



City of Auburn, Maine

Public Works Department

www.auburnmaine.gov | 60 Court Street
Auburn, Maine 04210
207.333.6601

April 1, 2019

Dear Bidder:

The City of Auburn is accepting written proposals for the Auburn Public Works Department's **2019 Curb & Cobble Bid**. The City reserves the right to accept or reject any or all proposals in whole or in part and to waive any informality the City may determine necessary. The City also reserves to itself the exclusive right to accept any proposal when it is deemed by the City to be in its best interest. The City of Auburn is governed by Title 1 M.R.S.A. § 401-410, otherwise known as the Freedom of Information Act, which considers bid specifications as public documents. In awarding any proposal, the City may consider, but not be limited to, any of the following factors: Bidder qualifications, price, experience, financial standing with the City, warranties, references, bonding, delivery date, and service of Bidder. Vendors/Contractors shall be current on all amounts due to the City of Auburn prior to the City entering into any contract agreement. All proposals must include FOB to Auburn, Maine unless otherwise specified.

Proposals will not receive consideration unless submitted in accordance with the following instructions to bidders. Please mark sealed envelopes plainly: "**2019 Curb & Cobble Bid – Bid #2019-021**".

Bid packages will be available beginning on Tuesday, April 2, 2019. Documents can be obtained from the City of Auburn's website: www.auburnmaine.gov/business/bid-notice. Questions regarding this Request for Bids should be directed to Dan Goyette, Public Works Director, at (207) 333-6601, ext. 2156.

Please submit your proposal to the City of Auburn by 2:00 p.m. **Thursday, April 18, 2019**. Proposals must be delivered to **Derek Boulanger, Facilities Manager/Purchasing Agent, 60 Court Street, Auburn, Maine 04210** on or before the date and time appointed. No proposals will be accepted after the time and date listed above. Proposals will be opened at 2:00 p.m. on that date in the Community Room (206), Auburn City Hall.

Sincerely,

Derek Boulanger
Facilities Manager/Purchasing Agent

CONDITIONS AND INSTRUCTIONS TO BIDDERS

1. Bidders shall use the enclosed bid form for quotations.
2. Submit a separate unit price for each item unless otherwise specified in the bid request. Award will be made on a basis of each item, or as a group, whichever is in the best interest of the City. Prices stated are to be "delivered to destination".
3. Bid proposals must be completed in full, in ink and must be signed by firm official. Bid proposal **must be notarized** prior to bid being sealed and will be disqualified if not notarized. Bids may be withdrawn prior to the time set for the official opening
4. Bids will be opened publicly. Bidders or representatives may be present at bid opening.
5. Awards will be made to the **Highest** responsible bidder, considering the date of pick up, price of product and is in the best interest to the City of Auburn.
6. All transportation charges, including expense for freight, transfer express, mail, etc. shall be prepaid and be at the expense of the vendor unless otherwise specified in the bid.
7. The terms and cash discounts shall be specified. Time, in connection with discount offered, will be computed from date of delivery at destination after final inspection and acceptance or from date of correct invoice, whichever is later.
8. The City is exempt from payment of Federal Excise Taxes on the articles not for resale, Federal Transportation Tax on all shipments and Maine Sales Tax and Use Taxes. Please quote less these taxes. Upon application, exemption certificate will be furnished with the Purchase Order when required.
9. No contract may be assigned without the written consent of the Purchasing Director or his designate. The contract shall not be considered valid until a purchase order has been issued to the successful bidder.
10. Please state "2019 Curb & Cobble Bid – Bid # 2019-021", on submitted, sealed envelope.

11. The City of Auburn reserves the right to waive any formality and technicality in bids whichever is deemed best for the interest of the City of Auburn.
12. All work must be completed from 7:00AM to 7:00PM. The completion date for this project is September 27th, 2019.

GENERAL CONDITIONS

1. Equal Employment Opportunity

The City of Auburn is an Equal Opportunity Employer and shall not discriminate against an applicant for employment, and employee or a citizen because of race, color, sex, marital status, physical and/or mental handicap, religion, age, ancestry or natural origin, unless based upon a bona-fide occupation qualification. Vendors and contractor or their agents doing business with the City shall not violate the above clause or the Civil Rights Acts of 1964. Violations by vendors shall be reviewed on a case-by-case basis and may mean an automatic breach of contract or service to the City of Auburn.

2. Save Harmless

The Bidder agrees to protect and save harmless the owner from all costs, expenses or damages that may arise out of alleged infringement of patents of materials used.

3. Subcontracting

The Bidder shall not subcontract any part of the work or materials or assign any monies due it without first obtaining the written consent of the municipality. Neither party shall assign or transfer its interest in the contract without the written consent of the other party.

4. Warranty

The Bidder warrants that all work will be of good quality and free from faults and defects, and in conformance with the specifications. All work not so conforming to these standards may be considered defective. The Bidder agrees to be responsible for the acts and omissions of all of its employees and all subcontractors, their agents and employees, and all other persons performing any of the work under a contract with the Bidder.

5. Payments

The selected bidder will be responsible to weigh the separated products at a certified weigh station. The cost of weighing shall be considered incidental to the bid items. Monthly payments shall be made to the City showing the bid item, corresponding weight, unit price and totals. Certified weigh slips shall be provided with payments.

BID PROPOSAL FORM

Due: Thursday, April 18th, 2019

To: City of Auburn
Derek Boulanger, Facilities Manager/Purchasing Agent
60 Court Street
Auburn, ME 04210

The undersigned individual/firm/business guarantees this price for Thirty days (30) from the bid due date. The undersigned submits this proposal without collusion with any other person, individual, or firm or agency. The undersigned ensures the authority to act on behalf of the corporation, partnership or individual they represent; and has read and agreed to all of the terms, requests, or conditions written herein by the City of Auburn, Maine. By signing this bid form, the firm listed below hereby affirms that its bid meets the minimum specifications and standards as listed above.

Signature _____ Name (print) _____

Title _____ Company _____

Address _____

Telephone No. _____

Email Address: _____

STATE OF MAINE

_____, SS.

Date: _____

Personally appeared and acknowledged the foregoing instrument to be his/her free act and deed in his/her capacity and the free act and deed of said company.

Notary Public _____

Print Name _____

Commission Expires _____

BID FORM – Curb & Cobbles

ITEM DESCRIPTION	UNIT	QNTY**	UNIT PRICE	TOTAL PRICE
Curb- Less than 4' long	TON	500		
Curb- Greater than 4' long	TON	500		
Cobble- Medium approximately 15#	TON	500		
Cobble- Jumbo approximately 30#	TON	500		
TOTAL AMOUNT OF BID WRITTEN AND IN NUMBERS BASED ON ESTIMATE OF QUANTITIES				
(Written)				

**Note: Quantities are an estimation only. The City reserves the right to stop work when a reserve quantity of product remains for future City use.

Company Name: _____

Signed by: _____

Title: _____

Print Name: _____

Address: _____

Tel. # _____

Date: _____

Addendum Acknowledged:

_____ Date _____

_____ Date _____

SCOPE OF WORK

The scope of work for this project includes the removal of the curb and cobble stockpiles located at the City of Auburn's Public Works material storage facility, located on Gracelawn Road in Auburn, Maine. The selected bidder shall provide the labor and equipment on site to load the product, haul to a certified weigh station and then to a final destination.

SAMPLE AGREEMENT

THIS AGREEMENT is made this ### day of Month Year, by and between the CITY OF AUBURN, a municipal corporation existing under the laws of the State of Maine and located in the County of Androscoggin, State of Maine (hereinafter "CITY"), Company Name, Address, EIN, (hereinafter "CONTRACTOR"),

WITNESSETH:

In consideration of the mutual covenants and conditions contained herein, the CITY and the CONTRACTOR agree as follows:

SPECIFICATIONS:

1. The CONTRACTOR shall furnish all of the material and perform all of the work shown on the drawings and described in the specifications entitled: Bid # 2019-021 which are attached hereto and made a part hereof, and the CONTRACTOR covenants that it shall do everything required by this Agreement, the Special Provisions of the Agreement, the Invitation to Bid and the Specifications in return for payment as provided herein.

COMPLETION DATE:

2. The work to be performed under this Agreement shall be commenced by Month day, year and fully completed on or before Month day, year.

CONTRACT PRICE:

3. The CONTRACTOR shall pay the CITY for the performance of the Agreement the sum of \$XXX

PERFORMANCE BOND:

4. If required by the City, the CONTRACTOR shall furnish to the CITY at the time of the execution of this Agreement a performance bond and a labor and material payment bond each in the amount of \$Dollar amount or N/A (whichever applies) executed by a surety company satisfactory to the CITY, guaranteeing the performance and payment by the CONTRACTOR. Yes, Required (Initials: ___) No, Waived (Initials ___)

GUARANTEE:

5. The CONTRACTOR shall guarantee his work against any defects in workmanship and materials for a period of one year from the date of the CITY's written acceptance of the project.

PERMITS AND LICENSES:

6. Permits and licenses necessary for the prosecution of the work shall be secured and paid by the CONTRACTOR.

CITY'S RIGHT TO TERMINATE CONTRACT:

7. If the CONTRACTOR should be adjudged a bankrupt, or if it should make a general assignment for the benefit of creditors, or if a receiver should be appointed on account of its insolvency, or if it 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 it should fail to make prompt payment to subcontractors or for material or labor, or persistently disregard laws, and ordinances, or otherwise be guilty of a substantial violation of any provision of the Agreement, then the CITY when sufficient cause exists to justify such action, may, without prejudice to any other right or remedy and after giving the CONTRACTOR, and his surety, seven (7) 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 it 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 Agreement price shall exceed the expense of the finishing the work, including compensation for additional architectural, 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 CITY.

CONTRACTOR'S LIABILITY INSURANCE:

8. The CONTRACTOR shall not commence work under this Agreement until he has obtained all insurance required under this paragraph and such insurance has been approved by the CITY, nor shall the CONTRACTOR allow any subcontractor to commence work on his subcontract until all similar insurance required of subcontractor has been so obtained and approved. It is a requirement that the CITY be named as an Additional Insured on the General Liability and Automobile Liability policies.

Commercial General Liability to include products and completed operations, and blanket contractual. The limits of liability shall be as follows:

Bodily Injury and Property Damage	\$1,000,000
Personal Injury and Advertising Injury	\$1,000,000
Per Project Aggregate	\$1,000,000
General Aggregate	\$2,000,000
Products and Completed Operations Aggregate	\$2,000,000
Medical Payments	\$10,000

(b) Business Automobile Liability

The CONTRACTOR shall maintain and cause all sub-contractors and lower tier contractors to maintain business automobile liability insurance covering all owned non-owned, leased, rented or hired automobiles (symbol 1). The limits of liability shall be as follows:

Bodily Injury and Property Damage	\$1,000,000
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Automobile physical damage coverage shall be at the option of the CONTRACTOR, all sub-contractors and lower tier contractors. The CITY shall not be liable for physical loss or damage to any owned, non-owned, leased, rented or hired automobile.

Workers' Compensation Insurance

The CONTRACTOR shall maintain and cause all sub-contractors and lower tier contractor's to maintain Workers' Compensation and Employers Liability in accordance with the laws and regulations of the State of Maine. The limits of liability provided shall be as follows:

Coverage A:	Statutory
Coverage B:	\$100,000/\$500,000/\$100,000

Professional Liability

If the CONTRACTOR is an Architect, Engineer or Surveyor, they shall maintain a policy of insurance to pay on their behalf whatever amounts that may become legally required to pay on account of an error, omission or negligent act.

Limits of Liability shall be as follows:

\$1,000,000 per occurrence and in the aggregate site specific.

It is a requirement that this policy be maintained for a period of three (3) years following completion of the project.

Certificates of Insurance of the types and in the amounts required shall be delivered to the CITY prior to the commencement of any work by the CONTRACTOR, subcontractor or lower tier contractor or any person or entity working at the direction or under control of the CONTRACTOR. The CONTRACTOR shall assume the obligation and responsibility to confirm insurance coverage for all sub-contractors or lower tier contractors who will participate in the project.

With respect to the Commercial General Liability Insurance, CONTRACTOR shall name the Purchaser as an additional insured for coverage in those areas where government immunity has been expressly waived by 14 M.R.S. A. § 8104-A, as limited by § 8104-B, and § 8111. This provision shall not be deemed a waiver of any defenses, immunities or limitations of liability or damages available to the Purchaser under the Maine Tort Claims Act, other Maine statutory law, judicial precedent, common law, or any other defenses, immunities or limitations of liability available to the Purchaser. Upon execution of this Agreement, CONTRACTOR shall furnish the Purchaser and thereafter maintain certificates evidencing all such coverages, which certificates shall guarantee thirty (30) days' notice to the Purchaser of termination of insurance from the insurance provider or agent. CONTRACTOR shall also provide a copy of any endorsement naming the Purchaser as additional insured. A certificate that merely has a box checked under "Addl Insr," or the like, or that merely states the City of Auburn is named as an Additional Insured, will not be acceptable. The Workers' Compensation insurance shall include an endorsement waiving all rights of subrogation against the City of Auburn, its officers or employees. Upon Purchaser's request, CONTRACTOR shall provide Purchaser with a complete copy of any of the above-referenced policies. CONTRACTOR shall be responsible for any and all deductibles and/or self-insured retentions.

The CONTRACTOR and his surety shall indemnify and save harmless the CITY, his officers and employees from all suits, actions or claims of any character brought because of any injuries or damage received or sustained by any person, persons or property on account of the operations of the said CONTRACTOR; or on account of or in consequence of any neglect in safeguarding the work; or through use of unacceptable materials in construction of the work; or because of any act or omission, neglect, or misconduct of said CONTRACTOR; or because of any claims or amounts recovered from any infringements or patent trademark, or copyright; or from any claims or amounts arising or recovered under the "Workmen's Compensation Act" or of any other law, ordinance, order or decree; and so much of the money due to the said CONTRACTOR under and by virtue of his/her contract as shall be considered necessary by the CITY for such purpose, may be retained; or in case no money is due, his surety may be held until such suit or suits, action or actions, claim or claims, for injuries or damages as aforesaid shall have been settled and suitable evidence to that effect furnished to the CITY.

Waiver of Subrogation

Payment of any claim or suit including any expenses incurred in connection therewith by the CITY, or any insurance company on behalf of the CITY shall not constitute a waiver of subrogation against the CONTRACTOR, sub-contractors or any lower tier contractor in the event that such claim or suit was caused by or contributed to as a result of the negligent acts of the CONTRACTOR, any sub-contractors or lower tier contractors.

Construction Agreement

The CONTRACTOR shall and does hereby agree to indemnify, save harmless and defend the CITY from the payment of any sum or sums of money to any person whomsoever on account of

claims or suits growing out of injuries to persons, including death, or damages to property, caused by the CONTRACTOR, his employees, agents or sub-contractors or in any way attributable to the performance and execution of the work herein contracted for, including (but without limiting the generality of the foregoing), all claims for service, labor performed, materials furnished, provisions and suppliers, injuries to persons or damage to property, liens, garnishments, attachments, claims, suits, costs, attorney's fees, costs of investigation and defense. It is the intention of this paragraph to hold the CONTRACTOR responsible for the payment of any and all claims, suits, or liens, of any nature character in any way attributable to or asserted against the CITY, or the CITY and the CONTRACTOR, which the City may be required to pay. In the event the liability of the CONTRACTOR shall arise by reason of the sole negligence of the CITY and/or the sole negligence of the CITY's agents, servants or employees, then and only then, the CONTRACTOR shall not be liable under the provisions of this paragraph.

DAMAGES:

9.The CONTRACTOR shall defend, indemnify and save harmless the CITY and all persons acting for or in behalf of it against all claims for injuries (including death), loss or damage, arising out of the performance out this contract.

LIENS:

10.Neither the final payment nor any part of the retained percentage shall become due until the CONTRACTOR, if required, shall deliver to the CITY a complete release of all liens arising out of the Agreement, or receipts in full in lieu thereof and, if required in either case, an affidavit that so far as it 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 SUB-CONTRACTOR refuses to furnish a release or receipt in full, furnish a bond satisfactory to the CITY to indemnify it against any lien. If any lien remains unsatisfied after all payment are made, the CONTRACTOR shall refund to the CITY all moneys that the latter may be compelled to pay in discharging such a lien, including all costs and a reasonable attorney's fee.

ASSIGNMENT:

11. Neither party to the Agreement shall assign the Agreement or sublet it as a whole without the written consent of the other, nor shall the CONTRACTOR assign any moneys due or to become due to it hereunder, without the previous written consent of the CITY.

SUBCONTRACTS:

12. The CONTRACTOR shall not sublet any part of this Agreement without the written permission of the CITY. The CONTRACTOR agrees that it is as fully responsible to the CITY for the acts and omissions of its SUB-CONTRACTORS and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by it.

USE OF PREMISES:

13. The CONTRACTOR shall confine its apparatus, the storage of materials and operations of its workers to limits indicated by law, ordinance and permits and shall not otherwise unreasonably encumber the premises with its materials. If any part of the project is completed and ready for use, the CITY may, by written and mutual consent, without prejudice to any of its rights or the rights of the CONTRACTOR, enter in and make use of such completed parts of the project. Such use or occupancy shall in no case be construed as an acceptance of any work or materials.

CLEANING UP:

14. The CONTRACTOR shall at all times keep the premises free from accumulation of waste materials or rubbish caused by its employees or work, and at the completion of the work it shall remove all its rubbish from and about the project, and all its tools, scaffolding and surplus materials and shall leave its work "broom-clean" or its equivalent, unless more exactly specified. In case of dispute, the CITY may remove the rubbish and charge the cost to the CONTRACTOR.

PAYMENTS:

15. Unless otherwise agreed to, the CONTRACTOR shall make payments on account of the Agreement as follows:

Within 30 days, as invoices are submitted for work completed to the satisfaction of the CITY.

INDEPENDENT CONTRACTOR:

16. This Agreement is not intended to create a joint venture, employment relationship or partnership and the relationship between the Parties is that of independent contractors. CONTRACTOR has a substantive investment in its facilities, tools, instruments, materials and knowledge used by its employees to complete the Services referenced herein. The Services performed and the goods supplied by CONTRACTOR fall outside the usual course of business of the City, and CONTRACTOR is not required to work exclusively for the City. CONTRACTOR is contractually responsible for satisfactory completion of the Services, and payment to CONTRACTOR is based on factors directly related to the Services performed. CONTRACTOR agrees that the persons retained by it to provide Services hereunder are CONTRACTOR's employees and are not employees of the City for any purpose and therefore such persons are not entitled to any rights or benefits, whether present or future, under any collective bargaining agreement, retirement, or other benefit plan of the City; or the payment by the City of social security taxes, workers compensation premiums, unemployment insurance premiums, overtime or other compensation, and any other the CONTRACTOR benefits, including withholding of federal or state income taxes, and that CONTRACTOR shall be solely responsible for these obligations. CONTRACTOR agrees to indemnify, save harmless and defend the City and its affiliates from, and accepts full responsibility for any and all claims related to CONTRACTOR's obligations to its own employees or independent contractors engaged in the Services, relating

to any governmental action or claim arising out of CONTRACTOR's obligations to its own employees or independent contractors.

17. MISCELLANEOUS

- a. **Waivers and Amendments.** No amendment or waiver of any provision of this Agreement, nor consent shall be effective unless the amendment, waiver or consent is in writing and signed by the Parties.
- b. **Notices.** Any notices, requests, demands and other communications required or permitted to be given under this Agreement shall be in writing and shall be effective when received or when delivery is refused if sent by First Class Mail, postage prepaid, to the parties at the addresses set forth above, or to such other address of which the party may from time to time give written notice.
- c. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Maine without regard to its conflict of laws principles.
- d. **Complete Agreement.** This Agreement is intended to be a completely integrated agreement and as such, constitutes the entire understanding of the parties with respect to the Services. This Agreement may not be amended or modified in any way except by a written instrument executed by the Parties. The information contained in the Bid Forms, notice, and instructions are integral parts of this Agreement and not mere recitations.
- e. **Benefits; Binding Effect.** This Agreement shall be for the benefit of and binding upon the Parties, their legal representatives and permitted successors and assigns.
- f. **No Third-Party Beneficiary.** Nothing expressed or implied in this Agreement is intended, or shall be construed, to confer upon or give any person, firm, corporation, partnership, association or other entity, other than the parties and their respective legal representatives, successors and assigns, any rights or remedies under or by reason of this Agreement.
- g. **Arbitration.** The parties agree to resolve any disputes arising in connection with the Project through binding arbitration. The arbitration shall be conducted in Androscoggin County, Maine and shall be administered in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The arbitrator shall award the costs of the arbitration and reasonable attorney and paralegal fees, to the prevailing party, and the decision of the arbitrator shall be final and enforceable in any court of competent jurisdiction.

- h. Severability. The invalidity of any one or more of the words, phrases, sentences, clauses, sections or subsections contained in this Agreement shall not affect the enforceability of the remaining portions of this Agreement, all of which are inserted conditionally on their being valid in law, and, in the event that any one or more the words, phrases, sentences, clauses, sections or subsections contained in this Agreement shall be declared invalid, this Agreement shall be construed as if such invalid word or words, phrase or phrases, sentence or sentences, clause or clauses, section or sections or subsection or subsections had to been inserted.
- i. Section Headings. The section and other headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of any provisions of this Agreement.
- j. Counterparts. This Agreement may be executed in any number of counterparts and by Parties in separate counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.
- k. Entire Agreement. This Agreement terminates and replaces any prior written or oral agreement between the parties. This document is the complete and entire Agreement between the parties hereto except to the extent that another document is expressly incorporated herein by reference.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

BY: _____ BY: _____
 Witness Finance Director

BY: _____ BY: _____
 Witness Contractor