Date: 10/23/2026

NOTICE TO APA INTERESTED OFFERORS

From: Alabama Port Authority

Attn: Terell Taylor / Charles St. Pierre
P.O. Box 1588
Mobile, AL 36633

In Support of: – McDuffie Coal Terminal Facility, Mobile, Al 36603

RFP#: APA-2026-McD-C19C20-Gearbox-001

SPECIFICATIONS AND CONTRACT DOCUMENTS FOR:

C19/C20 Gearbox Replacements – McDuffie Coal Terminal

Douglas C. Otto, Jr., P.E., Director & CEO

Kay Ivey, Governor of Alabama

ISSUED BY

Procurement Department

This is an electronic combined synopsis/solicitation for commercial items / equipment required in support of the Alabama Port Authority (APA), Mobile Alabama. This combined synopsis announcement constitutes the only solicitation. Proposals are being requested and a written solicitation will not be issued. **Solicitation – C19/C20 Gearbox Replacements – McDuffie Coal Terminal** is issued as a Request for Proposal (RFP). This solicitation document and its' legal terms, conditions, provisions and clauses constitute the bases for the resultant contract which shall serve as the governing and controlling document.

Instructions to Offerors—Commercial Products and Commercial Services

(a) *Submission of offers*. Submit signed and dated offers to the office specified in this solicitation at or before the exact time specified in this solicitation. Offers may be submitted on letterhead stationery, or as otherwise specified in the solicitation. As a minimum, offers must show—

(1) The solicitation number; **RFP#: APA-2026-McD-C19C20-Gearbox-001**

(2) The time specified in the solicitation for receipt of offers;

(3) The name, address, and telephone number of the offeror;

(4) A technical description of the items being offered in sufficient detail to evaluate compliance with the requirements in the solicitation. This may include product literature, or other documents, if necessary;

(5) Terms of any express warranty;

(6) Price and any discount terms;

(7) "Remit to" address, if different than mailing address;

(8) Acknowledgment of Solicitation Amendments;

(9) Past performance information, when included as an evaluation factor, to include recent and relevant contracts for the same or similar items and other references (including contract numbers, points of contact with telephone numbers and other relevant information); and

(10) A statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation. Offers that reject the terms and conditions of the solicitation may be excluded from consideration.

(b) *Period for acceptance of offers*. The offeror agrees to hold the prices in its offer firm for 30 calendar days from the date specified for receipt of offers, unless another time period is specified in an addendum to the solicitation.

(c) *Product samples*. When required by the solicitation, product samples shall be submitted at or prior to the time specified for receipt of offers. Unless otherwise specified in this solicitation, these samples shall be submitted at no expense to the APA, and returned at the sender's request and expense, unless they are destroyed during pre-award testing.

(d) *Multiple offers*. Not applicable to this RFP.

(e) Late submissions, modifications, revisions, and withdrawals of offers.

(1) Offerors are responsible for submitting offers, and any modifications, revisions, or withdrawals, so as to reach the APA's designated electronic point of entry (POE) in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 2:00 p.m., local time, for the designated POE on the date that offers or revisions are due.

(2) (i) Any offer, modification, revision, or withdrawal of an offer received at the POE designated in the solicitation after the exact time specified for receipt of offers is "late" and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition; and-

(A) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry not later than 5:00 p.m. one working day prior to the date specified for receipt of offers; or

(B) There is acceptable evidence to establish that it was received at the APA POE designated for receipt of offers and was under the APA's control prior to the time set for receipt of offers; or

(C) If this solicitation is a request for proposals, it was the only proposal received.

(ii) However, a late modification of an otherwise successful offer, that makes its terms more favorable to the APA, will be considered at any time it is received and may be accepted.

(3) Acceptable evidence to establish the time of receipt at the APA installation includes the time/date stamp of that installation on the offer wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of APA personnel.

(4) If an emergency or unanticipated event interrupts normal APA processes so that offers cannot be received at the APA office designated for receipt of offers by the exact time specified in the solicitation, and urgent APA requirements preclude amendment of the solicitation or other notice of an extension of the closing date, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal APA processes resume.

(5) Offers may be withdrawn by written notice received at any time before the exact time set for receipt of offers. Oral offers in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for

receipt of offers, subject to the conditions specified in the solicitation concerning facsimile offers. An offer may be withdrawn in person by an offeror or its authorized representative if, before the exact time set for receipt of offers, the identity of the person requesting withdrawal is established and the person signs a receipt for the offer.

(f) *Contract award (not applicable to Invitation for Bids*). The APA intends to evaluate offers and award a contract without discussions with offerors. Therefore, the offeror's initial offer should contain the offeror's best terms from a price and technical standpoint. However, the APA reserves the right to conduct discussions if later determined by the APA to be necessary. The APA may reject any or all offers if such action is in the public interest; accept other than the lowest offer; and waive informalities and minor irregularities in offers received.

(g) *Multiple awards*. [Not applicable to this RFP.]

(h) Availability of requirements documents cited in the solicitation. [Not applicable to this RFP.]

(i) *Debriefing*. If a post-award debriefing is given to requesting offerors, the APA shall disclose the following information, if applicable:

(1) The APA's evaluation of the significant weak or deficient factors in the debriefed offeror's offer.

(2) The overall evaluated cost or price and summary of the rationale for award, and past performance information on the debriefed offeror.

(3) For acquisitions of commercial products, the make and model of the product to be delivered by the successful offeror.

(4) Reasonable responses to relevant questions posed by the debriefed offeror as to whether procedures set forth in the solicitation were followed by the APA.

(End of provision)

Evaluation and Contract Award - Commercial Products and Commercial Services.

(a) The APA will award a contract resulting from this solicitation to the responsible offeror whose written technical and pricing proposal offer conforming to the solicitation will be most advantageous to the Alabama Port Authority, price and other factors considered.

This procurement is being conducted utilizing the Best-Value Trade-Off evaluation and award selection process. The APA will award a single Firm-Fixed Price contract to the responsible offeror whose proposal represents the best overall value to the APA, which may not be the lowest-priced proposal. Offerors shall propose a gearbox that meets or exceeds the design specifications, gearing requirements, and testing requirements stated in Exhibit "A". Offerors are requested to submit a complete proposal utilizing their typical standard competitive proposal format, and must include all items required by Exhibit "A", Section 12, Proposal Requirements, together with all fill-in blank forms and attachments identified in this RFP.

Proposals will be evaluated on the information required by Exhibit "A", Section 12, Proposal Requirements. A proposal that omits a required element, or that takes an exception or deviation the APA determines to be unacceptable, may be rated technically unacceptable and ineligible for award.

The following factors shall be used to evaluate offers:

Factor 1, Technical Acceptability and Conformance to Specifications: Evaluated on the technical data sheets for the proposed gearbox, the offeror's confirmation of compliance with all specifications stated in Exhibit "A", and the nature and extent of any exceptions or deviations taken. Deviations that reduce rating, performance, service life, or fit within the existing C19/C20 conveyor installation will be evaluated less favorably.

Factor 2, Manufacturing and Delivery Lead Time: Evaluated on the proposed manufacturing and delivery lead times to McDuffie Coal Terminal. Shorter, well-supported lead times will be evaluated more favorably.

Factor 3, Warranty: Evaluated on the offeror's acknowledgement and acceptance of the solicitation's warranty requirements, terms, and duration (Commercial Products & Services Agreement, Section 11). Warranty terms that exceed the APA's minimum requirements will be evaluated more favorably.

Factor 4, Past Performance: Evaluated on recent and relevant references for the manufacture and supply of the same or similar industrial gearboxes, including points of contact with telephone numbers.

Factor 5, Price: Evaluated on the Base Bid Total entered on the completed Exhibit "A" Pricing Schedule. Price will be evaluated for reasonableness and will not be point-scored.

Factor 1 is the most important factor. Factors 2, 3, and 4 are of equal importance to one another and are each less important than Factor 1. All non-price factors, when combined, are significantly more important than price. As proposals become more equal in their non-price ratings, price becomes more important. The APA may award to other than the lowest-priced offeror when it determines that the superiority of a higher-priced proposal warrants the additional cost.

(b) *Options*. Not applicable to this RFP.

(c) A written notice of award or acceptance of an offer, mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer, shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the APA may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

(d) The contract type will be a Firm Fixed Price contract award. All responsible sources may submit a proposal which shall be considered by the Alabama Port Authority.

(e) The list of items and quantities can be found within "Exhibit "A", at the contract award Pricing Schedule.

(f) Unless otherwise stated, only the items requested in this solicitation will be considered for award.

(End of provision)

Commercial Products & Services Agreement

This Commercial Products & Services Agreement between ("You"), as an independent contractor, and the Alabama Port Authority (APA) provides for the performance of specified services in accordance with the terms outlined below, inclusive of the Standard General Terms and Conditions that follow, and with the Alabama Port Authority's Commercial Products and Services Master Agreement included herewith (together with exhibits, schedules and specifications attached thereto, the "Agreement").

Description of Service: – C19/C20 Gearbox Replacements – McDuffie Coal Terminal

Service Performance Dates: Reference Exhibit "A".

Fee:	Reference Exhibit "A"
Check One:	☑ You are solely responsible for any costs and expenses that you incur in performing the services. ☐ You will be reimbursed for reasonable transportation and subsistence expenses. ☐ You will be reimbursed % of fee for expenses.
Payment Terms	☐ Due Upon Receipt ☐ Net 7 ☐ Net 10 ☑ Net 30 ☐ Net 45
Payment Milestones:	Reference Exhibit "A"- Progress Billing Milestones"

Please signify your acceptance of the terms and conditions of this Agreement by signing below as indicated:

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the Effective Date by their respective officers thereunto duly authorized.

Approved By:

Douglas C. Otto, Jr., P.E. Date
Alabama Port Authority
Director & C.E.O.

Accepted By:

_____
[CORPORATION / CONTRACTOR NAME

_____
Name: Authorized Company Officer

Title:_____

Date: _____

Standard General Terms and Conditions

1. The APA's sole obligation to You is the fee listed on this Agreement, and unless otherwise provided for in the Agreement, that fee is in full payment for your services, all necessary licenses and other governmental approvals, all equipment all expenses and costs, including transportation and subsistence expenses, needed for the performance of your services. You must obtain the APA's prior written consent before performing or incurring any additional services or expenses, or the APA shall have no obligation to pay for unapproved additional services or expenses. Moreover, if at any time prior to the APA's release of funds in payment of this fee, the APA discovers that You are indebted to any department of the APA, then You authorize the APA to offset the amount of funds owed to You for services performed under this Agreement by the total amount You owe the APA.

2. In the absence of some other written Agreement, reasonable transportation, and subsistence expenses, when authorized and not required to be included in your fee, are reimbursed in accordance with the APA's current travel and expense reimbursement policies. Vehicle mileage is reimbursed at the State of Alabama rate in effect at the time the miles were traveled, and airfare reimbursements shall not exceed the rate for non-refundable, coach or economy tickets. Original receipts for your expenses must accompany your expense request. If original expense receipts are not submitted, the APA reserves the right to report the sum of your expenses as income on IRS Form 1099 or other applicable form that is issued to you.

3. You are solely responsible for the timely payment of all federal, state, and local taxes or contributions with respect to your performance of this Agreement. However, The Alabama Port Authority will utilize its sales tax exemption status on this project. Accordingly, all pertinent information, documents, and forms necessary to process the exemption will be forwarded to the service provider during the contract award process.

4. You are an independent contractor and nothing in this Agreement shall be deemed to create any partnership, joint venture, association, or syndicate between you or APA; or to confer upon you any express or implied right or authority to enter into any Agreement, express or implied, or to incur any obligation on behalf of the APA. You are solely responsible for your acts and for the acts of your agents, employees, and subcontractors, if any, during the performance of this Agreement.

5. By accepting payments agreed to in this Agreement, You certify that to their actual knowledge no APA employee or official, and no family members of an APA employee or official, will receive a benefit from these payments, except as been previously disclosed, in writing, to the APA.

6. The laws of the State of Alabama shall govern the construction of this Agreement, without regard to conflicts of laws principles. Any claim against APA arising from this Agreement shall be filed with the Alabama State Board of Adjustment.

7. This Agreement constitutes the entire agreement of the parties with respect to its subject matter and all prior understandings and agreements between the parties are merged into this Agreement. This Agreement may not be amended or modified except by a writing signed by all parties.

8. You agree to provide your products and perform your services consistent with applicable industry standards and in accordance with the terms and conditions set forth in this Agreement.

9. FEDERAL AND STATE OF ALABAMA REQUIREMENTS

- Beason-Hammon Alabama Taxpayer & Citizen Protection Act is applicable to any business entity contracting with the APA. The Offeror must submit a completed Certificate of Compliance with the Beason-Hammon Act as part of its proposal. The E-Verify website is available at: http://www.dhs.gov/files/programs/gc1185221678150.shtm.

- Alabama Ethics Law: The Offeror shall comply with all applicable provisions of the Alabama Ethics Law, Ala. Code § 36-25-1 et seq., including any applicable registration and disclosure requirements administered by the Alabama Ethics Commission.

- State of Alabama restrictions upon former employees soliciting, performing work, and/or contracting projects with the State and APA apply to all respondents.
- The Offeror shall promptly disclose any actual or potential conflict of interest relating to this procurement or the resulting contract, including any relationship between the Offeror and any APA employee, official, or consultant involved in this procurement.

10. SCHEDULE: APA currently anticipates conducting this procurement in accordance with the following milestones:
    - Advertise RFP - Post to APA Website: 10/23/26
    - Request for Information (RFI) Deadline Date: 11/02/26 - COB
    - RFP Proposal Submission Deadline: **11/09/26,@ 10:00 AM CST**.
    - Notification of Intent to Award Date: **On or around** 11/19/26

    E-mail your proposal to: procurementandcontracting@alports.com

    For your emailed proposal submission, in the subject line, please indicate:

    "RFP#: APA-2026-McD-C19C20-Gearbox-001 - C19/C20 Gearbox Replacements";

11. ACKNOWLEDGEMENT OF RECEIPT OF RFP REVISIONS AND/OR AMENDMENTS:
Offeror shall provide to APA the Acknowledgement of Revisions and/or Amendments set forth as Attachment 1, signed by the Respondent's Principal Officer, with the submission of the proposal package. All amendments shall be acknowledged via signature on each numbered amendment form.

12. RIGHTS AND OBLIGTIONS OF APA:
In connection with this procurement, APA reserves to itself all rights available to it under applicable law, exercisable in its sole discretion, including without limitation:

- The right to cancel, withdraw, postpone, or extend this RFP without incurring any obligations or liabilities.
- The right to modify all dates set or projected in this RFP.
- The right to suspend and terminate the procurement process for this RFP at any time.
- The right to issue Amendments, supplements, and modifications to this RFP.
- The right to respond to all, some, or none of the inquiries, questions, and/or requests for clarification received relative to this RFP.
- The right to reject any or all proposals if such action is in the public interest; to accept other than the lowest-priced proposal; and to waive informalities and minor irregularities in proposals received.

APA assumes no obligations, responsibilities, or liabilities to reimburse all or part of the costs incurred by parties considering a response to and/or responding to this RFP. All costs shall be borne solely by each Respondent.

13. ADMINISTRATIVE REQUIREMENTS:
All Respondents shall comply with the following minimum requirements:

- State of Alabama restrictions upon former employees soliciting, performing work, and/or contracting projects with the State and APA apply.
- Compliance with the Beason-Hammon Alabama Taxpayer and Citizen Protection Act is required.

APA does not discriminate against Respondent(s) because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

14. APA'S CONTRACTING POINTs (CPOCs) OF CONTACT:

APA's sole CPOCs for matters related to this RFP, contract award, and post award contract administration matters, shall be Mr. Terell Taylor, and Mr. Leo Hickman of APA's – Procurement Office. The APA's CPOCs are the only individuals authorized to discuss this RFP with interested offerors. All pre-award contractual communications regarding this RFP shall be in writing addressed as follows:

Alabama Port Authority

Attn: Terell Taylor, Contracts Specialist, / Leo Hickman, Procurement & Contracting Consultant;
250 N Water Street
Mobile, AL 36602

Email: ProcurementandContracting@alports.com, Terell.Taylor@alports.com
Leo.Hickman@alports.com

APA disclaims the accuracy of information derived from any source other than the stated (CPOC), and the use of any such information is at the sole risk of interested offerors.

15. APA'S TECHNICAL POINT(s) (TPOCs) OF CONTACT:

APA's sole TPOCs for matters related to the post contract award's SOW, deliverables, schedule of values, invoicing and payments, and other pertinent post award contract administration matters of a technical nature, shall be Mr. Charles St. Pierre, and Mr. Danny Turner, of APA's – McDuffie Coal Terminal Facility Office. APA's TPOCs are the only individuals authorized to discuss matters of a technical nature with the Contracted Awardee. All technical communications regarding post award matters with this contract shall be documented and communicated in writing addressed as follows:

Alabama Port Authority

Attn: Danny Turner, Preventive Maintenance Mgr. and Charles St. Pierre, Projects Administrator;
2001 EZRA TRICE BLVD,
Mobile, Al 36603

Email: Danny.Turner@alports.com ; Charles.StPierre@alports.com

APA disclaims the accuracy of information derived from any source other than the stated (TPOCs), and the use of any such information is at the sole risk of the contractor.

NOTE: If there are any inconsistencies between the Standard General Terms and Conditions and the Commercial Products & Services Agreement Terms stated within this Request for Proposal, then the Commercial Products & Services Agreement Terms shall control.

Commercial Products & Services Agreement

This Commercial Products & Services Agreement ("**Agreement**"), dated as of [**Date Signed by APA Director / CEO] (the "Effective Date"),** is entered into by and between the Alabama Port Authority, an agency of the State of Alabama, with offices located at 250 S. Water Street, Mobile, Alabama 36602 ("**APA**") and [CONTRACTOR NAME:] _____, a [JURISDICTION OF ORGANIZATION:] _____, [TYPE OF ORGANIZATION:] _____, with offices located at [ADDRESS:]_____,("**Contractor**") (APA and Contractor are each sometimes referred to as a "**Party**" and are sometimes collectively referred to as the "**Parties**").

Contractor has the capability and capacity to provide certain products and/or services, **See Exhibit A- Statement of Work**; and APA desires to retain Contractor to provide the said products and/or services under the terms and conditions hereinafter set forth, and Contractor is willing to provide such products and/or perform such services.

In consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Contractor and APA agree as follows:

1. Products and/or Services.

1.1 Contractor shall provide to APA the products (the "Products") and/or services (the "**Services**") set out in one or more statements of work to be issued by APA and accepted by Contractor (each, a "**Statement of Work**"). The initial accepted Statement of Work is attached hereto as **Exhibit A**. Additional Statements of Work shall be deemed accepted and incorporated into this Agreement only if signed by the Contractor Contract Manager (as defined in Section 2.1(a) below) and the APA Contract Manager (as defined in Section 3.1 below), appointed pursuant to Section 2.1(a) and Section 3.1, respectively. Contractor shall provide the Work (a) in accordance with the terms and subject to the conditions set forth in the applicable Statement of Work and this Agreement; (b) using personnel of required skill, experience, and qualifications; (c) in a timely, workmanlike, and professional manner; (d) in accordance with generally recognized industry standards in Contractor's field; and € to the reasonable satisfaction of APA. As APA has multiple sites, the location of the worksite will be set forth in the applicable Statement of Work.

1.2 For the sake of clarity, nothing in this Agreement shall be construed to prevent APA from performing for itself or from acquiring from other providers products and/or services that are similar to or identical to the Products and/or Services.

2. Contractor Obligations. Contractor shall:

2.1 Appoint representatives to the following positions after obtaining APA's consent, which consent shall not be unreasonably withheld:

(a) A primary contact to act as its authorized representative with respect to all matters pertaining to this Agreement (the "**Contractor Contract Manager**").

(b) A sufficient number of employees or subcontractors to provide the Products and/or perform the Services set out in each Statement of Work. If this contract agreement is for or includes Professional Services, also provide for each of the Professional Employees; their names, positions, billing rates, and respective levels of experience and relevant licenses to APA (collectively, with Contractor Contract Manager, "**Contractor Representatives**").

2.2 Make no changes in Contractor Representatives except:

(a) With the prior consent of APA, which consent shall not be unreasonably withheld.

(b) At the request of APA, in which case Contractor shall promptly appoint a replacement.

(c) Upon the resignation, termination, death, or disability of the existing Contractor Representative.

2.3 Assign only qualified, legally authorized, and suitably skilled and experienced Contractor Representatives to provide the Products and/or Services.

2.4 Ensure that all equipment used in providing the Products and/or Services is in good working order and suitable for the purposes for which it is used, and conforms to all relevant legal standards and standards specified by APA.

2.5 Comply with all applicable laws and regulations in providing the Products and/or Services.

2.6 Comply with all APA rules, regulations, and policies (including, but not limited to, security, safety, and environmental rules, regulations, and policies) in providing the Products and/or Services.

2.7 Report to the APA Contract Manager (as defined in Section 3.1 below) on the scheduling and status of the Products and/or Services, including promptly reporting any delays.

2.8 Maintain complete and accurate records relating to the provision of the Products and/or Services under this Agreement, including records of the time spent and materials used by Contractor in providing the Products and/or Services in such form as APA shall approve. During the Term (as defined in Section 8.1) and for a period of five (5) years thereafter, upon APA's written request, Contractor shall allow APA or APA's representative to inspect and make copies of such records and interview Contractor Representatives in connection with the provision of the Products and/or Services; provided that APA provides Contractor with reasonable advance written notice of the planned inspection.

3. APA Obligations. APA shall:

3.1 Designate one of its employees or agents to serve as its primary contact with respect to this Agreement and to act as its authorized representative with respect to matters pertaining to this Agreement (the "**APA Contract Manager**"), with such designation to remain in force unless and until a successor APA Contract Manager is appointed, in APA's sole discretion.

3,2 Require that the APA Contract Manager respond reasonably promptly to any reasonable requests from Contractor for instructions, information, or approvals required by Contractor to provide the Products and/or Services.

4. Fees and Expenses.

4.1 In consideration of the Products to be provided and/or Services to be performed under this Agreement, APA shall pay to Contractor a fee determined in accordance with the fee schedule set out in each Statement of Work. Unless otherwise provided in the Statement of Work, said fee will be payable within thirty (30) days of receipt by APA of an undisputed invoice from Contractor accompanied by documentation reasonably requested by APA evidencing all charges. Contractor should send invoices to accountspayable@alports.com for processing. Notwithstanding anything to the contrary in Section 18, an invoice delivered by email as described in this Section 4.1 is deemed to be effective.

4.2 The fees set forth in this Agreement shall cover and include all materials used and expenses incurred by Contractor in providing the Products and/or Services. In no event shall APA be required to pay any additional amount to Contractor in connection with such materials or expenses.

4.3 The fees set forth in this Agreement shall cover and include all sales and use taxes, duties, and charges of any kind imposed by any federal, state, or local governmental authority on amounts payable by APA under this Agreement. In no event shall APA be required to pay any additional amount to Contractor in connection with such taxes, duties, and charges, or any taxes imposed on, or regarding, Contractor's income, revenues, gross receipts, personnel, or real or personal property or other assets.

5. Intellectual Property.

5.1 For supply contracts: APA and Contractor shall both retain ownership of any their respective pre-existing intellectual property. For the avoidance of doubt, Contractor retains all rights to its pre-existing intellectual property, including methodologies, software, tools, techniques, designs, processes, and know-how used in providing the Products and/or Services. APA acknowledges that Contractor may use such pre-existing intellectual property in the provision of the Products and/or Services, and this Agreement does not transfer ownership of such pre-existing intellectual property to APA. Any improvements or enhancements made to the Contractor's pre-existing intellectual property by the Contractor in providing the Products and/or Services remain the exclusive property of the Contractor. The Contractor assigns APA rights to, and only to, custom deliverables specifically created for APA under this Agreement and listed on an Exhibit listed and referenced within your proposal.

5.2 For design and information technology contracts: All intellectual property rights, including copyrights, patents, patent disclosures and inventions (whether patentable or not), trademarks, service marks, trade secrets, know-how, designs, formulae, improvements, applications generally, computer code, computer platforms, computer applications, discoveries, and other confidential information, trade dress, trade names, logos, corporate names and domain names, together with all of the goodwill associated therewith, derivative works, and all other rights (collectively, "**Intellectual Property Rights**") in and to all documents, work product, and other materials that are delivered to APA under this Agreement or prepared by or on behalf of Contractor in the course of providing the Products and/or performing the Services (collectively, the "**Deliverables**") shall be owned exclusively by APA. Contractor agrees, and shall cause all pertinent Contractor Representatives to agree, that with respect to any Deliverables that may qualify as "work made for hire" as defined in 17 U.S.C. § 101, such Deliverables are hereby deemed a "work made for hire" for APA.

Contractor hereby irrevocably assigns and shall cause the Contractor Representatives to irrevocably assign to APA, in each case without additional consideration, all right, title, and interest throughout the world in and to the Deliverables, including all Intellectual Property Rights therein. Contractor shall cause Contractor Representatives to irrevocably waive, to the extent permitted by applicable law, any and all claims such Contractor Representatives may now or hereafter have in any jurisdiction to so-called "moral rights" or rights of droit moral with respect to the Deliverables.

6. Confidentiality. All non-public, confidential, or proprietary information of APA ("**Confidential Information**"), including, but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, or rebates, disclosed by APA to Contractor, whether disclosed orally or disclosed or accessed in written, electronic, or other form or media, and whether or not marked, designated, or otherwise identified as "confidential," in connection with this Agreement is confidential, solely for Contractor's use in performing this Agreement, and may not be disclosed or copied unless authorized by APA in writing. Confidential Information does not include any information that: (a) is or becomes generally available to the public other than as a result of Contractor's breach of this Agreement; (b) is obtained by Contractor on a non-confidential basis from a third-party that was not legally or contractually restricted from disclosing such information; (c) Contractor establishes, by documentary evidence, was in Contractor's possession prior to APA's disclosure hereunder; or (d) was or is independently developed by Contractor without using any Confidential Information. Upon APA's request, Contractor shall promptly return all documents and other materials received from APA. APA shall be entitled to injunctive relief for any violation of this Section.

7. Physical and Security Access.

7.1 All individuals involved in providing the Products and/or Services and accessing any terminal of APA, including any Contractor Representatives, must have a valid Transportation Worker Identification Credential (TWIC) card and APA badge, and any vehicle operated by any such individuals on any terminal of APA must have an APA vehicle decal. A designated APA representative shall escort each such individual on APSA terminal property.

7.2 In the event any Contractor Representatives may need remote access to APA's computer systems or network to provide the Products and/or Services, any such Contractor Representatives must obtain approval from the APA IT Department.

8. Term, Termination, and Survival.

8.1 This Agreement shall commence as of the Effective Date and shall continue thereafter until the completion of the Services and/or Delivery / Installation of the Products, pursuant to and under all Statements of Work (the "**Term**") unless sooner terminated pursuant to Sections 8.2 and 8.3 or extended upon mutual written agreement of the Parties.

8.2 APA, in its sole discretion, may terminate this Agreement or any Statement of Work, in whole or in part, at any time without cause, and without liability except for required payment for Products provided and/or Services rendered, and reimbursement for authorized expenses incurred, prior to the termination date, by providing at least ten (10) days' prior written notice to Contractor.

8.3 Either Party may terminate this Agreement, effective upon written notice to the other Party (the "**Defaulting Party**"), if the Defaulting Party:

(a) Materially breaches this Agreement, and such breach is incapable of cure, or with respect to a material breach capable of cure, the Defaulting Party does not cure such breach within five (5) days after receipt of written notice of such breach.

(b) Becomes insolvent or admits its inability to pay its debts generally as they become due.

(c) Becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law.

(d) Is dissolved or liquidated or takes any corporate action for such purpose.

(e) Makes a general assignment for the benefit of creditors.

(f) Has a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

8.4 Upon expiration or termination of this Agreement for any reason, Contractor shall promptly:

(a) Deliver to APA all documents, work product, and other materials, whether or not complete, prepared by or on behalf of Contractor in the course of fabricating and providing the Products and/or performing the Services for which APA has paid.

(b) Return to APA all APA-owned property, equipment, or materials in its possession or control.

(c) Remove any Contractor-owned property, equipment, or materials located at APA's locations.

(d) Deliver to APA all documents and tangible materials (and any copies) containing, reflecting, incorporating, or based on APA's Confidential Information.

(e) Provide reasonable cooperation and assistance to APA in transitioning the Services and/or the fabrication and provision of the Products to an alternate Contractor.

(f) On a pro rata basis, repay all fees and expenses paid in advance for any Products and/or Services which have not been provided.

(g) Permanently delete all of APA's Confidential Information from its computer systems.

(h) Certify in writing to APA that it has complied with the requirements of this Section 8.4.

8.5 The rights and obligations of the Parties set forth in this Section 8 and Section 5, Section 6, Section 9, Section 10, Section 11, Section 12, Section 13, Section 16, Section 18, Section 25, Section 26, and Section 27, and any right or obligation of the Parties in this Agreement which, by its nature, should survive termination or expiration of this Agreement, will survive any such termination or expiration of this Agreement, and with respect to Confidential Information that constitutes a trade secret under applicable law, the rights and obligations set forth in Section 6 hereof will survive such termination or expiration of this Agreement until, if ever, such Confidential Information loses its trade secret protection other than due to an act or omission of Service Provider or its affiliates and its or their employees, officers, directors, shareholders, partners, members, managers, agents, independent contractors, service providers, sublicensees, subcontractors, attorneys, accountants, and financial advisors.

9. Independent Contractor.

9.1 It is understood and acknowledged that the Products and/or Services which Contractor will provide to APA hereunder shall be in the capacity of an independent contractor and not as an employee or agent of APA. Contractor shall control the conditions, time, details, and means by which Contractor fabricates and provides the Products and/or performs the Services. APA shall have the right to inspect the work of Contractor as it progresses solely for the purpose of determining whether the work is completed according to the applicable Statement of Work.

9.2 Contractor has no authority to commit APA, act for or on behalf of APA, or to bind APA to any obligation or liability.

9.3 Contractor shall not be eligible for and shall not receive any employee benefits from APA and shall be solely responsible for the payment of all taxes, FICA, federal and state unemployment insurance contributions, state disability premiums, and all similar taxes and fees relating to the fees earned by Contractor hereunder.

10. Inspection of Commercial Supplies, Products, and/or Services.

10.1 Definition. “Supplies,” as used in this Section, includes but is not limited to raw materials, components, intermediate assemblies, end products, and lots of supplies.

10.2 The Contractor shall provide and maintain an inspection system acceptable to APA covering supplies under this contract and shall tender to APA for acceptance only supplies that have been inspected in accordance with the inspection system and have been found by the Contractor to be in conformity with contract requirements. As part of the system, the Contractor shall prepare records, evidencing all inspections made under the system and the outcome. These records shall be kept complete and made available to APA during contract performance and for as long afterwards as the contract requires. APA may perform reviews and evaluations as reasonably necessary to ascertain compliance with this paragraph. These reviews and evaluations shall be conducted in a manner that will not unduly delay the contract work. The right of review, whether exercised or not, does not relieve the Contractor of the obligations under the contract.

10.3 APA shall have the right to inspect the Product and perform reasonable tests to confirm conformance with the mutually approved design and specifications. All such inspections and tests shall be performed at APA’s expense and in a manner that does not unreasonably interfere with the Contractor’s operations. APA shall notify the Contractor in writing of any nonconformities promptly upon discovery.

The Contractor shall correct or replace any nonconforming components at its own expense if such nonconformities are attributable to a failure to meet the agreed specifications. Unless otherwise agreed in writing, the Contractor shall not be responsible for modifications, integration, or testing services beyond the defined scope of supply.

10.4 If APA performs inspection or test on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties. Except as otherwise provided in the contract, APA shall bear the expense of APA inspections or tests made at other than the Contractor's or subcontractor's premises; provided, that in case of rejection, APA shall not be liable for any reduction in the value of inspection or test samples.

10.5 When supplies are not ready at the time specified by the Contractor for inspection or test, APA may charge to the Contractor the additional cost of inspection or test. APA may also charge the Contractor for any additional cost of inspection or test when prior rejection makes reinspection or retest necessary.

10.6 APA has the right either to reject or to require correction of nonconforming supplies. Supplies are nonconforming when they are defective in material or workmanship or are otherwise not in conformity with contract requirements. APA may reject nonconforming supplies with or without disposition instructions.

10.7 The Contractor shall remove supplies rejected or required to be corrected. However, APA may require or permit correction in place, promptly after notice, by and at the expense of the Contractor. The Contractor shall not tender for acceptance corrected or rejected supplies without disclosing the former rejection or requirement for correction, and, when required, shall disclose the corrective action taken.

10.8 If the Contractor fails to promptly remove, replace, or correct rejected supplies that are required to be removed or to be replaced or corrected, APA may either (1) by contract or otherwise, remove, replace, or correct the supplies and charge the cost to the Contractor or (2) terminate the contract for default. Unless the Contractor corrects or replaces the supplies within the delivery schedule, APA may require their delivery and make an equitable price reduction. Failure to agree to a price reduction shall be a dispute.

10.9 If this contract provides for the performance of APA quality assurance at source, and if requested by APA, the Contractor shall furnish advance notification of the time- When the Contractor inspection or tests will be performed in accordance with the terms and conditions of the contract; and when the supplies will be ready for APA inspection. APA's request shall specify the period and method of the advance notification and APA representative to whom it shall be furnished. Requests shall not require more than 2 workdays of advance notification if APA representative is in residence in the Contractor's plant, nor more than 7 workdays in other instances.

10.10 APA, in addition to any other rights and remedies provided by law, or under other provisions of this contract, shall have the right to require the Contractor (1) at no increase in contract price, to correct or replace the defective or nonconforming supplies at the original point of delivery or at the Contractor's plant at APA's election, and in accordance with a reasonable delivery schedule as may be agreed upon between the Contractor and APA; provided, that APA may require a reduction in contract price if the Contractor fails to meet such delivery schedule, or (2) within a reasonable time after receipt by the Contractor of notice of defects or nonconformance, to repay such portion of the contract as is equitable under the circumstances if APA elects not to require correction or replacement. When supplies are returned to the Contractor, the Contractor shall bear the transportation cost from the original point

of delivery to the Contractor's plant and return to the original point when that point is not the Contractor's plant. If the Contractor fails to perform or act as required in paragraph (l)(1) or (l)(2) of this clause and does not cure such failure within a period of 10 days (or such longer period as APA may authorize in writing) after receipt of notice from APA specifying such failure, APA shall have the right by contract or otherwise to replace or correct such supplies and charge to the Contractor the cost occasioned APA thereby.

11. Warranty. In addition to any warranties in the Agreement and any rights and remedies at law or in equity that APA may have, Contractor expressly warrants that the Supplies, Equipment, Products, or Services etc., (the "Work"), furnished hereunder shall be free from any and all defects in design, materials, and workmanship under normal use and service when correctly installed, used, and maintained, and shall be according to the best applicable industry-standard practices. The materials used in providing the Work, shall be new, unless otherwise specified, and of first-class quality. In addition to any other rights APA has under the Agreement, at law or equity, Contractor shall promptly repair, modify or replace the work resulting from the Work or Services, or any part thereof found to be defective and any portion of the Work or property damaged by such Work or Services or by the repair of the Work at Contractor's sole expense, including parts, freight and labor for removal and reinstallation, upon receipt of notification from APA within twelve (12) months, or for a time period as otherwise stated herein, from the date of APA's final acceptance of the Work or Services. These warranties shall terminate twelve (12) months after the date of installation and final commissioning of the Work or Products, not to exceed (18) months from date of shipment, or provision of Services to APA, and shall not apply to Products which have been subjected to misuse, abuse, neglect or improper storage, handling, or maintenance. Any repaired, modified or replaced Work shall be additionally warranted against defects for a period of twelve (12) months after completion of such repair, modification, or replacement of defective Work. In the alternative, APA shall have the right to have the defective Work, or any portion of the Work or property damaged by such Work or Services or by the repair of the Work, remedied or changes made at the expense of Contractor, and Contractor agrees to pay APA on demand for all loss, damage, costs, attorneys' and consultants' fees, and other charges incurred and made by APA in connection with such corrective work, together with interest thereon at the highest rate allowed by applicable law from the date incurred. Contractor acknowledges that, notwithstanding any drawings, specifications or other descriptions of the Work or Services, APA is relying on Contractor's skill and judgment to furnish suitable Work or Services for the purposes described in the Statement of Work. All warranties are in addition to any other rights of APA and shall survive any inspections, delivery, acceptance, and payment. Without relieving Contractor of any of its warranty obligations under the Agreement, Contractor shall assign in full, and without cost to APA, all warranties from Contractor's subcontractors that are applicable to the Products, Services, and/or Work, and deliver such assigned warranties with the Products, Services, and/or Work.
NOTE: As determined to be more advantageous by the APA, the above-mentioned warranty term periods (i.e. 12 months, / 18 months, etc.), shall become null and void, and superseded, if better term periods are offered in the proposal of the Contractor.

12. Indemnification. To the extent permitted under applicable law, Contractor shall indemnify, defend, and hold harmless APA and its officers, directors, employees, agents, affiliates, successors, and permitted assigns (collectively, "**Indemnified Party**") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees, fees, and the costs of enforcing any right to indemnification under this Agreement, and the cost of pursuing any insurance providers incurred by or awarded against Indemnified Party (collectively, "Losses"), relating to, arising out of, or resulting from any claim of a third party or APA arising out of or occurring in connection with Contractor's operations under this Agreement (whether such operations are performed by the Contractor itself of by some person or entity acting on behalf of the Contractor), Products, and/or Services.

13. Remedies.

13.1 If Contractor violates any provision of this Agreement, APA shall, in addition to any damages to which it is entitled, be entitled to immediate injunctive relief against Contractor prohibiting further actions inconsistent with the Contractor's obligations under this Agreement.

13.2 In the event Contractor breaches this Agreement (including, but not limited to, by failing to satisfactorily provide any of the Products and/or perform any of the Services on a timely basis) and fails to cure within any applicable cure period, APA shall have the right, without prejudice to any other rights or remedies it may have under this Agreement or any applicable Statement of Work, to take one or more of the following steps:

(a) Suspend Contractor's right and obligation to complete its provision of the Products and/or performance of the Services until such time as Contractor is able to demonstrate to APA's reasonable satisfaction that Contractor can satisfactorily meet its obligations under this Agreement;

(b) Itself provide and engage a replacement contractor to provide any or all of the delayed or unsatisfactory Products and/or Services;

(c) Assign one or more of its representatives to supervise and work with Contractor to correct and mitigate the effects of Contractor's breach;

(d) Withhold payment of any amounts otherwise due to Contractor in a sufficient amount to set off against any damages caused to APA as a consequence of Contractor's breach.

13.3 To protect APA from schedule delays that impact terminal operations, liquidated damages shall apply in the event Contractor fails to timely deliver the Products and/or fails to timely achieve final acceptance of the Services. Liquidated damages shall be calculated at a rate of $100.00 per calendar day, (See Exhibit "A"). Liquidated damages are not a penalty but a reasonable pre-estimate of the actual damages APA will incur due to delays in operational readiness and revenue loss. This clause does not relieve the Contractor of its obligations under the Agreement or applicable Statement of Work, nor does this clause waiver APA's rights to pursue other contractual or non-contractual remedies.

13.4 To the extent APA is required to seek enforcement of this Agreement or otherwise defend against an unsuccessful claim of breach, Contractor shall be liable for all attorney's fees and costs incurred by APA to enforce the provisions of this Agreement.

13.5 All rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either Party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any other agreement between the Parties, or otherwise. Despite the previous sentence, the Parties intend that Contractor's exclusive remedy for APA's payment breach shall be its right to damages equal to its earned but unpaid fees.

13.6 Nothing in this Agreement shall constitute a waiver or limitation of the immunity of APA as an agency of the State of Alabama.

14. Changes. APA Provision for Changes – Fixed Price Services / Supply Contract Agreement

(a) The APA Director may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following: (1) Description of services to be performed. (2) Time of performance (i.e., hours of the day, days of the week, etc.). (3) Place of performance of the services.

(b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, the APA Director shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract.

(c) The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. However, if the APA Director decides that the facts justify it, the APA Director may receive and act upon a proposal submitted before final payment of the contract.

(d) If the Contractor's proposal includes the cost of property, supplies, materials or other items made obsolete or excess by the change, the APA Director shall have the right to prescribe the manner of the disposition of the property.

(e) Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

15. Compliance with Law. Contractor is in compliance with and shall comply with all applicable laws, regulations, and ordinances. Contractor has and shall maintain in effect all the licenses, permissions, authorizations, consents, and permits that it needs to carry out its obligations under this Agreement.

16. Insurance. (For all APA Contract Agreements requiring Vendor/ Service Provider personnel to physically access APA Property, Land, or Premises, or as otherwise required by applicable law:),

16.1 Contractor shall not commence work under the Agreement or Statement of Work until it has obtained all insurance required under this Section and until such insurance has been approved by APA, nor shall the Contractor allow any subcontractor to commence work until all similar applicable insurance has been obtained by the subcontractor or the Contractor has provided coverage for the subcontractor.

16.2 During the Term, Contractor shall, at its own expense, maintain and carry insurance in full force and effect with financially sound and reputable insurers, that includes, but is not limited to, commercial general liability with limits no less than $2,000,000 per occurrence and $4,000,000 in the aggregate, including bodily injury and property damage and completed operations and advertising liability, which policy will include contractual liability coverage insuring the activities of Contractor under this Agreement. Contractor shall provide APA with a certificate of insurance from Contractor's insurer evidencing the insurance coverage specified in this Agreement. The certificate of insurance shall name APA as an additional insured. Contractor shall provide APA with thirty (30) days' advance written notice in the event of a cancellation or material change in Contractor's insurance policy. Except where prohibited by law, Contractor shall require its insurer to waive all rights of subrogation against APA's insurers and APA or the Indemnified Parties.

16.3 If it shall use any autos in connection with providing Services to APA, Contractor shall take out and maintain during the life of the Agreement or Statement of Work Business Automobile Liability insurance covering any auto in an amount not less than $1,000,000 for any one occurrence for bodily injury, including death, and property damage

liability.

16.4 If it shall have any employees involved in providing Services for APA, Contractor shall also provide workers' compensation insurance covering those employees for at least $1,000,000 and shall provide a certificate of insurance to APA evidencing such coverage within thirty (30) days of the effective date of this Agreement.

16.5 Where applicable, Contractor shall take out and maintain during the life of the Agreement or Statement of Work insurance providing coverage(s) as required by Federal statute, including but not limited to U.S. Longshoremen and Harborworkers' Compensation Act (USL&H), Jones Act, and Railroad Federal Employers Liability Act (FELA).

17. Entire Agreement. This Agreement, including and together with any related Statements of Work, exhibits, schedules, attachments, and appendices, constitutes the sole and entire agreement between the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, regarding such subject matter.

18. Notices. All notices, requests, consents, claims, demands, waivers, and other communications under this Agreement (each, a "**Notice**") must be in writing and addressed to the other Party at its address set forth below (or to such other address that the receiving Party may designate from time to time in accordance with this Section). Unless otherwise agreed herein, all Notices must be delivered by personal delivery, email (with confirmation of transmission), nationally recognized overnight courier, or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) on receipt by the receiving Party; and (b) if the Party giving the Notice has complied with the requirements of this Section.

Notice to APA:	2001 Ezra Trice Blvd, Mobile, Alabama 36603 Attention: Danny Turner, Preventive Maintenance Mgr. Attention: Charles St. Pierre, Project Administrator, McDuffie Coal Terminal Email: Danny.Turner@alports.com Email: charles.stpierre@alports.com
Notice to Contractor:	Address: [_____] [_____] Attention: [_____] [TITLE OF OFFICER TO RECEIVE NOTICES] Email: [_____] [CONTRACTOR EMAIL ADDRESS FOR NOTICES]

19. Site Visit. Not Applicable to this RFP

20. Severability. If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or provision is invalid, illegal, or unenforceable, the Parties shall negotiate in good faith to (or, if necessary, a court may) modify this Agreement to achieve the original intent of the Parties as closely as possible in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

21. Amendments. No amendment to or modification, rescission, termination, or discharge of this Agreement shall be effective unless it is in writing, identified as an amendment to or modification, rescission, termination, or discharge of this Agreement, and signed by an authorized representative of each Party.

22. Waiver. No waiver by APA of any of the provisions of this Agreement shall be effective unless explicitly set forth in writing and signed by APA. Except as otherwise set forth in this Agreement, no failure by APA to exercise, or delay by APA in exercising, any right, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver by APA thereof, nor shall any single or partial exercise by APA of any right, remedy, power, or privilege hereunder preclude any other or further exercise by APA thereof or the exercise by APA of any other right, remedy, power, or privilege.

23. Assignment. Contractor shall not assign, transfer, delegate, or subcontract any of its rights or obligations under this Agreement without the prior written consent of APA. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve Contractor of any of its obligations hereunder. APA may at any time assign or transfer any or all of its rights or obligations under this Agreement without Contractor's prior written consent.

24. Successors and Assigns. This Agreement is binding on and inures to the benefit of the Parties and their respective successors and permitted assigns.

25. No Third-Party Beneficiaries. Other than as set forth in Section 12, this Agreement benefits solely the Parties and their respective successors and permitted assigns, and nothing in this Agreement, express or implied, confers on any third party any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

26. Choice of Law. This Agreement and all related documents, the relationship of the Parties relating to this Agreement, and all matters arising out of or relating to this Agreement, whether sounding in contract, tort, or statute, shall be governed by and construed in accordance with the laws of the State of Alabama, without giving effect to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Alabama.

27. Choice of Forum. Any legal action, suit, or proceeding brought by a Party in any way arising out of or relating to this Agreement shall be brought in the federal or state courts in Mobile County, Alabama, provided that any claims against APA may only, to the extent permitted by Alabama law, be brought before the Board of Adjustment of the Alabama Department of Finance. Nothing in this Agreement shall constitute a waiver or limitation of the immunity of APA as an agency of the State of Alabama.

28. Waiver of Jury Trial. EACH PARTY ACKNOWLEDGES THAT ANY CONTROVERSY THAT MAY ARISE UNDER THIS AGREEMENT, INCLUDING EXHIBITS, SCHEDULES, ATTACHMENTS, AND APPENDICES ATTACHED TO THIS AGREEMENT, IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING ANY EXHIBITS, SCHEDULES, ATTACHMENTS, OR APPENDICES ATTACHED TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED HEREBY.

29. Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. Notwithstanding anything to the contrary in Section 18, a signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

30. Force Majeure.

No Party shall be liable or responsible to the other Party, or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such Party's (the "Impacted Party") failure or delay is caused by or results from the following force majeure events ("Force Majeure Event(s)"): (a) acts of God; (b) flood, fire, earthquake, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or action; (e) embargoes or blockades in effect on or after the date of this Agreement; (f) national or regional emergency; (g) strikes, labor stoppages or slowdowns or other industrial disturbances; (h) industry-wide shortages of materials or components, (i) significant and unexpected increases in material costs, (j) transportation delays; and (k) other similar events beyond the reasonable control of the Impacted Party.

Notwithstanding the foregoing, Contractor's financial inability to perform, nor supplier actions or contract disputes external to the performance of this Agreement or any Statement of Work, will not excuse performance by Contractor under this Section, however the obligation of a Party to pay money for Products or materials delivered or for Services performed shall not in any way be excused.

The Impacted Party shall give notice within ten (10) days of the Force Majeure Event to the other Party, stating the period the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. If the Impacted Party's failure or delay remains uncured for a period of thirty (30) consecutive] days following written notice given by it under this Section, the other Party may thereafter terminate this Agreement upon ten (10) days' written notice, subject to the provisions of Section 7.4 and Section 7.5.

ATTACHMENT 3

State of _____

County of _____

CERTIFICATE OF COMPLIANCE WITH THE BEASON-HAMMON ALABAMA TAXPAYER AND CITIZEN PROTECTION ACT (ACT 2011-535, as amended by Act 2012-491)

DATE: _____

RE Contract/Grant/Incentive (describe by number or subject):
_____ by and between
_____(Contractor/Grantee) and
_____(State Agency, Department or Public Entity)

The undersigned hereby certifies to the State of Alabama as follows:

1. The undersigned holds the position of _____ with the Contractor/Grantee named above, and is authorized to provide representations set out in this Certificate as the official and binding act of that entity and has knowledge of the provisions of THE BEASON-HAMMON ALABAMA TAXPAYER AND CITIZEN PROTECTION ACT (ACT 2011-535 of the Alabama Legislature, as amended by Act 2012-491) which is described herein as "the Act".
2. Using the following definitions from Section 3 of the Act, select and initial either (a) or (b), below, to describe the Contractor/Grantee's business structure.

   BUSINESS ENTITY. Any person or group of persons employing one or more persons performing or engaging in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood, whether for profit or not for profit. "Business entity" shall include, but not be limited to the following:

   a. Self-employed individuals, business entities filing articles of incorporation, partnerships, limited partnerships, limited liability companies, foreign corporations, foreign limited partnerships, foreign limited liability companies authorized to transact business in this state, business trusts, and any business entity that registers with the Secretary of State.

   b. Any business entity that possesses a business license, permit, certificate, approval, registration, charter, or similar form of authorization issued by the state, any business entity that is exempt by law from obtaining such a business license and any business entity that is operating unlawfully without a business license.

   EMPLOYER. Any person, firm, corporation, partnership, joint stock association, agent, manager, representative, foreman, or other person having control or custody of any employment, place of employment, or of any employee, including any person or entity employing any person for hire within the State of Alabama, including a public employer. This term shall not include the occupant of a household contracting with another person to perform casual domestic labor within the household.

   _____ *(a)* The Contractor/Grantee is a business entity or employer as those terms are defined in Section 3 of the Act.

   _____ *(b)* The Contractor/Grantee is not a business entity or employer as those terms are defined in Section 3 of the Act.

3. As of the date of this Certificate, Contractor/Grantee does not knowingly employ an unauthorized alien within the State of Alabama and hereafter it will not knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama;
4. Contractor/Grantee is enrolled in E-Verify unless it is not eligible to enroll because of the rules of that program or other factors beyond its control.

Certified this _____ day of _____ 20 _____

_____
Name of Contractor/Grantee/Recipient

By: _____

Its _____

The above Certification was signed in my presence by the person whose name appears above, on

this _____ day of _____ 20_____.

WITNESS: _____

_____
Printed Name of Witness

EXHIBIT A

C19/C20 Gearbox Replacements – Statement of Work & Pricing Schedule

Project: C19/C20 Gearbox Replacements

In Support of: McDuffie Coal Terminal Facility, Mobile, AL 36603

Work Location: 2001 Ezra Trice Blvd, Mobile, Al 36603

Solicitation Type: Firm-Fixed Price, One-Time Equipment Procurement

1. SCOPE OF WORK

The Contractor shall manufacture and deliver the following equipment to the Alabama Port Authority (APA) at McDuffie Coal Terminal:

Qty	Item Description	Type	Application
1	Gearbox - PHD9085R3-RBF-28	Sumitomo	C19/C20 Conveyor

2. DESIGN SPECIFICATIONS

The gearbox shall meet or exceed the following specifications:

Parameter	Requirement
Input Power	300 HP
Input Speed	1750 RPM
Mechanical Rating	668 HP
Torque Rating	650000 IN-LBS
Thermal Rating	599 HP @ 104 *F
Exact Ratio	27.041 :1
Service Factor	1.0 or better
AGMA Gear Quality	AGMA 10 or better
Cooling	XE50
Metal Air Breather	XE13
Rust-Proof Paint	(Epoxy)XA22
Double Extended LSS .B.	
Internal Splash Lubrication	

3. **GEARING REQUIREMENTS**

- All gearing will be manufactured from AISI 8620 steel, with the teeth carburized and hardened to 58 – 62 Rockwell C, using Tool Steel Carburizing Process.
- All gearing will be manufactured to AGMA quality class 10 specifications minimum.
- The output shaft will be manufactured from AISI 4140 steel, hardened to 280-320 Bhn.

4. GEARBOX HOUSING

- Per manufacturing specification.
- Housing will be painted to withstand the McDuffie Coal Terminal industrial environment.

5. **BEARINGS, RETAINERS, COUPLINGS AND OIL SEALS**

- The bearings, retainers, spacers, seals, etc. will be supplied by the Contractor

6. LUBRICATION SYSTEM

• Internal splash lubricated system.

7. TEST

- Gearbox will be tested to verify contact patterns, bearing temperatures.
- Contractor will supply all documentation to ensure all tests are completed.

8. DELIVERABLES

The Contractor shall provide the following deliverables:

- One (1) Sumitomo PHD9085R3-RBF-28 Gearbox, manufactured to specification, delivered FOB to McDuffie following the proposed Delivery Schedule
- Design submittals / product data sheets (due within 1 week of contract award)
- Installation and maintenance manuals for all equipment

9. DELIVERY SCHEDULE

Milestone	Timeline
Design Submittals / Product Data	6 weeks
Manufacturing Lead Time	**Offeror to propose**
Delivery to McDuffie Coal Terminal	**Offeror to propose**

Note: These are standard-design, commercially available products. Offerors shall state their standard manufacturing and delivery lead times.

10. PRICING SCHEDULE

Contract type: Firm-Fixed Price. All pricing shall be inclusive of manufacturing, testing, packaging, and FOB delivery to McDuffie Coal Terminal, Mobile, AL

No.	Description	QTY	Unit Price	Extended Price
1	C19/C20 Gearbox Replacement	1	$	$
	BASE BID TOTAL (Items 1)			$

11. INVOICING & PAYMENT TERMS

This is a one-time firm-fixed price equipment purchase. Payment shall be made upon delivery and acceptance of all equipment.

Milestone	Payment
Delivery & Acceptance of all Equipment at McDuffie Coal Terminal	100% of Contract Value – Net 30 Days

All invoices shall be submitted to: accountspayable@alports.com

12. PROPOSAL REQUIREMENTS

In addition to the requirements stated in the solicitation, each Offeror shall include the following in their proposal:

• Technical data sheets for the proposed Gearbox.

• Confirmation of compliance with all specifications stated in Exhibit A of this solicitation.

• Manufacturing and delivery lead times.

• Completed Pricing Schedule per Section 10.

• Acknowledgement of acceptance of the solicitations' warranty requirements, terms and duration.

• Past performance references.

• Any exceptions or deviations from the stated specifications**.**

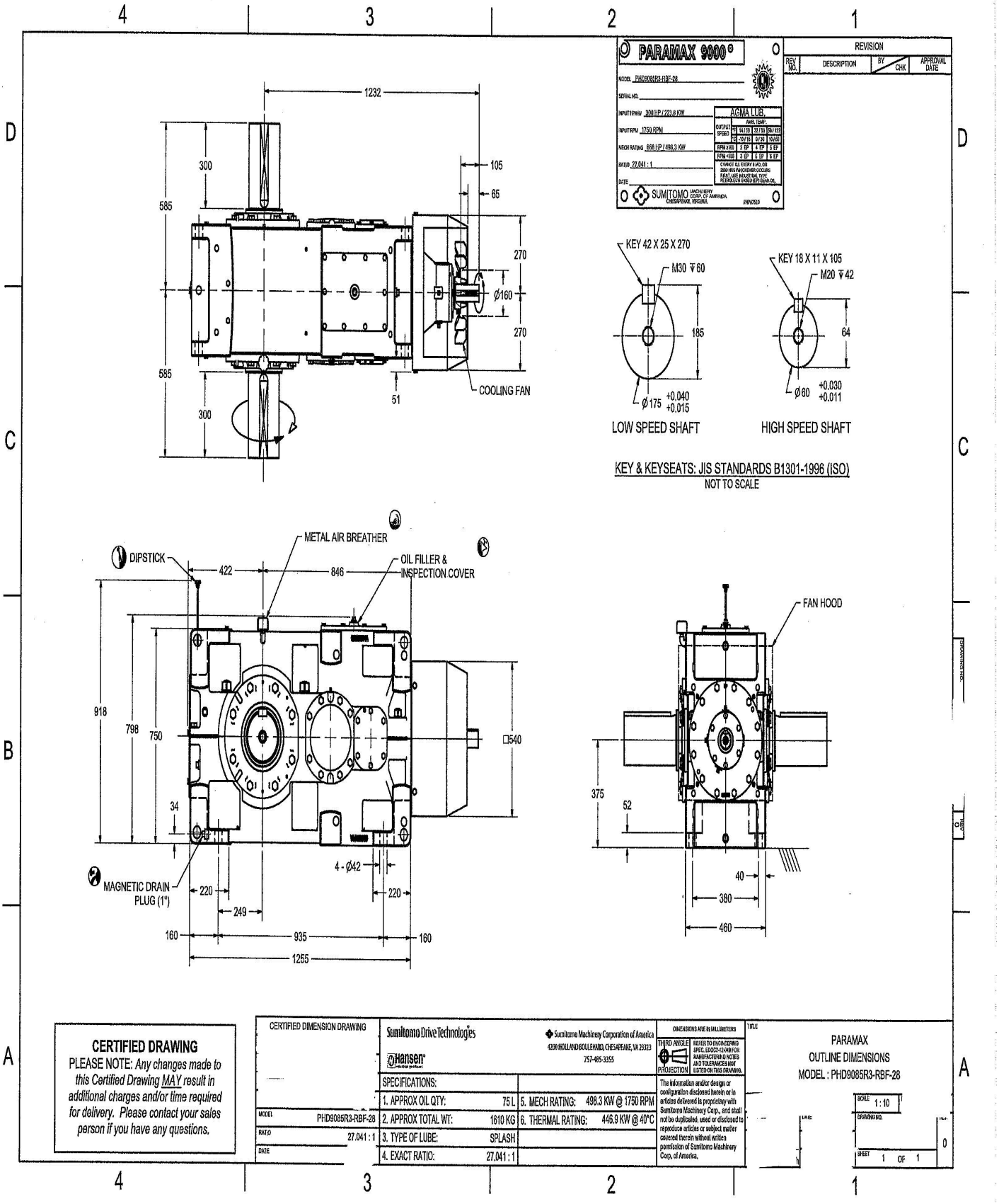
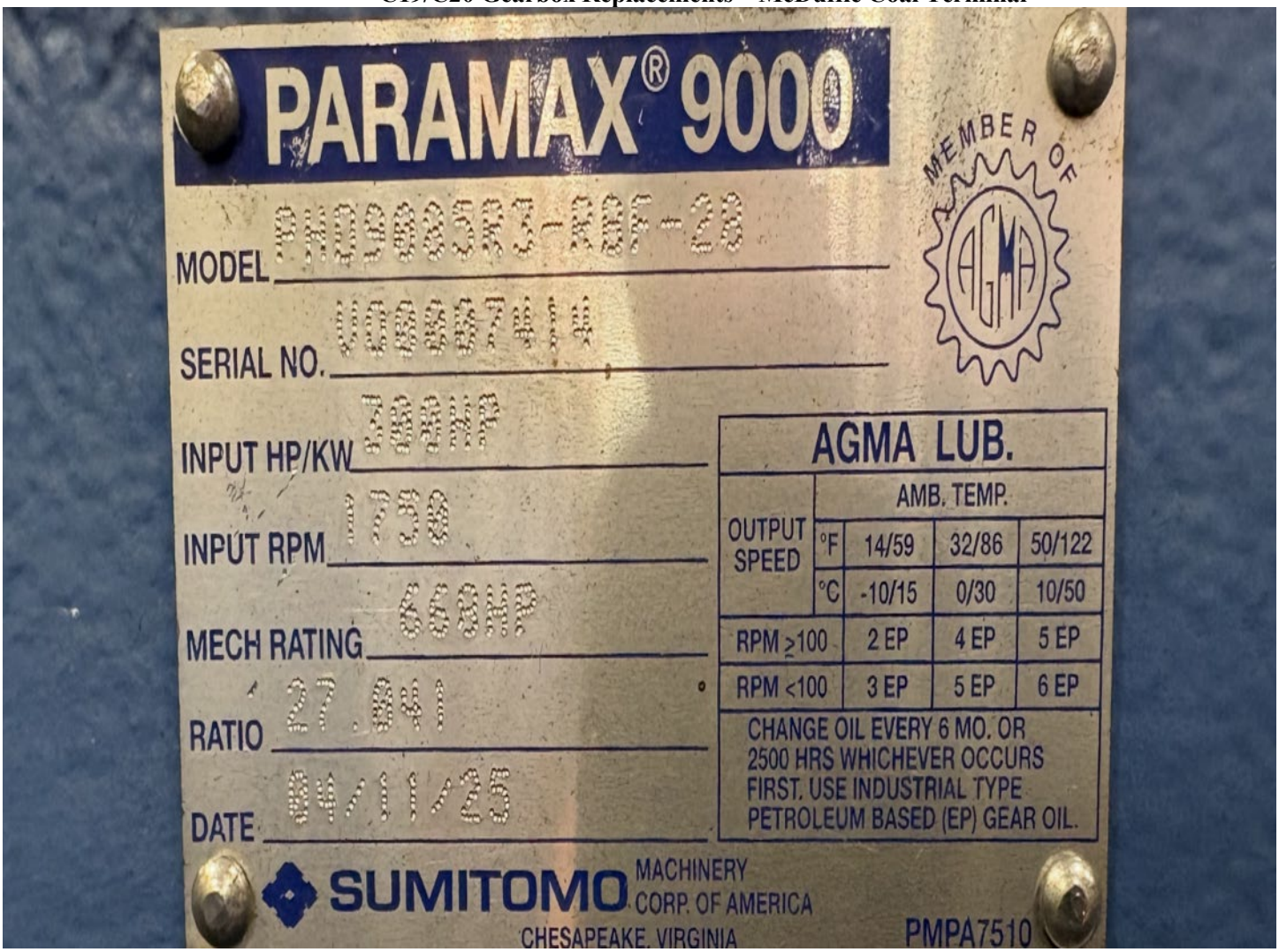
EXHIBIT B

– ALABAMA PORT AUTHORITY SPENDING AND TRAVEL POLICY RESOLUTION # 2024-69 *"Internal*

Document – Forwarded/Provided Separately For Your Information."

EXHIBIT C –

DRAWINGS, SPECIFICATIONS, OR SCHEMATICS


PARAMAX 9000®
REVISION
REV NO. | DESCRIPTION | BY CHK | APPROVAL DATE
SUMITOMO MACHINERY CORP. OF AMERICA CHESAPEAKE, VIRGINIA
AGMA LUB.
1232
300
585
105
65
270
Ø160
51
COOLING FAN
KEY 42 X 25 X 270
M30 ∓60
185
Ø175 +0.040 +0.015
LOW SPEED SHAFT
KEY 18 X 11 X 105
M20 ∓42
64
Ø60 +0.030 +0.011
HIGH SPEED SHAFT
KEY & KEYSEATS: JIS STANDARDS B1301-1996 (ISO)
NOT TO SCALE
DIPSTICK
METAL AIR BREATHER
OIL FILLER & INSPECTION COVER
422
846
918
798
750
□540
34
4 - Ø42
220
249
MAGNETIC DRAIN PLUG (1")
160
935
1255
FAN HOOD
375
52
40
380
460
CERTIFIED DRAWING
PLEASE NOTE: Any changes made to this Certified Drawing MAY result in additional charges and/or time required for delivery. Please contact your sales person if you have any questions.
CERTIFIED DIMENSION DRAWING
Sumitomo Drive Technologies
Hansen
Sumitomo Machinery Corporation of America
4200 HOLLAND BOULEVARD, CHESAPEAKE, VA 23323
757-485-3355
DIMENSIONS ARE IN MILLIMETERS
THIRD ANGLE PROJECTION
REFER TO ENGINEERING SPEC. EDOC1-12-048 FOR MANUFACTURING NOTES AND TOLERANCES NOT LISTED ON THIS DRAWING.
SPECIFICATIONS:
1. APPROX OIL QTY: 75 L
2. APPROX TOTAL WT: 1610 KG
3. TYPE OF LUBE: SPLASH
4. EXACT RATIO: 27.041 : 1
5. MECH RATING: 498.3 KW @ 1750 RPM
6. THERMAL RATING: 446.9 KW @ 40°C
MODEL PHD9085R3-RBF-28
RATIO 27.041 : 1
DATE
The information and/or design or configuration disclosed herein or in articles delivered is proprietary with Sumitomo Machinery Corp., and shall not be duplicated, used or disclosed to reproduce articles or subject matter covered therein without written permission of Sumitomo Machinery Corp. of America.
TITLE
PARAMAX
OUTLINE DIMENSIONS
MODEL : PHD9085R3-RBF-28
SCALE 1 : 10
DRAWING NO.
SHEET 1 OF 1

C19/C20 Gearbox Replacements – McDuffie Coal Terminal