

August 07, 2023

Agenda
Regular Council Meeting
City Council Chambers, 2nd Floor
265 Main Street, Old Town, Maine

I. Call to Order

Please turn off or silence cell phones

II. Flag Salute

III. Roll Call

IV. Approval of the Minutes

July 17, 2023, Financial Services and Special Meeting minutes.

V. Petitions, Communications, and Citizens' Requests

VI. Reports

A. Council President

**B. Standing Committees –
Administrative, Economic, Finance, & Public Services**

C. City Councilors

D. City Attorney

E. Special Committees

F. City Manager/Presentations

1. Jim Dunning (Asst. General Manager Casella) will be giving a presentation to the Council on the Casella curbside waste contract for the City of Old Town.
2. Laura Engstrom, City Clerk will be updating the City Council on the petition timeframes for taking out nomination papers for three expiring City Council Seats and Three School Board seats.
3. April Buchanan, (Assessor) will provide an Assessment update to the City Council.

VII. Consent Agenda

VIII. Public Hearings and Second Reading of Ordinances

IX. Old Business

1. The Council will consider accepting a bid on the College Avenue Culvert Construction Project.

Suggested motion: The City Council accepts the bid of \$105,000, with Freedom Paving along with an additional \$5,000 for project management from Olver Associates for the College Avenue Culvert Construction project. Funding to come from Maine DEP of \$101,000 and \$9000 from the American Recovery Act dollars. (Attachment A)

(Councilor Pushor)

2. The Council will consider accepting a bid with Lou Silver Inc. for the City Brook Pipe Project in the amount of \$159,000.

Suggested motion: The City Council accepts the lowest bid of \$159,000 with Lou Silver Inc. for the City Brook Pipe Project. Funding to come from American Act Recovery Act dollars. The City Council further authorizes Bill Mayo, City Manager to sign the contract.

(Councilor Mike May)

3. The Council will consider accepting a bid on the 4th Street sidewalk repair.

Suggested motion: The City Council accepts the bid of \$623,864 with FCS (Facility and Construction Services) for the 4th Street sidewalk repair. \$408,116 funded by American Act Recovery dollars and \$215,748 to come from fund balance acct# 09521657210. The City Council further authorizes Bill Mayo, City Manager to sign the contract.
(Attachment B)

(Councilor Carol May)

4. The City Council will consider approving the FY 2024 paving list that was provided at the last Finance Committee by John Rouleau, Public Works Director. Amount not to exceed \$70,000.

Suggested motion: The Old Town City Council approves the FY 2024 paving list that was provided at the last Finance Committee by John Rouleau, Public Works Director. Amount not to exceed \$70,000, and will be funded from the FY 2022 – 2023 paving bond.
(Attachment C)

(Councilor Carol May)

5. The Council will consider transferring \$252,000 from the Solid Waste Reserve Fund to finalize the close out of CDD landfill project.

Suggested motion: The City Council accepts transferring \$252,000 from the Solid Waste Reserve Fund to finalize the close out of the CDD landfill project.

(Councilor Folster)

6. The Council will consider accepting two Grants for Police/Fire and Rescue Departments.

Suggested motion: The Old Town City Council hereby accepts two Grants for Police/Fire and Rescue. A) From Fire House Subs, \$43,000 for an Argo 6-wheel all-terrain vehicle (ATV), and B) \$15,000 from Stephen and Tabitha King for gas meters and thermal imaging equipment.

(Councilor Peterson)

7. The Council will consider accepting the sale of an ambulance from the Old Town Fire/Rescue Department to the Town of Newport.

Suggested motion: The City Council agrees to the sale of an ambulance from Old Town Fire/Rescue to the Town of Newport for \$37,000. The ambulance is being replaced with a newer model.

(Councilor Wight)

X. New Business

1. The Old Town City Council will consider funding the upfront costs of conducting reconstruction of the shoreline at the Dewitt Field Airport, not to exceed \$40,000. When the project is completed, the City of Old Town, will invoice DACF (Department of Agriculture, Conservation and Forestry) for the cost of the project and expect a one-time lump sum payment within 60 days of invoicing.

Suggested motion: Resolved, the Old Town City Council agrees to fund the upfront costs of conducting reconstruction of the shoreline at the Dewitt Field Airport, not to exceed \$40,000. When the project is completed, the City of Old Town, will invoice DAC (Department of Agriculture, Conservation and Forestry) who leases this area of the airport from the City, the cost of the project, and expect a one-time lump sum payment within 60 days of invoicing.

(Attachment D)

(Councilor Folster)

2. The City Council will consider providing funding, up to \$55,000, towards a Village improvement project planning study to be done, along with MDOT.

Suggested motion: The Old Town City Council provides funding up to \$55,000 to have a Village improvement project planning study done, along with MDOT. Funding to come from Fund Balance, acct. #0952165720.

(Councilor Mike May)

3. The Council will consider authorizing the City Manager to sign a 5 year contract for curbside trash collection with Pine Tree Waste.

Suggested motion: The Council authorizes Bill Mayo, City Manager to sign a five-year contract for curbside trash collection with Pine Tree Waste for the City of Old Town.

(Attachment E)

(Councilor Wight)

4. The City Council will consider going into Executive Session, pursuant to Title 1, M.R.S.A., 405(6)(C), for the purpose of discussing an Economic Development matter.

Suggested motion: Resolved, the City Council hereby approves going into Executive Session, pursuant to Title 1, M.R.S.A., §405(6)(C), for the purpose of discussing an Economic Development matter.

(Councilor Pushor)

Motion to Adjourn.

OLVER ASSOCIATES INC.

(Attachment A pgs. 1-8)

ENVIRONMENTAL ENGINEERS

July 26, 2023

Mr. William Mayo, City Manager
City of Old Town
265 Main Street
Old Town, Maine 04468

RE: College Avenue Extension Culvert Replacement
Bid Results

Dear Bill:

On July 18, 2023, bids were opened for the College Avenue Extension Culvert Replacement project. Five bids were received as follow:

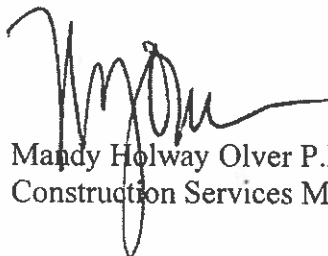
CONTRACTOR	LOCATION	Total Bid
Freedom Paving	Glenburn, Maine	\$105,000.00
Facility and Construction Services	Old Town, Maine	\$154,312.00
Thornton Construction	Milford, Maine	\$157,596.96
Reinzo Excavating	Milford, Maine	\$166,500.00
Lou Silver Inc.	Orono, Maine	\$204,000.00

Attached please find a copy of the bid proposal submitted by Freedom Paving. As you can see, the bid was substantially lower than other bids received. We have not worked with Freedom Paving, but we understand that they successfully rebuilt a boat ramp for the City within the last couple of years. We requested references from Freedom for similar large culvert replacement work, and they have had two recent projects in Corinna and Fairfield similar in nature to this one that included management of flows around the work area, erosion control, and a culvert replacement. We were able to contact two references who both indicated they were happy with Freedom's work on these projects.

We therefore recommend that the City award the contract to Freedom Paving in the amount of \$105,000.00. Please let us know if you have any questions or need further information at this time.

Very truly yours,

OLVER ASSOCIATES INC.



Mandy Holway Olver P.E., Vice-President
Construction Services Manager

MHO/sb
2163/090

CC: Mr. John Rouleau, Public Works Director

PROPOSAL
COLLEGE AVENUE EXTENSION CULVERT REPLACEMENT
CITY OF OLD TOWN, MAINE

City of Old Town
265 Main Street, Suite 2
Old Town, Maine 04468

Greetings:

The undersigned, as Bidder on the above indicated Project, declares that the only persons or parties interested as principals in this Bid or in the Contract proposed to be taken, are named herein; that this Bidder has carefully examined the location of the proposed work, the Drawings and Specifications including the Invitation to Bid, Notice to Contractors, Proposal, Notice of Award, Contract, Notice to Proceed, General Conditions, Supplemental General Conditions and Technical Specifications; and proposes and agrees if this Bid is accepted that he/she will contract to provide all necessary and proper labor, machinery, equipment, facilities, and incidentals, and to do all the Work and furnish all labor and material necessary or proper to carry out the Contract in the manner and time therein set forth, and that he/she will do all other things required and incidental to the completion of the Work.

All entries in the entire proposal have been made clearly and in ink; total prices bid have been written in both words and figures. All items defined in the Contract Documents have been bid upon.

It is understood that this Bid may not be withdrawn within 90 days after the actual date of the opening thereof.

7-17-2023

(Date)

Clifford Lane
(Signed)

Name: Clifford Lane

Title: President

Representing: Fredon PAving

Address: 90 Midway Ln
Glenburn ME 04601

BID FORM

BIDDER agrees to perform all Work as described in these Contract Documents for the following unit prices for the payment items indicated:

ITEM	DESCRIPTION	APPROX. QUANTITY	UNITS	UNIT PRICE	TOTAL PRICE
1.	Culvert Replacement (includes road regrading)	LS	LS	\$ _____	\$ <u>103,000.⁰⁰</u>
2.	Additional Structural Backfill (if needed)	100*	CY	\$ <u>20.⁰⁰</u>	\$ <u>2,000.⁰⁰</u>

TOTAL BID (IN FIGURES): \$ 105,000.⁰⁰

TOTAL BID (IN WORDS): one Hundred Five Thousand
And 00/100 Dollars

The undersigned agrees to furnish all required insurance certificates and bonds within 10 days after formal acceptance of the proposal by the Owner as signified by issuance of Notice of Award. All insurance certificates and bonds must be furnished before formal execution of the contract by the Owner.

The undersigned agrees to the following:

- a. To substantially complete the work within 30 calendar days and to complete the work within 45 calendar days of the formal Notice to Proceed.
- b. That the Owner may retain liquidated damages of \$750 per day for each day in excess of those mentioned above that the work is not completed as indicated.

The undersigned acknowledges the receipt of the following Addenda:

Adden #1 July 17, 2023

Date: 7-17-2023

Signed: Clifford Lane

Name: Clifford Lane

Title: President

Representing: Primer Paving Group LLC DBA Freedom Paving

Address: 90 Midway Ln
Glendora ME 04401

Telephone: 207-852-1006

Fax: _____

(Seal - if Bid is by Corporation)
(Also attached Certificate of Authority
for signatory to execute contract)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
07/10/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Cross Insurance 491 Main Street P.O. Box 1388 Bangor ME 04401	CONTACT NAME: Kimberly Morgan PHONE (A/C. No. Ext): (207) 947-7345 E-MAIL ADDRESS: kimberly.morgan@crossagency.com	FAX (A/C. No.):	
	INSURER(S) AFFORDING COVERAGE		NAIC #
INSURED Patriot Paving LLC, DBA Freedom Paving 90 Midway Lane Glenburn ME 04401	INSURER A: Patriot Insurance Co		
	INSURER B:		
	INSURER C:		
	INSURER D:		
	INSURER E:		
	INSURER F:		

COVERAGES **CERTIFICATE NUMBER:** CL2352235152 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER			6726237	04/14/2023	04/14/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Contractors Errors and \$ 50,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/> AUTOS ONLY			6726236	04/14/2023	04/14/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Medical payments \$ 5,000
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y/N N/A				PER STATUTE OTH-ER E.L EACH ACCIDENT \$ E.L DISEASE - EA EMPLOYEE \$ E.L DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER Town of Old Town	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

BID BOND (PENAL SUM FORM)

Bidder Patriot Paving Group LLC DBA Name: Freedom Paving Address (principal place of business): 90 Midway Lane Glenburn, ME 04401	Surety Name: The Ohio Casualty Insurance Company Address (principal place of business): 62 Maple Avenue Keene, NH 03431
Owner Name: City of Old Town Address (principal place of business): 265 Main Street, Suite 2 Old Town, ME 04468	Bid Project (name and location): College Avenue Extension Culvert Replacement City of Old Town, Maine Bid Due Date: July 18, 2023
Bond Penal Sum: Five Percent of the Enclosed Bid (5%) Date of Bond: July 18, 2023	
Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth in this Bid Bond, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative	
Bidder Patriot Paving Group LLC DBA Freedom Paving <small>(Full formal name of Bidder)</small>	Surety The Ohio Casualty Insurance Company <small>(Full formal name of Surety) (corporate seal)</small>
By: <u>Clifford Lane</u> <small>(Signature)</small>	By: <u>Judy L. Mills</u> <small>(Signature) Attach Power of Attorney</small>
Name: <u>Clifford Lane</u> <small>(Printed or typed)</small>	Name: <u>Judy L. Mills</u> <small>(Printed or typed)</small>
Title: <u>President</u>	Title: <u>Attorney-in-Fact</u>
Attest: <u>[Signature]</u> <small>(Signature)</small>	Attest: <u>Alisa Mumford</u> <small>(Signature)</small>
Name: <u>Stone Lane</u> <small>(Printed or typed)</small>	Name: <u>Alisa Mumford</u> <small>(Printed or typed)</small>
Title:	Title: <u>Witness</u>
<small>Notes: (1) Note: Addresses are to be used for giving any required notice. (2) Provide execution by any additional parties, such as joint venturers, if necessary.</small>	

5

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond will be Owner's sole and exclusive remedy upon default of Bidder.
2. Default of Bidder occurs upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation will be null and void if:
 - 3.1. Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
 - 3.2. All Bids are rejected by Owner, or
 - 3.3. Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions does not in the aggregate exceed 120 days from the Bid due date without Surety's written consent.
6. No suit or action will be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety, and in no case later than one year after the Bid due date.
7. Any suit or action under this Bond will be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder must be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Postal Service registered or certified mail, return receipt requested, postage pre-paid, and will be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond will be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute governs and the remainder of this Bond that is not in conflict therewith continues in full force and effect.
11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: 8207134-968051

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Alice Dyer, Debra Kenney, Jonathan M. Cross, Judy L. Mills, Royce M. Cross

all of the city of Bangor state of ME each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 12th day of January, 2022.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: [Signature of David M. Carey]

David M. Carey, Assistant Secretary

State of PENNSYLVANIA ss
County of MONTGOMERY

On this 12th day of January, 2022 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



Commonwealth of Pennsylvania - Notary Seal
Teresa Pastella, Notary Public
Montgomery County
My commission expires March 28, 2025
Commission number 1126044
Member, Pennsylvania Association of Notaries

By: [Signature of Teresa Pastella]
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV - OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 18th day of July, 2023.



By: [Signature of Renee C. Llewellyn]

Renee C. Llewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

For bond and/or Power of Attorney (POA) verification inquiries, please call 610-832-8240 or email HOSUR@libertymutual.com.

COLLEGE AVENUE EXTENSION CULVERT REPLACEMENT
 OLD TOWN, MAINE

BID TABULATION
 July 18, 2023

Item No.	Item Description	Est. QTY	Unit	Freedon Paving Unit Price	Freedon Paving Total Price	Facility and Construction Services Unit Price	Facility and Construction Services Total Price	Thornton Construction Unit Price	Thornton Construction Total Price
1	Culvert Replacement (includes road regrading)	1	LS	\$ 103,000.00	\$ 103,000.00	\$ 144,312.00	\$ 144,312.00	\$ 155,196.96	\$ 155,196.96
2	Additional Structural Backfill (if needed)	100	CY	\$ 20.00	\$ 2,000.00	\$ 100.00	\$ 10,000.00	\$ 24.00	\$ 2,400.00
	TOTAL BID				\$ 105,000.00		\$ 154,312.00		\$ 157,596.96

Item No.	Item Description	Est. QTY	Unit	Reinzo Excavating Unit Price	Reinzo Excavating Total Price	Lou Silver Inc. Unit Price	Lou Silver Inc. Total Price
1	Culvert Replacement (includes road regrading)	1	LS	\$ 162,500.00	\$ 162,500.00	\$ 200,000.00	\$ 200,000.00
2	Additional Structural Backfill (if needed)	100	CY	\$ 40.00	\$ 4,000.00	\$ 40.00	\$ 4,000.00
	TOTAL BID				\$ 166,500.00		\$ 204,000.00

*Bold item denotes mathematical error.

June 1, 2023

Mr. William Mayo, City Manager
City of Old Town
265 Main Street
Old Town, Maine 04468

RE: Multi-Use Path and Drainage Improvements Fourth Street Extension
Bid Results

Dear Bill:

On May 31, 2023, bids were opened for the Multi-Use Path and Drainage Improvements Fourth Street Extension project. Two bids were received as follow:

CONTRACTOR	LOCATION	Total Bid
Facility and Construction Services	Old Town, Maine	\$ 789,513.20
Lou Silver Inc.	Orono, Maine	\$ 796,014.00

Attached please find a copy of the full bid from Facility and Construction Services as well as the copies of bid sheets for the other bidder. We feel this bid represents a fair market price for the work. Please note that there was a mathematical error on the bid sheet which slightly increased their bid value as shown in bold on the bid tabulation. We understand that FCS has previously completed other earthwork projects successfully for the City. We therefore recommend that the City award the contract to Facility and Construction Services in the amount of \$789,513.20.

Please let us know if you have any questions or need further information at this time.

Very truly yours,

OLVER ASSOCIATES INC.

Mandy Holway Olver P.E., Vice-President
Construction Services Manager

MHO/sb
2402/090
CC: Mr. John Rouleau, Public Works Director

**MULTI-USE PATH AND DRAINAGE IMPROVEMENTS
FOURTH STREET EXTENSION
CITY OF OLD TOWN, MAINE
May 31, 2023**

Item No.	Item Description	Est. QTY	Unit	Facility and Construction Services Unit Price	Facility and Construction Services Total Price	Lou Silver Inc. Unit Price	Lou Silver Inc. Total Price
1	Mobilization & Traffic Control	1	LS	\$ 100,000.00	\$ 100,000.00	\$ 16,000.00	\$ 16,000.00
2	Abandoning Existing Utilities	1	LS	\$ 2,500.00	\$ 2,500.00	\$ 12,000.00	\$ 12,000.00
3	Test Pits	14	EA	\$ 700.00	\$ 9,800.00	\$ 1.00	\$ 14.00
4	Rip Rap	20	CY	\$ 100.00	\$ 2,000.00	\$ 100.00	\$ 2,000.00
5	Excavation and Replacement of Unsuitable Fill	500	CY	\$ 20.00	\$ 10,000.00	\$ 20.00	\$ 10,000.00
6	Excavation and Replacement of Unsuitable Fill	100	CY	\$ 40.00	\$ 4,000.00	\$ 30.00	\$ 3,000.00
7	Aggregate Subbase	250	CY	\$ 40.00	\$ 10,000.00	\$ 30.00	\$ 7,500.00
8	Aggregate Base	750	CY	\$ 40.00	\$ 30,000.00	\$ 40.00	\$ 30,000.00
9	Temporary Erosion Control	1	LS	\$ 4,500.00	\$ 4,500.00	\$ 10,000.00	\$ 10,000.00
10	Trench/Roadway/Pathway Pavement	500	Tons	\$ 200.00	\$ 100,000.00	\$ 230.00	\$ 115,000.00
11	1.5" Overlay Pavement	80	Tons	\$ 150.00	\$ 12,000.00	\$ 190.00	\$ 15,200.00
12	Slipform Concrete Curb	1100	LF	\$ 10.91	\$ 12,001.00	\$ 13.00	\$ 14,300.00
13	6" & 8" Drain Connections	50	LF	\$ 50.00	\$ 2,500.00	\$ 200.00	\$ 10,000.00
14	12" Ø SICPE Storm Drain	600	LF	\$ 118.66	\$ 71,196.00	\$ 110.00	\$ 66,000.00
15	18" Ø SICPE Storm Drain	600	LF	\$ 137.40	\$ 82,440.00	\$ 125.00	\$ 75,000.00
16	18" Ø RCP Storm Drain	240	LF	\$ 121.58	\$ 29,179.20	\$ 125.00	\$ 30,000.00
17	4' Ø Precast Catch Basins	10	EA	\$ 7,070.00	\$ 70,700.00	\$ 5,000.00	\$ 50,000.00
18	Type F Catch Basins	4	EA	\$ 5,300.00	\$ 21,200.00	\$ 3,500.00	\$ 14,000.00
19	Trench Drain/Curb Inlet	3	EA	\$ 3,333.00	\$ 9,999.00	\$ 10,000.00	\$ 30,000.00
20	Loam & Seeding	1	LS	\$ 7,500.00	\$ 7,500.00	\$ 30,000.00	\$ 30,000.00
21	2" Rigid Insulation	8,500	SF	\$ 3.00	\$ 25,500.00	\$ 4.00	\$ 34,000.00
22	Owner's Testing Allowance	1	LS	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00
23	Detectable Warning Plates	3	EA	\$ 2,666.00	\$ 7,998.00	\$ 3,000.00	\$ 9,000.00
24	Pavement Markings	1	LS	\$ 2,500.00	\$ 2,500.00	\$ 1,000.00	\$ 1,000.00
25	Electrical Lighting System	1	LS	\$ 150,000.00	\$ 150,000.00	\$ 200,000.00	\$ 200,000.00
26	RRFB Sign Pair	1	EA	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00
	TOTAL BID				\$ 789,513.20		\$ 796,014.00
	*Bold item indicates mathematical error.						

CITY OF OLD TOWN MULTI-USE PATH AND DRAINAGE IMPROVEMENTS
FOURTH STREET EXTENSION

BID FORM

ITEM	DESCRIPTION	APPROX. QUANTITY	UNITS	UNIT PRICE	TOTAL PRICE
1.	Traffic Control	LS	LS	\$ <u>100,000.00</u>	\$ <u>100,000.00</u>
2.	Abandoning Existing Utilities	1	LS	\$ <u>2,500.00</u>	\$ <u>2,500.00</u>
3.	Test Pits	14*	EA	\$ <u>700.00</u>	\$ <u>9,800.00</u>
4.	Rip Rap	20	CY	\$ <u>100.00</u>	\$ <u>2,000.00</u>
5.	Excavation	500	CY	\$ <u>20.00</u>	\$ <u>10,000.00</u>
6.	Excavation and Replacement of Unsuitable Fill	100*	CY	\$ <u>40.00</u>	\$ <u>4,000.00</u>
7.	Aggregate Subbase	250	CY	\$ <u>40.00</u>	\$ <u>10,000.00</u>
8.	Aggregate Base	750	CY	\$ <u>40.00</u>	\$ <u>30,000.00</u>
9.	Temporary Erosion Control	LS	LS	\$ <u>4,500.00</u>	\$ <u>4,500.00</u>
10.	Trench/Roadway/Pathway Pavement	500	Tons	\$ <u>200.00</u>	\$ <u>100,000.00</u>
11.	1.5" Overlay Pavement	80	Tons	\$ <u>150.00</u>	\$ <u>12,000.00</u>
12.	Slipform Concrete Curb	1100	LF	\$ <u>10.91</u>	\$ <u>12,001.00</u>
13.	6" & 8" Drain Connections	50	LF	\$ <u>50.00</u>	\$ <u>2,500.00</u>
14.	12" Ø SICPE Storm Drain	600	LF	\$ <u>118.66</u>	\$ <u>71,196.00</u>
15.	18" Ø SICPE Storm Drain	600	LF	\$ <u>137.40</u>	\$ <u>82,440.00</u>
16.	18" Ø RCP Storm Drain	240	LF	\$ <u>121.58</u>	\$ <u>29,179.00</u>
17.	4' Ø Precast Catch Basins	10	EA	\$ <u>7,070.00</u>	\$ <u>70,070.00</u>
18.	Type F Catch Basins	4	EA	\$ <u>5,300.00</u>	\$ <u>21,200.00</u>
19.	Trench Drain/Curb Inlet	3	EA	\$ <u>3,333.00</u>	\$ <u>9,999.00</u>
20.	Loam & Seeding	LS	LS	\$ <u>7,500.00</u>	\$ <u>7,500.00</u>
21.	2" Rigid Insulation	8500	SF	\$ <u>3.00</u>	\$ <u>25,500.00</u>
22.	Owner's Testing Allowance	All	LS*	\$ <u>2,000.00</u>	\$ <u>2,000.00</u>
23.	Detectable Warning Plates	3	EA	\$ <u>2,666.00</u>	\$ <u>8,000.00</u>
24.	Pavement Markings	1	LS	\$ <u>2,500.00</u>	\$ <u>2,500.00</u>
25.	Electrical Lighting System	1	LS	\$ <u>150,000.00</u>	\$ <u>150,000.00</u>
26.	RRFB Sign Pair	1	EA	\$ <u>10,000.00</u>	\$ <u>10,000.00</u>

*Note: Asterisk indicates indeterminate quantity for bidding comparison.

TOTAL BID (IN FIGURES): \$ 788,885.00

TOTAL BID (IN WORDS): Seven Hundred Eighty-Eight Thousand Eight Hundred Dollars
Eighty Five Dollars

*Note: Asterisk indicates indeterminate quantity for bidding comparison.

The undersigned agrees to furnish all required insurance certificates and bonds within 10 days after formal acceptance of the proposal by the Owner as signified by issuance of Notice of Award. All insurance certificates and bonds must be furnished before formal execution of the contract by the Owner.

The undersigned agrees to the following:

- a. To substantially complete the work within 120 calendar days and to complete the work within 150 calendar days of the formal Notice to Proceed.
- b. That the Owner may retain liquidated damages of \$750 per day for each day in excess of those mentioned above that the work is not completed as indicated.

The undersigned acknowledges the receipt of the following Addenda:

1 Dated 5/25

Date: 5/31/2023

Signed: William Lucas
Name: William Lucas
Title: owner
Representing: Facility and Construction Services
Address: 255 Gilman Falls Avenue
Old Town, ME. 04468
Telephone: 207-817-0001
Fax: 207-817-0161

(Seal - if Bid is by Corporation)
(Also attached Certificate of Authority
for signatory to execute contract)

BID BOND (PENAL SUM FORM)

Bond Number: HA10105346

Bidder Name: Facility and Construction Services, LLC Address (principal place of business): P.O. Box 514 255 Gilman Falls Road Old Town, Maine	Surety Name: Hudson Insurance Company Address (principal place of business): 100 William Street, 5th Floor New York, NY 10038
Owner Name: City of Old Town Address (principal place of business): 265 Main Street, Suite 2 Old Town, Maine 04468	Bid Project (name and location): Multi-Use Path and Drainage Improvements Fourth Street Extension Old Town, Maine Bid Due Date: May 31, 2023
Bond Penal Sum: Five Percent of the Bid Amount (5%) Date of Bond: May 31, 2023	
Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth in this Bid Bond, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.	
Bidder Facilities and Construction Services, LLC <small>(Full formal name of Bidder)</small>	Surety Hudson Insurance Company <small>(Full formal name of Surety) (Corporate Seal)</small>
By: <u>Willy Lucas</u> <small>(Signature)</small>	By: <u>Andrew Howard</u> <small>(Signature) (Attach Power of Attorney)</small>
Name: <u>Willy Lucas</u> <small>(Printed or typed)</small>	Name: <u>Andrew Howard</u> <small>(Printed or typed)</small>
Title: <u>President</u>	Title: <u>Attorney-in-Fact</u>
Attest: <u>Ashley Gibson</u> <small>(Signature)</small>	Attest: <u>Doreen Vorias</u> <small>(Signature)</small>
Name: <u>Ashley Gibson</u> <small>(Printed or typed)</small>	Name: <u>Doreen Vorias</u> <small>(Printed or typed)</small>
Title: <u>Office Manager</u>	Title: <u>Surety Associate</u>
<small>Notes: (1) Note: Addresses are to be used for giving any required notice. (2) Provide execution by any additional parties, such as joint venturers, if necessary.</small>	

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond will be Owner's sole and exclusive remedy upon default of Bidder.
2. Default of Bidder occurs upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation will be null and void if:
 - 3.1. Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
 - 3.2. All Bids are rejected by Owner, or
 - 3.3. Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions does not in the aggregate exceed 120 days from the Bid due date without Surety's written consent.
6. No suit or action will be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety, and in no case later than one year after the Bid due date.
7. Any suit or action under this Bond will be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder must be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Postal Service registered or certified mail, return receipt requested, postage pre-paid, and will be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond will be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute governs and the remainder of this Bond that is not in conflict therewith continues in full force and effect.
11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.



Bond Number: HA10105346

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That HUDSON INSURANCE COMPANY, a corporation of the State of Delaware, with offices at 100 William Street, New York, New York, 10038, has made, constituted and appointed, and by these presents, does make, constitute and appoint

Andrew Howard
of the State of ME

its true and lawful Attorney(s)-in-Fact, at New York, New York, each of them alone to have full power to act without the other or others, to make, execute and deliver on its behalf, as Surety, bonds and undertakings given for any and all purposes, also to execute and deliver on its behalf as aforesaid renewals, extensions, agreements, waivers, consents or stipulations relating to such bonds or undertakings provided, however, that no single bond or undertaking shall obligate said Company for any portion of the penal sum thereof in excess of the sum of Twenty Five Million Dollars (25,000,000.00).

Such bonds and undertakings when duly executed by said Attorney(s)-in-Fact, shall be binding upon said Company as fully and to the same extent as if signed by the President of said Company under its corporate seal attested by its Secretary.

In Witness Whereof, HUDSON INSURANCE COMPANY has caused these presents to be of its Senior Vice President thereunto duly authorized, on this 2nd day of June, 2022 at New York, New York.

(Corporate seal)

HUDSON INSURANCE COMPANY

Attest: Dina Daskalakis
Dina Daskalakis No. 01MU6067553
Corporate Secretary

By: Michael P. Cifone
Michael P. Cifone
Senior Vice President

STATE OF NEW YORK
COUNTY OF NEW YORK SS.

On the 2nd day of June, 2022 before me personally came Michael P. Cifone to me known, who being by me duly sworn did depose and say that he is a Senior Vice President of HUDSON INSURANCE COMPANY, the corporation described herein and which executed the above instrument, that he knows the seal of said Corporation, that the seal affixed to said instrument is such corporate seal, that it was so affixed by order of the Board of Directors of said Corporation, and that he signed his name thereto by like order.

(Notarial Seal)



ANN M. MURPHY
Notary Public, State of New York
No. 01MU6067553
Qualified in Nassau County
Commission Expires December 10, 2025

CERTIFICATION

STATE OF NEW YORK
COUNTY OF NEW YORK SS.

The undersigned Dina Daskalakis hereby certifies:

That the original resolution, of which the following is a true and correct copy, was duly adopted by unanimous written consent of the Board of Directors of Hudson Insurance Company dated July 27th, 2007, and has not since been revoked, amended or modified:

"RESOLVED, that the President, the Executive Vice Presidents, the Senior Vice Presidents and the Vice Presidents shall have the authority and discretion, to appoint such agent or agents, or attorney or attorneys-in-fact, for the purpose of carrying on this Company's surety business, and to empower such agent or agents, or attorney or attorneys-in-fact, to execute and deliver, under this Company's seal or otherwise, bonds obligations, and recognizances, whether made by this Company as surety thereon or otherwise, indemnity contracts, contracts and certificates, and any and all other contracts and undertakings made in the course of this Company's surety business, and renewals, extensions, agreements, waivers, consents or stipulations regarding undertakings so made; and

FURTHER RESOLVED, that the signature of any such Officer of the Company and the Company's seal may be affixed by facsimile to any power of attorney or certification given for the execution of any bond, undertaking, recognizance, contract of indemnity or other written obligation in the nature thereof or related thereto, such signature and seal when so used whether heretofore or hereafter, being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed."

THAT the above and foregoing is a full, true and correct copy of Power of Attorney issued by said Company, and of the whole of the original and that the said Power of Attorney is still in full force and effect and has not been revoked, and furthermore that the Resolution of the Board of Directors, set forth in the said Power of Attorney is now in force.

Witness the hand of the undersigned and the seal of said Corporation this 31st day of May, 2023.

(Corporate seal)

By: Dina Daskalakis
Dina Daskalakis, Corporate Secretary

CITY OF OLD TOWN MULTI-USE PATH AND DRAINAGE IMPROVEMENTS
FOURTH STREET EXTENSION

BID FORM

ITEM	DESCRIPTION	APPROX. QUANTITY	UNITS	UNIT PRICE	TOTAL PRICE
1.	Traffic Control	LS	LS	\$ 16,000. ⁰⁰	\$ 16,000. ⁰⁰
2.	Abandoning Existing Utilities	1	LS	\$ 12,000. ⁰⁰	\$ 12,000. ⁰⁰
3.	Test Pits	14*	EA	\$ 1. ⁰⁰	\$ 14. ⁰⁰
4.	Rip Rap	20	CY	\$ 100. ⁰⁰	\$ 2,000. ⁰⁰
5.	Excavation	500	CY	\$ 20. ⁰⁰	\$ 10,000. ⁰⁰
6.	Excavation and Replacement of Unsuitable Fill	100*	CY	\$ 30. ⁰⁰	\$ 3,000. ⁰⁰
7.	Aggregate Subbase	250	CY	\$ 30. ⁰⁰	\$ 7,500. ⁰⁰
8.	Aggregate Base	750	CY	\$ 40. ⁰⁰	\$ 30,000. ⁰⁰
9.	Temporary Erosion Control	LS	LS	\$ 10,000. ⁰⁰	\$ 10,000. ⁰⁰
10.	Trench/Roadway/Pathway Pavement	500	Tons	\$ 230. ⁰⁰	\$ 115,000. ⁰⁰
11.	1.5" Overlay Pavement	80	Tons	\$ 190. ⁰⁰	\$ 15,200. ⁰⁰
12.	Slipform Concrete Curb	1100	LF	\$ 13. ⁰⁰	\$ 14,300. ⁰⁰
13.	6" & 8" Drain Connections	50	LF	\$ 200. ⁰⁰	\$ 10,000. ⁰⁰
14.	12" Ø SICPE Storm Drain	600	LF	\$ 110. ⁰⁰	\$ 66,000. ⁰⁰
15.	18" Ø SICPE Storm Drain	600	LF	\$ 125. ⁰⁰	\$ 75,000. ⁰⁰
16.	18" Ø RCP Storm Drain	240	LF	\$ 125. ⁰⁰	\$ 30,000. ⁰⁰
17.	4' Ø Precast Catch Basins	10	EA	\$ 5000. ⁰⁰	\$ 50,000. ⁰⁰
18.	Type F Catch Basins	4	EA	\$ 3500. ⁰⁰	\$ 14,000. ⁰⁰
19.	Trench Drain/Curb Inlet	3	EA	\$ 10,000. ⁰⁰	\$ 30,000. ⁰⁰
20.	Loam & Seeding	LS	LS	\$ 30,000. ⁰⁰	\$ 30,000. ⁰⁰
21.	2" Rigid Insulation	8500	SF	\$ 4. ⁰⁰	\$ 34,000. ⁰⁰
22.	Owner's Testing Allowance	All	LS*	\$ 2,000.00	\$ 2,000.00
23.	Detectable Warning Plates	3	EA	\$ 3,000. ⁰⁰	\$ 9,000. ⁰⁰
24.	Pavement Markings	1	LS	\$ 1,000. ⁰⁰	\$ 1,000. ⁰⁰
25.	Electrical Lighting System	1	LS	\$ 200,000. ⁰⁰	\$ 200,000. ⁰⁰
26.	RRFB Sign Pair	1	EA	\$ 10,000. ⁰⁰	\$ 10,000. ⁰⁰

*Note: Asterisk indicates indeterminate quantity for bidding comparison.

TOTAL BID (IN FIGURES):\$ 796,014.⁰⁰
 TOTAL BID (IN WORDS): Seven hundred ninety six thousand Sixteen Dollars
and no cents

*Note: Asterisk indicates indeterminate quantity for bidding comparison.

The undersigned agrees to furnish all required insurance certificates and bonds within 10 days after formal acceptance of the proposal by the Owner as signified by issuance of Notice of Award. All insurance certificates and bonds must be furnished before formal execution of the contract by the Owner.

The undersigned agrees to the following:

- a. To substantially complete the work within 120 calendar days and to complete the work within 150 calendar days of the formal Notice to Proceed.
- b. That the Owner may retain liquidated damages of \$750 per day for each day in excess of those mentioned above that the work is not completed as indicated.

The undersigned acknowledges the receipt of the following Addenda:

Addendum # 1 5/25/23

Date: 5/31/23

Signed: 

Name: Barney Silver

Title: President

Representing: Lou Silver Inc

Address: P.O. Box 22

ORONO, ME 04473

Telephone: 942-8074

Fax: 942 5072

(Seal - if Bid is by Corporation)
(Also attached Certificate of Authority
for signatory to execute contract)

MULTI-USE PATH AND DRAINAGE IMPROVEMENTS
FOURTH STREET EXTENSION
CITY OF OLD TOWN, MAINE
May 31, 2023

Item No.	Item Description	Est. QTY	Unit	Facility and Construction Services Unit Price	Facility and Construction Services Total Price	Drainage Quantity	Drainage Total Price	Sidewalk Quantity	Sidewalk Total Price	Electrical Quantity	Electrical Total Price
1	Mobilization & Traffic Control	1	LS	\$ 100,000.00	\$ 100,000.00	0.40	40,000.00	0.30	30,000.00	0.30	\$ 30,000.00
2	Abandoning Existing Utilities	1	LS	\$ 2,500.00	\$ 2,500.00	1.00	2,500.00	0.00	0.00	-	\$ -
3	Test Pits	14	EA	\$ 700.00	\$ 9,800.00	14.00	9,800.00	0.00	0.00	-	\$ -
4	Rip Rap	20	CY	\$ 100.00	\$ 2,000.00	100.00	10,000.00	0.00	0.00	-	\$ -
5	Excavation	500	CY	\$ 20.00	\$ 10,000.00		0.00	500.00	10,000.00	-	\$ -
6	Excavation and Replacement of Unsuitable Fill	100	CY	\$ 40.00	\$ 4,000.00	40.00	1,600.00	0.00	0.00	-	\$ -
7	Aggregate Subbase	250	CY	\$ 40.00	\$ 10,000.00		0.00	250.00	10,000.00	-	\$ -
8	Aggregate Base	750	CY	\$ 40.00	\$ 30,000.00		0.00	750.00	30,000.00	-	\$ -
9	Temporary Erosion Control	1	LS	\$ 4,500.00	\$ 4,500.00	0.75	3,375.00	0.25	1,125.00	-	\$ -
10	Trench/Roadway/Pathway Pavement	500	Tons	\$ 200.00	\$ 100,000.00	100.00	20,000.00	425.00	85,000.00	-	\$ -
11	1.5" Overlay Pavement	80	Tons	\$ 150.00	\$ 12,000.00	80.00	12,000.00	0.00	0.00	-	\$ -
12	Slipform Concrete Curb	1100	LF	\$ 10.91	\$ 12,001.00		0.00	1100.00	12,001.00	-	\$ -
13	6" & 8" Drain Connections	50	LF	\$ 50.00	\$ 2,500.00	50.00	2,500.00	0.00	0.00	-	\$ -
14	12" Ø SICPE Storm Drain	600	LF	\$ 118.66	\$ 71,196.00	600.00	71,196.00	0.00	0.00	-	\$ -
15	18" Ø SICPE Storm Drain	600	LF	\$ 137.40	\$ 82,440.00	600.00	82,440.00	0.00	0.00	-	\$ -
16	18" Ø RCP Storm Drain	240	LF	\$ 121.58	\$ 29,179.20	240.00	29,179.20	0.00	0.00	-	\$ -
17	4' Ø Precast Catch Basins	10	EA	\$ 7,070.00	\$ 70,700.00	10.00	70,700.00	0.00	0.00	-	\$ -
18	Type F Catch Basins	4	EA	\$ 5,300.00	\$ 21,200.00	4.00	21,200.00	0.00	0.00	-	\$ -
19	Trench Drain/Curb Inlet	3	EA	\$ 3,333.00	\$ 9,999.00		0.00	3.00	9,999.00	-	\$ -
20	Loam & Seeding	1	LS	\$ 7,500.00	\$ 7,500.00		0.00			-	\$ -
21	2" Rigid Insulation	8,500	SF	\$ 3.00	\$ 25,500.00	8000.00	5,625.00	0.75	5,625.00	-	\$ -
22	Owner's Testing Allowance	1	LS	\$ 2,000.00	\$ 2,000.00	2000.00	24,000.00	500.00	15,000.00	-	\$ -
23	Detectable Warning Plates	3	EA	\$ 2,666.00	\$ 7,998.00		0.00	0.00	0.00	-	\$ -
24	Pavement Markings	1	LS	\$ 2,500.00	\$ 2,500.00		0.00	3.00	7,998.00	-	\$ -
25	Electrical Lighting System	1	LS	\$ 150,000.00	\$ 150,000.00		0.00	1.00	2,500.00	-	\$ -
26	RRFB Sign Pair	1	EA	\$ 10,000.00	\$ 10,000.00		0.00	0.00	0.00	1.00	\$ 150,000.00
	TOTAL BID				\$ 789,513.20		\$ 408,115.20		\$ 215,748.00		\$ 180,000.00

10

Thornton Construction, Inc.

PO Box 529

Milford, Maine 04461

(Attachment D)
pgs. 1-5

Estimate

Date	Estimate #
8/3/2023	2479

Name / Address
City of Old Town 265 Main Street Old Town, Maine 04468

Project

Description	Qty	Rate	Total	U/M
Placement of rock wall in front of Forestry building	1	40,000.00	40,000.00	

Subtotal			\$40,000.00
Sales Tax (5.5%)			\$0.00
Total			\$40,000.00

State of Maine
Department of Agriculture, Conservation, and Forestry
Maine Forest Service
and
City of Old Town

Memorandum of Agreement addendum to Annual Lease Agreement (MOA)

WHEREAS the **City of Old Town, Maine**, a municipal corporation in Penobscot County, State of Maine is responsible for the management and use of certain real property known as the airport property in the said City,

WHEREAS the **State of Maine, Department of Agriculture, Conservation and Forestry (DACF)** leases a portion of the said property being 15 acres, more or less, located adjacent to the Airport Road with a means of ingress and egress from the Gilman Falls Avenue for the purpose of a Regional Forestry headquarters including Seaplane and Heliport operations as memorialized by said lease agreement signed on April 25, 2016.

WHEREAS the City of Old Town, Maine is conducting reconstruction and erosion control of shoreline and airport infrastructure and there is a present need to conduct shoreline reconstruction of the deteriorated timbers currently in place, on the property leased to the DACF.

NOW THEREFORE the City of Old Town, Maine and DACF enter into the following agreement:

- The City of Old Town, Maine agrees to improve the lease site by agreeing to reconstruct the shoreline with rock boulders. The City of Old Town will utilize Thornton Construction for completion of the said work. The Tenant, DACF, agrees to a lump sum payment per the quote in Attachment B.
- The City of Old Town, Maine will have responsibility for all reconstruction work including, contractor oversight. In addition, the City of Old Town, Maine agrees that it will ensure all laws, rules, and permits of the City of Old Town, Maine are followed and completed. Nothing herein shall be construed as a waiver of the City's immunity under the Maine Tort Claims Act.

- The Department of Agriculture, Conservation, and Forestry agrees to work collaboratively with the City of Old Town, Maine, and the contractor to accomplish the work. The DACF understands that once the project is completed, the City of Old Town, Maine retains ownership of the property and that the DACF will continue to maintain the facilities per the original lease specifications. Should either the City of Old Town, Maine or the DACF terminate the lease per the terms in the lease agreement or the lease term ends, DACF will leave the rock wall in place as outlined in Attachment A, in its current condition, and will not be responsible for any additional work or removal of Seawall.
- Once the project is completed, the City of Old Town, Maine will invoice the DACF for the cost of the project and DACF shall pay a one-time lump sum payment within 60 days of invoicing equal to the amount of the invoice or the payment quoted in Attachment B, as Attachment B may be amended in accordance with this MOA, whichever is less.
- The City of Old Town agrees to notify the DACF if there are anticipated financial cost changes to their contract or if there are additional problems that surface while project is ongoing (change orders). If the City of Old Town proceeds with a change order without written or electronic approval from DACF, the City of Old Town will be responsible for any additional costs above the specified amount in Attachment B. The DACF reserves the right to reasonably renegotiate the MOA before agreeing to a change order.
- The City of Old Town, Maine and the DACF agree that this MOA will expire upon expiration of the original lease agreement.
- The DACF, upon notice from the City of Old Town, will modify use of the premises as reasonably necessary to facilitate the City of Old Town's and its contractor's access for the Seawall reconstruction described in Attachment B.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals, in any number of counterparts, the day and year first above written.

WITNESS:

CITY OF OLD TOWN

By: _____

Lance Farrar
Airport Director

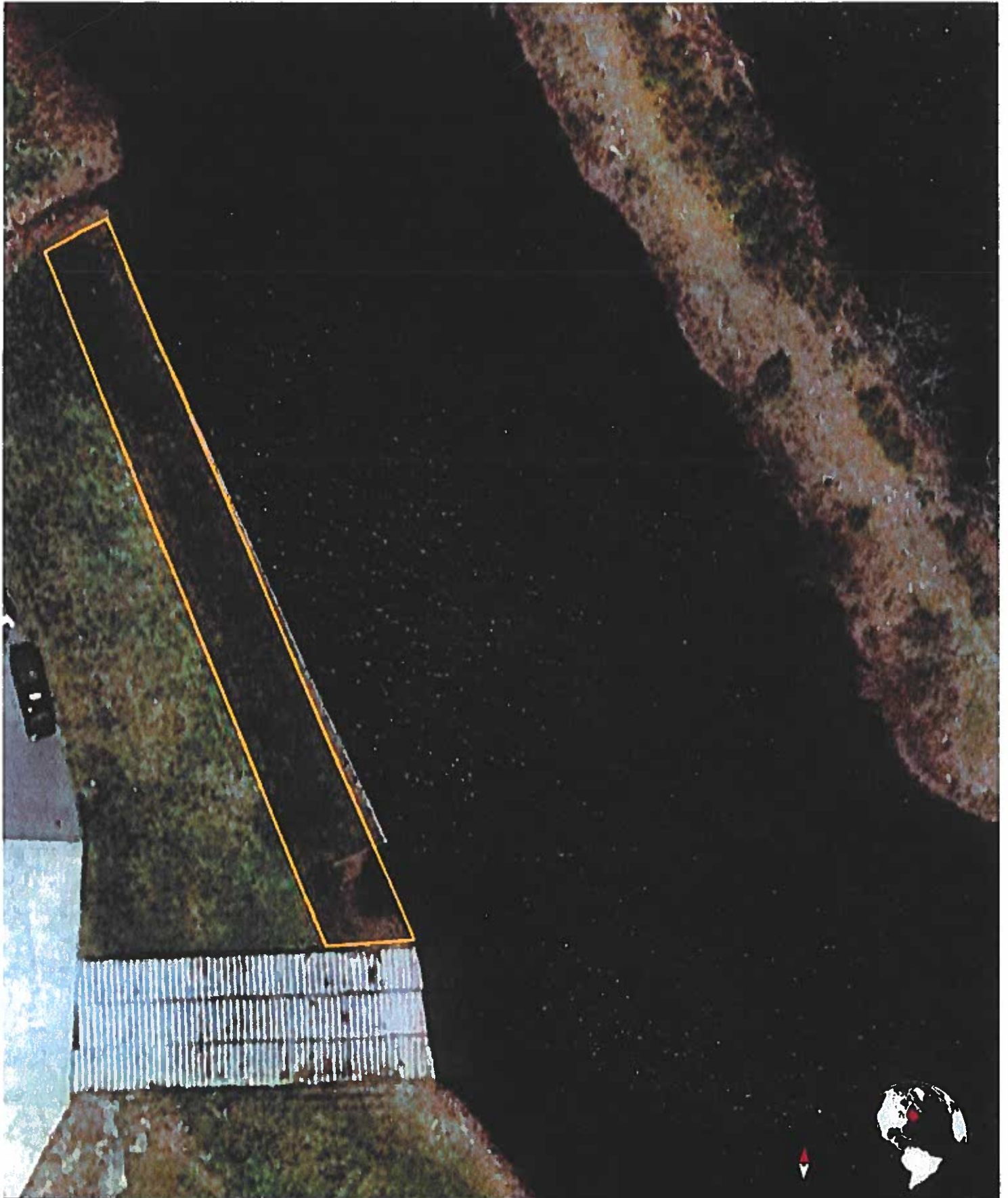
Landlord

Tenant Name

By: _____

Department of Agriculture,
Conservation, Forestry
Its ***Tenant Signor Title***

Tenant



Google Earth

Imagery date: 5/11/...

60 ft

Camera: 567 ft 44°56'55"N 68°39'4...

5

CONTRACT FOR MUNICIPAL SOLID WASTE and RECYCLABLES COLLECTION

THIS AGREEMENT (the "Agreement") is made this 1st day of August, 2023 by and between the City of Old Town, Maine, a municipal corporation existing under the laws of the State of Maine (hereinafter "Municipality"), and Pine Tree Waste, Inc., a business corporation doing business in the State of Maine (hereinafter "Contractor").

WITNESSETH:

WHEREAS, Municipality wishes to engage the Contractor to provide MSW and Recyclable Curbside Collection Service and the Contractor wishes to provide MSW and Recyclable Curbside Collection Service;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, Municipality and the Contractor agree as follows:

1. Definitions:

- a. Municipality- shall mean the City of Old Town, a municipality situated in the State of Maine and shall include all publicly maintained streets and ways, and all buildings and improvements within Municipality's boundaries.
- b. Recyclables - shall mean all that portion of MSW (defined below) that consists of materials that may be processed as recyclables according to the end Processing Facility.
- c. Collection Day Route - shall mean the scheduled MSW (defined below) and recyclable collection patterned for particular calendar days, provided said schedule has been pre-determined, by the Contractor and approved by Municipality. Collection routes will be specific and routine and collection shall occur on the same day each week for the same route. Contractor reserves the right to make minor modifications to the collection routes, to increase efficiency, or to improve the level of service. Modifications will not affect the overall scope of the work or add to the collection costs.
- d. Disposal or Processing Facility - shall mean the facility designated by the Municipality and duly permitted to receive MSW for disposal or Recyclables for processing, which shall be located within twenty-five (25)miles of the Municipality's administrative offices.
- d. Normal Collection Day(s) – shall mean Tuesday, Wednesday, Thursday, and Friday except for national holidays recognized and observed by selected Contractor.
- e. Storm Day - shall mean any Normal Collection Day that is cancelled due to weather by Contractor. In the event of a storm day, all remaining collection days for that week will be pushed forward by one day.
- f. Municipal Solid Waste ("MSW")- shall mean non-hazardous disposable household waste as further defined by Maine Law. All other materials shall be "Unacceptable Waste".
- g. Municipal Buildings - Public Works Garage, Public Safety, Pollution Control, Airport, Recycling Center, Community Center and City Hall.

2. For the duration of the Term, Contractor shall provide "MSW and Recyclable Curbside Collection Service" which is defined as collection of MSW and Recyclables from approximately three-thousand (3,000) residential units in Municipality, comprised of single, multi-family with four or fewer units, mobile home parks and Municipal Buildings once per week, on Normal Collection Days in accordance with the Collection Day Route, and shall deliver the same to the Disposal or Processing Facility. All fees payable to the Disposal or Processing facility, and any replacement thereof, shall be paid directly by Municipality.

3. MSW (in pay as you throw bags) and Recyclables, shall be placed in carts as provided in section 5 of this Agreement, and at the curb for collection, no later than 7:00 A.M., prevailing time, on the day of collection, and the Contractor shall not commence collections until that time. Collections shall end no later than 8:00 P.M., prevailing time.

4. Contractor shall receive title to all MSW and Recyclable Materials upon collection, however, in no event shall Contractor take title to Unacceptable Waste. Notwithstanding the foregoing, to the extent Unacceptable Waste is collected by Contractor, Municipality shall reimburse Contractor for any additional costs or expenses associated with handling and disposal or processing.

5. The Contractor shall supply all equipment and labor required to complete the MSW and Recyclable Curbside Collection Service. Contractor shall supply each household one 96 gallon cart for MSW and one 64 gallon cart for recycling if they do not already have one. The cost and expense of all the necessary labor, tools, and equipment required, to complete the MSW and Recyclable Curbside Collection Service, including the provision of metal containers for Municipal Buildings, and up to 4,5000 carts is included in the Contractor's Fee, and the Contractor covenants that it shall perform as required pursuant to this Agreement, in return for payment of the Fee as provided herein.

6. Vehicles used for MSW and Recyclable Curbside Collection Service shall transition from manual collection vehicles to vehicles designed and manufactured, for fully or semi-automated curbside collection, and as the Contractor determines to be appropriate for use in service to all residential units and Municipal Buildings serviced pursuant to this Agreement, and which shall be compatible with carts that are being used as provided in section 5.

7. The Contractor shall comply with all State and Federal Laws and Regulations and Municipality Ordinances, including, but not limited to, OSHA safety regulations, relating to the collection and transporting of recyclables, and Contractor shall require subcontractors to abide accordingly. Any violation of law, either by the Contractor or its subcontractors, shall be the sole responsibility of the Contractor.

8. When a holiday falls on a weekday all collection days will be pushed forward by one day in light of the holiday and will be noticed by Contractor, in advance.

9. All customer service calls will be directed to the Contractor's Customer Service department. The Contractor shall address missed stops on the same day, unless it is too late in the day or it is clear that the resident missed the curbside pick-up time.

10. Contractor shall provide and deliver MSW and Recyclables containers to residences prior to the start of this agreement unless otherwise agreed.

11. The initial contract term ("Term") shall be a period of five years, running from September 1, 2023 through August 31, 2028. Each one year period of time within the Term shall be a "Term Year". The parties may mutually agree to renew the Term for one (1) additional five (5) year period.

12. Fees. For each Term Year, Municipality shall pay the Contractor, the Fee for Contractor's full performance of all obligations under this Contract, including but not limited to provision of the MSW and Recyclable Curbside Collection Service.

September 1, 2023-August 31, 2024 \$415,000.00 (Four Hundred Fifteen Thousand Dollars)

Municipality shall make payment of the Fee as follows: 1/12 of the Fee shall be due and owing on the last day of each month in which the Contractor provides MSW and Recyclable Curbside Collection Service in accordance with this contract.

Annual Fee Increase: All Fees will be increased on July 1 of each year of the Term by a percentage equal to the greater of (a) 5.0%; (b) Consumer Price Index for Garbage and Trash Collection; or CPI-U index for the most recent reported period.

Fuel Adjustor: Casella may assess a fee (the "Fuel Adjustor") on a monthly basis to cover increases in Casella's costs caused by increases in the cost of diesel fuel over a floor price of \$5.00 per gallon (the "Floor Price") based on the listed average price for diesel fuel for the month of service, as set forth on the EIA Retail On Highway Diesel Prices index for New England PADD 1A (the "Index") or a successor index. Each month Casella will assess a Fuel Adjustor whenever the average monthly Index fuel price listed for the month of service (the "Service Month Index Price") exceeds the Floor Price." The Service Month Index Price can be located on the internet at the following web site: <http://www.eia.gov/petroleum/gasdiesel/> and is listed in the spreadsheet link titled "full history". The Fuel Adjustor will be made according to the following formula:

$(\text{Service Month Index Price} - \text{Floor Price} / \text{Floor Price}) \times (\text{Fuel Allocation in Pricing (xxxx\%)}) \times (\text{Monthly Service Fee}) = \text{Fuel Adjustor}$

Pass Through Charges: Fees may be further adjusted upon thirty (30) days' notice to cover increases in disposal and processing or due to uncontrollable circumstances, including, without limitation, changes in local, state or federal laws or regulations, imposition of taxes, fees or surcharges, or in the event that the number of residences served or stops made should increase by more than ten percent (10%) from the baseline of 3,000.

13. Incorporated herein by reference and made a part hereof are the attached Standard Terms and Conditions.

PINE TREE WASTE, INC.:

By: Brian Oliver
Title: Regional Vice President
Date:

CITY OF OLD TOWN:

By: Bill Mayo
Title: City Manager
Date:

ATTACHMENT A
Standard Terms & Conditions

Governing Law. This Agreement and any issues arising hereunder or relating hereto shall be governed by and construed in accordance with the laws of the State of Massachusetts except for conflict of law provisions that would apply the substantive law of another state.

Venue. The parties consent to the jurisdiction of the state and federal courts having jurisdiction over Municipality, Massachusetts.

Limitation of Liability. Neither party shall be liable to the other for special, incidental, exemplary, punitive or consequential damages including without limitation loss of use, loss of profits or revenues, or cost of substitute or re-performed services, suffered, asserted or alleged by either party or any third party arising from or relating to this Agreement. Notwithstanding the foregoing, in no event shall direct damages of either party be precluded by virtue of this Limitation of Liability.

Disclaimer of Joint Venture, Partnership, and Agency. This Agreement shall not be interpreted or construed to create an association, joint venture, or partnership between the parties or to impose any partnership obligation or liability upon either party. Neither party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent of representative of, or to otherwise bind, the other party.

Force Majeure.

a. "Force Majeure" means shall mean any act, event or condition materially and adversely affecting the ability of a party to perform or comply with any material obligation, duty or agreement required under this Agreement, if such act, event, or condition is beyond the reasonable control of the nonperforming party or its agents relying thereon, is not the result of the willful or negligent action, inaction or fault of the party relying thereon, and the nonperforming party has been unable to avoid or overcome the act, event or condition by the exercise of due diligence, including, without limitation: (i) an act of God, epidemic, landslide, lightning, earthquake, fire, explosion, storm, flood or similar occurrence; (ii) an act of public enemy, war, blockage, insurrection, riot, general unrest or restraint of government and people, civil disturbance or disobedience, sabotage, act of terrorism or similar occurrence; (iii) a strike, work slowdown, or similar industrial or labor action; (iv) a significant change in economic conditions; (v) an order or judgment (including without limitation a temporary restraining order, temporary injunction, preliminary injunction, permanent injunction, or cease and desist order) or other act of any federal, state, county or local court, administrative agency or governmental office or body which prevents a party's obligations as contemplated by this Agreement; or (vi) adoption or change (including a change in interpretation or enforcement) of any federal, state or local law after the Effective Date of this Agreement, preventing performance of or compliance with the obligations hereunder.

b. Neither party shall be liable to the other for damages without limitation (including liquidated damages) if such party's performance is delayed or prevented due to an event of Force Majeure. In such event, the affected party shall promptly notify the other of the event of Force Majeure and its likely duration. During the continuation of the Force Majeure Event, the nonperforming party shall (i) exercise commercially reasonable efforts to mitigate or limit damages to the performing party; (ii) exercise commercially reasonable due diligence to overcome the Force Majeure event; (iii) to the extent it is able, continue to perform its obligations under this Agreement; and (iv) cause the suspension of performance to be of no greater scope and no longer duration than the Force Majeure event requires.

c. In the event of a delay in either party's performance of its obligation hereunder for more than sixty (60) days due to a Force Majeure, the other party may, at any time thereafter, terminate this Agreement.

Representations and Warranties of Authority. Each party represents and warrants to the other that:

a. it is duly qualified to do business and is in good standing in every jurisdiction in which this Agreement requires its performance;

- b. it has full power and authority to execute, deliver and perform its obligations under this Agreement;
- c. the execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary action by such party; and
- d. the execution and delivery of this Agreement by such party and the performance of the terms, covenants and conditions contained herein will not violate the articles of incorporation or by-laws of such party, or any order of a court or arbitrator, and will not conflict with and will not constitute a material breach of, or default under, the provisions of any material contract by which either party is bound.

These warranties shall survive the expiration or termination of this Agreement.

Termination. This Agreement may be terminated:

- a. by both parties upon mutual written agreement; or
- b. immediately upon notice by either party, in the event that any of the representations and warranties contained in this Agreement are shown to be untrue; or
- c. by either party in the event of a failure by the other party to perform a material obligation as follows (a "Default"): if the Default has not been cured by the defaulting party within thirty (30) days from receipt of notice from the non-defaulting party, the non-defaulting party may (i) terminate this Agreement immediately, or (ii) agree in writing that the defaulting party is diligently pursuing a cure, and extend the cure period at its sole discretion, subject to immediate termination upon notice.

Entire Agreement. It is understood and agreed that all understandings and agreements heretofore had between the parties are merged in this Agreement, which alone fully and completely expresses their agreement and contains all of the terms agreed upon between the parties with respect to the subject matter of this Agreement, and that this Agreement is entered into after full investigation, neither party relying upon any statement or representation, not embodied in this Agreement, made by the other.

Amendment. This Agreement may not be amended, modified or supplemented, except in writing and signed by the parties.

Non-Waiver. No waiver by any party to this Agreement of any failure or refusal by the other party to comply with its obligations shall be deemed a waiver of any other or subsequent failure or refusal to so comply. No waiver by either Party of any right or remedy hereunder shall be valid unless the same shall be in writing and signed by the Party giving such waiver. No waiver by either Party with respect to any default, misrepresentation, or breach of warranty or covenant hereunder shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

Severability; Modification Required By Law. If any term or provision of this Agreement shall be found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions thereof or hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreement of the parties herein set forth.

Headings. The headings of sections and subsections of this Agreement are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Agreement.

Assignment. This Agreement and all of the provisions thereof and hereof shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests, obligations, and remedies hereunder shall be assigned by any party, including by operation of law, without the prior written consent of the other party. Notwithstanding the preceding sentence, however, this Agreement may be freely assigned by Pine Tree Waste, Inc., without consent, to any entity controlling, controlled by or under common control with Pine Tree Waste, Inc.

Construction. This Agreement and its exhibits and schedules are the result of negotiations between the parties and have been reviewed by all parties. Accordingly, this Agreement will be deemed to be the product of the parties thereto and no ambiguity will be construed in favor of or against any party.

No Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer upon any third party any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

Further Acts. Each party agrees to perform any further acts and to execute, acknowledge, and deliver any documents which may be reasonably necessary to carry out the provisions of this Agreement.

Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but which together will constitute one and the same instrument.

Disputes. If a claim or dispute arises out of this Agreement or its performance, the parties agree to endeavor in good faith to resolve it equitably through negotiation, or if that fails, through non-binding mediation under the rules of the American Arbitration Association, before having recourse to the courts. However, prior to or during negotiation or mediation, either party may initiate litigation that would otherwise become barred by a statute of limitations.

Indemnification. Each party (in this case, each an "Indemnifying Party") shall, to the fullest extent allowed by law, indemnify and hold harmless the other party and any director, officer, or affiliate (each, an "Indemnified Party") from and against any and all claims, actions, suits, judgments, proceedings, liabilities, obligations, losses, and damages, amounts paid in settlement, interest, costs and expenses (including reasonable attorney's fees, penalties (civil, criminal or administrative), court costs and other out-of-pocket expenses incurred in investigating, preparing or defending the foregoing) relating to or arising from personal injury, bodily harm or death, property damage or damage to the environment ("Losses") incurred or suffered by an Indemnified Party or any third party arising by reason of, or resulting from (i) the material breach or inaccuracy of any representation or warranty of the Indemnifying Party ; (ii) the material breach by Indemnifying Party of any of its covenants or agreements contained in this Agreement, or (iii) the gross negligence or willful misconduct of the Indemnifying Party or any of its agents, employees or subcontractors.

The indemnification obligations of each party under this Section shall inure to the benefit of the directors, officers, affiliates, and employees of such party.