

AdvantageME No:

Appropriation No:

**STATE OF MAINE
SMALL CONSTRUCTION PROJECT CONTRACT**

(Use when contract value is less than \$50,000)

CONTRACT entered into the _____ day of *month, year* by and between the *State of Maine* through the *Agency name* hereinafter called the *Owner* and _____ hereinafter called the *Contractor*.

Agency or BGS Project No.: _____

For the following Project: *brief name of project at facility or campus name, municipality, Maine*.

Brief Scope of Work: _____

(Provide a detailed description of the work in "Attachment A")

The Owner and Contractor agree as follows:

ARTICLE 1 PAYMENTS AND COMPENSATION TO THE CONTRACTOR

§ 1.1 Subject to additions and deductions provided by approved change orders, the Contract Sum to furnish all labor, equipment, materials and incidentals necessary for the construction of the work described in "Attachment A" shall be the *net firm* amount of _____ *dollars (\$.00)*.

§ 1.2 Contracts based on a not-to-exceed amount shall specify the hourly rates, unit prices or allowances in "Attachment B".

§ 1.3 Changes in the work to be performed must be approved by Owner and Contractor prior to proceeding with the work. Change orders shall be recorded on a form approved by the Bureau of General Services (BGS).

§ 1.4 Payments are due and payable thirty (30) days from the date of receipt of the Contractor's invoice. Amounts due that are unpaid thirty (30) days after receipt of the invoice shall bear interest at the rate of seven percent (7%) per annum.

ARTICLE 2 TIME OF COMPLETION

§ 2.1 The work to be performed under this Contract shall be completed on or before the date noted here: _____.

ARTICLE 3 CONTRACTOR'S RESPONSIBILITIES

§ 3.1 The Contractor shall acquire all permits applicable for the work not specifically identified as provided by the Owner. Costs for Contractor-provided permits shall be included in the Contract Sum identified in Section 1.1 above.

§ 3.2 The Contractor shall comply with all laws applicable to this work.

§ 3.3 The Contractor shall remain an independent agent during the duration of this Contract, shall not become an employee of the State, and assures that no State employee shall be compensated by or otherwise benefit from this Contract.

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 The Owner shall provide full information about the objectives, schedule, constraints and existing conditions of the project. The Owner has established a budget with reasonable contingencies that meets the project requirements.

§ 4.2 The Owner attests that all State of Maine procurement requirements have been met, including approval of this project and the solicitation of a minimum of three quotations for the work described in this contract.

ARTICLE 5 TERMINATION

§ 5.1 This Contract may be terminated by either party upon not less than seven days' written notice to the other party should such other party fail to perform in accordance with the terms of this Contract. This Contract may be terminated by the Owner upon not less than seven days written notice to the Contractor for the Owner's convenience and without cause.

ARTICLE 6 MISCELLANEOUS PROVISIONS

§ 6.1 This Contract shall be governed by the laws of the State of Maine.

§ 6.2 The Owner and Contractor, respectively, bind themselves, their partners, successors, assigns and legal representatives to this Contract. Neither party to this Contract shall assign the Contract as a whole without written consent of the other party, which consent the Owner may withhold without cause.

ARTICLE 7 INDEMNIFICATION

§ 7.1 The Contractor shall indemnify and hold harmless the Owner and its officers, agents and employees from and against any and all claims, liabilities and costs, including reasonable attorney's fees, for any or all injuries to persons or property, arising from the negligent acts or omissions of the Contractor, its employees, agents, officers or subcontractors in the performance of work under this Contract. The Contractor shall not be liable for claims arising out of the negligent acts or omissions of the Owner or for actions taken in reasonable reliance on written instructions of the Owner.

The Contractor shall notify the Owner promptly of all claims arising out of the performance of work under this Contract by the Contractor its employees or agents, officers or subcontractors.

This indemnity provision shall survive the termination of the Contract, completion of the project or the expiration of the term of the Contract.

ARTICLE 8 INSURANCE REQUIREMENTS

§ 8.1 The certificates shall name the Owner as certificate holder and as additional insured for general liability and automobile liability coverages. The submitted forms shall contain a

provision that coverage afforded under the insurance policies will not be canceled or materially changed unless at least ten (10) days prior written notice by registered letter has been given to the Owner and the Bureau of General Services. The Owner does not warrant or represent that the insurance required herein constitutes an insurance portfolio which adequately addresses all risks faced by the Contractor. The Contractor is responsible for the existence, extent and adequacy of insurance prior to signing this Contract.

§ 8.2 The Contractor shall procure and maintain insurance for the duration of the Project and, if written on a claims made basis, shall maintain such insurance for the duration of time that the claims insured against may be brought within the applicable Maine statute of repose. The Contractor shall ensure that all Subcontractors the Contractor engages or employs carry and maintain similar insurance in form and amount acceptable to the Owner. The insurance shall be of the types and limits set forth herein and such insurance as will protect the Contractor from claims which may result from the Contractor's execution of the Work, whether such execution be by the Contractor or by those employed by the Contractor or by those for whose acts they may be liable. The insurance coverage provided by the Contractor will be primary coverage. All required insurance coverages shall be placed with carriers authorized to conduct business in the State of Maine by the Maine Bureau of Insurance.

§ 8.3 The Contractor shall have **workers' compensation** insurance for all employees on the Project site in accordance with the statutory workers' compensation law of the State of Maine. Minimum acceptable limits for Employer's Liability are:

Bodily Injury by Accident.....	\$100,000
Bodily Injury by Disease.....	\$100,000 Each Employee
Bodily Injury by Disease.....	\$500,000 Policy Limit

§ 8.4 The Contractor shall have **general liability** insurance providing coverage not less than that of the 1996 occurrence version of the Insurance Services Office (ISO) Commercial General Liability Policy. This insurance shall cover bodily injury and property damage liability for all hazards of the Project including premise and operations, products and completed operations, contractual, and personal injury liabilities. Minimum acceptable limits are:

General aggregate limit.....	\$1,000,000
Products and completed operations aggregate	\$400,000
Each occurrence limit.....	\$400,000
Personal injury aggregate.....	\$400,000

§ 8.5 The Contractor shall have **automobile liability** insurance against claims for bodily injury, death or property damage resulting from the maintenance, ownership or use of all owned, non-owned and hired automobiles, trucks and trailers. Minimum acceptable limit is:

Any one accident or loss	\$400,000
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§ 8.6 The Contractor shall have **property** insurance for projects over \$1,000 as follows:

- .1 New construction – The Contractor shall procure and maintain Builder's Risk insurance naming the Owner, Contractor, and any Subcontractor as insureds as their interest may appear. Covered causes of loss form shall be all Risks of Direct Physical Loss, endorsed to include flood, earthquake, transit and sprinkler leakage where sprinkler coverage is applicable. Unless specifically authorized in writing by the Owner, the limit of insurance shall not be less than the initial contract amount and coverage shall apply during the entire contract period and until the work is accepted by the Owner.

- .2 Renovations or additions within existing State-owned buildings – Coverage will be provided by the State of Maine in accordance with the terms and conditions of the State’s property policy. The Owner shall notify Maine Risk Management Division concerning the project, including the nature and value of the work, planned start and completion date, and the name of the General Contractor. Said insurance coverage shall cover the interests of the Contractor and Subcontractor, as their interests may appear. Covered causes of loss form is Risks of Direct Physical Loss, endorsed to include flood, earthquake, transit and sprinkler coverage. Exclusions common to commercial property policies may be applicable. The \$500 per occurrence deductible is the responsibility of the Contractor. Should the Contractor or Subcontractor desire coverage in excess of that maintained by the State, it must be acquired by the Contractor and at Contractor expense. A certificate of insurance will be furnished to the Contractor upon request.

ARTICLE 9 EQUAL EMPLOYMENT OPPORTUNITY

§ 9.1 The Contractor shall not discriminate against any employee or applicant for employment relating to this Contract because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation, unless related to a bona fide occupational qualification. The Contractor shall take affirmative action to ensure that applicants are employed and employees are treated during employment, without regard to their race, color, religion, sex, age, national origin, physical or mental disability, or sexual orientation.

Such action shall include but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of this nondiscrimination clause.

§ 9.2 The Contractor shall, in all solicitations or advertising for employees placed by or on behalf of the Contractor relating to this Contract, state that all qualified applicants shall receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation.

§ 9.3 The Contractor shall send to each labor union or representative of the workers with which it has a collective bargaining agreement, or other agreement or understanding, whereby it is furnished with labor for the performance of this Contract a notice to be provided by the contracting 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 applicants for employment.

§ 9.4 The Contractor shall inform the contracting Department’s Equal Employment Opportunity Coordinator of any discrimination complaints brought to an external regulatory body (Maine Human Rights Commission, EEOC, Office of Civil Rights) against their agency by any individual as well as any lawsuit regarding alleged discriminatory practice.

§ 9.5 The Contractor shall comply with all aspects of the Americans with Disabilities Act (ADA) in employment and in the provision of service to include accessibility and reasonable accommodations for employees and clients.

§ 9.6 The Contractor shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Contract so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

ARTICLE 10 DISPUTE RESOLUTION

§ 10.1. MEDIATION

§ 10.1.1 In the event of a dispute between the parties which arises under this Contract and the dispute cannot be resolved through informal negotiation, the dispute shall be submitted to a neutral mediator jointly selected by the parties.

Either party may file suit before or during mediation if the party in good faith deems it to be necessary to avoid losing the right to sue due to a statute of limitations. If suit is filed before good faith mediation efforts are completed, the party filing suit shall agree to stay all proceedings in the lawsuit pending completion of the mediation process, provided such stay is without prejudice

§ 10.2 ARBITRATION

§ 10.2. If the dispute is not resolved through mediation, the dispute shall be settled by arbitration. The arbitration shall be conducted before a panel of three (3) arbitrators. Each party shall select one arbitrator; the third arbitrator shall be appointed by the arbitrators selected by the parties. The arbitration shall be conducted in accordance with the Maine Uniform Arbitration Act (“MUAA”), except as otherwise provided in this section.

The decision of the arbitrators shall be final and binding upon all parties. The decision may be entered in court as provided in the MUAA.

The costs of the arbitration, including the arbitrators’ fees shall be borne equally by the parties to the arbitration, unless the arbitrator orders otherwise.

In any arbitration between the Owner and the Contractor, the Owner shall have the right to consolidate related claims between Owner and Architect.

ARTICLE 11 DEBARMENT AND SUSPENSION

§ 11.1 The Contractor attests that it has not been declared ineligible to bid on State of Maine projects. The Director of the Bureau of General Services may disallow award of this contract to any Contractor if there is evidence that the Contractor through its own fault has been terminated, has been suspended for cause, has been debarred from bidding, has agreed to refrain from bidding as part of a settlement or has defaulted on a contract or had a contract completed by another party.

§ 11.2 The Contractor shall not make any award or permit any award (subgrant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs or State of Maine projects.

ARTICLE 12 OTHER PROVISIONS

(Insert any additional provisions to this Contract below. Any such provisions or other revisions to the standard Contract form are subject to approval by the Bureau of General Services.)

§ 12.1 For projects funded with American Recovery and Reinvestment Act (ARRA) monies, the parties to this Contract shall abide by and fulfill the applicable requirements of the ARRA, including, but not limited to, the Buy American criteria, federal wage rates, and ARRA specific reporting requirements.

§12.2 *There are no other provisions.*

This Contract entered into as of the day and year first written above.

OWNER

CONTRACTOR

(Signature) *(Date)*

(Signature) *(Date)*

(Printed name and title)

(Printed name and title)

(Department, Agency)

(Company Name)

(Address)

(Address)

(Telephone)

(Telephone)

(Vendor Number)

If a corporation, use the corporate seal and write State of Incorporation. If a partnership, all partners should execute this Contract.

The use and content of this standard form of Contract is controlled by and subject to revision by the Bureau of General Services. The current version of this form is available on the Bureau website (<http://www.maine.gov/bgs/>), or by contacting BGS at 77 State House Station, Augusta, Maine 04333, 624-7360.