to: sandra.binette@maine.edu

Said certificates, in addition to proof of coverage, shall contain the standard ACORD statement pertaining to written notification in the event of cancellation, with a thirty (30) day notification period.

The insurance certificate shall state the University of Maine System as Certificate Holder as follows:

University of Maine System
Robinson Hall
46 University Drive
Augusta Maine 04330

The Contractor shall not commence work under this contract until the Contractor has obtained all insurance coverages and limits required under this Attachment and such insurance has been approved by the University; nor shall the Contractor allow any subcontractor to commence work on a subcontract until all similar insurance required of subcontractor has been so obtained and approved by the Contractor.