



**HELLENIC REPUBLIC**  
**PUBLIC PORTS AUTHORITY (PPA)**  
**DECENTRALISED UNIT**  
**MINISTRY OF SHIPPING AND**  
**MARITIME AFFAIRS**  
**COMMANDER'S OFFICE**

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GREEK TEXT PREVAILS

## **TENDER 10/2019**

Taking into consideration:

1. Provisions such as these shall apply:

- a) Law 4150/13 "Reconstruction of the Ministry of Shipping and the Aegean and other provisions" (Government Gazette A 102).
- b) Law 4389/2016 "Urgent Provisions for the Implementation of the Agreement on Budgetary Objectives and Structural Reforms and Other Provisions" (Government Gazette A 94) and in particular Articles 127-138.
- c) Law 4270/2014 "Principles of financial management and supervision (incorporation of Directive 2011/85 / EU) - public accounting and other provisions" (Government Gazette A '143)
- d) Law 4412/2016 "Public Procurement of Works, Supplies and Services (adapted to Directives 2014/24 / EU and 2014/25 / EU)" (Government Gazette A '147)
- e) Law 4013/2011 "Establishment of a Single Independent Public Procurement Authority and Central Electronic Public Procurement Registry - Replacement of Chapter Six of Law 3588/2007 (Bankruptcy Code) - Consolidation Procedure and Other Provisions" (Government Gazette A' 204)
- f) Law 2881/2001 "Regulation of Wrecking Issues and Other Provisions" (Government Gazette A '16)
- g) Law 4404/2016 "On the ratification of June 24, 2016 amendment and codification in a single text of the Concession Agreement between the Greek State and Piraeus Port Authority SA dated February 13, 2002 and other provisions" (Government Gazette A '126), and its explanatory memorandum
- h) By PD 63/05 "Codification of Legislation for Government and Governmental Institutions" (Government Gazette A 98), as amended and in force.
- i) By PD 103/2014 "Organization of the Ministry of Shipping and the Aegean" (Government Gazette A '170).
- j) By PD 70/2015 "(...) Reconstruction of the Ministry of Shipping and the Aegean and its renaming to the Ministry of Shipping and Maritime Affairs ..." (Government Gazette A '114).
- k) The MD 2123/35/01 (Government Gazette B 1438) "Procedure and content of the contract of works referred to in Article 2 (4)"

2. The document with protocol number 1000.0/75174/2017 by the Minister of Shipping and Maritime Affairs, entrusting the Public Ports Authority with oversight of the proper implementation of the immediate lifting of the SEA DIAMOND shipwreck in the context of the measures envisaged by the existing legislation.

3. The document with protocol number 1000.0/75176/2017 by the Minister of Shipping and Maritime Affairs, which entrusted the Public Ports Authority with the supervision of the implementation of the provisions of Law 2881/2001, regarding this shipwreck and to safeguard the public interest.

4. Opinion No. 155/2019 of the State Legal Council, which inter alia states: "By the provisions of Articles 127 et seq. of Law 4389/2016, the Public Ports Authority was established as a decentralized and independent

unit of the Ministry of Shipping and Maritime Affairs, with management bodies the Commander and Board of Directors, in order to be the public body entrusted with the exercise of the powers and responsibilities with administrative nature that were removed from ports by the conclusion of concession agreements, in cooperation with RAL and the General Secretariat for Ports, Port Policy and Maritime Investments....Article 128 (1) of the same law sets out the aims and other responsibilities of the PPA which include environmental protection. within the ports, in accordance with the legislation in force. Further, under Article 129 (2) (d) of that Act, the proceeds of shipwreck law 2881/2001 are included in PPA's extraordinary resources. For the aforementioned reasons, it is accordingly accepted that, in the case of a ship being held in the port of Piraeus that became State-owned in accordance with Article 177 of the Customs Code and dangerous and harmful as well, PPA as the public body competently designated with the protection of the environment within the ports in accordance with the legislation in force shall comply with the obligations imposed by Law 2881/2001 on the owner of the ship, whether or not it is an "Organization" within the meaning of paragraph 2 of Article 1 of this law to the port of Piraeus and whether or not PPA can exercise the powers that the law confers to the "Organization". Furthermore, in each case, according to the express provision of a. 131 par. 1 law 4389/2016 "The territorial jurisdiction of PPA. extends over the whole territory. "

5. The fact that according to Directive 2004/35/EC where an environmental disturbance or damage results from the occurrence of an ongoing environmental risk, the obligation to remedy is immediate and complete and includes as soon as possible a return to the former (ie. pre-injury) situation as well as preventing further damage to the future. In this case, the obligation to make restitution takes precedence over any other public purpose (economic, social, etc.), in the sense that no other public interest can invoke or delay restoration.

6. The fact that states that have signed the Rio and Johannesburg International Treaties, including Greece, must, in order to be consistent with their international obligations, guarantee with both their legislation and the preparedness of their administrative mechanism that they are in a position to eliminate any environmental risk at any time, and this is an obligation that is direct, primary and independent of any parallel third party responsibilities, as the environmental class is the most important public good.

7. The fact that, if the owner of the shipwreck does not comply with his statutory obligations, the competent legal person in the public sector, as the case may be, is legally appointed as the agent of the master and not only may but shall be obliged to perform itself the actions necessary for the lifting of the wreck with liability and costs of the owner, which are charged and collected in accordance with the provisions on the collection of public revenue.

8. The fact that with the entry into force of Law 2881/2001 the legislator, fully aware of the fact that shipowners and other responsible persons normally delay or refuse to lift shipwrecks for various reasons, in particular where it is not economically advantageous for them, introduces a complete system of public substitution in their place as their agent for public interest reasons.

9. The fact that the exercise of powers under Law 2881/2001 constitutes an exercise of public authority, which is also at the core of state competence, since it is directly related to the protection of the marine environment and therefore requires the activation of a public authority, which may issue enforceable administrative acts which unilaterally bind those to whom they are addressed and are subject to the control of the Council of State. Further, it must be a service within the hierarchy of the Ministry of Shipping and Maritime Affairs so that acts and omissions are subject to the hierarchical control of the Ministry's leadership.

10. The fact that, according to the provisions of Law 2881/2001, interpreted in conjunction with the introductory report of the law and in accordance with Article 24 of the Constitution and the specific principles of prevention and rehabilitation, it follows that in the case of a shipwreck the rule is the lifting and removal of it from the marine environment by the owner of the shipwreck himself or, in the event of non-compliance, by the competent public authority within the prescribed time limit, and only in exceptional circumstances the displacement or destruction of the wreck is allowed. Therefore, no specific justification is required as to the danger posed by the wreck for the environment or the impediment to free and secure navigation, nor the imposition of the measure of lifting the entire wreck, since this measure is the most suitable for eliminating any adverse effect from the existence of the shipwreck, as this will restore, as far as possible, the marine environment to the previous situation. Only in cases where due to special circumstances

it is impossible or particularly difficult to lift other measures (neutralization, destruction, dismantling) may be ordered. In such cases, specific scientific justification is required both for reasons which make it impossible or particularly difficult to lift - which, however, may not be economical - and for the preference for the measures ordered. On the other hand, the obligation of the shipowner to lift and remove it within the prescribed period and, in the event of non-compliance, to pay the relevant costs incurred by the competent public body, shall be objective and not subject to the conditions or to any liability of the owner of the ship or its contributors for the shipwreck.

11. The fact that the de facto passage to the State of the immense costs of lifting a shipwreck constitutes an unacceptable burden on the whole of society when it occurs as a result of the refusal of the person liable to bear them, even if after a long period of time and judicial and administrative coercive measures finally the relevant requirements of the State have been satisfied.

12. The fact that in the present case: (a) the wreck in question, located in an area requiring particular state protection, appears to be an active source of pollution for the enclosed Gulf of Caldera of Thira island, as it releases pollutants into the environment on a daily basis from petroleum products and due to marine erosion caused to the skeleton and its equipment in general; (b) greater ecological deterioration of the marine environment is threatened in the future due to its progressive erosion; (c) the wreck has particularly large dimensions.

13. The fact that in this case, in the light of the precautionary principle, the following shall be taken particularly into account: the ultimate impact of the shipwreck on the environment and in particular the continued leakage of petroleum residues, the systematic detection of significant quantities of heavy metals and seawater pollution loads due to ship corrosion.

14. The fact that Law 855 of 23 / 23.12.1978, which ratified the "International Convention for the Protection of the Mediterranean Sea Against Pollution" signed in Barcelona in 1976, is applicable thereto, as well as its Protocols "on the prevention of contamination of the Mediterranean Sea by the discharge of substances from ships and aircraft", and "On cooperation in the fight against pollution of the Mediterranean Sea by oil and other harmful substances" and their Annexes. (A '235), as well as the Protocol on the Protection of the Mediterranean Sea against Pollution from Land Resources and Activities, ratified by Law 3022/2002.

15. The fact that, by decision No 293,294,364,372,373,421,433,481 / 2015 of the Appeal Court of Piraeus for Misdemeanours "The shipwreck in question continues to be an active source of pollution, as it continues to evacuate every day pollutants from petroleum residues .....from the skeleton and the equipment SEA DIAMOND, taking particularly into account the progressive erosion of the ship. The aforementioned elements constitute serious marine pollution." The above recital was fully confirmed by the Supreme Court decision No 515/2016.

16. The fact that according to the report of the Technical University of Crete dated 7-6-2016, "The Sea Diamond shipwreck represents a significant environmental threat to the marine environment of the Caldera of Santorini. This threat, under conditions, can lead to ecological disaster. The results of sampling carried out on the marine column, sediments of the area, and on the benthic edible tissues caught from the adjacent to the wreck area, together with all field observations throughout the study period, demonstrate the immediate need to take measures to continuously monitor, precisely control the level of pollution in the area and ultimately to remove the wreck from Caldera as soon as possible. "

17. Document No 2261.3/1885/17 of Thira Coast Guard, which indicates that for the shipwreck in question have already been issued:

- a. 609 decisions imposing a fine of EUR 5,361,000.00 for non-removal of petroleum products
- b. 11 fining decisions for non-sampling, non-recording and not continuous monitoring of short-term effects on marine flora and fauna of the wider area of the wreck totaling EUR 96,844.00
- c. 1 Decision imposing a fine for failure to lift EUR 29,300.00
- d. 1 Ministerial decision imposing a fine of EUR 1,173,881.14
- e. 1 decision of Thira Coast Guard imposing a fine of EUR 1,576,433.45.

18. The fact that under the judgments numbered 51/2017 and 373/2018 of the Court of Appeal of Piraeus forensic experts Efstratios Kalogirou and Stefanos Yakumatos, prepared an expert report dated 2/8/2019, the conclusions of which are as follows: "The submerged SEA DIAMOND is a hotbed of polluting and harmful substances, both for the human and the natural environment, according to the data collected so far, as thoroughly analyzed in the general and specific theoretical part, based on Greek and foreign-language literature, which is listed at the end of this technical expert report. The main pollutants are toxic and hazardous heavy metals: ... The latest sampling has shown serious exceedances of various fractions of petroleum as well as aromatic hydrocarbons ... Dealing with harmful emissions referred to in section H.1 (both human and natural) of the sunken ship is possible by the following scientific methods: As an optimal solution (from an environmental point of view) is considered the total lift of the vessel. The latest sighting of the wreck (July 2019) through the use of Planet Blue's ROV showed that the Sea Diamond wreck is in excellent condition, which reinforces the aforementioned option ... The burden the shipwreck has caused on the region is clear and the only way to prevent it is to permanently remove it. Any other delay or action will result in ecological and not only ecological destruction of Caldera. The state should be required to implement Article 24 of the Constitution to remedy the damage to the marine environment and to protect the health of citizens ... "

19. The fact that the present tender does not incur any expenditure at the expense of the State budget, since the debtors under a. 2 Law 2881/2001 are obliged to pay in advance all the expenses for the lifting of the shipwreck in question.

### **We declare**

On 9/12/2019 Monday, at 15.00hrs open public tender, with sealed bids for lifting, removal out of Athinoy Bay and legal disposal of the shipwreck SEA DIAMOND for a total price of 50.000.000,00 EURO not including VAT 24% and a total price of EUR 62,000,000 including VAT 24%. Tenders shall be accepted only for all the works referred to in Article 13 hereof. The announcement of the tender is made by our Office, in accordance with the rules of publicity set forth in Article 1 of the MD 2123/35/01 (Government Gazette 1438 B) and Articles 2 and 3 of Law 3861/2010 (Government Gazette 112 A).

The cost of publishing the notice, as often as required and in each case of re-tender, shall be borne by the final bidder. Interested parties can learn the terms of the tender from the Port Authority website (ppa.gov.gr) and receive the tender during business days and hours from 08.00 - 15.00 at the Port Authority offices (Ministry of Shipping and Maritime Affairs building, office no. 332). All documents required for the tender and any other procedure related to the competition and participation in it shall be written in Greek.

Bid Opening Date: 10/12/2019, Tuesday, 1200 am at the Office 332 of the Ministry of Shipping and Maritime Affairs building.

### **ARTICLE 1**

#### **RIGHT TO PARTICIPATE - QUALIFICATION AND PARTICIPATION DOCUMENTS**

##### **A) PARTICIPANTS.**

All natural or legal persons or associations or consortia, which fulfill the conditions hereof, may participate in the tender provided that they are eligible and have not been excluded from tenders of the Greek State or legal entities owned by the State and are engaged in Greece or in a foreign country profession related to its subject matter, during the year in which the tender takes place. The above can be submitted either directly or through their representatives in Greece.

##### **B) PARTICIPATION DOCUMENTS**

Bidders shall submit or send to the Public Ports Authority a typed offer in Greek in two copies, provided that it is submitted to the Authority as set out in Articles 2 and 3. The bid must be accompanied by a 5% initial guarantee of participation as specified below under 1.7, and from the following supporting documents:

##### **1.1. Individuals.**

##### **a. Greek citizens.**

1.1.1. Certificate of the relevant chamber, issued in the last semester before the competition, certifying their registration in it and the special profession they are pursuing this year

1.1.2. Excerpt from the criminal record, issued last quarter, which shows that they were not convicted of an offense related to their professional activity.

1.1.3. Certificate issued by the competent judicial or administrative authority, issued in the last six months, indicating that they are not or are not in the process of filing for bankruptcy, liquidation, forced management, conciliation with the creditors or the activities of their business have been suspended or are in any similar situation. .

1.1.4. Certificate of Competent Authority certifying that they have fulfilled their obligations regarding the payment of social security contributions and tax liabilities on the date of the tender. In the case they are established abroad, the supporting documents referred to in the above paragraphs (1.1.3 and 1.1.4) shall be issued in accordance with the applicable law of the country of establishment from which the relevant certificate is issued.

b. Aliens.

-Certificate of a relevant Chamber or equivalent Organization certifying their registration in the professional or commercial register and the special profession they are practicing in the current year which must have been issued at least six (6) months prior to the tender.

- An extract from a criminal record or equivalent document issued within the last three months from the competent administrative or judicial authority of the country of establishment showing that they have not been convicted of an offense related to their professional activity.

- Certificate from the competent authority of the country of establishment from certifying that the circumstances referred to in paragraph 1.1.3 do not apply. Where the country concerned does not issue such documents or certificates or they do not cover all the cases referred to in paragraph 1.1.3. they must be replaced by an affidavit of the person concerned before a judicial or administrative authority, a notary public or any other competent authority of the country of establishment. In countries where an affidavit is not foreseen, this should be replaced by statement of Law 1599/1986. In this case, the competent authority or the notary shall issue a certificate attesting the authenticity of the affidavit or the statement of Law 1599/1986.

-Certificate from the competent authority of the country of establishment indicating that they have fulfilled the obligations referred to in paragraph 1.1.4 regarding the payment of social security contributions and tax liabilities, on the date of the tender.

1.2. Legal entities domestic or foreign.

1.2.1. The documents referred to in paragraphs (a) and (b) of paragraph 1.1. provided for natural persons, Greeks or Aliens respectively, and a copy of their statutes validated by the competent authority accompanied by any modifications thereto and a document of the competent authority that the legal entity exists. Specifically with regard to the extract from the criminal record , it is clarified that the legal representatives of the legal entities must provide it and, in addition, depending on its legal form, the following:

(a) Regular partners and managers of Regular Partnerships and Limited Liability Partnerships,

b) Ltd's Managers,

c) BoD Members, Chairman and CEO of SA.

1.2.2. In addition, cooperatives must provide a certificate of the supervisory authority that the cooperative is legally operating.

1.3. Consortia, Partnerships, Associations

Each member of the Union / Partnership / Consortium must submit all the supporting documents referred to in paragraphs 1.1. and 1.2. as appropriate (foreign or domestic natural or legal person) and in addition:

(a) an agreement between the members of the Union / Partnership or the Consortium. The agreement should specify a joint representative of the Union and its members to participate in this tender and to represent it and its members before the Authority.

(b) an act of the competent administrative body of each Member of the Union etc., indicating that the membership to the Union etc as well as the participation to the tender has been approved. In the case of partici-

pation of a natural person in the Union etc. the above act is replaced by a statement of Law 1599/1986 with relevant content.

#### 1.4. Consortia (or partnerships or associations) of persons submitting a joint bid.

Clarifications:

1.4.1. Joint ventures or associations are entitled to submit a joint bid. Their conversion into a certain legal form may be required if they are contracted and to the extent that they are necessary for the proper performance of the contract.

1.4.2. Candidates or tenderers who, under the law of the State in which they are established, have been authorized to provide the service in question, cannot be rejected simply because they were required to be legal persons under Greek law.

1.4.3. The bid of the consortium shall be compulsorily signed either by all the participants in the consortium or by their representative authorized by notarial act. The bid must necessarily indicate the part of the total bid corresponding to each of its members.

1.4.4. In submitting a bid, each member of the consortium shall be jointly and severally liable. In case of awarding the project, this responsibility continues until the contract is fully executed.

1.4.5. In the event that due to failure for any reason or force majeure, a member of the consortium cannot fulfill the obligations of the consortium at the time of evaluation of the tenders, the remaining members shall continue to be responsible for completing the joint bid at the same price. If the above weakness or force majeure occurs at the time of execution of the contract, the other members shall continue to be responsible for such completion at the same price and under the same conditions. The other members of the consortium may in both cases propose a replacement. The replacement shall be approved by a decision of the Port Authority Commander, following the opinion of the body responsible for conducting the competition.

#### 1.5. SUPPLEMENTARY DOCUMENTS - CLARIFICATIONS

1.5.1. All of the above contestants of par. 1.1 up to 1.4. above will also submit a legal representation certificate or other sufficient supporting evidence to show who are their representatives at the time of the tender, provided that they participate in the tender with their representative.

1.5.2. In addition to the above supporting documents, the participants must submit a statement that they fully and unconditionally accept the terms of this tender.

1.5.3. The bidders will also submit a statement under Article 8 of Law 1599/1986 that they have not been penalized with exclusion from by the Greek State tenders.

1.5.4. Representatives in Greece of foreign nationals or foreign natural or legal persons or in addition to the above and where appropriate are required to provide supporting evidence making obvious that they are their representatives at the time of the tender.

1.5.5. Certificates of participation in the tender issued abroad will be accompanied by an official translation into Greek by a state authority or by persons authorized by law.

1.5.6. Failure to submit all the above documents or if serious evidence of inaccuracies is found in the examination of the submitted documents will result in the EXCLUSION from the tender unless the participating company submits the documents - excluding the initial guarantee of participation - upon request by the Authority and within (5) working days from the date of the tender. Clarifications are provided only when requested by the Authority, while clarifications made by tenderers at any time after the expiry of the time when their tenders are lodged shall not be accepted and shall be rejected as inadmissible.

1.5.7. The bidder shall not be entitled to withdraw its bid, in whole or in part, after its submission, whether or not its bid has been awarded. If it is withdrawn, it is subject to the penalties provided for in Article 10 of MD 2123/38/01 (Government Gazette B 1439/2001).

1.5.8 At a minimum, the performance of tender subject-matter shall be included to the scope of their work and their statutory purpose and hold the required legal licenses.

#### 1.6. PARTICIPATION GUARANTEE - GOOD PERFORMANCE

1.6.1. Participation documents shall be accompanied with an exclusion penalty from a PARTICIPATION letter of guarantee issued by credit institutions or other legal entities legally operating in Greece or in another Eu-

ropean Union (EU) or European Economic Area (EEA) State or other third countries. who have signed the World Trade Organization Public Procurement Agreement, which was ratified by Law 2513/1997, and have, under the laws of those States, this right, accompanied in the case of foreigners by their official translation into the GREEK LANGUAGE by a State authority or by persons legally authorized or a deposit issued by the Depositary and Loan Fund, according to the attached model, with a value of 5% of the original price. The letter of guarantee must be valid for at least one month after the expiry date of the offer. For The participation guarantees a. 5 of MD 2123/38/01 (Government Gazette B 1439/2001) applies. In the case of a consortium the letter of guarantee should be common to all members of the consortium. The Participation Letter of Guarantee shall be returned to the Participants within five (5) days from the date of award of the results of the tender. Necessary elements of the Tender Participation Guarantee at the time when the offer is submitted are as follows:

- (a) the credit institution's commitment to pay a certain amount with the sole statement of the person to whom it is addressed;
- (b) the number of the tender
- (c) the amount covered by the guarantee
- (d) the date of its issuance
- (e) the details of the tenderer for whom it is issued

Any deficiencies in the guarantee of participation beyond what is necessary may be retrospectively covered. The amount of the letter of guarantee shall be at least 5% of the initial price (In the case of a consortium, the letter of guarantee must be common to all members of the consortium).

1.6.2. The Tenderer to whom the Tender has been awarded is obliged before and in any event not later than five (5) days from the date of the contract award to submit a PERFORMANCE LETTER OF GUARANTEE, covering 10% of his bid. The performance letter of guarantee will be of indefinite validity. Upon submission of the performance letter of guarantee, the PARTICIPATION letter of guarantee will be returned. The above guarantee will be returned upon completion of the ship removal work and within 10 days of payment of the price.

## **ARTICLE 2**

### **TIME AND METHOD OF SUBMISSION**

2.1. Anyone wishing to submit to the tender must, with an exclusionary penalty, deposit it with the Secretariat of the Authority by the last business day before the date of the tender, that is until 9/12/2019 at 15:00.

2.2. Offers may be sent to the Office of the Authority (Ministry of Shipping and Maritime Affairs, Akti Vasiliadis – Ports E1-E2, PO Box 185 10, Piraeus Port, Office No. 332), in any way and by receipt, provided that these will come to the Service as described in section 2.1. of this.

2.3. Where the offers submitted or mailed do not comply with the provisions of this Article, they shall be disregarded but returned without being opened.

2.4. The Tender Committee will receive all tenders from the Secretariat of the Authority at the time of the bids opening. Any bids submitted or received within the deadline are unsealed at the appointed time. Offers submitted after the deadline will be delivered by the Secretariat for return.

## **ARTICLE 3**

### **OFFERS – TIME OF VALIDITY**

3.1. Offers shall be submitted in a single sealed envelope with the following clearly indicated:

- The word OFFER in capital letters.
- The full title of the Competent Service conducting the competition.
- The number of the tender
- The date of the tender
- Details of the sender.

Tenderers are required to indicate in writing in their offer that they have been made aware of this tender and they fully accept its terms. In the event of failure to indicate this condition, the tenderer shall be deemed to accept fully and unreservedly all the terms unless he expressly indicates in the offer the points which he may not accept. Within the single offer envelope the tenderers shall place three (03) individually sealed envelopes in ORIGINAL and three (3) individually sealed envelopes of their COPY (ie 3 + 3 envelopes in total), as follows:

Folder 1: All the required documents referred to in Article 1 hereof and the guarantee of participation are placed in a separate sealed envelope, within the single offer envelope, marked with "DOCUMENTS FOR PARTICIPATION - ORIGINAL" and in an independent envelope their copies with the indication "DOCUMENTS FOR PARTICIPATION - COPY".

Folder 2: The technical data of the offer shall be placed in a separate sealed envelope, within the single offer envelope, marked "TECHNICAL BID - ORIGINAL" and in a separate envelope the copy of the technical data marked "TECHNICAL BID - COPY".

Folder 3: The financial data of the offer shall be placed in a separate sealed envelope also within the single tender envelope, labeled "ECONOMIC BID - ORIGINAL" and in an independent envelope a copy of the financial data marked "ECONOMIC BID - COPY". The envelopes with the supporting documents of the technical and financial data shall bear the indications of the main folder

3.2. If the technical data of the offer cannot, due to the large volume, be placed in the main envelope, then they are particularly packaged and follow the main envelope marked "OFFER ANNEX" and the other indications of the main envelope.

3.3. All the documents required to conduct the competition and to participate in it are written in Greek.

3.4. Offers should not have shavings, erasures, additions, corrections. If any correction is to be made in the offer, it must be clear and initialed by the tenderer, and the competent authority for receiving and opening the tenders must, during the inspection, write up the correction and initial and seal it. The offer shall be rejected where there are corrections which make it unclear at the discretion of the tendering body.

### 3.5. Bid Validity Time

The offers are valid and binding for the participants ninety (90) days after the day the bids are opened. A bid setting a TIME LIMIT less than the one mentioned above shall be rejected as inadmissible. The validity of the offer may be extended, upon request by the Service, prior to its expiry, for a maximum of ninety (90) days.

## **ARTICLE 4**

### **APPEALS**

A complaint against the lawfulness of the tender or the tenderer's participation in it, up to the award decision, shall be submitted in writing, in accordance with Article 8 of the MD 2123/35/2001 (Government Gazette 1438 B). Interested parties may also, pursuant to Articles 345-374 of Law 4412/2016, bring a preliminary ruling before the competent authority, as detailed in the aforementioned articles.

## **ARTICLE 5**

### **BIDS OPENING**

5.1. The Tender Committee invites tenderers whose offers have been found to meet the conditions and requirements of the tender and commences the bids opening process on the date and time specified in this tender (tender date) in the presence of members of the Competent Advisory Committee of § 7 of article 9 of Law 2881/2001 on matters concerning the lifting, removal or neutralization of wrecks or ships of the Public Ports Authority.

5.2. Tenders shall be opened in accordance with the procedure laid down in Articles 3 & 4 of the MD. 2123/35/2001 (Government Gazette 1438 B).

Offers that are vague or unreasonable or are subject to conditionality shall be rejected as inadmissible after prior consultation of the Competition Committee.



## **ARTICLE 6**

### **BID EVALUATION - RESULTS**

6.1. The only evaluation criterion is the criterion of the lowest price offered by the bidder in the tender and subject to the explicit and self-evident condition that the technical elements of the offer comply with the technical specifications of the tender as described in Article 13 hereof. In the case of an equal bid, the one that gives the shortest execution time will be preferred.

6.2. Offers that are vague or unreasonable or are subject to conditionality shall be rejected as inadmissible after prior consultation of the Competition Committee.

6.3. The body responsible for evaluating the results of the tender may, in its opinion, propose what is provided for in Article 9 of the MD 2123/35/2001 (Government Gazette 1438 B). The final decision is made by the Commander of the Public Ports Authority.

6.4. For the offered price and the reservations, article 6 of the MD 2123/35/2001 (Government Gazette 1438 B) applies.

## **ARTICLE 7**

### **AWARD NOTICE-CONTRACT**

7.1. An award notice is sent to the bidder awarded with the contract.

7.2. The bidder to whom the tender results have been announced is obliged to:

(a) First and in any event at the latest within five (05) days of the award notice to deposit a PERFORMANCE LETTER OF GUARANTEE COVERING 10% OF THE BID. The performance letter of guarantee will be of indefinite validity. Upon submission of the letter of performance, the PARTICIPATION letter of guarantee will be returned. The above guarantee is refundable after the shipwreck has been lifted and removed.

(b) On the other hand, to sign the contract and to proceed within the time limit set by this tender on the removal of the ship, either by his own means and staff, or by a third party, who shall on behalf of the lessor perform the removal of the ship outside the area of responsibility of the Public Ports Authority.

Within ten (10) days of the notice of award, the Office shall draw up the relevant contract which shall be signed by both Contracting Parties. The contract is written in Greek and correspondence is also in Greek until the completion of the work. All oral or written communications between the Authority and the contractor until the completion of the contract will be conducted in Greek.

7.3. If the contractor to whom the notice was made fails to sign the contract, it shall be dismissed by decision of the competent authority of the Public Ports Authority, after consulting the committee.

7.4. The contract is considered to have been executed when:

7.4.1. All the work provided for in the contract has been completed.

7.4.2. The works were finally (quantitatively and qualitatively) received.

7.4.3. The performance guarantee was returned after any penalties or discounts had previously been imposed.

## **ARTICLE 8**

### **WARRANTIES**

Paragraph 1.6 herein applies.

## **ARTICLE 9**

### **DECLARING THE CONTRACTOR IN DEFAULT**

Article 10 of the Law 2123/35/2001 (Government Gazette 1438 B) applies to the procedure for declaring a contractor in default and for the sanctions imposed.

## ARTICLE 10

### FORCE MAJEURE-SETTLEMENT OF DISPUTES

- 10.1. In the case of force majeure, Article 11 of the MD 2123/35/2001 (Government Gazette 1438 B) applies.
- 10.2. The settlement of disputes regarding the tender and the contract fall within the jurisdiction of the Piraeus Courts.

## ARTICLE 11

### TIME OF IMPLEMENTATION OF WORKS EMPLOYMENT SANCTIONS SANCTIONS

11.1 The Contractor shall be required to complete the work within thirty-six (36) months of the issuance of the permit by the Public Port Authority for the commencement of wreck removal operations. Failure to comply with this condition, regardless of other penalties, will result in a penalty of one thousand euros (€ 1,000.00) for each day of delay.

11.2 For the consequences and penalties for late performance of shipwreck removal operations and for the possible extension of contractual time, Article 10 shall apply in conjunction with Article 11 of MD 2123/35/2001 (Government Gazette 1438 B).

11.3 The issuance of a ship removal permit by the Public Ports Authority shall require the submission of the following supporting documents no later than six (6) months after the signing of the contract:

- an analytical shipwreck study, in which the contractor will take into account the existing slope and effect of the reef on the wreck in question, will thoroughly analyze the proposed methodology of work execution, indicate the means to be used and the personnel involved, and will outline the measures it will take to exclude possible precipitation from the wreck in question. In evaluating the aforementioned study, the Authority will be scientifically supported by the Contractor designated under No. 6000/407/2018 Decision of the Public Ports Authority Commander and as detailed herein.

- detailed description of approved type of antipollution equipment available for immediate use if required during lifting operations,

- detailed report on the implementation of envisaged environmental protection measures during the execution of the project, with the relevant outline expressly referring to the use - installation of antipollution equipment in accordance with nautical art and international practice in such cases , with the objective of avoiding any leakage of pollutants on board in the marine environment,

- a study of a qualified engineer with a TEE license specifying the name, type and technical characteristics of the navigational motor vehicle which is to tow the shipwreck concerned and which is fitted with all necessary certificates of seaworthiness in force or any other necessary certificates for his class and to be declared before the commencement of the procedure,

- contractor and diver reports on lift-off plan.

- Statement of Law 1599/86 of the Lift and Safety Officer stating their full details, means of communication and commitment for compliance with the terms and procedures as set out in the shipwreck plan in question.

- Statement of Law 1599/86 with full details of the designated marine environmental protection officer during the shipwreck removal

- Professional licenses and documents required to show that staff are normally insured

- Validated staff status lists

- Certificates of good operation of machinery

- Certificates of Seaworthiness of any vessels

In any event of a breach of this condition, the contractor signing the contract will be declared in default by a decision of the competent authority of the Public Port Authority, after consulting the committee and the penalties provided for in Article 10 (4) of MD 2123 / 35/2001 (Government Gazette 1438 B) will be imposed.

## ARTICLE 12

### OBLIGATIONS - LIABILITY OF THE CONTRACTOR

12.1. The Contractor shall have sole civil, administrative and criminal liability with respect to any third party, including Port Authority personnel for any damage or claims arising out of his or her actions or omissions or out of acts or omissions of his or her representatives due to wilful misconduct or negligence, in the performance of, or on the occasion of, the work.

12.2. The Authority shall be entitled to monitor the progress of the tasks entrusted to the contractor and shall appoint a three-member committee of officials to this end.

12.3. The contractor guarantees with a statement of Law 1599/1986 that he, or a third party acting on his behalf, has the knowledge and infrastructure required to carry out the project and that he will comply with the applicable provisions of labor and insurance law and with the provisions on the hygiene and safety of staff, as well as the provisions of maritime and marine environment protection legislation. The Contractor shall be liable to the Authority for malfunctioning or possibly non-performance - non completion of the project within the time limit specified above and for any damages or claims by third parties arising from his or his representatives actions or omissions, in purpose or in negligence.

12.4. The Authority has no obligation whatsoever for any measures to be taken by any authority and any increases in costs, taxes, fees etc.

12.5. In the case of the above 12.1. and 12.3. paragraphs and irrespective of any civil, administrative or criminal liability of the natural or legal person, the amount of the performance letter of guarantee provided for shall be forfeited in favor of the Authority by decision as a penalty clause.

## ARTICLE 13

### TECHNICAL DESCRIPTION

#### A. OBJECTIVE

The subject matter herein is the selection of a natural or legal person with the proven experience and know-how in shipwreck removal to perform all the work required to remove the shipwreck:

Name: "SEA DIAMOND"

Registration Number: Piraeus 11485

Type: Cruise Ship

Year / Country of Construction: 1986 / Finland

Greek flag

Net tonnage 11680

Gross tonnage 22412

Postal Code: 22412

Total Length / Width (m): 131.61 m / 24.70 m

Material: Steel

Comments: The ship has been wrecked since 05/04/2007 within the port area of Fira bay - Thira.

#### B. MINIMUM ACTIONS REQUIRED FOR REMOVAL – DESTRUCTION OF SHIPS

The project includes at least the following:

-Provide a list of hazardous materials, specifying at least the hazardous materials referred to in Annex II to Regulation (EU) No. Regulation (EC) No 1257/2013 of the European Parliament and of the Council of 20 November 2013 on the recycling of ships and amending Regulation (EC) No. 1013/2006 and Directive 2009/16 / EC and their submission to the Ministry of the Environment and the Public Port Authority

- Lifting of the shipwreck by means and personnel of the Contractor

-Actions and work required to remove any solid or petroleum waste in accordance with applicable law

- Final disposal
- Towing and removing the shipwreck from the area where it is currently in whatever its condition may be
- Perform the actions and tasks required to safely remove the wreck from the area where it is currently located, whatever the situation.
- Take all necessary measures to prevent and limit any pollution from removal operations and to the safety of navigation.
- Take all necessary measures to prevent accidents, damage caused by removal operations.
- Cleaning the entire work area of petroleum debris and waste of any form, scattered, wherever located (seabed, sea, beach or creek), collecting, transporting and disposing all of it in a lawful environmental manner.
- Video recording of the work and delivery of video material to PPA

### C. OBLIGATIONS - LIABILITY OF THE CONTRACTOR

The Contractor shall, at its own risk, incur costs and expenses in any legal action to remove the shipwreck. Any permits required to perform such operations as lifting licenses, diving permits, towing licenses, gas freeing, extraction and transportation of any trimmed parts, slaughter, pumping and delivery of petroleum waste, waste disposal, and disposal shall be issued, if required, by Coast Guard or other competent authorities at the contractor's liability and expense. The contractor guarantees that he, or the third party acting on his behalf, has the knowledge and infrastructure required to perform the project and that he will comply with the applicable provisions of labor and insurance law. The Contractor shall have sole civil, criminal and administrative liability for any damage or loss to any third party, including any personnel of the Authority, for any damage or claims arising out of his or her actions or omissions or actions or omissions of his or her representatives in purpose or in negligence in the performance of, or on the occasion of, the works and for any cause and for any ground, marine or atmospheric pollution and shall be obliged to insure the work in progress to cover all of insurance risks and any pollution, according to the terms of this declaration. The contractor is obliged to produce a statement of article 8 of Law 1599/1986, which commits him to have all the means provided by law and the relevant provisions for the protection of employees. The Authority shall not be liable for any damages or accidents that may occur to the Contractor's personnel or to any third parties in the performance of the works until they are completed. The Authority is also not responsible for any theft of the contractor's materials, parts, machinery and tools. The Contractor must ensure that they are adequately and effectively guarded. The Authority also undertakes no obligation whatsoever for any measures to be taken by any authority and increases of any nature in costs, taxes, fees, etc.

Interested parties can visit the shipwreck to assess for themselves the ship to be removed and disposed.

- Participants are obliged to submit a complete study, which will elaborate on the proposed methodology for performing the tasks, indicating the means they will use and the staff.
- The participants will indicate the place, manner and time of legal final disposal of the above wreck.
- Participants should have at least the equipment required, either proprietary or secured by a contract that corresponds to the study they are submitting.
- Participants should have the necessary staff – either secured by contract or on their own - to carry out removal and legal final disposal activities, according to their study.
- Participants should ensure that all licenses related to the collection, transportation, disposal, recovery, temporary storage of metals in accordance with Law 1650/1986 and the JMD 50910/2727/2003, are in force at the time of execution of the respective works, separately for each district from the relevant Prefecture from which the materials will pass if they are transferred outside Piraeus or nationwide valid.

### D. TECHNICAL OFFER

#### D1. STUDY

Bidders will submit a summary study, which will outline the proposed methodology for performing the work and which will be an essential element of the offer evaluation, indicating the means and staff they will use. They will also indicate the time, manner and place of disposal of the wreck. In evaluating the study of each Bidder, the Authority shall be scientifically supported by the Contractor designated under No. 6000/407/2018 Decision of the Public Ports Authority Commander and as detailed herein.

## D2. FINANCIAL OFFER

The financial offer will set the price in EURO (both numerically and holistically), the VAT rate in percentage and in monetary terms and the total price.

The Contractor shall bear all costs, fees, levies and taxes relating to the ships, the Authority and himself and derive from the execution of this Agreement.

## D.3 PROJECT GROUP

The Contractor shall indicate in the study the Project Team Composition, which shall include:

at least three (03) persons, one of whom shall be the Project Manager:

The Project Manager must have university training and have five years (05) starting from 1/11/2019 of proven knowledge and experience in the effective performance of activities related to the subject matter hereof.

Of the other two (02) other members of the project team, at least one (1) must have five years (05) starting from 1/11/2019 of proven ship inspections knowledge and experience.

The Project Manager of the Contractor and the Project Team executives should systematically collaborate with the relevant Port Authority officials.

The Contractor attaches to the study Detailed CVs of the Project Team executives.

## E. ECONOMIC AND FINANCIAL COMPETENCE

In terms of economic and financial competence, participants are required to have at the time of submission of the offer:

Deposits of at least € 5,000,000.00 or fixed assets totaling € 5,000,000.00 or cumulative deposits and fixed assets totaling € 5,000,000.00 or own funds of a minimum amount of € 5,000,000.00. Equity excludes equity amounts for which the process of payment and certification by the supervisory authorities has not been completed.

One or more of the evidence provided for in Part I of Annex XII of Law 4412/2016 may be provided to prove the above financial and financial adequacy requirements, as required.

## F. INSURANCE OBLIGATIONS

Prior to signing the contract, the contractor must provide insurance for at least USD 500,000,000 which will include a broad extension of insurance coverage, but not limited to "Executives and Salvors Liability", for the obligations arising out of this contract. , shipwrecking responsibilities, pollution responsibilities, ship collision liability, damage to third party assets including the Greek State.

## ARTICLE 14

### MONITORING OF THE CONTRACT

14.1. A three-member Committee of officials of the Authority shall be appointed to monitor and receive the work and to monitor the execution of the contract. The aforementioned Commission will be scientifically supported by the Contractor, designated by No. No. 6000/407/2018 decision of the Public Ports Authority Commander and as detailed herein. The cost of carrying out the work of the aforementioned Contractor shall be borne by the a. 2 Law 2881/2001 obliged persons, who are obliged to pay it in advance.

14.2. The Contractor is obliged to reimburse within a reasonable time set by him and at his own expense anything found by the Commission or the Port Authority not in accordance with the terms of the contract and the provisions of the Law.

14.3. The Receiving Committee shall, upon completion of all checks, draw up the final Receipt Protocol certifying the removal of the above wrecks in accordance with this tender.

## **ARTICLE 15**

### **REJECTION OF CONTRACTUAL WORKS - REPLACEMENT**

For any rejection or re-execution of work or any foreseen penalties, MD 2123/35/2001 (Government Gazette 1438 B) applies.

## **ARTICLE 16**

### **METHOD OF PAYMENT OF PRICE**

Payment will be made by the Port Authority for the execution of the lifting operations once the works have been completed, the protocol for the final removal of the shipwreck by the competent Commission has been completed and the relevant decision by the Authority has been issued. Upon proper performance of this Agreement and upon the relevant decision of the Competent Authority's management body, the performance letter of guarantee will be returned to the Contractor, subject to any penalties or rebates. For the rest, MD 2123/35/2001 (Government Gazette 1438 B) applies. The Public Ports Authority shall, within three (3) days of the signature of the contract, notify the persons liable under Article 2 of Law 2881/2001 to pay in advance all costs, including the cost of the Contractor as indicated in 6000/407/2018 decision of the Public Port Authority Commander and in case of any refusal to do so will promptly enforce it in accordance with the provisions of the Public Revenue Code, while imposing the required administrative penalties and suing for the relevant to the competent Public Prosecutor.

Attachments: Attendance Guarantee Model.

MODEL OF PARTICIPATION LETTER OF GUARANTEE

Bank Name

Store

Date of issue

To the Public Ports Authority

Piraeus

GUARANTEE PARTICIPATION LETTER NO ..... EURO .....

We have the honor to acknowledge that by this letter we hereby expressly and irrevocably guarantee that we have waived the right to divide and divide up to the amount of ..... in favor of Company ..... address .....for her participation in her ongoing tender of ... .. for the project... .. under no. ... .. your tender. This warranty covers only the obligations arising from the participation in the above tender throughout the term of its validity.

The above amount is at your disposal and will be paid in whole or in part without any objection or opposition from us and without investigating the validity or non validity of the claim within three days of your written notice. In the event of the guarantee being forfeited, the amount of the deduction shall be subject to the applicable stamp duty applicable at the time. We agree to extend the warranty period after a simple document from your Service, provided that your request is made to us before its expiration date. This is valid until .....

(NOTE: For the Bank the validity period must be longer than one (1) month of the offer validity period, as stated in the Tender).

We are responsible for ensuring that the amount of our letters of guarantee given to the Treasury and the legal entities owned by State including the amount herein, does not exceed the limit of guarantees set by the Ministry of Finance for our Bank.

PPA Commander