

MODIFICATION

State of Maine**Master Agreement****Effective Date:** 10/29/13**Expiration Date:** 05/31/18**Master Agreement Description:** Bulk Diesel Fuel for Ferry Service Boat Capt Henry Lee**Buyer Information**

Terry Demerchant 207-624-7334 ext. TERRY.L.DEMERCHANT@MAINE.GOV

Issuer Information

TERRY DEMERCHANT 207-624-7334 ext. TERRY.L.DEMERCHANT@MAINE.GOV

Requestor Information

Terry Demerchant 207-624-7334 ext. TERRY.L.DEMERCHANT@MAINE.GOV

Authorized Departments

17A TRANSPORTATION

Vendor Information**Vendor Line #: 1****Vendor ID**

VC1000022559

Vendor Name

DEAD RIVER CO-ELLSWORTH #3500

Alias/DBA**Vendor Address Information**

PO BOX 11000

LEWISTON, ME 04243

US

Vendor Contact Information

SCOTT KIMBALL, DIST MGR

800-244-4681 ext.

scott.kimball@deadriver.com

Commodity Information

Vendor Line #: 1

Vendor Name: DEAD RIVER CO-ELLSWORTH #3500

Commodity Line #: 1

Commodity Code: 40509

Commodity Description: Bulk Diesel Fuel for Ferry Service Boat Capt Henry Lee

Commodity Specifications:

Commodity Extended Description: Total fixed price for the 2017/2018 season starting 6/1/17 is \$2.1420 for 100,000 gallons

Quantity	UOM	Unit Price
0.00000		\$0.00
Delivery Days	Free on Board	
0		
Contract Amount	Service Start Date	Service End Date
\$0.00	10/29/13	05/31/18
Catalog Name	Discount	
	0.0000 %	
	Discount Start Date	Discount End Date

Terms and Conditions

Agreement Terms and Conditions

T&C #: 165

T&C Name: Payment Terms

T&C Details:Net 30

Dead River Company
114 Cottage St Bar Harbor, ME 04609
1-800-244-4681 • Fax 207-667-9916
Program Terms

Account Number	1349626	Plan	Fixed Price Commercial Dyed Diesel
Confirmation Number	388595	Rate Per Gallon	\$2.1420
Purchaser Name and Delivery Address(es)	MDOT Ferry Services Ferry Terminal Bass Harbor	Gallons Covered	100000 gallons
Authorization Date	05/22/2017	Downside Protection Fee	N/A
Effective Start Date	06/01/2017	Total Program Cost	\$214,200.00
End Date	5/31/2018	Total Amount Paid	\$0.00

Service Plan Chosen: None for \$0.00

Terms & Conditions

This Contract must be signed and returned by 2:00PM to guarantee the quoted fixed price shown above.

This Contract ("Contract") provides that Dead River Company ("DRC") will sell, and the above-named customer ("You") will buy exclusively from DRC, the gallons of product shown above ("Committed Gallons") for the period shown above ("Contract Period") at the fixed price shown above, including all taxes except sales and use tax, Vermont Weatherization Tax, and Vermont Petroleum Distributor Licensing Fee (PDLF) ("Contract Price"), to be delivered at the following address(es) shown above under the following conditions:

- Payment Terms:** All fuel purchases covered by this Agreement will be paid within 30 days of delivery. Payments shall be made by cash, check, or EFT (not credit card). All gallons delivered will be temperature compensated.
- Requirements Purchase Obligation:** You shall purchase from DRC ALL requirements of the fuel type indicated for the Contract Period, even if the amount of such gallons exceeds the Committed Gallons listed above, and shall not purchase from any other source during such period. You are agreeing that for the delivery of any gallons in excess of the Committed Gallons set forth above, you will pay for such fuel based on the following formulas:

Region	OPIS Rack Location	Total Fixed Margin	Total Delivered
Bangor	Bangor	0.1028	(OPIS Rack Price + fixed Margin)
Downeast	Bangor	0.1462	(OPIS Rack Price + fixed Margin)
Midcoast	Portland	0.0881	(OPIS Rack Price + fixed Margin)
Northern	Bangor	0.2341	(OPIS Rack Price + fixed Margin)
Western	Portland	0.2231	(OPIS Rack Price + fixed Margin)

- Payment Terms Service and Equipment:** Charges to your account beyond the fuel charges described above (for example, for service or equipment purchases) shall be paid in full within 30 days of invoice.
- Automatic Delivery:** DRC will deliver to the address(es) listed above automatically, based upon projections calculated from historical consumption and weather. You should notify DRC of any changes in consumption expectations. Automatic delivery will continue after the term of the Contract Period. DRC's failure to automatically deliver does not void any other terms of this Agreement. Also, please keep the path to the fill location clear for DRC's driver.
- Limitation of Liability:** DRC shall not be liable for any indirect or consequential damages whatsoever. Furthermore, DRC shall not be liable for damages incurred as a result of failure or delay in delivery of fuel as a result of circumstances beyond DRC's control, including but not limited to, force majeure, supplier interruptions, government mandated allocation, Your failure to notify DRC of consumption changes, or Your failure to keep the fill location clear.
- New Taxes:** The Contract Price set forth above may be increased by an amount equal to the increment of new taxes imposed on fuel sales not in effect at the time this Agreement was made.
- Liquidated Damages:** Refer to special terms and conditions dated July 13, 2015.

8. **Termination by DRC:** DRC may terminate this Agreement and pursue legal remedies if You breach this Agreement in any way, including failing to pay for goods and services and/or the Committed Gallons covered by this Agreement, and/or by notifying DRC that you do not intend to fulfill the purchase requirements in paragraph 2, DRC may elect to cease deliveries and pursue damages and/or Liquidated Damages as set forth below.
9. **Early Buyer Termination and Damages:** If You do not make any payment when required or otherwise breach in any way, DRC shall be entitled to damages, reasonable costs of collection or attempted collection, and reasonable attorneys' fees. For instance, if You fail to purchase all of the Committed Gallons from DRC, or if You purchase fuel from another source during the Contract Term, DRC shall be entitled to, at a minimum, Liquidated Damages calculated as follows: (Committed Gallons, minus delivered gallons) times the greater of \$1.00 per gallon, or 50% of the Contract Price per gallon, such amount to be paid within 10 days following the end of the Contract Term or the date of Your breach, whichever is earlier. These liquidated damages reasonably approximate actual damages to compensate DRC for costs and risks incurred in securing fuel quantities and prices to satisfy the Committed Gallons. In addition, You shall pay any outstanding amounts for all delivered goods and services.
10. **NOTICE OF PRICE RISK TO CONSUMER:** The fixed price in this Agreement is based upon market conditions prevailing at the time of signing. You understand and agree that the price is fixed for the season regardless of whether market price goes up or down. You are agreeing to all of the Committed Gallons regardless of weather conditions reducing Your fuel requirements.
11. **Downside Protection Option:** If a Downside Protection fee is indicated in the Program Terms, You will pay the lower of DRC's standard daily retail price or the Fixed Rate Per Gallon for the Covered Gallons. If there is no downside protection fee indicated above, You have declined to purchase downside protection and will be charged the Fixed Rate Per Gallon for the Covered Gallons. Please initial indicating Your acceptance of the downside protection program: TV (shall initial)
12. **Fixed Price Contract Compliance:** DRC's performance is secured by fixed price contracts and inventory in compliance with ME - 10 M.R.S.A. 1110(2), NH - R.S.A. §339:79, and VT - 9 V.S.A. §2461(e).
13. **THIS IS A LEGALLY BINDING CONTRACT. PLEASE READ CAREFULLY BEFORE SIGNING BELOW. THIS AGREEMENT IS NOT BINDING UNLESS A SIGNED COPY IS RECEIVED BY DRC BY THE DEADLINE SPECIFIED ABOVE.**

Authorized Signature: Tracy Miller Date: 5/22/17

Dead River Signature: Morgan Kihonen Date: 5/22/17

Verification Code: 3124781030 Account Number: 1349626 Confirmation Number: 388595

**MaineDOT Specifications
Ferry Service Fuel**

COMMODITY ITEM: Diesel Fuel, Ferry Service

CONTRACT PERIOD: From date of award until October 31, 2014

SCOPE: The Division of Purchases is soliciting quotations to contract a portion of the normal requirements of the Maine Ferry Service's requirement for diesel fuel as per the attached specifications. All prices quoted will be OPIS reported Rack price (Rack) and lock in price on the bid due date. The date of the rack price and which rack location to be used will be included with all bids.

QUOTES:

Pricing for all deliveries under the resulting contract will be based on a Margin-Over-Rack price, where available, or other type of pricing structure depending on the specific Fuel, as defined below. The State also reserves the right to award based on lock in price on a certain day that is in the best interest of the State. The quoted price provided by the vendor will be the adder price that the state will use from the date of the award until the end of October 31, 2014.

The submitted Price Quotation Response Form will be the official record of your bid and will be the price used when contracts are developed and awarded. Additional costs proposed after the award of the bid and before contract is signed will not be allowed and will result in forfeiture of the award. At any time during the contract period, the State reserves the right to negotiate a lock in price when it is advantageous to do so.

ESTIMATED GALLONS:

SPECIFIC LOCATION	ZIP CODE (5 digit)	# OF TKS	TANK SIZE (GLS)	EST ANNUAL USAGE
Capt Henry Lee	04653	Ferry	Sch Del	86,128

MaineDOT Specifications Ferry Service Fuel

DELIVERY:

FUELING MAINE STATE FERRY SERVICE VESSELS

Schedule

Tuesday Capt. Henry Lee 10:15AM At Bass Harbor Pen

Time is when vessel arrives at Rockland or its respective dock. This may vary depending on weather and traffic. There will be changes in schedule from summer to winter as indicated by our Ferry Service Schedule. Notice will be given to fuel supplier in advance of the change over. Trips are occasionally cancelled due to weather and if this occurs on a fueling day the fueling will take place the next day at the same time.

Timing of fuel deliveries is critical in order for us to maintain our ferry schedule for departing times. Therefore deliveries must be on time.

An MSFS line attendant will usually be available to direct the driver. The crew will advise driver on how much is needed and where to connect. All vessels are fueled through a scully fitting.

At times we may need to fuel a spare vessel. This is usually done in conjunction with a regular delivery or may be as a separate delivery to meet the Maine State Ferry Service needs. Each delivery must have a separate ticket. Vessels usually take 1500 to 2400 gallons each week so please have enough on truck that total fueling can be done on delivery time and date. Special deliveries will usually not require that much fuel, but if it does MDOT will notify you for a special load. Occasionally we fuel a vessel while it is at Rockland Marine Shipyard. The Vendor will be notified if this is the case.

Due to Homeland Security rules we may require driver's names and truck information to be on file. MDOT will have their Security Officer contact the Vendor if need be.

The supplier will be supplying ultra low sulfur off road diesel fuel.

Some other concerns that we have are that we run 363 days a year. When a fueling day falls on a Holiday we will have to plan accordingly for either next day delivery or to make a Holiday delivery.

Whenever possible deliveries shall include a legible metered delivery ticket which has been processed through a meter certified and sealed by the State of Maine, Department of Weights and Measures, and stamped with quantities, location, time (A.M/P.M.) date, driver and product. When bulk deliveries are made the driver shall stick the tank before and after product is delivered and enter the readings onto the delivery ticket. A copy of the delivery ticket, signed

MaineDOT Specifications
Ferry Service Fuel

when possible by both the driver and a person from the receiving facility, should be left at the location receiving the fuel.

The Contractor shall FAX to the number below or email to the people below, as shown under invoicing section, delivery slips within 24 to 36 hours after the delivery. Delivery slips must include the location where delivery was made, the product(s) delivered, the blended percentages, the number of gallons delivered, and the rack price or prices for blended fuels.

INVOICING: An invoice for delivery must be mailed, and emailed or FAXED to:

Maine Department of Transportation
Fleet Services
ATTN: Fuel Services
26 State House Station
Augusta, ME 04333-0026
E-mail: WJE.Allen@maine.gov and Luke.Hopkins@maine.gov
FAXED to 207-287-2543

All invoices will include the purchases Master Agreement (Contract) number.

All invoices will be submitted within 36 hours of delivery. Only original invoices will be paid. Statements will not be accepted for payment. There will be one invoice with delivery ticket # to be paid for each delivery.

Delivery of any fuel that does not meet the specification required may result in cancellation of the contract.

The Department may spot test any product supplied to verify quality.

A daily OPIS report emailed by the contracted vendor documenting the rack price is also required.

QUANTITIES: Estimated quantities supplied with this request are based on an average season and should be used only as a basis of estimation.

QUOTATION: Quotation shall include OPIS reported rack price per gallon, Dealer mark-up price per gallon, transportation cost per gallon, product to be supplied, product specification, division and district to be supplied, company submitting bid and company official authorized to submit bid. We are also looking for a lock in price at the time of bid closing date.

Quarterly Reporting: The Contractor will provide the Division of Purchases with a quarterly summary report including contract year to date totals of actual deliveries made to all accounts during the previous quarter. Reports are due 15 days after the end of each quarter.

**MaineDOT Specifications
Ferry Service Fuel**

TECHNICAL SPECIFICATIONS

ULTRA LOW SULFUR DIESEL FUEL 15PPM

Cetane minimum	45
Water and sediment	.05% maximum
Ash	.003% max preferred, not to exceed .01% max
Sulfur	.05% maximum
API gravity	34-36
Water and sediment % volume	.025% maximum
BTU content	138,000/gal. minimum
Carbon residue on 10% bottoms	0.010% maximum
Bacteria and fungus	0 CFU/ml.

Cloud point and pour point must be appropriate for the geographical area where the fuel will be used by the Department, for the season of year and ambient air temperature according to A.S.T.M. D975 as a minimum.

Percentage blend of winter fuel must be specified on the delivery ticket at time of delivery in addition to the listed requirements. The finished product shall exhibit good filterability and shall be essentially free of all foreign contaminants including, but not limited to, soaps, gels, emulsive materials and reactive materials such as metals and inorganic basic or acidic compounds.

**MaineDOT Specifications
Ferry Service Fuel**

PRICE QUOTATION RESPONSE FORM
DEPARTMENT OF TRANSPORTATION FERRY SERVICE FUEL CONTRACT

BOAT(S) BEING QUOTED _____ALL_____

Name of Company: Dead River Company _____ Phone: (207) 667-4681 _____

Address: _269 Water St, Ellsworth, ME 04605_____

OPIS Rack Location **Bangor**

Date of Quote [10/17/2013]

OPIS Rack price per gallon \$ _3.1453_____

Mark-up Price per gallon + \$ _ .1500_____

Transportation cost per gallon + \$ _ .0544_____

Total fixed margin price per gallon = \$ _ .2044_____ + \$ _ .2044_____

Total Delivered Price = \$ _3.3497_____

Lock in Price as of [10/17/2013] \$ _3.4590_____

Note: Indicative lock in price for ULSD Off Road as of 1:00PM on 10/17/2013.

The undersigned is authorized by the above named company to submit this price quote and agrees to abide by the guidelines outlined in the request for price quotation.

Signed: __Scott A. Kimball_____ Date: 10/17/2013_____

Title: ____Area Manager_____

Email address: scott.kimball@deadriver.com_____