Agreement No. MA/ARRA-SG-42

GRANT AGREEMENT

This Grant Agreement, dated August 17, 2009 (the "Grant"), is between The United States of America (the "United States"), through the Administrator of the Maritime Administration (the "Administrator"), and Marine Fluid Systems, Inc., located in Seattle, WA (the "Recipient", and together with the Administrator, the "Parties").

Whereas, pursuant to 46 U.S.C. § 54101, the Administrator is directed to "execute agreements with shipyards to provide assistance .... in the form of grants, loans, and loan guarantees to small shipyards for capital improvements; and for maritime training programs" (the "Grant Programs"), subject to availability of appropriations;

Whereas, pursuant to the *American Recovery and Reinvestment Act of 2009,* Public Law 111-5, February 17, 2009 ("ARRA"), Congress appropriated $100,000,000.00 to fund the Grant Programs (the "Grant Funds") on application from such shipyards for the Federal Share, which are funds provided under the grant within the general framework and purpose of P.L. 111-5, for "projects which would be effective in fostering efficiency, competitive operations, and quality ship construction, repair and reconfiguration; and ... projects that would be effective in fostering employee skills and enhancing productivity ... "; provided that any single grant may not exceed 75% of the total cost of any such project except where the project merits support and cannot be undertaken without a higher percentage of the Federal Share; and provided further, that awards shall not be made of more than 25% of the funds appropriated for any fiscal year to small shipyards in one geographic locations that have more than 600 employees.;

Whereas, the Recipient timely filed an application seeking Grant Funds (the "Application") for the purposes set forth above (the "Project");

Whereas, the Administrator has the option of consenting to an application for Grant Funds in a lesser amount than the applicant is seeking; and

Whereas, the Administrator is disposed to approve the Application, in whole or in part, subject to the terms and conditions set forth herein,

Now therefore, in consideration of the premises, the mutual covenants set forth herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

I. CONDITIONS. THIS AGREEMENT IS MADE ON AND SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

A. The maximum obligation of the United States payable as Grant Funds under this Agreement shall be $744,244.00 (the "Commitment").

B. The Recipient shall carry out and complete the Project without undue delays and in accordance with the terms hereof, and any such regulations and procedures as the Administrator may prescribe, and, where the Project involves equipment or construction, shall obtain title and possession of items financed by this Grant, and shall retain such for a period of no less than two years.

C. The Recipient shall take all steps, including litigation, if necessary, to recover any portion of the Federal Share spent fraudulently, wastefully or in violation of Federal antitrust statutes, or misused in any manner in any project upon which the Federal Share has been expended.

D. The Recipient shall retain all documents relevant to the Federal Share for a period of seven years from the latest of 1) the completion of the Project; 2) receipt of final reimbursement under this Grant; and 3) final disbursement from the U.S. Treasury. Upon request, the Recipient shall furnish to the Administrator all documents and records relating to the determination of the amount of the Federal Share or to any settlement, litigation, or other efforts taken to recover such funds. All settlements or other final positions of the Recipient shall be approved in advance, in writing, by the Administrator.

E. The Recipient shall ensure compliance with Federal regulations requiring the conduct of a Federally approved audit of any expenditure of the Federal Share under this Grant in excess of $500,000.00 in any twelve month period.

F. The United States shall not be responsible or liable for any damage whatsoever to property or injury to persons that may arise from or be incident to compliance with this Grant, and the Grant shall not establish any cause of action whatsoever in any person, including the Recipient.

II. SPECIAL CONDITIONS

A. Except to the extent otherwise inconsistent with the terms of this Grant, the terms of the Administrator's award and the Application, including any amendments thereto, as well as any other materials related thereto, including any confidential materials, are incorporated herein by this reference and made a part hereof.

B. Subject to the terms set forth herein, the Administrator reserves the right to terminate this Grant, and the Administrator's obligations hereunder, on 30 days' written notice, unless otherwise agreed between the Parties, if any of the following occurs:

1. The Recipient fails to provide its Required Portion, as defined in the attached Exhibit A1, of the cost of the Project; or

2. The Recipient fails to provide in-kind contribution, if any, in the amount of its Required Portion, as defined in the attached Exhibit A1, of the cost of the Project; or

3. The Recipient does not satisfy the obligations specified under the Proposal Specific Conditions set forth below and as set forth in the attached Exhibit A1; or

4. The Administrator determines that termination is in the public interest.

C. Either party may seek to amend or modify this Grant, but any such amendments or modifications shall be in writing, shall require the mutual agreement by both Parties, and shall not extend or increase the Federal Share.

D. At any time, on 30 days' written notice, the Recipient may request termination of this Grant (the "Requested Termination Notice"), and, if such request is granted by the Administrator, the Recipient shall return to the Administrator all of the unexpended Federal Share, if any.

E. If the Recipient claims in its Requested Termination Notice that additional amounts are owing from the Federal Share, it shall demonstrate, to the Administrator's satisfaction and within 60 days of such Notice, that such additional amounts qualify for disbursement from the Federal Share.

F. Subject to the terms hereof, and unless otherwise agreed between the Parties, this Grant shall expire two years from the date hereof, and the Administrator shall have no further obligation whatsoever to the Recipient (the "Expiration Date").

III. PROJECT SPECIFIC CONDITIONS, DISBURSEMENTS AND REPORTS

A. The specific conditions of the Project are set forth in Exhibit A1, attached hereto and made a part herein by this reference.

B. The Federal Share may be issued to the Recipient on either a reimbursement or an advance basis. Except in those instances where payment is made directly to the Recipient's vendor(s), all payments of the Federal Share to the Recipient shall not be comingled with any other monies of the Recipient, and shall be deposited in a separate account under the Recipient's name with the designation of "SSGP". In either event, the Recipient shall submit evidence of all expenditures for the Project on monthly basis on Standard Form 270 (Rev. 7-97, *Request For Advance or Reimbursement,* attached hereto as Exhibit A2. Disbursements of the Federal Share, whether as reimbursements or advances, shall not be made unless all requirements under this Grant, including but not limited to requirements set forth in paragraph C, below, are current.

1. Request for Reimbursement

a. The Administrator shall hold the Federal Share until it determines that such expenditures qualify for reimbursement under this Grant, and no interest shall be paid to Recipient or any other party on such Federal Share, or any portion thereof.

b. In the event the Administrator determines that such costs so qualify, it will reimburse the Recipient for all valid expenditures submitted, subject to the specific limits of Federal funding in paragraphs C. 2. and 3. of the attached Exhibit A1, and subject to B.3. below.

c. All reimbursement requests to the Administrator shall include sufficient documentation, including but not limited to receipts, vendors' acknowledgements of payment, invoices marked "Paid", cancelled checks, wire fund transfer records or other written proof of such expenditure of Recipient's funds to justify such reimbursement.

d. The Administrator shall not reimburse any expenditures that are made with funds from a government source (Federal, State and/or local) source other than this Grant.

2. Request for Advances

a. In the event the Recipient requests disbursement of a portion of the Federal Share on an advance basis (the "Advance Request"), the Advance Request shall include an itemized list of anticipated expenses and dates of anticipated expenditure, and shall be in an amount no less than $10,000.00.

b. If the Advance Request includes anticipated expenditures to a single vendor in excess of $25,000.00, then the advance shall be paid directly to the vendor, but only after the Recipient has provided the Administrator with a certified copy of the purchase order and payment information.

c. Advance Requests shall include an accounting of how previously advanced funds, if any, have been expended, along with sufficient documentation to justify such expenditures, including without limitation, receipts, vendors' acknowledgments of payment, invoices marked "Paid", cancelled checks, wire fund transfer records, or other written proof of such expenditures.

d. Advance Requests shall not be submitted to the Administrator more than 90 days prior to the anticipated expenditure thereof.

3. Payment of the final 10% of the Federal Share shall be made only after receipt by the Administrator of the final reports set forth in C. below.

4. [Reserved].

5. The Recipient shall ensure that the funds provided by the Administrator are not appropriated or directed to any other account, need, project, line-item, or any other diversion whatsoever.

6. Any funds provided by the Administrator not expended in conjunction with the Project by the Expiration Date will remain with the Administrator, unless otherwise agreed between the Parties. No further reimbursements to the Recipient shall be made or are to be expected. If this Grant is terminated prior to the Expiration Date, the Administrator reserves the right to demand and require the return of any unexpended funds which are part of the Federal Share.

C. Reports

1. Financial Reports. In addition to the Closeout provisions set forth in paragraph III.E.7., the Recipient shall submit annual financial statements within 105 days of the Recipient's fiscal year ended 2009, and for each fiscal year thereafter, until the earlier of a) the Expiration Date, or b) the conclusion of the Project. The financial statements shall be either audited, or reviewed or compiled by an independent certified public accountant. The Recipient shall also provide financial reports as may be requested from time to time.

2. Project Reports. The Recipient shall submit Project reports, including progress on milestones, as set forth in paragraph 3. below, to the Administrator on a monthly basis, beginning on the first day of the first full month following the award, and on the first day of each month thereafter until completion of the Project. Such reports shall be submitted on Standard Form SF-PPR, as applicable, attached hereto as Exhibit B1, and made a part hereof by this reference, and shall also include certain data relating to job creation and expenditure of ARRA funds, which are monies received under the Grant, as set forth in Exhibit B2, attached hereto and made a part hereof by this reference.

3. Project reports shall include, *inter alia,* the following:

a. A narrative of the status of the Project.

b. A current summary of Project funding and expenses.

c. A detailed time line of the Project, including milestones, if any, or if the Project involves training, a schedule detailing such training.

d. Anticipated schedule of funding (reimbursement or advance) requests and estimated dollar amount of each request.

e. Direct on site job hours, and number and payroll of workers funded with ARRA monies.

f. The initial report shall include a detailed description, and where appropriate, drawings, of the items funded, or if the Project involves training, a schedule detaining such training, each as described in Exhibit A1, hereto.

4. The Recipient and its first tier recipients shall maintain current registrations in the Central Contractor Registration at http://www.ccr.gov, including without limitation a Dun and Bradstreet Universal Numbering System ("DUNS")(http://www.dnb.com).

5. The Recipient shall provide the information set forth in Section 1512(c) of ARRA, attached as Exhibit C using reporting instructions that will be provided on line at http://www.federalreporting.gov. The Recipient shall check this site every ten days in order to determine whether it is operational, and when it is, shall follow the instructions therein.

6. Reporting of milestones or schedules of the Project shall include, *inter alia,* the following:

a. Placement of order for items funded, or contract for training, each as described in the attached Exhibit A1.

b. Delivery of items funded, or commencement of training, each as described in the attached Exhibit A1.

c. Installation, assembly and testing of items funded, or progress of training, each as described in the attached Exhibit A1.

7. In addition to the reporting requirements of Paragraph III. E. 7. b. i., a final report of the Recipient's assessment of the success or failure of the Project shall be made to the Administrator within 90 days after the earlier of the Expiration Date, or conclusion of the Project, and shall include, *inter alia*:

a. A narrative summarizing the Project.

b. A detailed description of the items funded or the training with the aid of the Federal Share, as described in the attached Exhibit A1.

c. Photographs of the items funded which do not involve training, as described in the attached Exhibit A1.

d. A final cost summary of the Project.

e. A description of how the items funded, including training is/will be utilized and the benefits of the items funded, including training to the Recipient, each as described in the attached Exhibit A1.

f. The number of direct, on-project jobs created or sustained by the Federal Share.

D. ASSURANCES

By its execution hereof, the Recipient hereby provides the Administrator with the assurances and certifications in conjunction with this Grant, which are set forth in Exhibit D attached hereto and made a part hereof by this reference, and shall comply with such assurances and certifications until the conclusion of this Grant. The Recipient shall cause any sub-Recipient or subcontractor to execute the certification set forth in Exhibit E, attached hereto and made a part hereof by this reference, and shall submit such assurance to the Administrator. These certifications are material representations of fact upon which reliance is placed hereunder.

E. MISCELLANEOUS

1. Inventions. Subject to the provisions of this paragraph and 35 USC 203, the Recipient may retain the entire right, title and interest throughout the world to each invention resulting from the Project and the use of funds provided by the Administrator (the "Invention").

With respect to any Invention in which the Recipient retains title, the United States shall have a non-exclusive, non-transferrable, irrevocable, paid up license to practice or have practiced for or on behalf of the United States the Invention throughout the world. The terms of this paragraph shall be subject to and governed by 37 CFR 401.14, set forth in Exhibit F, attached hereto and made a part hereof by this reference.

2. Inspections. The Recipient shall permit the Administrator to perform inspections of the Project. In this regard, the Recipient shall permit access to the area where the work or training is performed, and shall provide normal business accommodations, including, *inter alia,* a private office with desk, chairs, lights, telephone, facsimile, electronic mail, copier and such other equipment that may be necessary for such inspection. The Recipient shall also provide the Administrator with access to all records, financial statements and all other documents of any description whatsoever relating to the Project, and hereby consents to the Administrator's performing an audit of the Project by an entity of its choice, including, *inter alia,* the Department of Transportation's Inspector General.

3. The Recipient is hereby notified that it is encouraged, to the greatest extent practicable, to purchase American-made equipment, products and supplies in connection with use of the Federal Share relating to the Project, or if the Project involves training, to contract for American personnel and facilities. In those instances where the Recipient is unable to purchase such American-made equipment, products and supplies, or equipment, products or supplies manufactured abroad located within this country, any items of foreign origin or manufacture purchased and/or located abroad shall be transported on U.S. flag vessels in accordance with the provisions of 46 USC 55305, as implemented by the regulations appearing at 46 CFR 381, *et seq.*, set forth in Exhibit G, attached hereto and made a part hereof by this reference.

4. The Recipient is encouraged to earn income on the Federal Share in order to defray program costs, to the extent practicable.

5. The ARRA requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code, and requires that Recipients abide by the provisions of 29 CFR Section 5.5(a), attached hereto as Exhibit H, and made a part hereof by this reference .

6. Enforcement.

a. The Administrator may exercise remedies for the Recipient's non-compliance with this Grant, including, *inter alia:*

i. temporarily withholding cash payments pending correction of the deficiency;

ii. disallow (that is, deny use of funds) all or part of the cost of the activity or action not in compliance;

iii. wholly or partly suspend or terminate the Federal Share of the Project; and

iv. all other remedies available in law or in equity.

b. In taking enforcement action, the Administrator shall provide the Recipient an opportunity for such hearing, appeal or other administrative proceeding to which the Recipient is entitled under any statute or regulation applicable to the action involved.

7. Closeout.

a. General. The Administrator shall close out the award when he determines that all applicable administrative actions and all required work of the Grant have been completed.

b. Reports. Within 90 days after the latest of 1) expiration or termination of the Grant; 2) receipt of final reimbursement under this Grant; or 3) final disbursement from the U.S. Treasury , the Recipient shall submit all financial, performance and other reports required as a condition of the Grant. Upon the prior written request of the Recipient, the Administrator may extend this timeframe. These may include, but are not limited to:

i. Final performance or progress report.

ii. Financial Status Report (SF-269), attached hereto as Exhibit I , and made a part hereof by this reference, or Outlay Report and Request for Reimbursement for Construction Programs (SF-271), attached hereto as Exhibit J, and make a part hereof by this reference, as applicable.

iii. Final Request for Payment (SF-270), if applicable.

iv. Invention disclosure, if applicable.

v. Federally owned property report, if applicable. The Recipient shall submit to the Administrator an inventory of all federally owned property, if any, (as distinct from property acquired with the Federal Share) for which it is accountable, and request disposition instructions from the Administrator of property no longer needed.

c. Cost Adjustment. Within 90 days after receipt of reports in subparagraph (b) of this Section, the Administrator shall make upward or downward adjustments to the allowable costs.

d. Cash Adjustment.

i. The Administrator shall make payment to the Recipient for allowable, reimbursable costs within a reasonable time of receipt of a request for reimbursement.

ii. The Recipient shall immediately refund to the Administrator any balance of unspent funds which have been advanced, but which is not authorized to be retained for use on other grants.

e. The closeout of the Grant does not affect:

i. The Administrator's right to disallow costs and recover funds on the basis of a later audit or other review.

ii. The Recipient's obligation to return any funds due as a result of later refunds, corrections or other transactions.

iii. Records retention as required herein.

f. Collection of Amounts Due. Any funds paid by the Administrator to the Recipient in excess of the amount to which the Recipient is finally determined to be entitled under the terms of the award shall constitute a debt to the United States. If this debt is not paid within a reasonable period after demand, the Administrator shall reduce the debt by:

i. Making an administrative offset against other requests for reimbursements;

ii. Withholding advance payments, if any, otherwise due to the Recipient; or

iii. Other action permitted by law.

g. Except as otherwise provided by statutes or regulations, the Administrator shall charge interest on an overdue debt in accordance with the Federal Claims Collection Standards (4 CFR Ch. II).

8. Notices. Communication between the Parties may be by electronic mail in PDF Adobe with hard copy to follow by overnight express; facsimile transmission with hard copy to follow by overnight express; or by nationally recognized overnight courier at the following addresses:

Recipient:

Dana T. Bostwick
President · MARINE FLUID SYSTEMS, INC.
6310 352nd ST. EA.
EATONVILLE, WA. 98328
TEL: (206)-706-0858
FAX: (206)-706-8397
E-MAIL dana@marinefluid.com

The Administrator, through his delegate:

Jean E. McKeever
Associate Administrator for
Business and Workforce Development
United States of America.
Department of Transportation
Maritime Administration
1200 New Jersey Avenue, SE
Room W21-318
Washington, DC 20590

Tel: (202)-366-5737
Fax: (202)-366-6988
Email: jean.mckeever@dot.gov

9. This Grant is subject to and shall be administered in accordance with the provisions of 46 U.S.C. § 54101 and P.L. 111-5, and by any regulations promulgated by the Administrator.

10. Counterparts. This Grant may be executed in any number of counterparts. All such counterparts shall be deemed to be an original and shall together constitute but one and the same instrument.

11. This Grant shall be governed by the Federal laws of the United States. To the extent the Federal laws of the United States are inapplicable, the laws of the District of Columbia shall govern. Jurisdiction for any disputes which may reach the level of courts shall lie with the Federal courts sitting in the District of Columbia, to which jurisdiction the Recipient hereby agrees.

12. Severability. In the event that any section or sections of this Agreement is/are found to be invalid or unenforceable, such finding(s) shall not affect any other section or sections of this Agreement, which shall remain in full force and effect.

[Remainder of this page intentionally left blank]

In Witness Whereof, the Parties, intending to be bound by the terms hereof beginning on the date first set forth above, have executed this Grant by signing their names below.

THE RECIPIENT

By: Dana T. Bostwick
Title: PRESIDENT
MARINE FLUID SYSTEMS, INC.

THE UNITED STATES OF AMERICA

Maritime Administration

James E. Caponiti
Acting Deputy Maritime Administrator

In Witness Whereof, the Parties, intending to be bound by the terms hereof beginning on the date first set forth above, have executed this Grant by signing their names below.

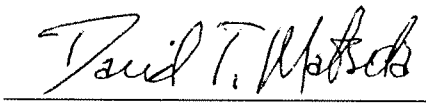
THE RECIPIENT

_____

By: Dana T. Bostwick
Title: President

THE UNITED STATES OF AMERICA

Maritime Administration



David T. Matsuda
Acting Maritime Administrator

Agreement No. MA/ARRA-SG-42

EXHIBIT A1

SPECIFIC CONDITIONS OF PROPOSAL

A. Project Objectives: The fostering of efficiency, competitive operations, and quality ship construction, repair and reconfiguration; and the fostering of employee skills and enhancing productivity

B. Statement of Work: The Recipient shall use the Federal Share to obtain and install the following equipment as described in the application:

1. Railway Trolley and Sidetrack Upgrades (Project #1)
2. 40 ton Crane (Project #2A)
3. Forklift (Project #2B)
4. Scotchman Ironworker (Project #2C)
5. Welding Machine 4-pack (Project #2D)

C. Funding:

1. Total costs of the Project: $992,326.00

2. Federal Share: $744,244.00

3. Contribution by Recipient: $248,082.00, its required portion, (the "Required Portion"), which shall be expended before any portion of the Federal Share is distributed to the Recipient. Recipient shall submit to the Administrator documentation to support these expenditures, including without limitation, receipts, vendors' acknowledgments of payment, cancelled checks, invoices marked "Paid", wire fund transfer records, or other written proof of such expenditure of the Required Portion. Any increase in the foregoing costs of the Project shall be the sole responsibility of the Recipient.