

PROJECT MANUAL

FOR

Generator Inspection and Service Contract
Maritime Office Complex & South Gate Warehouse

FOR

PORT OF PALM BEACH DISTRICT
RIVIERA BEACH

Prepared by:

Port of Palm Beach District
Engineering Department
One East 11th Street
Riviera Beach, Florida 33404

BID SET

November 27, 2011

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INVITATION TO BID

for

Generator Inspection and Service Contract Maritime Office Complex & South Gate Warehouse

requested by the

Port of Palm Beach District

PORT OF PALM BEACH DISTRICT RIVIERA BEACH, FLORIDA

1. Sealed bids for the **Generator Inspection and Service Contract** at the Port of Palm Beach will be received by the Owner, PORT OF PALM BEACH DISTRICT, until **2:00 p.m.**, local time on **January 6, 2011**, at One East 11th Street, 6th Floor, Riviera Beach, Florida 33404. Bids received after this time will be returned unopened. Bids submitted will be opened publicly and read aloud shortly thereafter.
2. Project consists of inspection, general maintenance and repair services of the building generator systems at the Maritime Office Complex and South Gate Warehouse located at the Port of Palm Beach District.
3. Bid Documents will be available on **December 6, 2011**, at **2:00 p.m.** Bidders may obtain complete sets of Bidding Documents from the Port of Palm Beach at One East 11th Street, Riviera Beach, 6th Floor. Bidding Documents may be examined at the Port of Palm Beach District, One East 11th Street, Suite 600, Riviera Beach, Florida 33404 (contact Janet Long, at (561) 383-4124).
4. Bidders will be permitted to withdraw their Bids at any time prior to Bid opening.
5. The Port may not award a Contract to any Bidder who cannot prove to the satisfaction of the Port that they have a minimum of five (5) years of experience in the type of work called for in the Contract Documents and is financially able and organized to successfully carry out the Work covered by the Contract Documents in the required time. Bidder must have a valid contractor's license at time of Bid opening for the Work to be performed, in order for their Bid to be considered. A copy of the Bidder's license, in the name of the Bidder shown on the Bid Proposal Page, must be submitted with the Bid. Should Bidder's license and certification not be current as referenced in this paragraph, the Bid shall be rejected.
6. Sealed Bids shall be addressed to the Port of Palm Beach District and plainly marked "**Generator Inspection and Service Contract**" on the outside of the envelope. The Bidder's name and address shall also be included on the outside of the envelope.

7. The Bidder agrees that the Bid shall be good, and may not be withdrawn for a period ending the later of **ninety (90) calendar days** after Bid Opening, or the execution of the Contract between the successful Bidder and the Port.
8. The Port reserves the right to waive any technicalities/irregularities and/or to reject any and/or all Bids. The Port further reserves the right to award a contract to that Bidder whose submittal best serves the interests of the Port, in the sole discretion of the Port.
9. Bidders may attend a Pre-Bid Conference to be held at One East 11th Street, Engineering Department, 6th Floor, Riviera Beach, Florida 33404, on **December 6, 2011 at 2:00 p.m.** local time.

END OF INVITATION TO BID

INSTRUCTIONS TO BIDDERS

1.01 DEFINITION OF TERMS

- A. **Bidding Documents** - includes the Invitation to Bid, Instructions to Bidders, Bid Form, sample Construction Contract form, and any Addenda issued prior to receipt of Bids.
- B. **Base Bid** - the amount stated on the Bid Form for which the Bidder offers to perform the Work as described in the Bidding Documents, as a base to which Alternate Bid work amounts may be added to or deducted from.
- C. **Addenda** - written and graphic documents issued by the Engineer prior to execution of the Construction Contract which modify or interpret the Bidding Documents.

1.02 BIDDING DOCUMENTS

- A. Complete sets of Bidding Documents may be obtained from the Owner as stated in the Invitation to Bid.
- B. Complete sets of Bidding Documents shall be used by Bidders in preparation of Bids; neither the Owner nor the Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets.

1.03 EXAMINATION OF DOCUMENTS AND SITE

- A. Bidders shall visit the Site of the proposed Work and become familiar with the nature and extent of Work to be performed and local conditions that may affect the Work.
- B. The Bidding Documents were prepared to present an essentially accurate representation of existing conditions, interpreted from available information on the Site. The Bidder is not relieved, however, of the responsibility of becoming fully informed as to existing conditions at the Site. Neither the Owner nor the Engineer makes any representations or warranty as to Site conditions.
- C. Bidders shall examine existing Site improvements, existing buildings, utilities, and streets to determine all conditions which will affect the Work.

1.04 PRE-BID CONFERENCE

- A. Bidders are highly advised to attend a Pre-Bid Conference as specified in the Invitation to Bid.

1.05 **INTERPRETATION OF BIDDING DOCUMENTS**

- A. All questions requiring clarification or interpretation of the Bidding Documents shall be made in writing and shall reach the Engineer at least five (5) calendar days prior to the date for receipt of Bids. Contact Owner with questions. Direct all requests to the attention of Mr. Thomas J. Lundeen, P.E., at the Port's offices.
- B. Any modification or interpretation of the Bidding Documents will be made by Addendum to all who are recorded by the Owner as having received a complete set of Bidding Documents.
- C. Interpretations or modifications of Bidding Documents made in any manner other than by Addendum will not be binding.
- D. A Bidder, prior to submitting its Bid, shall ascertain that it has received all Addenda issued, and shall acknowledge their receipt in the Bid Form.

1.06 **SUBSTITUTIONS**

- A. Bidders represent that their Bid is based upon the materials and equipment described in the Bidding Documents.
- B. Requests for substitutions will be considered prior to receipt of Bids if they reach the Engineer at least five (5) calendar days prior to the date for receipt of Bids. Submittal shall include complete information on quality comparison to specified items and cost savings amounts.
- C. Acceptance by the Port Engineer of a proposed substitution will be issued in the form of an Addendum.

1.07 **QUALIFICATION OF BIDDERS**

- A. Complete the Bidder Qualification Form attached to these Bid Documents and submit in conjunction with the Bid Form at the scheduled time and place for Bids.
- B. If requested by the Owner, the Bidder shall submit a certified financial statement, prepared within the past six (6) months, indicating current financial resources, liabilities, capital equipment, and past history performance.
- C. Bidders may be disqualified and their Bids rejected for any of the following specific reasons:
 - 1. Reason to believe that collusion exists among Bidders;
 - 2. Determination of lack of competency as may be revealed by qualification statements, financial statements, experience records, or any other similar

- type documentation, other questionnaires;
- 3. The Bidder's uncompleted workload, in the judgment of the Owner, may cause a detrimental impact on prompt completion of this Project;
- 4. The Bidder is involved, directly or indirectly, in any litigation against the Owner; or
- 5. The Bidder has defaulted on any previous contract or is in arrears on any existing contract.

1.08 **BID PREPARATION**

- A. Prepare Bids on the forms provided in the Bid Documents with all blanks on the Bid Form filled in by typewriter or written in blue ink.
- B. State Bid amounts in both words and figures. In case of a discrepancy between the two, the amount written in words shall govern.
- C. Bids shall include the legal name and address of the Bidder and indicate whether the Bidder is a sole proprietor, a partnership or a corporation:
 - 1. Individual - provide name and post office address;
 - 2. Partnership - provide name and post office address of each member of the partnership;
 - 3. Corporation - provide name and post office address of person signing the form and legal evidence of his authority to do so; names and addresses of the corporation president, secretary and treasurer; name of state where chartered; and affixed with the seal of the corporation, attested by the secretary; and
 - 4. A Bid from a corporation shall include a current certificate of good standing from the Secretary of State of Florida and the home jurisdiction of the Bidder, if different from Florida.
- D. All Unit Price Bids and Alternate Bids requested on the Bid Form shall be Bid.

1.09 **BID SUBMITTAL**

- A. Submit two (2) copies of the Bid Form, the Bid Security (if applicable), the Subcontractors List and other requested attachments enclosed in a sealed opaque envelope, addressed to the PORT OF PALM BEACH DISTRICT as stated in the Invitation to Bid.
- B. Deposit Bids at the designated location on or before the time and date for receipt of Bids indicated in the Invitation for Bids. Bids received after the time and date indicated for receipt of Bids will be returned unopened.

1.10 OPENING OF BIDS

- A. Bids submitted will be opened publicly and read aloud at the time and place stated in the Invitation to Bid.

1.11 GOVERNING LAWS AND REGULATIONS

- A. Bidders shall be familiar with all federal, state, and local laws, ordinances, rules, and regulations that may in any way affect the Work.

1.12 CONSTRUCTION CONTRACT AWARD AND EXECUTION

- A. The Port reserves the right to waive any technicalities/irregularities and/or to reject any and/or all Bids. The Port further reserves the right to award a contract to that Bidder whose submittal best serves the interests of the Port, in the sole discretion of the Port.
- B. Upon acceptance of a Bid and award of the Contract, the successful Bidder shall deliver the executed Contract, along with required Bonds, if applicable, and any other items requested, to the Owner within ten (10) days. Failure to do so will be deemed as a breach by the Bidder and result in forfeiture of Bid Security, if applicable, to the Owner as described in the Invitation to Bid.

1.13 CONSTRUCTION CONTRACT FORM

- A. The PORT OF PALM BEACH DISTRICT has adopted a form of Construction Contract as contained in this Project Manual for all of its construction projects.

END OF INSTRUCTION TO BIDDERS

FORM OF QUALIFICATION OF BIDDER

Name of Bidder _____

Address of Bidder _____

To: Port of Palm Beach District
One East 11th Street, Suite 600
Riviera Beach, Florida 33404
Mr. Manuel Almira, Executive Director

Dear Mr. Almira:

The signer of this affidavit guarantees the truth and accuracy of all statements and information submitted herein in support of its bid proposal to furnish all materials, equipment, and labor, and to perform all work in accordance with the Contract Documents for the **Generator Inspection and Service Contract**, located in Palm Beach County, Florida.

The undersigned hereby authorizes and requests any public official, engineer, architect, surety company, bank depository, material or equipment manufacturer or distributor or any person, firm or corporation to furnish any pertinent information requested by the Port of Palm Beach District located at One East 11th Street, Riviera Beach, Florida 33404, deemed necessary to verify the statements made, information submitted, or regarding the standing and general reputation of the applicant.

The undersigned has not been disqualified by any public agency in Florida except as is explained as follows: _____.

The undersigned further affirms that, if false information is furnished in support of its bid proposal, it can and will be prosecuted to the fullest extent of the law for perjury.

Name of Organization

BY: _____

Title of Person Signing
(If Corporation, Affix Seal)

Sworn to and subscribed before
me this ____ day of _____, 2011.

Notary Public - State of _____

My commission expires _____

(Printed, typed, or stamped
commissioned name of notary public)

Personally known _____

OR Produced identification _____
(Type of identification)

PART I - STATEMENT OF EXPERIENCE:

1) Legal Name, Address, and Telephone Number:

2) Check one: Corporation__; Partnership__; Individual

3) If a Corporation, state:

Date of Incorporation _____

State in which incorporated: _____

Name and Title of Principal Officers	Date of Assuming Position
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

If an Out-of-State Corporation, currently authorized to do business in Florida, give date of such authorization:

4) If Partnership:

Date of organization:

Nature of Partnership (General, Limited, or Association):

Names and Addresses of Partners	Age of Partner
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

5) If an Individual, state -- Name & Address of Owner:

6) Enumerate State, County, or other Public Agencies in which your organization is qualified to perform work by some means of pre-qualification:

<u>Agency</u>	<u>Trade in Which Qualified</u>	<u>Expiration Date</u>	<u>Approved Amount</u>
<hr/>	<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>	<hr/>

7) Describe your organizational structure, including the number of permanent employees engaged in estimating, purchasing, expediting, detailing, and engineering, field supervision, field engineering, and layout:

(Use extension sheet if necessary)

8) Give names & data about any construction projects you have failed to complete:

(Use extension sheet if necessary)

9) Has any officer or partner of your organization ever been an officer or partner of some other organization that failed to complete a construction contract? _____. If within the last five (5) years, state name of individual, other organization, and reason therefore:

10) Has any officer or partner of your organization ever failed to complete a construction contract handled in his own name? _____. If within the last five (5) years, state name of individual, name of owner, and reason therefore:

- 11) Has your organization, or any officer or partner thereof, ever been party to any criminal litigation as a result of construction methods, costs, etc? ____.

If yes, state case number, case name, and provide pertinent details, including judgment:

(Attach extension sheet if necessary)

- 12) Has your organization, or any officer or partner thereof, ever been party to any civil litigation as result of construction methods, costs, etc? ____.

If yes, state case number, case name, and provide pertinent details, including judgment:

(Attach extension sheet if necessary)

- 13) The contractor shall supply the following requested information with your Bidder Qualification Form and submit it in conjunction with the Bid documents and forms at the scheduled time and place for Bids:

_____ Number of service trucks/technicians in your company

_____ Number of service trucks/technicians located in Palm Beach County

_____ Number of service trucks/technicians located within a 10 mile radius of the Port of Palm Beach District offices (One East 11th Street, Riviera Beach, Florida 33404)

(Use extension sheet if necessary)

20) What is the largest contract (dollar costs) ever performed by your organization?

Name of Work: _____

Total Contract Amount: _____

Amount of Your Contract: _____

21) How much time was lost during the last two (2) years from strikes?

Total Man Days _____ Total Calendar Days: _____

Explain Cause: _____

PART II - GENERAL FINANCIAL INFORMATION:

1) Give total contract value of work accomplished by your organization in each of the last three (3) years:

2009 - \$_____ 2010 - \$_____ 2011 - \$_____

2) Give contract value of work now pending award to your organization:

\$_____

State amount requiring bond if awarded: \$_____

3) Give the value of any judgments or liens outstanding against your organization:

\$_____

Explain: _____

- 4) Give names of Surety Companies & Agent under which you have functioned within the last three (3) years:

2009 _____

2010 _____

2011 _____

- 5) Estimate your maximum bonding capacity: \$_____

How much is unencumbered and available as of this date?

\$_____

- 6) Has any Surety Company refused to write you a bond on any construction work?

If yes, explain: _____

- 7) What is the dollar value of the largest project you consider your organization is qualified to undertake?

\$_____

END OF FORM

BID FORM

Bid of _____
(Name)

(Address)

to furnish all materials, equipment and labor and to perform all Work in accordance with the Contract Documents for **Generator Inspection and Service Contract**, located at the Port of Palm Beach in Riviera Beach.

To: Port of Palm Beach District
One East 11th Street, Suite 600
Riviera Beach, FL 33404
Mr. Manuel Almira, Executive Director

Dear Mr. Almira:

The undersigned Bidder has carefully examined the Bidding Documents and the Site of the proposed Work and is familiar with the nature and extent of the Work and any local conditions that may in any manner affect the Work to be done.

The undersigned Bidder agrees to do all the Work and furnish all materials called for by the Bidding Documents for the **Generator Inspection and Service Contract** in the manner prescribed therein and to the standards of quality and performance established by the Engineer for the prices stated herein. The prices shall include implementation of all applicable safety requirements, phasing and maintenance of traffic (if required).

1. BASE BID –Generator Inspection and Service Contract - Maritime Office Complex (MOC) & South Gate Warehouse

A. Annual Generator Service - MOC \$ _____
Once per year
(Includes all costs)

Annual Generator Service – South Gate \$ _____
Once per year
(Includes all costs)

Quarterly Preventative Maintenance - MOC \$ _____
(In addition to the annual service and includes all costs for all 4 visits)

Quarterly Preventative Maintenance \$ _____

South Gate

(In addition to the annual service and includes all costs for all 4 visits)

Service Call Hourly Rate \$ _____/hour

Normal working hours – based on 20 hours

(includes travel time, hourly rate begins at arrival on-site)

20 hours x \$ _____/hour = \$ _____

Service Call Hourly Rate \$ _____/hour

Other than normal working hours – based on 20 hours

(includes travel, time begins at arrival on-site)

20 hours x \$ _____/hour = \$ _____

Percentage mark up on parts _____%

(parts invoice plus associated markup)

\$1000 (in parts) x (100% + _____percentage) = \$ _____

General Conditions (see below) \$ _____

TOTAL BASE BID (total of the above line items) \$ _____

Total Base Bid written in words

B. GENERAL:

General Conditions:

1. The above Base Bid amount includes the following amounts in consideration for the indemnity of the Owner as required in Article 11 of the Construction Contract:
 - a. For hazardous waste indemnification: \$100.00.
 - b. For general indemnification: \$100.00.
2. The above Base Bid amount shall include a \$43.25/person fee required to be paid to Port for all employees and subcontractor employees who will be accessing the restricted area of the Port. The fee is required to process Port “contractor” badges and background checks for these individuals.
3. The contractor shall have a minimum of one individual with supervisory responsibility who has a “TWIC” Badge and a “contractor” badge. An individual with the TWIC badge shall be on-site at all times during construction or when “contractor” badged employees are on-site. The above Base Bid amount shall include a \$132.50/person fee for TWIC badge. The TWIC badge can be applied for at 325 Clematis Street, West Palm Beach, Florida (it is in the same office UPS is in). It takes an approximately 30 days to process a TWIC badge. The TWIC office telephone number is (866) 347-8942 and the office hours are 9am to 3pm.

2. TIME

The undersigned Bidder agrees to commence the Work as described in the scope of work.

The undersigned Bidder agrees that its Bid shall be good and may not be withdrawn for a period of ninety (90) days after the scheduled closing time for receiving bids.

3. ADDENDA

Bidder acknowledges the receipt of Addendum numbers:

1. _____, 2. _____, 3. _____, 4. _____, 5. _____.

Dated this _____ day of _____, 2011.

NAME OF CONTRACTOR: _____

ADDRESS OF CONTRACTOR: _____

[CORPORATE SEAL] BY: _____

TITLE: _____

GC LIC No.: _____

ATTACHMENTS TO BID DOCUMENTS

1. Copy of Contracting License

END OF BID FORM

**PORT OF PALM BEACH DISTRICT
FIXED PRICE CONTRACT
WITHOUT BOND, BETWEEN
OWNER AND CONTRACTOR**

This Fixed Price Contract (the "Contract"), is made and entered into as of this _____ day of _____, 2012 by and between the **PORT OF PALM BEACH DISTRICT**, a political subdivision of the State of Florida, created under chapter 7082, Laws of Florida, 1915, and the various special acts that are supplementary and amendatory thereto, (the "Owner") and **Contractor Name, Incorporation**, (the "Contractor").

This Contract is for the work identified on **Exhibit A**, attached hereto, (the "Work"), necessitated for the work associated with the **MOC and South Gate Warehouse Generator Inspection and Service Contract** located at the Port of Palm Beach District.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements stated herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree:

**1.
DOCUMENTS INCORPORATED BY REFERENCE**

This Contract includes the Work described on **Exhibit A** attached hereto and incorporated herein by reference and made a part hereof. Documents not included or expressly contemplated in this Paragraph 1 do not, and shall not, form any part of this Contract.

**2.
REPRESENTATIONS OF THE CONTRACTOR**

In order to induce the Owner to execute this Contract, Contractor hereby makes the following representations and warranties, each of which shall survive the execution and expiration or earlier termination of this Contract:

2.1 The Contractor is fully qualified to perform the Work set forth in **Exhibit A** and has, and shall maintain, any and all licenses, permits or other authorizations necessary to perform same.

2.2 Contractor is a sole proprietorship of **Contractor Name, Incorporation**. Contractor is duly authorized and fully empowered and has the legal capacity to execute, deliver and perform this Contract and to consummate the transactions contemplated hereby, and this Contract is and shall be the valid and binding obligation of Contractor, enforceable against it in accordance with its terms.

2.3 Neither the execution nor delivery of this Contract, nor the consummation of the transactions contemplated hereby, will conflict with, or result in, a breach or violation of the charter, articles of incorporation or bylaws of Contractor, as applicable, violate or conflict with any statute, law, rule or

regulation or any order, writ, injunction or decree of any Court or governmental authority or require the consent, license, permission, action, or approval by or registration with or notice to any governmental authority or third party, other than as contemplated hereby, or violate or conflict with or constitute a default under (or give rise to any right of termination, cancellation or acceleration under the terms, conditions or provisions of) any contract, agreement, understanding, arrangement or restriction of any kind to which contractor is a party or by which Contractor may be bound.

2.4 The Contractor has become familiar with the sites of the Work and the local conditions under which the Work is to be completed.

2.5 The Contractor has received, reviewed and carefully examined all of the Work described in **Exhibit A**.

3.

OWNERSHIP OF THE DOCUMENTS WHICH MAKE UP THE CONTRACT

The documents which make up this Contract, and each of them, as well as any other documents furnished by the Owner to Contractor, shall remain the property of the Owner.

4.

CONTRACTOR'S PERFORMANCE

The Contractor shall perform, at its expense, all of the Work required, implied or reasonably inferable from this Contract including, but not limited to the Work itself described on **Exhibit A**, debris removal, and legal disposal, furnishing of required insurance; provision or furnishing and prompt payment therefore, of labor, supervision, services, materials, supplies, equipment, facilities, tools, transportation, storage, power, permits required for the Work, debris removal, and legal disposal for the sites set forth on **Exhibit A**; and shall have a continuing duty to read, examine, review, compare and contrast each of those documents which make up this Contract, and other submittals and shall give written notice to the Owner of any conflict, ambiguity, error or omission which the Contractor may find with respect to these documents before proceeding with the affected Work. The express or implied approval by the Owner of any other submittals shall not relieve the Contractor of the continuing duties imposed hereby, nor shall any such approval be evidence of the Contractor's compliance with this Contract. **HOWEVER, THE OWNER MAKES NO REPRESENTATION OR WARRANTY OF ANY NATURE WHATSOEVER TO THE CONTRACTOR CONCERNING SUCH DOCUMENTS.**

The Contractor again hereby acknowledges and represents that it has received, reviewed and carefully examined such documents, has found them to be complete, accurate, adequate, consistent, coordinated and sufficient for the Work, and that the Contractor has not, does not, and will not rely upon any representations or warranties by the Owner concerning such documents, as no such representations or warranties have been or are hereby made.

5.
TIME FOR CONTRACTOR'S PERFORMANCE

5.1 The Contractor shall commence the performance of this Contract within **ten (10) days** following execution of this Agreement, and shall diligently continue its performance to and until Final Completion.

No work shall commence on any job until the previous job has been completed and accepted by the Owner. The Contractor shall complete all of the Work on or before the **forty five (45) days** after Notice to Proceed has been issued.

5.2 Notwithstanding the provisions of Section 5. 1, the Owner shall have the right, by written notice to Contractor, to defer portions of the Work, in which event, the completion date for the work so deferred shall be extended as provided under the notice.

5.3 All limitations of time set forth herein are material and are of the essence of this Contract.

5.4 The Owner shall not be liable for any delay to the Contractor or the Contractor's subcontractors. In case of a delay, the Contractor's only remedy is for an Extension of Time, provided such a request is properly submitted in accordance with the Contract Documents.

6.
Hourly Rate FIXED PRICE

6.1 The Owner shall pay, and the Contractor shall accept, as full and complete payment for the Contractor's timely performance of its obligations thereunder, the **hourly rate** fixed price of **\$ enter bid price** for the work associated with the **MOC, South Gate Warehouse and POC HVAC Maintenance Services**.

The price set forth in this sub-paragraph 6.1 shall constitute the Contract Price, which shall not be modified except by Change Order as provided in this Contract.

6.2 Owner shall make no payment to the Contractor upon commencement of each Job and delivery of all materials for the individual Job to the site of the Work and release of lien from suppliers for said materials, and shall make payment in full to Contractor, with respect to that Job, of the balance of the Contract Price as to that Job, not later than ten (10) days following completion of that Job, and certification by the Owner's engineers that all of the Work has been completed in accordance with the terms of this Contract. In the event that the Owner extends the time for performance by notice to Contractor under Section 5.2 then the payment for such portion of the Work as to which commencement and completion have been extended shall be deferred to until ten (10) days following completion of such work and certification by the Owner's engineers.

6.3 The submission by the Contractor of a Payment Request also constitutes an affirmative representation and warranty that all Work for which the Owner has previously paid is free and clear of any lien, claim, or other encumbrance of any person whatsoever.

6.4 As a condition precedent to payment, the Contractor shall, if required by the Owner, also furnish to the Owner properly executed waivers of lien from all subcontractors, materialmen, suppliers or others having lien rights, wherein said subcontractors, materialmen, suppliers or others having lien rights, shall acknowledge receipt of all sums due pursuant to all prior Payment Requests and waive and relinquish any liens, lien rights or other claims relating to the site of the Work.

6.5 Furthermore, the Contractor warrants and represents that, upon payment of the Payment Request submitted, title to all Work included in such payment shall be vested in the Owner.

6.6 Neither payment to the Contractor, utilization of the site of the Work for any purpose by the Owner, nor any other act or omission by the Owner shall be interpreted or construed as an acceptance of any Work of the Contractor not strictly in compliance with this Contract.

6.7 The Owner shall have the right to refuse to make payment and, if necessary, may demand return of a portion or the entire amount previously paid to Contractor due to:

6.7.1 The quality of a portion, or all, of the Contractor's Work not being in accordance with the requirements of this Contract;

6.7.2 The quantity of the Contractor's Work not being as represented in the Contractor's Payment Request, or otherwise;

6.7.3 The Contractor's rate of progress being such that, in the Owner's opinion, completion may be inexcusably delayed;

6.7.4 The Contractor's failure to use Contract funds, previously paid the Contractor by the Owner, to pay Contractor's Work related obligations including, but not limited to, subcontractors, laborers and material and equipment suppliers.

6.7.5 Claims made, or likely to be made, against the Owner or its property;

6.7.6 Loss caused by the Contractor;

6.7.7 The Contractor's failure or refusal to perform any of its obligations to the Owner.

6.8 Prior to being entitled to receive Final Payment and as a condition precedent thereto, the Contractor shall furnish the Owner:

6.8.1 An affidavit that all of the Contractor's obligations to subcontractors, laborers, equipment or material suppliers, or other third parties in connection with the Work, have been paid or otherwise satisfied in accordance with Florida Statutes §255.07;

6.8.2 If required by the Owner, separate releases of lien or lien waivers from each subcontractor, lower tier subcontractor, laborer, supplier or other person or entity who has, or might have a claim against the Owner.

INFORMATION AND MATERIAL SUPPLIED BY THE OWNER

The Owner shall furnish, if appropriate, the legal description of the site of the Work, and any required survey and the Owner shall obtain all required authorizations, approvals, easements, and the like, excluding permits and other permits or fees required of the Contractor by this Contract and permits and fees customarily the responsibility of the Contractor.

8. CEASE AND DESIST ORDER

In the event the Contractor fails or refuses to perform the Work as required herein, the Owner may instruct the Contractor to cease and desist from performing further Work in whole or in part. Upon receipt of such instruction, the Contractor shall immediately cease and desist as instructed by the Owner and shall not proceed further until the cause for the Owner's instructions has been corrected, no longer exists, or the Owner instructs that the work may resume. In the event the Owner issues such instructions to cease and desist, and in the further event that the Contractor fails and refuses within seven (7) days of receipt of same to provide adequate assurance to the Owner that the cause of such instructions will be eliminated or corrected, then the Owner shall have the right, but not the obligation, to carry out the Work with its own forces, or with the forces of another contractor, and the Contractor shall be fully responsible and liable for the costs of performing such Work by the Owner or another contractor. The rights set forth herein are in addition to, and without prejudice to, any other rights or remedies the Owner may have against the Contractor.

9. DUTIES, OBLIGATIONS AND RESPONSIBILITIES OF THE CONTRACTOR

In addition to any and all other duties, obligations and responsibilities of the Contractor set forth in this Contract, the Contractor shall have and perform the following duties, obligations and responsibilities to the Owner:

9.1 All Work shall strictly conform to the requirements of this Contract.

9.2 The Work shall be strictly supervised, the Contractor bearing full responsibility for any and all acts or omissions of those engaged in the Work on behalf of the Contractor.

9.3 The Contractor hereby warrants that all labor furnished under this Contract shall be competent to perform the tasks undertaken, that the product of such labor shall yield only first class results, that all materials and equipment provided shall be new, of high quality and free of defects, that the completed Work will be complete, of high quality, without defects, and that all Work strictly complies with the requirements of this Contract. Any Work not strictly complying with the requirements of this sub-paragraph 9.3 shall constitute a breach of the Contractor's warranty.

9.4 The Contractor shall obtain and pay for all required permits, fees and licenses customarily obtained by the Contractor, and all others as required herein. The Contractor shall comply with all legal requirements applicable to the Work.

9.5 The Contractor shall maintain the site of the Work in a reasonably clean condition during performance of the work. Upon Final Completion, the Contractor shall thoroughly clean all areas of the Work of all debris, trash and excess materials or equipment.

9.6 At all times relevant to this Contract, the Contractor shall permit the Owner to enter upon the site of the Work and to review or inspect the Work without formality or other procedure.

10. INDEMNITY

10.1 Contractor agrees that it will indemnify and hold and save Owner harmless of, from and against (a) all fines, suits, loss, costs, liability, claims, demands, actions, and judgments of every kind and character by reason of any breach, violation or non-performance by Contractor of any term, provision, covenant, agreement or conditions hereunder and (b) any claim, demand, actions, damages, loss, cost, liabilities, expenses and judgments suffered by, recovered from or asserted against Owner on account of injury or damage to perform or property to the extent that any such damage or injury arose from any act, omission, negligence or misconduct on the part of the Contractor, its agents, servants, employees, contractors, guests, licensees or invitees entering upon the site of the Work. The Contractor shall indemnify and hold the Owner harmless from any and all claims, liability, damages, loss, cost and expenses of every type whatsoever including, without limitation, attorneys' fees and expenses, in connection with the Contractor's performance of this Contract, provided that such claims, liability, damage, loss, cost or expense is due to sickness, personal injury, disease or death, or to loss or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, to the extent caused by the Contractor, or anyone for whose acts the Contractor may be liable, regardless of whether such liability, claim, damage, loss, cost or expense is caused in part by the Owner.

10.2 In the event Owner is threatened to be or is made party to any such litigation giving rise to the indemnification obligations of Contractor under this Paragraph 10.1, then the Contractor shall pay all applicable costs and expenses of Owner, including reasonable attorney's fees and applicable costs incurred by or imposed upon Owner by virtue of such litigation or threat thereof, and such costs and expenses shall be a demand obligation of Contractor owed promptly to the Owner. The aforesaid costs and expenses of Owner shall bear interest at the rate of eighteen (18%) percent per annum, until paid for by Contractor.

11. SUBCONTRACTORS

11.1 Upon execution of this Contract, the Contractor shall identify to the Owner, in writing, those parties intended as subcontractors in connection with the Work. The Owner shall, in writing, state any objections the Owner may have to one or more of such subcontractors. The Contractor shall not enter into a subcontract with an intended subcontractor with reference to whom the Owner objects. All subcontracts shall afford the Contractor rights against the subcontractor which correspond to those rights afforded to the Owner against the Contractor herein, including those rights of Contract termination as set forth herein below.

11.2 Contractor shall be required to insert in any contract it enters into with a subcontractor a statement to the effect that the subcontractor has no legal right to file a lien against the property of the Owner.

12. CHANGE ORDERS

One or more changes to the Work within the general scope of this Contract may be ordered by Change Order. The Contractor shall proceed with any such changes, and same shall be accomplished in strict accordance with the following terms and conditions:

12.1 Change Order shall mean a written order to the Contractor executed by the Owner after execution of this Contract, but in all events following approval of the Board of Port Commissioners, directing a change in the work and may include a change in the Contract Price or the time for the Contractor's performance, or any combination thereof.

12.2 Any change in the Contract Price resulting from a Change Order shall be determined as follows:

12.2.1 By mutual agreement between the Owner and the Contractor as evidenced by i) the change in the Contract Price being set forth in the Change Order, (ii) such change in the Contract Price, together with any conditions or requirements relating thereto, being initialed by both parties, and (iii) the Contractor's execution of the Change Order; or

12.2.2 If no mutual agreement occurs between the Owner and the Contractor, the change in the Contract Price, if any, shall be derived by determining the reasonable actual costs incurred or savings achieved, resulting from revisions in the work. Such reasonable actual costs or savings shall include a component for direct jobsite overhead and profit but shall not include homeoffice overhead or other indirect costs or components. Any such costs or savings shall be documented in the format, and with such content and detail as the Owner requires.

12.3 The execution of a Change Order by the Contractor shall constitute conclusive evidence of the Contractor's agreement to the ordered changes in the work, this Contract as thus amended, the contract Price and the time for performance by the Contractor. The Contractor, by executing the Change Order, waives and forever releases any claim against the Owner for additional time or compensation for matters relating to or arising out of resulting from the Work included within or affected by the executed Change Order.

12.4 The Contractor shall notify and obtain the consent and approval of the Contractor's surety with reference to all Change Orders if such notice, consent or approval are required by the Owner, the Contractor's surety or by law. The Contractor's execution of the Change Order shall constitute the contractor's warranty to the Owner that the surety has been notified of, and consents to, such Change Order and the surety shall be conclusively deemed to have been notified of such Change Order and to have expressly consented thereto.

13.

DISCOVERING AND CORRECTING DEFECTIVE OR INCOMPLETE WORK

13.1 In the event that the Contractor covers, conceals or obscures its work in violation of this contract in violation of a directive from the Owner, such Work shall be uncovered and displayed for the Owners inspection upon request, and shall be reworked at no cost in time or money to the Owner.

13.2 If any of the work is covered, concealed or obscured in a manner not covered by subparagraph 13.1 above, it shall, and if directed by the Owner be uncovered and displayed for the Owner's inspection. If the uncovered work conforms strictly with this Contract, the costs incurred by the Contractor to uncover and subsequently, replace such Work shall be borne by the Owner. Otherwise, such costs shall be borne by the Contractor.

13.3 The Contractor shall, at no cost in time or money to the Owner, correct Work rejected by the Owner as defective or failing to conform to this Contract. Additionally, the Contractor shall reimburse the Owner for all testing, inspections and other expenses incurred as a result thereof

13.4 The Owner may, but shall in no event be required to, choose to accept defective or nonconforming work. In such event, the contract Price shall be reduced by the reasonable costs of removing and correcting the defective or nonconforming Work. If the remaining portion of the unpaid Contract Price, if any, is insufficient to compensate the Owner for the acceptance of defective or nonconforming Work, the Contractor shall, upon written demand from the Owner, pay the Owner such remaining compensation for accepting defective or nonconforming work.

14.

TERMINATION BY THE CONTRACTOR

If the Owner repeatedly fails to perform its material obligations to the Contractor for a period of ten (10) days after receiving written notice from the Contractor of its intent to terminate hereunder, the Contractor may terminate performance under this Contract by written notice to the Owner. In such event, the Contractor shall be entitled to recover from the Owner as though the Owner had terminated the Contractor's performance under this Contractor for convenience.

15.

OWNER'S RIGHT TO SUSPEND CONTRACTOR'S PERFORMANCE

15.1 The Owner shall have the right at any time to direct the Contractor to suspend its performance, or any designated part thereof, for any reason whatsoever, or without reason, for a cumulative period of up to ninety (90) calendar days. If any such suspension is directed by the Owner, the Contractor shall immediately comply with same.

15.2 In the event the Owner directs a suspension of performance hereunder, through no fault of the Contractor, the Owner shall pay the Contractor as full compensation for such suspension the Contractor's reasonable costs, actually incurred and paid, of:

15.2.1 demobilization and remobilization, including such costs paid to subcontractors;

15.2.2 Preserving and protecting Work in place;

15.2.3 Performing in a later, or during a longer, time frame than that contemplated by this Contract.

16. TERMINATION BY THE OWNER

The Owner may terminate this Contract in accordance with the following terms and conditions:

16.1 The Owner may, for any reason whatsoever, terminate performance under this Contract by the Contractor for convenience. The Owner shall give written notice of such termination to the Contractor specifying when termination becomes effective. The Contractor shall incur no further obligations in connection with the Work and the Contractor shall stop Work when such termination becomes effective. The Contractor shall also terminate outstanding orders and subcontracts. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders. The Owner may direct the Contractor to assign the Contractor's right, title and interest under termination orders or subcontracts to the Owner or its designee. The Contractor shall transfer title and deliver to the Owner such completed or partially completed work and materials, equipment, parts, fixtures, information and contract rights as the Contractor has. When terminated for convenience, the Contractor shall be compensated as follows:

16.1.1 The Contractor shall submit a termination claim to the Owner specifying the amounts due because of the termination for convenience together with costs, pricing or other data required by the Owner. If the Contractor fails to file a termination claim within one (1) year from the effective date of termination, the Owner shall pay the Contractor an amount derived in accordance with sub-paragraph (c) below;

16.1.2 The Owner and the Contractor may agree to the compensation, if any, due to the Contractor hereunder;

16.1.3 Absent agreement to the amount due to the Contractor, the Owner shall pay the Contractor the following amounts:

(a) Contract prices for labor, materials, equipment and other services accepted under this Contract;

(b) Reasonable costs incurred in preparing to perform and in performing the terminated portion of the work, and in terminating the Contractor's performance plus a fair and reasonable allowance for direct job site overhead and profit thereof (such profit shall not include anticipated profit or consequential damages); provided however, that if it appears that the Contractor would have not profited or would have sustained a loss if the entire Contract would have been completed, no profit shall be reduced to reflect the anticipated rate of loss, if any;

(c) Reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to sub-paragraph 16.1. These costs shall not include amounts paid in accordance with other provisions hereof.

16.2 The total sum to be paid the Contractor hereunder shall not exceed the total Contract Price, as properly adjusted, reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.

16.3 If the Contractor does not perform the Work, or any part thereof, in a timely manner, supply adequate labor, supervisory personnel or proper equipment or materials, or if it fails to timely discharge its obligations for labor, equipment and materials, or proceeds to disobey applicable law, or otherwise commits a violation of a material provision of this Contract, then the Owner, in addition to any other rights it may have against the Contractor or others, may terminate the performance of the Contractor and assume possession of the site of the Work and of all materials and equipment at the site and may complete the Work. In such case, the Contractor shall not be paid further until the Work is complete. After Final Completion has been achieved, if any portion of the Contract Price, as it may be modified hereunder, remains after the cost to the Owner of completing the work, including all costs and expenses of every nature incurred, has been deducted by the Owner, such remainder shall belong to the Contractor. Otherwise, the Contractor shall pay and make whole the Owner for such cost. This obligation for payment shall survive the termination of the Contract. In the event the employment of the Contractor is terminated by the Owner for cause pursuant to this sub-paragraph and it is subsequently determined by a Court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a Termination for Convenience hereunder and the provisions of this paragraph shall apply.

17. INSURANCE

The Contractor shall have and maintain the insurances set forth on **Exhibit B**, attached hereto and incorporated herein, and Owner shall be named insured thereon, with written confirmation of same to the Owner prior to commencement of the Work.

18. RECORDS

All documents relating in any manner whatsoever to the Work, or any designated portion thereof, which are in the possession of the Contractor, or any subcontractor of the Contractor, shall be made available to the Owner for inspection and copying upon written request by the Owner. Furthermore, said documents shall be made available, upon request by the Owner, to any state, federal or other regulatory authority and any such authority may review, inspect and copy such records. Said records include, but are not limited to, all drawings, plans, specifications, submittals, correspondence, memoranda, electronic data, computer records, videos or other writings or things which document the Work. Said records expressly include those documents reflecting the cost of the Work to the Contractor. The Contractor shall maintain and protect these documents for no less than five (5) years after Final Completion of the Work, or for any longer period of time as may be required by law or good business practice.

19. COMPLIANCE WITH STATE AND FEDERAL LAWS; PUBLIC ENTITY CRIMES AFFIDAVIT

- 19.1 The Contractor shall comply with all State and Federal laws applicable to its performance hereunder, including, but not limited to, the provisions of the Federal Civil Rights Act of 1964 as amended,
- 19.2 and similar laws of the State of Florida, the Federal Americans With Disabilities Act, and similar laws of the State of Florida, the Federal Immigration Reform and Control Act of 1986, and laws governing Drug-Free Workplace.

This Contract shall not be in effect unless and until Contractor has presented to Owner a fully completed, executed and notarized Sworn Statement in the form attached hereto as **Exhibit C**. The Contractor is specifically notified of the provision of Florida Statutes § 287.133 (2) (a), that proscribe any bidding by a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime.

20. GENERAL CONTRACT PROVISIONS

20.1 Words of any gender used herein shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

20.2 The terms, provisions, covenants and conditions contained in this Contract shall apply to, inure to the benefit of, and be binding upon the parties hereto and upon their respective heirs, personal representatives, successors and permitted assigns.

20.3 Each party agrees to furnish to the other, promptly upon demand, a corporate resolution, proof of due authorization by partners, or other appropriate documentation evidencing the due authorization of such party to enter into this Contract.

20.4 The captions inserted in this Contract are for convenience only and in no way define, limit or otherwise describe the scope of intent of this Contract, or any provision hereof, or in any way affect the interpretation of this Contract.

20.5 This Contract may not be altered, changed or amended except by an instrument in writing signed by both parties hereto.

20.6 If any clause, provisions, or portion of this Contract or the application thereof to any person or circumstance shall be invalid or unenforceable under applicable law, such event shall not affect, impair or render invalid or unenforceable the remainder of this Contract nor any other clause, phrase, provision or portion hereof, nor shall it affect the application of any clause, phrase, provision or portion hereof to other persons or circumstances, and it is also the intention of the parties to this Contract that in lieu of each such clause, phrase, provision or portion of this Contract that it is invalid or unenforceable, there be added as a part of this contract a clause, phrase, provision or portion as similar in terms in such invalid or unenforceable clause, phrase, provision or portion as may be possible and be valid and enforceable.

20.7 All references in this Contract to the date hereof, the Effective Date or similar references shall be deemed to refer to the last date in point in time on which all parties hereto have executed this Contract.

20.8 In connection with any matter arising hereunder, the prevailing party shall be entitled to attorneys' fees and costs.

20.9 It is mutually agreed by and between the parties hereto that they each waive trial by jury in any action, proceeding or counterclaim brought by either of them against the other on any matter arising out of or in any way connected with this Contract.

20.10 This Contract shall be governed by and construed under the laws of the State of Florida, and sole and exclusive venue for any litigation shall be in the Circuit Court in and for Palm Beach County, Florida.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and date first set forth above.

Signed, sealed and delivered
in the presence of:

Owner: Port of Palm Beach District

BY: _____
Chairman

Printed Name: _____

Printed Name: _____

Contractor: Contractor Name, Inc.

Printed Name _____

BY: _____

Printed Name: _____

Exhibit B

REQUIRED INSURANCE COVERAGE

The limits of liability for the insurance required under this Contract shall not be less than as follows:

A. Workers' Compensation:

1. Employer's Liability \$1,000,000.00

B. Contractor's Liability Insurance:

1. General Aggregate (Except Products – Completed Operations) \$1,000,000.00
2. Products – Completed Operations Aggregate \$1,000,000.00
3. Personal Injury (Per Person/Occurrence) \$1,000,000.00
4. Each Occurrence (Bodily Injury/Property Damage) \$1,000,000.00
5. Excess Liability
 General Aggregate \$1,000,000.00
 Each Occurrence \$1,000,000.00

C. Automobile Liability:

1. Bodily Injury
 Each Person \$1,000,000.00
 Each Accident \$1,000,000.00
2. Property Damage
 Each Occurrence \$1,000,000.00
OR
3. Bodily Injury and Property
 Damage Combined Single Limit
 Each Occurrence \$1,000,000.00
 Aggregate \$1,000,000.00

D. Contractual Liability:

1. General Aggregate \$1,000,000.00
2. Bodily Injury and Property
 Damage Combined, Each Occurrence \$1,000,000.00

Exhibit C

SWORN STATEMENT PURSUANT TO

SECTION 287.133(3) (a)
FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

1. This Sworn Statement is submitted to the PORT OF PALM BEACH DISTRICT ("PORT") by **Contractor Name, Incorporation**, whose business address is **add address** and (if applicable) its Federal Employer Identification Number (FEIN) is: _____ (If the entity has no **FEIN**, include the Social Security Number of the individual signing this Sworn Statement:

2. I understand that a "public entity crime" as defined in Florida Statutes §287.133(l)(g), means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

3. I understand that a "convicted" or "conviction" as defined in Florida Statutes §287.133(l) (b), means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

4. I understand that an "affiliate" as defined in Florida Statutes §287.133(l) (a), means:

(a) A predecessor or successor of a person convicted of a public entity crime; or

(b) An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arms length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

5. I understand that a "person" as defined in Florida Statutes §287.133(l) (e), means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contract for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this Sworn Statement. [indicate which statement applies.]

_____ Neither the entity submitting this Sworn Statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of this entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this Sworn Statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of this entity, or any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this Sworn Statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of this entity, or any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this Sworn Statement on the convicted vendor list. [attach a copy of the final order]

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PORT IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PORT PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

**STATE OF FLORIDA
COUNTY OF PALM BEACH**

The foregoing instrument was acknowledged before me this _____ day of _____, 2011 by
_____ who is personally known to me or who has produced
_____ as identification.

NOTARY PUBLIC

Printed Name: _____

My commission expires:

Bonded Through:

[SEAL]