

**MARINE TRANSPORTATION/PASSENGER
FERRY VESSEL OPERATER**

BASS HARBOR TO FRENCHBORO

MAINTENANCE & OPERATIONS

STATE PROJECT

BIDDING INSTRUCTIONS

1. Complete the bid forms with pen and ink.
2. The following are to be completed and returned with the bid:
 - a) A copy of the Notice to Contractors
 - b) Acknowledgement of Bid Amendment Form
 - c) The completed Appendix A Proposal Worksheet and Appendix A Sailing Schedule
 - d) Information as requested in Appendix A Section III,
 - e) Two (2) copies of the completed and signed Contract Agreement form
 - f) The completed Contractor Information Sheet
3. For security and other reasons, all Bid Packages which are mailed to Maine Department of Transportation, 16 State House Station, Augusta, Maine 04330-0016, shall be provided in double (one envelope inside the other) envelopes. The *Inner Envelope* shall have the following information provided on it:

Bid Enclosed - Do Not Open

Title:

Town:

Date of Bid Opening:

Name of Contractor with mailing address and telephone number:

In Addition to the usual address information, the *Outer Envelope* should have written or typed on it:

Double Envelope: Bid Enclosed

Title:

Town:

Date of Bid Opening:

Name of Contractor:

Hand-carried Bids may be in one envelope, and should be marked with the following information:

Bid Enclosed: Do Not Open

Title:

Town:

Name of Contractor:

4. If a paper Bid is to be sent, Federal Express overnight delivery is suggested as the package is delivered directly to the DOT Headquarters Building in Augusta located at 24 Child Street in Augusta. Other means, such as U.S. Postal's Service Express Mail has proven not to be reliable.

January 30, 2004
Supercedes February 11, 2003

NOTICE

The Maine Department of Transportation is attempting to improve the way Bid Amendments/Addendums are handled, and allow for an electronic downloading of bid packages from our website, while continuing to maintain a planholders list.

Prospective bidders, subcontractors or suppliers who wish to download a copy of the bid package and receive a courtesy notification of project specific bid amendments, must provide an email address to Diane Barnes or Mike Babb at the MDOT Contracts mailbox at: MDOT.contracts@maine.gov. Each bid package will require a separate request.

Additionally, interested parties will be responsible for reviewing and retrieving the Bid Amendments in their bids using the Acknowledgement of bid Amendment Form.

The downloading of bid packages from the MDOT website is not the same as providing an electronic bid to the Department. Electronic bids must be submitted via <http://www.BIDX.com>. For information on electronic bidding contact Larry Childs at Larry.Childs@maine.gov.

NOTICE

Bidders:

Please use the attached “Request for Information” form when faxing questions and comments concerning specific Contracts that have been Advertised for Bid. Include additional numbered pages as required. Questions are to be faxed to the number listed in the Notice to Contractors. This is the only allowable mechanism for answering Project specific questions. Maine DOT will not be bound to any answers to Project specific questions received during the Bidding phase through other processes.

Vendor Registration

Prospective Bidders must register as a vendor with the Department of Administrative & Financial Services if the vendor is awarded a contract. Vendors will not be able to receive payment without first being registered. Vendors/Contractors will find information and register through the following link –

<http://www.maine.gov/purchases/vendorinfo/vss.htm> .

CONTRACTOR INFORMATION

(Date)

(Signature)

(Name and Title Printed)

(Contractor Name)

Vendor Customer Number

Mailing Address:

Street/PO Box City State Zip

phone fax email

Sole Proprietorship - Partnership - (circle one)

Corporation – Company - Association - Estate - (circle one)

STATE OF MAINE DEPARTMENT OF TRANSPORTATION NOTICE TO CONTRACTORS

Sealed Bids addressed to the Maine Department of Transportation, Augusta, Maine 04333 and endorsed on the wrapper "RFP MaineDOT/MSFS Passenger Vessel Service" will be received from contractors at the Reception Desk, Maine DOT Building, 24 Child Street, Augusta, Maine, until 11:00 o'clock A.M. (prevailing time) on March 31, 2010 and at that time and place publicly opened and read. Bids will be accepted from all bidders.

Description: The Maine Department of Transportation/Maine State Ferry Service (MaineDOT/MSFS) is accepting Proposals for Marine Transportation/Passenger Vessel Operator for providing the MaineDOT/MSFS with a Passenger Vessel Service.

Location: In Hancock County, Bass Harbor and Frenchboro.

Outline of Work: Provide and operate passenger only ferry shuttle between Bass Harbor and Frenchboro. Shuttle will operate **Fridays only** between April 2, 2010 and November 26, 2010. A similar schedule will be required April 2011 through November 2011, and from April 2012 through November 2012.

The basis of award will be determined using the criteria set forth in the Proposal Evaluation section of Request for Proposal.

For general information regarding Bidding and Contracting procedures, contact Scott Bickford at (207)624-3410. Our webpage at http://www.maine.gov/mdot/contractor-consultant-information/contractor_cons.php contains a copy of the Plan Holders List, written portions of bid amendments (not drawings), and bid results. For Project-specific information fax all questions to **Gail MacMunn** at (207)624-3431. Questions received after 12:00 noon of Friday prior to bid date will not be answered. **There will be no bid bond, performance bond or payment bond required.** Bidders shall not contact any other Departmental staff for clarification of Contract provisions, and the Department will not be responsible for any interpretations so obtained. Hearing impaired persons may call the Telecommunication Device for the Deaf at 888-516-9364.

Each Bid must be made upon blank forms provided by the Department. Request for Proposal, specifications and bid forms may be seen at the Maine DOT Building in Augusta, Maine. They can be obtained at no cost at the Department at 24 Child Street, Augusta, Maine, between the hours of 8:00 a.m. to 4:30 p.m., or may be requested by telephone at (207) 624-3536 between the hours of 8:00 a.m. to 4:30 p.m. or at http://www.maine.gov/mdot/contractor-consultant-information/contractor_cons.php

This Contract is subject to all applicable State Laws.

All work shall be governed by "State of Maine, Department of Transportation, Standard Specifications, Revision of December 2002", price \$10 [\$13 by mail], and Standard Details, Revision of December 2002, price \$20 [\$25 by mail]. Standard Detail updates can be found at http://www.maine.gov/mdot/contractor-consultant-information/contractor_cons.php

The right is hereby reserved to the MDOT to reject any or all bids.

Augusta, Maine
March 17, 2010



MICHAEL BURNS, ACTING DIRECTOR
BUREAU OF MAINTENANCE & OPERATIONS

SPECIAL PROVISION 102.7.3
ACKNOWLEDGMENT OF BID AMENDMENTS

With this form, the Bidder acknowledges its responsibility to check for all Amendments to the Bid Package. For each Project under Advertisement, Amendments are located at <http://www.maine.gov/mdot/comprehensive-list-projects/project-information.php> It is the responsibility of the Bidder to determine if there are Amendments to the Project, to download them, to incorporate them into their Bid Package, and to reference the Amendment number and the date on the form below. The Maine DOT will not post Bid Amendments any later than noon the day before Bid opening without individually notifying all the planholders.

Amendment Number	Date

The Contractor, for itself, its successors and assigns, hereby acknowledges that it has received all of the above referenced Amendments to the Bid Package.

CONTRACTOR

Date

Signature of authorized representative

(Name and Title Printed)

CT: _____

MAINE DEPARTMENT OF TRANSPORTATION
CONTRACT AGREEMENT
TRANSPORTATION RELATED SERVICES

This CONTRACT is made on the date last signed below, by and between the State of Maine, acting through and by its Department of Transportation (“Department” or “MaineDOT”), an agency of state government with its principal administrative offices located at Child Street, Augusta, Maine, with a mailing address at 16 State House Station, Augusta, Maine 04333-0016, and _____ (“Contractor”) a corporation or other legal entity organized under the laws of the State of _____, with its principal place of business located at _____, with a mailing address of _____ and a telephone number of _____ .

The Vendor Customer Number of the Contractor is _____.

The following attachments are hereby incorporated into this Contract by reference:

- Appendix A – Request for Proposal for Marine Transport/Passenger Ferry Vessel Operator
- Appendix B – Special Provisions for State Funded Transportation Related Maintenance Services
- Appendix C – Special Provisions

The Department and the Contractor, in consideration of the mutual promises set forth in this Contract (hereinafter “Contract”) hereby agree as follows:

A. The Work.

The Contractor agrees to complete all work described in Appendix A – Request for Proposal for Marine Transport/Passenger Ferry Vessel Operator, and under the terms of the Contract for **Marine Transportation/Passenger Ferry Vessel Operator in Blue Hill Bay** in Maine.

The Contractor shall be responsible for furnishing all supervision, labor, equipment, tools, supplies, facilities, permanent materials and temporary materials and services required to perform the Work including quality control, all required documentation at the conclusion of the project, warranting its work and performing all other work indicated in the Contract.

The Department shall have the right to alter the nature and extent of the Work as provided in the Contract; payment to be made as provided in the same.

B. Time.

The contractor agrees to complete all Work, except Warranty work, on or before **November 30, 2012.** Contract end date is **December 31, 2012.**

C. Price.

The quantities given in the Proposal Worksheet of Appendix A of the Bid Package will be used as the basis for determining the original Contract amount, and that the amount of this offer is _____
\$ _____.

The actual Contract amount will be determined by the actual work performed and authorized by MaineDOT, and the prices included in Appendix A.

D. Contract.

This Contract, which may be amended, modified, or supplemented in writing only, consists of the Contract documents as defined in the State of Maine, Department of Transportation, Standard Specifications, Revision of December 2002 Sections 101, 102, 103 and 111, Supplemental Specifications, Special Provisions, Appendices and any amendments, and the Contractor's Proposal submitted in response to the Request for Proposal and Contract Agreement. It is agreed and understood that this Contract will be governed by the documents listed above.

E. Certifications.

By signing below, the Contractor hereby certifies that to the best of the Contractor's knowledge and belief:

1. All of the statements, representations, covenants, and and/or certifications required or set forth in the Bid, Bid Documents and Contract are still complete and accurate as of the date of this contract.
2. The Contractor knows of no legal, contractual, or financial impediment that prevents Contractor from entering into this Contract.
3. The person signing below is legally authorized by the Contractor to sign this Contract on behalf of the Contractor and to legally bind the Contractor to the terms of the Contract.

F. Agreement.

The undersigned, having carefully examined the requirements for work, scope of work, Contract Documents, Contract and Appendices contained herein, hereby agrees to supply all the services, materials, tools, equipment and labor to complete the whole of the work in strict accordance with the terms and conditions of this Contract at the prices agreed to in Appendix A.

The Contractor agrees to perform the work required at the prices specified above in accordance with the terms of this Contract and to provide the appropriate insurance.

Contractor also agrees:

First: Contractor agrees to perform extra work, not described in Appendix A, which may be ordered by the Department, and to accept as full compensation the amount determined upon basis as provided in the contract documents.

Second: Contractor understands that Work may commence upon Contract Execution, unless provided elsewhere in this contract and that Work must be completed within the time limits given in this Contract.

Third: That this offer shall remain open for 30 calendar days after the date of opening of bids.

Fourth: The Contractor hereby certifies, to the best of its knowledge and belief that: the Contractor has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of competitive bidding in connection with its bid, and its subsequent contract with the Department.

IN WITNESS WHEREOF, the Contractor, for itself, its successors and assigns, hereby executes two duplicate originals of this Contract and thereby binds itself to all covenants, terms, and obligations contained in the Contract Documents.

CONTRACTOR

Date

(Signature of Legally Authorized Representative
of the Contractor)

(Name and Title Printed)

G. Award.

Your offer is hereby accepted.
documents referenced herein.

This award consummates the Contract, and the

MAINE DEPARTMENT OF TRANSPORTATION

Date

By:

(Name and Title Printed)
Bureau of Maintenance & Operations

CT: _____

MAINE DEPARTMENT OF TRANSPORTATION
CONTRACT AGREEMENT
TRANSPORTATION RELATED SERVICES

This CONTRACT is made on the date last signed below, by and between the State of Maine, acting through and by its Department of Transportation (“Department” or “MaineDOT”), an agency of state government with its principal administrative offices located at Child Street, Augusta, Maine, with a mailing address at 16 State House Station, Augusta, Maine 04333-0016, and _____ (“Contractor”) a corporation or other legal entity organized under the laws of the State of _____, with its principal place of business located at _____, with a mailing address of _____ and a telephone number of _____ .

The Vendor Customer Number of the Contractor is _____.

The following attachments are hereby incorporated into this Contract by reference:

- Appendix A – Request for Proposal for Marine Transport/Passenger Ferry Vessel Operator
- Appendix B – Special Provisions for State Funded Transportation Related Maintenance Services
- Appendix C – Special Provisions

The Department and the Contractor, in consideration of the mutual promises set forth in this Contract (hereinafter “Contract”) hereby agree as follows:

A. The Work.

The Contractor agrees to complete all work described in Appendix A – Request for Proposal for Marine Transport/Passenger Ferry Vessel Operator, and under the terms of the Contract for **Marine Transportation/Passenger Ferry Vessel Operator in Blue Hill Bay** in Maine.

The Contractor shall be responsible for furnishing all supervision, labor, equipment, tools, supplies, facilities, permanent materials and temporary materials and services required to perform the Work including quality control, all required documentation at the conclusion of the project, warranting its work and performing all other work indicated in the Contract.

The Department shall have the right to alter the nature and extent of the Work as provided in the Contract; payment to be made as provided in the same.

B. Time.

The contractor agrees to complete all Work, except Warranty work, on or before **November 30, 2012.** Contract end date is **December 31, 2012.**

C. Price.

The quantities given in the Proposal Worksheet of Appendix A of the Bid Package will be used as the basis for determining the original Contract amount, and that the amount of this offer is _____
\$ _____.

The actual Contract amount will be determined by the actual work performed and authorized by MaineDOT, and the prices included in Appendix A.

D. Contract.

This Contract, which may be amended, modified, or supplemented in writing only, consists of the Contract documents as defined in the State of Maine, Department of Transportation, Standard Specifications, Revision of December 2002 Sections 101, 102, 103 and 111, Supplemental Specifications, Special Provisions, Appendices and any amendments, and the Contractor's Proposal submitted in response to the Request for Proposal and Contract Agreement. It is agreed and understood that this Contract will be governed by the documents listed above.

E. Certifications.

By signing below, the Contractor hereby certifies that to the best of the Contractor's knowledge and belief:

1. All of the statements, representations, covenants, and and/or certifications required or set forth in the Bid, Bid Documents and Contract are still complete and accurate as of the date of this contract.
2. The Contractor knows of no legal, contractual, or financial impediment that prevents Contractor from entering into this Contract.
3. The person signing below is legally authorized by the Contractor to sign this Contract on behalf of the Contractor and to legally bind the Contractor to the terms of the Contract.

F. Agreement.

The undersigned, having carefully examined the requirements for work, scope of work, Contract Documents, Contract and Appendices contained herein, hereby agrees to supply all the services, materials, tools, equipment and labor to complete the whole of the work in strict accordance with the terms and conditions of this Contract at the prices agreed to in Appendix A.

The Contractor agrees to perform the work required at the prices specified above in accordance with the terms of this Contract and to provide the appropriate insurance.

Contractor also agrees:

First: Contractor agrees to perform extra work, not described in Appendix A, which may be ordered by the Department, and to accept as full compensation the amount determined upon basis as provided in the contract documents.

Second: Contractor understands that Work may commence upon Contract Execution, unless provided elsewhere in this contract and that Work must be completed within the time limits given in this Contract.

Third: That this offer shall remain open for 30 calendar days after the date of opening of bids.

Fourth: The Contractor hereby certifies, to the best of its knowledge and belief that: the Contractor has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of competitive bidding in connection with its bid, and its subsequent contract with the Department.

IN WITNESS WHEREOF, the Contractor, for itself, its successors and assigns, hereby executes two duplicate originals of this Contract and thereby binds itself to all covenants, terms, and obligations contained in the Contract Documents.

CONTRACTOR

Date

(Signature of Legally Authorized Representative
of the Contractor)

(Name and Title Printed)

G. Award.

Your offer is hereby accepted.
documents referenced herein.

This award consummates the Contract, and the

MAINE DEPARTMENT OF TRANSPORTATION

Date

By:

(Name and Title Printed)
Bureau of Maintenance & Operations

CT: _____

MAINE DEPARTMENT OF TRANSPORTATION
CONTRACT AGREEMENT
TRANSPORTATION RELATED SERVICES

This CONTRACT is made on the date last signed below, by and between the State of Maine, acting through and by its Department of Transportation (“Department” or “MaineDOT”), an agency of state government with its principal administrative offices located at Child Street, Augusta, Maine, with a mailing address at 16 State House Station, Augusta, Maine 04333-0016, and COMPANY ABC (“Contractor”) a corporation or other legal entity organized under the laws of the State of MAINE, with its principal place of business located at ABC STREET CITY, MAINE 04330 with a mailing address of ABC STREET CITY, MAINE 04330 and a telephone number of 123-456-7890.

The Vendor Customer Number of the Contractor is VC0000000000

The following attachments are hereby incorporated into this Contract by reference:

- Appendix A – Request for Proposal for Marine Transport/Passenger Ferry Vessel Operator
- Appendix B – Special Provisions for State Funded Transportation Related Maintenance Services
- Appendix C – Special Provisions

The Department and the Contractor, in consideration of the mutual promises set forth in this Contract (hereinafter “Contract”) hereby agree as follows:

A. The Work.

The Contractor agrees to complete all work described in Appendix A – Request for Proposal for Marine Transport/Passenger Ferry Vessel Operator, and under the terms of the Contract for **Marine Transportation/Passenger Ferry Vessel Operator in Blue Hill Bay** in Maine.

The Contractor shall be responsible for furnishing all supervision, labor, equipment, tools, supplies, facilities, permanent materials and temporary materials and services required to perform the Work including quality control, all required documentation at the conclusion of the project, warranting its work and performing all other work indicated in the Contract.

The Department shall have the right to alter the nature and extent of the Work as provided in the Contract; payment to be made as provided in the same.

B. Time.

The contractor agrees to complete all Work, except Warranty work, on or before **November 30, 2012.** Contract end date is **December 31, 2012.**

C. Price.

The quantities given in the Proposal Worksheet of Appendix A of the Bid Package will be used as the basis for determining the original Contract amount, and that the amount of this offer is **ONE HUNDRED ZERO DOLLARS NO CENTS**
\$0,000.00.

The actual Contract amount will be determined by the actual work performed and authorized by MaineDOT, and the prices included in Appendix A.

D. Contract.

This Contract, which may be amended, modified, or supplemented in writing only, consists of the Contract documents as defined in the State of Maine, Department of Transportation, Standard Specifications, Revision of December 2002 Sections 101, 102, 103 and 111, Supplemental Specifications, Special Provisions, Appendices and any amendments, and the Contractor's Proposal submitted in response to the Request for Proposal and Contract Agreement. It is agreed and understood that this Contract will be governed by the documents listed above.

E. Certifications.

By signing below, the Contractor hereby certifies that to the best of the Contractor's knowledge and belief:

1. All of the statements, representations, covenants, and and/or certifications required or set forth in the Bid, Bid Documents and Contract are still complete and accurate as of the date of this contract.
2. The Contractor knows of no legal, contractual, or financial impediment that prevents Contractor from entering into this Contract.
3. The person signing below is legally authorized by the Contractor to sign this Contract on behalf of the Contractor and to legally bind the Contractor to the terms of the Contract.

F. Agreement.

The undersigned, having carefully examined the requirements for work, scope of work, Contract Documents, Contract and Appendices contained herein, hereby agrees to supply all the services, materials, tools, equipment and labor to complete the whole of the work in strict accordance with the terms and conditions of this Contract at the prices agreed to in Appendix A.

The Contractor agrees to perform the work required at the prices specified above in accordance with the terms of this Contract and to provide the appropriate insurance.

Contractor also agrees:

First: Contractor agrees to perform extra work, not described in Appendix A, which may be ordered by the Department, and to accept as full compensation the amount determined upon basis as provided in the contract documents.

Second: Contractor understands that Work may commence upon Contract Execution, unless provided elsewhere in this contract and that Work must be completed within the time limits given in this Contract.

Third: That this offer shall remain open for 30 calendar days after the date of opening of bids.

Fourth: The Contractor hereby certifies, to the best of its knowledge and belief that: the Contractor has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of competitive bidding in connection with its bid, and its subsequent contract with the Department.

IN WITNESS WHEREOF, the Contractor, for itself, its successors and assigns, hereby executes two duplicate originals of this Contract and thereby binds itself to all covenants, terms, and obligations contained in the Contract Documents.

(Date here)

Date

CONTRACTOR

(Signature here)

(Signature of Legally Authorized Representative
of the Contractor)

(Print name here)

(Name and Title Printed)

G. Award.

Your offer is hereby accepted.
documents referenced herein.

This award consummates the Contract, and the

MAINE DEPARTMENT OF TRANSPORTATION

Date

By:

(Name and Title Printed)
Bureau of Maintenance & Operations

SAMPLED



APPENDIX A

MAINE DEPARTMENT OF TRANSPORTATION REQUEST FOR PROPOSALS

FOR MARINE TRANSPORTATION/PASSENGER FERRY VESSEL OPERATOR

The Maine Department of Transportation, Maine State Ferry Service (MSFS), is soliciting proposals to provide two round trips to Frenchboro from Bass Harbor on Fridays, April through November. Proposals are being solicited from firms capable of providing a U.S. Coast Guard inspected vessel with total accommodations for a minimum of 45 passengers with luggage and an enclosed heated compartment for at least 35 people.

I. SCOPE OF WORK & REQUIREMENTS

A. Work Requirements

- 1) Provide two (2) general public round trips to Frenchboro from Bass Harbor on Fridays, April thru November. Total number of round trips per season is seventy (70). Payment will be made at bid price cost per round trip. The contractor shall purchase tickets from the MSFS and the sale and collection of ferry tickets from passengers will be the contractor's responsibility. At its sole expense the Contractor shall provide its own fuel (low-sulfur diesel oil).
- 2) Contractor will be required to insurance as specified in Appendix C and Appendix B, Section 18.
- 3) The sailing schedule may be changed by the Department based on the MaineDOT and the Maine State Ferry Service operational requirements. The Contractor may cancel trips due to inclement weather with approval from the Department. Charter Rate per round trip will be paid for at the contract unit price per round trip for each round trip that is scheduled by the Department.

B. Vessel Specifications and Requirements

- 1) Provide a passenger vessel with a minimum of forty-five (45) passenger capacity, with inside seating for a minimum of thirty-five (35) passengers. The vessel should be of a design to safely transit the intended route (Bass Harbor to Frenchboro, Blue Hill Bay, Maine).
- 2) The Vessel shall have the ability to meet the posted schedule as specified in Appendix A Sailing Schedule.
- 3) As used herein, the phrase "full load displacement" means: (i) full passenger load; (ii) required crew; (iii) normal stores and equipment; and (iv) full fuel and fresh water tanks. At full load displacement the Vessel(s) shall be capable of the following:
 - a. Travel between the Bass Harbor town pier and the Frenchboro town pier in Hancock County in 50 minutes or less.
 - b. Have a deep draft which will not impede berthing at either Bass Harbor or Frenchboro during the normal range of tide. Bidders are encouraged to check with harbor masters at both locations regarding draft restrictions.

c. Have a freeboard which facilitates loading and unloading passengers at both locations.

4) The Vessel(s) shall be designed and constructed to operate with an unmanned engine room. The Vessel(s) shall: (i) have full pilot house control with a minimum of one (1) standard operating radar, a minimum of one (1) GPS device, a minimum of one (1) VHF marine radio; a minimum of one (1) depth sounder/fathometer, a minimum of one (1) magnetic compass; and (ii) have monitoring capability of engine lube oil pressure and jacket water temperature; and (iii) be equipped with low lube oil pressure shutdown and high jacket temperature alarms.

5) The Vessel(s) shall be compatible with the Bass Harbor town pier/floats and the Frenchboro town pier/floats in Hancock County. Factors to be considered include vessel length, draft, breadth, and lateral load; and the gangway arrangement.

6) The Vessel(s) shall have at least one (1) unisex passenger restroom or alternatively one(1) men's and one (1) women's restroom.

7) The Vessel(s) shall have easy access and storage for at least two (2) bicycles.

8) The Vessel(s) shall be outfitted with appropriate engine room fire extinguishing capabilities to meet the Vessel's Certificate of Inspection (COI) requirements.

9) The Vessel(s) shall be outfitted with USCG-approved lifesaving appliances, per the Vessel's Certificate of Inspection (COI).

10) The Vessel(s) shall have proper USCG certification and other licenses for service between ports in Blue Hill Bay, Maine.

11) Vessel shall be accessible to persons with disabilities.

C. Customer Service Expectations

The successful bidder must ensure that the passenger vessel crew/representatives maintain an excellent customer service environment, communicate with all stakeholders in a positive and helpful manner, and are attired in a neat & professional fashion.

II. PROPOSAL WORKSHEET

MaineDOT is requesting a Proposal based on making 70 round trips per season, and a unit rate for each round trip. Proposer shall use the Proposal Worksheet in Appendix A for bidding. The accepted quantities of Charter Rate per round trip will be paid for at the contract unit price per round trip for each round trip that is scheduled by the Department. The contract unit price will be full compensation for each round trip scheduled for furnishing a vessel, ticketing and transporting passengers, all equipment, labor, materials, supervision and all incidentals necessary to complete the contract Work.

III. PROPOSAL SUBMISSION

Your Proposal should include the completed Proposal Worksheet in Appendix A and two (2) signed original Contract Agreements.

Your Proposal must include:

- ▶ Detailed description and history of your business.
- ▶ Qualifications of employees
- ▶ 3 business references.
- ▶ Completed Proposal Worksheet in Appendix A.
- ▶ Vessel specifications and maintenance records.
- ▶ Proven ability to meet a posted schedule, including references.
- ▶ Experience dealing with passengers, including references.
- ▶ Company's and vessel's safety record.
- ▶ Copy of U.S.C.G. Certificate of Inspection

IV. GENERAL INFORMATION

This RFP does not commit MaineDOT to pay any costs incurred in preparing and submitting your Proposal, or in procuring or sub-contracting for services or supplies related to the proposal. By submitting a proposal, the bidder agrees and assures that the specifications are adequate, and the bidder accepts the terms and conditions herein. Any exceptions should be noted in the proposal. The MaineDOT reserves the right to reject any or all proposals based on the exceptions presented, without obligation to communicate or negotiate with the bidder.

V. PROPOSAL EVALUATION

An Evaluation Committee will read and score each proposal. The Evaluation Committee may also require the Bidder to make the Vessel(s) available for inspection at a port, date and time which are mutually agreeable to the MaineDOT/MSFS and the Bidder. An Evaluation Committee member may schedule inspections with the Bidder.

The Proposals will be scored on the basis of the following weighted criteria:

<u>Criteria</u>	<u>Weight</u>
1. Price.	50 %
2. Vessel Inspection.	25%
3. Meeting requirements/specifications. References, ability to meet posted schedule, experience dealing with passengers.	25%

The contract award will be made to the bidder whose Proposal receives the Committee's highest score following the final review.

The Committee reserves the right to request additional information from Bidders and to request clarification if needed.

APPENDIX A
SAILING SCHEDULE
BASS HARBOR TO FRENCHBORO
PASSENGER-ONLY CHARTER

<u>FRIDAYS ONLY</u>	
Depart Bass Harbor	Depart Frenchboro
April 2010 – October 2010	April 2010 – October 2010
8:00 a.m.	9:00 a.m.
5:00 p.m.	6:00 p.m.
November 5th - November 26th 2010	November 5th – November 26th 2010
8:00 a.m.	9:00 a.m.
4:00 p.m.	5:00 p.m.

April thru November 2011 (Dates to be determined)

April thru November 2012 (Dates to be determined)

Daily charter rate per round trip for the operation of the Vessel

Three (3 years) X Seventy (70 round trips) X Daily Charter Rate = Total Contract Amount

NOTE: The sailing Schedule is subject to change based on the Maine DOT & Maine State Ferry Service operational requirements. Rates will be paid for all days the vessel is scheduled to be in operation regardless if a trip is cancelled due to inclement weather.

ACKNOWLEDGE RECEIPT & UNDERSTANDING:

SIGNATURE: _____

(Signature of Legally Authorized Representative of Bidder)

PRINT NAME: _____

TITLE: _____

COMPANY: _____

APPENDIX A

PROPOSAL WORKSHEET

Charter rate per round trip for the operation of the Vessel	\$
Three (3 years) X Seventy (70 round trips) X Charter Rate = Total Contract Amount	\$

The MaineDOT estimates the need to be three seasons, 8 months each between April 2, 2010 and November 30, 2012.

Signature : _____
(Legally Authorized Representative of Bidder)

Print Name: _____

Title: _____

Date: _____

SPECIAL PROVISIONS
FOR STATE FUNDED TRANSPORTATION RELATED MAINTENANCE SERVICES

1. **BENEFITS AND DEDUCTIONS** If the Contractor is an individual, the Contractor understands and agrees that he/she is an independent contractor for whom no Federal or State Income Tax will be deducted by the Department, and for whom no retirement benefits, survivor benefit insurance, group life insurance, vacation and sick leave, and similar benefits available to State employees will accrue. The Contractor further understands that annual information returns, as required by the Internal Revenue Code or State of Maine Income Tax Law, will be filed by the State Controller with the Internal Revenue Service and the State of Maine Bureau of Revenue Services, copies of which will be furnished to the Contractor for his/her Income Tax records.

2. **INDEPENDENT CAPACITY** In the performance of this Contract, the parties hereto agree that the Contractor, and any agents and employees of the Contractor shall act in the capacity of an independent contractor and not as officers or employees or agents of the State.

3. **DEPARTMENT'S REPRESENTATIVE** The Contract Administrator shall be the Department's representative during the period of this Contract. The Contract Administrator has authority to curtail services if necessary to ensure proper execution of the Contract, to take actions needed to assure that the Contractor's Work conforms with the Contract, to decide questions regarding quality and acceptability of Work, to suspend Work, to reject Unacceptable or Unauthorized Work and to refuse to approve Progress and Final Payments until Unacceptable or Unauthorized Work is corrected. The Contract Administrator shall certify to the Department when payments under the Contract are due and the amounts to be paid. He/she shall make decisions on all claims of the Contractor. Unless authorized by the Contract Administrator, other Departmental employees are not authorized to alter or waive the provisions of the Contract or to issue instructions contrary to the Contract.

The Department has the authority to inspect all Materials and every detail of the Work. The Contractor shall provide the Department with safe access to all portions of the Work in Conformity with all applicable OSHA requirements. The Contractor shall furnish the Department with all information and assistance required to make a detailed inspection.

4. **CONTRACT ADMINISTRATOR** All progress reports, correspondence and related submissions from the Contractor shall be submitted to the Department's Project Manager who is designated as the Contract Administrator on behalf of the Department for this Contract, except where specified otherwise in this Contract.

5. **CHANGES IN THE WORK** The Department shall have the right to alter the nature and extent of the Work as provided in the Contract, the Contract Amount being adjusted accordingly. In no event shall Contractor fail or refuse to continue the performance of its obligations under this Contract because of the inability of the parties to agree on an

adjustment or adjustments. Any changes to the Contract that affect scope, compensation, time, quality, or other Contract requirements shall be by written Contract Modification, signed by both parties.

6. **SUBCONTRACTS** The Contractor is responsible for assuring that its subcontractors have sufficient skill and experience to perform the pursuant to the Contract. The Contractor is responsible for subcontractors that it employs and for coordinating and managing its subcontractors. The Contractor agrees to indemnify, defend, and hold harmless MaineDOT from and against all claims and causes of action arising out of any act or omission of Contractor's subcontractors, their agents, representatives, and employees. The Contractor agrees to indemnify the MaineDOT and hold it harmless from any claims asserted by, against or on behalf of Contractor's subcontractors. Included in this release is the Contractor's agreement to waive any claims against MaineDOT to recover losses allegedly suffered by a subcontractor. If Work under this Contract is performed pursuant to subcontracts, the Contractor's obligations are not diminished and the Contractor remains responsible for all Work under the Contract.

7. **SUBLETTING, ASSIGNMENT OR TRANSFER** The Contractor shall not sublet, sell, transfer, assign or otherwise dispose of this Contract or any portion thereof, or of its right, title or interest therein, without written request to and written consent of the Contract Administrator. No subcontracts or transfer of the Contract shall in any case release the Contractor of its liability under this Contract.

8. **EQUAL EMPLOYMENT OPPORTUNITY** During the performance of this Contract, the Contractor agrees as follows:

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

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

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

c. The Contractor shall send to each labor union or representative of the workers with which it has a collective bargaining Contract, or other Contract or understanding, whereby it is furnished with labor for the performance of this Contract a notice to be provided by the contracting agency, advising the said labor union or workers' representative of the Contractor's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

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

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

f. Contractors and subcontractors with contracts in excess of \$50,000 shall also pursue in good faith affirmative action programs.

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

9. **EMPLOYMENT AND PERSONNEL** The Contractor shall not engage any person in the employ of any State Department or Agency in a position that would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. The Contractor shall not engage on a full-time, part-time or other basis pursuant to this Contract any personnel who are or have been at any time during the period of this Contract in the employ of the State of Maine, except regularly retired employees, without the written consent. Further, the Contractor shall not engage on this project on a full-time, part-time or other basis during the period of this Contract any retired employee of MaineDOT who has not been retired for at least one year without the written consent of the State Purchases Review Committee. The Contractor shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Contract so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

10. **STATE EMPLOYEES NOT TO BENEFIT** No individual employed by the State of Maine at the time this Contract is executed or any time thereafter shall be admitted to any share or part of this Contract or to any benefit that might arise therefrom directly or indirectly that would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. No other individual employed by the State at the time this Contract is executed or at any time thereafter shall be

admitted to any share or part of this Contract or to any benefit that might arise therefrom directly or indirectly due to his employment by or financial interest in the Contractor or any affiliate of the Contractor, without the written consent of the Department. The Contractor shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Contract so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

11. **WARRANTY OF NO COLLUSION** The Contractor hereby certifies that it did not, directly or indirectly, enter into any agreement, participate in any collusion or otherwise take any action in restraint of competitive bidding in connection with this Contract. For breach or violation of this warranty, MaineDOT shall have the right to annul this Contract without liability. Further, MaineDOT shall have the right to recover the full amount of such fee, commission, gift, or the value of consideration that may have been transferred by the Contractor in violation of this clause.

12. **RECORDS; ACCESS** The Contractor and its subcontractors shall maintain all books, documents, payrolls, papers, accounting records and information of any type on any medium ("Project Records") that pertain to this Contract for such period as specified under Maine Uniform Accounting and Auditing Practices for Community Agencies (MAAP) rules. Upon request by MaineDOT, the Contractor and its subcontractors shall make Work Records available for inspection and must provide MaineDOT with copies at all reasonable times without cost or liability to MaineDOT.

13. **TERMINATION** The performance of work under the Contract may be terminated by MaineDOT in whole or in part whenever for any reason the Contract Administrator shall determine that such termination is in the best interest of the Department. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of the work under the Contract is terminated and the date on which such termination becomes effective. The Contract shall be equitably adjusted to compensate for such termination and modified in writing to reflect adjustments.

14. **GOVERNMENTAL REQUIREMENTS** The Contractor warrants and represents that it will comply with all governmental ordinances, laws and regulations.

15. **GOVERNING LAW** This Contract shall be governed in all respects by the laws, statutes, and regulations of the United States of America and of the State of Maine. Any legal proceeding against the State regarding this Contract shall be brought in State of Maine administrative or judicial forums. The Contractor consents to personal jurisdiction in the State of Maine.

If, in the performance of this Agreement, there arises a dispute between the Contractor and MaineDOT that cannot be resolved by the parties to the Contract, the parties may agree to submit the dispute to non-binding Alternate Dispute Resolution. All disputes shall be governed by Maine law, and all actions shall be filed in the Kennebec Superior Court, in Augusta Maine.

The Contractor shall comply with all applicable federal, State, and local laws including all applicable laws and regulations of OSHA. The Contractor shall provide all safeguards, safety devices, and protective Equipment and take all other action that is necessary to continuously and effectively protect the safety and health of all persons from hazards related to the Work.

16. **STATE HELD HARMLESS** The Contractor agrees to indemnify, defend and hold harmless the State, its officers, agents and employees from any and all claims, costs, expenses, injuries, liabilities, losses and damages of every kind and description (hereinafter in this paragraph referred to as “claims”) resulting from or arising out of the performance of this Contract by the Contractor, its employees, agents or subcontractors. Claims to which this indemnification applies include, but are not limited to, the following: (i) claims suffered or incurred by any Contractor, subcontractor, materialman, laborer and any other person, firm, corporation or other legal entity providing work, services, materials, equipment or supplies in connection with the performance of this Contract; (ii) claims arising out of a violation or infringement of any proprietary right, copyright, trademark, right of privacy or other right arising out of publication, translation, development, reproduction, delivery, use, or disposition of any data, information or other matter furnished or used in connection with this Contract; (iii) Claims arising out of a libelous or other unlawful matter used or developed in connection with this Contract; (iv) claims suffered or incurred by any person who may be otherwise injured or damaged in the performance of this Contract; and (v) all legal costs and other expenses of defense against any asserted claims to which this indemnification applies. This indemnification does not extend to a claim that results solely and directly from (i) the Department’s negligence or unlawful act, or (ii) action by the Contractor taken in reasonable reliance upon an instruction or direction given by an authorized person acting on behalf of the Department in accordance with this Contract.

The Department's employees and other representatives act solely as representatives of the Department when conducting and exercising authority granted to them under the Contract. Such persons have no liability either personally or as Department employees.

17. **NOTICE OF CLAIMS** The Contractor shall give the Contract Administrator immediate notice in writing of any legal action or suit filed related in any way to the Contract or which may affect the performance of duties under the Contract, and prompt notice of any claim made against the Contractor by any subcontractor which may result in litigation related in any way to the Contract or which may affect the performance of duties under the Contract.

18. **INSURANCE** The Contractor shall provide signed, valid, and enforceable certificate(s) of insurance complying with this Section. All insurance must be procured from insurance companies licensed or approved to do business in the State of Maine by the State of Maine, Department of Business Regulation, Bureau of Insurance. The Contractor shall pay all premiums and take all other actions necessary to keep required insurances in effect for the duration of the Contract obligations, excluding warranty obligations.

Workers' Compensation For all Work performed by the Contractor and any subcontractor, the Contractor and each subcontractor shall carry Workers' Compensation Insurance or shall qualify as a self-insurer with the State of Maine Workers' Compensation

Board in accordance with the requirements of the laws of the State of Maine. If maritime exposures exist, coverage shall include United States Long Shore and Harbor Workers coverage.

Commercial General Liability With respect to all Work performed by the Contractor and any subcontractors, the Contractor and any subcontractors shall carry commercial general liability insurance in an amount not less than \$400,000.00 per occurrence and \$2,000,000.00 in the Aggregate. The coverage must include products, completed operations, and Contractual liability coverages, and Insurance Services Office (ISO) form #CG25031185 or equivalent. The Contractual liability insurance shall cover the Contractor's obligations to indemnify the Department as provided in this Contract. The coverage shall also include protection against damage claims due to use of explosives, collapse, and underground coverage if the Work involves such exposures. The Department shall be named as additional insured on the Commercial General Liability insurance policies carried by the Contractor that are applicable to the Work.

Automobile Liability The Contractor shall carry Automobile Liability Insurance covering the operation of all motor vehicles including any that are rented, leased, borrowed, or otherwise used in connection with the Project. The minimum limit of liability under this Section shall be \$400,000.00 per occurrence.

19. **SEVERABILITY** The invalidity or unenforceability of any particular provision or part thereof of this Contract shall not affect the remainder of said provision or any other provisions, and this Contract shall be construed in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

20. **INTEGRATION** All terms of this Contract are to be interpreted in such a way as to be consistent at all times. If the Contractor discovers any ambiguity, error, omission, conflict, or discrepancy related to the Contract, the Contractor must notify MaineDOT of the ambiguity or waive claims resulting from any such ambiguity. In the case of ambiguity the following components of the Contract shall control in the following descending order of priority:

- Contract Agreement, Transportation Related Maintenance Services
- Bid Amendments (most recent to least recent)
- Appendix A – Special Provision Specifications of Work to be Performed or Request for Proposals
- Appendix C – Special Provisions
- Appendix B – Special Provisions for State Funded Transportation Related Maintenance Services
- Any remaining appendices in alphabetical order.
- Any remaining Special Provisions
- The Department's Notice to Contractors and any amendments
- State of Maine, Department of Transportation, Standard Specifications, Revision of December 2002 as updated through advertisement, Sections 101, 102, 103 and 111.

21. **FORCE MAJEURE** The Department may, at its discretion, excuse the performance of an obligation by a party under this Contract in the event that performance of that obligation by that party is prevented by an act of God, act of war, riot, fire, explosion, flood or other catastrophe, sabotage, severe shortage of fuel, power or raw materials, change in law, court order, national defense requirement, or strike or labor dispute, provided that any such event and the delay caused thereby is beyond the control of, and could not reasonably be avoided by, that party. The Department may, at its discretion, extend the time period for performance of the obligation excused under this section by the period of the excused delay together with a reasonable period to reinstate compliance with the terms of this Contract.

22. **FURNISHING OF OTHER PROPERTY RIGHTS, LICENSES AND PERMITS** The Contractor shall acquire, at its sole expense, all property rights outside the Project Limits needed for construction staging, yarding, construction, waste disposal, or other Project-related purpose. The Contractor shall also acquire, at its sole expense, all licenses, Permits and other permissions that are necessary or appropriate to perform the Work that are not furnished by the Department.

23. **ALLOWABLE WORK TIMES** Work can be performed at any time except Saturdays, Sundays, Holidays and state government closure days, unless expressly specified otherwise in this Contract. Holidays are defined as New Year's Day, Martin Luther King Day, President's Day, Patriot's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, the Friday after Thanksgiving Day, and Christmas Day. If a Holiday occurs on a Sunday, the following Monday shall be considered a Holiday. If a Holiday occurs on a Saturday, the preceding Friday shall be considered a Holiday. Saturday, Sunday or Holiday work must be approved by the Department. The Contractor is solely responsible for the planning and execution of Work in order to complete the Work within the Contract Time.

24. **SET-OFF RIGHTS** MaineDOT shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, MaineDOT's right to withhold and take possession of monies due to the Contractor under this Contract up to any amounts the Contractor owes to the State of Maine pursuant to this Contract or any other contract, including any contract for a term commencing prior to the term of this Contract, plus any amounts that Contractor owes the State of Maine for any reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. MaineDOT shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Controller.

25. **WORKERS AND EQUIPMENT** The Contractor shall at all times provide all Superintendents, forepersons, laborers, inspectors, Subcontractors, subconsultants, Equipment, Materials, and Incidentals as needed to perform the Work in Conformance within the Contract Time.

Any person employed by the Contractor or by any Subcontractor or any officer or representative or agent of the Subcontractor, who, in the opinion of the Contract Administrator, is intemperate or disorderly, shall be removed immediately by the Contractor or Subcontractor employing such person. The employee shall not be employed again in any portion of the Work without prior approval from the Contract Administrator. Should the Contractor fail to remove such person or persons as required above or fail to furnish suitable and sufficient personnel for the proper prosecution of the Work, the Contract Administrator may suspend the Work by written notice until such orders are complied with.

All persons employed by or through the Contractor, except for registered trainees, shall have sufficient skill and experience to perform the Work properly. The Department may require that the Contractor discharge any such person who the Department determines jeopardizes safety of any person or the Project without cost or liability to the Department. If the Department determines that such person's performance jeopardizes the intent of the Contract otherwise, the Department may, but is not required, to notify the Contractor of such a determination. Such notice, or lack thereof, does not affect the Contractor's duties regarding Workers. Upon Receipt of such notice, the Contractor shall take any action it determines necessary to fulfill its obligations under the Contract.

26. ENVIRONMENTAL REQUIREMENTS

Temporary Soil Erosion and Water Pollution Control If the Work involves excavation or placement of soil, the Contractor shall stabilize the area on a daily basis and comply with all applicable federal, state, and local laws, rules, regulations, permit requirements and conditions.

Hazardous Materials If the Contractor encounters any condition that indicates the presence of uncontrolled petroleum or hazardous Materials, the Contractor shall immediately stop Work, notify the Department, treat any such conditions with extreme caution, and secure the area of potential hazard to minimize health risks to Workers and the public, and to prevent additional releases of contaminants into the environment. Such conditions include the presence of barrels, tanks, unexpected odors, discoloration of soil or water, an oily sheen on soil or water, excessively hot earth, smoke, or any other condition indicating uncontrolled petroleum or hazardous Materials. The Contractor shall continue Work in other areas of the Project unless otherwise directed by the Department. The Contractor shall comply with all federal, State, and local laws concerning the handling, storage, treatment, and disposal of uncontrolled petroleum or hazardous Material.

Waste Materials All waste materials shall be disposed of in accordance with all federal, State, and local laws.

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

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

A. Withhold all Progress Payments, or any portion thereof, during the period the Contractor is in non-compliance;

B. Remedy such non-compliance using State forces or another Contractor and deduct all costs incurred by the Department from Progress Payments. Such costs include direct costs, Project Engineering costs, and Contractor costs from amounts otherwise due the Contractor, and/or

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

The Contractor shall be responsible for any fines and penalties assessed by environmental or land use regulatory agencies due to such non-compliance. Such penalties may be withheld from amounts otherwise due the Contractor.

27. **QUALITY AND STANDARDS** Materials and manufactured products incorporated into the work shall be new unless otherwise specified, free from defect, and in conformity with the contract. When material is fabricated or treated with another material or where any combination of materials is assembled to form a finished product, any or all of which are covered by specifications, the Department may reject the finished product if any of the components do not comply with the specifications. The Department may reject materials not conforming to the Specifications at any time, and the Contractor shall remove them immediately from the project site unless otherwise instructed by the Department. The Contractor shall not store or use rejected materials on any Department project.

If there is no applicable standard set forth in this contract for particular Work, then the Contractor shall perform that Work in accordance with industry standards prevailing at the time of bid. The Contractor shall correct all non-conforming Work as directed by the Department at the expense of the Contractor without cost or liability to the Department.

28. **WARRANTY PROVISIONS** The Contractor unconditionally warrants and guarantees that the Work will be free from warranty defects for one year or as otherwise specified in this Contract. If the Department discovers any warranty defects during the warranty period, the Contractor agrees to perform all remedial work, at no additional cost or liability to the Department. Remedial Work will be completed within two weeks unless a more immediate response is required for safety or convenience, as determined by the Department.

Warranty Definitions Notwithstanding any other provision of the Contract, the following words or phrases have the following definitions for the purposes of the Contractor's warranty obligation under this Contract.

Warranty Defects Conditions that result from material, manufacture, or workman-ship and that are not in conformity with the Contract or with industry standards applicable to the work prevailing at the time of submission of the bid. Warranty defects do not include (A) normal wear and tear, and (B) conditions

caused by occurrences clearly beyond the Contractor's control and not attributable to material, manufacture, or workmanship. Examples of such excepted occurrences might be fires, floods, abnormally poor weather for the site of work, accidents, improper use, improper maintenance, vandalism, or acts of God.

Emergency Emergency means necessary for public safety or convenience, as determined by the Department.

Promptly Unless an emergency, "Promptly" means in the first construction season after the Contractor has been notified of the defect(s), but always within one year of such notice. In case of emergency, Promptly means within 48 hours.

Remedial Work "Remedial Work" means all work necessary to make the item in like new condition as reasonably determined by the Department and performed in accordance with the Contract and in a good and skillful manner. Remedial Work includes all design, permitting, project management, supervision, materials, and labor, including erosion control and traffic control.

Remedial Work Procedure and Requirements Within (30) Days of being notified of warranty defects, the Contractor shall submit to the Department for approval a Remedial Work Plan including the scope of work, conceptual work methods, schedule, construction phasing, and other significant aspects of the work (the "Work Plan"). Unless otherwise provided by the Department in writing, any work commenced prior to Department's approval of the Work Plan will be at the Contractor's sole risk. Before starting any on-site work, the Contractor shall deliver to the Department certificates of insurance complying with Section 18. Insurance.

If (A) the Contractor fails to submit a Remedial Work Plan, (B) the Contractor does not comply otherwise with written instructions from the Department, or (C) a State of emergency exists in which delay would cause serious risk of loss or damage, then the Department may perform or Contract for such remedial work and the Contractor will be responsible for all claims, costs, damages, losses, and expenses arising out of such work including fees and charges of engineers, consultants, attorneys, dispute resolution professionals, and court costs.

Upon a final inspection satisfactory to the Department, the Department will issue a written acceptance of the remedial work. The Contractor warrants and guarantees all remedial work to be free from warranty defects for one year after such acceptance.

Other Warranty Provisions The Contractor hereby assigns to the Department the right to enforce all manufacturer's warranties or guarantees on all materials, equipment or products purchased for the work that exceed the nature or duration of the warranty obligations assumed by the Contractor under this Contract.

The Contractor agrees that the warranty obligations provided by this Contract shall be reported as an outstanding obligation in the event of bankruptcy, dissolution, or the sale, merger, or cessation of operations of the Contractor.

29. **PAYMENT** The Department will pay based upon prices bid and the invoices provided and approved by the Department. The Contractor shall submit an itemized invoice to the Department for services monthly, at the completion of the Work or as otherwise noted in the Contract documents for approval and payment. Invoices shall include the following minimum information:

Contractor name, address & Contract Number
Invoice Date & Number
Dates of Service
Location of Service
Quantities at the Prices contained in the Contractor's Bid

The Contractor agrees to waive all claims related to the timing and amount of such payments. The Acceptance by the Contractor of the final payment, as evidenced by cashing of the final payment check, constitutes a release to the Department from all claims and liability under the Contract. Payments to the Contractor shall be full compensation for furnishing all labor, equipment, materials, services, and incidentals used to perform all Work under the Contract in a complete and acceptable manner, and for all risk, loss, damage, or expense of any kind arising from the nature or prosecution of the Work. The Contractor shall pay all taxes, charges, fees, and allowances. Except as expressly provided otherwise in this Contract, all such taxes, charges, fees, and allowances are Incidental to the Contract. Most items are exempt from Maine sales tax. The Contractor shall Bid in accordance with the Maine statutory exemption from sales tax. The Department may request that the Contractor submit backup documentation including copies of receipts, invoices, and itemized payments to Subcontractors.

The Department may withhold payments claimed by the Contractor on account of:

- A. Incomplete, Inaccurate or Incorrect Invoices,
- B. Defective Work,
- C. Damages for Non-conforming, Defective or Unauthorized Work or Equipment,
- D. Failure to provide the Department the opportunity to inspect the Work,
- E. Damage to a third party,
- F. Claims filed or reasonable evidence indicating probable filing of claims,
- G. Failure of the Contractor to make payments to Subcontractors or for Materials or labor,
- H. Regulatory non-compliance or enforcement,
- I. Substantial evidence that the amount due the Department will exceed the unpaid balance,
- J. Failure to submit Closeout Documentation
- K. All other causes that the Department reasonably determines negatively affect the State's interest.

30. **RESPONSIBILITY FOR DAMAGE TO WORK** Except for damage to Project caused by Uncontrollable Events, the Contractor shall bear all risk of loss relating to the

Work until Final Acceptance, regardless of cause, including completed Work, temporary Structures, and all other items or Materials not yet incorporated into the Work.

The Contractor shall, at its sole expense, rebuild, repair, restore, or replace such damaged Work or otherwise make good any losses that arise from such damage ("rebuilding, etc."). If the Contractor fails to Promptly commence and continue such rebuilding, etc., the Department may, upon 48 hours advance written notice, commence rebuilding, etc. of the damaged property without liability to the Department with its own forces or with Contracted forces and all costs will be deducted from amounts otherwise due the Contractor.

31. **RESPONSIBILITY FOR PROPERTY OF OTHERS** The Contractor shall not enter private property outside the Project Limits without first obtaining permission from the Owners.

The Contractor shall be responsible for all damage to public or private property of any kind resulting from any act, omission, neglect, or misconduct of the Contractor until Final Acceptance. The preceding sentence includes damage to vehicles passing through the Work area.

The Contractor shall, at its sole expense, rebuild, repair, restore, or replace such damaged property or otherwise make any good losses that arise from such damage ("rebuilding, etc."). If the Contractor fails to commence and continue such rebuilding, etc. in a timely manner, the Department may, upon 48 hours advance written notice, commence rebuilding, etc. of the damaged property without liability to the Department with its own forces or with Contracted forces, and all costs will be deducted from amounts otherwise due the Contractor.

32. **NOTICE REQUIRED** When the Contractor becomes aware of facts or circumstances that may cause the Contractor to seek additional compensation, time, or any other change in Contract requirements ("Issue"), then the Contractor shall notify the Contract Administrator within 48 hours and before commencing any part of the Work relating to the Issue. The notice must describe the basic nature and extent of the Issue.

The written notice or confirmation will be known as a "Notice of Issue for Consideration". The Contractor will not be entitled to any additional compensation, time, or any other change to Contract requirements without a timely Notice of Issue for Consideration.

33. **ENTIRE CONTRACT** This document contains the entire Contract of the parties, and neither party shall be bound by any statement or representation not contained herein. No waiver shall be deemed to have been made by any of the parties unless expressed in writing and signed by the waiving party. The parties expressly agree that they shall not assert in any action relating to the Contract that any implied waiver occurred between the parties which is not expressed in writing. The failure of any party to insist in any one or more instances upon strict performance of any of the terms or provisions of the Contract, or to exercise an option or election under the Contract, shall not be construed as a waiver or relinquishment for the future of such terms, provisions, option or election, but the same shall

continue in full force and effect, and no waiver by any party of any one or more of its rights or remedies under the Contract shall be deemed to be a waiver of any prior or subsequent rights or remedy under the Contract or at law.

APPENDIX C
SPECIAL PROVISIONS

Contract Administrator The contract administrator for this contract will be:

Name: Jim MacLeod
Title: Ferry Service Manager
Address: Maine Department of Transportation, Ferry Service
517 Main Street
Rockland, ME 04841

The contractor shall contact Jim MacLeod, Maine State Ferry Service, in order to coordinate the work. The Contractor shall submit invoices to the Maine State Ferry Service Office as described in this contract.

Insurance

Commercial General Liability Delete the first sentence in Appendix B, Section 18, Commercial General Liability and replace with the following: “With respect to all operations performed by the Contractor and any Subcontractors, the Contractor and any Subcontractors shall carry commercial general liability insurance in an amount not less than \$1,000,000.00 per occurrence and \$2,000,000.00 in the Aggregate.”

Marine Insurance Requirements The vessel(s) utilized in fulfilling this contract must be specifically scheduled as an insured vessel(s) on all policies, except the workers’ compensation and USL&H.

A. Minimum Scope of Insurance Coverage required:

1. Protection and Indemnity Insurance, including Jones Act (crew) coverage and excess collision coverage; and
2. Hull insurance, including collision liability if primary collision liability is not provided under the protection and indemnity insurance; and
3. Workers’ compensation as required by law with a USL&H endorsement; and
4. Environmental impairment (pollution) liability.

B. Minimum Limits of Insurance Limits required -

1. Protection and Indemnity Insurance: \$5,000,000 per occurrence; excess collision liability limit to match;
2. Hull Insurance; stated value
3. Statutory limits
4. Environmental impairment (pollution) liability: no less than federal requirements and at least \$5,000,000.

All policies should contain a revised cancellation clause allowing 30 days notice to the State in the event of cancellation for any reason including nonpayment.

Changes The Department may increase or decrease Pay Item quantities from the estimated quantities shown in the Bid Documents, and such increase or decrease shall not be considered Extra Work. Except as expressly provided otherwise in this Contract, the Contractor shall be paid for actual quantities in place and Accepted at the Unit Prices contained in the Contractor's Bid. The Contractor accepts such payment as full and complete compensation.

Default and Termination The Contractor is in Default of the Contract if the Contractor:

- A. Fails to provide labor, Equipment or Materials specified in the Contract,
- B. Fails to perform the Work with sufficient labor, Equipment, or Materials to assure the timely Completion of the Work,
- C. Fails to perform Work when specified in the Contract.
- D. Performs Defective Work, neglects or refuses to repair or correct Unacceptable Work when directed by the Department;
- E. Becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency that could affect the Work in any way,
- F. In any other manner, fails to perform the Work in Substantial Conformity with any material provision of the Contract.

Failure by the Contractor to perform the Work when required or to substantially meet other contractual requirements will result in the following actions:

- 1st Incident: If the Contractor does not take corrective action within 14 days upon receipt of verbal warning, the Department will issue a written warning.
- 2nd Incident: The Department will issue a written warning.

3rd Incident: The Department may (A) give written Notice of Default to the Contractor and immediately terminate the Contract by written Notice of Termination, or (B) take prosecution of the Work away from the Contractor without violating the Contract.

If Default occurs, the Department may give written Notice of Default to the Contractor. Failure to give Notice of Default is in no way a waiver by the Department of any provision of the Contract. In this event, the Department may enter into an Agreement with another entity for the Completion of the Work, or use such other methods as in the opinion of the Department are required for the Completion of the intent of the Contract in an acceptable and timely manner. Termination of the Contract or portion thereof shall not relieve the Contractor of its Contractual responsibilities for the Work completed (including warranty obligations), nor shall it relieve the Surety of its obligation for claims arising from the Work or the Contract. The Department will pay for all Accepted items of Work as of the date of Termination at agreed upon prices. The Contractor shall make all Work records available to the Department upon request regarding payment under this Section.

SPECIAL PROVISION
BASIS OF AWARD

The successful bidder is determined by using the weighted criteria described in the Request for Proposal. The award will be granted to the bidder with the Evaluation Committee's highest total score.

SPECIAL PROVISION
CONTRACT AWARD APPEAL

The Contract award is a final decision of MaineDOT. Any person aggrieved by the award decision may appeal the decision to the MaineDOT, Director of Maintenance & Operations. The appeal must be in writing and filed with the Director of Maintenance & Operations, 16 State House Station, Augusta, Maine 04333-0016, within 14 calendar days of contract award date.

SPECIAL PROVISION SECTION 101
CONTRACT INTERPRETATION

101.2 Definitions Apparent Successful Bidder Delete the section in its entirety and replace with the following:

“ The Bidder with the highest scored responsive Bid as determined by the Department is Awarded the Contract. The Department may not execute the Contract with the Apparent Successful Bidder if a) the Apparent Successful Bidder fails to comply with all applicable pre-Award conditions or other pre-execution requirements of the Contract or b) if the Department chooses not to Award a Contract.”

SPECIAL PROVISION SECTION 102
DELIVERY OF BIDS

102.6 Bid Guaranty Delete the entire section 102.6.

102.7.1 Location and Time Add the following sentence “As a minimum, the Bidder will submit a Bid Package consisting of the Notice to Contractors, the completed Acknowledgement of Bid Amendments form, Request for Proposal information and worksheet, 2 copies of the completed Contract Agreement form and any other Certifications or Bid Requirements listed in the Bid Book.”

102.11.1 Non-curable Bid Defects Replace E. with “E. The unit price and bid amount is not provided or a lump sum price is not provided or is illegible as determined by the Department.”

102.1.1 Basic Requirements Change the first sentence from: “...(A) comply with the Prequalification Procedure adopted by the Department, (B) not have been debarred or suspended from Bidding, and (C) not be in Default with respect to any outstanding Contract with the Department...” to “(A) not have been debarred or suspended from Bidding, and (B) not be in Default with respect to any outstanding Contract with the Department...”.

SPECIAL PROVISION SECTION 103 AWARD AND CONTRACTING

103.3.1 Notice and Information Gathering Change the first paragraph to read as follows: “After Bid Opening and as a condition for Award of a Contract, the Department may require an Apparent Successful Bidder to demonstrate to the Department’s satisfaction that the Bidder is responsible and qualified to perform the Work.”

103.4 Notice of Award Delete the section in its entirety and replace with the following:

“The Department has 30 Days following Bid Opening to Deliver a written Notice of Intent to Award and request insurance certificates, special certifications, and other information from the Apparent Highest Scored Bidder. All items must be delivered to the Department’s Bureau of Maintenance and Operations. The Apparent Highest Scored Bidder is determined by using the weighted criteria described in the Request for Proposal. The award will be granted to the bidder with the Evaluation Committee’s highest total score if the bid is determined to be responsive, the pre-Award Conditions are met and the Department chooses to Award the Contract. Once these pre-execution conditions are met, the Department will execute the Contract and notify the Contractor of the award with a written Notice of Award. If the Department and the Apparent Successful Bidder agree, an extension beyond the 30 days of the Bid and Bid prices may occur and the Bid remains viable.

103.5.1 Performance and Payment Bonds Delete the entire section 103.5.1.

103.5.4 Execution of Contract By Bidder Delete the section in its entirety and replace with the following:

“The properly completed and signed Contract Agreement, Offer, & Award form provided with the Bid constitutes the Bidder’s offer. Once the Department has received the insurance, and any other pre-award items required, the Department will sign the Contract Agreement, Offer, & Award form and execute the Contract. The point of Contract execution is when the Department signs the contract.