



IFB GOODS AND SERVICES SUPPLY CONTRACT

**UTA CONTRACT # 22-03553BCM
TIRE KIT, DRIVE WHEEL – CALSS C**

THIS GOODS AND NON-PROFESSIONAL SERVICES SUPPLY CONTRACT (“Contract”) is entered into and made effective as of the date of last signature below. (“Effective Date”) by and between UTAH TRANSIT AUTHORITY, a public transit district organized under the laws of the State of Utah (“UTA”), and Penn Machine Company, at 106 Station Street Johnstown, PA 15905 (the “Contractor”).

RECITALS

WHEREAS, on April 5th 2022, UTA received competitive bids to provide Drive Wheel – Class C Tire Kits for S70 Siemens Light Rail Vehicles and (as applicable) all associated hardware, software, tools, installation services, commissioning and testing services, training, and documentation (the “Goods and Services”) according to the terms, conditions and specifications prepared by UTA in 22-03553BCM (the “IFB”); and

WHEREAS, UTA wishes to procure the Goods and Services according to the terms, conditions and specifications listed in the IFB; and

WHEREAS, the bid submitted by the Contractor in response to the IFB (“Contractor’s Bid”) was deemed to be the most advantageous to UTA; and

WHEREAS, Contractor is willing to furnish the Goods and Services according to the terms, conditions, and specifications of the Contract.

THE CONTRACT

In accordance with the foregoing Recitals, which are incorporated herein by reference, and for and in consideration of the mutual covenants and agreements hereafter set forth, the mutual benefits to the parties to be derived here from, and for other valuable consideration, the receipt and sufficiency of which the parties acknowledge, UTA and contractor hereby enter into this contract consisting of the following items:

Section 1: IFB Part 1 – Project Information

Section 2: Contractor Bid Sheet Form

Section 3: IFB Part 3 – Solicitation Terms

Section 4: IFB Part 4 – Contract Terms

Section 5: IFB Part 5 - Declarations, Offer and Acceptance



SECTION 1

IFB Part 1 Project Information

GENERAL OVERVIEW

This Invitation for Bids is to supply Utah Transit Authority (UTA) with Tire Kit Parts for UTA's Siemens Light Rail Vehicles (LRV's).

Contact Period: This will be a 5 year Firm Fixed Price Contact

Product Description: TIRE KT, DRIVE WHEEL - CLASS C

Manufacture: Siemens Mobility Inc. part number: A4448700 (Approved Alternate)

Manufacture: Penn Machine Company, part number: 00706419

Part Description: TIRE KT, DRIVE WHEEL - CLASS C

Quantities: (UTA may amend order quantities as required. UTA anticipates a Minimum of 144 per year to a Maximum of 260 per year)

Period	Year	Estimated Annual Qty	Planned Delivery to UTA Dock	Planned Delivery Qty to UTA Dock
Year 1	2022	144ea	12/01/22	144ea
Year 2	2023	260ea	02/01/23	100ea
			05/01/23	100ea
			08/01/23	60ea
Year 3	2024	260ea	01/01/24	100ea
			02/01/24	100ea
			05/01/24	60ea
Year 4	2025	260ea	08/01/25	100ea
			11/01/25	100ea
			12/01/25	60ea
Year 5	2026	260ea	02/01/26	100ea
			05/01/26	100ea
			08/01/26	60ea

Schedule Delivery Requirement: Scheduled Deliveries to UTA Dock for anticipated quantity of ~72ea = (4ea/Pallet x18) every 3 months, starting 1st week of each month.

To prevent delivery schedule delays, Contractor shall maintain enough quantities on hand (at its facility) to bridge factory lead-times for contract duration.

UTA reserves the right to push/pull schedules as need. UTA shall notify Supplier of any schedule changes within 60 days of original planned order delivery schedule.

Delivery Location: Utah Transit Authority – JRSC Division
2664 South 900 West
Salt Lake City, UT 84119
c/o Receiving Dept 801-287-3025

Bid / Proposal shall include any applicable Freight Charge.

All shipping cost shall be covered by Contractor and included in unit price.

Incoterm: DAP (Delivered at Place) UTA SLC, UT

All Product shall be properly packaged to protect from damage during handling and transit.



SECTION 2

Contractor's Bid Sheet Form

This procurement will be an invitation for Bids (IFB). Award will be made to the low Responsive and Responsible bidder. Low bid shall be determined by the bid price of the parts, if applicable.



SECTION 3

IFB Part 3 – Solicitation Terms

1.1 INSTRUCTIONS TO BIDDERS

1.1.1.1 Submission of Bids.

Bids must be received by the Contract Administrator by the “Bid ends” date and time listed on the IFB Cover Sheet. Bids received after the deadline will be considered non-responsive. It is the responsibility of the Bidder to ensure that its Bid is properly uploaded by the deadline.

Instructions to Bidders are included in the IFB documents.

1.1.1.2 Minimum Standards.

This IFB sets forth the minimum requirements that all Bids must meet. Failure to submit Bids in accordance with this IFB will render the Bid non-responsive. UTA may waive immaterial errors in a Bid at its discretion and as permitted by applicable law.

1.1.1.3 Confidential, Protected, and Public Information

In accordance with Utah Code Section 63G-2-305(6) of the Government Records Access and Management Act (GRAMA) and UTA's Procurement Standard Operating Procedures (SOPs), Bids submitted by Bidders in response to this IFB and any accompanying documentation will not be made public until the public bid opening.

If the Bid includes information that the Bidder believes to constitute trade secret or non-public commercial or financial information protectable pursuant to UCA §§63G-6a-305(1) and 63G-6a-305(2) (collectively “Business Confidential Information”), then the Bidder must follow the procedure set forth in UCA §63G-6a-309.

Additionally, for ease of Bid evaluation, UTA requests that each Bidder also follow the steps identified below:

- a) Clearly mark all Business Confidential Information as such in its Bid at the time the Bid is submitted and include a cover sheet stating, “DOCUMENT CONTAINS BUSINESS CONFIDENTIAL INFORMATION” and identifying each section and page which has been so marked;
- b) Include a statement with its Bid justifying the Bidder’s determination that certain records are Business Confidential Information for each record so defined;
- c) In addition to the Bid prepare a second copy of the Bid (as an attachment) that has all the Business Confidential Information deleted and label such copy of the Bid “Public Copy.” If a Bidder uploads a Bid containing no Business Confidential Information, no “Public Copy” need be submitted. However, any Bidder that submits a Bid containing no Business Confidential Information must so certify in a cover letter to its Bid; and
- d) Defend any action seeking release of the records it believes to be Business



Confidential Information and indemnify, defend, and hold harmless UTA and the State of Utah and its agents and employees from any judgments awarded against UTA and its agents and employees in favor of the party requesting the records, including any and all costs connected with that defense. This indemnification survives UTA's cancellation or termination of this procurement or award and subsequent execution of the Contract. In submitting a Bid, the Bidder agrees that this indemnification survives as long as the Business Confidential Information is in possession of UTA.

All records pertaining to this procurement will become public information after award of the Contract, unless such records are identified as, and lawfully constitute, Business Confidential Information as specified above. No liability will attach to UTA for the errant release of Business Confidential Information by UTA under any circumstances.

1.1.1.4 Submitting Questions to UTA

Any and all questions and answers are public record and must be submitted before the end of the Question-and-Answer period. The questions and answers will be published to each interested bidder prior to the bid due date and time.

1.1.1.5 Requests for Approved Equals or Changes

Whenever a brand, manufacturer, or product name is indicated in this IFB, they are included only for the purpose of establishing identification and a general description of the item. Wherever such names appear, the term "or approved equal" is considered to follow.

Requests for Approved Equals, Changes, or other exceptions to the IFB (collectively, "Requests") must be submitted before the end of the Question-and-Answer period.

Any request for an approved equal or request for change of the IFB must be fully supported with technical data, test results, or other pertinent information as evidence that the substitute offered is equal or better than the IFB requirement.

The requests will be published to each interested bidder prior to the bid due date and time.

It should be understood that specifying a brand name, components, and/or equipment in this IFB will not relieve the Bidder from its responsibility to provide the product in accordance with the performance warranty and contractual requirements. The Bidder shall notify UTA of any inappropriate brand name, component, and/or equipment that may be called for in this IFB and shall propose a suitable substitute for consideration. UTA retains the discretion to withhold approval for one or more requested equals if the magnitude of requested approvals exceeds UTA's available resources to allow for adequate evaluation in support of a timely procurement.

1.1.1.6 Addenda to the Invitation for Bids



UTA reserves the right to make changes to the IFB, by issuing a written addendum to the IFB sent to all interested bidders.

1.1.1.7 Multiple or Alternative Bids

Submission of multiple or alternative Bids, except as specifically called for in the IFB, may render all such Bids non-responsive and may cause the rejection of some or all of such Bids.

1.1.1.8 Withdrawal of Bids

A Bidder may withdraw its Bid before the Bid due date without prejudice to itself.

1.1.1.9 Cost of Bids

UTA is not liable for any costs incurred by Bidders in the preparation of Bids submitted in response to this IFB.

1.1.1.10 Examination of Invitation for Bids

The submission of a Bid constitutes an acknowledgment upon which UTA may rely that the Bidder: (i) has thoroughly examined and is familiar with the IFB, including the contractual terms in Part 4, (ii) is familiar with any work site identified in the IFB, and (iii) has reviewed and inspected all applicable statutes, regulations, ordinances, and resolutions addressing or relating to the goods and services to be provided hereunder. The failure or neglect of a Bidder to receive or examine such documents, work sites, statutes, regulations, ordinances, or resolutions will in no way relieve the Bidder from any obligations with respect to the Bidder's Bid or to any contract awarded pursuant to this IFB. No reduction or modification in the Bidder's obligations will be allowed based upon a lack of knowledge or misunderstanding of this IFB, work sites, statutes, regulations, ordinances, or resolutions. Minor clarifications and/or tailoring of terms and conditions shall be considered.

1.1.1.11 Firm Offer

Unless otherwise stated in this IFB, submission of a Bid constitutes an offer to provide the goods or services described in the IFB, for the price set forth in the Bid. Such offer must be good and firm for a period of ninety (90) days after the Deadline to Submit Bids.

1.1.1.12 Disclosure of Organizational Conflict of Interest

An organizational conflict of interest means that because of other activities, relationships, or contracts, the Bidder is unable, or potentially unable, to render impartial assistance or advice to UTA; a Bidder's objectivity in performing the work identified in this IFB is or might be otherwise impaired; or a Bidder has an unfair competitive advantage. If a Bidder believes that it has, or may have, a real or perceived organizational conflict of interest, it must disclose such real or perceived organizational conflict of interest in its Bid, and describe the measures taken by the Bidder to mitigate such conflict. UTA will review such information and, in its sole discretion, determine



whether a real or perceived organizational conflict of interest exists, and whether such conflict warrants disqualification of the Bidder, or may be mitigated by taking further measures.

1.1.1.13 No Collusion

By submitting a Bid, the Bidder represents and warrants that its Bid is genuine and not a sham, and that the Bidder has not colluded with any other parties regarding this procurement process. If UTA learns that the Bid is not genuine, or that the Bidder did collude with other parties, or engaged in any anti-competitive or fraudulent practices in connection with this procurement process, UTA may immediately terminate any resulting contract and seek any remedies available in equity or at law.

1.1.1.14 Federal Requirements. (If applicable)

If federal funds are being used to finance this project, the Contractor shall also comply with the additional applicable federal terms and conditions listed in Part 6a and submit all applicable certifications, forms and reports listed in Part 6b.

- a. UTA eComply Solutions. In addition, where federal funds are being used, the Bidder/Bidder shall submit required labor and subcontractor information to UTA through following portal: <https://uta.ecomply.us>. The information provided shall include the following:
 - Set up and maintain contractor login for all persons inputting information in the system
 - Description of payments received from UTA, and payments made to subcontractors of all tiers including amounts and confirmation of payment
 - All certified payrolls must be input into eComply Solutions which may be accomplished either through direct input or importation from the contractor's accounting system.
 - All subcontract award amounts, date signed, and change orders
 - Certified payroll information shall be uploaded on a weekly basis; all other information shall be uploaded or input no less than monthly.

The Contractor shall include this clause in all subcontracts and manage and monitor compliance of all subcontractors within the UTA eComply system

1.2 SELECTION PROCESS

1.2.1.1 Public Opening

This is an IFB and, as such, the Bids submitted in response to this IFB will be subject to a public opening.

1.2.1.2 UTA's Procurement Options



Based on submitted information, UTA may do or take any of the following actions, without limitation:

- Award the contract to the lowest responsive and responsible Bidder who meets the criteria set forth in this IFB.
- Amend and reissue the IFB in order to clarify and correct.
- Cancel the invitation for bids without awarding a contract.

1.2.1.3 Responsiveness

Bids that are conditional, that attempt to modify the IFB requirements, that contain additional terms or conditions, or that fail to conform to the requirements or specifications of the IFB may be considered non-responsive. Notwithstanding, minor clarifications/tailoring to terms and conditions may be considered.

1.2.1.4 Responsibility

UTA will not select a Bidder who is deemed by UTA, in its sole discretion, to lack the ability or responsibility to perform successfully under the terms of the contract. Such determination of responsibility may encompass management, technical, legal, and financial matters.

1.2.1.5 Checking References.

The Utah Transit Authority reserves the right to contact any reference specifically named by the Bidder in its Bid or any other additional references as deemed appropriate by UTA, including references suggested by the Bidder's named references or references known to UTA through its own knowledge of the transportation industry.

1.2.1.6 Requests for Clarification

The Bidder shall provide accurate and complete information to UTA. If information is incomplete, appears to include a clerical error, or is otherwise unclear, UTA may either (i) declare the Bid non-responsive, (ii) evaluate the Bid as submitted, or (iii) issue a Request for Clarifications to the Bidder stating the information needed and a date and time by which the information must be provided. If the Bidder does not respond to the Request for Clarifications in a timely manner, or if the Bidder's response is deemed to be insufficient by UTA, in its sole discretion, then UTA may declare the Bid non-responsive.

All requests for Clarification will be in writing via E-mail, responses submitted as per the instructions contained in the request for Clarification. Responses must be limited to answering the specific information requested by UTA.

1.3 PROTESTS

Protests are governed by the Utah Procurement Code, Utah Code Ann. § 63G-6a-1601 et seq. To be valid, a protest must be in writing and be filed with UTA within the time frames set forth in Utah Code Ann. § 63G-6a-1602. A protest will be deemed to be filed pursuant to these procedures when actually received by the designated recipient by delivery via email to protests@rideuta.com.



All protests must include:

- The name and address, and email address of the protester.
- The appropriate contact person for the protester, to whom all protest correspondence shall be addressed;
- The solicitation or project number; and
- A detailed statement as to the nature of the protest including, without limitation: (i) the alleged facts and evidence giving rise to the protestor to claim that it has been aggrieved; (ii) the protestor's standing to protest; and (iii) the legal grounds upon which the protest is based.

The Procurement Officer shall make a written determination regarding the protest. An unfavorable determination of the UTA Procurement Officer is eligible for administrative reconsideration by a panel determined by the Chair of the UTA Board of Trustees. A notice of appeal must be delivered by the Protestor within five (5) calendar days of the date of the Procurement Officer's decision. A notice of appeal addressed as follows:

Chair, UTA Board of Trustees
c/o Utah Transit Authority
669 West 200 South
Salt Lake City, Utah 84101
Attn: Board Coordinator

CONTAINS TIME-SENSITIVE PROTEST MATERIALS

Any further appeal may only be made pursuant to Utah Code Ann. § 63G-6a-1801 *et seq.* A protesting entity must exhaust administrative appeals prior to filing a judicial appeal pursuant to Utah Code Ann. § 63G-6a-1801 *et seq.*



SECTION 4

IFB Part 4 Contract Terms

Part 4 – Contract Terms

“Vendor” as used in these UTA Standard Terms and Conditions means the party contracting with Utah Transit Authority (“UTA”) to provide Goods and/or Services to UTA. The terms “Goods” and “Services” are intended to have their broadest meanings. “Goods” includes any equipment, parts, materials, supplies, project deliverables, and work product supplied by Vendor in accordance with the solicitation documents (“Solicitation Documents”) to which these UTA Standard Terms and Conditions are attached. “Services” includes labor, professional services, and any manual, technical and other human resources provided in the fulfillment of the Solicitation Documents, including those specified in the Solicitation Documents and any additional Services incidental to the furnishing of Goods.

- 1. JURISDICTION, CHOICE OF LAW, AND VENUE:** Utah law governs this transaction. The parties shall submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of the Solicitation Documents and the contract (the “Contract”) resulting from UTA’s acceptance and counter-execution of a bid/Bid form submitted by the Vendor pursuant to the Solicitation Documents. Venue is in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
- 2. LAWS AND REGULATIONS:** Vendor and any and all Goods and/or Services furnished under the Contract will comply fully with all applicable Federal and State laws and regulations, including those related to safety and environmental protection. Vendor shall also comply with all applicable licensure and certification requirements.
- 3. RECORDS ADMINISTRATION:** Vendor shall maintain all records necessary to properly account for the payments made to Vendor for costs authorized by the Contract. Vendor shall retain those records for at least six years after the Contract is fully performed or terminated, or until all audits initiated within the six-year period have been completed (whichever is later). Vendor shall allow UTA, State, and Federal auditors, and UTA agency staff, access to all the records relating to the Contract, for audit, inspection, and monitoring of Goods and/or Services. Such access must be during normal business hours, or by appointment.
- 4. CONFLICT OF INTEREST:** Vendor represents that it has not offered or given any gift or compensation prohibited by the laws of the State of Utah to any officer or employee of UTA to secure favorable treatment with respect to being awarded the Contract.
- 5. INDEPENDENT CONTRACTOR:** Vendor is an independent contractor. As such, Vendor has no authorization, express or implied, to bind UTA to any agreements, settlements, liability or understanding whatsoever. Vendor shall not perform any acts as agent for UTA, except as expressly set forth in the Contract. Compensation stated in the Contract is the total amount payable to Vendor by UTA. Vendor is responsible for the payment of all income tax and social security tax due as a result of payments received from UTA for the Goods and/or Services.



Persons employed by UTA and acting under the direction of UTA will not be deemed to be employees or agents of Vendor.

6. **STANDARD OF CARE.** Vendor shall perform any Services to be provided under the Contract in a good and workmanlike manner, using at least that standard of care, skill and judgment which can reasonably be expected from similarly situated independent contractors (including, as applicable, professional standards of care).
7. **SALES TAX EXEMPTION:** The Goods and/or Services purchased by UTA under the Contract are exempt from sales and use tax.
8. **DELIVERY:** Unless otherwise specified in the Contract, all Goods will be delivered FOB to the destination designated by UTA in the Solicitation Documents. Vendor shall be responsible for delivery costs and all risk of loss shall remain with Vendor until such time as the Goods are received by UTA, its agent or consignee, regardless of whether UTA has made full payment for the Goods. Vendor shall deliver all Goods to UTA and perform all Services no later than the date(s) indicated in the Solicitation Documents. If Vendor fails to make delivery of any part of the Goods or fails to perform any portion of the Services on the date(s) indicated, UTA may terminate and pursue other remedies.
9. **INSPECTIONS:** Goods furnished under the Contract will be subject to inspection and testing by UTA at times and places determined by UTA. If UTA finds Goods furnished to be incomplete or not in compliance with applicable specifications and standards, UTA may reject the Goods and require Vendor to either correct them without charge or deliver them at a reduced price which is equitable under the circumstances. If Vendor is unable or refuses to correct such Goods within a time deemed reasonable by UTA, then UTA may cancel the order in whole or in part. Nothing in this paragraph will adversely affect UTA's rights including the rights and remedies associated with revocation of acceptance under the Uniform Commercial Code.

10. INVOICING AND PAYMENT:

- a. Contractor shall invoice UTA after delivery of all Goods and satisfactory performance of all Services. Contractor shall submit invoices to ap@rideuta.com for processing and payment. In order to timely process invoices, Contractor shall include the following information on each invoice:
 - i. Contractor Name
 - ii. Unique Invoice Number
 - iii. PO Number
 - iv. Invoice Date
 - v. Detailed Description of Charges
 - vi. Total Dollar Amount Due
- b. UTA shall have the right to disapprove (and withhold from payment) specific line items of each invoice to address non-conforming Goods or Services. Approval by UTA shall not be unreasonably withheld. UTA shall also have the right to offset (against payments) amounts reasonably reflecting the value of any claim which UTA has against Contractor under the Contract. Payment for all invoice amounts not specifically disapproved or offset by UTA shall be provided to Contractor within thirty (30) calendar days of invoice submittal.



11. **WARRANTY:** Vendor warrants all Goods (including hardware, firmware, and/or software products that it licenses) provided to UTA under the Contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in the Contract. Vendor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah apply to the Contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to the Contract unless otherwise specified and mutually agreed upon elsewhere in the Contract. In general, Vendor warrants that: (1) the Good will do what the salesperson said it would do, (2) the Good will live up to all specific claims that the manufacturer makes in their advertisements, (3) the Goods will be suitable for the ordinary purposes for which such items are used, (4) the Goods will be suitable for any special purposes that UTA has relied on Vendor's skill or judgment to consider when it advised UTA about the Good, (5) the Goods have been properly designed and manufactured, and (6) the Goods are free of significant defects or unusual problems about which UTA has not been warned. Nothing in this warranty will be construed to limit any rights or remedies UTA may otherwise have under the Contract.
12. **INDEMNIFICATION:** Vendor shall release, protect, defend, indemnify and hold UTA and its trustees, officers, and employees, harmless from and against any damage, cost or liability, including reasonable attorney's fees for any or all injuries to persons, property or claims for money damages arising from the willful misconduct or the negligent acts or omissions of Vendor, its subcontractors and suppliers, and their respective employees and agents, except to the extent caused by the negligent acts or omissions of UTA.
13. **INSURANCE:** The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The Utah Transit Authority in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, his agents, representatives, employees or subcontractors and Contractor is free to purchase additional insurance as may be determined necessary.
- A. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Contractor shall provide coverage with limits of liability not less than those Stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a "following form" basis.
1. **Commercial General Liability – Occurrence Form**
Policy shall include bodily injury, property damage and broad form contractual liability coverage.
- General Aggregate \$4,000,000
 - Products – Completed Operations Aggregate \$1,000,000
 - Personal and Advertising Injury \$1,000,000
 - Each Occurrence \$2,000,000



- a. The policy shall be endorsed to include the following additional insured language: "The Utah Transit Authority shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor".
2. Automobile Liability
Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.
- | | |
|-----------------------------|-------------|
| Combined Single Limit (CSL) | \$2,000,000 |
|-----------------------------|-------------|
- a. The policy shall be endorsed to include the following additional insured language: "The Utah Transit Authority shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, including automobiles owned, leased, hired or borrowed by the Contractor".
3. Worker's Compensation and Employers' Liability
- | | |
|-------------------------|-----------|
| Workers' Compensation | Statutory |
| Employers' Liability | |
| Each Accident | \$100,000 |
| Disease – Each Employee | \$100,000 |
| Disease – Policy Limit | \$500,000 |
- a. Policy shall contain a waiver of subrogation against the Utah Transit Authority.
- b. This requirement shall not apply when a contractor or subcontractor is exempt under UCA 34A-2-103, AND when such contractor or subcontractor executes the appropriate waiver form.
4. Professional Liability (Errors and Omissions Liability)
- The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Services of this contract.
- | | |
|------------------|-------------|
| Each Claim | \$1,000,000 |
| Annual Aggregate | \$2,000,000 |
- a. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained, or an extended discovery period will be exercised for a period of three (3) years beginning at the time work under this Contract is completed.
5. Railroad Protective Liability Insurance (RRPLI) – *Remove this section if not applicable*

During construction and maintenance within fifty (50) feet of an active railroad track, including but not limited to installation, repair or removal of facilities, equipment, services or materials, the Licensee and/or Licensee's Contractor must maintain "Railroad Protective Liability" insurance on behalf of UTA only as named insured, with a limit of



not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000.

If the Licensee and/or Licensee's Contractor is not enrolling for this coverage under UTA's blanket RRPLI program, the policy provided must have the definition of "JOB LOCATION" AND "WORK" on the declaration page of the policy shall refer to this Agreement and shall describe all WORK or OPERATIONS performed under this Agreement.

14. Vendor shall maintain worker's compensation insurance in accordance with applicable laws and shall also maintain general liability insurance with policy limits no less than two million per occurrence and four million in the aggregate. Vendor shall include UTA as an additional insured with respect to such insurance. Upon request, Vendor shall provide proof of insurance to UTA.
15. **TERMINATION FOR CONVENIENCE:** UTA may terminate the contract, in whole or in part, at any time by written notice to the Contractor when it is in UTA's best interest. UTA shall pay Contractor its costs, including contract close-out costs, and profit on work performed up to the time of termination. To be paid those costs, the Contractor must promptly submit its termination claim to UTA. If the Contractor has any property in its possession belonging to the UTA, the Contractor shall account for the same, and dispose or deliver it in the manner the UTA directs.
16. **DEFAULT:** If Vendor: (a) becomes insolvent; (b) files a petition under any chapter of the bankruptcy laws or is the subject of an involuntary petition; (c) makes a general assignment for the benefit of its creditors; (d) has a receiver appointed; (e) should fail to make prompt payment to any subcontractors or suppliers; or (f) fails to comply with any of its material obligations under the Contract, UTA may, at its option either cure the default at Vendor's expense or terminate the Contract after first giving Vendor five (5) days written notice to cure such default. Immediately after such termination, UTA may: (i) take possession of the Goods wherever they may be located and in whatever state of completion they may be together with all drawings and other information necessary to enable UTA to have the Items completed, installed, operated, maintained and/or repaired; (ii) pay to Vendor any amount then due under the Contract after taking full credit for any offsets to which UTA may be entitled; (iii) contract with or employ any other party or parties to finish the Items; and (iv) collect from Vendor any additional expense, losses or damage which UTA may suffer.
17. **PATENTS, COPYRIGHTS, ETC:** Vendor will defend, indemnify, and hold UTA, its officers, agents, and employees harmless from liability of any kind or nature, arising from Vendor's use of any copyrighted or un-copyrighted composition, trade secret, patented or un-patented invention, article or appliance furnished or used in the performance of the Contract.
18. **ENVIRONMENTAL RESPONSIBILITY:** UTA is ISO 14001 Environmental Management System (EMS) certified. Vendor acknowledges that its Goods and/or Services might affect UTA's ability to maintain the obligation of the EMS. A partial list of activities, products or Services deemed as have a potential EMS effect is available at the UTA website www.rideuta.com. Upon request by UTA, Vendor shall complete and return a *Contractor Activity Checklist*. If UTA determines that the Goods and/or Services under the Contract has the potential to impact the environment, UTA may require Vendor to submit additional



environmental documents. Vendor shall provide one set of the appropriate safety data sheet(s) (SDS) and container label(s) upon delivery of a hazardous material to UTA.

19. **PUBLIC INFORMATION:** Vendor acknowledges that the Contract and related materials (invoices, orders, etc.) will be public documents under the Utah Government Records Access and Management Act (GRAMA). Vendor's response to the solicitation for the Contract will also be a public document subject to GRAMA, except for legitimate trade secrets, so long as such trade secrets were properly designated in accordance with terms of the solicitation.
20. **SEVERABILITY:** If any provision of the Contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected; and the rights and obligations of the parties will be construed and enforced as if the Contract did not contain the particular provision held to be invalid.
21. **WRITTEN AMENDMENTS:** The Contract may be amended, modified, or supplemented only by written amendment to the Contract, executed by authorized persons of the parties hereto.
22. **ASSIGNMENT:** Vendor shall not assign, sell, or transfer any interest in the Contract without the express written consent of UTA.
23. **FORCE MAJEURE:** Neither party to the Contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which are beyond that party's reasonable control. UTA may terminate the Contract after determining such delay or default will reasonably prevent successful performance of the Contract.

24. **UTAH ANTIDISCRIMINATION ACT:**

Offeror hereby declares that it is and will remain fully compliant with the provisions of the Utah Anti-discrimination Act (UTAH CODE §§ 34A-5-101 TO 34A-5-108) and the equivalent anti-discrimination laws of its State of incorporation and/or headquarters location. Under the Act, an employer may not refuse to hire, promote, discharge, demote, or terminate a person, or to retaliate against, harass, or discriminate in matters of compensation or in terms, privileges, and conditions of employment against a person otherwise qualified, because of: race, color, sex, pregnancy, childbirth, or pregnancy-related conditions; age, if the individual is 40 years of age or older; religion; national origin; disability; sexual orientation; or gender identity.

In addition to avoiding discriminatory employment practices as described above, Offeror also declares that all goods and services it provides to UTA are useable and accessible by individuals with disabilities as described in Title II of the American with Disabilities Act and also Section III (H) of UTA Policy 6.1.1 which states that programs, services, and facilities procured by UTA will be accessible to and useable by individuals with disabilities. Offeror further certifies that any digital software, tool, program, or web application must meet the most recent version of the Web Content Accessibility Guidelines (WCAG) found at <https://www.w3.org/TR/WCAG21>. To the extent Offeror is providing transportation services, vehicles, or facilities it also declares that it is in compliance with Department of Transportation (DOT) ADA standards found at 49 CFR Parts 27, 37, 38, and 39.

25. **UTAH ANTI-BOYCOTT OF ISRAEL ACT:** Contractor agrees it will not engage in a boycott of the State of Israel for the duration of this contract.



26. **WAIVER:** Any waiver by a party of any breach of any kind or character whatsoever by the other party, whether such be direct or implied, will not be a continuing waiver of or consent to any subsequent breach of the Contract.
27. **ENTIRE AGREEMENT:** The Contract (including parts of the Contract incorporated by reference) constitutes the entire agreement between the parties with respect to the subject matter and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written. The terms of the Contract supersede any additional or conflicting terms or provisions that may be preprinted on Vendor's work plans, cost estimate forms, receiving tickets, invoices, or any other related standard forms or documents of Vendor that may subsequently be used to implement, record, or invoice Goods and/or Services hereunder from time to time, even if such standard forms or documents have been signed or initialed by a representative of UTA. The terms of the Contract prevail in any dispute between the terms of the Contract and the terms printed on any such standard forms or documents, and such standard forms or documents will not be considered written amendments of the Contract.



INVITATION FOR BIDS

Part 5 – Declarations, Offer, and Conflict of Interest Form

A. UTAH ANTIDISCRIMINATION ACT:

Offeror hereby declares that it is and will remain fully compliant with the provisions of the Utah Anti-discrimination Act (UTAH CODE §§ 34A-5-101 TO 34A-5-108) and the equivalent anti-discrimination laws of its State of incorporation and/or headquarters location. Under the Act, an employer may not refuse to hire, promote, discharge, demote, or terminate a person, or to retaliate against, harass, or discriminate in matters of compensation or in terms, privileges, and conditions of employment against a person otherwise qualified, because of: race, color, sex, pregnancy, childbirth, or pregnancy-related conditions; age, if the individual is 40 years of age or older; religion; national origin; disability; sexual orientation; or gender identity.

In addition to avoiding discriminatory employment practices as described above, Offeror also declares that all goods and services it provides to UTA are useable and accessible by individuals with disabilities as described in Title II of the American with Disabilities Act and also Section III (H) of UTA Policy 6.1.1 which states that programs, services, and facilities procured by UTA will be accessible to and useable by individuals with disabilities. Offeror further certifies that any digital software, tool, program or web application must meet the most recent version of the Web Content Accessibility Guidelines (WCAG) found at <https://www.w3.org/TR/WCAG21>. To the extent Offeror is providing transportation services, vehicles or facilities it also declares that it is in compliance with Department of Transportation (DOT) ADA standards found at 49 CFR Parts 27, 37, 38, and 39.

B. BID DECLARATIONS

This Bid is submitted upon the following declarations:

1. Neither I nor, to the best of my knowledge, none of the members of my firm, corporation, or JV have either directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive proposing in connection with this Bid.
2. Neither I nor, to the best of my knowledge, none of the members of my firm, corporation, or JV have given, offered, or promised to give any compensation, gratuity, contribution, loan or reward to any person administering, conducting, or making decisions regarding this procurement process.
3. I certify that the named Bidder has registered and is participating in the Status Verification System in accordance with Utah Code Ann. § 63G-12-302 (see Part 3 (B) for more information).

4. I acknowledge receipt of the following addenda to this IFB:

Addendum No. ___ Date _____
 Addendum No. ___ Date _____
 Addendum No. ___ Date _____
 Addendum No. ___ Date _____

Failure to acknowledge receipt of all addenda may cause the Bid to be rejected as non-responsive.

5. Further, this Bid is submitted upon the declaration that I have reviewed the terms and conditions of the IFB, including the Standard Contract Terms, and accept all the terms and conditions stated therein.

The undersigned is authorized to make the foregoing declarations, acknowledgements, and certifications set forth above.

Penn Machine Company
 (Contractor's Name)

Ronald S Johnson
 (Signature)

Digitally signed by Ronald S Johnson
 DN: cn=Ronald S Johnson, o, ou,
 email=rjohnson@pennmach.com, c=US
 Date: 2022.04.06 11:47:08 -0600'

Ronald S. Johnson
 (Print Name)

C. CONTRACTOR'S OFFER

By signing below, the Contractor makes a firm offer to deliver all supplies and/or perform all services or construction as set forth in the IFB (including any amendments), for the price set forth on Contractor's Bid Sheet Form. Contractor accepts all UTA terms and conditions included with the IFB and acknowledges that any conflicting terms and conditions contained in the Contractor's bid or Bid shall be considered null and void.

Signature must be by an officer of your company authorized to bind your company in contractual matters.

Penn Machine Company, LLC

 (Contractor's Name)
 310 Innovation Dr. Blairsville, PA 15717

 (Contractor's Address)
 724-675-7108

 (Contractor's Phone Number)
 rjohnson@pennmach.com

 (Contractor's Email Address)

Ronald S Johnson Digitally signed by Ronald S Johnson
 DN: cn=Ronald S Johnson, o=, email=rjohnson@pennmach.com, c=US
 Date: 2022.04.06 13:38:21 -0400

 (Signature)
 Ronald S Johnson

 (Print Name)
 Sales Engineer

 (Title)
 4/05/2022

 (Date)

D. UTA'S ACCEPTANCE

By signing below, UTA accepts Contractor's offer. This acceptance creates a binding Contract, which consists of the IFB Statement of Work or Services, UTA Standard terms and conditions, the UTA IFB terms and conditions, FTA terms and conditions referenced in the IFB, and the Contractor's Bid or Bid, in that order of precedence.

The effective date of the Contract is the date of the last signature on this page.

 UTA Representative / Title

 (Date)

 UTA Representative / Title

 (Date)

DocuSigned by:


 361F16F838704A9...
 UTA Legal
 Mike Bell

4/14/2022