

<p>INVITATION TO BID ITB # 041219</p> <p>Phase I - Track Rehab Project</p> <p>THIS IS NOT AN ORDER</p>	<p>Manatee County Port Authority 300 Tampa Bay Way, Suite 1 Palmetto, FL 34221</p>				
<p>Bid Due Date</p> <p>04/12/2019 By no later than 2:00 PM EST</p>	<p>All questions relating to this Invitation To Bid must be submitted in writing to the Purchasing Manager:</p> <p>Sheila Neal 300 Tampa Bay Way, Palmetto, FL 34221 Email: sneal@portmanatee.com</p>				
<p style="text-align: center;"><u>Calendar of Events</u></p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <p>Monday, April 1st 2019 Tuesday, April 9th, 2019, 2:00 PM Thursday, April 11th 2019, 5:00 PM Friday, April 12th, 2019, 2:00 PM / 2:10 PM Thursday, April 18th, 2019, 3:00 PM</p> </td> <td style="width: 50%; vertical-align: top;"> <p>Invitation to Bid – www.portmanatee.com Mandatory - Bidders Meeting Deadline for All Bidder Inquiries Deadline for Submitting Bids / Bid Opening Announcement of Awarded Bid</p> </td> </tr> </table>				<p>Monday, April 1st 2019 Tuesday, April 9th, 2019, 2:00 PM Thursday, April 11th 2019, 5:00 PM Friday, April 12th, 2019, 2:00 PM / 2:10 PM Thursday, April 18th, 2019, 3:00 PM</p>	<p>Invitation to Bid – www.portmanatee.com Mandatory - Bidders Meeting Deadline for All Bidder Inquiries Deadline for Submitting Bids / Bid Opening Announcement of Awarded Bid</p>
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<p>Bidder Name and Address (must be completed):</p>					
<p>Funded in Part By: Florida Department of Transportation (FDOT): Public Transportation Grant Agreement Railroad Upgrade and Replacement Contract G1548.</p>					
<p>Name of Authorized Company Representative (Type or Print)</p>	<p>Title</p>		<p>Date</p>		
<p>Signature of Authorized Company Representative Named Above</p>	<p>Phone</p>	<p>Fax</p>	<p>Email</p>		

CHECKLIST FOR SUBMITTING A BID

Understanding the Invitation to Bid (ITB)

- Thoroughly read and review this Request for Bids and all attachments, appendices, addenda, and/or revisions.
- Submit any written questions to the Purchasing Manager by the deadline provided in the Calendar of Events.
- Determine if the agency will hold a Bidders' meeting (see Section 2.7) and check the date provided in the Calendar of Events.
- Know where the Bid is to be delivered and Bid Due Date.

Completing Your Bid

- Complete the Agreement(s) **provided** with the ITB. Make sure your prices and calculations are accurate. If required, provide additional written statement of what volume of work or quantity or products your company can handle under bid requirements. Do not alter the format of the Agreement.
- Assemble and attach required data specification sheets for bids.
- Complete and sign the Invitation to Bid sheet provided as the cover of this ITB package.
- This checklist is provided for the Bidder's convenience only and is not required to be submitted with the Bid package.

Submitting Your Bid

- Prepare one set of original documents marked —Original in the following order:
 1. **Signed Request for Bid Sheet** (ITB cover page).
 2. **Bid Documents – including signed Instructions and Bid Form with required attachments.**
 3. **Drug Free Workplace Statement.**
- Place the original documents in a sealed package (envelope or box). Make sure the following information is clearly marked on the outside of the envelope or box:
 - Bidder's Name and Address**
 - Invitation to Bid Title (See upper left hand box of ITB cover page)**
 - Invitation to Bid Number (See upper left hand box of ITB cover page)**
 - Bid Due Date (See ITB cover page and Calendar of Events)**
- Ensure the sealed package is delivered to the correct address before the Bid Due Date and time in the Calendar of Events. **No emailed or faxed Bids are allowed.**

If you are Chosen for a Contract Award

- Be prepared to provide any documents such as certificates of insurance, IRS Form W-9 (Request for Taxpayer Identification Number), Applicable Bonds, Contractors License, employee list etc.
- The Contractor will be required to agree to indemnify the Manatee County Port Authority.

BID INSTRUCTIONS

1. INTRODUCTION

1.1 Procuring Agency

Port Manatee is one of the largest of Florida's fourteen deep-water seaports. Governed by the seven-member Manatee County Port Authority, Port Manatee is the community's gateway to international trade and commerce. Located on over 1,100 acres, Port Manatee is the hub for a wide variety of agricultural and industrial commodities, including forestry products, fruits and vegetables, citrus juices, aluminum, steel, paper products, petroleum products, natural gas, cement, construction-grade aggregate and fertilizer.

1.2 Definitions

Words and terms in this ITB will be given their ordinary and usual meanings, and all meanings shall be applicable to the singular and plural forms of the words and terms. For the purposes of this ITB, the following words and terms shall have the meanings indicated:

“Agency” means Manatee County Port Authority.

“Bid” or “Bid Document” means the complete response of a Bidder, including all required documentation, submitted on the approved forms and setting forth the Bidder's prices for providing the commodities described in the ITB.

“Bidder” means any individual, company, corporation or other entity that responds to this ITB.

“Board” means the Manatee County Port Authority governing body.

“Calendar of Events” means the official schedule of events, deadlines and dates shown on the cover of this ITB.

“Contract” means the contract awarded to a Bidder under this ITB.

“Contractor” or “Vendor” means a Bidder that is awarded a Contract under this ITB.

“Executive Director” means the Manatee County Port Authority Executive Director.

“Interested Bidder” means any individual, company, corporation or other entity that is included on a solicitation list, requested a Bid package or attended a Bidders' meeting (if a Bidders' meeting is scheduled as part of this ITB).

“Invitation to Bid (ITB)” means this document including appendices, addenda, revisions and/or attachments.

“Lowest Responsive Responsible Bidder” means the Bidder that submits the lowest dollar Bid and has demonstrated its ability and willingness to meet the conditions and specifications of this

ITB and the Bidder who has the capability in all respects to perform the contract requirement and the integrity and reliability that will assure good faith performance.

“Purchasing Manager” means the person identified on the cover of this ITB who has been designated by the Agency to manage this ITB.

“State” means the State of Florida.

1.3 Scope of Work

The Manatee County Port Authority (MCPA) is inviting qualified contractors interested in the Railroad Track Rehabilitation Project. The Scope of Work is included in Exhibit A. **You are bidding on the identified Scope of Work. No deviations are permitted.**

Submit your bid for the Scope of Work using the Bid Form. Include all of the work in the bid prices. Include in your bid the time to completion from the notice to proceed as well. Bidders shall plan the work and must verify existing field conditions and actual distances before bidding. Bidders are encouraged to observe the work site before quoting, including any underwater portions of the work site. Bidders must coordinate their visits with the Purchasing Manager listed in this ITB.

Bidders shall be solely responsible for complying with the Florida Trench Safety Act and Occupation Safety and Health Administration excavation safety standards and any costs associated with these requirements must be included in the Bid and detailed in the Certificate of Compliance with the Florida Trench Safety Act Form. Bidders shall be solely responsible for complying with all safety provisions mandated by the Federal Railroad Administration Rules and Regulations.

1.4 Bidder Requirements

Bidders must meet all of the vendor requirements set forth in sections 5. Additionally, Bidders must provide the following information as an attachment to their bid submission:

- 1) Bidder’s license number and years of business under the license number.
- 2) Does the Bidder have a Drug-Free Workplace Program pursuant to Section 287.087, Florida Statutes? If so, please complete Drug Free Business Form.
- 3) Bidder must provide the name, address and telephone number of 3 business references.
- 4) Bidder must identify if it has any of the following certifications and if so, proof of such:
 - 1) Disadvantage Business Enterprise
 - 2) Minority Business Enterprise
 - 3) Woman Owned Enterprise
 - 4) Small Business Enterprise
- 5) Bidder must provide bonding information, including the Bonding Company and its address, the Bonding Agent and its address, the contact name and telephone number. Please include aggregate Bonding Capacity and available bonding capacity as of the date of submission of the Bid.

- 6) Bidder must provide certain financial information, including its financial institution name, address, account manager, and phone. Also attach audited balance sheet for each of the last three years.
- 7) Bidder must identify its construction experience including:
 - 1) Number of years of experience in the proposed type and size of construction work identified in this bid.
 - i. The construction experience of the principal individuals at your organization.
 - ii. A list of the most recent projects the bidder's organization has had in construction work of similar type and size.
 - iii. A list of any other projects bidder believes would be of interest that it has worked on the past.
 - 2) Bidder must answer the following questions:
 - i. Has the firm ever failed to complete a construction contract awarded to it? If yes, please explain why.
 - ii. Has a representative of the firm personally inspected the site? If so, who and do you anticipate any problems or concerns? How do you plan to overcome these?
 - iii. Has any corporate officer, partner, joint venture participant, or proprietor ever failed to complete a construction contract awarded to them in their name or when acting as a principle of another entity? If so, why?
 - iv. Are there any judgments, claims, disputes or litigation pending or outstanding involving the firm or any of its officers? If yes, then please provide details of such litigation.
 - 3) Who is the Contractor's Safety officer?
 - i. Please list all OSHA citations and notifications of penalty received within the last 5 years.
 - ii. Please list all of the safety citations or violations received within the last 5 years.
 - iii. Please provide Contractors' workers compensation Experience Modification Rate for the last 5 years.
 - iv. Please provide the Days Away from Work, Days of Restricted Work Activity, or Job Transfer (DART) incidence rate for the particular industry or type of Work to be performed by Contract and subcontractors for the last 5 years.
 - 4) Please list all major equipment that the Contractor owns or leases and designate which is available for use on this project.

1.5 Delivery

All fees must be included in base price and prices shall be firm and are to be F.O.B. Destination, delivered to the Manatee County Port Authority, 300 Tampa Bay Way, Suite 1, Palmetto, FL, 34221.

1.6 Amendments to Solicitation Documents

The Agency reserves the right to issue amendments to the solicitation. Notice of any amendment will be posted on the Port Manatee website – www.portmanatee.com. Such notice, if required, will contain the appropriate details for identifying the changes to the solicitation. Each bidder is responsible for monitoring the website for new or changing information concerning the solicitation. If a bidder registers its contact information with the Purchase Manager before the deadline for registration in the Calendar of Events, then the Purchasing Manager will provide amendments to the solicitation to the bidder at its registered contact email. Registration of contact information is offered as a convenience to the bidder and does not relieve the bidder from its responsibility to monitor the website for new or changing information concerning the solicitation.

1.7 Specification Exceptions, Omissions, or Errors

Specifications are based on the most current literature available. Bidder shall notify the Agency, through e-mail notification or by attending the Pre-Bid Conference prior to bid opening, of any change, omission or error in the manufacturer’s specifications, which conflict with the bid specifications.

1.8 Option/Warranty Pricing

Bidder shall disclose any manufacturer warranty provided on any materials procured in the base project and any of the submitted options. Any violations of this requirement, or any awarded integrator determined to be charging agencies an additional price for manufacturer included warranties, will be subject to withdrawal from the bid at the contract manager’s discretion.

2. BID PROCEDURES AND INSTRUCTIONS

2.1 Reasonable Accommodations

The Agency will provide reasonable accommodations, including the provision of informational material in an alternative format, for individuals with disabilities upon request. If you need information in an alternative format or accommodations at a Bid opening or at a Bidder meeting, contact the Purchasing Manager.

2.2 Bid Contents and Delivery Requirements

Bidders shall submit an original Bid document of the Bid document by the Bid Due Date in the Calendar of Events to the Purchasing Manager via USPS or hand delivery.

All Bids must be packaged (envelope or box), sealed and show the following information on the outside of the package:

- Bidder's Name and Address
- Invitation to Bid Title (See upper left hand box of ITB cover page)
- Bid Due Date (See upper left hand box of ITB cover page and Calendar of Events)

Bids must be date and time stamped at the Purchasing Manager's office indicated above on or before the date and time Bids are due. Late Bids will be rejected. Bids dated and time stamped in another office will be rejected. Bids that are not properly sealed will be rejected. Receipt of a Bid by the mail system does not constitute receipt of a Bid by the Agency. Any Bid that is inadvertently opened as a result of not being properly or clearly marked will be rejected. Bids must be submitted separately and may not be included with sample packages or other Bids. Emailed or faxed Bids are not allowed.

2.3 Format of Bid

Bidders responding to this ITB must submit the following materials:

- a) **Signed Request for Bid Sheet:** The Bid must include the signed Request for Bid sheet provided as the cover of this ITB package. A Bid submitted in response to this ITB must be signed by the person in the Bidder's organization who is responsible for decisions regarding prices offered in the Bid or by a person who has been authorized in writing to act as agent for the person responsible for the decision on prices.
- b) **Bid:** Provide bid per specifications of this ITB.
- c) **Additional Information:** Please refer to Section 7. Additional Information Requirements, for a listing of required additional documents. The checklist included with this ITB is provided for the convenience of the Bidder. The Bidder is not required to submit the checklist with its Bid package.

2.4 Communication with Bidders

Questions concerning this ITB must be submitted in writing to the Purchasing Manager on or before the Deadline for Submitting Written Questions provided in the Calendar of Events. Bidders are expected to raise any questions, exceptions or additions concerning the ITB document prior to this deadline. If a Bidder discovers any significant ambiguity, error, conflict, discrepancy, omission or other deficiency in this ITB, the Bidder must immediately notify the Purchasing Manager and request modification or clarification of the ITB document. All questions will be recorded by the Agency. All questions and answers will be provided by the Purchasing Manager through written notification, electronically or in hard copy, to all registered Bidders.

2.5 Bidders' Meeting

The Agency will hold a public informational meeting for Bidders at the date and time provided in the Calendar of Events. The Bidders' meeting will be held at the following location:

**Manatee County Port Authority Access Control
13604 Reeder Road
Palmetto, FL 34221**

The Bidder's meeting is mandatory. A written record of questions asked and answered at the Bidder's meeting will be provided per Section 2.4, Communications with Bidders of this ITB.

3. BID ACCEPTANCE, VERIFICATION AND AWARD

3.1 Bid Opening

Bids will be opened on the Bid Opening date and time specified in the Calendar of Events. All Bidder information will be announced, logged and placed on file for Public viewing at the time of Bid opening. The Bid opening will be held at the following location:

**Port Manatee Administration Office
300 Tampa Bay Way
Palmetto, FL 34221**

3.2 Bid Review and Verification

Eligible responsive bids will be evaluated to determine if all contract requirements are met. Bids that do not meet all contract requirements of this solicitation or fail to provide all required information, documents, or materials will be rejected as non-responsive. Bidders whose bids, past performance, or current status do not reflect the capability, integrity or reliability to fully and in good faith perform the requirements of the contract will be rejected.

3.3 Bid Acceptance

Bids that do not comply with instructions contained in this ITB may be rejected by the Agency. The Agency reserves the right to waive a particular specification if no Bidder meets that specification. The Agency may request reports on a Bidder's financial stability. The Agency may reject a Bid if the Bidder is determined to have inadequate financial means to provide the product or service being bid. The Agency shall be the sole judge as to compliance with the instructions contained in this ITB. Bids are firm for acceptance for sixty (60) days from date of Bid opening unless otherwise noted. Bid submittal constitutes a commitment to perform the work as specified in accordance with the provisions herein and correct deficiencies manifested within one year of completion of the work.

3.4 Bid Withdrawal

Bidder warrants by virtue of bidding the prices quoted in this bid response will be good for an evaluation period of ninety (90) calendar days from the date of bid opening unless otherwise stated. Bidders will not be allowed to withdraw their bids after the opening time and date.

3.5 Basis for Award

The Agency will evaluate each submission and select the lowest responsive responsible bid. This determination will be based upon a number of factors including price, functionality and timing to ensure the best overall value. The Agency will award to the lowest or best responsible bidder, whose qualifications may be determined by necessary facilities, ability, financial resources, and proven experience to perform the work in a satisfactory manner. Bidders are hereby advised that

the Agency reserves the right to reject any bid proposal not considered to be competitive in nature based on the best pricing information available. Furthermore, the Agency reserves the right to reject any or all bids, in whole or in part, or make awards either as individual items or as a total combined bid, whichever they consider in the best interest of the Agency, and to waive any informality in any proposal. Additionally, the Agency reserves the right to waive any minor irregularity, technicality, or omission if it is determined that doing so will serve the Agency's best interest.

3.6 Contract Award

Any Bidders that submit a Bid will be notified in writing of the Agency's award of a Contract as a result of this ITB. Upon issuance of notice or 30 days after opening the responsive bids, whichever is earlier, copies of the Bids responsive to this ITB are available for public inspection upon request to the Agency.

3.7 Tax Exemptions

All State and Federal tax exemptions applicable to the Agency will apply, and appropriate certifications furnished.

3.8 Required Disclosure

With its Bid submission, the Bidder shall disclose all material facts pertaining to any felony conviction or any pending felony charges in the last three (3) years in this state or any other state of the United States against (i) Bidder, (ii) any business entity related to or affiliated with Bidder, or (iii) any present or former executive employee, officer, director, stockholder, partner or owner of Bidder or of any such related or affiliated entity. This disclosure does not apply to any person or entity that is only a stockholder, and that owns 20 percent or less of the outstanding shares of a Bidder whose stock is publicly owned and traded.

3.9 Bid Protest

By submitting a bid to the Agency, bidders agree to the process set forth in this Section.

- a. Notice of Protest - Notice of all Agency decisions or intended decisions shall be by certified mail or courier services. Any person adversely affected by the ITB shall file a notice of protest in writing, within two (2) business days from the date on the notice of the decision or actual receipt of the decision, whichever is later. A formal written protest shall be filed within five (5) business days after the protesting party files the notice of protest. No time will be added to the above time limits for mail service.
- b. Formal Written Protest - The formal written protest must state with particularity the facts and law upon which the protest is based. The formal written protest must be printed or typewritten and contain:
 1. The name and address of the person or firm filing the protest and an explanation of how they are adversely affected by the Agency's decision or intended decision;
 2. Identification of the procurement matter at issue;

3. A statement of how and when the notice of Agency's decision or intended decision was received;
 4. A statement of all issues of disputed material fact and, if there are none, a statement so indicating;
 5. A concise statement of the ultimate facts alleged;
 6. A statement of the applicable law, rule, statute, or other authority upon which the protest is based and which entitle the protestor to relief;
 7. A specific demand for relief; and,
 8. Any other information material to the protest.
- c. Filing Notices of Protest and Formal Protests - All notices of protest and formal protests must be filed with the Executive Director. A protest is not timely filed unless both the written notice of protest and the formal protest have been received by the Port within the prescribed time limits. Failure to file a protest within the time prescribed by this Section must constitute a waiver of all claims.
- d. Stay of Award - Upon receipt of a formal written protest which has been timely filed, the bid solicitation or contract award process will be stayed until the subject of the protest is resolved by final agency action, unless the Executive Director, with the concurrence of the Agency, sets forth in writing particular facts and circumstances that require the continuation of the solicitation process or the contract award process without delay in order to avoid an immediate and serious danger to the public health, safety or welfare. Notice that a contract award has been stayed will be given by U.S. Mail or hand delivery or courier service to all whom submitted qualified bids/proposals. Upon receipt of a timely formal protest of a decision or intended decision to award or reject all bids, qualifications, or proposals, notice will be given by U.S. Mail or hand delivery or courier service to all bidders for that contract.
- e. Resolution of Formal Protest - Upon the written request of the protestor or on its own initiative, the Agency will provide an opportunity for the protestor to meet with the Executive Director to resolve the protest by mutual agreement within seven (7) business days, excluding holidays, of receipt of a formal written protest. If the subject of a protest is not resolved by mutual agreement within seven (7) business days, excluding holidays, of receipt of the formal written protest, or a mutually agreed upon extension of time, the Executive Director shall certify in writing to the Board that there was no resolution and provide the protestor with a copy of the certification.
- f. Quasi-Judicial Hearing - Within seven (7) business days from receipt of written certification that there was no resolution; the protestor may provide a written request that the matter be heard before the Agency in a quasi-judicial hearing. Failure to provide a written request to the Agency within seven (7) business days of notice shall constitute waiver of any protest. Upon receipt of a written request, the Agency may, in its discretion, request a written response from the Executive Director, and/or schedule the matter for hearing before the Agency. Within seven (7) business days from the conclusion of the hearing, the Agency will provide a written final decision on the matter to the protestor.

The protestor may contest the Agency's decision in a court of competent jurisdiction in Manatee County no later than thirty (30) calendar days after receipt of notice of the Agency's decision, unless otherwise specified within the controlling request for proposal or qualification documents.

4. BEST COMMERCIAL PRACTICES

4.1 All materials purchased through this ITB must meet standards and specifications set forth in this ITB.

4.2 The apparent silence of this specification and any supplemental specifications as to any detail or the omission from it of a detailed description concerning any point will be regarded as meaning that only the best commercial practices, size, and design are to be used. All workmanship is to be first quality. All interpretations of this specification will be upon the basis of this statement.

5. VENDOR REQUIREMENTS

5.1. Permits, Insurance, Licensing and Other Requirements

- a) The Vendor must meet the insurance requirements specified in this ITB. Certificates of insurance must be provided to the Agency within five (5) working days of Notice of Intent to Award.
- b) The Vendor must complete all required forms and return same to the Agency attached to the invoice.
- c) Following the Contract award notification, the Vendor must provide to the Agency its IRS Form W-9 (Request for Taxpayer Identification Number and Certification).
- d) Any change in material of equal or superior quality or installation standards must be specifically approved in writing by the Agency. Any deviation or exceptions to the terms, conditions and/or specifications must be submitted in writing and approved by the Agency with a signed change order. No minimum fee is allowed on change orders.
- e) The Vendor must meet all bonding requirements specified in the scope of work. Bonding documents must be provided to the Agency within five (5) working days of Notice of Intent to Award.

5.2. E-Verify

The Agency, Vendor, and any subcontractor shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees.

6. GRANT INFORMATION – Authority may pay some portion of the payment from the proceeds of a grant, loan, or revenue bonds that impose certain conditions. Contractor shall coordinate with Authority in order to comply with the conditions related to the delivery of materials, the work, applications for payment and other matters concerning the administration of the contract.

7. ADDITIONAL PRICING CONSIDERATIONS

7.1 Insurance

The successful proposer must maintain the following types and amounts of insurance.

1. Commercial General Liability insurance with minimum limits of \$2,000,000
2. Business Automobile Liability insurance with minimum limits of \$1,000,000
3. Workers' Compensation insurance with Statutory limits
4. Employers Liability insurance with limits as follows:
 - \$100,000 Bodily Injury by Accident
 - \$100,000 Bodily Injury by Disease, policy limits
 - \$100,000 Bodily Injury by Disease, each employee

This insurance coverage must meet the requirements set forth in Manatee County Port Authority Tariff Item #250, available online at <http://www.portmanatee.com/Portals/0/business/Tariff/Tariff.pdf>.

The Commercial General Liability insurance procured must provide continuous coverage for all work or operations performed under the Contract. Such insurance must be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. The Contractor or any subcontractors shall name the Florida Department of Transportation (the "Department") as an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the Department and Agency as Additional Insureds shall be primary as to any other available insurance and will not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage must not be less than a \$5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described in this section must apply fully to the work or operations performed under the Contract, and may not be shared with or diminished by claims unrelated to the Contract. The policy/ies and coverage described in this section may be subject to a deductible and such deductibles will be paid by the Contractor. No policy/ies or coverage described in this section may contain or be subject to a Retention or a Self-Insured Retention. Prior to the execution of the Contract, and at all renewal periods which occur prior to final acceptance of the work, the Department and the Agency must be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described in this Section. The Department and the Agency, must be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described in this Section, which will be provided to the Department. The Department's or Agency's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required in this Section, nor serve as a waiver of any rights or defenses the Department or Agency may have.

In addition to the insurance coverage required above, the Contractor must procure and maintain Railroad Protective Liability Coverage (ISO Form CG 00 35) where the railroad is the Named Insured and where the limits are not less than \$2,000,000 combined single limit for bodily injury and/or property damage per occurrence, and with an annual aggregate limit of not less than \$6,000,000. The Agency must also be added along with the Department as an Additional Insured

on the policy/ies procured pursuant to this Section. Prior to the execution of the Contract, and at all renewal periods which occur prior to final acceptance of the work, the Agency and the Department must be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described in this Section. The insurance described in this Section shall be maintained through final acceptance of the work. The Department and the Agency must be notified in writing within ten days of any cancellation, notice of cancellation, renewal, or proposed change to any policy or coverage described in this Section. The Department's or Agency's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights the Department or Agency may have.

7.1.1 Port Manatee Access Requirements

1. Port Manatee is regulated under the provision of the Maritime Transportation Security Act of 2002 (MTSA). Individuals accessing the port must comply with provisions of the applicable regulations and the associated elements of Port Manatee's approved Facility Security Plan.
2. Individuals requiring unescorted access must possess a TWIC credential and be able to demonstrate verifiable Port business. Individuals employed by businesses with current port licenses or permits may enroll their TWIC in the access control system. A \$40.00 fee is required.
3. Obtaining a federal Transportation Workers Identification Credential (TWIC). This requires submission to federal security screening. Information on the TWIC enrollment process is available at www.tsa.gov/twic. The cost for TWIC processing is \$125.25.

Additional information for temporary access or any other questions are available by contacting Port Manatee Access Control - Security office at 941-722-6455.

Bidders are responsible to include all costs associated with the installation of part as their submission. These costs may include but are not limited to:

- a) Worker Credentialing: Port Manatee is regulated under the provisions of the Maritime Transportation Security Act (MTSA) all workers will be required to obtain a Transportation Worker Identification Credential (TWIC) and a Port Manatee Access Credential. Fees associated with these credentials are the responsibility of the bidder.
- b) Bid submissions must be a turnkey solution and include all associated installation costs.

8. ADDITIONAL TERMS AND CONDITIONSIn signing this Bid, Bidder acknowledges, affirms and agrees to comply with the following terms and conditions:

8.1 Lobbying

Lobbying is prohibited in all Agency selection processes and contract awards including but not limited to requests for qualifications, bids, proposals or purchasing contracts of any type. The purpose of this prohibition is to protect the integrity of the procurement process by shielding it

from undue influences prior to the contract award, a Bid protest being resolved, or the competitive selection process being otherwise concluded. The prospective Bidder may contact the Agency as specified in this ITB, to address situations such as clarifications relating to the procurement process or Bidder protest. No funds received pursuant to the Contract may be expended for lobbying the Legislature, the judicial branch or a state agency.

8.2 Non-Collusion

Bidder certifies it has not, either directly or indirectly, entered into any agreement or participated in any collusion or otherwise taken any action in restraint of free competition; that no attempt has been made to induce any other person or firm to submit or not to submit a Bid; that this Bid has been independently arrived at without collusion with any other Bidder, competitor or potential competitor; that this Bid has not been knowingly disclosed prior to the opening of Bids to any other Bidder or competitor; that the above statement is accurate under penalty of perjury.

8.3 Debarment And Suspension

Bidder acknowledges it has not been suspended, debarred, declared ineligible or voluntarily excluded from eligibility by any State or Federal department or agency. Bidder acknowledges that its Certificate of Qualification has not been suspended, revoked, denied or have further been determined by any State or Federal department or agency to be a non-responsible contractor.

8.4 Additional Goods Or Services

The Agency reserves the right to request additional goods or services relating to this ITB from the Contractor. When approved by the Agency as an amendment to this Agreement and authorized in writing, the Contractor shall provide such additional requirements as may become necessary.

8.5 Public Entity Crimes/Scrutinized Companies/Boycott Israel List

By submitting a Bid, each Bidder is confirming that neither the Bidder nor its subcontractors:

1. Have been placed on the convicted vendor list as described in Section 287.133, Florida Statutes.
 - a) A person or affiliate who has been placed on the convicted vendor list, following a conviction for a public entity crime, may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of the threshold amount as provided in Section 287.017, Florida Statutes for CATEGORY TWO, for a period of 36 months from the date of being placed on the convicted vendor list.

2. Additionally, by engaging in business with the Agency, each Bidder confirms their business entity is not on the Scrutinized Companies that Boycott Israel List as described in Section 287.135 of the Florida Statutes or engaged in a boycott of Israel or, for goods or services over one million dollars, Bidders confirm they are not on any of the scrutinized company lists identified in Section 287.135 of the Florida Statutes or engaged in any such activity identified in that section.
 - a) A company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with an agency or local governmental entity for goods or services of any amount if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725 of the Florida Statutes or is engaged in a boycott of Israel.
 - b) A company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with an agency or local governmental entity for goods or services of one million dollars or more if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473 of the Florida Statutes or engaged in business operations in Cuba or Syria.

On a case-by-case basis, the Agency may permit those companies identified above to bid on, submit a proposal for, or enter into or renew a contract with the Agency for goods or services providing all statutory conditions outlined in Section 287.135 (4) of the Florida Statutes are met.

8.6 Public Records

By submitting a Bid, the Contractor certifies that he/she understands that the Agency, an entity of government, is subject to the Public Records Act and, in accordance with Section 119.0701 of the Florida Statutes the Contractor may be subject to the Public Records Act. Any claim of confidentiality is waved upon submission, effective after opening pursuant to Section 119.07, of the Florida Statutes. Any subsequent contract entered into between the Agency and Contractor related to the scope of services outlined in this ITB shall be conditioned on the Contractor's compliance with the Public Records Act as provided in Section 119.0701 of the Florida Statutes.

8.7 Conflicts Of Interest

The Bidder represents that it presently has no interest and will acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required under this Contract. The Bidder further represents that no person having any such interest shall be employed by him/her during the agreement term and any extensions.

The Bidder shall immediately notify the Agency's representative, in writing, by certified mail, of all potential conflicts of interest for any prospective business association, interest, or other circumstance, which may influence or appear to influence the Contractor's judgment or quality of services being provided under this Contract. Such written notification must identify the

prospective business association, interest or circumstance, the nature of work that the Bidder may undertake and request an opinion of the Agency as to whether the association, interest or circumstance would, in the opinion of the Agency, constitute a conflict of interest if entered into by the Bidder. The Agency agrees to notify the Bidder of its opinion, by certified mail, within thirty (30) days of receipt of notification by the Bidder.

8.8 Inspector General Cooperation

The Bidder and any Subcontractors, agree to comply with Section 20.055(5) of the Florida Statutes and agree to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to said section.

8.9 Unauthorized Aliens

The Bidder represents that it does not employ unauthorized aliens. The Agency will consider the employment by the Bidder of unauthorized aliens a violation of Section 274A of the Immigration and Nationality Act.

8.10 Appropriations Clause

By submitting a Bid, the Bidder certifies that he/she understands that the Agency, an entity of government, is subject to the appropriation of funds by its legislative body in an amount sufficient to allow continuation of its performance in accordance with the terms and conditions of this contract for each and every fiscal year following the fiscal year in which this contract is executed and entered into and for which this contract shall remain in effect. The Agency shall, upon receipt of notice that sufficient funds are not available to continue its full and faithful performance of this contract, provide written notice to the consultant of such event within thirty (30) days and, be thereafter released at all further obligations in any way related to the contract.

8.11 Legal Requirements

All applicable provisions of federal, state, county, and local laws including all ordinances, rules, and regulations will govern the development, submittal and evaluation of all Bids received in response to these specifications, and shall govern any and all claims between person(s) submitting a Bid and the Agency, by and through its officers, employees and authorized representatives. A lack of knowledge by the Bidder concerning any of the aforementioned shall not constitute a cognizable defense against the legal effect thereof. The Bidder agrees that it will not discriminate on the basis of race, creed, color, national origin, sex, age or disability.

8.12 Indemnification

The Bidder acknowledges and agrees that to the fullest extent permitted by law, and in addition to any other obligations of the Contractor under the Contract or otherwise, the law, Contractor shall indemnify and hold harmless the Agency and its officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them and the State of

Florida, Department of Transportation, including the Department’s officers and employees, from liabilities damages, losses and costs including, but not limited to reasonable attorney’s fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the Contractor and persons employed or utilized by the Contractor in the performance of this Contract.

This indemnification shall survive the termination of this Contract. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida or the Agency’s sovereign immunity.

In any and all claims against the Agency or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of the Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the scope, or anyone for whose acts any of them may be liable, this indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or any such Subcontractor, Supplier, or other individual or entity under workers’ compensation acts, disability benefit acts, or other employee benefit acts.

8.13 Bidder’s Representations

In submitting its bid, Contractor makes the following representations:

1. Contractor has examined and studied the bid documents.
2. Contractor has visited the site and conducted an examination of the area and has become familiar with and is satisfied as to the site conditions that may affect cost, progress and performance of the work.
3. Contractor is familiar with all necessary federal, state and local regulations that may affect the cost, progress and performance of the work.
4. Based on the information received, observations, and information generally known to the Contractor (as information commonly known to contractors doing business of this nature), the Contractor agrees that no further examinations, investigations, or expiration of the site is necessary to perform the work at the bid price and within the bid timeframe as specified in the bid submitted.
5. Contractor has provided the purchasing manager written notice of any questions, concerns, conflicts, errors, or ambiguities that the Contractor has discovered in the bid documents or related to the scope of work.

Name of Authorized Company Representative (Type or Print)	Title	Date

Signature of Authorized Company Representative Named Above	Phone	Fax	Email
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CONTRACT FOR PHASE I- TRACK REHAB PROJECT

THIS CONTRACT is dated as of _____ day of _____ in the year _____ by and between Manatee County Port Authority, whose address is 300 Tampa Bay Way, Suite 1, Palmetto, FL 34221 (“Authority”) and _____, whose address is _____ and is authorized to do business in the State of Florida (“Contractor”), (collectively, the “Parties”).

In consideration of the promises and mutual covenants contained in this Contract, the Parties hereby agree as follows:

1. Scope of Work: Contractor shall complete all Work described in the attached Scope of Work, at Exhibit A including providing all necessary labor, equipment and materials.

The Work will be completed within ___ calendar days after both Contractor and Authority sign the Contract and Authority issues notice to proceed to Contractor if Authority issues notice to proceed within 45 days after Contractor execution of the contract. Time is of the essence.

2. Payment Terms:

Authority shall pay Contractor the following amounts for the Work:

- A. For all Base Bid Work, a lump sum of: \$_____.

Contractor shall submit applications for payment no more frequently than monthly broken down into a schedule of values approved by Authority using the attached form at Exhibit B. Authority shall make progress payments based on Contractor’s applications for payment measured by the schedule of values subject to agreement on the level of completion of the Work. Prior to completion of the Work, 10% retainage will be withheld from progress payments. Upon final completion, acceptance of the work and receipt of the Contractor’s Affidavit, Authority shall pay in full without retainage. All amounts not paid when due will bear interest at the rate of zero (0) percent per annum. Contractor’s acceptance of final payment from Authority shall constitute a full waiver and release by Contractor of all claims against Authority arising out of or relating to the project.

In the event that a change in the scope of the Work becomes necessary due to discovery of site conditions unknown prior to bidding, the parties shall negotiate in good faith to make the necessary change. If the change in scope changes the cost of the Work, the parties are entitled to a commensurate change in fee.

3. Contractor’s Representations: Contractor represents that Contractor is satisfied with the available information and is capable of performing satisfactorily in accordance with the Contract.

Contractor represented that it understands and accepts that this Project is funded in part from the proceeds of a grant(s) from the Florida Department of Transportation (Contract Number G1548). This grant funding is conditioned in part on the Contractor meeting the following requirements:

- A. DBE Policy: The contractor and subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of this Contract. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such remedy as the Authority deems appropriate. Contractor agrees to ensure that Disadvantaged Business Enterprises (DBEs) have the opportunity to participate in the performance of this Contract. In this regard, Contractor will take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that DBE's have the opportunity to compete for and perform contracts.
- B. Contractor shall utilize the U.S. Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the term of this Contract, and shall expressly require any subcontractor performing Work or providing services pursuant to this Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the Contract term.
- C. Contractor understands that the grant funding is dependent on completion of Work within the specified contract time and the Contractor agrees to complete the Work within that time.
- D. The Contractor represents that it does not employ unauthorized aliens. The Authority will consider the employment by the Contractor of unauthorized aliens a violation of Section 274A of the Immigration and Nationality Act and such violation will be cause for unilateral cancelation of this Contract.

4. Insurance and Bonding.

- A. **Insurance.** Contractor shall obtain insurance coverage meeting the requirements of Port Manatee Tariff Item 250, Insurance, available online at <http://www.portmanatee.com/Portals/0/business/Tariff/Tariff.pdf>. If the link has changed, there should remain access via the homepage at [portmanatee.com](http://www.portmanatee.com). Contractor must provide the Port Authority with certificates of insurance demonstrating compliance with Tariff Item 250, Insurance.

In addition to the above, the Commercial General Liability insurance must provide continuous coverage for all work or operations performed under the Contract. Such insurance must be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. The Contractor or any subcontractors shall name the Florida Department of Transportation (the "Department") as an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage

afforded to the Department and the Authority as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than a \$5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described in this section must apply fully to the work or operations performed under the Contract, and may not be shared with or diminished by claims unrelated to the Contract. The policy/ies and coverage described in this section may be subject to a deductible and such deductibles will be paid by the Contractor. No policy/ies or coverage described in this section may contain or be subject to a Retention or a Self-Insured Retention. Prior to the execution of the Contract, and at all renewal periods which occur prior to final acceptance of the work, the Department and the Authority must be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described in this Section. The Department and the Authority, must be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described in this Section, which will be provided to the Department. The Department's or Authority's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates will not relieve or excuse any obligation to procure and maintain the insurance required in this Section, nor serve as a waiver of any rights or defenses the Department or Authority may have.

In addition to the insurance coverage required above, the Contractor must procure and maintain Railroad Protective Liability Coverage (ISO Form CG 00 35) where the Authority is the Named Insured and where the limits are not less than \$2,000,000 combined single limit for bodily injury and/or property damage per occurrence, and with an annual aggregate limit of not less than \$6,000,000. The Authority shall also be added along with the Department as an Additional Insured on the policy/ies procured pursuant to this section. Prior to the execution of the Contract, and at all renewal periods which occur prior to final acceptance of the work, the Authority and the Department must be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described in this Section. The insurance described in this section must be maintained through final acceptance of the work. The Department and the Authority must be notified in writing within ten days of any cancellation, notice of cancellation, renewal, or proposed change to any policy or coverage described in this Section. The Department's or Authority's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights the Department or Authority may have.

- B. Bonding.** Contractor will submit a payment and performance bond for the total contract amount in accordance with in Section 255.05, Florida Statutes in the form of a cash deposit or annual bond executed by a surety company recognized and authorized to do business in the State of Florida. The surety company shall have an A.M. Best Rating of A or better and A. M. Best Financial Size Category of Class VII or greater.

5. Contractor's Compliance with the Law. Contractor shall submit Certificate of Compliance with the Florida Trench Safety Act using the provided form at Exhibit D if applicable. At all times, Contractor shall comply with all applicable environmental laws and regulations.

A. Hazardous Conditions. Contractor shall be responsible for contaminants brought to the site by Contractor or anyone else for whom Contractor is responsible, and for any costs of removing and remediating any hazardous environmental condition created by the presence of the contaminants. If Contractor discovers a hazardous environmental condition, or if Contractor or anyone for whom Contractor is responsible creates a hazardous environmental condition, then Contractor shall immediately secure the condition, stop all Work in connection with the condition and notify Authority. Authority may take necessary action if Contractor is not responsible or if Contractor is responsible and Authority is not satisfied with Contractor's action and specify any special conditions under which the Work may be resumed. Contractor shall not resume Work until after the necessary response has been completed and Authority has authorized Contractor to resume the work. If Contractor is responsible for the hazardous environmental condition in question, then Authority may impose a set-off against payments to account for the associated costs to Authority.

B. To the fullest extent permitted by the law, Contractor shall indemnify and hold harmless Authority and its officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a contaminant brought to the site by Contractor or by anyone for whom Contractor is responsible, or to a hazardous environmental condition created by Contractor or by anyone for whom Contractor is responsible, or to the performance of the Work to the extent caused by any negligent act or omission of Contractor or anyone for whose acts Contractor may be liable. This indemnification shall not be limited by any limitation under workers' compensation acts, disability benefit acts, or other employee benefit acts. This indemnification shall survive expiration or termination of this contract.

6. Indemnification. To the fullest extent permitted by the law, Contractor shall indemnify and hold harmless the Authority and its officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them and the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities damages, losses and costs including, but not limited to reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the

Contractor and persons employed or utilized by the Contractor in the performance of this Contract.

This indemnification shall survive the termination of this Contract. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida or the Authority's sovereign immunity.

In any and all claims against the Agency or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of the Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the scope, or anyone for whose acts any of them may be liable, this indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts

In conformance with the requirements of Section 725.06, Florida Statutes, the specific considerations for Contractor's promises are:

1. Ten dollars (\$10.00) and other valuable consideration, in hand paid by Authority, Engineer, and Engineer's employees to Contractor, receipt whereof is hereby acknowledged and the adequacy of which Contractor accepts as completely fulfilling the obligations of Authority, Engineer, and Engineer's employees under the requirements of Section 725.06, Florida Statutes, and;
2. The entry of Authority and Contractor into this contract because, but for Contractor's promises as contained in this Contract, Authority would not have entered into the construction contract with Contractor.

7. Subcontractors. Contractor will require that any subcontractors comply with all terms and conditions of this Contract and all federal, state and local laws and regulations applicable to this project. In addition, Contractor agrees to include the following provisions in all of its contracts with its subcontractors who perform work in connection with this Contract:

“To the fullest extent permitted by the law, Subcontractor shall indemnify and hold harmless the Authority and its officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them and the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities damages, losses and costs including, but not limited to reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the Subcontractor and persons employed or utilized by the Subcontractor in the performance of this Contract. This indemnification shall survive the termination of this Contract. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida or the Authority's sovereign immunity.”

“The Subcontractor will not discriminate on the bases of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Contract.”

“Subcontractor understands and will comply with Section 20.055(5) of the Florida Statutes and thereby agrees to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to that section.”

8. Contact Documents. The Contract Documents consist of the following and are incorporated and made part of this Contract by reference:

1. This Contract.
2. Exhibit A: Scope of Work.
3. Exhibit B: Application for Payment Form.
4. Exhibit C: Contractor’s Affidavit Form.
5. Exhibit D: Certificate of Compliance with the Florida Trench Safety Act.
6. Exhibit E: Quote Form Executed.
7. Quote Documents, which include the Contractor’s Quote. Any provisions in the quote submittal other than the information specifically requested are not part of this Contract and shall be omitted or stricken.
8. Instructions for Submitting Quotes.
9. Proof of Insurance.
10. Bond(s).
11. Drawings.
12. Addenda (numbers ___ to ___, inclusive).
13. Subcontractor list.
14. Documentation of changes mutually agreed upon after Contract execution.

There are no Contract Documents other than those listed above.

9. Termination. Upon 24 hours written notice (may be delivered by electronic mail), the Authority may terminate this Contract without cause. In such case, the Contractor would be paid for completed accepted work and expenses for materials and equipment sustained prior to the notice of termination. Contractor will not be paid for loss of anticipated overhead, profits, or revenue or other economic loss arising out of such termination.

10. Sovereign Immunity. The Authority expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section, article or paragraph of this Contract to the contrary, which may

have been adopted by the Florida Legislature or may be adopted by the Florida Legislature, and the cap on the amount and liability of the Authority for damages, attorney fees and costs, regardless of the number or nature of claims in tort, equity or contract, shall not exceed the dollar amount set by the Florida Legislature for tort. Nothing in this Contract shall inure to the benefit of any third party for the purpose of allowing any claim against the Authority which would otherwise be barred under the Doctrine of Sovereign Immunity or operation of law.

11. Public Records. All comments, papers, letters, maps, books, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristic, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by the Authority are public records of the Authority in accordance with the Florida Constitution and Florida Statutes. Every person has the right to examine, inspect and/or copy any such public records not specifically made exempt therefrom by provisions of the Florida Statutes. Any financial or proprietary information relating to the Contractor transmitted to the Authority may be a public record subject to disclosure to a requesting third person.

The Contractor agrees to comply with the Florida Public Records Act, as applicable, including, but not limited to Section 119.0701 of the Florida Statutes. Documents which are considered public records herein under Florida law include, but are not limited to: records related to the entry, management and implementation of the Contract itself; emails/correspondence between the Authority and the Contractor related to the Contract; emails or correspondence from all other entities related to the Contract (i.e., subcontractors, suppliers, vendors, etc.); billing and related documents; plans or other documents that may be necessary, reports, etc.; subcontracts; and all vendor invoices. The Contractor agrees, to the extent required by law, to:

1. Keep and maintain public records that ordinarily and necessarily would be required by the public agency in performing the services of the Contract;
2. Provide the public with access to the public records under the same terms and conditions that the Authority would provide the records and at a cost that does not exceed the cost provided for by law;
3. Ensure that the public records that are exempt or confidential, and exempt from public record disclosure requirements, are not disclosed, except as authorized by law; and
4. Meet all requirements where retained public records and transfer, at no cost, to the Authority, all public records in possession of the Contractor, upon termination or completion of the Contract and destroy any duplicate public records that are exempt or confidential, or exempt from public record disclosure requirements.

Furthermore, the Contractor agrees that all records stored electronically shall be provided to the Authority in a format that is compatible with the information technology systems of the Authority. The Contractor shall promptly provide the Authority with a copy of any request to inspect or copy public records that Contractor receives and a copy of the Contractor's response to each request. The Contractor understands and agrees that failure to provide access to the public records shall be a material breach of the Contract and grounds for termination.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE AUTHORITY AT (941) 722-6621, TDAUGHERTY@PORTMANATEE.COM, 200 TAMPA BAY WAY, PALMETTO, FL 34221.

THE CONTRACTOR ACKNOWLEDGES THAT THE AUTHORITY CANNOT AND WILL NOT PROVIDE LEGAL OR BUSINESS ADVICE TO THE CONTRACTOR WITH RESPECT TO ITS OBLIGATIONS PURSUANT TO THIS SECTION RELATED TO PUBLIC RECORDS. THE CONTRACTOR ACKNOWLEDGES THAT IT WILL NOT RELY ON THE AUTHORITY OR ITS ATTORNEY TO PROVIDE SUCH BUSINESS OR LEGAL ADVICE AND THAT CONTRACTOR HAS BEEN ADVISED TO SEEK PROFESSIONAL ADVICE WITH REGARD TO PUBLIC RECORDS MATTERS ADDRESSED BY THIS CONTRACT.

12. Independent Contractor. This Contract does not create an employee/employer relationship between the Parties. It is the Parties' intention that the Contractor, its employees, sub-contractors, representatives, volunteers, and the like, will be an independent contractor and not an employee of the Authority for all purposes, including, but not limited to, the application of the following, as amended: the Fair Labor Standards Act minimum wage and overtime payments, the Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State of Florida revenue and taxation laws, the State of Florida workers' compensation laws, the State of Florida unemployment insurance laws, and the Florida Retirement System benefits. The Contractor will retain sole and absolute discretion in the judgment on the manner and means of carrying out the Contractor's activities and responsibilities under this Contract.

13. Miscellaneous Terms.

1. Governing Law and Venue. This Contract is governed by the laws of the State of Florida. Venue for the purposes of any suit, action, or other proceeding arising out of, or relating to, this Contract will be solely within the Twelfth Judicial Circuit, in and for Manatee County, Florida for state actions and solely in the United States District Court of the Middle District of Florida, Tampa Division for federal actions. In the event of any dispute that occurs between the Parties, which results in litigation and a subsequent award or decree against either party it is agreed that entitlement to post judgment interest to either party and their attorney will be fixed by the proper court at a rate of 5% per annum simple interest. Under no circumstances will either party be entitled to pre judgment interest and the parties expressly acknowledge to the extent allowed by law they hereby opt out of any provision of federal or state statutes not in agreement with this.
2. Validity, Severability and Reformation. The validity, interpretation, construction, and effect of this Contract will be in accordance with and be governed by the laws of the

State of Florida. Any provision or part of this Contract held to be void or unenforceable under any law will be deemed stricken, and all remaining provisions will continue to be valid and binding upon the Parties. The Parties agree that this Contract shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision which comes as close as possible to expressing the original intention of the stricken provision.

3. Inspection. Contractor understands and will comply with Section 20.055(5) of the Florida Statutes and thereby agrees to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to that section.
4. Assignment and Construction of Contract. Any assignment of this Contract, without the Authority's written consent, is void. The Contractor shall require all subcontractors adhere to the appropriate provisions of this Contract and the utilization of any such subcontractor by the Contractor will not relieve the Contractor from any liability or responsibility to the Authority pursuant to the provisions of this Contract. The Parties agree that in any event of litigation concerning the construction of this Contract or interpretation of any language used in this Contract, that this Contract and any of its provisions will not be construed against the Authority by virtue of this Contract having been drafted by the Authority.
5. Entire Agreement/Interpretation. This Contract embodies the entire agreement of the Parties. There are no promises, terms, conditions or allegations other than those contained in this Contract, and this document will supersede all previous communications, representations, and/or agreements whether within or verbal between the Parties. Paragraph headings are inserted for convenience only and do not constitute counterparts to the general conditions.
6. Waiver. Failure to insist upon strict compliance with any terms, covenants or conditions of the Contract will neither be deemed a waiver of such, nor will any waiver or relinquishment of such right or power at any time be taken to be a waiver of any other breach. Any waiver, alteration or modification of any of the provisions of the Contract, or cancellation or replacement of this Contract, will not be valid unless in writing and signed by the Parties.
7. Notices. Unless otherwise provided in this Contract, any notice or communication which the Parties may desire to give will be deemed sufficiently rendered or given if the notice is in writing and sent by personal delivery, or via certified mail, return receipt requested, addressed to the addresses stated above. The time of rendition of such notice or communication will be deemed to be the time when the same is mailed, left or delivered as provided in this Contract. Either party may provide a change of address notice, with said change of address notice effective upon receipt.
8. Survival. All representations, indemnifications, warranties and guarantees made in or required by or given in accordance with this Contract, as well as continuing applications indicated in the Contract, will survive final payment completion, acceptance of work or termination or completion of Contract or termination of the services by the contractor.

IN WITNESS WHEREOF, Authority and Contractor have signed this Contract.

This Contract will be effective on _____, 2019 (the "Effective Date").

MANATEE COUNTY PORT AUTHORITY

By: _____

Vanessa Baugh, Chair

ATTEST: ANGELINA "ANGEL" COLONESSO

Clerk of the Circuit Court

By: _____

WITNESSES:

CONTRACTOR

By: _____

Title: _____

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

License No.:

(where applicable)

Exhibit A – “SCOPE OF WORK”

Phase I- Track Rehab Project

The Manatee County Port Authority (the “Authority”) is inviting qualified Contractors interested in bidding on the construction and rehabilitation of approximately 3,054 feet of rail trackage. Federal Railroad Administration requires a CSX flagman to provide roadway worker protection for any operations adjacent to the CSX Mainline. All project costs for subcontracted labor inclusions required in correlation to this project should be included in the total project cost.

Item # 1 - Start South of the Scrap Yard Switch, around Piney Point curve down to the Piney Point RR crossing – approximately 1,883’ feet of track. Replacement and installation of 252 each - 6” x 8” x 8’ - 6” Railroad grade crossties. Project replacement of specified defective and/or out of gauge crossties.

Item # 2 - Start at Piney Point crossing going West to Reeder Road crossing- approximately 1,171’ feet of track. Replacement and installation of 195 each - 6” x 8” x 8’ - 6” Railroad grade crossties. Project replacement of specified defective and/or out of gauge crossties.

Item # 3 - Removal and replacement of 300 each defective bolts.

Item # 4 - Surface track area with a 2” pull. Line and cross level areas. Approximately 3,054’ of rail trackage.

Item # 5 - Remove and Dispose of all old crossties, bolts and debris from site.

All Work is deemed complete only upon satisfaction of the Authority. Contractor shall provide all of the necessary labor, equipment and materials to perform the work according to industry standards and regulatory requirements. Contractor shall report any conflicts as soon as discovered.

Contractor shall work around the shipping / rail activity and must coordinate project operations with Buddy Neal, Port Manatee Railroad Yard Master - Phone # 941-650-3157. Working outside ordinary business hours is subject to prior Port approval. Contractor shall identify and abide by all applicable laws, regulations and codes. Contractor shall implement all necessary environmental protection measures. Contractor shall clean up and remove from the Port any and all unused material, repair any damage caused, and restore all impacted ground and infrastructure beyond the work limits to its pre-construction state and function. Contractor is responsible for ensuring the safety of workers and others.

Contractor shall comply with Port Security requirements. Everyone who needs to work on Authority property must have a TWIC card or be escorted by someone with a TWIC card. TWIC escorts will not be provided by the Authority, except for any pre-bid meetings. A TWIC card holder may escort up to four other non-TWIC card holders. The others must be badged every day. The TWIC card holder must be present every day when the others are badged. The group must stay together. The TWIC card holder may not leave the Authority without the group the TWIC card holder escorted onto Authority property.

Exhibit A-1 – Schematic Railroad Mainline – Phase I - Project Parameters

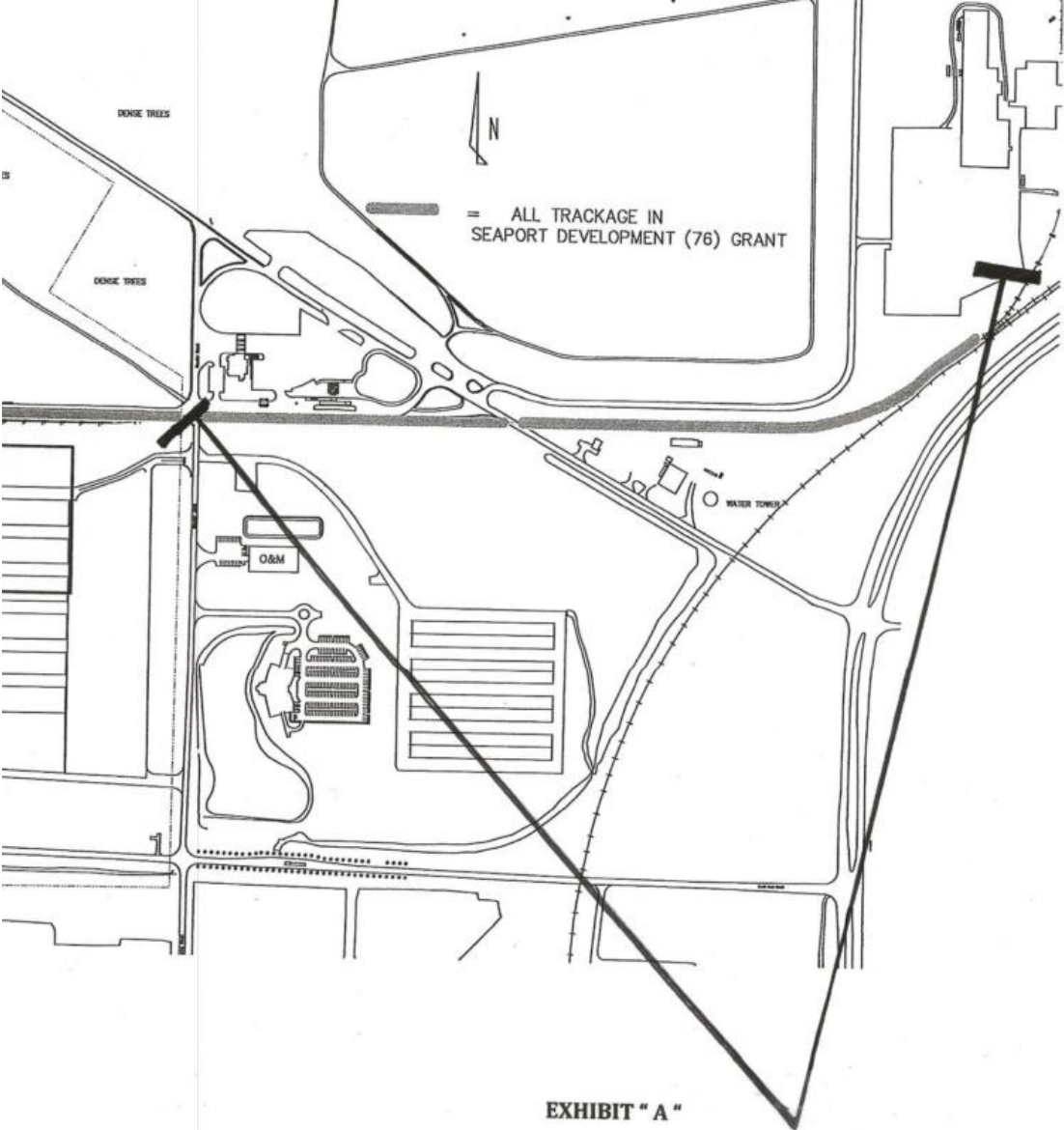


EXHIBIT " A "

ITB # 032219 - Phase I - Track Rehab Project

Exhibit B – Application for Payment

APPLICATION FOR PAYMENT		Request No.: _____
		Purchase Order No.: _____
Project Name: _____		
From: _____ To: _____		Consultant: _____

CONTRACT PAYMENT SUMMARY				
Original Contract Amount:				\$ _____
Change Order(s):				\$ _____
Change order summary:				
Number	Date Approved	Additive	Deductive	
		\$ _____		
		-		
SUBTOTALS:		\$ _____	\$ _____	
Net change order subtotal (Additive less Deductive):				\$ _____
Current Contract Amount (CCA): (Original Amount + Change Order(s))				\$ _____
		Previous Status	Total WIP	
Value of the Work in Place (WIP)	\$ _____	-	\$ _____	
Value of Stored Materials	\$ _____	-	\$ _____	
Total Earned (\$ and % of CCA)	\$ _____	-	\$ _____	#DIV/0!
Retainage (\$ and % of CCA)	\$ _____	-	\$ _____	10%
Net Earned (Total earned minus retainage)				\$ _____
TOTAL PREVIOUS PAYMENTS				\$ _____
AMOUNT DUE THIS PAYMENT (Net Earned minus Previous Payments)				\$ _____

CONTRACTOR'S AFFIDAVIT OF NOTICE	
<p>CERTIFICATE: The undersigned CONTRACTOR certifies that all items and amounts shown on this Application for Payment are on account of work performed, materials supplied and/or materials stored on site and paid for by Contractor in accordance with the Contract Documents with due consideration for previous Payment(s), if any, received by the Contractor from the County, and that the Amount Due this Payment shown is now due.</p>	
<p>NOTARY:</p> <p>State of Florida, County of _____</p> <p>Sworn to (or affirmed) and subscribed before me this _____ day of _____ by _____</p> <p style="text-align: center;">(Name of person giving notice)</p> <p>(Signature of Notary Public - State of Florida) Print, Type or Stamp Commissioned Name of Notary Public</p> <p>Personally Known _____ or Produced Identification _____ Type of Identification Produced: _____</p>	<p>CONTRACTOR:</p> <p>Name of person authorized to sign Affidavit of Notice _____</p> <p style="text-align: center;">TITLE _____</p> <p>Contractor name, address and telephone no.: _____ _____ _____</p>

VERIFICATION, RECOMMENDATION, CONCURRENCES AND APPROVALS (Port Manatee Only)	
(Signatures)	(Date)
Consultant/Engineer: _____	_____
Project Manager: _____	_____
TOTAL PAYMENT APPROVED: _____	_____

Exhibit C - CONTRACTOR'S AFFIDAVIT

STATE OF FLORIDA

MANATEE COUNTY

Before me, the undersigned authority, personally appeared _____, who, being duly sworn, deposes and says of his or her personal knowledge that:

1. He or She is the _____ of _____, which does business in the State of Florida, hereinafter referred to as the Contractor.

2. Contractor, pursuant to contract with the **Manatee County Port Authority**, hereinafter referred to as "Authority", has furnished or caused to be furnished labor, materials, and services for the construction of certain improvements to real property located in Manatee County, Florida as more particularly set forth in said contract.

3. Said improvements have been fully completed and the Contract For Phase I - Track Rehab Project ("Construction Contract") entirely performed to the final stage of pay out as prescribed in the Construction Contract between Contractor and Authority, and that all lienors as defined by Chapter 713, Florida Statutes, have been paid all sums due them up to the date of this Affidavit except the following ones who are due the respective amounts set opposite their respective names:

<u>Name</u>	<u>Amount</u>
_____	_____
_____	_____

4. There is now due Contractor a Final Payment for the payout stage mentioned above under the Construction Contract in the amount of \$_____, leaving the amount of \$_____ to be paid upon completion of all punch list items; that Contractor has in no way assigned, pledged, or hypothecated the Construction Contract or any amount due or to become due thereunder; that payment to Contractor of said sum shall constitute a full release by Contractor of any and all claims arising out of the Construction Contract.

5. Contractor has not entered into any agreement by which any security interest under the Uniform Commercial Code has attached to the above described property.

6. Affiant is an officer of the Contractor having personal knowledge of the foregoing facts and duly authorized to execute this Affidavit.

7. This Affidavit is made for the purpose of inducing Authority to pay and disburse the Final Payment for the final stage of pay out of the Construction Contract hereinabove mentioned.

CONTRACTOR

BY: _____

FOR: _____

Sworn to and acknowledged before me this _____ day of _____, 20__, by _____
of _____, a Florida corporation, on behalf of the corporation. He/she is personally
known to me or has produced a Florida driver's license as identification.

_____, Notary Public, Commission No. _____

_____, Name of Notary type, printed or stamped

Exhibit D - TRENCH SAFETY SWORN STATEMENT

The Occupational Safety and Health Administration excavation safety standards, 29 CFR 1926.650 Subpart P trench safety standards will be in effect during the period of construction of the Project.

Bidder acknowledges and issues this sworn statement that included in the Bid Price are costs for complying with the Florida Trench Safety Act (90-96, Laws of FL) effective October 1, 1990, and hereby gives assurance that, if awarded the Contract, the Contractor or Subcontractor performing trench excavation work on the Project will comply with the applicable trench safety standards. The Bidder further identifies the costs as follows:

Trench Safety Item (Description)	Cost
_____	_____
_____	_____
_____	_____

TOTAL \$ _____

THIS IS NOT A PAY ITEM: The purpose of this form is to gather information on the costs associated with trench safety measures and to insure that the Bidder has considered these costs and included them in the Total Estimated Base Bid and the Total Estimated Additive Alternate Bid. Company will not receive additional payment if actual quantities differ from those estimated or if the Company uses a safety measure different than those listed.

The undersigned assures that the entity will comply with the applicable Trench Safety Standards and agrees to indemnify and hold harmless the Authority and Engineer, and any of their agents or employees from any claims arising from the failure to comply with said standard. The undersigned, in submitting this Bid, represents that he has reviewed and considered all available geotechnical information and made such other investigations and tests as he may deem necessary to adequately design the trench safety system he will utilize on this project.

FAILURE TO COMPLETE THE ABOVE SHALL RESULT IN THE BID BEING DECLARED NON-RESPONSIVE.

COMPANY NAME: _____

DATE: _____

BY: _____

PRINT NAME: _____

TITLE: _____

STATE OF FLORIDA

COUNTY OF _____

Personally appeared before me, the undersigned authority _____ who, after first being sworn by me, affixed his /her signature in the space provided above on this _____ day of _____, 2019.

_____, Notary Public, Commission No. _____

_____, Name of Notary type, printed or stamped

Exhibit E - Quote Bid Worksheet

- 1) Track work –South of the Scrap Yard Switch, around Piney Point curve down to the Piney Point RR crossing approximately 1,883 feet of track. Replacement and installation of 252 each – 6” x 8” x 8’- 6” Railroad grade crossties. Project replacement of specified defective and/or out of gauge crossties.
- 2) Track work – Piney Point crossing going West to Reeder Road crossing- approximately 1,171 feet of track. Replacement and installation of 195 each - 6” x 8” x 8’- 6” Railroad grade crossties. Project replacement of specified defective and/or out of gauge crossties.
- 3) Removal and replacement of 300 each defective bolts.
- 4) Surface track area with 2” pull. Line and cross level areas. Approximately 3,054 feet of rail trackage.
- 5) Remove and Dispose of all old crossties, bolts and debris from site.

Project Timeline from Date of Notice to Proceed to Completion: _____

Phase I - Track Rehab Project Bid: \$_____

Signature:

Title:

Date:

Company Name:

Exhibit F - DRUG-FREE WORK PLACE CERTIFICATE (OPTIONAL)

Pursuant to Section 287.087, Florida Statutes, preference shall be given to businesses with Drug-Free Work Place Programs. Whenever two or more bids which are equal with respect to price, quality, and service are received for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a Drug-Free Work Place Program will be given preference in the award process. Established procedures for processing tie bids will be followed in the event that none of the tied bidders have a Drug-Free Work Place Program. In order to have a Drug-Free Work Place Program, a business will:

- 1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the work place and specifying the actions that will be taken against employees for violations of such prohibition.
- 2) Inform employees about the dangers of drug abuse in the work place, the company's policy of maintaining a Drug-Free Work Place, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
- 3) Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
- 4) In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 of the Florida Statutes, or of any controlled substance law of the United States or any state, for a violation occurring in the work place no later than five (5) days after such conviction or plea.
- 5) Impose a sanction on, or require the satisfactory participation in, a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted or who has pled.
- 6) Make a good faith effort to continue to maintain a drug-free work place through implementation of this section.

AS THE PERSON AUTHORIZED TO SIGN THE STATEMENT, I CERTIFY THAT THIS FIRM COMPLIES FULLY WITH THE ABOVE REQUIREMENTS.

Signature

Printed Name