



**CONTRACT DOCUMENTS**  
**FOR**  
**DEMOLITION OF DETERIORATED BUILDINGS**  
**AUBURN, MAINE**

**BID DOCUMENTS**  
**BID NUMBER: 2014-009**  
**AUGUST 27, 2013**

Derek Boulanger  
Facilities Manager/Purchasing Agent  
Finance Department

Reine Mynahan  
Community Development Director  
Community Development Department

William Grealish  
Project Manager  
Engineering Department

City of Auburn, Maine  
"Maine's City of Opportunity"

Community Development Program



August 27, 2013

Dear Bidder:

The City of Auburn is accepting bids for Demolition of Deteriorated Buildings. Please submit your bid in a sealed envelope to the City of Auburn, Derek Boulanger, Facilities Manager-Purchasing Agent, Finance Department, 60 Court Street, Auburn, ME 04210 by 2:00 p.m. Tuesday, September 17, 2013. Bids will be opened in the second floor Community Room at Auburn Hall. The City will not accept late bids. Bids shall be submitted on the forms provided, in a sealed envelope bearing the name and address of your company, and marked "Demolition of Deteriorated Buildings - Bid #2014-009". A certified check or bank draft, payable to the City of Auburn, Maine, or a Bid Bond executed by the bidder and a surety company approved by the City of Auburn and doing business within the State of Maine, in an amount equal to five percent (5%) of the bid, shall be submitted with each bid. Bids may be held by the City for a period of 30 days from the date of the opening for the purpose of reviewing bids and investigating the qualifications of bidders prior to notification of award. The City reserves the right to revoke this invitation to bid at any time prior to the September 17 bid opening, to reject any and all bids, to waive any irregularities in bidding, and to award the contract in the best interest of the City. The successful bidder will be required to furnish a Certificate of Insurance, Performance Bond, and a Labor and Materials Bond.

This is a lump sum bid to demolish 5 buildings which excludes tipping fees. The work includes but is not limited to building demolition and removal of debris of buildings at 143 Hampshire Street, 325 Turner Street, 61 Webster Street, 6 Second Street, and 9 Broad Street, filling and grading, loam and seeding. Improvements to create a parking lot at 143 Hampshire Street are included as an alternate.

A pre-bid meeting is scheduled for Tuesday, September 4, 2013, at 2 PM at 60 Court Street, Auburn Maine in the Community Room located on the 2nd floor of Auburn Hall. Attendance is mandatory. After the conference, there will be a walk through of all buildings. This will be the only time that contractors will be able to view the interior of the buildings. Contractors must sign in at the pre-bid meeting in order to submit a bid and to receive any addenda.

Please submit your proposal in a sealed envelope to the City of Auburn by **2:00 p.m. September 17, 2013**. Proposals must be received by **Derek Boulanger, Facilities Manager/ Purchasing Agent, 60 Court Street, Auburn, Maine 04210** on or before the date and time appointed. Proposals will be opened at 2:00 PM at Auburn Hall. The City will not accept late bids.

Construction is scheduled to start anytime after September 24. The demolition of 6 Second Street shall be completed by October 19, 2013. The remaining buildings shall be demolished by December 31, 2013 and other improvements shall be complete by May 31, 2014. Liquidated damages will be assessed at \$500/calendar day.

On behalf of the City of Auburn, I thank you for your time and consideration of this bid specification.

Sincerely,

Derek Boulanger  
Facilities Manager/Purchasing Agent

# Table of Contents

**SECTION 1 - INSTRUCTIONS TO BIDDERS ..... 6**

- 1. *Interpretations of Addenda* ..... 6
- 2. *Inspection of Site* ..... 6
- 3. *Taxes* ..... 6
- 4. *Bids* ..... 6
- 5. *Non-Collusion Agreements* ..... 7
- 6. *Statement of Bidder's Qualifications* ..... 7
- 7. *Bid Guaranty*..... 7
- 8. *Withdrawal of Bids* ..... 7
- 9. *Execution of Agreement - Bonds and Insurance Requirements* ..... 7
- 10. *Prosecution of Work* ..... 8
- 11. *Equal Employment Opportunity* ..... 8
- 12. *Insurance* ..... 8
- 13. *Save Harmless*..... 8
- 14. *Additional Requirements*..... 9
- 15. *Safety and Health Regulations*..... 9
- 16. *Occupational Health and Safety Training*..... 9
- 17. *Performance of Work*..... 9
- 18. *Liquidated Damages* ..... 9
- 19. *The Contract Price*..... 10
- 20. *Tipping Fees* ..... 10
- 21. *Compliance with Federal Regulations* ..... 10
- 22. *Wage Decision*..... 11
- 23. *Federal Labor Standards Provisions*..... 15

**SECTION 2 - GENERAL CONDITIONS..... 20**

- 1. *Definitions*..... 20
- 2. *Lines and Grades* ..... 21
- 3. *Superintence by Contractor* ..... 21
- 4. *Subcontracts*..... 21
- 5. *Other Contracts* ..... 21
- 6. *Fitting and Coordination of the Work* ..... 21
- 7. *Mutual Responsibility of Contractors*..... 21
- 8. *Damage by Blasting/Responsibility for Damage Claims* ..... 22
- 9. *Progress Schedule*..... 22
- 10. *Notice to Proceed*..... 22
- 11. *Payments to Contractor* ..... 22
- 12. *Changes in the Work*..... 23
- 13. *Termination, Delays, and Liquidated Damages* ..... 24
- 14. *Contract Documents* ..... 25
- 15. *Supplementary Information* ..... 26
- 16. *Materials and Workmanship*..... 26

17. *Samples, Certificates and Tests* ..... 26

18. *Permits and Codes* ..... 27

19. *Care of Work*..... 28

20. *Load Restrictions* ..... 28

21. *Repair of Roads by Contractor* .....28

22. *Accident Prevention*..... 29

23. *Sanitary Facilities*..... 29

24. *Use of premises* ..... 29

25. *Removal of Debris and Cleaning*..... 30

26. *Inspections* ..... 30

27. *Access by City* ..... 31

28. *Final Inspection* ..... 31

29. *Uncovering and Correction of Work* ..... 31

30. *Contract Security* ..... 32

31. *Indemnification* ..... 33

32. *Restoration of Surfaces Opened by Permit*..... 33

33. *Personal Liability of Public Officials* ..... 33

34. *No Waiver of Legal Rights*..... 33

35. *Patent* ..... 33

36. *Warranty of Title*..... 34

37. *General Guaranty* ..... 34

38. *Responsibilities of Contractor* ..... 34

39. *Communications* ..... 34

40. *Partial Use of Site Improvements* ..... 35

41. *Rights in and Use of Materials Found on the Project Site* ..... 35

42. *Cold Weather Protection* ..... 35

43. *Unfinished Work* ..... 35

44. *Maintenance of Traffic and Safety Precautions* ..... 36

45. *No Damages for Delays*..... 36

46. *Working Hours*..... 37

47. *Noise Controls* ..... 37

**SECTION 3 - SPECIAL CONDITIONS ..... 38**

1. *Project Site*..... 38

2. *Scope of Work*..... 38

3. *Time for Completion and Scheduling* ..... 38

4. *Liquidated Damages* ..... 38

5. *Preconstruction Conference* ..... 38

6. *Testing*..... 38

7. *Compaction*..... 39

**SECTION 4 - DRAWING SCHEDULE ..... 40**

**SECTION 5 - STANDARD SPECIFICATIONS ..... 41**

1. *Scope*..... 41

2. *Standard Specifications* ..... 41

---

3. *Supplemental Specifications* ..... 41

**SECTION 6 - SUPPLEMENTAL SPECIFICATIONS ..... 42**

1. *Loam* ..... 42

2. *Demolition* ..... 43

3. *Sitework* ..... 46

*Parking Lot Improvements* ..... 47

**SECTION 7 - BID SUBMISSION FORM..... 49**

*CERTIFICATIONS (for Corporations)*..... 49

*BID FORM*..... 50

*NON-COLLUSION AFFIDAVIT OF PRIME BIDDER*..... 52

*SECTION 3 AFFIRMATIVE ACTION PLAN* ..... 53

*DISADVANTAGED BUSINESS ENTERPRISES UTILIZATION WORKSHEET*... ..55

**SECTION 8 - SAMPLE AGREEMENT.....56**

**APPENDIX A -- DRAWINGS.....60**

**SECTION 1 - INSTRUCTIONS TO BIDDERS**

**1. Interpretations of Addenda**

No oral interpretation will be made to any bidder as to the meaning of the Contract Documents or any part thereof. Every request for such an interpretation shall be made in writing to the Community Development Director for the City of Auburn. Any inquiry received five (5) or more days prior to the date fixed for the opening of bids will be given consideration. Every interpretation made to a bidder will be in the form of an Addendum to the Contract Documents, and when issued will be delivered via email at least three days prior to bid opening. It shall be the bidder's responsibility to make inquiries as to all the addenda issued. All Addenda's shall become part of the Contract Documents and all bidders shall be bound by such Addenda. Bidders shall acknowledge receipt of all Addenda in the space provided for, in the Bid Form, whether the Addenda are in response to questions or otherwise issued by the City.

**2. Inspection of Site**

Bidders should visit the site of the proposed work and fully acquaint themselves with the existing conditions relating to construction and labor, and should fully inform themselves as to the facilities involved, the difficulties and restrictions attending the performance of the Contract. Bidders should thoroughly examine and familiarize themselves with the Drawing, Technical Specifications, and all other Contract Documents. Bidders, by the execution of the Contract, shall not be relieved of any obligation under it due to its failure to receive or examine any form or legal instrument or to visit the site and acquaint themselves with the conditions and the City of Auburn will be justified in rejecting any claim based on facts regarding which they should have been on notice as a result thereof.

Bidders and the successful Contractor shall not use any of the information made available to them or obtained in any examination made by them in any manner as a basis for claim or demand of any nature against the City of Auburn, its agents, or its employees, arising from any variance which may exist between the information offered and the actual materials or conditions encountered, except as may otherwise be provided for in the contract documents.

**3. Taxes**

Prices should be quoted without any Federal, State, or local taxes, as municipalities are exempt from such taxes.

**4. Bids**

A. All bids must be submitted on the forms provided and shall be subject to all requirements of the contract documents. All bids must be regular in every respect and no interlineations, excisions, or special conditions shall be made or included in the Bid Form by the bidder. No alternate bids will be considered, unless specifically requested. The prices must be stated both in words and in figures. Should a discrepancy be found between the prices written in words and the prices written numerically, the prices written in words will govern.

B. Each bidder shall make its proposal from its own examinations and estimates, and shall not hold the City, its agents, or employees responsible to, or bound to any schedule, estimate, sounding, boring, or any plan of any thereof; and it shall, if any error in any plan, drawing, specification, or direction relating to anything to be done under this contract comes to its knowledge, report it at once in writing.

D. The contractor shall provide all materials and labor required to complete the work unless otherwise provided for in the Contract Documents. The cost and expense of all necessary labor, tools, and equipment required to complete the work shall be included in the prices in the proposal.

E. Bid Forms, the Bid Guaranty, and the Non-Collusion Affidavit, shall be enclosed in an envelope which shall be sealed and clearly mark with the name of the Project as stated on the cover sheet of these Contract Documents, the name of the bidder and the date and time of the bid opening, in order to guard against premature opening of the bid, and addressed to the Facilities Manager-Purchasing Agent, City of Auburn, 60 Court Street, Suite 410, Auburn, Maine 04210. If the proposal is forwarded by mail, it should be sent by Certified Mail, to insure delivery.

**5. Non-Collusion Agreements**

A Non-Collusive Agreement for the prime bidder must accompany each bid. Each Bidder submitting a bid to the City of Auburn for any portion of the work contemplated by the Documents on which bidding is based shall state that the proposal is made without any connection with any other bidder making any proposal for the same work, and that no person acting for or employed by the City of Auburn is directly or indirectly interested in the proposal, or in any contract which may be entered into, which the proposal relates, or in any portion of the profits therefrom.

**6. Statement of Bidder's Qualifications**

The City of Auburn shall have the right to take such steps as it deems necessary to determine the ability of the Bidder to perform its obligations under the Contract and the Bidder shall furnish the City of Auburn all such information and data for this purpose as it may request. The right is reserved to reject any Bid where an investigation of the available evidence or information does not satisfy the City of Auburn that the Bidder is qualified.

**7. Bid Guaranty**

A. Each bid must be accompanied by a Bid Guaranty, which shall not be less than five percent (5%) of the total estimated base bid price, payable to the City of Auburn. At the option of the Bidder, the guaranty may be in the form of a certified check or a Bid Bond having as surety a company approved by the City and doing business within the State of Maine. No Bid shall be considered unless it is accompanied by the required guaranty. The Bid Guaranty shall insure the execution of the agreement and the furnishing of the performance bond or bonds by the successful bidder, all as required by the Contract Documents.

C. Bid guaranties of unsuccessful bidders will be returned as soon as practical after the opening of bids.

**8. Withdrawal of Bids**

Any Bidder may withdraw its bid prior to the scheduled time for the opening of bids upon presentation to the Facilities Manager-Purchasing Agent requesting, in writing, to do so. No bid may be withdrawn after the bid opening for a period of thirty (30) days after the bid opening, without the express written permission of the Facilities Manager-Purchasing Agent. The Facilities Manager-Purchasing Agent reserves the right to allow or not allow bid withdrawals during this thirty-day period.

**9. Execution of Agreement - Bonds and Insurance Requirements**

A. Performance bond and labor and materials payment bond, in an amount equal to 100% of the total Contract price of a surety company approved by the City and doing business within the State of Maine will be required of the successful bidder to insure completion of the work and the proper fulfillment of the conditions of the contract.

B. The contract must be signed and the Bond(s) furnished within ten (10) days, Saturdays, Sundays and Holidays excepted, after the date of notification to the bidder by the Facilities Manager-Purchasing Agent of the acceptance of its proposal and the readiness of the contract to be signed. If the Bidder fails or neglects, after such

notification, to execute the contract and furnish the Bond(s) within said time, the Facilities Manager-Purchasing Agent may determine that the proposal has been abandoned; and, in such case, the bid security accompanying the proposal will be forfeited to the City of Auburn.

**10. Prosecution of Work**

The Contractor shall carry out the work continuously until completion. The project shall be completed as stated in Section 3, Special Conditions, Paragraph 3.

**11. Equal Employment Opportunity**

The City is an Equal Opportunity Employer and shall not discriminate against an applicant for employment, and employee or a citizen because of race, color, sex, familial status, physical and/or mental handicap, religion, age, ancestry or natural origin, unless based upon a bonafide occupation qualification. Vendors and contractors 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.

**12. Insurance**

A. The Contractor shall not commence work under this contract until he/she has obtained all insurance required under this section, and such insurance has been approved by the owner, nor shall the Contractor allow any subcontractor to commence work on his/her subcontract until all similar insurance required of the subcontractor has been obtained as so approved.

B. The Contractor, at its own expense, shall maintain adequate insurance during the performance of the work to protect the interests of the participants.

C. This insurance shall include contractor’s public liability and property damage insurance, motor vehicle public liability and property damage insurance, and Worker’s Compensation insurance. The Contractor shall hold the City of Auburn harmless from any and all claims for personal injury and property damage arising out of the performance of their work. The Contractor shall carry insurance as a minimum coverage as follows:

General Liability:	
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
Automobile: (\$1,000,000)	
State Statutory Workers Compensation and Employers Liability Insurance (\$500,000 min.)	

D. Prior to commencement of any work the Contractor shall provide a Certificate of Insurance naming the City of Auburn as additional insured with provision for a thirty -(30)- day cancellation notice to the City.

**13. Save Harmless**

The Contractor 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.

**14. Additional Requirements**

The requirements contained herein must be adhered to without exception. The requirements imposed by the City of Auburn participation are:

The City of Auburn shall have the right to terminate this agreement with the firm after giving them seven (7) days written notice of termination in the event of any default by the firm. It shall be considered a default by the firm whenever he/she shall:

- a. declare bankruptcy, become insolvent, or assign his/her assets for the benefit of his/her creditors.
- b. disregard or violate provisions of the contract documents, or fail or prosecute the work according to the agreed schedule of completion.

**15. Safety and Health Regulations**

The Contractor shall at all times, comply with O.S.H.A. regulations and enforce the subcontractors to abide accordingly. Any violation either by firm or his/her subcontractors, shall be the sole responsibility of the firm.

**16. Occupational Health and Safety Training**

The successful bidder and all of its subcontractors shall certify that each employee to be employed at the work site has successfully completed a course in construction safety approved by the United States Occupational Safety and Health Administration that is no shorter than ten (10) hours in duration. The successful bidder and all subcontractors must provide documentation of successful completion of the course required by this section by each employee with its first request of payment or certified payroll report.

Penalties and enforcement of this section to any contractor or subcontractor who willfully and knowingly violate this section is subject to the following actions:

Removal from the work site by the Director of the Bureau of Labor Standards or the City of any employee for whom documentation required by this section is not provided;

In addition to fines that may be provided by existing law violation of these requirements may also result in cancellation of the contract or enforcement of performance of the contract by the City who is a party to the contract.

**17. Performance of Work**

The Contractor shall (a) supervise and direct the work, using its best skills and attention and be solely responsible for all construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the work; (b) provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of work; and (c) at all times enforce strict discipline and good order among its employees and not employ on the work any unfit person or anyone not skilled in the task assigned to him.

**18. Liquidated Damages**

In case the Contractor fails satisfactorily to complete the entire work contemplated and provided for under this contract on or before the date of completion determined as described in Section 3, Special Conditions, Paragraph 3, the Owner shall deduct from the payments due the Contractor the liquidated damages as stated in Section 3, Special Conditions, Paragraph 4. If the payments due the Contractor are less than the amount from any other liquidated damages, said damages shall be deducted from any other monies due or to become due the

Contractor, and in case such damages shall exceed the amount of all monies due or to become due the Contractor then the Contractor or their Surety shall pay the balance to the Owner.

**19. The Contract Price**

The Contractor will be paid the amount for the quantity of work accepted and for the materials placed. The quantities of work performed shall be computed in accordance with the methods of measurements described under the item involved except in the case of lump sum bids. Invoices shall be sent to the City and paid within thirty days of receipt pending inspection and approval of the Project Manager or his designee.

**20. Tipping Fees**

The Contractor will not be responsible for the cost of tipping fees; however, all demolition materials not salvaged must be weighed and disposed of at Mid Maine Waste Action Corp. The City shall identify all sites to be used for disposal of brick, concrete and other fill material prior to contract signing.

**21. Compliance with Federal Regulations**

Funding for this project has been authorized by the U.S. Department of Housing and Urban Development. The parking lot construction is subject to all the regulations and requirements hereafter listed.

a. Contract Work Hours and Safety Standards Act

The Contractor shall comply with the Contract Work Hours and Safety Standards Act. Each contractor shall be required to compute wages of every mechanic or laborer on the basis of a standard workweek of 40 hours. No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his health and safety as determined under construction, safety and health standards promulgated by the Secretary of Labor.

b. Davis-Bacon Act

The Contractor shall be required to pay wages to laborers and mechanics at a rate not less than the minimum specified in the Wage Decision on pages **13-16 for the parking lot improvements only**.

8. Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction  
See attached Federal Labor Standards Provisions, form HUD-4010, on pages **17-21**.

A contractor's guide is available to help you better understand and comply with Davis-Bacon labor standards. The guide is available on HUD's home page at:

[http://www.hudclips.org/sub\\_nonhud/cgi/pdfforms/dbacont.pdf](http://www.hudclips.org/sub_nonhud/cgi/pdfforms/dbacont.pdf)

or

<http://www.hud.gov/offices/olr>

Select under "What's New", *Making Davis-Bacon Work, A contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects*.

General Decision Number: ME130049 07/05/2013 ME49

Superseded General Decision Number: ME20120049

State: Maine

Construction Type: Highway

County: Androscoggin County in Maine.

HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges designed for commercial navigation, bridges involving marine construction; and other major bridges).

Modification Number	Publication Date
0	01/04/2013
1	07/05/2013

\* ENGI0004-006 04/01/2013

	Rates	Fringes
POWER EQUIPMENT OPERATOR: Milling Machine.....	\$ 20.90	9.94

---

\* IRON0007-008 03/16/2013

	Rates	Fringes
IRONWORKER, REINFORCING.....	\$ 22.57	19.75

---

\* SUME2011-044 09/14/2011

	Rates	Fringes
CARPENTER, Includes Form Work....	\$ 16.99	1.95
CEMENT MASON/CONCRETE FINISHER...	\$ 16.94	0.00
ELECTRICIAN.....	\$ 21.41	3.40
INSTALLER - GUARDRAIL.....	\$ 15.91	2.85
IRONWORKER, STRUCTURAL.....	\$ 18.75	4.56
LABORER: Asphalt Raker.....	\$ 14.75	0.42
LABORER: Common or General.....	\$ 12.58	1.27
LABORER: Flagger.....	\$ 9.06	0.00
LABORER: Landscape.....	\$ 15.43	2.09
LABORER: Wheelman.....	\$ 18.76	4.93
OPERATOR: Backhoe.....	\$ 17.92	2.44

OPERATOR: Bobcat/Skid Steer/Skid Loader.....	\$ 16.98	4.65
OPERATOR: Broom/Sweeper.....	\$ 14.08	0.00
OPERATOR: Bulldozer.....	\$ 17.09	3.71
OPERATOR: Crane.....	\$ 20.08	0.00
OPERATOR: Excavator.....	\$ 18.14	5.20
OPERATOR: Grader/Blade.....	\$ 27.40	8.46
OPERATOR: Loader.....	\$ 17.46	5.80
OPERATOR: Mechanic.....	\$ 21.39	6.24
OPERATOR: Milling Machine Reclaimer Combo.....	\$ 24.77	8.39
OPERATOR: Paver (Asphalt, Aggregate, and Concrete).....	\$ 17.49	4.26
OPERATOR: Roller, Base (Ride Along).....	\$ 13.00	1.54
OPERATOR: Screed.....	\$ 19.58	5.95
PILEDRIVERMAN.....	\$ 19.95	5.26
TRUCK DRIVER, Includes all axles including Dump Trucks.....	\$ 13.95	2.01
TRUCK DRIVER: Lowboy Truck.....	\$ 15.15	5.62

-----

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

=====

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

-----

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is union or non-union.

Union Identifiers

An identifier enclosed in dotted lines beginning with characters other than "SU" denotes that the union classification and rate have found to be prevailing for that classification. Example: PLUM0198-005 07/01/2011. The first four letters , PLUM, indicate the international union and the four-digit number, 0198, that follows indicates the local union number or district council number where applicable , i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2011, following these characters is the effective date of the most current negotiated rate/collective bargaining agreement which would be July 1, 2011 in the above example.

Union prevailing wage rates will be updated to reflect any changes in the collective bargaining agreements governing the rates.

0000/9999: weighted union wage rates will be published annually each January.

Non-Union Identifiers

Classifications listed under an "SU" identifier were derived from survey data by computing average rates and are not union rates; however, the data used in computing these rates may include both union and non-union data. Example: SULA2004-007 5/13/2010. SU indicates the rates are not union majority rates, LA indicates the State of Louisiana; 2004 is the year of the survey; and 007 is an internal number used in producing the wage determination. A 1993 or later date, 5/13/2010, indicates the classifications and rates under that identifier were issued as a General Wage Determination on that date.

Survey wage rates will remain in effect and will not change until a new survey is conducted.

---

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial

contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

=====  
END OF GENERAL DECISION

## Federal Labor Standards Provisions

U.S. Department of Housing  
and Urban Development  
Office of Labor Relations**Applicability**

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

**A. 1. (i) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**2. Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

**3. (i) Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

**4. Apprentices and Trainees.**

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

**6. Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

**7. Contract termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act Requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

**10. (i) Certification of Eligibility.** By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

**B. Contract Work Hours and Safety Standards Act.** The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

**(1) Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

**(2) Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) **Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

**C. Health and Safety.** The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

**SECTION 2 - GENERAL CONDITIONS**

**1. Definitions**

Whenever used in any of the Contract Documents, the following meanings shall be given to the terms herein defined:

A. The term "Contract" means the Contract executed by the City of Auburn and the CONTRACTOR, of which the GENERAL CONDITIONS, form a part.

B. The term "CITY" means the City of Auburn local government.

C. The term "CONTRACTOR" means the person, firm or corporation entering into the Contract with the City of Auburn to construct and install the Improvements encompassed in this Contract.

D. The term "Subcontractor" means one who is under contract with the CONTRACTOR to do any part of the construction for this Contract.

E. The term "Project Area" means the area reasonably required to construct and install the Improvements encompassed in this Contract.

F. The term "PROJECT MANAGER" means the Registered, Professional PROJECT MANAGER in charge, representing the City of Auburn acting directly or through authorized representatives.

G. The term "PROJECT MANAGER" means, if not the PROJECT MANAGER, than a person who is assigned as a project representative of the PROJECT MANAGER in the same capacity and with the same duties and authority as the PROJECT MANAGER, and is the person primarily responsible for implementation of the project.

H. The term "Local Government" means the City of Auburn, Maine within which the Project Area is situated.

I. The term "Contract Documents" means and shall include the following: Executed Agreement, Addenda (if any), Invitation To Bid, Instructions to Bidders, Signed Copy of Bid, General Conditions, Special Conditions, Technical Specifications, Supplemental Specification and Drawings (as listed in the Schedule of Drawings).

J. The term "Drawings" means the drawings listed in The Contract Documents.

K. The term "Technical Specifications" means that part of the Contract Documents which describes, outlines, and stipulates: the quality of the materials to be furnished; the quality of workmanship required; and the methods to be used in carrying out the construction work to be performed under this Contract.

L. The term "Addendum" or "Addenda" means any changes, revisions, or clarifications of the Contract Documents which have been duly issued by the City of Auburn through the Purchasing/Risk Manager to prospective Bidders prior to the time of receiving Bids.

M. The term "Work" means any portion of or the total Improvements encompassed by the contract including incidentals as needed to complete the Improvements.

**2. Lines and Grades**

The CONTRACTOR shall be responsible to layout his own work and he shall verify all figures and elevations before proceeding with the work and will be held responsible of any error resulting from his failure to do so.

**3. Superintence by Contractor**

A. Except where the CONTRACTOR is an individual and gives his personal superintence to the work, the CONTRACTOR shall provide a competent superintendent, satisfactory to the CITY and the PROJECT MANAGER, on the work at all times during working hours with full authority to act for him. The CONTRACTOR shall also provide an adequate staff for the proper coordination and expediting of his work.

B. The CONTRACTOR shall be responsible for all improvements encompassed executed by this Contract. He shall verify all figures before proceeding with the work and will be held responsible for any error resulting from his failure to do so.

**4. Subcontracts**

A. No proposed subcontractor shall be disapproved by the CITY except for cause.

B. The CONTRACTOR shall be as fully responsible to the CITY for the acts and omissions of his subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.

C. The CONTRACTOR shall cause appropriate provisions to be inserted in all subcontracts relative to the work to require compliance by each subcontractor with the applicable provisions of the Contract for the Improvements encompassed in the project

D. Nothing contained in the Contract shall create any contractual relation between any subcontractor and the CITY.

**5. Other Contracts**

The CITY may award, or may have awarded, other Contractors or additional work, and the CONTRACTOR shall cooperate fully with such other Contracts as may be directed by the CITY. The CONTRACTOR shall not commit or permit any act that will interfere with the performance of work by any other CONTRACTOR as scheduled.

**6. Fitting and Coordination of the Work**

The CONTRACTOR shall be responsible for the proper fitting of all work and for the coordination of the operations of all trades, subcontractors or materials engaged upon this contract. He shall be prepared to guarantee to each if his subcontractors the locations and measurements, which they may require for the fitting of their work to all surrounding work.

**7. Mutual Responsibility of Contractors**

If, through acts or neglect on the part of the Contract, any other CONTRACTOR or Subcontractor shall suffer loss of damage on the work, the CONTRACTOR shall settle with such other CONTRACTOR or Subcontractor by agreement or arbitration, if such other CONTRACTOR or subcontractor shall assert any claim against the city on account of any damage alleged to have been so sustained, the CITY will notify this CONTRACTOR, who shall defend at his own expense any suit based upon such claim, and, if any judgment or

claims against the CITY shall be allowed, the CONTRACTOR shall pay or satisfy such judgment or claim and pay all costs and expenses in connection therewith.

**8. *Damage by Blasting/Responsibility for Damage Claims***

The CONTRACTOR shall be liable and promptly pay all bills for any claims for damages by reason of any acts, omissions or neglect to properly undertake, guard or protect all portions of the work and as may be caused by blasting or explosion.

The CONTRACTOR shall wholly indemnify the CITY against said claims on such account. No compensation will be allowed the CONTRACTOR in any event or under any circumstances for loss incurred by him or arising from his neglect to fully comply with the requirements.

The CITY may at its option retain from the moneys due the CONTRACTOR such sum or sums as may be claimed due from the CONTRACTOR because of such unpaid bills or claims, of which notice in writing is given to the City.

**9. *Progress Schedule***

The CONTRACTOR shall submit to the PROJECT MANAGER, for approval, immediately after execution of the Agreement, a carefully prepared Progress Schedule, showing the proposed dates of starting and completing each of the various sections of the work, the anticipated monthly payments to become due the contractor, and the accumulated percent of progress each month.

**10. *Notice to Proceed***

It is clearly the intention that no work shall be commenced by the CONTRACTOR until he has received a written Notice to Proceed by the CITY. The CITY will issue a written Notice to Proceed within five (5) days from the date of acceptance of the CONTRACTOR's proposal. The notice to commence work will stipulate the date on which it is expected the CONTRACTOR will begin the construction and from which date contract time will be charged.

**11. *Payments to Contractor***

**A. *Partial Payments***

1. The CONTRACTOR shall prepare his requisition for partial payment and submit it, which the required number of copies, to the PROJECT MANAGER for approval. The amount of the payment due to the CONTRACTOR shall be determined by adding to the total value of work completed to date, the value of materials properly stored on site and deducting (1) ten percent (10%) of the total amount, to be retained until final payment and (2) the amount of all previous payments. The value of materials properly stored on the site shall be based upon the estimated quantities of such materials and the invoice prices. Copies of all invoices shall be submitted by the Contractor for inspection by the PROJECT MANAGER.

2. Monthly or partial payments made by the CITY to the CONTRACTOR are moneys advanced for the purpose of assisting the CONTRACTOR to expedite the work of construction. All materials and completed work covered by such monthly or partial payments shall remain the property of the CONTRACTOR and he shall be responsible for the care and protection of all materials and work upon which payments have been made until final acceptance of such work and materials by the CITY. Such payment shall not constitute a waiver of the right of the CITY to require the fulfillment of all terms of the Contract and the delivery of all improvements encompassed in this Contract complete and satisfactory to the City in all details.

3. All partial estimates and payments shall be subject to correction in subsequent partial estimates and payments and/or on the final estimate and payment.

B. Final Payment

1. After final inspection and acceptance by the CITY of all work under the Contract, the CONTRACTOR shall prepare his requisition for final payment, which shall be the sum of the unit price amount plus any approved alternatives and change orders. The total amount of the final payment due the CONTRACTOR under this Contract shall be the amount computed as described above less all-previous payments. Final payment to the CONTRACTOR shall be made subject to his furnishing the City with a release in satisfactory form of all claims against the CITY arising under and by virtue of his contract, other than such claims if any, as may be specifically expected by the CONTRACTOR from the operation of the release as provided under the GENERAL CONDITIONS, SUBSECTION 14, CLAIMS & DISPUTES.

2. Withholding of any amount due the CITY under The Special Conditions, Subsection 4 Liquidated Damages, shall be deducted from the final payment due the CONTRACTOR.

C. Withholding Payments

The City may withhold from any payment otherwise due the CONTRACTOR so much as may be necessary to protect the City and if it so elects may also withhold any amounts due from the CONTRACTOR to any subcontractors or material dealers, for work performed or material furnished by them.

The CITY may keep any moneys which would otherwise be payable at any time hereunder, and apply the same, or so much as may be necessary therefore, to the payment of any expenses, losses or damages incurred by the CITY, and determined as aforesaid, and may retain until all claims are settled so much of such moneys as the CITY shall be of opinion will be required to settle all claims against the CITY, its officers, agents or servants.

The foregoing provisions shall be construed solely for the benefit of the CITY and will not require the CITY to determine or adjust any claims or disputes between the CONTRACTOR and his subcontractors or material dealers, or to withhold any moneys for their protection unless the CITY elects to do so. The failure or refusal of the CITY to withhold any moneys from the CONTRACTOR shall in no way impair the obligations of any surety or sureties under any bond or bonds furnished under this Contract.

**12. Changes in Work**

Should any items contained in the proposal be found unnecessary for the proper completion of the work, the PROJECT MANAGER may, upon written order to the CONTRACTOR, eliminate such items from the contract and such anticipated profits for items so eliminated in making final payment to the CONTRACTOR. When a CONTRACTOR is so notified of the elimination of items, he will be reimbursed for actual work done and all cost incurred a shown on bills submitted by the CONTRACTOR, including mobilization of materials prior to said notification.

A. The CITY may make changes in the scope of the work required to be performed by the CONTRACTOR under the Contract by making additions thereto, or by omitting work therefrom, without invalidating the Contract, and without relieving or releasing the CONTRACTOR from any of his obligations under the Contract or any guarantee given by him pursuant to the Contract provisions and without affecting the validity of the guaranty bonds, and without relieving or releasing the surety or sureties of said bonds. All such work shall be executed under the terms of the original Contract unless it is expressly provided otherwise. All changes in work shall be authorized by written Change Orders only.

B. Except for the purpose of affording protection against any emergency endangering health, life or property, the CONTRACTOR shall make no change in the materials used or in the specified manner or constructing and/or installing the Improvements or supply additional labor, services or materials, beyond that actually required for the execution of the CONTRACT, unless in pursuance of a written order from the CITY authorizing the CONTRACTOR to proceed with the change. No claim for an adjustment of the Contract Price will be valid unless so ordered.

C. If the total net change increases or decreases the total Contract Price more than twenty-five percent (25%), the CITY shall, before ordering the CONTRACTOR to proceed with desired changes, request an itemized proposal from him covering the work involved in the change after which the procedure shall be as follows:

1. If the proposal is acceptable, the CITY will prepare the change order in accordance therewith for acceptance of the CONTRACTOR; and

2. If the proposal is not acceptable and prompt agreement between the two parties cannot be reached, the CITY may order the CONTRACTOR to proceed with the work on a cost-plus-limited basis. A cost-plus-limited basis is defined as the net cost of the CONTRACTOR's labor, materials, and insurance plus fifteen percent (15%) of said net cost to cover overhead and profit, the total cost not to exceed a specified limit.

D. Each change order shall include in it's final form:

1. A detailed description of the change in the work.
2. The CONTRACTOR's proposal (if any) or a confirmed copy thereof.
3. A definite statement as to the resulting change in the Contract Price and/or time.
4. The statement that all work involved in the change shall be performed in accordance with Contract requirements except as modified by the change order.
5. Signature

**13. Termination, Delays, and Liquidated Damages**

A. Termination of Contract. If the CONTRACTOR refuses or fails to prosecute the work with such diligence as will ensure its completion within the time specified in these Contract Documents, or as modified as provided in these Contract Documents, the CITY, by written notice to the CONTRACTOR, may terminate the CONTRACTOR's right to proceed with the work. Upon such termination, the CITY may take over the work and prosecute the same to completion, by contract or otherwise, and the CONTRACTOR and his sureties shall be liable to the CITY for any additional cost incurred by the CITY in its completion of the Work, and they shall also be liable to the CITY for liquidated damages for any delay in the completion of the work as provide below. If the CONTRACTOR's right to proceed is so terminated, the CITY may take possession of and utilize in completing the work such materials, tools, equipment, and plant as may be on the site of the work and necessary therefore.

B. Delays of Contract. The CITY shall also have the right to terminate the agreement with the contractor after giving seven (7) days written notice of termination to the contractor, in the event of any default by the contractor. It shall be considered a default by the contractor whenever it shall:

1. Declare bankruptcy, become insolvent, or assigns its assets for the benefit of creditors.
2. Disregard or violate provision of the contract documents.
3. Fail to provide a qualified superintendent, competent workmen or subcontractors or proper materials, or fail to make prompt payment thereof.

C. Liquidated Damages for Delays. If the work is not completed within the time stipulated under SPECIAL CONDITIONS, Subsection 3, TIME FOR COMPLETION including any extensions of time for excusable delays as herein provided, the CONTRACTOR shall pay to the CITY, as fixed, and agreed the liquidated damages (it being impossible to determine the actual damages occasioned by delay) for amount as set forth under SPECIAL CONDITIONS, Subsection 4, Liquidated Damages and the CONTRACTOR and his sureties shall be liable to the City for the amount thereof.

D. Excusable Delays. The right of the CONTRACTOR to proceed shall not be terminated nor shall the CONTRACTOR, have a right to claim damages on account be charged with liquidated damages for any delays in the completion of the work due:

1. To any acts of the Government, including controls or restrictions upon or requisitioning or materials, equipment, tools, or labor by reason of war, National Defense, or any other national emergency;
2. To any acts of the CITY;
3. To cause or causes not reasonably foreseeable by the parties to the Contract at the time of the execution of the Contract which are beyond the control and without the fault or negligence of the CONTRACTOR, including, but not restricted to, acts of God or of the public enemy, acts of another CONTRACTOR in the performance of some other contract with the CITY, fires, floods, epidemics, quarantine, restrictions, strikes, freight embargoes, and weather of unusual severity such as hurricanes, tornadoes, cyclones and other extreme weather conditions; and
4. To any delay of any subcontractor occasioned by any of the causes specified in subparagraphs 1, 2, and 3 of this paragraph "D".
5. Provided, however, that the CONTRACTOR promptly notifies the CITY within three (3) days in writing of the cause of the delay. Notice shall be sent by registered mail or hand delivered with a signed receipt. Upon receipt of such notification, the CITY shall ascertain the facts and the cause and extent of delay. If upon the basis of the facts and the terms of this Contract, the delay is properly excusable, the CITY shall extend the time for completing the work for a period of time commensurate with the period of excusable delay. All notices shall be sent to the parties as identified in the Contract Agreement.

**14. Contract Documents**

The Intent of Contract Documents is that the CONTRACTOR furnishes all labor and materials, equipment and transportation necessary for proper execution of work unless specifically noted otherwise. CONTRACTOR shall do all work shown on Drawings and described in Specifications and all incidental cost shall be included in the bid.

In case of any discrepancy in Contract Documents calculated dimensions shall govern over scaled dimensions; plans shall govern over Standard Specifications and Supplemental Specifications; Supplemental Specifications shall govern over Standard Specifications and Special Condition shall govern over Standard Specifications, Supplemental Specifications, and plans. In case of any discrepancy in Drawings, or Technical Specifications, the matter shall be immediately submitted to the CITY, without whose decision said discrepancy shall not be adjusted by the CONTRACTOR, save only at his own risk and expense.

Anything mentioned in the Technical Specifications and not shown on the Drawings or shown on the Drawings and not mentioned in the Technical Specifications shall be of like effect as if shown on or mentioned in both.

One complete set of Contract Documents shall be maintained at job site and shall be available to PROJECT MANAGER at all times.

**15. *Supplementary Information***

It shall be the responsibility of the CONTRACTOR to make timely request of the CITY for any additional information not already in his/her possession which should be furnished by the CITY under the terms of this Contract, and which he will require in the planning and execution of the work. Such requests may be submitted from time to time as the need is approached, but each shall be filed in ample time to permit appropriate action to be taken by all parties involved so as to avoid delay. Each request shall be in writing and list the various items and the latest date by which each will be required by the CONTRACTOR. The first list shall be submitted within two weeks after Contract award and shall be as complete as possible at that time. The Contract shall, if requested, furnish promptly any assistance and information the PROJECT MANAGER may require in responding to these requests of the CONTRACTOR. The CONTRACTOR shall be fully responsible for any delay in his work or to others arising from his failure to comply fully with the provisions of this paragraph. Further instruction, may be issued by PROJECT MANAGER during progress of work by means of Drawings or otherwise to make more clear or specific the Drawings and Specifications or as may be necessary to explain or illustrate changes in work to be done.

**16. *Materials and Workmanship***

A. Unless otherwise specifically provided for in the Specifications, all workmanship, equipment, materials and articles incorporated in the work shall be new and the best grade of the respective kinds for the purpose. Where equipment, materials, articles or workmanship are referred to in the Specifications as "equal to" any particular standard, the PROJECT MANAGER shall decide the question of equality.

B. The CONTRACTOR shall furnish to the CITY for approval the manufacturer's detailed specifications for all machinery, mechanical and other equipment and materials or articles, which he contemplates installing together with full information as to type, performance characteristics, and all other pertinent information as required, and shall likewise submit for approval as required full information concerning all other materials or articles which he proposes to incorporate in the work.

C. Machinery, mechanical and other equipment, materials or articles installed or used without such prior approval shall be at the risk of subsequent rejection.

D. Materials specified by reference to the number or symbol of a specific standard, such as an ASTM Standard, a Federal Specification or other similar standard, shall comply with requirements in the latest revision thereof and any amendment or supplement thereto in effect on the date of the Invitation for Bids, except as limited to type, class or grade, or modified in such reference. The standards referred to, except as modified in the Specifications, shall have full force and effect as though printed therein.

E. The CITY may require the CONTRACTOR to dismiss from the work such employee or employees as the CITY or the PROJECT MANAGER may deem incompetent, careless, or insubordinate.

**17. *Samples, Certificates and Tests***

A. The CONTRACTOR shall submit all machinery, mechanical and other equipment and materials or articles, samples, certificates, affidavits, etc., as called for in the Contract Documents or required by the PROJECT MANAGER, promptly after award of the contract and acceptance of the CONTRACTOR's bond. No such machinery, mechanical and other equipment and materials or articles shall be manufactured or delivered to the site, except at the CONTRACTOR's own risk, until the required samples or certificates have been approved in writing by the PROJECT MANAGER.

Any delay in the work caused by late or improper submission of samples or certificates for approval shall not be considered just cause for extension of the contract time.

Each sample submitted by the CONTRACTOR shall carry a label giving the name of the CONTRACTOR, the project for which it is intended, and the name of the producer. The accompanying certificate or letter from the CONTRACTOR shall state that the sample complies with contract requirements, shall give the name and brand of the product, its place of origin, the name and address of the producer and all specifications or other detailed information which will assist the PROJECT MANAGER in passing upon the acceptability of the sample promptly. It shall also include the statement that all machinery, mechanical and other equipment and materials or articles furnished for use in the project will comply with the samples and/or certified statements.

B. Approval of any materials shall be general only and shall not constitute a waiver of the City's right to demand full compliance with Contract requirements. After actual deliveries, the PROJECT MANAGER will have such check tests made as he deems necessary in each instance and may reject machinery, mechanical and other equipment and materials or articles even though such items have been given general approval. If machinery, mechanical and other equipment and materials or articles materials, equipment or accessories which fail to meet check tests have been incorporated in the work, the PROJECT MANAGER will have the right to cause their removal and replacement by proper materials or to demand and secure such reparation by the CONTRACTOR as is equitable.

C. Except as otherwise specifically stated in the Contract, the costs of sampling and testing will be borne by the CONTRACTOR.

WE SHOULD NOT BE SUPPLYING CONTRACTORS WITH ANY EQUIPMENT?

**18. Permits and Codes**

A. The CONTRACTOR shall give all notices required by and comply with all applicable laws, ordinances, and codes of the State and Local governments. All construction work and/or utility installations shall comply with all applicable ordinances and codes including all written waivers. Before installing any work, the CONTRACTOR shall examine the Drawing and Technical Specifications for compliance with applicable ordinances and codes and shall immediately report any discrepancy to the CITY. Where the requirements of the Drawings and Technical Specifications fail to comply with such applicable ordinances or codes, the CITY will adjust the CONTRACT by Change Order to conform to such ordinances or codes (unless waivers in writing covering the difference have been granted by the governing body or CITY) and made appropriate adjustment in the Contract Price or stipulated unit prices.

Should the CONTRACTOR fail to observe the foregoing provisions and proceed with the construction and/or install any utility at variance with any applicable ordinance or code, including any written waivers (notwithstanding the fact that such installation is in compliance with the Drawings and Technical Specifications), the CONTRACTOR shall remove such work without cost to the CITY, but a Change Order will be issued to cover only the excess cost the CONTRACTOR would have been entitled to receive if the change had been made before the CONTRACTOR commenced work on the items involved.

B. The CONTRACTOR shall at his own expense secure and pay to the appropriate department of the local government the fees or charges for all permits for street pavements, sidewalks, pavement cuts, sheds, removal of abandoned water taps, sealing of house connection drains, building, electrical, plumbing, water, gas and sewer permits required by the local regulatory body or any of its agencies.

C. The CONTRACTOR shall comply with applicable local laws and ordinances governing the disposal or surplus excavation, materials, debris and rubbish on or off the Project Area and commit no trespass on any public or private property in any operation due to or connected with the Improvements encompassed in this Contract.

**19. Care of Work**

A. The CONTRACTOR shall give the work the constant attention necessary to facilitate the progress thereof, and shall cooperate with the PROJECT MANAGER, his inspectors, other Contractors and utilities in every way possible.

B. The CONTRACTOR shall be responsible for all damages to persons or property that occur as a result of his fault or negligence in connection with the prosecution of the work and shall be responsible for the proper care and protection of all materials delivered and work performed until completion and final acceptance, whether or not the same has been covered in whole or in part by payments made by the CITY.

C. The CONTRACTOR if so required shall provide sufficient competent watchman, both day and night, including Saturdays, Sundays and holidays, from the time the work is commenced until final completion and acceptance.

D. In an emergency affecting the safety of life, limb or property, including adjoining property, the CONTRACTOR, without special instructions or authorization from the City, is authorized to act at his discretion to prevent such threatened loss or injury, and he shall so act. He shall likewise act if instructed to do so by the CITY. Any compensation claimed by the CONTRACTOR on account of such emergency work will be determined by the CITY as provided under GENERAL CONDITIONS, Subsection 13, Changes in the Work. The CONTRACTOR shall notify as soon as possible the CITY of such an emergency.

E. The CONTRACTOR shall avoid damage as a result of his operations to existing sidewalks, streets, curbs, pavements, utilities (except those which are to be replaced or removed), adjoining property, etc., and he shall at his own expense completely repair any damage thereto caused by his operations.

F. The CONTRACTOR shall shore up, brace, underpin, secure, and protect, as may be necessary, all foundations and other parts of existing structures adjacent to, adjoining, and in the vicinity of the site, which may in any way be affected by the excavations or other operations connected with the construction of the Improvements encompassed in this Contract. The CONTRACTOR shall be responsible for giving of any and all required notices to any adjoining or adjacent property owner or other party before the commencement of any work. The CONTRACTOR shall indemnify and save harmless the CITY from any damages on account of settlements or the loss of lateral support of adjoining property and from all loss or expense and all damages for which the CITY may become liable in consequence of such injury or damage to adjoining and adjacent structures and their premises.

**20. Load Restrictions**

The CONTRACTOR shall comply with all legal load restrictions in the hauling of materials on public roads beyond and within the limits of the project.

A special permit will not relieve the CONTRACTOR of liability for damage which may result from the moving of equipment. The operation of equipment of such weight or so loaded as to cause damage to structures or the roadway or to any other type of construction will not be permitted. Hauling of materials over the base course or surface course under construction shall be limited to legal loads. No loads will be permitted on a concrete pavement, portland cement concrete base, or structure before the expiration of the curing period. In no case shall legal load limits be exceeded unless permitted in writing, with the exception of equipment used in grading operations, which operation includes the preparation of the subgrade prior to the placing of the subbase course. The CONTRACTOR shall be responsible for all damage done by his hauling equipment.

**21. Repair of Roads Damaged by Contractor**

Damage to any road or structure caused by equipment, including trucks, used in the prosecution of this work, shall be repaired by the CONTRACTOR to the satisfaction of the PROJECT MANAGER and the CITY.

Payments for such work shall be considered as incidental to the contract. An exception shall be that when such damage has been done by trucks carrying legal loads and operating in full accordance with the laws of the State on roads having a surface width of 20 feet or more and maintained by the CITY, and structures maintained by the City, the CONTRACTOR shall not then be held liable for the damaged caused. On such roads, having a bituminous surface width of less than 20 feet, and providing an alternate route is available for the return trip, the CONTRACTOR may haul in one direction only. If no alternate route is available, the CONTRACTOR shall be responsible for maintaining the surface, in an acceptable manner, for a minimum width equal to the original pavement width.

In the event it is necessary for the CONTRACTOR to transport gravel, borrow, or other construction material in legally registered vehicles carrying legal loads over CITY ways, a CONTRACTOR's Bond of not more than \$5,000 per mile of travel length may be required by the CITY or other agency, the exact amount of said bond to be determined prior to use of any CITY way. The City may also require the CONTRACTOR to use dust control measures. The CONTRACTOR will not be paid directly for any necessary bond, maintenance or dust control on CITY ways. Such costs shall be incidental to the CONTRACT.

**22. Accident prevention**

A. The CONTRACTOR shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the site, which occur as a result of his prosecution of the work.

B. The safety provisions of applicable laws and building and construction codes shall be observed and the CONTRACTOR shall take or cause to be taken such additional safety and health measures as the PROJECT MANAGER may determine to be reasonably necessary. Machinery, equipment and all hazards shall be guarded in accordance with the safety provisions of the "Manual of Accident Prevention in Construction," published by the Associated General Contractors of America, Inc., to the extent that such provisions are not in conflict with applicable local laws.

C. The CONTRACTOR shall maintain an accurate record of all cases of death, occupational disease, and injury requiring medical attention or causing loss of time from work, arising out of and in the course of employment on work under the Contract. The CONTRACTOR shall promptly furnish the City with reports concerning these matters.

D. The CONTRACTOR and its subcontractors shall comply with all Safety and Health Regulations. The Contractor shall at all times, comply with O.S.H.A. regulations and enforce the subcontractors to abide accordingly. Any violation either by Contractor or his/her subcontractors, shall be the sole responsibility of the Contractor.

E. The CONTRACTOR shall indemnify and save harmless the CITY from any claims for damages resulting from property damage, personal injury and/or death suffered or alleged to have been suffered by any person as a result of any work conducted under this Contract.

**23. Sanitary Facilities**

The CONTRACTOR shall furnish, install, and maintain ample sanitary facilities for the workmen. As the needs arise, a sufficient number of enclosed temporary toilets shall be conveniently placed as required by the sanitary codes of the State and Local governments. Drinking water shall be provided from an approved source, whether piped or transported, as to keep it safe and fresh and served from single service containers or satisfactory types of sanitary drinking stands or fountains. All such facilities and services shall be furnished in strict accordance with existing and governing health regulations.

**24. Use of premises**

A. The CONTRACTOR shall confine his equipment, storage of materials and construction operations to the Contract limits as shown on the Drawings and as prescribed by ordinances or permits, or as may be desired by

the CITY, and shall not unreasonably encumber the site or public rights of way with his material and construction equipment.

B. The CONTRACTOR shall comply with all reasonable instructions of the CITY and the ordinances and codes of the Local Government, regarding signs, advertising, traffic, fires, explosives, danger signals and barricades.

**25. Removal of Debris and Cleaning**

The CONTRACTOR shall periodically, or as directed during the progress of the work, remove and legally dispose of all surplus excavated material and debris, and keep the project area and public rights of way reasonably clear. Upon completion of the work, he shall remove all temporary construction facilities, debris and unused materials provided for the work, and put the whole site of the work and public rights of way in a neat and clean condition. Trash burning on the site will be subject to prior approval of the CITY, Auburn Fire Department and existing State and Local regulations.

The CONTRACTOR shall restore or replace, when and as directed, any public or private property damaged by his work, equipment, or employees, to a condition at least equal to that existing immediately prior to the beginning of operations. To this end, the CONTRACTOR shall do as required all necessary highway, driveway, walk and landscaping work. Suitable materials, equipment, and methods shall be used for such restoration.

**26. Inspections**

A. All materials and workmanship shall be subject to inspection, examination, or by test the CITY and the PROJECT MANAGER at any and all times during manufacture or construction and at any and all places where such manufacture or construction is carried on. The CITY shall have the right to reject defective material and workmanship or require its correction. Unacceptable workmanship shall be satisfactorily corrected. Rejected material shall be promptly segregated and removed from the Project Area and replaced with material or specified quality without charge therefore. If the CONTRACTOR fails to proceed at once with the correction of rejected workmanship or defective material, the CITY may by contract or otherwise have the defects remedied or rejected materials removed from the Project Area and charge the cost of the same against any moneys which may be due the CONTRACTOR, without prejudice to any other rights or remedies of the CITY.

B. The CONTRACTOR shall furnish promptly all materials reasonably necessary for any tests, which may be required. (See GENERAL CONDITIONS, Subsection 17, SAMPLES, CERTIFICATES AND TESTS.) All tests by the City will be performed in such manner as not to delay the work unnecessarily and shall be described in the Specifications.

C. The CONTRACTOR shall notify the CITY sufficiently in advance of backfilling or concealing any facilities or utilities to permit proper inspection. If any facilities or utilities are concealed without approval or consent of the CITY, the CONTRACTOR shall uncover for inspection and recover such facilities all at his own expense, when so requested by the City.

Should it be considered necessary or advisable by the CITY at any time before final acceptance of the entire work to make an examination of work already completed, by uncovering the same, the CONTRACTOR shall on request promptly furnish all necessary facilities, utilities, labor and material.

If such work is found to be defective in any important or essential respect due to fault of the CONTRACTOR or his subcontractors, he shall defray all the expenses of such examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the Contract, the actual cost of labor, equipment and material necessarily involved in the examination and replacement, plus 15 percent of such costs to cover superintendence, general expenses, and profit shall be allowed the CONTRACTOR and he shall, in addition, if completion of the work of the entire Contract has been delayed, thereby, be granted a suitable extension of time on account of the additional work involved, and shall be provided for through the form of a Change Order.

D. Inspection of materials and appurtenances to be incorporated in the Improvements encompassed in this Contract may be made at the place of production, manufacture or shipment, whenever the quantity justifies it, and such inspection and acceptance, unless otherwise stated in the Specifications, shall be final, except as regards (1) latent defects, (2) departures from specific requirements of the Contract, (3) damage or loss in transit, or (4) fraud or such gross mistakes as amount to fraud. Subject to the requirements contained in the preceding sentence, the inspection of materials as a whole or in part will be made at the Project Site.

E. Neither inspection, testing approval nor acceptance of the work, in whole or in part, by the City or its agents shall relieve the CONTRACTOR or his sureties of full responsibility for materials furnished or work performed not in strict accordance with the Contract.

**27. Access by City**

The CITY or any of its duly authorized representatives shall have complete access to and be permitted to observe and review all work, materials, equipment, employment conditions, books, documents, papers, records, correspondence, construction drawings, receipts, vouchers, payrolls, agreements with subcontractors relating to this Contract for the purpose of making audit, examination, excerpts and transcriptions. The CONTRACTOR shall preserve all such records for a period of three (3) years after the final payment and all other pending matters are closed.

**28. Final Inspection**

When the Improvements encompassed in this Contract are substantially completed, the CONTRACTOR shall notify the CITY in writing that the work will be ready for final inspection on a definite date, which shall be stated in the notice. The notice will be given at least ten (10) days prior to the date stated for final inspection, and bear the signed concurrence of the representatives of the CITY having charge of inspection. If the CITY determines that the status of the Improvements is as represented, it will make the arrangements necessary to have final inspection commenced on the date stated in the notice, or as soon thereafter as is practicable.

**29. Uncovering and Correction of Work**

A. Uncovering of Work. If a portion of the Work is covered contrary to the PROJECT MANAGER's request or to requirements specifically expressed in the Contract Documents, it must, if required in writing by the PROJECT MANAGER, be uncovered for the PROJECT MANAGER's observation and be replaced at the CONTRACTOR's expense without change in the Contract Time or Amount.

If a portion of the Work has been covered which the PROJECT MANAGER has not specifically requested to observe prior to its being covered, the PROJECT MANAGER may request to see such Work and it shall be uncovered by the CONTRACTOR. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If such Work is not in accordance with the Contract Documents, the CONTRACTOR shall pay such costs unless the condition was caused by the CITY or a separate contractor in which event the CITY shall be responsible for payment of such costs.

B. Correction of Work. The CONTRACTOR shall promptly correct Work rejected by the PROJECT MANAGER or failing to conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The CONTRACTOR shall bear costs of correcting such rejected Work, including additional testing and inspections and compensation for the PROJECT MANAGER's services and expenses made necessary thereby.

If, within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the CONTRACTOR shall correct it promptly after receipt of written notice from the CITY to do so unless the CITY has previously given the CONTRACTOR a written acceptance of such condition. This period of

one year shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual performance of the Work. This obligation shall survive acceptance of the Work under the Contract and termination of the Contract. The CITY shall give such notice promptly after discovery of the condition.

The CONTRACTOR shall remove from the site portions of the Work, which are not in accordance with the requirements of the Contract Documents and are neither corrected by the CONTRACTOR nor accepted by the CITY.

If the CONTRACTOR fails to correct nonconforming Work within a reasonable time, the CITY may correct it. If the CONTRACTOR does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the PROJECT MANAGER, the CITY may remove it and store the salvable materials or equipment at the CONTRACTOR's expense.

If the CONTRACTOR does not pay costs of such removal and storage within 10 days after written notice, the Owner may upon 10 additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the CONTRACTOR, including compensation for the PROJECT MANAGER's services and expenses made necessary thereby. If such proceeds of sale do not cover costs, which the CONTRACTOR should have borne, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the CONTRACTOR are not sufficient to cover such amount, the CONTRACTOR shall pay the difference to the CITY.

The CONTRACTOR shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the CITY or separate contractors caused by the CONTRACTOR's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

Nothing contained in this Paragraph shall be construed to establish a period of limitation with respect to other obligations, which the CONTRACTOR might have under the Contract Documents. Establishment of the time period of one year only to the specified obligation of the CONTRACTOR to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the CONTRACTOR's liability with respect to the CONTRACTOR's obligations other than specifically to correct the Work.

C. Acceptance of Nonconforming Work. If the CITY prefers to accept Work, which is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

### **30. Contract Security**

The CONTRACTOR shall within five (5) days after receipt of the NOTICE OF AWARD furnish the CITY with a Performance Bond and a Payment Bond in penal sums equal to the amount of the CONTRACT PRICE, conditioned upon the performance by the contractor of all undertaking, covenants, terms, conditions and agreements of the Contract Documents, and upon the prompt payment by the CONTRACTOR to all persons supplying labor and materials in the prosecution of the Work provided by the Contract Documents. The CONTRACTOR shall execute such Bonds and a corporate bonding company licensed to transact such business in the state in which the Work is to be performed. The expense of these Bonds shall be borne by the CONTRACTOR. If at any time a surety on any such Bond is declared bankrupt or loses its right to do business in the state in which the Work is to be performed, the CONTRACTOR shall within ten (10) days after notice from the CITY to do so, substitute an acceptable Bond (or Bonds) in such form and sum and signed by such other surety or sureties as may be satisfactory to the CITY. The CONTRACTOR shall pay the premiums on such Bond. No further payments shall be deemed due nor shall be made until the new surety or sureties shall have furnished an acceptable Bond to CITY.

**31. Indemnification**

The CONTRACTOR will indemnify and hold harmless the CITY and their agents and employees from and against all claims, damages, losses and expenses including attorney's fees arising out of or resulting from the performance of the Work, provided that any such claims, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom; and is caused in whole or in part by any negligent or willful act or omission of the CONTRACTOR, and Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

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

**32. Restoration of Surfaces Opened by Permit**

The right to construct or reconstruct any utility service in the highway or street or to grant permits for same is, at any time during construction, hereby expressly reserved by the CITY and the CONTRACTOR shall not be entitled to any damages, either for the digging up of the street or for any delay occasioned thereby. Any individual, firm, or corporation, wishing to make an opening in the highway must secure a permit from the CITY. The CONTRACTOR shall allow parties bearing such permits, and only those parties, to make openings in the highway. When ordered by the PROJECT MANAGER, the CONTRACTOR shall make, in an acceptable manner, all necessary repairs due to such openings and such necessary work will be paid for as extra work, or as provided for in the Contract Documents, and will be subject to the same conditions as original work performed.

**33. Personal Liability of Public Officials**

In carrying out any of the provisions of these specifications, or in exercising any power or authority granted to them by or within the scope of the contract, there shall be no liability upon the CITY, PROJECT MANAGER, or their authorized representatives, either personally or as officials of the CITY; it being understood that in all such matters they act solely as agents and representatives of the CITY.

**34. No Waiver of Legal Rights**

The CITY shall not be precluded or stopped by any measurement, estimate, or certificate made either before or after the completion and acceptance of the work and payment therefore from showing the true amount and character of the work performed and materials furnished by the CONTRACTOR, nor from showing that any such measurement, estimate, or certificate is untrue or is incorrectly made, nor that the work or materials do not in fact conform to the contract. The CITY shall not be precluded or stopped, notwithstanding any such measurement, estimate or certificate and payment in accordance therewith from recovering from the CONTRACTOR or his sureties, or both, such damage as it may sustain by reason of his failure to comply with the terms of the Contract. Neither the acceptance by the City, or any representatives of the CITY; nor any payment for or acceptance of the whole or any part of the work, nor any extension of time, nor any possession taken by the CITY shall operate as a waiver of any other or subsequent breach.

**35. Patent**

The CONTRACTOR shall hold and save the CITY, its officers and employees, harmless from liability of any nature or kind, including costs and expenses, for, or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the Contract, including its use by the CITY, unless otherwise specially stipulated in the Technical Specifications

**36. Warranty of Title**

No material, supplies, or equipment for the work shall be purchased subject to any chattel mortgage or under a conditional sale under this contract or other agreement by which an interest therein or in any part thereof is retained by the seller or supplier. The CONTRACTOR shall warrant good title to all materials, supplies and equipment installed or incorporated in the work and upon completion of all work shall deliver the same together with all improvements and appurtenances constructed or placed thereon by him to the CITY free from any claims, liens, or charges. Neither the CONTRACTOR nor any person, firm or corporation furnishing any material or labor for any work covered by this Contract shall have any right to a lien upon any improvement or appurtenance thereon. Nothing contained in this paragraph, however, shall defeat or impair the right of persons furnishing materials or labor to recover under any bond given by the CONTRACTOR for their protection or any rights under any law permitting such persons to look to funds due the CONTRACTOR in the hands of the CITY. The provisions of this paragraph shall be inserted in all subcontracts and material contracts and notice of its provisions shall be given to all persons furnishing materials for the work when no formal contract is entered into for such materials.

**37. General Guaranty**

The CONTRACTOR warrants to the owner and PROJECT MANAGER that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The CONTRACTOR's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the CONTRACTOR, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If required by the PROJECT MANAGER, the CONTRACTOR shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

Neither the final certificate of payment nor any provision in the Contract nor partial or entire use of the Improvements encompassed in the Contract by the CITY or the public shall constitute an acceptance of work not done in accordance with the Contract or relieve the CONTRACTOR of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The CONTRACTOR shall promptly remedy any defects in the work and pay for any damage to other work resulting therefrom, which shall appear within a period of one (1) year from the date of final acceptance of the work. The CITY will give notice of defective materials and work with reasonable promptness.

**38. Responsibilities of Contractor**

Except as otherwise specifically stated in the Contract Documents and Technical Specifications, the CONTRACTOR shall provide and pay for all materials, labor, tools, equipment, water, light, heat, power, transportation, superintendence, temporary construction of every nature, charges, levies, fee or other expenses and all other services and facilities of every nature whatsoever necessary for the performance of the Contract and to deliver all improvements encompassed in this Contract for the project complete in every respect within the specified time.

**39. Communications**

- A. All notices, demands, requests, instructions, approvals, proposals, and claims must be in writing.
- B. Any notice to or demand upon the CONTRACTOR shall be sufficiently given if delivered at the office of the CONTRACTOR stated on the signature page of the Agreement (or at such other office as the Contractor may from time to time designate in writing to the CITY, or if deposited in the United States mail in a sealed, postage-prepaid envelope, or delivered with charges prepaid to any telegraph company for transmission, in each case addressed to such office.

C. All papers required to be delivered to the CITY shall, unless otherwise specified in writing to the CONTRACTOR, be delivered to the CITY OF AUBURN, Community Services Department – PROJECT MANAGER, 60 Court Street, Suite 114, Auburn, Maine, 04210. Any notice to or demand upon the CITY shall be sufficiently given if so delivered, or it deposited in the United States mail, or delivered with charges prepaid to any telegraph company for transmission to said CITY at such address, or to such other address as the CITY may subsequently specify in writing to the CONTRACTOR for such purpose.

D. Any such notice shall be deemed to have been given as of the time of actual delivery or in the case of mailing when the same should have been received in due course of post, or in the case of telegrams, at the time of actual receipt, as the case may be.

**40. Partial Use of Site Improvements**

The CITY, at its election, may give notice to the CONTRACTOR and place in use those sections of the improvements which have been completed, inspected and can be accepted as complying with the Contract Documents and if in its opinion, each such section is reasonably safe, fit and convenient, for the use and accommodation for which it was intended, provided: (1) The use of such sections of the improvements shall in no way impede the completion of the remainder of the work by the CONTRACTOR. (2) The CONTRACTOR shall not be responsible for any damages or maintenance costs due directly to the use of such sections.

The use of such sections shall in no way relieve the CONTRACTOR of his liability due to having used defective materials or to poor workmanship. The period of guaranty stipulated under General Conditions, Subsection #48, General Guaranty hereof shall not begin to run until the date of the final acceptance of all work which the CONTRACTOR is required to construct under this Contract.

**41. Rights in and Use of Materials Found on the Project Site**

The CONTRACTOR with the approval of the PROJECT MANAGER, may use on the project such stone, gravel, sand, or other material determined suitable by the PROJECT MANAGER, as may be found in the excavation. He shall replace at his own expense with other acceptable material all of that portion of the excavation material so removed and used which was needed for use in the embankments, backfills, approaches, or otherwise. No charge for materials so used will be made against the CONTRACTOR. The CONTRACTOR shall not excavate or remove any material from within the right-of-way which is not within the limits of improvement without authorization from the PROJECT MANAGER. Excavated material not to be used in the construction shall be disposed of an acceptable fill site as approved by the PROJECT MANAGER.

**42. Cold Weather Protection**

Take necessary precautions to prevent freezing of ground surface and trenches when excavating and backfilling for roads, walks, utilities and buildings. Do not backfill or place gravel upon frozen ground.

**43. Unfinished Work**

When, for any reason, the work is to be left unfinished for a period of a week or more, all excavation shall be filled if so required by the CITY, roadways and sidewalks left unobstructed and with their surfaces in a safe and satisfactory condition.

**44. Maintenance of Traffic and Safety Precautions**

The CONTRACTOR shall provide for maintenance of traffic and safety in accordance with the "State of Maine, Department of Transportation, Standard Specifications Revision of December, 2002", The Manual on Uniform Traffic Control Devices and the following provisions.

The CONTRACTOR shall make arrangements with the Chief of Police, the Chief of the Fire Department, and other CITY officials as required for performance of the work. The CONTRACTOR shall arrange for and pay for all police protection and assistance required to adequately handle traffic.

When it is necessary for traffic to pass over portions of the roadway during construction the CONTRACTOR shall at all time provide for the safety of the traffic by using such warning signs, flares and lights as required by the PROJECT MANAGER. All temporary traffic controls except warning lights and portable barricades with flashing lights shall be considered incidental to the Contract pay items and no separate payment will be made therefore.

When any street or way is to be temporarily or permanently closed to travel a forty-eight (48) hour notice will be given to the PROJECT MANAGER, the CITY, the Chief of the Auburn Fire Department and the Chief of the Auburn Police Department., and Traffic PROJECT MANAGER. Their written approval shall be required before closing the street to public travel.

If and when it become necessary to temporarily close a street, all costs involved in establishing and maintaining a suitable detour, as required by the PROJECT MANAGER, will be borne by the CONTRACTOR. Approved signs shall be furnished, placed and maintained by the CONTRACTOR at such points as designated by the PROJECT MANAGER.

Temporary access shall be provided as directed by the PROJECT MANAGER in all phases of the work. This access shall be for emergency vehicles and for deliveries.

The CONTRACTOR shall so schedule his operations that access to adjacent properties and business establishments are maintained at all times with a minimum of inconvenience to those abutters. Whenever it is necessary to cross private ways, paths, drives or walks the CONTRACTOR shall give reasonable notice to owners or abutters before interfering with the said crossings.

When the existing access to property is cut off by the CONTRACTOR, the CONTRACTOR shall provide proper means of access to said property. The CONTRACTOR shall, at his own expense, provide and properly maintain suitable and safe bridges or other sufficient crossings for the accommodation of travel. He shall take suitable precautions to protect life and property and provide watchmen, lights and fences, as may be necessary at his own expense. The CONTRACTOR shall be liable for all damage occasioned in any way by the act or neglect of himself or his agents, employees or workmen. When the bridges and other temporary expedients are no longer necessary, he shall remove them and restore the private ways, paths, drives or walks to their original condition or to a better condition if required by the PROJECT MANAGER.

**45. No Damages for Delays**

The CITY may delay the beginning of the work or any part thereof if possession of the land, upon which the same is to be performed shall not have been obtained, or if for any other reason it becomes necessary to do so.

The CONTRACTOR shall have no claim for damages on account of such delay, but shall be entitled to so much additional time wherein to perform and complete this contract on his part as the CITY shall certify in writing to be just.

Whenever any part of the work covered by this agreement is done in part by or connects with the work of other contractors, the CONTRACTOR agrees to perform his work so as to accommodate the work of the other contractors, and to cooperate with such contractors in mutual agreements as to all such work, and no contractor shall

have any claim against the CITY growing out of negligence or delay of any other contractor or contractors; but each contractor shall be liable to every other contractor for any such delay or negligence.

**46. Working Hours**

The contractor and all subcontractors shall be limited to the working hours of 7 a.m. to 7 p.m., Monday through Friday unless prior written approval from the PROJECT MANAGER is obtained.

**47. Noise Controls**

The CONTRACTOR shall comply with applicable federal noise regulations and shall include environmental noise control devices in proper working condition.

**SECTION 3 - SPECIAL CONDITIONS**

**1. Project Site**

The Project Sites are 143 Hampshire Street, 325 Turner Street, 61 Webster Street, 6 Second Street, and 9 Broad Street.

**2. Scope of Work**

It is the intent and purpose of the Contract Documents to delineate the location, elevation, and quantities of various improvements, and to describe fully the desired workmanship and materials of said improvements.

- a. The work includes but is not limited to demolition of 5 buildings and removal of debris, filling and grading, and loaming and seeding.
- b. Parking lot improvements are limited to 143 Hampshire Street. This portion of the project is subject to payment of laborer's wages based on the wage decision on page 13.

**3. Time for Completion and Scheduling**

The CONTRACTOR shall start the Work five (5) days after receiving the Notice to Proceed.

Removal of the building at 6 Second Street shall be complete by October 19, 2013 and the remaining buildings by December 31, 2013. The sites should be stabilized for the winter months. Loam and seed and parking lot improvements will be complete by May 31, 2014.

**4. Liquidated Damages**

The CONTRACTOR shall pay to the CITY liquidated damages in the amount of \$500.00 for each calendar day (Sundays and legal holidays excluded) of delay which sum is agreed upon as a penalty per calendar day for each day after the substantial and final completion dates, October 19<sup>th</sup> for demolition of Second Street buildings, December 31 for demolition of the other 4 buildings, and May 31 for completion of all other improvements, that the work is not complete.

**5. Preconstruction Conference**

A preconstruction conference will be held, within five (5) calendar days after the awarding of the Contract. At that time the CONTRACTOR will be required to submit a Schedule of Work indicating the order in which the CONTRACTOR proposes to carry out the work, and the date he will start and complete work on the various items.

Subsequent revisions in the CONTRACTOR's Schedule of Work on the project shall be set forth in a letter of notification to the PROJECT MANAGER.

**6 Testing**

The CONTRACTOR shall supply the CITY, prior to construction, with soil sample(s) and a gradation report(s) on all soil and stone material(s) to be used within the project. Further gradation analysis may be required as deemed necessary by the PROJECT MANAGER. All cost associated with gradation testing shall be borne by the CONTRACTOR.

Any reference in the Technical and Supplemental Specifications regarding testing that shall be done by the owner at the owners expense shall be deleted. It shall be the contractor's responsibility to bear all expenses for any testing when testing is deemed necessary by the PROJECT MANAGER.

The CONTRACTOR will be required to submit asphalt/flowable fill mix designs for approval by the PROJECT MANAGER prior to the use of either product.

**7.     *Compaction***

Any reference in the Technical and Supplemental Specifications regarding compaction testing that shall be done by the owner at the owners expense shall be deleted. It shall be the CONTRACTOR's responsibility to bear all expenses associated with compaction testing and related soil analysis when compaction testing is deemed necessary by the PROJECT MANAGER.

**SECTION 4 - DRAWING SCHEDULE**

<b>SHEET</b>	<b>DESCRIPTION</b>	<b>LOCATION</b>
1	Existing & Proposed	325 Turner Street
2	Existing & Proposed	61 Webster Street
3	Existing & Proposed	6 Second Street
4	Existing & Proposed	9 Broad Street
5	Existing & Proposed	143 Hampshire Street
6	Parking Lot Improvements	143 Hampshire Street

Drawings can be found in Appendix A.

---

**SECTION 5 - STANDARD SPECIFICATIONS**

**1. *Scope***

The work covered by this section includes the furnishing of all labor, equipment, materials, incidentals and the performing of all operations in connection with the work encompassed by these contract documents. All work shall be subject to the terms and conditions of the contract documents.

**2. *Standard Specifications***

The City of Auburn, Maine has adopted for this project, the "State of Maine, Department of Transportation, Standard Specifications Revision of December, 2002", and the Supplemental Specifications including all current additions or modifications thereof.

Sections 1 through 3 included herein shall supplement these specifications. In the case of conflict Sections 1 through 3, addenda and plans shall take precedence and shall govern.

Wherever in these Specifications and in this Contract the term "Department," "the Department of Transportation," "MDOT," or any reference to the "State of Maine, Department of Transportation" or its "PROJECT MANAGERS" is mentioned, the intent and meaning shall be interpreted to refer to the CITY OF AUBURN, Maine, or their authorized representatives.

**3. *Supplemental Specifications***

The Supplemental Specifications contained in Section 6 shall amend the Standard Specifications.

**SECTION 6 - SUPPLEMENTAL SPECIFICATIONS**

**1. Loam**

**A. Description**

1. This work shall consist of loaming and seeding areas as shown on the plans or as required.
2. Loam and its applications shall conform to the requirements of Section 615 of the Standard Specifications. Loam shall have a finished depth of four (4") inches and shall be screened through a one (1") inch square mesh screen.
3. Seeding shall be Method Number 1 and shall conform to the requirements of Section 618 of the Standard Specifications. The Contractor shall be required to continually seed area of loam and seed until a satisfactory growth of grass is established.
4. If so required, all areas to be loamed and seeded shall be mulched with an approved wood cellulose fiber compatible with recommended hydro-seeding practices. This mulch shall be applied simultaneously with the seed and shall be of sufficient quantity to protect the seed and hold moisture in to insure a satisfactory growth of grass.
5. The specifications for the wood cellulose fiber proposed to be used shall be presented to the PROJECT MANAGER for acceptance at least ten (10) days (working days) prior to the application thereof.
6. The Contractor shall also be responsible for mowing any and all areas loamed and seeded. The mowings will be required if deemed necessary to insure and maintain a satisfactory growth of grass and shall not exceed two mowings.

**B. Materials**

1. First paragraph of this subsection will be modified as follows: Delete "per cubic yard" and replace with "per square yard."
2. Add a paragraph to read as follows: After a sample of loam has been submitted to the PROJECT MANAGER, he may require that a sample be submitted to a testing agency to determine its organic content, characteristics, and potential use as loam suited to the site.

**2. Demolition**

**A. Submittals**

Prior to commencement of any demolition or site restoration, submit to the Inspector for review, a schedule for demolition and the proposed methods to insure against possible damage to existing areas adjacent to where demolition operations will occur. This should include a full description and plan for securing the site, safety devices and measures to be taken and time table for implementation.

**B. Protection**

1. All rules and regulations governing the respective utilities shall be observed in executing all work under this section. All work shall be executed in such a manner as to prevent any damage to existing buildings, streets, curbs, paving, service utility lines, structures, and adjoining property. Monuments and bench marks shall be carefully maintained and, if disturbed or destroyed, replaced as directed.
2. The Contractor shall assume full responsibility for damages caused by his or Her Subcontractor's equipment and personnel to the existing buildings and grounds as well as adjoining private property.
3. The work of this Section shall be performed in such a manner as to cause no interference with access to abutting property owners, the general public, or other Contractors.
4. Any site with disturbed soil shall be protected from erosion during periods of inactivity.

**C. Preparation**

1. Notify all corporations, companies, individuals or local authorities owning, or having jurisdiction over utilities running to, through or across areas disturbed by demotion operations.
2. Notify all corporations, companies, individuals or local authorities owning, or having jurisdiction over utilities that need to be disconnected from the buildings to be demolished to determine location and method of disconnection. All disconnections shall be done in accordance with the governing utility company's regulations.
3. Notify all abutters prior to commencement of demolition operations.

**D. Materials**

Materials used shall be suitable for their end use and shall meet or exceed current industry standards for quality. New materials shall be compatible with existing materials.

**E. Workmanship**

Use equipment that is adequately sized, and suited to the task to properly complete the work. All workman should be adequately skilled to perform the

required tasks to complete the work.

F. Execution

1. This work shall consist of the removal wholly and satisfactorily with off-site disposal of the structures, as identified on the plans, at 143 Hampshire Street, 325 Turner Street, 6 Second Street, 61 Webster Street, and 9 Broad Street, grading, fill, and loam and seed.
2. Removal and demolition of debris will include any material, as identified on the plans, within the property boundary lines, as well as within the structure itself.
3. All materials shall become the property of the Contractor and shall be disposed off site in accordance with all applicable Federal, State, and local regulations.

G. Foundation Removal

1. Any foundation shall be removed to at least two feet below finish grade. Holes shall be made totaling 1% to the floor slab of the remaining foundation area. These holds should, when possible, be made in the lowest spots within the foundation.
2. Any wooden or metal supports for the structure which are below grade should completely removed and any concrete supports shall be removed to 2' below finish grade.

H. Retaining Wall Removal

Any retaining walls, identified on the plans to be removed, shall be removed to at least 2' below finish grade. If the entire retaining wall is 2' below finish grade then no removal will be required.

I. Disturbance of Vegetation

1. Contractor shall, to the greatest extent feasible, protect the vegetation.
2. It shall be the responsibility of the contractor to remove any of the existing trees, as identified on the plans. The Contractor must exercise care not to damage any abutting retaining walls or other facilities. Removal of the trees shall not commence until a method of removal has been approved by the Inspector.

J. Erosion Control

Erosion control methods shall be placed prior to and during demolition to prevent disturbed soils from leaving the site. All erosion control practices shall be constructed and maintained according to the Maine Erosion & Sediment Control Handbook for Construction: Best Management Practices."

K. Explosives/Burning

The use of explosives, or burning of material or debris on the premises, will not be permitted.

L. Noise Control

1. The contractor shall take reasonable efforts to ensure that noise levels are kept to a minimum. Work hours shall be from 7 a.m. to 7 p.m.

**M. Cleanup**

1. Rake clean the yard and dispose of all small dangerous debris including nails and glass.
2. Sweep clean the adjacent walks, streets and parking areas, and dispose of all debris.

**N. Protecting against Lead Poisoning**

- a. The Contractor will provide the City with copies of any documents evidencing the ultimate disposition of all demolition debris, except for such as has been sold as salvage.
- b. The Contractor shall identify any fill sites to be used prior to contract signing.
- c. Secure the demolition area at all times during the period of demolition by reasonable means acceptable to the Project Manager.
- d. Buildings will be demolished in a safe and orderly way and comply with all State and Federal regulations.
- e. Post warning signs regarding the hazard reduction and demolition activities.
- f. Prior to commencement of salvage or demolition activities, secure the perimeter of the demolition site for site containment and security and to prevent entry.
- g. Erect six foot polyvinyl (or equivalent) covered fencing around the perimeter of the demolition site to prevent access and to contain dust and debris.
- h. Ensure that no individuals are allowed on the work site while work is being conducted except for certified workers, emergency personnel, or anyone approved by the City.
- i. Require all workers to wear NIOSH certified respirators for lead hazard reduction and to wear Tyvek suits to ensure no lead dust is carried off site.
- j. Restrict pedestrian access to the site.
- k. Conduct lead dust sampling on and around the demolition site before, during and after demolition, where deemed appropriate by an independent certified inspector.
- l. Use wetting and misting on all accessible surfaces and components to be removed during demolition. Sufficient water must be applied at the points of demolition to prevent the generation of dust. Streams of water cannot remove significant airborne dust once the dust has escaped the surfaced being demolished. Heavy wetting should be limited while the building is occupied by workers in situations where the water might impair structural integrity.
- m. Contain all fluid from wetting activities or precipitation to prevent runoff from the project.
- n. No demolition will be permitted when the temperature is at or below 32 degrees Fahrenheit to prevent freezing water from creating potential safety hazards as well as reducing the effectiveness of the containment measures.
- o. Ensure that all dumpsters and dump trucks used for the removal and hauling of potentially lead-containing material from the property will be tightly covered and secured with impermeable plastic or other comparable covers
- p. Establish truck routes to final disposal site(s) to minimize impact on residential communities and possible disbursement of lead dust from hauling.
- q. Ensure that all dumpsters and hauling trucks are hosed down at least twice daily to help reduce the spread of any dust or debris.
- r. Clean paved surfaces on the demolition site to remove dust and debris regularly and post intervention.
- s. Clean sidewalks and streets around demolition site to remove dust fall regularly and post intervention.
- t. Unless soil is removed to a depth of 6 inches, all bare soil surfaces must be covered by grass or other appropriate covering approved by the Project Manager.

### 3. . Sitework

A. Description of the Work: The scope of work consists of all labor, equipment, materials, services and incidentals required for all clearing, grubbing, site grading, gravel parking lot construction, pavement, loaming and seeding and any other earthwork as specified herein and on the plans.

#### B. Material

1. Common Borrow Backfill Material - This material shall be described as follows: It shall be earth that is capable of being compacted, and shall be free of all organic substances, frozen material, rubbish, peat and other unsuitable materials and shall contain no rocks larger than 2' diameter. The material used in the top foot of fill shall also be common borrow but no rocks in excess of 6" will be permitted. Foundation material may be utilized for common borrow and the mixed product meets the requirements for common borrow.
2. Topsoil Material - This material shall be called Loam and is described as follows: It shall be a loose (friable), fertile solid of loamy character containing organic matter capable of sustaining a healthy plant life and shall be free of subsoils, foreign matter, rocks in excess of 1" in diameter, roots, weeds, or clods. This material may be salvaged from site or be imported as needed.
3. All other materials used shall meet or exceed MDOT Standard Specifications for Highways And Bridges, Revised April 1995. Any material not covered by this publication shall be approved by the inspector prior to placement, shall be suitable for their end use and shall meet or exceed current industry standards for quality. Materials used shall be compatible with existing materials.

#### C. Workmanship:

1. Use equipment that is adequately sized, and suited to the task to properly complete the work.
2. All workmen should be adequately skilled to perform the required tasks to complete the work.

#### D. Clearing & Grubbing

The contractors shall remove all underbrush, trees and stumps that are designated to be removed. The stumps shall be properly disposed of off site.

#### E. Backfilling and Compaction

1. All fill material and its placement may be subject to quality control testing as deemed necessary by the Inspector.
2. Fill should be placed in no more than 2 foot lifts. Compaction equipment and methods utilized should be adequate to compact the lift placed to 93% of the modified AASHTO density and provide a solid fill that will not be prone to settlement. At a minimum the compacted fill should be as stable as the original adjacent soils. Filling and compaction should continue in lifts utilizing the proper fill material specified.
3. Before topsoil placement, rough grading shall be performed. The work shall provide for proper transition to adjacent areas and shall not have an effect on current drainage patterns or adjacent areas.
4. The Inspector must be notified prior to filling. Filling shall not be started until condition have been approved by the Inspector.

4. Parking Lot Improvements/143 Hampshire Street

**SUPPLEMENTAL SPECIFICATIONS  
SECTION 304 – AGGREGATE BASE AND SUBBASE**

304.02 – AGGREGATE

The following shall be added to the end of this section:

Sources of aggregate and preliminary test results shall be submitted ten working days prior to any placement of material on the job. Failure of these preliminary tests will be grounds for rejection of material from that source. Aggregates will be tested on the job and shall meet these specifications as the material is incorporated into the work.

Aggregate base course gravel, regardless of depth, shall be made up of aggregate Type ‘D’ as specified in 703.06. Type ‘E’ will not be acceptable for placement in the subbase. Additionally, the aggregate base shall not contain particles of rock, which will not pass the 4-inch square mesh sieve.

Item	
304.09	Aggregate Base Course- Crushed Type “A”

**SUPPLEMENTAL SPECIFICATIONS  
SECTION 604 - STORM DRAIN MANHOLES, INLETS, AND CATCH BASINS**

604.05 – METHOD OF MEASUREMENT

Catch basins, storm drain manholes, and accessories of the respective types will be measured by the number of units.

**SUPPLEMENTAL SPECIFICATIONS  
SECTION 609 - CURB**

609.02 – MATERIALS

Canadian sourced granite curbing (Caledonia Type), which contains pink quartz, shall not be used on the project. All granite curbing shall be predominately gray in color.

609.09 – METHOD OF MEASUREMENT

Curb, both new and reset, will be measured by the linear foot along the front face of the curb at the elevation of the finished pavement, complete in place and accepted. Curb inlets at catch basins, including doweling, will not be measured for payment but shall be considered included in the cost of the catch basin. Terminal curb will be measured by the unit. Flowable fill shall be used for backfill around the curb (front, back and underneath) to the elevation of the top of asphalt base course grade. Fill behind the curb and under the esplanade to the bottom of the loam elevation will also be considered incidental to the curb item.

**SUPPLEMENTAL SPECIFICATIONS  
SECTION 403 - HOT BITUMINOUS PAVEMENT**

The provisions of Section 403 of the Standard Specifications shall apply with the following additions and modifications.

**403.01 DESCRIPTION**

This work shall include hand placing HMA on new sidewalks, chinking granite curbing and other miscellaneous hand work as indicated in the Scope of Work. Materials and their use shall conform to the requirements of all related and applicable sections of this contract. HMA shall be placed and compacted with a minimum of two lifts where the total thickness of pavement to be placed exceeds 2". The revised special provision Section 108 using the New England Selling Price shall apply to this contract. Tack coat shall be considered incidental to this item.

**SECTION 7 - BID SUBMISSION FORM**

The undersigned individual/firm/business guarantees to perform the necessary work as identified in the above information. 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 \_\_\_\_\_

Legal Name

Address \_\_\_\_\_

Telephone No. \_\_\_\_\_ Fax No. \_\_\_\_\_

Duns # \_\_\_\_\_ Email Address: \_\_\_\_\_

Federal Tax ID Number: \_\_\_\_\_

\_\_\_\_\_, 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 \_\_\_\_\_

***CERTIFICATIONS (for Corporations)***

I, \_\_\_\_\_, certify that I am the \_\_\_\_\_, Secretary of the Corporation named as Principal in the within bond; that \_\_\_\_\_, who signed the said bond on behalf of the Principal was then \_\_\_\_\_ of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond was duly signed, sealed, and attested to for and in behalf of said corporation by authority of this governing body.

\_\_\_\_\_ (Corporate Seal)

Title \_\_\_\_\_

**BID FORM**

1. The undersigned further agrees that in the employment of labor and purchase of equipment or supplies, preference shall be given, all other things being equal, to the citizens and business of Auburn and of the State of Maine, in that order.

2. Accompanying this proposal is (are) the Non-Collusion Affidavit (s) of Prime Bidder and Subcontractor and a certified check or bid bond in the amount of five percent (5%) of the bid which shall become the property of the City of Auburn, Maine, if, in case this proposal shall be accepted by the City of Auburn, Maine, and the undersigned shall fail to execute a contract with, and give a bond to, the said City of Auburn, Maine, in accordance with the requirements of the documents. Otherwise, the bid security shall be returned to the undersigned, as provided under Section 1, "Instruction to Bidders", Paragraph 8.

3. The undersigned hereby designates as its office to which such notice of acceptance may be mailed, telegraphed, or delivered: \_\_\_\_\_

4. Listing of Subcontractors: Company Name and Address

\_\_\_\_\_  
 \_\_\_\_\_

The undersigned agrees that each of the above named subcontractor represents a bonafide subproposal based on the plans and specifications and will be used for the work indicated.

5. Addenda: This Proposal includes the following Addenda to the Drawings and/or Specifications: Bidders shall acknowledge receipt of all Addenda

Addendum No. \_\_\_\_\_, Dated \_\_\_\_\_ Addendum No. \_\_\_\_\_, Dated \_\_\_\_\_  
 Addendum No. \_\_\_\_\_, Dated \_\_\_\_\_ Addendum No. \_\_\_\_\_, Dated \_\_\_\_\_  
 Addendum No. \_\_\_\_\_, Dated \_\_\_\_\_ Addendum No. \_\_\_\_\_, Dated \_\_\_\_\_

6. This Proposal includes the cost of 100% Performance Bond and Labor and Materials Payment Bond.

7. The following separate prices are provided for portions of the work contained in the base bid (not in addition to it).

8. Base Bid: Having carefully examined the site and examined the conditions affecting the Work and the Contract Documents for the Project as stated on the cover of these Contract Documents, the undersigned proposes and agrees to furnish all labor, equipment, and materials, and appliances, and to perform operations necessary for, and reasonably incidental to the demolition and completion of the work as required by said proposed Contract Documents for the lump sum price as follows:

<b>Demolition</b>	<b>Amount</b>
143 Hampshire Street	\$
325 Turner Street	\$
61 Webster Street	\$
6 Second Street	\$
9 Broad Street	\$
<b>Total Bid</b>	\$

9. Add Alternate #1:

Parking Lot improvements as shown on drawing #6. Furnish all labor, equipment, materials, services and incidentals required by said proposed Contract Documents for that portion of the work in Alternate #1.

<b>Parking Lot Improvements</b>	<b>Amount</b>
Alternate #1	\$

**NON-COLLUSION AFFIDAVIT OF PRIME BIDDER**

CITY OF AUBURN, MAINE \_\_\_\_\_ being first duly sworn deposes and says that:

1. S/he is (owner, partner, officer, or duly authorized agent)\* of \_\_\_\_\_, the bidder that has submitted the attached bid.

He/She is fully informed regarding the preparation, contents, and all pertinent circumstances of the attached bid for the project Demolition of Deteriorated Buildings.

3. Such bid is genuine and is not a collusive or sham bid.

4. Neither the said bidder nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest, including this affiant, has in any way colluded, conspired, connived, or agreed, directly or indirectly with any other bidder, firm, or person to submit a collusive or sham bid or to refrain from bidding, nor has in any manner directly or indirectly, sought by agreement or collusion or communication or conference with any other bidder, firm or person to fix the price or prices in the attached bid or of any other bidder or to fix overhead, profit, or any cost element of the bid price or any other bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the City of Auburn or any person interested in the bid.

5. The price or prices quoted in the attached bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the bidder, or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

6. No person, acting for or employed by the City of Auburn, Maine, or any elected or appointed official thereof is directly or indirectly interested in the bid or in the provision of materials, goods or labor to which the bid relates or in any portion of the proceeds therefrom.

(\* Strike out terms not applicable)

Signed: \_\_\_\_\_

Title: \_\_\_\_\_

Subscribed and sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Title  
My Commission expires: \_\_\_\_\_

State of \_\_\_\_\_ )

)SS

County of \_\_\_\_\_ )

**SECTION 3 AFFIRMATIVE ACTION PLAN**

**(Prime Contractor)**

**[For Prime Contracts that exceed \$100,000]**

\_\_\_\_\_, Contractor, agrees to implement the following specific affirmative action steps directed at increasing the utilization of Section 3 Residents' and Section 3 Business Concerns within the City of Auburn.

- A. To obtain the exact boundaries of the Section 3 Covered Project Area and where advantageous, seek the assistance of local officials in preparing and implementing the affirmative action plan.
- B. To attempt to recruit from within the City of Auburn the necessary individuals to fill employment opportunities generated by Section 3 covered assistance through: local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within or serving the project and providing preference for these opportunities in the following order:
  - (i) Section 3 Residents residing in the service area or neighborhood in which the Section 3 covered project is located;
  - (ii) Participants in HLJD Youthbuild Programs, and
  - (iii) Other Section 3 Residents.
- C. To maintain a list of all lower income area residents who have applied either on their own or on referral from any source, and to employ such persons, if otherwise eligible and a vacancy exists.
- D. To insert this Section 3 Affirmative Action Plan in all bid documents for contracts over \$100,000, and to require all bidders on subcontracts over \$100,000 to submit a Section 3 Affirmative Action Plan, including utilization goals and the specific steps planned to accomplish these goals.
- E. To insure that subcontracts over \$100,000 which are typically let on a negotiated rather than bid basis in areas other than Section 3 covered project areas, are also let on a negotiated basis, whenever feasible, when let in a Section 3 covered project area.
- F. To formally contact unions, subcontractors and trade associations to secure their cooperation for this program.
- G. To notify Section 3 residents and Section 3 business concerns about economic opportunities generated by Section 3 covered assistance and to award Section 3 covered contracts, to the greatest extent feasible, to Section 3 business concerns in the following order of preference:
  - (i) Section 3 business concerns that provide economic opportunities for Section 3 residents in the service area or neighborhood in which the Section 3 covered project is located;
  - (ii) Applicants selected to carry out HUD Youthbuild projects;
  - (iii) Other Section 3 business concerns.
- H. To notify potential contractors about Section 3 requirements of this part, and incorporating the Section 3 clause in all solicitations and contracts.
- I. To facilitate the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns undertaking activities to reach the numerical goal established by HLJD.



DISADVANTAGED BUSINESS ENTERPRISES UTILIZATION WORKSHEET

Please use this form to identify Disadvantaged Business Enterprises that will be utilized in this project. For a complete list of certified firms and company designation (WBE/DBE) go to http://www.maine.gov/mdot Under Affirmative Action Program Requirements

CONTRACTOR \_\_\_\_\_

ADDRESS \_\_\_\_\_

CONTACT PERSON \_\_\_\_\_ PROJECT # \_\_\_\_\_

List business concerns where contracts may be awarded or purchases may be made.

1. DBE COMPANY NAME \_\_\_\_\_

CONTACT PERSON \_\_\_\_\_ TELEPHONE # \_\_\_\_\_

AMOUNT OF SUBCONTRACT \_\_\_\_\_

SCOPE OF WORK \_\_\_\_\_

2. DBE COMPANY NAME \_\_\_\_\_

CONTACT PERSON \_\_\_\_\_ TELEPHONE # \_\_\_\_\_

AMOUNT OF SUBCONTRACT \_\_\_\_\_

SCOPE OF WORK \_\_\_\_\_

3. DBE COMPANY NAME \_\_\_\_\_

CONTACT PERSON \_\_\_\_\_ TELEPHONE # \_\_\_\_\_

AMOUNT OF SUBCONTRACT \_\_\_\_\_

SCOPE OF WORK \_\_\_\_\_

4. DBE COMPANY NAME \_\_\_\_\_

CONTACT PERSON \_\_\_\_\_ TELEPHONE # \_\_\_\_\_

AMOUNT OF SUBCONTRACT \_\_\_\_\_

SCOPE OF WORK \_\_\_\_\_

\_\_\_\_\_  
Name and Title of Authorized Representative (print or type)

\_\_\_\_\_  
Signature of Authorized Representative Date

**SECTION 8 - 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: **Demolition of Deteriorated Buildings, Bid # 2014-009** 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.

**CONTRACT PRICE:**

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

**RECORDS:**

3. The CITY shall be afforded access to inspect the work and Representatives of the City of Auburn may inspect the CONTRACTOR'S books, records, correspondence, construction drawings, receipts, vouchers, payrolls, and agreements with subcontractors relating to this Contract and the CONTRACTOR shall preserve all such records for a period of two (2) years after the final payment hereunder.

**FEDERAL REGULATIONS:**

4. The CONTRACTOR agrees to abide by Federal Regulations including:

Equal Employment Opportunity - The provisions of Executive Order 11246 concerning equal employment opportunity.

Civil Rights - Title VIII of the Civil Rights Act of 1968 barring discrimination upon the basis of race, color, creed, sex, or national origin.

Federal Labor Standards - Established minimum wage rates (Davis-Bacon Act) for the area for commercial rehabilitation for construction contract in excess of \$2,000.

Copeland Act (Anti-Kickback) - Employees be paid unconditionally and not less often than once a week and without subsequent deduction or rebate on any account except "permissible" salary deductions the full amounts due at the time of payments computed

at wage rates not less than those contained in the wage determination issued by the Secretary of Labor.

Contract Work Hours and Safety Standards Act - As established in Section 103 and 107 - in excess of eight hours in a calendar day or in excess of forty hours in such work week - compensation at a rate of one and one-half times the basic rate.

Compliance with Laws and Regulations - The Contractor shall comply with all Federal and State laws and regulations including current OSHA requirements throughout the Contract period.

**RESOLUTION OF DISPUTES:**

5. If a dispute arises concerning the provisions of this contract or the performance by the parties, then the parties agree to settle this dispute by jointly paying for one of the following (check only one):
- a. Binding arbitration as regulated by the Maine Uniform Arbitration Act, with the parties agreeing to accept as final the arbitrator's decision (\_\_\_\_);
  - b. Non-binding arbitration, with the parties free to not accept the arbitrator's decision and to seek satisfaction through other means, including a lawsuit (\_\_\_\_);
  - c. (3) Mediation, with the parties agreeing to enter into good faith negotiations through a neutral mediator in order to attempt to resolve their differences (\_\_\_\_).

**INSURANCES:**

6. 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.

The Certificate of Insurance and the policies of insurance shall include a sixty (60) day notice to the CITY of cancellation, non-renewal or material change in coverage or form.

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**

7. 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**

8. 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.

**LIENS:**

9. 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:**

10. 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.

**GOVERNING LAWS:**

11. The Contract shall be governed by the laws of the State of Maine.

**SUCCESSORS AND ASSIGNS:**

12. The CITY and CONTRACTOR respectively bind themselves, their partners, successors, assigns and legal representatives to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

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

\_\_\_\_\_  
Witness

By: \_\_\_\_\_

Company: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
Tax ID#: \_\_\_\_\_

**CITY OF AUBURN**

\_\_\_\_\_  
Witness

By: \_\_\_\_\_

Title: City Manager  
60 Court Street  
Auburn, ME 04210

**APPENDIX A - DRAWINGS**