

**SECTION I**  
**CONSTRUCTION SPECIFICATIONS**  
**PROJECT WBS 38683.3.1 TIP F-4004A**

**A.0 GENERAL REQUIREMENTS**

**A.1 DEFINITIONS**

Wherever the words defined in this paragraph or pronouns used in their stead occur in these specifications, they shall have the meanings here given.

(a) The term "Owner" means the North Carolina Department of Transportation, and shall include its authorized Representatives and Inspectors.

(b) The terms "Contractor" or "builder" means the person, firm or corporation named as such in the contract and includes the plural number and the feminine gender when such are named in the contract as the contractor.

(c) The term "Subcontractor" means an individual, partnership, firm, joint venture, or Corporation to whom the Contractor, with written consent of the Engineer, sublets any part of the contract.

(d) The word "Vendor" shall be taken to mean suppliers and/or manufacturers of materials and equipment purchased by the Contractor for use in the work covered by these specifications.

(e) Coast Guard Inspector means Officer in Charge of Marine Inspection having cognizance over the certification of the vessel, where applicable, and includes Inspection Officers under his command.

(f) The words "approval of the Owners" or "approved" shall mean an approval in writing signed by the owners, and shall also mean approval by the cognizant U. S. Coast Guard, section or office where applicable.

(g) The words "furnish", "provide" and "install" shall be taken to mean that the Contractor shall provide and install the specified material or equipment with necessary fittings, foundations, piping, electrical wiring and fixtures, etc., and make necessary hook-up and connections even though one of the words only is used, unless it is specifically stated otherwise.

(h) The term "work" of the Contractor or Builder or subcontractor includes labor or materials or both unless specifically stated otherwise herein.

(i) The words "renew" or "replace" shall be taken to mean that the existing material or item referred to shall be removed and disposed of as directed, and other material or items installed in place of the same as in subparagraph (h) above.

(j) The word "reinstall" shall mean that existing material shall be reused in either its original or a new location, and completely installed as in subparagraph (h) above.

(k) The term "Notice" as used herein shall include all written notices, demands, instructions, claims, approvals, and disapprovals, required to obtain compliance with Contract requirements. Any written notice by either party to the Contract shall be considered sufficiently given if delivered to the other party, agent, representative or officer in person. The person to whom the notice is delivered shall sign the duplicate copy and return the same to the other party immediately after receipt.

(l) The words "or equal" shall be taken to mean of equal quality, size capacity, general configuration and suitability for the use intended, as the item or items set out. Where reference is made to "trade names" or "catalogs", the reference is descriptive and restrictive unless stated otherwise by adding "or equal".

(m) The words "best Marine quality" or "first-class material" shall be taken to mean the top grade product of an approved marine manufacturer.

(n) The words "first class workmanship" shall be taken to mean the level of quality that would be done by a capable marine mechanic experienced in construction and outfitting of passenger vessels, using proper tools in good condition and in accordance with normally accepted good shipbuilding practice.

(o) All "tons" used herein are 2,240 pounds each.

(p) The term "Act of God" as used herein is defined as an unusual and extraordinary manifestation of the forces of nature that could not under normal conditions have been anticipated or expected. It includes a tornado, a hurricane, lightning, and fires caused by lightning, but it does not include strikes, or other work stoppages, rain not accompanied by a hurricane, fire not caused by lightning or hot or cold temperatures.

(q) The "Chief Engineer" means Chief Engineer of Operations Division of Highways, North Carolina Dept. of Transportation.

(r) "Division of Highways" means the division of the Department of Transportation which, under the direction of the Secretary of Transportation, carries out state highway planning, construction, and maintenance functions assigned to the Department of Transportation.

(s) The "Engineer" means the Chief Engineer of Operations, Division of Highways, North Carolina Department of Transportation, acting directly or through his duly authorized representatives.

(t) The "Inspector" means the authorized representatives of the engineer assigned to make a detailed inspection of any or all portions of the work and materials.

(u) "Department" or "Department of Transportation" means a principal department of the Executive Branch which performs the function of planning, construction, and maintenance of an integrated statewide transportation system.

## **A.2 BIDDING REQUIREMENTS AND CONDITIONS**

### **A.2-1 INVITATION TO BID**

After the advertisement has been made, an invitation to bid will be mailed to known qualified Contractors informing them that bids will be received for the construction of specific project. Such invitation will indicate the project number, length, locations, and general descriptions; a general summary of the items and approximate quantities of work to be performed; and the time and place for the public opening and reading of bids received. Information concerning the cost of and the availability of plans and proposal forms will also be indicated in the invitation to bid.

### **A.2-2 PREQUALIFYING TO BID**

**Prospective Bidders shall prequalify with the Department.** The requirements for prequalification will be furnished each prospective Bidder by the Construction Unit, Raleigh, NC (919-733-2210). All required statements and documents shall be filed with the Construction Unit by the prospective Bidder at least two (2) weeks prior to the date of opening of bids. A bid will not be opened unless all prequalification requirements have been met by the bidder and have been found to

be acceptable by the Construction Unit.

### **A.2-3 CONTENTS OF PROPOSAL FORMS**

A proposal form will be furnished by the Department upon request. Each proposal form will be marked on the front cover by the Department with the name of the firm or individual to whom it is being furnished. It will set forth the date and time for the opening of bids. The form will include any requirements which vary from or are not contained in the plans. It will also include a bid sheet on which the Contractor shall place his lump sum bid for the project. All papers bound with the proposal form are necessary parts thereof and **shall not be detached, taken apart, or altered.**

The plans, specifications and other documents designated in the proposal form shall be considered a part of the proposal form whether attached or not. The prospective Bidder will be required to pay the Department of Transportation the sum stated in the invitation to bid for each copy of the proposal form and each set of plans requested.

### **A.2-4 EXAMINATION OF PLANS AND SPECIFICATIONS**

The Bidder shall carefully examine the proposal form, plans and specifications, before submitting a bid. It is mutually agreed that submission of a bid shall be considered prima-facie evidence that the Bidder has made such examinations and is reasonably satisfied as to the conditions to be encountered in performing the work, and as to the requirements of the proposal form and contract.

### **A.2-5 PREPARATION AND SUBMISSION OF BIDS**

All bids shall be prepared and submitted in accordance with the following listed requirements:

1. **THE PROPOSAL FORM FURNISHED BY THE DEPARTMENT SHALL BE USED AND SHALL NOT BE TAKEN APART OR ALTERED.** The bid shall be submitted on the same proposal form which has been furnished to Bidder by the Department, as identified by the Bidder's name marked on the front cover by the Department.

2. All entries including signatures shall be written in ink.

3. The Bidder shall submit a unit or lump sum price for every item in the proposal form other

than items which are authorized alternates to those items for which a bid price has been submitted.

4. The total amount bid shall be written in figures in the proper place in the proposal form.

5. Changes in any entry shall be made by marking through the entry in ink and making the correct entry adjacent thereto in ink. A representative of the bidder shall initial the change in ink.

6. The bid shall be properly executed. In order to constitute proper execution, the bid shall be executed in strict compliance with the following:

a. If a bid is by an individual, it shall show the name of the individual and shall be signed by the individual with the word "Individually" appearing under the signature. If the individual operates under a firm name, the bid shall be signed in the name of the individual doing business under the firm name.

b. If the bid is by a corporation, it shall be executed in the name of the corporation by the President or Vice President. It shall be attested by the Secretary or Assistant Secretary. The seal of the corporation shall be affixed. If the bid is executed on behalf of a corporation in any other manner than as above, a certified copy of the minutes of the Board of Directors of said corporation authorizing the manner and style of execution and the authority of the person executing shall be attached to the bid or shall be on file with the Department.

c. If the bid is made by a partnership, it shall be executed in the name of the partnership by one of the partners.

d. If the bid is a joint venture, it shall be executed by each of the joint venturers in the appropriate manner set out above. In addition, the execution by the joint venturers shall appear below their names.

7. The bid shall not contain any unauthorized additions, deletions, or conditional bids.

8. The Bidder shall not add any provision reserving the right to accept or reject an award, or to enter into a contract pursuant to an award.

9. The bid shall be accompanied by a bid bond on the form furnished by the Department or a bid deposit. The bid bond shall be completely and properly executed in accordance with the requirements of Section A.2-6. The bid deposit shall be a certified check or cashiers check in accordance with Section A.2-6.

10. The bid shall be placed in a sealed envelope and shall have been delivered and received

by the Department prior to the time specified in the invitation to bid.

#### **A.2-6 BID BOND OR BID DEPOSIT**

Each bid shall be accompanied by a corporate bid bond or a bid deposit of a certified or cashiers check in the amount of at least 5% of the total amount bid for the contract. No bid will be considered or accepted unless accompanied by one of the foregoing securities. The bid bond shall be executed by a Corporate Surety licensed to do business in North Carolina and the certified check or cashiers check shall be drawn on a bank or trust company insured by the Federal Deposit Insurance Corporation and made payable to the Department of Transportation in an amount of at least 5% of the total amount bid for the contract. The condition of the bid bond or bid deposit is: the Principal shall not withdraw its bid within 60 days after the opening of the same, and if the Board of Transportation shall award a contract to the Principal, the Principal shall within 14 calendar days after the notice of award is received by him give payment and performance bonds with good and sufficient surety as required for the faithful performance of the contract and for the protection of all persons supplying labor and materials in the prosecution of the work; in the event of the failure of the Principal to give such payment and performance bonds as required, then the amount of the bid bond shall be immediately paid to the Department as liquidated damages or, in the case of a bid deposit, the deposit shall be forfeited to the Department.

When a bid is secured by a bid bond, the bond shall be on the form furnished by the Department. The bid bond shall be executed by both the Bidders and a Corporate Surety licensed under the laws of North Carolina to write such bonds.

The execution by the Bidder shall be in the same manner as required by Section A.2-5 for the proper execution of the bid. The execution by the Corporate Surety shall be the same as is provided for by Section A.2-5, Item 6b, for the execution of the bid. The seal of the Corporate Surety shall be affixed to the bid bond. The bid bond form furnished is for execution of the Corporate Surety by a General Agent or Attorney in Fact. A certified copy of the Power of Attorney shall be attached if the bid bond is executed by a General Agent or Attorney in Fact. The Power of Attorney shall contain a certification that the Power of Attorney is still in full force and effect as of the date of execution of the bid bond by the General Agent or Attorney in Fact. If the bid bond is executed by the Corporate Surety by the President or Vice President, and attested to by the Secretary or Assistant Secretary,

then the bid bond form furnished shall be modified for such execution, instead of execution by the Attorney in Fact or the General Agent.

When a bid is secured by a bid deposit (certified check or cashiers check), the execution of a bid bond will not be required.

**A.2-7 DELIVERY OF BIDS**

All bids shall be placed in a sealed envelope having the name and address of the Bidder, and the statement "**Bid for the Construction of State Highway Project No. F-4004A WBS 38683.3.1 Hyde County**" on the outside of the envelope.

If delivered prior to the Bid Date, or on the day the bids are to be received, Bids may be delivered in person or by USPS, Federal Express, etc. to the State Contract Officer, Randy Garris, P.E. at:

North Carolina Department of Transportation  
Contract Standards and Development Unit  
Century Center Building B (Delivery)  
1020 Birch Ridge Drive  
Raleigh, NC 27610  
Attention: State Contract Officer  
(919) 250-4128

If delivered in person to the State Contract Officer, bids shall have been received prior to **2:00 pm** on the day of the bid opening. If delivered by mail, bids shall have been received prior to **2:00 pm** on the day of the bid opening. Bids received after the times specified above **WILL NOT** be accepted and will be returned to the Bidder unopened.

**A.2-8 WITHDRAWAL OR REVISION OF BIDS**

A Bidder may, without prejudice to himself, withdraw a bid after it has been delivered to the Department of Transportation, provided the request for such withdrawal is either in writing or by telegram to the Chief Engineer of Operations or the Engineer presiding over the public opening of bids before the date and time set for the opening of bids. The Bidder may then submit a revised bid

provided it is received prior to the time set for opening of bids.

Only those persons authorized to sign bids under the provisions of Article A.2-5, Item 6 shall be recognized as being- qualified to withdraw a bid.

#### **A.2-9 RECEIPT AND OPENING OF BIDS AND NON-COLLUSION AFFIDAVIT**

##### **(a) Receipt And Opening Of Bids**

Bids will be opened and read publicly at the time and place indicated in the invitation to bid. Bidders, their authorized agents, and other interested parties are invited to be present.

A bid will be received and opened from any Bidder who:

1. Is prequalified in accordance with the provisions of Article A.2-2, and
2. Has delivered the bid to the place indicated in the Specifications prior to the time

indicated in the invitation to bid.

A bid received from a Bidder who has not complied with the above requirements will be returned to the Bidder unopened and under no circumstances will be considered for award.

##### **(b) Non-Collusion Affidavit**

In compliance with Section 112(c) of Title 23 USC and current regulations of the Department, each and every Bidder will be required to furnish the Department with an affidavit certifying that the Bidder has not entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with his bid on the project. Affidavit will be included in the proposal form as part of the Signature sheets. Execution of Signature sheets will also constitute execution of Non-Collusion Affidavit. **Signature sheets shall be notarized.**

#### **A.2-10 REJECTION OF BIDS**

Any bid submitted which fails to comply with any of the requirements of Articles A.2-5, A.2-6 and A.2-7 shall be considered irregular and may be rejected, except that any bid which fails to comply with Section A.2-5, Item 3 shall be considered irregular and will be rejected.

In addition to the above, any bids submitted by any Bidder who has failed to comply with the following requirement will be rejected.

Any bid submitted by a Bidder who at the time of the submission is bankrupt, insolvent, or has committed an act of bankruptcy or financially unable to meet its outstanding obligations, shall be considered irregular and will be rejected.

Any Bidder who has been disqualified from bidding shall have been requalified prior to the time set for receiving bids. The right to reject any and all bids shall be reserved to the Board.

#### **A.2-11 DISQUALIFICATION OF BIDDERS**

Any one of the following causes may be justification for disqualifying a Contractor from further bidding until he has applied for and has been requalified in accordance with Article A.2-2:

1. Unsatisfactory progress in accordance with Section A.7.
2. Being declared in default in accordance with Section A.32.
3. Uncompleted contracts which, in the judgement of the Chief Engineer of Operations, might hinder or prevent the prompt completion of additional work if awarded.
4. Failure to comply with prequalification requirements.
5. The submission of more than one bid for the same work from an individual, partnership, joint venture, or corporation under the same or different names.
6. Evidence of collusion among Bidders. Each participant in such collusion will be disqualified.
7. Failure to furnish a non-collusion affidavit upon request.

#### **A.3 AWARD AND EXECUTION OF CONTRACT**

##### **A.3-1 CONSIDERATION OF BIDS**

After the bids are opened and read, the amount bid for each item and the total bid will be checked and made known to the public.

The right is reserved to reject any or all bids, to waive technicalities, to request the low bidder to submit an up-to-date financial and operating statement, to advertise for new bids, or to proceed to do the work otherwise, if in the judgment of the Board, the best interests of the State will be promoted thereby.

### **A.3-2 AWARD OF CONTRACT**

The award of the contract, if it be awarded, will be made by the Board of Transportation to the lowest responsible, responsive Bidder whose bid complies with all the requirements prescribed. The lowest responsible, responsive Bidder will be notified by letter mailed to the post office address shown on his bid that his bid has been accepted and that he has been awarded the contract. This letter shall constitute the notice of award. The notice of award, if the award be made, will be issued within sixty days after the opening of bids, except that with the consent of the successful Bidder the decision to award the contract to such Bidder may be delayed for as long a time as may be agreed upon by the Department of Transportation and such Bidder. In the absence of such agreement, the lowest responsible Bidder may withdraw his bid at the expiration of the 60 days without penalty if notice has not been issued.

### **A.3-3 CANCELLATION OF AWARD**

The Board of Transportation reserves the right to rescind the award of any contract at any time before the receipt of the properly executed contract and contract bonds from the successful Bidder.

### **A.3-4 RETURN OF BID BOND OR BID DEPOSIT**

All bid bonds will be retained by the Department until the contract is executed by the successful Bidder, after which all such bid bonds will be destroyed unless the individual bid bond form contains a note requesting that it be returned to the Bidder or the Surety.

Checks which have been furnished as a bid deposit by all Bidders other than the three (3) lowest responsible Bidders will be retained not more than ten (10) days after the date of opening of bids. After the expiration of such period, Department of Transportation warrants in the equivalent amount of checks which were furnished as a bid deposit will be issued to all Bidders other than the three (3) lowest responsible Bidders.

Checks which have been furnished as a bid deposit by the three (3) lowest responsible Bidders will be retained until after the contract bonds have been furnished by the successful Bidder, at which time Department of Transportation warrants in the equivalent amount of checks which were furnished as a bid deposit will be issued to the three (3) lowest responsible Bidders.

### **A.3-5 CONTRACT BONDS**

The successful Bidder, within 14 calendar days after the notice of award is received by him, shall provide the Department with a contract payment bond and contract performance bond each in an amount equal to 100 percent of the amount of the contract. All bonds shall be in conformance with *General Statute 44A-33*. The Corporate Surety furnishing the bonds shall be authorized to do business in the State.

### **A.3-6 EXECUTION OF CONTRACT**

As soon as possible following receipt of the properly executed contract bonds, the Department will complete the execution of the contract, retain the original contract and return one certified copy of the contract to the Contractor.

### **A.3-7 FAILURE TO EXECUTE CONTRACT**

The successful Bidder's failure to file acceptable bonds within 14 calendar days after the notice of award is received by him shall be just cause for the forfeiture of the bid bond or bid deposit and rescinding the award of the contract. Award may then be made to the next lowest responsible Bidder or the work may be readvertised and accomplished under contract or otherwise, as the Board of Transportation may decide.

## **A.4 INTENT**

(a) It is the intent of these specifications that the Contractor shall Build, Equip, Launch, Test and Deliver to the Owner one (1) vessel, as described, complete and ready for service in every respect as concerns the work covered herein. All specifications written for singular description shall be applicable for the construction of one (1) vessel. The Contractor shall provide the necessary plant, launch/railway and lay days to construct the vessels, all tools, materials, machinery, equipment, fittings and labor, including upkeep of the vessel until final acceptance by the Owner.

(b) The Contractor shall make removals and replacements as necessary to affect the work covered by these specifications as a part of the contract if required.

(c) The Contractor shall coat all new work and restore and recoat all areas disturbed due to the work required by these specifications as a part of the Contract.

(d) Any work, equipment, machinery, or other part or parts of the vessels injured or damaged while the vessel is in the custody of the Contractor during the progress of the work covered by these specifications shall be repaired by the Contractor to the satisfaction of the Inspector, at no cost to the Owner.

(e) Any work or detail omitted from these specifications or plans, but necessary to complete the specified construction covered herein in accordance with good shipbuilding practice shall be furnished by the Contractor as a part of the Contract at no additional cost to the Owner, and nothing herein or on the plans shall be construed as meaning otherwise.

(f) Whereas the true intent and meaning is manifest, the Contractor shall not be relieved from fulfilling the full requirements of the contract plans, contract guidance plans and specifications, or of the responsibility for producing satisfactory results, or of properly performing any work by any of the following:

Absence of the details where the essential features, functions and arrangements are defined. Mistakes in description of hull or machinery details which, if not corrected, would interfere with the proper performance of the items involved.

The Contractor is responsible for proper performance of the Contract in accordance with the full manifested intent of these specifications despite any error, omission, discrepancy or lack of clarity in the plans or specifications which should reasonably have been apparent to an experienced Contractor upon a careful and critical review.

(g) The intent above given is of the essence of these specifications.

#### **A.5 INSPECTION**

(a) All work and materials entering into the construction of the vessels and their machinery, fittings and equipment shall be subject at all times to the inspection and approval of the Inspector and where applicable the U.S. Coast Guard.

(b) It is the duty of the Inspector to insist that the Contractor perform all work and supply all materials as called for in these specifications. The Contractor shall perform all work in a satisfactory manner. In the event that any work or materials fail to comply with these specifications the Inspector will notify the Contractor in writing of the deficiency or unsatisfactory work as soon as it comes to his attention.

(c) Any work not satisfactory, whether from defective material, departure from specifications, or poor workmanship, or any work performed in the absence of the Inspector and later found to be unsatisfactory, shall be removed and replaced promptly to the satisfaction of the Inspector, at the Contractor's expense.

(d) The Owners, the Inspector, the U. S. Coast Guard, and any person employed by the same shall be allowed access to the work at anytime during the regular working hours of the Contractor, or at such other times as will not entail additional expense to the Contractor, and the Contractor shall furnish all reasonable facilities and give ample time for such inspection.

A desk, desk chair, 4-drawer legal file cabinet with lock and keys, three (3) chairs, a 3' x 6' x 32" drawing board and compact copy machine shall be provided in a private office, and apart from facilities occupied by contractor's personnel. Office shall be for the Inspector's and Owner's sole use during the contract period. Office shall be provided with telephone service and internet connection with broadband service. Necessary long distance calls made to discuss questions arising concerning the work shall be at the Contractor's expense. Telephone service shall be two private lines not subject to connection to contractor's telephone network listed in the Owners name. Contractor shall provide internet service access as a part of this contract. Additional telephone service on contractor's system may be installed.

(e) The Inspector shall determine the amount, quality, acceptability, and witness all parts of the work. He shall interpret the specifications, Contract Documents and supplemental agreements, if any, and he shall decide all other questions in connection with the work. The Inspector shall have no authority to approve or order changes in the work which alter the terms or conditions of the Contract. The Inspector shall confirm in writing within five (5) days any oral order, direction, requirement, or determination. The decision of the Inspector shall be final and binding on both Contractor and Owner.

(f) Nothing herein shall be taken to relieve the Contractor of complete responsibility for unsatisfactory workmanship, faulty materials or other deficiencies of any kind whatsoever that are the result of his work, his sub-contractors work, or material purchased or provided and installed by him.

(g) The Inspector shall have general surveillance of the work. All orders and communications from the Contractor shall be transmitted through him. He shall have authority to stop the work whenever such stoppage may be necessary to ensure the proper execution of contract, said stoppage is to be a Contractor caused delay in computing liquidated damages, if any, for late delivery.

(h) As the Inspector is, in the first instance, the interpreter of the conditions of the contract and the judge of its performance, he shall use his powers under the contract to enforce its faithful performance.

(i) The Contractor shall notify the Inspector prior to any and all Contractor scheduled meetings or inspections relevant to this contract which involve any representative of the U.S. Coast Guard. The Inspector shall be given the opportunity, at his option, to be present on such occasions. At no time shall the Contractor allow access to any portion of this contract by personnel other than those employed by the Contractor without first receiving the Inspectors approval.

#### **A.6 LAWS, PERMITS, AND REGULATIONS**

(a) The Contractor shall obtain and pay for all licenses and permits and shall pay for all fees and charges for connection to outside service and use of property other than the site of the work for storage of materials and other purposes.

(b) The Contractor shall comply with all laws, ordinances, and regulations applicable to the work unless in conflict with contract requirements. If the Contractor ascertains at any time that any requirements of this Contract are at variance with applicable laws, ordinances, or regulations he shall promptly notify the Inspector and Owner and any necessary adjustment of the Contract shall be made as specified under Changes in the work.

(c) Any questions arising under this contract shall be determined under the laws of the State of North Carolina.

(d) The Contractor shall furnish the Inspector copies of affidavits upon request giving the original dates, renewal dates and expiration dates of all labor contracts, if any, related to any phase of the work to be performed in the shipyard under this contract.

#### **A.7 PROSECUTION OF WORK (LIQUIDATED DAMAGES)**

(a) Date of completion is the essence of any contract resulting from these specifications and plans. The Contractor will be required to complete all work no later than the date stated in the contract.

(b) Should progress of the work lag or fall behind schedule, the Contractor shall direct sufficient additional labor to work, including overtime if required, to maintain the contract delivery date, at no additional cost to the Owner.

(c) The Contractor will be required to pay liquidated damages for each and every day that delivery is delayed beyond the contract date for its completion. The timely completion of the performance of this contract has a substantial financial value to the Owners, which value is difficult or impossible to forecast or evaluate exactly. It is, therefore, stipulated and agreed that the value to the Owners for each calendar day of delay in delivery of the vessel by the Contractor to the Owners beyond the contract completion date of the work to be performed by the Contractor under this contract shall be a fixed sum and shall be set in advance. Upon the foregoing consideration and for the purpose of this contract, the sum of **One Thousand Dollars (\$1,000.00) per day** is hereby mutually agreed upon as the sum which the Contractor shall give to the Owners as liquidated damages for each calendar day delayed beyond the contract completion date that the work remains unfinished and said vessel remains undelivered.

(d) For the purpose of these specifications in determining the days for which liquidated damages will be charged the Contractor shall be entitled to an extension of the contract time or to an apportionment and remittance of liquidated damages when a contract is not completed within the contract time to the extent that delays to the current controlling operations, or operations, were caused by acts of God as defined herein, or acts of the Boards or its agents. The Contractor, however, shall be entitled to an extension of contract time, or an apportionment and remittance of liquidated damages, only to the extent and in the proportion that such delays were caused by acts of God or acts of the Board, and it is understood that the Board does not hereby waive or release any claim against the Contractor for liquidated damages when the contract is not completed within the contract time for any reason whatsoever other than the said acts of God or acts of the Board. A request by the Contractor for an extension of time shall be made to the Inspector within five (5) days

after such delay has occurred and he shall make a determination as to the cause of the delay and the amount of time that the contract should be extended by reason of such delay.

(e) It is understood and agreed that if a claim is filed for an extension of contract time, or an apportionment and remittance of liquidated damages, the burden of proof shall be upon the Contractor to establish the acts of God or the acts of the Board causing the alleged delay; and if the Contractor fails to sustain the burden of proof, he shall not be entitled to an extension of contract time, or to an apportionment and remittance of liquidated damages. The burden of proof herein referred to shall be the same that in other cases of like nature exists. Proof by the Contractor of delays due to an act of God or act of the Board to enforce or collect liquidated damages due to any other reason whatsoever.

(f) The Contractor is hereby notified that no consideration will be given to requests for remissions of liquidated damages for any reason whatsoever, except as covered by Paragraph A.7 herein. The Contract date for completion will be changed on a negotiated basis for any work authorized or deleted by supplemental agreements to the original contract.

#### **A.7-1 WORK PROGRESS**

(a) It is the intent of these specifications that the Contractor shall commence work on the date of availability as noted elsewhere herein. The Contractor shall not begin work prior to the date of availability without written approval of the Inspector. If such approval is given and the Contractor does begin work prior to the date of availability, the Département will assume no responsibility for any delays caused prior to the date of availability by any reason whatsoever, and such delays, if any, will not constitute a valid reason for extending the completion date.

(b) The Contractor shall not perform any work on the project until the Department has received the properly executed contract and contract bonds.

(c) It is further the intent of these specifications that the Contractor shall pursue the work diligently with workmen in sufficient numbers, abilities, and supervision and with equipment, material, and method of construction as may be required to complete the work described in the contract, or as may be amended by the completion date.

#### **A.7-2 PROGRESS SCHEDULE**

(a) The Contractor shall prepare and submit for approval by the Inspector a schedule of his proposed working progress on the project.

(b) The proposed progress schedule shall be submitted no later than the date of the project preconstruction conference (Section A.7-3) and before any work is begun on the project.

(c) When conditions beyond the Contractor's control have adversely affected his progress, the Contractor may submit a revised progress schedule to the Inspector for approval. Such revised progress schedules will not be approved unless accompanied by a detailed written statement giving the Contractor's reasons for the proposed revision.

(d) When, at any time during construction or repair of the project, the Contractor's progress deviates substantially from the latest approved progress schedule, the Inspector may request the Contractor to submit a revised progress schedule. Revised progress schedules requested by the Inspector shall be submitted within seven (7) days after the date of such request.

#### **A.7-3 PRECONSTRUCTION CONFERENCE**

(a) Immediately after receipt of notice of award, the Owner, Design Firm (EBDG) and the Contractor will establish a mutually agreeable date on which the preconstruction conference will be held. The Contractor's project superintendent and other individuals representing the Contractor who are knowledgeable of the Contractor's proposed progress schedule or who will be in charge of major items of the work shall attend the preconstruction conference. Contractor shall provide necessary personnel to take, transcribe, correct, reproduce and distribute minutes of the pre-construction meeting.

#### **A.7-4 CONSTRUCTION CONFERENCES**

(a) After work on the project has begun, initially construction conferences shall be held monthly and adjusted to suit construction. The construction conferences are to be scheduled at times which are mutually agreeable to both the Contractor's project superintendent and the Inspector. It shall be the superintendent's responsibility to attend the conference. Contractor may elect to have other members (See Section A.7-3) of his staff attend construction conferences. Contractor shall provide necessary personnel to take, transcribe, reproduce and distribute minutes of each meeting.

## **A.8 MATERIALS**

(a) All materials intended for use, and all equipment used shall be new and as specified or as shown on plans except where Owner furnished (Paragraph A.17). Should the Contractor desire to substitute any material or equipment for that specified he must first obtain an order from the Owner in writing. (See also paragraphs A.5 and A.11 herein.)

(b) It is the responsibility of the Contractor to furnish sufficient data and information on materials he wishes to substitute to allow the Owner to make a decision.

(c) All equipment, where required, shall be of U. S. Coast Guard approved type and manufacture, and details or plans shall be submitted for U. S. Coast Guard approval by the Contractor where required and not previously approved. (See Section A.10 & A.11 "Plans and Specifications").

(d) Steel plate, shapes and other metal work shall be of the best quality domestic steel products for its particular purpose. (See special provision "Domestic Steel Products" dated April 19, 1994.)

(e) Paints, electrical, piping, and all other materials shall conform to the standards of first class material for passenger vessels, as specified herein.

(f) All galvanizing shall be "hot dip" process.

(g) All plywood shall be waterproof marine type in all cases, with all edges sealed before installation but after cutting to shape.

(h) Two (2) copies of each purchase order for all materials, articles, and equipment purchased by the Contractor shall be furnished to the Inspector at the time of issue to the vendor. Purchase orders shall show unit and total price of materials, articles and equipment purchased and vendors complete address.

(i) Materials requiring specified approval, which are ordered by the Contractor before approval, shall be entirely at the risk of the Contractor.

(j) Where material herein specified is not available on the present market, alternate materials of equal quality at no additional cost may be processed for approval of the Inspector by the Contractor.

(k) Any material or equipment provided by the Contractor which proves defective and unfit

for service either before or after installation and whether previously approved or not shall be replaced by the Contractor with satisfactory items without additional cost to the Owner.

#### **A.9 WORKMANSHIP**

(a) Workmanship throughout shall be first class and high grade in all respects for passenger vessels. Particular care shall be taken to insure fair lines, adequate and proper fastening, suitable butts and scarfs, smooth surfaces, neat and substantial work, and the maximum degree of watertightness. All welding shall be done by competent USCG/ABS certified welders. All plating shall be free of uneven and wavy lines or wrinkles after welding. (See paragraph A.27 herein also).

(b) The work shall be executed by competent workmen, in each trade, experienced in marine construction, and under adequate supervision to assure first class workmanship throughout.

(c) Ragged edges or sharp projections which are hazardous to operating personnel, contribute to additional maintenance, or detract from the finished appearance shall be eliminated.

(d) Dimensional tolerances, fit alignment, fairness and finish shall be in accordance with approved working plans. Where tolerances are not given on working drawings or specified elsewhere, a standard of plus or minus 1/64 of an inch will be assumed for unmachined fits. Machined fits shall be in accordance with S.A.E. Standards for tolerance and finish.

(e) Fittings at openings through decks and bulkheads for pipes, cables, etc., shall be properly designed to maintain watertight integrity, reduce transmission of heat and eliminate transfer of machinery vibration and noise to the hull structure. Doubler plates or other suitable strengthening shall be fitted at all bulkhead and hull penetrations.

(f) Piping and cables shall be run as far inboard and shall pierce the bulkheads as close under the decks and as near the top of the bulkheads as practicable.

#### **A.9-1 ON SITE PROJECT SUPERVISION**

(a) At all times that work is actually being performed, the Contractor shall have present on the project one competent individual who has been authorized to act in a supervisory capacity over all work on the project including work subcontracted. This individual who has been so authorized shall be experienced in the type of work being performed and is to be fully capable of managing, directing and coordinating the work; of reading and thoroughly understanding the contract; and of

receiving and carrying out directions from the Inspector. He shall be an employee of the Contractor.

(b) The project Supervisor shall be authorized to accept and sign for notices and instructions, if and when found necessary, from the Inspector.

(c) The Project Supervisor shall be identified at the time of the Pre-construction Conference, Section A.7-3, and shall meet with the Inspector's approval. Should it become necessary to assign another individual in this position, the Contractor shall provide the Inspector written notification within five (5) working days of the proposed change. The individual assigned shall be approved by the Inspector and shall be capable of assuming the duties as outlined in Section A.9-1 (a) and (b) herein.

#### **A.10 PLANS AND SPECIFICATIONS**

(a) All work shall conform to these specifications, the plans, the Notice to Bidders and the Bid Proposals, which are made a part hereof by reference.

(b) The plans and these specifications are to be considered as mutually explanatory or supplementary, and any feature shown on one and not on the other shall have the same force and effect as though shown on both. Should any discrepancy appear or any misunderstanding arise as to the importance of anything contained in them it shall be called to the attention of the Marine Engineer or Inspector immediately, and no further work performed on the item in question until a decision is reached. Work performed based on such an error, omission, discrepancy or lack of clarity shall be at the Contractor's risk and expense. These plans and specifications shall be used by the Contractor as guides in the prosecution of the work required.

(c) The following plans will be furnished by the Owners to the Contractor: (List of plans is attached ahead of Part II of the specifications). These drawings were produced by computer aided drafting methods. CAD drawings were developed using AUTODESK, AutoCAD release 2000.

(d) Contract Plans **HAVE NOT BEEN** submitted to the U.S. Coast Guard for approval. However, they have been stamped by a P.E. from EBDG and are thought to conform to all requirements.

(e) It is expressly understood that the Contractor shall verify all quantities and figures will be held responsible for the proper coordination of all dimensions and the work, and that the furnishing of the drawings herewith will not relieve the Contractor from responsibility for errors

or omissions in dimensions and quantities. No addition to the cost will be entertained for errors, omissions or for discrepancies found between actual details and the plans and specifications after the proposal has been received.

(f) The Owner reserves the right to alter the drawings to correct or avoid impossible conditions created by prosecution of the work. The alterations necessary in the work, if any, are to be made by the Contractor without additional cost to the Owner.

#### **A.11 DETAIL WORKING DRAWINGS**

(a) Detail working drawings shall be prepared in accordance with contractor prepared working drawings list provided ahead of Section II of these specifications. Two (2) copies of each contractor prepared and/or revised drawing shall be submitted to the owner for review and comments. Owner comments, if any, shall be incorporated in drawings and two (2) copies re-submitted to the Owner for final approval prior to submitting to U.S. Coast Guard Marine Safety Center, Washington, D.C. Owner's drawing review action can be expected in one of the following manners:

(1) "APPROVED" - Drawing is acceptable and ready for U.S. Coast Guard review and/or for construction.

(2) "APPROVED SUBJECT TO COMMENTS" - Owner's comments shall be included on drawing at next normal issue, U.S. Coast Guard submittal or issue for construction.

(3) "RETURNED FOR REVISION" - Drawing is not in accordance with contract specification and/or applicable regulatory body (U.S. Coast Guard EEE45, etc.) rules and regulations. Drawing shall be revised resubmitted to owner for approval prior to issue and/or Coast Guard submittal.

(4) "REJECTED" - Drawing is not in compliance with Contract Specific and shall be redeveloped and resubmitted to owner for review.

(5) "EXAMINED" - Plans, calculations, sketches, etc., are found to be in accordance with contract specifications and do not require specific Owner approval. General data of this nature is supporting documentation.

(b) Contractor shall provide all engineering services necessary for the development and construction of the vessel, including technical calculations, and prepare and submit to the Engineer

two (2) copies each for his approval all calculations, shop and working drawings as required. Working and shop drawings will be reviewed, and approved, or returned for correction, as promptly as the conditions will permit. No deviations from approved working drawings shall be made without the written approval of the Inspector.

(c) Plans/Drawings shall be prepared by the Contractor's Engineering Design personnel or by subcontract with an approved Engineering Design Agent. All plans shall be prepared using Autodesk, AutoCAD Release 2010. All plans shall be revised providing details, assemblies arrangements and material list to indicate "as built" condition. AutoCAD original drawings shall reflect all changes to "as built" conditions. One set of AutoCAD drawings shall be REPLOTED on plain bond paper in accordance with Section A.11 (d) herein.

(d) Original drawings shall be of uniform size 24"x 36" (arch size D) prepared on 20 lb. plain bond paper and to comply with sample format for title block etc. as provided to the contractor. All original drawings shall be capable of reproduction in clear and legible copies. Drawing number sequence shall be maintained in accordance with Owner furnished drawings. Original drawings prepared by the Owner and identified in the list ahead of Part II shall be provided to the contractor. Drawings shall be revised for resubmittal to the U.S. Coast Guard, if required and to reflect final "as built conditions". All drawings shall be stamped to indicate final U.S.C.G. approval date and letter file number. Two (2) copies of all Contractor and Coast Guard correspondence relating to plan approval shall be submitted to the Inspector.

(e) In developing the working plans and detailed design, the Contractor shall adhere to all salient features and characteristics embodied in the specifications and plans, and the intent thereof. Modifications to the drawings which become necessary during development, or which may be sired by the Contractor to suit his standard practice, shall be brought to the attention of the Inspector at the time of submittal of working drawings for approval. Failure to notify the Inspector of such modifications will not constitute approval even though the working drawing was approved.

(f) Within 15 days of Contract award, the Contractor shall prepare and submit a drawing schedule for all drawings to be prepared for this contract. The schedule shall be updated monthly and submitted to the Inspector. Upon completion of drawing preparation and revision, the updates only need to be made when new drawings are added or drawings revised. The format of the schedule

may use the Contractor's standards and incorporate Drawing number, Title, and distribution list with applicable dates.

(g) The Inspector will cooperate with the Contractor in developing a plan approval procedure in order to expedite plan approval with minimum delay. Approval will be given subject to correction by the Contractor of any errors, omissions, and/or interferences contained thereon and compliance with the plans and specifications as previously noted. All revisions made to approved working plans shall be concisely described in a suitable revision column and copies forwarded to the Inspector for comments. Such revisions shall not negate the intent of the original approval without written consent of the Owner.

(h) Upon completion of the contract and at time of vessel delivery, all original drawings and CD's shall become the property of the North Carolina Department of Transportation and it is understood that the Department of Transportation shall reproduce and issue above noted drawings in any manner for future use. Three (3) sets of the final approved copies and one (1) set of as -built originals shall be delivered with the vessel. Each set of drawings shall be individually packaged or boxed and shall be labeled as to contents. A list of drawings shall be included in each set.

(i) Shop sketches and templates shall be prepared by the Contractor as required for his shop use. Two (2) copies of shop sketches shall be provided to the Owner.

(j) The Contractor shall keep, on the work site, a copy of the drawings (latest revision) and specifications including all authorized supplemental agreements and shall at all times give the Owner and their authorized representatives access thereto. All drawings and specifications, except the signed contract, shall be returned to the Owner at the completion of work.

#### **A.12 ALTERATIONS (CHANGES)**

(a) The Owner reserves the right to make any deletions or additions to the work to be performed without invalidating the contract, or giving notices to the sureties. Any change in cost due to alterations or deletions shall be negotiated prior to accomplishment, or performed on a time and material basis as hereinafter provided in this section, at the Owner's option, and approval of any such changes shall be authorized by the Owner and accepted by the Contractor in writing on the Standard form provided prior to start of the work. Optional items, if any, may be approved by issue of a supplemental agreement by the Owner at the cost quoted therefor.

(b) In making any alteration on a time and material basis, the charge or credit for the change shall be determined by the labor rates submitted with the bid proposal and purchase orders for materials to be used. Material shall be at invoiced cost to the Contractor plus 15%. Deletion of equipment and/or material is to be negotiated on a cost of material and labor estimated basis.

(c) The Contractor shall, within five (5) working days, when required by the Owner, furnish to the Owner an itemized breakdown of the man-hours, quantities, and prices used in computing the value of any change that might be ordered.

(d) The completion date will be changed to cover additions to, or deletions from the contract, on a negotiated basis. (Paragraph A.7 (d) is to be used for guidance.)

(e) The Contractor may not substitute other material for that specified, except as covered by Paragraph A.8 herein.

#### **A.13 CONTRACTOR'S AND SUBCONTRACTOR'S INSURANCE**

(a) The Contractor shall not commence work under this contract until he has obtained all the insurance required here under and such insurance has been approved by the Owner; nor shall the Contractor allow any subcontractor to commence work on his subcontract until all similar insurance has been so obtained and approved. Approval of the insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder.

##### **(b) Compensation And Employer's Liability Insurance**

The Contractor shall take out and maintain during the life of this contract the statutory Workmen's Compensation and Employer's Liability Insurance for all his employees to be engaged in work under this contract and in case of any such work is sublet, the Contractor shall require the subcontractor similarly to provide Workmen's Compensation and Employer's Liability Insurance for all of the latter's employees to be engaged in such work and shall save the Owner harmless.

##### **(c) Bodily Injury Liability And Property Damage Liability Insurance**

The Contractor shall take out and maintain during the life of this contract such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him from claims for damages for personal injury, including death, as well as from claims for property damage, which may arise from operations under this contract whether such operations be by himself or by anyone directly or indirectly employed by either of them, and shall save the Owner harmless.

(d) Insurance On Vessel

The Contractor shall, at his expense, from the time construction starts at his facility to the time of final acceptance at Hatteras, N.C after completion of all work and testing, furnish all risk insurance as provided in American Institute Builder's Risk Form dated February 8, 1979, amended by striking out line 217 covering the value of the vessel in the full amount and shall save the Owner harmless from any damage whatsoever while the vessel is in custody of the Contractor. The insurance shall be in a responsible company or companies authorized to transact such business in the State in which the construction is being accomplished, and in the State of North Carolina. A statement agreeing to accept service of legal action in North Carolina must accompany the policy. The policy shall be made payable to the Owner. Where the Contractor carries a blank plant policy a rider must be obtained designating the Owner as first beneficiary under the policy in the amount stated.

**For the purpose of this Contract, the value of the vessels shall be placed at the Total Bid Amount.**

**A.14 ACCIDENT PREVENTION**

Precaution shall be exercised at all times for the protection of persons, including employees, and property. The safety provisions of applicable laws shall be observed. Machinery equipment and all hazards shall be guarded or eliminated in accordance with the best marine construction safety practices.

**A.15 SUBCONTRACTS**

The Contractor shall not sublet, sell, transfer, assign, or otherwise dispose of the contract or any portion thereof; or of his right, title, or interest therein; without written consent of the Engineer. In case such consent is given, the sublet work shall be performed by the Subcontractor unless otherwise approved in writing by the Inspector. A firm which has been disqualified because of its failure to maintain satisfactory progress will not be approved as a subcontractor until the firm demonstrates the ability to perform the work in a satisfactory manner. Contractor shall submit a certified copy of the actual subcontract agreement executed between the Contractor and Subcontractor prior to written consent being issued by the Inspector. In case such consent is given,

the Contractor will be permitted to sublet a portion thereof, but shall perform with his own organization, work amounting to not less the 75 percent of the total original contract amount.

Extra work performed in accordance with Section A.12 will not be considered in the computation of work required to be performed by the Contractor.

An assignment by operations of law or assignment for the benefit of creditors, or the bankruptcy of the Contractor, shall not vest any right in this contract in the Trustee in bankruptcy, the Contractor's creditors, or the agent of the creditors.

A Subcontractor shall not sublet, sell, transfer, assign, or otherwise dispose of his contract with a Contractor or any portion thereof; or of his right, title, or interest therein; without written consent of the Inspector. When directed by the Inspector, the Contractor shall submit a certified copy of the actual subcontract agreement executed between the Subcontractor and the Second Tier Subcontractor. In the event of an assignment by operations of law or the bankruptcy of the Subcontractor, the Contractor shall have the right, power, and authority, in its discretion, without violating the contract or releasing the surety, to terminate the subcontract. An assignment by operations of law or assignment for the benefit of creditors or the bankruptcy of the Subcontractor shall not vest any right in this contract in the Trustee in bankruptcy, nor the Subcontractor's creditors or agents of the creditors.

Neither the Contractor, nor any Subcontractor, shall enter into any written or oral equipment lease or rental agreement, materials purchase agreement, and/or labor agreement which circumvents the provisions of this article.

If the Contractor or a Subcontractor enters into a lease or rental agreement for equipment based upon payment for a unit of work, such agreement will be considered subletting of the contract unless the lease or rental agreement is with a commercial equipment company, manufacturer, and/or commercial leasing agency and such firm has been approved by the Inspector. An equipment lease or rental agreement which is based upon unit price per unit of time will not be considered subletting of the contract.

The approval of any subcontract will not release the Contractor of his liability under the contract and bonds, nor will the Subcontractor or the second tier Subcontractor have any claim against the Department of Transportation by reason of the approval of the subcontract.

The Contractor shall as soon as practicable after the signing of the Contract, notify the Owner in writing of the names of the Subcontractors proposed for parts of the work and shall not employ any that the Inspector may within a reasonable time object to as incompetent or unfit.

The Contractor agrees that he is as fully responsible to the Owner for the acts and omissions of his Subcontractors and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.

Failure of the Contractor to comply with any of the provisions of this article may be justification for disqualifying the Contractor from further bidding in accordance with the provisions of Section A.2-11.

#### **A.16 PROTECTION AND CUSTODY OF VESSEL**

(a) The Contractor shall take suitable means of protecting the vessel, the engines, and all other machinery, outfit, equipment, piping, wiring, etc. from the start of construction and until the vessel is accepted by the Owner, and he will be held responsible for any damage that may be sustained during this period. (See paragraph A.13 herein also).

(b) The vessel is agreed to be in the custody of the Contractor from the start of work at his plant until the completion of the vessels, including the tests and trials if required by Section VI herein, and until delivery to the Owner.

(c) The Contractor shall keep all litter and debris removed from the vessels, and shall conform to normal standard safety practices in the prosecution of the work and condition of the shipyard area.

#### **A.17 MATERIAL FURNISHED BY OWNER AND TO BE RETAINED BY OWNER**

(a) The Contractor shall receive, handle, and install all Owner furnished material and equipment, if any, and shall provide the required foundation, piping, wiring, etc., to make a complete and satisfactory installation at no additional cost to the Owner as a part of this contract.

#### **A.18 HAULING AND LAY-TIME**

(a) The Contractor shall provide a suitable marine railway for hauling the vessel and sufficient lay days to complete all work as required, or that may become necessary.

(b) The vessel shall enter the drydock or railway without list and without excessive trim. If any strain or possible damage to the vessel be suspected or observed, the docking operation shall be suspended and necessary corrective measures taken. Blocking and shores shall be arranged in accordance with standard practice, leaving room in way of rudders, propellers, and other obstructions. The vessel shall remain on the drydock or railway until the underwater work has been satisfactorily completed, then it shall be carefully undocked.

#### **A.19 RAILWAY CERTIFICATION**

Bidder shall submit a certificate of condition and capacity of Railway or Drydock intended for use during docking if required. Certificate shall indicate capacity, maximum width, and condition of facility which has been inspected within 30 days of bidding by a Certified Marine Inspector or Registered Professional Engineer.

#### **A.20 GUARANTEE**

(a) The Contractor shall guarantee all materials furnished and all workmanship performed by him under these specifications for a period of **twelve months following final acceptance** by the Owner. This guarantee shall be limited to replacement (including labor) of any parts giving out under normal service because of defect in material or workmanship, and not because of carelessness or neglect on the part of the Owner, his officers or agents; provided further, that any work necessary under this warranty shall be performed without delay by the Contractor at a shipyard or such other place as may be approved by the Owner, and said Contractor shall not be liable for any expense or damages other than as herein called for above. The regular manufacturer's warranty shall be furnished with all equipment, machinery, fitting, etc., provided by the Contractor.

(b) Manufacturer's warranties shall be filed by the Contractor for all equipment provided and installed and said warranties shall be transferred and/or filed in the Owner's name for all equipment, machinery, fittings, etc.; regular warranty periods will apply for all component items not hereinafter listed.

(c) The Contractor shall make good all damage to the vessel or its equipment or contents thereof, which is the result of the use of materials, equipment or workmanship which are inferior, defective, or not in accordance with the terms of the contract and shall restore all disturbed work

resulting from the same.

(d) If the Contractor, after notice, fails to proceed promptly to comply with the terms of the guarantee, the Owner may have the defects corrected and the Contractor and his surety shall be liable for all expenses incurred.

(e) All special guarantees applicable to definite parts of the work that may be stipulated in the specifications or other papers forming a part of the contract shall be subject to the terms of this paragraph during the life of such special guarantees.

#### **A.22 CERTIFICATES, DOCUMENTS, ETC.**

(a) Upon completion of vessel and prior to acceptance the Contractor shall turn over to the Owner "Consent of Surety," "Affidavit of Payment of Labor and Materials" which shall include a list of material and equipment that is unpaid, waivers from suppliers and a statement that the vessel is free and clear of all liens and any other documents called for in other paragraphs herein.

(b) Upon completion of the vessel and after it is delivered, the Owner shall turn over to the Contractor a certified statement that all work required by these specifications, including any extra work is complete and satisfactory on the date of delivery. This statement in no way affects or reflects on the guarantee covered herein.

#### **A.23 DELIVERY**

(a) The vessel shall be delivered by the Contractor to the Owner at the **North Carolina State Shipyard, located at 8550 Shipyard Road, Manns Harbor, North Carolina 27953.**

(b) The Owner shall upon delivery turn over to the Contractor all documents required by these specifications, (paragraph A.22(b)).

(c) The Contractor shall upon delivery turn over to the Owner all documents required by these specifications (paragraph A.22(a)).

#### **A.24 ACCEPTANCE**

When the trials and all tests have been made, and all work completed to the satisfaction of the Owner, the vessel will be formally accepted by the Owner after delivery upon presentation of all necessary documents as described herein.

**A.25 FAILURE TO RECOGNIZE**

Failure of the Contractor to recognize the need for performance of work or furnishing of materials required to complete the vessel in accordance with the true intent of these specifications shall not be grounds for additional payments or charges under this contract or these specifications.

**A.26 PATENT RIGHTS**

The Contractor shall pay all royalties and assume defense and indemnity and save harmless the Owner and his officers, from any patent infringements.

There is no knowledge of any infringement.

**A.27 WELDING**

(a) Qualifications of Welders

All welding performed under this specification shall be done by welders holding a valid qualification certificate issued by the U. S. Coast Guard, or the American Bureau of Shipping, for the class of work to be accomplished. A list of welders and their certification shall be provided to the Owner. List shall be updated as required.

Qualified welding supervisors shall be employed to assure conformity with standards of workmanship required.

(b) Standards

In general, the design of joints and the amount and type of welding shall conform to Section 30 of A.B.S. Rules for Building and Classing Steel Ships. A more detailed description of the workmanship required can be found under Chapter 52 (Ships) *Third Edition of the Welding Handbook*, published by the American Welding Society. Electrodes used for welding shall be of type approved by the U. S. Coast Guard for the various types of materials to be welded. Plates shall be smooth and free from wrinkles, uneven joints, wavy surfaces, et cetera.

No welding is to be done on hull plating below or near the waterline while the vessel is afloat. Welds shall be uniform and properly sized. Unsatisfactory welding shall be removed, ground smooth and rewelded in a satisfactory manner.

The striking of an arc on any principal hull plate surface is prohibited unless the plate surface on which the arc is struck is to be incorporated in a welded joint. Marks left by an accidental striking of an arc shall be ground out to a smooth contour, taking care that the plate thickness is not reduced more than ten (10) percent. Arc marks which exceed ten (10) percent of the plate thickness shall be reported at once to the Inspector, and corrective action taken as he directs. U.S. Coast Guard and/or ABS approved welding procedures shall be provided prior to starting construction.

#### **A.28 CARE DURING CONSTRUCTION**

All parts of the vessel, including, but not limited to, structure, deck coverings, fittings, equipage, outfit, furniture, insulation, paint work, machinery, auxiliaries, appliances and apparatus, shall be maintained in satisfactory condition during the entire period of construction and fitting out. All dirt, chips, and scrap material shall be cleaned out at frequent intervals during construction, and no water shall be allowed to remain in the vessel. **The vessel must be thoroughly cleaned throughout at the time of delivery to the Owner.** Special measures shall be taken to minimize damage incident to storage, installation and construction and to prevent corrosion or other deterioration, especially to all unpainted, polished, and moving parts. All defects, damage, and deterioration of the vessel, its parts, fittings, and outfit that occur before acceptance of the vessel shall be corrected and repaired by the Contractor at his expense. Equipment, prefabricated parts, furniture, and items such as life floats, lines, and canvas, which are stored in warehouses or on piers during the construction period of the vessel, shall be thoroughly examined for and rid of rats and vermin before being placed on board.

#### **A.29 PAYMENTS AND ACCEPTANCE**

(a) Payments shall be made as set out in the Contract.

(b) All material and work covered by partial payments made shall thereupon become the sole property of the Owner, but this provision shall not be construed as relieving the Contractor from the sole responsibility for all materials and work upon which payments have been made or the restoration of any damaged work or any responsibility of the Contractor as herein set forth or as a waiver of the right of the Owner to require the fulfillment of all of the terms of the Contract.

(c) Neither the final payment nor any part of the retained percentage shall become due until the Contractor shall deliver to the Owner through the Inspector, Consent of Surety for final payment and an Affidavit of Payments of Claims that all subcontractors and suppliers of either labor or materials have been paid all sums due them for work performed or materials furnished in connection with this Contract or that satisfactory arrangements have been made by the Contractor with such subcontractors and suppliers with respect to the payment of such sums as may be due them by the Contractor (See paragraph A.35 also).

(d) Acceptance Of Final Payment Constitutes Release

No certificate for payment issued by the Inspector and no payment, final or otherwise, nor partial or entire use or occupancy of the work by the Owner, shall be an acceptance of any work or materials not in accordance with the contract, nor shall the same relieve the Contractor of responsibility for faulty materials on workmanship or operate to release the Contractor or his surety from any obligations under the contract or the Performance Bond. North Carolina *General Statute 136-29 (2)* applies.

**A.30 CONTRACTOR'S TITLE TO MATERIALS**

No materials or supplies for the work shall be purchased by the Contractor or by any subcontractor subject to any chattel mortgage or under a conditional sale or other agreement by which an interest is retained by the seller. The Contractor warrants that he has good title to all materials and supplies for which he accepts partial payment.

**A.31 CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE CONTRACT**

If the work should be stopped under an order of any court or other public authority for a period of three (3) months, through no act or fault of the Contractor or of anyone employed by him, or if the Inspector should fail to issue any certificate for payment within a reasonable time after it is due, or if the Owner should fail to pay to the Contractor within a reasonable time any sum certified by the Inspector, then the Contractor may, upon fourteen (14) calendar days of written notice to the Owner via the Inspector, stop work or terminate this contract and recover from the Owner payment for all work executed.

### **A.32 OWNER'S RIGHT TO TERMINATE CONTRACT**

(a) If the work to be done shall be abandoned or if the Contractor should be adjudged a bankrupt, or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, or if this contract or any part thereof shall be sublet without previous approval of the Owners; or if this contract or any claim thereunder shall be assigned by the Contractor; if any materials or any tools, machinery or other equipment shall be attached or encumbered, which attachment or encumbrance remains undissolved for a period exceeding ten days; or if at any time the Inspector shall be of the opinion, and shall so certify in writing to the Contractor, that the said work is being unnecessarily delayed by the Contractor, or is not executing said contract in good faith, or is not making such progress in the execution of the work as to indicate its completion within the required time, or if he should persistently or repeatedly refuse or should fail to supply enough properly skilled workmen or proper materials, or persistently disregard laws, ordinances, or the instructions of the Inspector, the Owners shall have the power and right to notify the Contractor to discontinue all work or any part thereof under this contract and thereupon the Contractor shall discontinue such work or such part thereof as the Owner shall designate and the Owners shall thereupon have the power, by contract or otherwise as they may determine, to enter the premises of the Contractor where said vessel is being constructed and complete the work herein described, or such part thereof as they deem necessary; and to use such tools and other equipment and such materials of every description as may be found upon or designated to be used upon said work, and to procure additional tools and other equipment and additional materials for the completion of the same; and to debit to the Contractor the expense of labor and of additional materials and of additional tools and other equipment so procured, which additional tools and other equipment shall be and remain the property of the Contractor upon the completion of the work; and to credit him with the value of the work so done, as estimated by the Inspector.

(b) The excess of any cost to the Owners caused by or arising from its having taken over the completion of said vessel including compensation for additional inspection, managerial and administrative services shall be paid to said North Carolina Department of Transportation by the Contractor or by the surety on its performance bond, and in such accounting, the Owners shall not be

held to obtain the lowest cost for the work of completing the contract, or any part thereof, but all sums actually paid therefore shall be charged to the Contractor.

(c) It is further agreed that in case the Contractor shall not fully complete the contract work at the time stipulated, the Owners, in lieu of the foregoing provision, may at its option pay the Contractor for the parts already done, according to the provisions of the contract, and these specifications, and may treat and consider the parts remaining undone as if the contract was cancelled or abandoned by said Contractor or as if they had never been included in or contemplated by this contract.

(d) No action, proceeding or notice contemplated by the contract on the part of the Owners or Inspector and nothing herein contained shall operate as a waiver or release of any rights of the North Carolina Department of Transportation under this agreement against either the Contractor or its Surety.

(e) For purposes of the above "Abandonment of Work" shall mean any consecutive period of ten (10) calendar days without performance of work on the vessel by the Contractor.

### **A.33 CLIMATIC CONDITIONS**

When so ordered by the Inspector, the Contractor shall suspend any work that may be subject to damage by climatic conditions existing or predicted for the area within 24 hours.

### **A.34 TAXES**

The Contractor shall without additional expense to the Owner pay all applicable federal, state and local and other taxes which are assessed against this work.

### **A.35 ASSIGNMENTS**

The Contractor shall not assign any part of the contract nor shall the Contractor assign any claim due under the contract or monies due or to become due under the contract.

### **A.36 SPECIAL NOTES**

(a) All bidders are cautioned to clarify any questions prior to submission of proposal.

(b) The submission of a bid will be considered an acceptance of all requirements of these specifications and all governing laws and ordinances without exception.

(c) There may be requirements for manufacturers or their representative personnel to perform work on some items of the ship's equipment not covered by these specifications, while at the Contractor's plant. These persons shall be allowed access to the vessel during normal working hours to perform their work. The Contractor shall provide a reasonable amount of electric power for hand tools and light if required.

(d) Any questions concerning these specifications should be addressed to:

North Carolina Department of Transportation

Contract Standards and Development Unit

Century Center Building B

1020 Birch Ridge Drive

Telephone: (919) 250-4128 extension 203

Fax: (919) 250-4119

Attn: Randy A. Garris, State Contract Office

Email rgarris@ncdot.gov

(e) The Owners reserve the right to waive informalities or to reject any or all bids.

(f) **All bidders shall be prequalified by the Department of Transportation at least two (2) weeks prior to bid opening.**

(g) Proposals received after the date and time set for the opening regardless of the cause will be returned unopened.

(h) **COAST GUARD INSPECTION OF THIS VESSEL IS REQUIRED.**

#### **A.37 GUARDING**

All moving parts of machinery, shafts, etc., shall be shielded to prevent injury to personnel. Shielding fitted on items requiring frequent attention shall have doors, covers or be readily portable.

#### **A.38 QUALITY CONTROL**

(a) A competent employee of the Contractor, satisfactory to the Owner, shall from the start of work until the completion of the vessel, maintain quality control over the job. He shall make such inspections and investigations as are necessary to insure that the quality of workmanship, materials

and testing is in accordance with that specified.

(b) The quality control employee shall prepare and maintain records of his actions, provide copies to the Inspector and cooperate with the Inspector.

(c) The Inspector shall have access to the quality control employee and his records at all reasonable times during working hours.

**A.39 CONTRACT TIME**

Contract time shall be the number of calendar days inclusive between the date of availability and the completion date, said dates as being set forth below, including authorized extensions to the completion date.

**Date of Availability for this contract is: November 1, 2010.**

**Final contract completion date for this contract is: May 1, 2012.**

Total availability shall include at least five (5) working days of Contractor's representative(s) at Manns Harbor, NC to provide operational instructions to Ferry Division personnel prior to final acceptance.