

Subcontractor and/or its Surety in the event of a failure of the bonded item to perform as specified.

SECTION 105 - GENERAL SCOPE OF WORK

Scope of Section This Section contains Work requirements that are generally within the scope of all Projects. These include provisions related to health and safety, traffic control, maintenance of Work, hauling of Materials and Equipment, construction surveying, Working Drawings, the environment, historic and archeological considerations, equal opportunity and civil rights, and other federal requirements. This Section is not all-inclusive. The scope of these items is often described more specifically and fully elsewhere in the Contract and in other specific items that appear elsewhere.

This Contract is federally funded, unless expressly provided otherwise in the Bid Documents. As a federally funded Contract, it includes all federal requirements set forth in Appendix A.

105.1 Intent of the Contract The intent of the Contract is to provide for the construction and Completion of a functionally complete Project in Conformity with the Contract. The Contractor shall furnish all Work to achieve this intent including all Work that may be reasonably inferred to be required from the Contract or from prevailing industry or trade custom, whether or not specifically called for.

105.2 Health and Safety

105.2.1 Contractor's Safety Program Beginning February 1, 2003 and thereafter, a copy of the Contractor's Safety Plan must be on file with the Contracts Section of the Department as a condition of Prequalification to be awarded a Construction Contract. A copy of the Safety Plan will be provided to the Department's Contracts Section in an electronic media format prior to Contract award. The Contractor shall designate which portions such submissions it considers confidential business information. If such program is revised during the Contract Time, the Contractor shall provide the updated program to the Department. The Contractor shall comply with its safety program and this Section 105.2 - Health and Safety. The Contractor shall be responsible for all claims or damages arising from failure to so comply and indemnifies and holds harmless the Department from all claims and damages arising from such non-compliance.

105.2.2 Project Specific Emergency Planning Unless the Contract provides for closure of an existing facility, the Contractor shall ensure that essential police, fire, rescue, and ambulance services have reasonable and timely access to and through the Project Limits. The Contractor shall contact all emergency service providers in the area, discuss potential impacts on emergency operations (including water supply for fire suppression), and minimize any negative impacts. Fire hydrants within or adjacent to the Project Limits shall be kept accessible to fire apparatus at all times, unless the fire Department agrees otherwise in writing. For a related provision, see Section 104.3.12 - Forest Protection and Laws.

If the nature of the Work involves deep trenching, confined spaces, toxic chemicals, or any other unusual hazards that could require specialized rescue, the Contractor shall inform and cooperate with the appropriate fire Department, rescue service, or EMS.

The Contractor shall provide the Resident with and post and maintain in conspicuous places within the Project Limits, a list containing (A) emergency response numbers with the names and telephone numbers (including cellular phone and pager numbers, if applicable) of local ambulance, police, fire, rescue, and hospitals, (B) emergency response numbers for hazardous Materials spills as required by Section 656.3.4(f) - Spill Prevention, (C) the Contractor's personnel with phone numbers who may be reached in case of emergency, and (D) the Department's personnel with phone numbers who may be reached in case of emergency.

105.2.3 Joint Duty Regarding Safety If the Contractor or the Department actually observes any person(s) performing Work in a manner that (A) the observing party actually knows is not in compliance with the MUTCD, the Contractor's TCP, an applicable OSHA requirement, or commonly accepted safety practices, and (B) creates a clear and immediate risk of significant bodily injury to any person, then the observing party shall immediately notify such person(s) Working in an unsafe manner and the other party to the Contract. The Contractor and the Department agree to cooperate in eliminating all such unsafe conditions. For related provisions, see Sections 104.3.4 - Workers and Equipment, 104.4.6 - Utility Coordination, 105.3 - Traffic Control and Management, and 105.4 - Maintenance of Work.

105.2.4 Compliance with Health and Safety Laws The Contractor shall comply with all applicable federal, State, and local laws governing safety, health, and sanitation

including all applicable laws and regulations of OSHA.

105.2.5 Safety and Convenience of the Public The Contractor shall provide all safeguards, safety devices, and protective Equipment and take all other action that is necessary to continuously and effectively protect the safety and health of all persons from hazards related to the Work. Such safeguards include providing a sufficient number of security guards.

At all times the Contractor shall perform the Work to minimize obstructions to pedestrian, vehicular, railroad, and marine traffic. All temporary and permanent pedestrian access ways must comply with the Americans with Disabilities Act (ADA). Footways, gutters, sewers, inlets, and portions of the Highway adjacent to the Work must not be obstructed unless allowed by the Contract.

If the Contractor receives notice from the Department that the Contractor has failed to comply with the provisions of this Section 105.2 - Health and Safety, the Contractor shall remedy such non-compliance immediately. If the Contractor fails to do so, the Department may remedy such non-compliance by any means and deduct the cost of the remedy from amounts otherwise due the Contractor.

For related provisions, see Sections 105.2.3 - Joint Duty Regarding Safety, 105.3 - Traffic Control and Management, and 105.4 - Maintenance of Work.

105.2.6 Use of Explosives

A. Standards When using explosives, the Contractor shall use the utmost care to protect life and property. Explosives must be transported, stored, and used in compliance with this Contract, in compliance with all applicable federal, State, and local laws, rules and regulations, and in accordance with all applicable provisions of the latest version of the Blasters' Handbook published by the International Society of Explosives Engineers (ISEE) of Cleveland, Ohio. In any case, the Contractor shall comply with the recommendations contained in Chapter 13 - "Blasting Safety" of said Blasters' Handbook, unless a qualified person conducting the blasting operations for the Contractor certifies to the Department in writing that certain provisions of said Chapter 13 are not necessary to protect life and property.

B. Blasting Zone - Signage and Flaggers The Contractor shall define a blasting

zone. When using electric detonators, the blasting zone must allow safe distances from radio transmitters based upon their power output frequency. The blasting zone must include all areas within which people could be injured or property could be damaged by the blast. The Contractor shall mark Highways conspicuously at the perimeter of the blasting zone with signs in accordance with MUTCD. If applicable, the Contractor shall place signage along railroads and appropriate notice shall be provided to marine traffic. The Contractor shall provide a sufficient number of flaggers stationed outside the blasting zone to stop all approaching traffic during blasting operations.

C. Other Requirements The Contractor shall provide to the Department (1) a pre-blast survey, (2) a blasting plan and procedure including shot-size composition, frequency, and special problems, (3) seismography readings prior to and during the blast, (4) blasting logs, and (5) general liability insurance coverage covering use of explosives in accordance with Section 110.3.2 - Commercial General Liability. Immediately after the blast, the Contractor shall remove any debris that is obstructing Highway, pedestrian, railroad, or marine traffic flow. For related provisions, see Sections 104.4.6(C)(8) - Blasting Notice, 104.3.11 - Responsibility for Property of Others, and 110.1 - Indemnification.

105.3 Traffic Control and Management The Contractor shall provide continuous and effective traffic control in compliance with Section 652 - Maintenance of Traffic.

105.3.1 Notices Required The Contractor shall plan paving operations so that the Resident will have sufficient advance notification to provide the necessary inspection and testing. Sufficient notification will be considered 48 hours. In the event that paving is suspended, the 48-hour notification shall be required again before restarting the paving operations unless otherwise agreed by the Resident. A verbal warning will be given before starting the offense process for paving notification.

The Contractor shall plan granular material operations so that the Resident will have sufficient advance notification to provide a proctor for the material to be placed. Sufficient notification will be considered 7 days. Changes in source will also require this notification.

Failure to provide the above notifications will result in the following actions:

First offense - written warning

Second and subsequent - liquidated damages will be charged for one calendar day

105.4 Maintenance of Work

105.4.1 Maintenance During Construction The Contractor shall maintain the Project and all related Work in a safe and satisfactory condition until Final Acceptance. Such maintenance requires continuous and effective Work conducted daily.

Trenches Where existing pavement carries traffic and is removed, the pavement shall be replaced daily with a temporary pavement consisting of a minimum of three inches of acceptable hot or cold bituminous mixture. Cold bituminous mixture shall contain aggregates, asphalt cutbacks, liquefiers and wetting agents. No separate payment will be made for furnishing, placing, maintaining, and removing temporary pavement, and all cost of such work will be considered incidental to the contract.

Before placing any permanent pavement over backfilled trenches, the edge of the adjoining existing pavement shall be cut even and vertical, and coated with tack coat to form a tight joint between the new and the existing pavements. No separate payment will be made for cutting and tack coating the joint.

If the Contractor fails to meet the conditions of Section 105.4.1, the Department will notify the Contractor of such failure. The Contractor shall remedy such failure within 4 hours after receiving such notice. If the Contractor fails to do so, the Department may remedy the situation with its own or Contracted forces without liability to the Department and all costs will be deducted from amounts otherwise due the Contractor. When the Contract involves placing Material on, or use of previously constructed subgrade, base course, pavement, or structure, the Contractor shall maintain such previously constructed Work in a safe and satisfactory condition until Final Acceptance.

Except as expressly provided otherwise in the Contract, the cost of complying with this Section 105.4.1 is Incidental to the Contract.

105.4.2 Use of Granular Materials The Department may authorize and pay for granular Materials that are capable of supporting traffic and necessary to maintain the specified traffic Lane widths upon the following conditions.

A. The Contractor must prepare the area where the granular Materials are to be used by eliminating objectionable Material and providing adequate temporary Drainage before the granular Material is placed.

B. Quantities of granular Materials will be determined by the most appropriate method of measurement that applies at the time the Material is placed and that is in accordance with the Specifications for the particular type of granular Material authorized for use. For a related provision, see Section 108.1 - Measurement of Quantities for Payment.

C. Payment for granular Material will be made at the Unit Price for the Material authorized for use.

D. Payment as Common Excavation will be made when Material for maintenance of traffic is removed.

105.4.3 Maintenance During Winter Construction Except as provided in the following paragraph, when the Contractor performs Work during winter weather conditions, the Contractor shall plow snow from the portions of a Project that carry vehicular or pedestrian traffic, including all Bridges and Sidewalks of Bridges, so as to allow the free and safe flow of such traffic. The State or local governmental agency that would otherwise be responsible for winter maintenance will sand and salt such portions of a Project.

On such portions of a Project that (A) have been untouched or left by the Contractor in a suitable condition to carry traffic as determined by the Department and (B) are unaffected by the construction operations, the State or local governmental agency responsible for winter maintenance will plow, sand, and salt.

105.4.4 Maintenance During Suspension of Work

A. Work Responsibilities Prior to suspension, the Contractor must make the Project suitable for the free and safe flow of traffic as determined by the Department including covering or removal of signs. To provide space for snow removal, all areas to be used by traffic must be clear for the entire usable Roadway including Shoulders, or curb-to-curb including Sidewalks.

During an approved suspension, the Department will maintain the temporary Roads

and Project sections by plowing snow, controlling ice, and patching or retreating the surface. During suspension, the Contractor must (1) take precautions necessary to prevent damage to the Work and to allow the Department to provide such maintenance (such precautions include providing Drainage and erecting any necessary Structures, signs, or other facilities); (2) maintain all temporary Structures and traffic control devices; and (3) continuously maintain, in an acceptable growing condition, all living plant Material, including newly established seedings and soddings furnished under the Contract and take precautions to protect vegetative growth from damage.

After suspension, the Contractor must clean up all evidence of the snow and ice control at its expense, including removing excess sand and debris from the Roadway and replacing all base or subbase Material that was lost as a result of maintenance activity.

If a Work suspension is not approved, the Contractor will remain responsible for maintaining the Project, including plowing snow, controlling ice, and patching or retreating the surface.

B. Cost Responsibility All costs related to suspending and resuming Work related to approved suspensions will be analyzed in accordance with Section 109.5 - Adjustments for Delay.

For related provisions, see Sections 104.2.6 - Right to Suspend Work and 107.5 - Suspension of Work.

105.4.5 Special Detours When the Contract contains a Pay Item for "Special Detours," the payment of such item shall cover all costs for constructing, repairing, maintaining, and removing the detour or detours, including all temporary Bridges and accessory features and obliteration of the detour Road. The Department will furnish right-of-Way for temporary detours or Bridges or both unless indicated otherwise on the Plans or Stated in the Special Provisions.

105.5 Hauling of Materials and Equipment

105.5.1 General Requirements Except as provided otherwise and limited in this Contract, the Contractor may use any public Road or Bridge for the hauling of Materials and Equipment in legally registered vehicles that are carrying legal loads and operating

otherwise in accordance with all applicable State or federal laws. If the Contractor violates such laws or the terms of this Contract relating to hauling, the Contractor shall, at its expense, repair damage to any Road or Bridge that the Department determines was caused by the Contractor to the satisfaction of the governmental entity that maintains the Road or Bridge.

The Contractor must abate any dust nuisances caused by such hauling. For a related provision, see Section 637 - Dust Control and Section 656 - Temporary Soil Erosion and Water Pollution Control.

105.5.2 Bond for Use of Municipal Roads If the Contractor wants to use Roads maintained by a municipality for hauling, the municipality may require the Contractor to purchase a bond for each kilometer of traveled length. The face value for such bond shall not exceed \$10,000 per kilometer [\$16,000/mile]. The cost of said bond shall be Incidental to the Contract.

105.5.3 Posted Roads or Bridges The Contractor must comply with all restrictions set forth pursuant to 29-A MRSA §2395, including springtime posting of load restrictions. An overlimit movement permit pursuant to 29-A MRSA §2382 will not relieve the Contractor of its obligation to repair damage to such posted Roads or Bridges. For a related provision, see Section 104.3.2 - Furnishing of Other Property Rights, Licenses, and Permits.

105.5.4 Narrow Roads The Contractor shall not haul on Roads having a bituminous surface width of less than 6 m [20 ft] unless there is no practical alternative.

105.5.5 Overlimit Loads

A. Within Project Limits Within the Project Limits, the Contractor shall not haul over the base courses, surface course, or accepted subgrades with loads that exceed legal limits, except for Equipment used in grading operations including the preparation of the subgrade.

B. Outside Project Limits Outside the Project Limits, the Contractor must comply with 29-A MRSA §2382 - Overlimit Movement Permits before moving vehicles or hauling loads in excess of legal limits. The Contractor is responsible for all damage caused by the movement of loads in excess of legal limits whether under permit or not.

105.6 Construction Surveying

105.6.1 Department Provided Services The Department will provide the Contractor with the description and coordinates of vertical and horizontal control points in the Project area.

105.6.2 Contractor Provided Services The Contractor is responsible for all other survey Work and construction layout necessary or appropriate to complete the Work including reestablishing all points provided by the Department, establishing additional control points, staking out of the Work on the site, running axis lines, layout and maintenance of all other lines, grades, or points, and quality control to assure accuracy. When new Work is to connect with existing Structures, the Contractor shall verify all dimensions before proceeding with the Work. The Contractor shall employ or retain competent Engineering and/or surveying personnel to fulfill these responsibilities.

The Contractor must notify the Department of any errors or inconsistencies regarding the data and layout provided by the Department as provided by Section 104.3.3 - Duty to Notify Department If Ambiguities Discovered.

105.6.3 Quality Assurance The Department may check the Contractor's construction layout and survey Work. The Contractor is responsible to correct any errors discovered by the Department. The cost of correction will be Incidental to the Contract.

105.6.4 Boundary Markers The Contractor shall preserve and protect from damage all monuments or other points that mark the boundaries of the Right-of-Way or abutting parcels that are outside the area that must be disturbed to perform the Work. The Contractor indemnifies and holds harmless the Department from all claims to reestablish the former location of all such monuments or points including claims arising from 14 MRSA § 7554-A. For a related provision, see Section 104.3.11 - Responsibility for Property of Others.

105.7 Working Drawings

105.7.1 General The Contractor shall provide all necessary Working Drawings to the Department for review. The Contractor shall not allow final assembly or fabrication of structural units before the Department completes its review of the applicable Workings

Drawings and comments on them. The Contract price shall include the cost of furnishing and revising all Working Drawings.

The Department's review of and comment on Working Drawings may be limited to basic Contract requirements relating to design compliance and Material type(s). Such review shall not relieve the Contractor of responsibility under the Contract including the overall correctness of Working Drawings including Engineering and mathematical computations, shop fits, and field connections.

105.7.2 Review Times The Contractor's Schedule of Work shall allow the Department the following review and comment times prior to the start of production. For a related provision, see Section 107.4 - Scheduling of Work.

First Submission: 21 Days or 1 day per drawing, whichever is greater.

Second Submission: 10 Days or 1/2 day per drawing, whichever is greater.

Each subsequent submission: 10 Days or 1/2 day per drawing, whichever is greater.

The above review times shall double for submittals that require design computations.

The Department may combine separate submissions of analytically common elements of Work and require the per drawing review times set forth above when it determines that the Contractor has divided Working Drawings into separate submissions for the purpose of avoiding said per drawing review times.

Delay caused by exceeding the time periods listed above will be analyzed in accordance with Section 109.5 - Adjustments for Delay.

105.7.3 Cost of Review The Department will review the first and second submission at no cost to the Contractor. For subsequent submissions, the Department will charge the Contractor a rate of \$75 per person-hour of review. Such costs will be deducted from amounts otherwise due the Contractor.

105.7.4 Submittal Requirements The Contractor shall indicate the order of preference for review and return of Working Drawings and organize all Drawings in the order of their importance.

The Contractor shall submit 3 sets of Drawings to the Department.

All submittals shall use the same system of units as that used in the Department's Plans.

105.7.5 Review Standards and Procedures If the first submission does not meet accepted industry standards for Working Drawings or Engineering design Drawings and Specifications, as determined by the Department, the entire submission will be returned without review and will be recorded as the first submission. When resubmitted, the review time requirements shall be those applicable to a first submission.

One set of reviewed Working Drawings will be marked with comments and returned to the Contractor. The Contractor shall then revise its Working Drawings accordingly. Except as provided otherwise in the Contract, the Contractor shall furnish the Department with 2 reproducible copies of the final Working Drawings before construction of the element(s) depicted in the Working Drawing(s).

105.8 Environmental Requirements

105.8.1 Temporary Soil Erosion and Water Pollution Control The Contractor shall provide continuous and effective soil erosion and water pollution control in compliance with Section 656 - Temporary Soil Erosion and Water Pollution Control.

105.8.2 Permit Requirements

A. Permits Granted To Department Permits are to be included in or incorporated by reference into the Bid Documents. If Permits are not so included and the Contractor is aware the Work will impact a regulated resource such as waterbodies or wetland, the Contractor shall notify the Department before Bidding. For a related provision, see Section 102.5.2 - Bidder's Duty to Notify Department If Ambiguities Discovered.

The Contractor is responsible for complying with all Permit conditions. If the Contractor desires to modify or seek interpretation of any permit granted to the Department, it must coordinate any such requests through the Department.

B. All Other Permits Except as expressly provided otherwise in the Contract, the

Contractor, at its expense, shall procure all other environmental or land use Permits, licenses, or other permissions that are necessary or appropriate to perform the Work. At the time of application, the Contractor shall provide the Department with notice of all applications for such Permits, licenses, or other permissions, and upon request, a copy of all such applications. For a related provision, see Section 104.3.2 - Furnishing of Other Property Rights, Licenses, and Permits.

105.8.3 Wetland and Waterbody Impacts

A. General Prohibition Except as specifically allowed by the Contract, there shall be no permanent or temporary impacts to waterbodies or wetlands identified on the Plans or otherwise known to the Contractor. For a related provision, see Section 656.3.4 - "Water Pollution Control Requirements".

B. Wetlands Outside Project Limits If the Contractor desires to conduct an activity that can disturb the soil in an area that is outside the Project Limits, but is contiguous or in close proximity to such Limits, the area first must be examined and analyzed by a qualified wetlands specialist in order to determine whether wetlands exist, and if so, to delineate them. The Contractor must notify the Department of all such examinations and analyses and the results thereof. Wetlands so delineated must not be impacted unless properly permitted.

Any fill Material generated from this Project shall not be placed, stored, or disposed of in a wetland at an off-site location unless the Contractor provides the Department with written evidence that all Permits necessary for such use have been obtained. Such evidence must be signed by the Owner of such site and otherwise acceptable to the Department.

C. Temporary Structures Temporary Structures that are in place longer than 7 months, temporary Structures that are not pile or similarly supported, or fill that involves temporary or permanent impacts to wetlands are prohibited without proper permitting or modification to existing Permits. Temporary Structures in a waterbody must comply with any Contract provisions regarding Instream Work.

105.8.4 Hazardous Materials If the Contractor encounters any condition that indicates the presence of uncontrolled petroleum or hazardous Materials, the Contractor shall immediately stop Work, notify the Department, treat any such conditions with

extreme caution, and secure the area of potential hazard to minimize health risks to Workers and the public, and to prevent additional releases of contaminants into the environment. Such conditions include the presence of barrels, tanks, unexpected odors, discoloration of soil or water, an oily sheen on soil or water, excessively hot earth, smoke, or any other condition indicating uncontrolled petroleum or hazardous Materials. The Contractor shall continue Work in other areas of the Project unless otherwise directed by the Department. The Contractor shall comply with all federal, State, and local laws concerning the handling, storage, treatment, and disposal of uncontrolled petroleum or hazardous Material. If the condition meets the definition of a Differing Site Condition under Section 109.4.1, the Contractor may be eligible for an Equitable Adjustment.

105.8.5 Dredge Spoils (Dredge Materials) Unless otherwise provided in the Contract, dredge spoils may not be used as fill within the Project Limits. Any use or disposal of dredge spoils must be in accordance with all applicable federal and State laws.

105.8.6 Pit Requirements

A. General Pits that are sources of Material for the Project, including loam fields, shall meet the requirements of this Section 105.8.6. The Contractor must procure an Agreement from the Owners of such pits stating that the Owners will comply with these requirements. If requested by the Department, the Contractor will provide the Department with a copy of such Agreement.

B. Excavation Requirements Surface Material stripped from the pit shall be stored to allow for restoration of the pit. The Contractor shall not excavate from pit faces that are vertical or have an overhang. The Contractor must stop excavating within a 2 horizontal to 1 vertical slope 3 M [10 ft] inside of a property line of a deposit, even though the Material within the pit may have a steeper angle of repose. The exception may be when an additional Agreement is reached with an adjacent property Owner to allow the extension of a pit onto the adjacent property Owner's land. The Contractor must insure that hazards such as steep pit faces and ponds are protected by flattening slopes or by erecting suitable fencing.

C. Rehabilitation If the pit is licensed by MDEP or LURC, the Contractor shall follow the rehabilitation provisions of said license. In the absence of such license requirements, pits, including loam fields, shall be rehabilitated as provided below and

in Section 657 - Rehabilitation of Pits.

1. Newly opened pits and loam fields from which any Material has been removed for the Project shall be completely rehabilitated, as defined below.
2. Areas of extensions of existing pits from which common borrow, granular borrow, gravel borrow, rock borrow, or loam have been removed for the Project shall be completely rehabilitated.
3. Areas of extensions of existing pits that have become depleted, as defined below, by the removal of other gravel, sand, Aggregate items, or loam for the Project shall be completely rehabilitated.
4. Areas of extensions of pits which have not become depleted by the removal of other gravel, sand, Aggregate items, or loam shall be rehabilitated to the extent of grading the slopes to 1 horizontal to 1 vertical or flatter.

For the purposes of this Section 105.8.6, the following definitions apply:

"Completely Rehabilitated" means grading all areas disturbed as a result of the MDOT Project and treating of the ground surface in accordance with Section 657 - Rehabilitation of Pits.

"Depleted" means when the only remaining Material is within 3 M [10 ft] of a property line on a 1 horizontal to a 1 vertical slope or when the character of the Material so radically changes that it can no longer be used as originally anticipated.

105.8.7 Environmental Non-compliance - Remedies and Costs The Contractor shall be in non-compliance if it, or Subcontractors at any tier, fail to comply with the terms of this Contract or, pursuant to Section 104.3.7 - Laws To Be Observed, any applicable environmental or land use law or regulation including Project specific permit conditions.

If the Contractor is in non-compliance, the Department may, at its discretion:

- A. Withhold all Progress Payments, or any portion thereof, during the period the Contractor is in non-compliance;
- B. Remedy such non-compliance using State forces or another

Contractor and deduct all costs incurred by the Department from Progress Payments. Such costs include direct costs, Project Engineering costs, and Contractor costs from amounts otherwise due the Contractor, and/or

C. Suspend the Work for cause and without cost or liability to the Department. Said suspension shall continue until the Contractor has addressed all non-compliance issues as directed by the Department.

The Contractor shall be responsible for any fines and penalties assessed by environmental or land use regulatory agencies due to such non-compliance. Such penalties may be withheld from amounts otherwise due the Contractor. For related provisions, see Sections 108.5 - Right to Withhold Payments and 108.9.3 - Amounts Due the Department.

105.9 Historic and Archeological Considerations Unless expressly provided otherwise by the Contract, the Maine State Historic Preservation Office has determined that the Project will have no effect upon any site of historic or archaeological significance, as identified by the National Historic Preservation Act of 1966 and the Archaeological and Historic Preservation Act of 1974.

If the Contractor discovers any object of potential archaeological, paleontologic, or other historic interest, all Work that could disturb said object shall immediately cease and shall not be resumed until an investigation of the object and related deposits have been completed and the removal of articles of interest has been accomplished. Should such a deposit be discovered, the Contractor shall notify the Department immediately.

The first indication of archaeological deposits may be the burial grounds or campsites of Native Americans that reveal the bones of the dead and the people's implements. The first indications of paleontologic deposits may be the exposure of marine fossils or shells found mainly in clay deposits. Indications of deposits of more recent historic interest may be the exposure of dumps in landfill areas, abandoned campfire sites, and building foundations.

Any Delay of the Contractor's operations resulting from the above will be analyzed in accordance with Section 109.5 - Adjustments for Delay, except that in no event will such Delay be a Compensable Delay.

The Contractor is notified of a Maine statute, 27 MRSA §371, which States that

artifacts, specimens, and material, which are public property by virtue of having been found on, in, or beneath State controlled lands, and places Ownership of the same in the State of Maine.

105.10 Equal Opportunity and Civil Rights

105.10.1 Requirements Applicable to Federally Funded Contracts Unless expressly provided otherwise in the Bid Documents, the provisions contained in Section 2 - Federal Equal Opportunity & Civil Rights Requirements of Appendix A are incorporated into the Bid Documents and Contract.

These provisions include requirements regarding Non-discrimination & Civil Rights - Title VI, Non-discrimination and Affirmative Action - Executive Order 11246, Goals for Employment of Women and Minorities, On-the-Job Training (OJT) Requirements, and Disadvantaged Business Enterprise (DBE) Requirements.

105.10.2 Requirements Applicable to All Contracts Unless expressly provided otherwise in the Bid Documents, the provisions contained in this Section 105.10.2 apply to this Contract.

A. Maine Code of Fair Practices and Affirmative Action The Contractor must comply with the provisions of Maine's Code of Fair Practices and Affirmative Action, 5 M.R.S.A. §781, et seq., and all regulations promulgated thereunder. This Code, at 5 M.R.S.A. §784(2), reads as follows.

"During the performance of this Contract, the Contractor agrees as follows:

1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religious creed, sex, national origin, ancestry, age, physical handicap, or mental handicap. Such action shall include, but not be limited to, the following: Employment, upgrading, demotions, transfers, recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, State that all qualified applicants will receive consideration for employment without regard to race, color, religious creed,

sex, national origin, ancestry, age, physical handicap, or mental handicap.

3) The Contractor will send to each labor union or representative of the Workers with which he has a collective or bargaining Agreement, or other Contract or understanding, whereby he is furnished with labor for the performances of [sic] his Contract, a notice, to be provided by the Contracting Department or agency, advising the said labor union or Workers' representative of the Contractor's commitment under this Section and shall post copies of the notice in conspicuous places available to employees and to applicants for employment.

4) The Contractor will cause the foregoing provisions to be inserted in all Contracts for any Work covered by this Agreement so that such provisions will be binding upon each Subcontractor."

B. Maine Human Rights Act The Contractor must comply with the provisions of Maine's Human Rights Act, 5 M.R.S.A. §4551, et seq., and all regulations promulgated thereunder. This Act provides, among other things, that it is unlawful discrimination for any employer to fail or refuse to hire or otherwise discriminate against any applicant for employment because of race or color, sex, physical or mental disability, religion, age, ancestry or national origin, except when based on a bona fide occupational qualification.

C. EEO Notice to Labor Sources Pursuant to Maine's Code of Fair Practices and Affirmative Action and federal law, all Contractors and Subcontractors engaged in Work on this Project must notify each union and/or the Maine Department of Labor Career Center Job Service Centers from which the Contractor intends to obtain labor, and pledge to provide equal employment opportunities without regard to race, color, religion, sex, national origin, or disability. This notice must consist of the letter shown on this page below. The letter must be written on the Contractor's or Subcontractor's letterhead stationery and sent to the applicable union or agency. A list of Maine Department of Labor Career Center Job Service Centers follows the letterform.

To: _____
 (Union, employment agency or employee's representative)

(Address)

Subject: Equal Employment Opportunities on
State Project No.:

Federal Aid Project No.:

Location:

Description of Work:

For Work related to the construction of the above listed Project to be performed under State Contract No.: _____, I have pledged to provide equal employment opportunities without regard to race, color, religion, sex, national origin, or disability. This pledge applies to all employees and applicants for employment in connection with:

- ÿ Hiring, Placement, Upgrading, Transfer or Demotion
- ÿ Recruitment, Advertising or Solicitation for Employment
- ÿ Treatment During Employment
- ÿ Rates of Pay or Other Forms of Compensation
- ÿ Selection for Training, Including Apprenticeship
- ÿ Layoff or Termination

Inquiries and complaints should be addressed to:

President's Committee on Equal Employment Opportunity
Washington, D.C. 20425

Signed: _____

(Title)

For: _____

(Contractor)

(Address)

(Dated)

**Maine Department of Labor
Career Centers & Job Service Centers**

Augusta Career Center

2 Anthony Ave.
Station #109
Augusta, ME 04333-0109
Toll Free Phone: 1-800-760-1573
Local Phone: 624-5120
Fax No: 624-5133

Dover-Foxcroft Career Center

Dover Plaza, Guilford Road
PO Box 360
Dover-Foxcroft, ME 04426-0360
Toll Free Phone: 1-800-350-4165
Local Phone: 564-8358
Fax No: 564-3263

Bangor Job Service

45 Oak Street
PO Box 402
Bangor, ME 04402-0402
Toll Free Phone: None
Local Phone: 561-4650
Fax No: 561-4666

Ellsworth Career Center

248 State Street
Suite 3A
Ellsworth, ME 04605-1850
Toll Free Phone: 1-800-371-7543
Local Phone: 664-2300
Fax No: 667-4789

Belfast Career Center

9 Field Street
Suite 309
Belfast, ME 04915-6663
Toll Free Phone: 1-877-421-7917
Local Phone: 338-5158
Fax No: 338-5000

Houlton Career Center

91 ½ Military Street
Houlton, ME 04730-2421
Toll Free Phone: None
Local Phone: 532-9526
Fax No: 532-4170

Brunswick Job Service

310 Bath Road
Brunswick, ME 04011-2619

Lewiston Career Center

5 Mollison Way
Lewiston, ME 04240-5805

Toll Free Phone: None
Local Phone: 721-1420
Fax No: 721-1411

Toll Free Phone: 1-800-741-2991
Local Phone: 753-9000
Fax No: 783-5301

Calais Career Center

13 Beech Street

PO Box 415

Calais, ME 04619-0415

Toll Free Phone: 1-800-543-0303

Local Phone: 454-7551

Fax No: 454-0349

Machias Career Center

7 Free Street

Machias, ME 04654-1146

Toll Free Phone: 1-800-292-8929

Local Phone: 255-0130

Fax No: 255-3091

Millinocket Job Service

215 Penobscot Avenue

Millinocket, ME 04462

Toll Free Phone: None

Local Phone: 723-8321

Fax No: 723-4707

Sanford Career Center

63 Main Street

Sanford, ME 04073-3505

Toll Free Phone: 1-800-343-0151

Local Phone: 324-5460

Fax No: 324-7069

Portland Career Center

185 Lancaster Street

Portland, ME 04101-2453

Toll Free Phone: 1-877-594-5627

Local Phone: 771-5627

Fax No: 822-0221

Skowhegan Career Center

140 North Avenue

PO Box 749

Skowhegan, ME 04976-0749

Toll Free Phone: 1-800-760-1572

Local Phone: 474-4950

Fax No: 474-4914

Presque Isle Job Service

38 North Street

Suite A

Presque Isle, ME 04769-2268

Toll Free Phone: None

Local Phone: 764-2150

Fax No: 764-2159

Waterville Career Center

100 JFK Plaza

Waterville, ME 04901-5015

Toll Free Phone: None

Local Phone: 872-5516

Fax No: 873-5804

Rockland Career Center

116 Tillson Avenue

Wilton Career Center

865 US Route 2E

Rockland, ME 04841-3424
Toll Free Phone: 1-877-421-7916
Local Phone: 594-9576
Fax No: 594-1428

PO Box 784
Wilton, ME 04294-0784
Toll Free Phone: 1-800-982-4311
Local Phone: 645-5800
Fax No: 645-2093

Saco Career Center

110 Main Street
Suite 1400
Saco, ME 04072-3504
Toll Free Phone: 1-800-760-1570
Local Phone: 286-2650
Fax No: 286-2655

D. Prevention of Sexual Harassment It is the policy of the Department that all parties have a right to Work in an environment free from harassment, including sexual harassment. Maine State Law and the Department prohibit any and all forms of sexual harassment in the Workplace, on the job site or that which may have an effect on the Work environment.

THEREFORE:

The Contractor hereby agrees to the following requirements in order to provide and promote a non-discriminatory Workplace free of sexual harassment.

1. No Contractor, supervisor, or employee shall allow repeated, objectionable, or unwanted verbal or physical advances, sexually explicit derogatory Statements, or sexually discriminatory remarks which cause discomfort, humiliation, or are in any way offensive to the recipient, or which interfere with the quality of any employee's Work environment in any way. Furthermore, no one on any job shall threaten or insinuate either explicitly or implicitly that any employee's submission to or rejection of sexual advances will have any effect on that person's employment, job assignment, training, evaluation, promotion, wages, or any other term or condition of employment or future job opportunity. Contractors, under Maine State Law, are responsible for ensuring and maintaining a Work environment, which is free from sexual harassment.

2. Any Contractor whose employee sexually harasses another employee shall be subject to disciplinary action. Contractors who fail to adequately and expeditiously investigate sexual harassment claims will be subject to enforcement proceedings and such sanctions as are authorized by law. Contractors are required to provide detailed written reports to the Department when so requested which shall describe the investigation and corrective actions taken by Contractors in all instances of sexual harassment allegations.

Contractors shall also be responsible for ensuring that no retaliation, reprisal, or intimidation be directed against any complainant or other employee who provides information to any person or agency investigating an allegation or complaint of sexual harassment.

E. DBE Reporting Requirements The Contractor must submit quarterly reports of actual dollars paid to Disadvantaged Business Enterprises (DBE's) on this Contract to the MDOT Office of Human Resources by the end of the first week of January, April, July, and October for the period covering the preceding three months considered Federal Fiscal Year quarters. The reports will be submitted directly to the Office of Human Resources on the form provided in the latest version of the DBE Program Manual. The Department may withhold Progress Payments if the Contractor fails to submit the report.

F. Certification of Continuing EEO Efforts The Contractor must certify, to the best of its knowledge and belief, that the Contractor has made and will continue to make a good faith effort to comply with all applicable State requirements on equal employment opportunity, non-discrimination, and affirmative action including employment of women and minorities as journeyed trade workers. Contractors not having achieved company-wide trade employment goals of 6.9% for females and 0.8% for minorities will, where indicated by Contract and to the maximum extent practical, comply with Section 660 - On-the-Job Training.

105.11 Other Federal Requirements Unless expressly otherwise provided in the Bid Documents, the provisions contained in Section 3 - Other Federal Requirements of Appendix A are hereby incorporated into the Bid Documents and Contract.

These provisions include Buy America requirements regarding steel procurement, material requirements, and Standard FHWA Contract Provisions (FHWA-1273)

governing Non-discrimination, Non-segregated Facilities; Payment of Predetermined Minimum Wage, Statements and Payrolls; Record of Materials, Supplies, and Labor; Subletting or Assigning the Contract; Safety and Accident Prevention; False Statements Concerning Highway Projects; Implementation of Clean Air Act and Federal Water Pollution Control Act; Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion; and Certification Regarding Use of Contract Funds for Lobbying. For a related provision, see Section 104.3.8 - Wage Rates and Labor Laws.

SECTION 106 - QUALITY

Scope of Section This section contains general provisions related to the Quality of Work including roles, standards, Materials, Quality Control, Acceptance, Non-conforming Work, and warranties. When specified in the contract, the Department will use the quality level analysis in this Section to determine quality-based financial incentives and disincentives.

106.1 Roles Regarding Quality

106.1.1 Cooperation The Contractor and the Department shall work cooperatively within their respective Quality Assurance (QA) responsibilities to produce and document a high quality project, meeting or exceeding the quality requirements of the contract.

106.1.2 Role of the Contractor The Contractor is responsible for all aspects of the quality of construction, including labor, equipment, materials, incidentals, processes, construction methods, and QC. When required by the contract, the Contractor shall develop, submit for approval, implement, and adjust if necessary a QCP for the work specified.

106.1.3 Role of the Department The Department is responsible for providing a quality design, approving the QCP, and assuring that the Contractor is following the QCP. The Department will perform acceptance sampling, testing, and inspection for any element of the work to ensure compliance with the QCP and contract requirements. The Department may also perform IA sampling and testing at any time.

106.2 Quality Standards