

Exhibit A

NOTICE TO BIDDERS Invitation to Bid

The Town of Newcastle is soliciting bids for GRADING AND SHAPING DITCHES AND ROADWAYS ON APPROXIMATELY 7 MILES OF GRAVEL ROADS within the town. Bid packages can be obtained at the Newcastle Town Office at 4 Pump Street Newcastle, Maine 04553 during normal business hours or by contacting Steve Reynolds, Road Commissioner at 207-415-1525.

DESCRIPTION OF PROJECT: The work consists of MECHANICALLY GRADING AND COMPACTING/ROLLING AND SHAPING THE DITCHES AND ROADWAYS ON THE GRAVEL ROADS AS FOLLOWS; East Old County Rd, West Old County Rd, South Dyer Neck Rd, North Dyer Neck Rd, Happy Valley Rd, Hillside Rd, Hassan Ave (east), Hassan Ave (west) and Island Rd from the causeway to the plow turn around.

INSTRUCTIONS:

1. Bids will be received by the Town of Newcastle (hereinafter called the "Town"), at the Town Offices, until 2:00 PM on May 4th, 2017, and then at said office publicly opened, and read aloud. Each bid must be submitted in a sealed envelope, addressed to Jon Duke, Town Administrator, Town of Newcastle, 4 Pump Street, PO Box 386, Newcastle, Maine 04553. The envelope containing the bid must be plainly marked on the outside of the envelope as "FY 2017 GRAVEL ROADS Bid" with the envelope bearing the name and address of the bidder. Telegraphic, facsimile or electronic (e-mail) proposals or modifications to proposals will not be considered.
2. All bids must be submitted on the attached Bid Proposal Form. All blank spaces on the Bid Proposal Form must be filled in with the appropriate response or the abbreviation "N.A." to indicate "not applicable." Each bidder is required to state in its proposal: the bidder's name and place of business and the names or persons or parties interested as principals with it; that the proposal is made without any connection to any other bidder making any proposal for the same services; and that no person acting for or employed by the Town is directly or indirectly interested in the proposal or any agreement which may be entered into to which the proposal relates. A conditional or qualified bid will not be accepted.
3. The bidder is expected to carefully examine the roads of the proposed work and to be thoroughly familiar with the details and all conditions likely to be encountered that will affect the cost and scheduling of the work before submitting a bid proposal. The submission of a bid shall be considered evidence that the bidder has made such examination and is satisfied as to the conditions to be encountered in performing the work and as to the requirements of the Request for Proposals. The bidder will be held responsible for its failure or neglect to observe or comply with these instructions.
4. This Request for Proposals contains the provisions required for a complete project. Information obtained from a municipal officer, official, agent, or employee of the Town or any other person shall not affect the risks or obligations assumed by the contractor or relieve him from fulfilling any of the conditions of this Request for Proposals. Contractor must state

in their proposal that they have made an independent investigation and analysis of the areas to be ditched, shaped and graded, site conditions and taken all unknown conditions into account in determining the bid proposal and has not relied on any representation by a town official, officer, contractor agent or representative.

5. The bidder is advised that the work to be accomplished under this Request for Proposals will be determined by bid price and budget limitations for each road.
6. Bid Deposit –NA
7. Form of Contract – The successful bidder shall be required to sign a contract with the Town of Newcastle in the same form as attached hereto no later than ten (10) days after the opening of bids.
8. Performance and Payment Bond –NA
9. Any bid may be withdrawn prior to the above scheduled time for the opening of the bids or authorized postponement thereof. Any bid received after the time and date specified shall not be considered. No bidder may withdraw a bid within sixty (60) days after the actual opening.
10. The Town reserves the right to accept or reject any and all submissions, to waive any or all formalities in the bidding, to evaluate bids, to investigate the references of any and all bidders, to negotiate with one or more bidders and otherwise to act as it deems to be in the best interests of the Town.
11. All bidders will be notified by telephone of the bid results.

SPECIFICATIONS:

- All travel lanes on gravel roads will be graded with the use of a “Road Grader” to a cross slope of ½” per foot of lane width from centerline to shoulder (i.e. A 10 ft lane will have a crown of 5”) Shoulders will be lower and graded at a slightly steeper cross slope to provide positive drainage to the ditch.
- The depth of the ditch should be at least 12” below the bottom of the roadway base gravel. If the depth of the base gravel is unknown, then the ditch should be a minimum of 18” below the shoulder elevation. Care should be given to avoid excessively deep ditches which would create safety and liability concerns to motorists and/or pedestrians, especially with steep side slopes.
- All ditches will be shaped with no hard transitions in slopes. The shape should be rounded (parabolic) to minimize erosion and water velocities. V-ditches should be avoided.
- The grade of the ditch flow lines should have a minimum of 1% pitch and never less than 0.5% .
- All pot holes **shall** be undercut and not simply filled.

- No gravel or sod berm or windrows will be left in-between the road and the ditch slope.
- Prior to grading the Contractor will call Dig-Safe to protect against possible damage. The 72 hour waiting period will be adhered to in all CASES.
- All work will be protected by proper work zone devices and procedures. The standards presented in the latest edition of Part IV of the Manual on Uniform Traffic Control Devices (MUTCD) will serve as minimum standards.
- All culverts or obstructions will be flagged or marked prior to grading to ensure no damage to the culverts or equipment.
- All “ditch spoils” will be properly disposed of by the operator.
- All work will be performed under the direction of the Road Commissioner (Town Administrator or Board of Selectmen)
- Any inconvenience to residents or adjacent driveways shall be avoided by prior notification.
- If regravelling a road, the “old” road surface will be crowned prior to any new gravel placement
- All graded surfaces will be rolled with a 5 ton (minimum) vibratory roller to tighten all surfaces.

- All surface gravel will meet standard MDOT Gravel specs for Type A. Maximum of 4” lifts will be placed and thoroughly compacted to 95% maximum density and shaped with the proper crown. Samples of the gravel may be obtained by the Town at any time to ensure quality and for periodic testing.

- All unstable ditches and slopes will be properly protected against erosion according to current best management practices. Timely protection and proper materials will be primary considerations to proper erosion control.

REQUIREMENTS:

1. The bidder agrees to commence work under its Bid Proposal Form on or after May 15th, 2017 and to fully complete the project by June 2nd, 2017. However, the actual starting date and time of operation, must be coordinated with and approved by the Road Commissioner or his designee. Due to the difficulty of calculating damages for late completion, the bidder further agrees to pay liquidated damages in the amount of \$500.00 (Five Hundred Dollars) per day for each consecutive calendar day of delay after June 2nd, 2017 until all the work is completed to the satisfaction of the Town.

2. The bidder shall thoroughly inspect all roads to be graded and ditched.
3. The bidder shall provide all necessary flagmen, signs, barricades and other safety devices to control and direct traffic during all operations.
4. The bidder shall work to ensure safe passage of vehicular traffic during all operations.
5. WEATHER LIMITATIONS: no roadway grading shall take place during rain events or when excess or standing water is present on the road surface.
6. SUSPENSION OF WORK: In case of suspension of work, for any reason whatsoever, the bidder will be responsible for the project and shall take whatever precautions may be necessary to prevent damage to the project at its own expense.
7. ACCEPTANCE: Upon notice from the bidder of completion of the entire project, the Road Commissioner or his designee will make an inspection. If all work provided for and contemplated in this Request for Proposals is found completed to the Town's satisfaction, that inspection shall constitute final acceptance. If the inspection discloses any work, in whole or in part, as being unsatisfactory, the Road Commissioner or his designee will give the bidder the necessary instructions for correction and the bidder shall immediately comply with and execute the instructions. If the correction has been satisfactorily completed, then the inspection will constitute the final inspection. The Road Commissioner shall have sole judgment in determining the quality and the acceptance of the project.

WARNING TO BIDDER: The bidder is warned that (a) the work terms and conditions set forth in this Request for Proposals will be fully enforced; (b) the Town will maintain full-time inspection during the period of work; and (c) only first-rate quality workmanship will be accepted.

Exhibit B

FY 2017 GRAVEL ROADS BID PROPOSAL FORM

The undersigned herewith submits its bid in accordance with the requirements and specifications of the Request for Proposals and herein acknowledge as follows:

1. That the need for products and services are the best estimates of the Town of Newcastle at the time of this bid, but that these estimates may vary.
2. Our company carries the necessary, required insurances, which are in force and shall remain in force during the term of the contract.
3. Our company is bondable and a Performance Bond and a Payment Bond will be provided if we are awarded any portion of this bid.
4. We agree to comply with the Specifications and Requirements relating to pricing and reporting requirements for products and services provided under this bid.
5. All prices quoted shall be firm for the term of the contract except as may be expressly provided in the contract.
6. If selected, we agree to sign the required contract with the Town of Newcastle no later than ten (10) days after the opening of bids.

<u>NAME OF ROAD</u>	<u>LENGTH</u>	<u>WIDTH</u>	<u>BID (\$)</u>	<u>DESCRIPTION</u>
1. East Old County			\$	Grading, compacting
2. West Old County			\$	& ditch shaping
3. South Dyer Neck			\$	
4. North Dyer Neck			\$	
5. Happy Valley & Hillside			\$	
6. Hassan Ave (east)			\$	
7. Hassan Ave (west)			\$	
8. Island Rd			\$	
			Total: \$	

Please Submit a rate sheet to include equipment & labor hourly rates

SURFACE GRAVEL (as directed): \$ _____ per Cubic Yard in place "tail gate drop"

NOTE: The bidder shall confirm the length and width of each portion of the road to be GRADED.

The undersigned hereby further declares that the only persons or parties interested in this Proposal, as principals, are named below; that the Proposal is made without any connection with any other person or party making any proposal for the same work; and that no person acting for or employed by the Town of Newcastle is directly or indirectly interested in this Proposal or in any Agreement which may be entered into or arise therefrom. The full names and addresses of all persons and parties interested in this Proposal, as principals, are as follows: (give first and last names in full; and in the case of a Corporation,

give names and addresses of President, Treasurer and Manager; and in case of a Partnership, give names and addresses of partners):

The price quoted on the Bid Proposal Form shall be for each road and shall include the furnishing OF EQUIPMENT TO SHAPE THE DITCHES AND GRADE AND COMPACT THE GRAVEL ROADS DESIGNATED, as well as all labor, materials, equipment, supplies, services and other incidentals, including flaggers, necessary for a complete project in accordance with, and subject to all the terms of this Request for Proposals.

The undersigned, having inspected all the roads listed and having familiarized ourselves with all conditions likely to be encountered that will effect the cost and schedule of work, and having examined all the bid instructions, requirements and specifications, hereby agrees to complete all the work previously described in this document for the bid prices listed on the Bid Proposal Form.

Name of Company

Bidding: _____

Mailing Address, City/State/Zip Code and Phone:

Print Name: _____

Date: _____

Signature: _____

Title: _____

SERVICE AGREEMENT
BETWEEN THE TOWN OF NEWCASTLE AND

THIS AGREEMENT is made this ___ day of _____, 2017, by and between the Town of Newcastle, a municipal corporation existing under the laws of the State of Maine and located in the County of Lincoln, State of Maine (hereinafter the TOWN) and _____, a Maine corporation with a principal place of business in _____, Maine (hereinafter the CONTRACTOR).

W I T N E S S E T H:

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

SCOPE OF THE WORK

1. The CONTRACTOR shall furnish all of the services and materials and perform all of the work and described in the specifications and requirements entitled **TOWN OF NEWCASTLE FISCAL YEAR (FY) 2017 GRAVEL ROADS BID - REQUEST FOR PROPOSALS FOR GRAVEL ROAD GRADING, COMPACTING/ROLLING AND DITCH SHAPING** issued by the Town of Newcastle in place on various roads, streets and parking areas in the Town during the 2017 Fiscal Year (July 1, 2016-June 30, 2017) (attached hereto as Exhibit A), and in accordance with the Bid Proposal Form from _____, dated _____, 2017 (attached hereto as Exhibit B), in return for payment as provided herein.

2. The CONTRACTOR shall be responsible for the provision of all materials and placement of those materials as required by Exhibit A. The TOWN may modify the road list established in Exhibit B by adding or deleting streets and changing gravel quantities. Except as provided in Paragraph 4, the CONTRACTOR shall not change the bid price set forth in Exhibit B in the event of such modifications.

COMMENCEMENT AND COMPLETION DATE

3. The CONTRACTOR agrees to commence work on or after May 15th, 2017 and to fully complete the project by June 2nd, 2017. However, the actual starting date and time of operation must be coordinated with and approved by the Road Commissioner or his designee. Due to the difficulty of calculating damages for late completion, the CONTRACTOR further agrees to pay liquidated damages in the amount of \$500.00 (Five Hundred Dollars) per day for each consecutive calendar day of delay after June 2nd, 2017 until all the work is completed to the satisfaction of the Town.

CONTRACT PRICE; PAYMENT

4a. The TOWN shall pay the CONTRACTOR in accordance with the bid prices established in Exhibit B.

4b. Payment shall be made within twenty-one (21) days of satisfactory completion of the work, as determined by the TOWN.

GUARANTEE

5. The CONTRACTOR and the subcontractors, if any, shall guarantee their work against any defects in workmanship and materials for a period of one year from the date of the TOWN's written acceptance of the project, and agrees to repair or replace at no cost or expense to the TOWN all work, materials and fixtures at any time during said one year period.

TRAFFIC SAFETY MEASURES

6. The CONTRACTOR shall be responsible for coordinating with the Town to establish appropriate traffic safety measures as such are needed.

PERFORMANCE AND PAYMENT BONDS

7. Waived

TOWN'S RIGHT TO TERMINATE CONTRACT

8. Without prejudice to any other right or remedy, the TOWN may terminate this Agreement for cause by providing the CONTRACTOR and its surety with seven (7) days' written notice of termination. For purposes of this Agreement, cause includes, but is not limited to: the adjudication of the CONTRACTOR as bankrupt; the making of a general assignment by the CONTRACTOR for the benefit of its creditors; the appointment of a receiver because of the CONTRACTOR's insolvency; the CONTRACTOR's persistent or repeated refusal or failure, except for cases in which extension of time is provided, to supply enough properly skilled workers or proper materials; the CONTRACTOR's persistent disregard of federal, state or local statutes, laws, codes, rules, regulations, orders or ordinances; and the CONTRACTOR's substantial violation of any provisions of this Agreement. In the event of a termination for cause, the TOWN may take possession of the premises and of all materials, tools and appliances thereon and finish the work by whatever method it may deem expedient. In such case the CONTRACTOR shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the Agreement price shall exceed the expense of finishing the work, including compensation for additional managerial and administrative services, such excess shall be paid to the CONTRACTOR. If such expense shall exceed such unpaid balance, the CONTRACTOR shall pay the difference to the TOWN. Further, the TOWN may terminate this Agreement for convenience upon thirty (30) days' written notice to the CONTRACTOR, in which case, the TOWN shall pay the CONTRACTOR for all work satisfactorily performed and materials purchased up to the date of receipt of such notice by the CONTRACTOR. In the event

that the TOWN terminates this Agreement for cause and it subsequently is determined that cause did not exist, such termination shall be deemed to be for convenience.

INSURANCE

9. Except as otherwise provided by this Agreement, the CONTRACTOR and its subcontractors and consultants shall obtain and maintain throughout the term of this Agreement at no expense to the TOWN the following insurance coverage through an insurance carrier licensed to do business in the State of Maine:

a. **Commercial General Liability Insurance** in the amount of not less than One Million Dollars (\$1,000,000) or such other amount as may be required by the Maine Tort Claims Act (14 M.R.S.A. § 8101 et seq.) as amended from time to time, combined single limit, to protect the CONTRACTOR, any subcontractor performing work covered by this Agreement, and the TOWN from claims and damages that may arise from operations under this Agreement, whether such operations be by CONTRACTOR or by a subcontractor or by anyone directly or indirectly employed by them.

b. **Automobile Liability Insurance** in the amount of not less than One Million Dollars (\$1,000,000) or such other amount as may be required by the Maine Tort Claims Act (14 M.R.S.A. § 8101 et seq.) as amended from time to time, combined single limit, to protect the CONTRACTOR, any subcontractor performing work covered by this Agreement, and the TOWN from claims and damages that may arise from operations under this Agreement, whether such operations be by CONTRACTOR or by a subcontractor or by anyone directly or indirectly employed by them.

c. **Workers' Compensation Insurance** in amounts required by Maine law and **Employer's Liability Insurance**, as necessary, as required by Maine law. In case any class of employees engaged in hazardous work under this Agreement is not protected under the Workers' Compensation Act, the CONTRACTOR shall provide for the protection of its employees not otherwise protected.

d. All such insurance policies shall name the TOWN and its officers, agents and employees as additional insureds, except that for purposes of workers' compensation insurance, the CONTRACTOR and its subcontractors instead may provide a written waiver of subrogation rights against the TOWN. The CONTRACTOR, prior to commencement of work under this Agreement, and any of its subcontractors, prior to commencement of work under any subcontract, shall deliver to the TOWN certificates satisfactory to the TOWN evidencing such insurance coverages, which certificates shall state that the CONTRACTOR and its subcontractors must provide written notice to the TOWN at least thirty (30) days prior to cancellation, non-renewal, material modification or expiration of any policies, evidenced by return receipt of United States Certified Mail. Replacement certificates shall be delivered to the TOWN prior to the effective date of cancellation, termination, material modification or expiration of any such insurance policy. The CONTRACTOR shall not commence work under this Agreement until it has obtained all insurance coverages required under this subparagraph and such insurance

policies have been approved by the TOWN, nor shall the CONTRACTOR allow any of its subcontractors to commence work on any subcontract until all such insurance policies have been obtained by the subcontractor and approved by the TOWN. All such insurance policies shall have a retroactive date which is the earlier of the date of this Agreement between the parties or the CONTRACTOR's commencement of services thereunder.

INDEMNIFICATION

10. The CONTRACTOR shall defend, indemnify, and hold harmless the TOWN, its officers, agents, and employees against any and all liabilities, causes of action, judgments, claims or demands, including attorney's fees and costs, for personal injury (including death) or property damage arising out of, or caused by the negligent performance of work or willful misconduct under this Agreement by CONTRACTOR, its subcontractors, agents or employees.

LIENS

11. The final payment shall not become due until the CONTRACTOR, if required by the TOWN, shall deliver to the TOWN a complete release of all liens arising out of the Agreement, or receipts in full in lieu thereof and, if required in either case, an affidavit that so far as it has knowledge or information the releases and receipts include all the labor and material for which a lien could be filed, but the CONTRACTOR may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the TOWN to indemnify it against any lien. If any lien remains unsatisfied after all payments are made, the CONTRACTOR shall refund to the TOWN all monies that the latter may be compelled to pay in discharging such a lien, including all costs and a reasonable attorney's fee.

ASSIGNMENT

12. Neither party to the Agreement shall assign this Agreement or sublet it as a whole without the written consent of the other, nor shall the CONTRACTOR assign any prior monies due or to become due to it hereunder, without the previous written consent of the TOWN.

SUBCONTRACTS

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

FORCE MAJEURE

14. Provided such party gives written notice to the other of such event, a party shall not be liable for its failure to perform its respective obligations under this Agreement, if prevented from so doing by any cause beyond the reasonable control of such party, such as, but

not limited, to strikes, lockouts, or failure of supply or inability by the exercise of reasonable diligence, to obtain supplies, parts, or employees necessary to perform such obligations, or because of war or other emergency. The time within which such obligations shall be performed shall be extended for a period of time equivalent to the delay from such cause.

NON-WAIVER

15. Except as expressly provided in this Agreement, the failure or waiver, or successive failures or waivers on the part of either party hereto, in the enforcement of any paragraph or provision of this Agreement shall not render the same invalid nor impair the right of either party hereto, its successors or permitted assigns, to enforce the same in the event of any subsequent breach thereof.

NOTICES

16. Notices hereunder shall be deemed sufficient if sent by U.S. Certified mail as follows:

TO TOWN:

Jon Duke, Town Administrator
Town of Newcastle
4 Pump Street
PO Box 386
Newcastle, ME 04553

TO CONTRACTOR:

CONFLICT BETWEEN PROVISIONS

17. In the event of any conflict among the provisions of this Agreement and any of its Exhibits, the terms of this Agreement shall be controlling.

REMEDIES

18. Except as otherwise agreed by the parties in writing, all disputes, claims, counterclaims and other matters in question between the TOWN and the CONTRACTOR arising out of or relating to this Agreement shall be decided by a Maine court of competent jurisdiction. This Agreement is made and shall be construed under the laws of the State of Maine, excluding any choice of law rule that may direct the application of the laws of any other jurisdiction. Except as otherwise expressly agreed by the parties in writing, exclusive venue for any such civil action shall be in Maine.

COMPLIANCE WITH APPLICABLE LAWS

19. The CONTRACTOR agrees that it and its subcontractors, if any, shall comply with all applicable federal, State and local statutes, laws, rules, regulations, codes, ordinances, orders and resolutions in the performance of work under this agreement.

EXTENT OF AGREEMENT

20. This Agreement and Exhibits A and B attached hereto and hereby incorporated into this Agreement represents the entire and integrated Agreement between the TOWN and the CONTRACTOR and supersede all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the TOWN and the CONTRACTOR.

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

TOWN OF NEWCASTLE

Witness

By: _____
Jon Duke
Town Administrator

CONTRACTOR

Witness

By: _____