

MARAD TIGER GRANT #7

**UNITED STATES OF AMERICA
U.S. DEPARTMENT OF TRANSPORTATION
MARITIME ADMINISTRATION
WASHINGTON, DC 20590**

**GRANT UNDER THE AMERICAN RECOVERY AND
REINVESTMENT ACT OF 2009
TRANSPORTATION INVESTMENTS GENERATING ECONOMIC
RECOVERY (TIGER) DISCRETIONARY GRANT PROGRAM**

Mississippi State Port Authority at Gulfport (MSPA)- Gulfport, MS

Port of Gulfport Rail Improvements – Phase I

Period of Performance: September 24, 2010 – February 17, 2012

Grant Number: DTMA1G10008

Appropriation Data:

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\$20,000,000.00**

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GRANT BETWEEN THE U.S. DEPARTMENT OF TRANSPORTATION, MARITIME ADMINISTRATION AND MISSISSIPPI STATE PORT AUTHORITY AT GULFPORT, MS- PORT OF GULFPORT RAIL IMPROVEMENTS – PHASE I, UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, SUPPLEMENTAL DISCRETIONARY GRANTS FOR A NATIONAL SURFACE TRANSPORTATION SYSTEM, HEREINAFTER REFERRED TO AS THE “TIGER DISCRETIONARY GRANT PROGRAM”

WHEREAS, the Mississippi State Port Authority at Gulfport, MS- Port of Gulfport Rail Improvements - Phase I, hereinafter referred to as “Grantee,” or “Recipient,” has applied for a grant under the TIGER Discretionary Grant Program Authorized by the American Recovery and Reinvestment Act of 2009, Public Law 111-5, hereinafter referred to as the “Recovery Act or ARRA.” WHEREAS, the Department reviewed and highly-ranked the application and deemed it credible and meritorious for approved funding. THEREFORE, the U.S. Department of Transportation (DOT), or “Government,” acting for the UNITED STATES, awards this grant in the amount of Twenty Million Dollars to be administered by the Maritime Administration (MARAD), to assist in the Grantee’s efforts to construct the Port of Gulfport Rail Improvements-Phase I, hereinafter referred to as the “Project,” in accordance with the terms and conditions of this Grant.

SECTION 1. LEGISLATIVE AUTHORITY

Title XII of the Recovery Act provides that “...the Secretary of Transportation shall distribute funds provided...as discretionary grants to be awarded to State and local governments or transit agencies on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area, or a region.” The Act also provides that “...projects eligible for funding provided under this heading shall include, but not be limited to, highway or bridge projects eligible under title 23, United States Code, including interstate rehabilitation, improvements to the rural collector road system, the reconstruction of overpasses and interchanges, bridge replacements, seismic retrofit projects for bridges, and road realignments; public transportation projects eligible under chapter 53 of title 49, United States Code, including investments in projects participating in the New Starts or Small Starts programs that will expedite the completion of those projects and their entry into revenue service; passenger and freight rail transportation projects; and port infrastructure investments, including projects that connect ports to other modes of transportation and improve the efficiency of freight movement.”

Further, the Recovery Act provides that the authority to award a grant under the TIGER Discretionary Grant Program and perform oversight may be transferred from the Secretary of Transportation to the Administrators of the Federal Highway Administration, the Federal Transit Administration, the Federal Railroad Administration and the Maritime Administration.

SECTION 2. GENERAL TERMS AND CONDITIONS

- a) The maximum obligation of the Government payable under this award, hereinafter referred to as the “Grant,” shall be \$20,000,000, subject to all the terms and conditions in this Agreement.
- b) Payment of the Grant will be made pursuant to and in accordance with 49 CFR Parts 18 and 19 (to the extent that a non-governmental grantee receives grant funding), and the provisions of such regulations and procedures as the Government may prescribe. Final determination of Grant expenditures may be based upon a final review of the total amount of agreed project costs and settlement will be made for adjustments to the Grant amount in accordance with applicable government-wide cost principles (2 CFR 225 (State and Local Governments, 2 CFR 215 (Higher Education Institutions); and 2 CFR 230 (Non-Profit Organizations).
- c) The Grantee agrees to carry out and complete the Project without undue delays and in accordance with the terms hereof, including the Project Schedule attached as Attachment F, and such regulations and procedures as the Government may prescribe.
- d) The Grantee has submitted a request for Federal assistance, hereinafter referred to as the “Application,” attached as Attachment G, and the Government is relying upon the Grantee’s assurances, certifications, and other representations made in the Application, or any other related documents submitted to the Government; and, in its submissions, the Grantee has demonstrated justification for the Project, and has demonstrated the financial and technical feasibility of the Project, including the ability to start construction quickly upon receipt of the Grant; to expend Grant funds once construction starts; and to receive all necessary environmental, state and local planning, and legislative approvals necessary for the Project to proceed in accordance with the Project Schedule.
- e) The Government has determined that the Project should receive a Grant based on a review of the Project’s potential to rapidly create jobs and economic activity; to provide lasting, long-term economic benefits for the transportation system; and to provide other outcomes, as specified in the June 17, 2009, Federal Register Notice, “Notice of Funding Availability for Supplemental Discretionary Grants for Capital Investments in Surface Transportation Infrastructure Under the American Recovery and Reinvestment Act” (Docket No. OST-2009-0115).
- f) Grant recipients will be monitored periodically by the Government, both programmatically and financially, to ensure that the Project goals, objectives, performance requirements, timelines, milestone completion, budgets, and other related program criteria are being met. Monitoring will be accomplished through a

combination of office-based reviews and onsite monitoring visits. Monitoring will involve the review and analysis of the financial, programmatic, performance and administrative issues relative to each program and will identify areas where technical assistance and other support may be needed. The Grantee is responsible for monitoring award activities, to include sub-awards, to provide reasonable assurance that the Federal award is administered in compliance with applicable requirements. Responsibilities include the accounting of receipts and expenditures, cash management, maintaining adequate financial records, and refunding disallowed expenditures. (For further information, please see Attachment B).

- g) The Grantee agrees to take all steps, including initiating litigation, if necessary, to recover Federal funds if the Government determines, after consultation with the Grantee, that such funds have been spent fraudulently, wastefully, or in violation of Federal laws, or misused in any manner in undertaking the Project. For the purposes of this Agreement, the term “Federal funds” means funds however used or disbursed by the Grantee that were originally paid pursuant to this DOT Grant (hereinafter referred to as the “Grant”).
- h) The Grantee agrees to retain all documents relevant to the grant award for a period of three years from completion of all Projects and receipt of final reimbursement from the Government. The Grantee agrees to furnish the Government, upon request, all documents and records pertaining to the determination of the Grant amount or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Grantee, in court or otherwise, involving the recovery of such Grant amount shall be approved in advance by the Government.
- i) The DOT is subject to the Freedom of Information Act (FOIA). Grantees should therefore be aware that all applications and related materials submitted by applicants related to this agreement will become agency records and thus are subject to FOIA and to public release through individual FOIA requests. ARRA also mandates broad public dissemination of information related to the expenditure of funds through reporting requirements and website postings that are addressed in other sections of this Agreement. President Obama’s March 20, 2009 Memorandum for the Heads of Executive Departments and Agencies on Ensuring Responsible Spending of Recovery Act Funds mandates the strongest possible efforts to ensure public transparency and accountability of ARRA expenditures.
- j) The Government shall not be responsible or liable for any damage to property or any injury to persons that may arise from, or be incident to, performance or compliance with this Grant.
- k) The Grantee agrees to: 1) promote the creation of job opportunities for low-income workers through the use of best practice hiring programs and utilization of apprenticeship (including pre-apprenticeship) programs; (2) provide maximum practicable opportunities for small businesses, including veteran-owned small businesses and service disabled veteran-owned small businesses; (3) make effective

use of community-based organizations in connecting low income or unemployed workers with economic opportunities; (4) give priority consideration to doing business under the grant with firms that have a sound track record on labor practices and compliance with Federal laws ensuring that American workers are safe and treated fairly; and (5) implement best practices, consistent with our nation's civil rights and equal opportunity laws, for ensuring that all individuals – regardless of race, gender, age, disability, and national origin – benefit from the Recovery Act.

An example of a best practice under (5) would be to incorporate key elements of the Department's disadvantaged business enterprise (DBE) program (see 49CFR Part 26) in contracts under this grant. This practice would involve setting a DBE contract goal on contracts under this grant that have subcontracting possibilities. The goal would reflect on the amount of DBE participation on the contract that the recipient would expect to obtain absent the effects of discrimination and consistent with the availability of certified DBE firms to perform work under the contract. When a DBE contract goal has been established by a recipient, the contract would be awarded only to a bidder/offeror who has met or made documented, good faith efforts to reach the goal. Good faith efforts are defined as "efforts to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement." Recipients must provide the Department a plan for incorporating the above best practice into its implementation of the grant within 30 days following execution of this grant. If the recipient is not able to substantially incorporate Part 26 elements in accordance with the above-described best practice, the recipient agrees to provide the Department with a written explanation and an alternative program for ensuring the nondiscriminatory use of contractors owned and controlled by socially and economically disadvantaged individuals.

- l) In accordance with OMB Recovery Act Guidance, the Grantee may recoup costs in the amount of up to .5% of the grant amount for administering the grant (available at http://www.whitehouse.gov/omb/recovery_default/) and in the answers to Frequently Asked Questions available at http://www.whitehouse.gov/omb/recovery_faqs. Information about which administrative costs are reimbursable under this program is available in 2 CFR Part 225 (OMB Circular A-87), "Cost Principles for State and Local Governments" (located at: <http://www.whitehouse.gov/omb/circulars/a087/a087-all.html>), and in Recovery Act specific guidance in OMB Memorandum M-09-18, Payments to State Grantees for Administrative Costs of Recovery Act Activities (May 11, 2009). The costs for collecting and reporting performance information required under this grant are permitted as part of the up to .5% in administrative costs.
- m) Subject to the Paperwork Reduction Act, as necessary, the Grantee agrees to (i) collect the data necessary to track and report on each of the performance measures identified in the Performance Measure Table included as Attachment I of this Grant Agreement, including the **Number of Rail Cars, Cargo Tonnage, Average Truck Traffic, Average Containerized Freight, Average Container Travel Time** and (ii)

report the results of such data collection to the Government. Grantee should include the data collected for each measure in each required report. To satisfy the reporting requirements, Grantee agrees to provide “Before” and “After” reports, “Before” reports should include current baseline data for each performance measure and should be delivered to the Government before project completion. “Before” reports should include a detailed description of data sources, assumptions, variability and the estimated level of precision for each measure. Grantee should provide “After” reports for each performance measure following project completion at the intervals, and for the time periods, specified in the Performance Measure Table included as Attachment I. “After” reports may include a narrative discussion detailing project successes and/or the influence of external factors on project expectations. The final “After” report must include an *ex post* examination of project effectiveness in relation to “Before” baselines.

SECTION 3. APPLICABLE FEDERAL LAWS AND REGULATIONS

In addition to any other Federal requirements that apply, performance under this Grant shall be governed by and in compliance with the following requirements as applicable to the type of organization of the Recipient and any applicable sub-recipients:

The “Uniform Administrative Requirements for Grants and Grant Agreements to State and Local Governments” (49 CFR 18), located at: <http://www.dot.gov/ost/m60/grant/49cfr18.htm>, DOT’s procurement standards for grants, will apply to the extent that the Grantee procures property and services in carrying out the approved grant project. If there are any differences between the DOT procurement standards and the MARAD procurement standards, the MARAD standards will take precedence.

- a) Section 902 of the Recovery Act, requiring that each contract awarded using ARRA funds must include a provision that provides the U.S. Comptroller General and his representatives with the authority to: 1) examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and 2) to interview any office or employee of the contractor or any of its subcontractors, or of any State or local government agency administering the contract, regarding such transactions.
- b) Section 1515 of the Recovery Act, authorizing the DOT Office of the Inspector General to: 1) examine any records of the contractor or grantee, any of its subcontractors or subgrantees, or any State or local agency administering such contract, that pertain to, and involve transactions relating to, the contract, subcontract, grant or subgrant; and 2) interview any officer or employee of the contractor, grantee, subgrantee, or agency regarding such transactions.

- c) Section 1605 of the Recovery Act (Buy American Requirements (regulations at 2 CFR Part 176.140)) to the extent that the Grantee uses Grant funds for construction, alteration, maintenance, or repair of a public building or public work that utilizes iron, steel, and/or manufactured goods that are not covered under international agreements. See Attachment B, Recovery Act Requirements and Contract Clauses, for requirements and more information on Section 1605 compliance.
- d) Section 1606 of the Recovery Act (Davis-Bacon Act Wage Rate Requirements (regulations at 2 CFR Part 176.190)) to the extent that the Grantee uses Grant funds for construction, alteration, maintenance, or repair work. See Attachment C, Recovery Act Requirements and Contract Clauses, for requirements and more information on Section 1606 compliance.
- e) Section 1604 of the Recovery Act, which prohibits the grantee from expending funds under this agreement on any casino, or other gambling establishment, aquarium, zoo, golf course, or swimming pool.
- f) Sections 1201, 1511, and 1607 of the Recovery Act, requiring certifications. Note that the Section 1511 certification requirement pertains to particular infrastructure investments. All Certifications, once executed, should have been submitted to the Secretary of Transportation, c/o Joel Szabat, Deputy Assistant Secretary for Transportation Policy, at TigerTeam.Leads@dot.gov. Certifications may be submitted via e-mail as electronic, scanned copies, with original signed versions to follow to be submitted via U.S. mail. As required by the Recovery Act, Certifications under Section 1511 shall be immediately posted on a website and linked to the website Recovery.gov. No funds may be obligated until such posting is made.
- g) Section 1553 of the Recovery Act, which requires the grantee to provide Whistleblower protections. As a non-Federal employer, the Grantee is required to post a notice of the rights and remedies provided under this section. The whistleblower program requirements and poster are available at the following web site: <http://www.recovery.gov/?q=content/whistleblower-information>.
- h) Section 1554 of the Recovery Act, which requires the Grantee to award contracts as fixed-price contracts to the maximum extent possible through the use of competitive procedures. In the rare circumstances where the Grantee does not award fixed-price contracts and does not use competitive procedures, the Grantee shall publicly and electronically post a summary of such contracts.
- i) The Single Audit Act Amendments of 1996 and the Office of Management and Budget's (OMB) Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations" (Single Audit Information requirements for Recipients of Recovery Act Funds (regulations at 2 CFR Part 176.210)), which govern the tracking and documentation of all Recovery Act expenditures. This includes compliance with Federal regulations requiring conduct of a Federally-approved audit of any expenditure of funds of \$500,000 or more in a year in Federal awards. See

Attachment C, Recovery Act Requirements and Contract Clauses, for requirements and more information on Single Audit Information compliance.

- j) The “New Restrictions On Lobbying,” (49 CFR Part 20 (located at: <http://www.dot.gov/ost/m60/grant/49cfr20.htm>).
- k) The “Cost Principles for State and Local Governments” 2 CFR Part 225 (OMB Circular A-87), or other applicable cost principles, depending upon the grantee (located at: <http://www.whitehouse.gov/omb/circulars/a087/a087-all.html>).
- l) OMB Circular A-102, “Grants and Grant Agreements With State and Local Governments” or other applicable requirements, depending upon the grantee (located at: <http://www.whitehouse.gov/omb/circulars/a102/a102.html>).
- m) Any other applicable Federal regulation or statute including each of the laws, regulations, executive orders, policies, guidelines, and requirements identified in Attachment A, Grant Assurances.

SECTION 4. GRANTEE AND PROJECT CONDITIONS

- a) Grantee: Mississippi State Port of Gulfport, as the Grantee under the TIGER Discretionary Grant Program, agrees to administer the Grant according to the conditions set forth in this Grant.

Dun and Bradstreet Data Universal Numbering System (DUNS) No. of the Grantee: 079458998.

First-Tier Sub-Grantees or Sub-Recipients : Kansas City Southern Railway Company (KCSR)

DUNS No. of First-Tier Sub-Grantee or Sub-Recipient: 006965859.

- b) Notices:

Notices required by this Agreement should be addressed as follows:

As to the Government:

Mr. Robert Bouchard
Grants Officer Technical Representative
MARAD
1200 New Jersey Ave, SE
MAR-510
Washington, DC 20590
202-366-5076
Robert.Bouchard@dot.gov

Mrs. Delores Bryant
Grants Officer
1200 New Jersey Ave, SE
MAR-380, W28-201
Washington, DC 20590
202-366-2660
Delores.Bryant@dot.gov

Mr. Robert Mariner
Office of the Secretary of Transportation
1200 New Jersey Ave, SE (W84-224)
Washington, DC 20590
Robert.Mariner@dot.gov

The Chief Engineer for KCS is as follows:

Main Office:
John S. Jacobsen
427 West 12th Street
P.O. Box 219335
Kansas City, MO 64121
(816) 983-1525
jjacobsen@kcsouthern.com

The other contact for the project is as follows:

Mr. Don Allee, Executive Director
Mississippi State Port Authority at Gulfport
P.O. Box 40
Gulfport, Mississippi
Telephone: 228-865-4300
Email: dra@mshipmspa.com

c) Project Description and Milestones:

In response to the U.S. Department of Transportation's award of a \$20 million Tiger Grant to The Mississippi State Port Authority ("MSPA"), with The Kansas City Southern Railway Company ("KCSR") as First Tier Subawardee, MSPA and KCSR have determined to develop the entire Project¹ in two different phases. While the entire Project costs are still estimated at approximately \$70 million, there will now be two phases. Phase I is proposed to start in 2010 and would utilize \$43 million in funds,

funded by the \$20 million Tiger Grant funds and \$23 million of Community Development Block Grant (“CDBG”) funds, which were awarded as part of Hurricane Katrina disaster relief program. All of the \$23 million in CDBG funds will be used for improvements in Stone and Harrison Counties.² Phase II is proposed in the amount of \$27 million to complete the Project over a period of time with anticipated funding sources being a possible second, follow-on TIGER Grant award and State and/or KCSR annual participation, but targeted to be completed *before* the proposed container port at Gulfport becomes operational.

This “phased approach” is intended to maximize the independent utility of each phase of the Project by completing the essential work of the Project needed to allow double-stack container operations at operating speeds of up to 49 MPH over most of the line. Phase I would include much of the track work and some of the bridge work, but most of the bridge work would occur as part of Phase II. Thus, even after completion of Phase I, there would still be speed restrictions at some of the bridges until Phase II was completed. Phase II would be completed over time, as funding becomes available, but the goal would be to complete both phases before the proposed container port becomes fully operational.

1. Environmental Process:

National Environmental Policy Act (NEPA) Requirement The Grantee may not draw down funds or incur expenses under this Grant Agreement unless and until the NEPA process has been completed, and approved by the Agency with a determination of whether further review, documentation, and/or mitigation measures are required; and the Grantee has satisfied any requirements contained in the Agency’s determination. Once these conditions have been successfully completed, the Agency will then notify the Grantee that the review is complete. At that time, the distribution and expenditure of TIGER Discretionary Grant funds may be authorized.

1) Project Schedule:

Planned or Actual Construction Start Date: 90 days from Grant Execution

Planned Project Completion Date: February 17, 2012

d) Project Funding (See Schedule for information about funding Attachment F):

1) TIGER Discretionary Grant Program Funding:

The total not-to-exceed amount of Federal funding that is provided under this Grant is \$20,000,000 for the entire period of performance. The Government’s responsibility to make payments to the Grantee under this Agreement is limited to those funds obligated under this Agreement as indicated above and any subsequent amendments.

- A. Local Financial Commitment (if any):The Grantee hereby commits and certifies that it will provide funds (and ensure the availability of other sources of funding, such as local/ private funding or in/kind contributions) in an amount sufficient, together with the Federal contribution (acknowledging the limitations as set forth in this Agreement), to assure timely and full payment of the project costs as necessary to complete the Project.
- B. The Grantee agrees to notify the Government within 14 calendar days of any change in circumstances or commitments that adversely affect the Grantee’s plan to fund the project costs necessary to complete the Project. In its notification, the Grantee shall advise the Government of what actions it has taken or plans to take to ensure adequate funding resources and shall reaffirm its commitment to the Government as set forth in Paragraph (A) of this Section 4(d)(2). The Government is not responsible for any funding shortfalls regarding the non-TIGER grant amount share. The TIGER Discretionary Grant Amount will remain unchanged (See Section 9 of this agreement regarding termination).

2) Grant Funds and Sources of Project Funds:

TIGER Discretionary Grant Amount:	\$20,000,000
Federal Other Share (if any):	\$0.00
State Share (if any):	\$0.00
Local Share (if any):	\$23,000,000
Other Share (if any):	\$0.00
Total Project Cost:	\$43,000,000

SECTION 5. REIMBURSEMENT OF PROJECT COSTS

Pursuant to 49 CFR 18.21(d), the Grantee may request reimbursement of costs incurred in the performance hereof as are allowable under the applicable cost provisions (see 49 CFR Part 18) not-to-exceed the funds currently available as stated in this Grant. The Grantee shall submit an electronic copy of SF 270, no more frequently than monthly or quarterly.

- a) Reimbursement:

- 1) Requests for Reimbursement: When requesting reimbursement of costs incurred, the Recipient shall submit supporting cost detail with the SF 270 to clearly document costs incurred. Cost detail includes a detailed breakout of all costs incurred including direct labor, indirect costs, other direct costs, travel, etc.... The DOT/Enterprise Service Center (ESC) OFO/FAA, Oklahoma City, OK (Attn: Tammy Curnett) and Mr. Robert Bouchard, Program Office, DOT/MAR 510 reserve the right to withhold processing requests for reimbursement until sufficient detail is received. In addition, reimbursement will not be made without DOT/ESC OFO/FAA and program official review and approval to ensure that progress on the Agreement is sufficient to substantiate payment. After approval, Ms. Tammy Curnett, ESC will certify and forward the request for reimbursement to the payment office. **[Note: Standard Forms may be located at <http://fhwa.dot.gov/aaa/hamhome.htm>]**
- 2) Requests for reimbursement and required supporting documents should be sent via e-mail to the following e-mail address: maradivoices@faa.gov (repository subject to change is forthcoming). Include the request for reimbursement and supporting documents as an attached PDF document. Include in the e-mail subject line the following:

**[Requests for Reimbursement #
Grant Award Number
Name of your Company/Organization
Attention: (Agreement Specialist's name)]**

**[Example: Invoice No. 1 of Grant No. DTFH61-08-H-00001 ABC Corporation,
Attention: John Doe]**

Note: If the request for reimbursement and supporting documents exceed 8 MB, as an e-mail attachment, the recipient must select one of two non-electronic submission options presented below:

- Requests for reimbursement may be submitted via regular U.S. Postal Service to the following P.O. Box address: A/P Branch, AMZ-150 PO Box 25710, Oklahoma City, OK 73125
- Requests for reimbursement submitted via an overnight service must use the following physical address because delivery services other than the U.S. Postal Service will not deliver to the P.O. Box address noted above: A/P Branch, AMZ-150 PO Box 25710, Oklahoma City, OK 73125

- b) The Grantee shall have entered into obligations for services and goods associated with the Project prior to seeking reimbursement from the Government.

- c) To seek reimbursement from the Government, the Grantee shall submit documentary evidence of all obligations associated with the Project set forth in paragraph (b) above, and included in the total Project costs set forth in paragraph (a) above (those to be covered by the local and/or state contribution, as well as those covered by the Federal contribution) on a periodic basis. The Government will reimburse the Grantee on a monthly basis for all valid obligation documentation (TIGER Discretionary Grant share of total project costs set forth in paragraph (a) above). All reimbursement requests to the Government shall include sufficient documentation to justify reimbursement of the Grantee, including invoices and proof of payment of an invoice.
- d) The Grantee shall ensure that the funds provided by the Government are not misappropriated or misdirected to any other account, need, project, line-item, or the like.
- e) Any Federal funds not expended in conjunction with the Project will remain the property of the Government.
- f) Financial Management System: By signing this agreement, the Grantee verifies that it has, or will implement, a financial management system adequate for monitoring the accumulation of costs and that it complies with the financial management system requirements of 49 CFR Part 18. The Grantee's failure to comply with these requirements may result in agreement termination.
- g) Allowability of Costs: Determination of allowable costs will be made in accordance with the applicable Federal cost principles, e.g., OMB Circular A-87. Disallowed costs are those charges determined to not be allowed in accordance with the applicable Federal cost principles or other conditions contained in this Agreement.

SECTION 6. REPORTING

a) Recovery Act Reporting:

Reporting requirements for the TIGER Discretionary Grant Program are identified below. Grantees shall submit their data as described in the paragraphs below.

1) Section 1201(c):

Section 1201(c) reports are required the Recovery Act and should include the amount of Grant Funds appropriated, allocated, obligated, and outlayed under the appropriation; the number of projects put out to bid under the appropriation and the amount of Grant Funds associated with these contracts;

the number of contracts awarded under the appropriation and the amount of Grant Funds associated with these contracts; the number of projects for which work has begun under these contracts and the associated amount of Grant Funds; the number of projects for which work has been completed and the associated amount of Grant Funds; the number of direct, on-project jobs created or sustained by the Grant Funds for projects under the appropriation and, to the extent possible, number of direct on-project job hours (the Department calculates the number of indirect and induced jobs); and the actual aggregate expenditures by each recipient from State sources for projects eligible for funding under the program between February 17, 2009, and September 30, 2010, compared to the level of such expenditures planned to occur during this period as of February 17, 2009, updated annually through February 17, 2012.

2) Section 1512 (c):

In accordance with the Recovery Act and OMB Guidance, dated June 22, 2009 http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-21.pdf this Grant award requires the Grantee to complete projects or activities which are funded under the Recovery Act and to report on use of Recovery Act funds provided through this award to <http://www.FederalReporting.gov> Information from these reports will be made available to the public. Such reporting responsibility may be delegated from the Grantee/ Recipient to the Sub-grantee/ Sub-recipient or vendor, if any in order to ensure that the necessary information is provided to the Grantee/ Recipient, who is ultimately responsible for reporting the required elements.

The reports are due no later than ten calendar days after each calendar quarter in which the recipient receives the assistance award funded in whole or in part by the Recovery Act.

Grantees/ Recipients and their Subgrantees/first-tier recipients (to the extent that they have been delegated direct reporting responsibility) must maintain current registrations in the Central Contractor Registration (<http://www.ccr.gov>) at all times during which they have active federal awards funded with Recovery Act funds. A DUNS Number (<http://www.dnb.com>) is one of the requirements for registration in the Central Contractor Registration.

The Grantees/Recipients shall report the information described in section 1512(c) of the Recovery Act using the reporting instructions and data elements that are provided online at <http://www.FederalReporting.gov> and ensure that any information that is pre-filled is corrected or updated as needed.

3) Section 1609:

In accordance with Section 1609 of the Recovery Act, the Grantee shall submit quarterly reports, as necessary, describing the status of the Project with respect to the National Environmental Policy Act (NEPA) review. A report shall be submitted to MARAD by December 24, 2010 and every 90 days thereafter following the execution of this Agreement. Due to the unique timeframe for TIGER Discretionary Grant awards, Grantees should submit the first of such reports on the first due date following the execution date of this Grant and on each subsequent due date thereafter.

4) Other Reports:

In accordance with the purposes of the Recovery Act, the Grantee may be required to submit additional information in response to requests from DOT, OMB, the Congressional Budget Office, the Government Accountability Office, or the Department of Transportation's Inspector General. The Government will inform Grantees if and when such additional reports are required.

b) Project Reports:

- 1) Progress Reports: Consistent with the purposes of the TIGER Discretionary Grant Program, to ensure accountability and transparency in Government spending, the Grantee shall submit progress reports, as set forth in Attachment D: Monthly Project Progress Reports, to the Government on a monthly basis, beginning on the first day of the first full month following the execution of the grant, and on the first day of each month thereafter until completion of the Project. The initial report shall include a detailed description, and, where appropriate, drawings, of the items funded.

Addresses for submittal of reports and documents: The Grantee shall submit all required reports and documents to the Government electronically, referencing the Grant number, at the following address:

Robert.Bouchard@dot.gov

- 2) Annual Budget Review and Program Plan: The Grantee shall submit an Annual Budget Review and Program Plan to the Government via e-mail 60 days prior to the end of each agreement year. The Annual Budget Review and Program Plan shall provide a detailed schedule of activities, estimate of specific performance objectives, include forecasted expenditures, and schedule of milestones for the upcoming agreement year. If there are no proposed deviations from the Approved Project Budget, attached hereto as Attachment D, the Annual Budget Review shall contain a statement stating such. The Recipient will meet with DOT to discuss the Annual Budget Review and Program Plan. If there is an actual or projected project cost

increase, the annual submittal should include a written plan for providing additional sources of funding to cover the project budget shortfall or supporting documentation of committed funds to cover the cost increase.

To the extent the annual budget update deviates from the approved project budget by more than 10 percent, then work proposed under the Annual Budget Review and Program Plan shall not commence until written approval from the Government is received.

- c) Milestones/Deliverables Schedule: See Attachment H.
- d) Closeout Process: Closeout occurs when all required project work and all administrative procedures described in 49 CFR part 18 (or part 19 as applicable) are completed, and the Government notifies the grantee and forwards the final Federal assistance payment, or when the Government acknowledges the Grantee's remittance of the proper refund. Within 90 days of Project completion date or termination by the Government, Grantees must submit a final Financial Status Report (SF-425), a certification or summary of project expenses, and third party audit reports.

SECTION 7. SPECIAL GRANT REQUIREMENTS

The Standard Form (SF)-425 is the new U.S. Government (USG) financial reporting form that replaced the two most common USG financial reports—the Financial Status Report that used the SF-269/SF-269A and the Federal Cash Transaction Report that used the SF-272/SF-272A.

This does not affect use of the SF-270. To obtain a copy of the new SF-425 please go to website: http://www.whitehouse.gov/omb/grants/standard_forms/ff_report.pdf.

SECTION 8. ASSURANCES

The Grantee shall execute the attached assurances and certifications in conjunction with execution of this Grant and shall ensure comply with those assurances and certifications.

SECTION 9. TERMINATION, MODIFICATION AND EXPIRATION

- a) Subject to the terms set forth in this Grant, the Government reserves the right to terminate this Grant, and the Government's obligations thereunder, unless otherwise agreed between the Grantee and the Government, if any of the following occurs:
 - 1) The Grantee fails to obtain or provide any non-Federal contribution or alternatives approved by the Government as provided in this Grant its Application and in accordance with the Project Schedule;

- 2) The Grantee fails to begin construction within 90 days after the execution of this Grant.
 - 3) The Grantee fails to begin expenditure of Grant funds within 30 days after the execution of the Grant.
 - 4) The Grantee does not meet the conditions and obligations specified under this Grant including a material failure to comply with the Project Schedule which is beyond the reasonable control of the Grantee; or
 - 5) The Government determines that termination is in the public interest.
- b) Funds available under this Grant must be obligated on or before September 30, 2011, but once obligated, are available for liquidation and adjustment through September 30, 2016, the "Grant Termination Date." Unless otherwise specified, this Grant shall terminate on the Grant Termination Date.
 - c) Either party (Government or the Grantee) may seek to amend or modify this Grant prior to the Grant Termination Date by written notice (formal letter) to the other party and in accordance with 49 CFR parts 18.43 and 18.44. The Grant will be amended or modified only on mutual written agreement by both parties.

SECTION 10. AWARD AND EXECUTION OF AGREEMENT

There are four (4) identical counterparts of this Grant in typewritten hard copy; each counterpart is to be fully signed in writing by the parties and each counterpart is deemed to be an original having identical legal effect. When signed and dated by the authorized official of the Government, this instrument will constitute an Award. Upon full Execution of this Agreement by the Grantee, the effective date will be the date the Government awarded funding under this Agreement as set forth below.

EXECUTION BY GOVERNMENT

The Government executes this agreement in accordance with Public Law 111-5, and in accordance with the above conditions and assurances.

Executed this _____ day of _____, 2010.

Signature of Government's Authorized Representative

Title

EXECUTION BY GRANTEE

The Grantee agrees to accomplish each element of the project in compliance with the terms and conditions contained herein.

Executed this _____ day of _____, 2010.

(SEAL)

Grantee _____

Signature of Grantee's Designated Official Representative

Title

ATTACHMENT A
STATEMENT OF WORK

Phase I

The cross tie renewal portion for Phase I will consist of installing approximately 1,000 cross ties per mile, or 67,500 total ties, across the entire line. The material for this portion of the Project is readily available and there are no issues with either engineering feasibility or procurement of the material.

The rail renewal portion for Phase I will consist of installing approximately 59 track miles of 115lb Head Hardened Rail across the line. The material for this portion of the Project has a lead time of approximately 4 months. There are no issues with the engineering feasibility and we have the option to use for this Project rail procured for KCSR maintenance-of-way ("MoW") projects until the rail for this Project begins to arrive on site.

The bridge replacement portion for Phase I will consist of replacing 2 Major Bridges (Milepost ("MP") 14.1 and MP 44.7). In addition, general maintenance

(stringers, caps, ties) of 19 other bridge locations is included as required to allow for 286,000 pound gross rail load traffic. The material for this portion of the Project is available. This portion of the Project scope of work will require engineering design and environmental permitting prior to start of construction. The crossing renewal portion for Phase I will consist of performing 100% renewal of all main line crossing surfaces during rail laying and tie installation. All crossings will be 100% timber except for the State road crossings that are currently concrete and will remain so. The material for this portion of the Project is readily available and there are no issues with either engineering feasibility or procurement of the material.

The turnout renewal portion for Phase I consists of rehabilitating 43 mainline turnouts. KCSR has budgeted \$40,000 per turnout for switch tie replacement, and some component replacement (e.g. frog, point), but not complete replacement of the turnouts. A scope of work for each turnout will need to be performed. The signal crossing gates and flashers portion for Phase I will consist of upgrading 2 sets of cross bucks to gates and flashers. This portion of the Project scope of work will require engineering design and coordination with local municipalities. The material for this portion of the work is not readily available and will require a longer lead time.

ATTACHMENT B: GRANT ASSURANCES

1. Title VI Assurance (Implementing Title VI of the Civil Rights Act of 1964, as amended)

UNITED STATES OF AMERICA DEPARTMENT OF TRANSPORTATION MARITIME ADMINISTRATION

ASSURANCE CONCERNING NONDISCRIMINATION IN FEDERALLY- ASSISTED PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

(Implementing the Rehabilitation Act of 1973, as amended, and the Americans With Disabilities Act, as amended)

49 CFR Parts 21, 25, 27, 37 and 38

_____ (the Grantee) HEREBY AGREES THAT,
(Name of Grantee)

- I. As a condition to receiving any Federal financial assistance from the Department of Transportation, it will comply: with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d--42 U.S.C. 2000d-4; all requirements imposed by or pursuant to: Title 49, Code of Federal Regulations, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act of 1964; and other pertinent directives so that no person in the United States shall, on the grounds of race, color, national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Grantee receives Federal financial assistance from the Department of Transportation. This assurance is required by Title 49, Code of Federal Regulations, section 21.7(a).
- II. As a condition to receiving any Federal financial assistance from the Department of Transportation, it will comply with: Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 through 1683, and 1685 through 1687, and U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 CFR part 25, which prohibit discrimination on the basis of sex.
- III. As a condition to receiving any Federal financial assistance from the Department of Transportation, it will comply with: the Age Discrimination Act of 1975, as amended (42 USC 6101 et seq), the Drug Abuse Office and Treatment Act of 1972, as amended (21 USC 1101 et seq.), the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended (42 USC 4541 et seq); and any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance was made; and the requirements of any other nondiscrimination statute(s) which may apply to the grant recipient.
- IV. As a condition to receiving any Federal financial assistance from the Department of Transportation, it will comply with: section 504 of the Rehabilitation Act of 1973, as amended, (29 USC 794); and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Part 27, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance; and Part 37, Transportation Services for

Individuals With Disabilities; and Part 38, Americans With Disabilities Act – Accessibility Specifications for Transportation Vehicles; and other pertinent directives so that no otherwise qualified person with a disability, be excluded from participation in, be denied the benefits of, be discriminated against by reason of such handicap, or otherwise be subjected to discrimination under any program for which the Grantee receives Federal financial assistance from the Department of Transportation. This assurance is required by Title 49, Code of Federal Regulations, Section 27.9.

- The Grantee will promptly take any measures necessary to effectuate this agreement. The Grantee further agrees that it shall take reasonable actions to guarantee that it, its contractors and subcontractors subject to the Department of Transportation regulations cited above, transferees, and successors in interest will comply with all requirements imposed or pursuant to the statutes and Department of Transportation regulations cited above, other pertinent directives, and the above assurances.
- These assurances obligate the Grantee for the period during which Federal financial assistance is extended. The Grantee agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the statutes and Department of Transportation regulations cited above, other pertinent directives, and the above assurances.
- These assurances are given for the purpose of obtaining Federal grant assistance under the TIGER Discretionary Grant Program and are binding on the Grantee, contractors, subcontractors, transferees, successors in interest, and all other participants receiving Federal grant assistance in the TIGER Discretionary Grant Program. The person or persons whose signatures appear below are authorized to sign this agreement on behalf of the Grantee.
- In addition to these assurances, the Grantee agrees to file: a summary of all complaints filed against it within the past year that allege violation(s) by the Recipient of Title VI of the Civil Rights Act of 1964, as amended, section 504 of the Rehabilitation Act of 1973, as amended; or a statement that there have been no complaints filed against it. The summary should include the date the complaint was filed, the nature of the complaint, the status or outcome of the complaint (*i.e.*, whether it is still pending or how it was resolved).

Date

Legal Name of Grantee

By: _____
Signature of Authorized Official

1. Disclosure of Lobbying Activities

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
MARITIME ADMINISTRATION**

Certification for Contracts, Grants and Loans

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any Grant, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or grant.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or grant, the undersigned shall complete and submit Standard Form-LLL (Rev. 7-97), "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and grants) and that all subgrantees shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature

Date

Title

Grantee

2. Drug-Free Workplace Requirements

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
MARITIME ADMINISTRATION**

**CERTIFICATION REGARDING DRUG-FREE WORKPLACE
REQUIREMENTS IN THE PERFORMANCE OF THE TIGER
DISCRETIONARY GRANT PROGRAM**

- A. The grant certifies that it will, or will continue, to provide a drug-free workplace by:
- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Grantee's workplace, and specifying the actions that will be taken against employees for violation of such prohibition;
 - (b) Establishing an ongoing drug-free awareness program to inform employees about--
 - (1) The dangers of drug abuse in the workplace;
 - (2) The grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 - (c) Making it a requirement that each employee to be engaged in the performance of work supported by the grant award be given a copy of the statement required by paragraph (a);
 - (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment supported by the grant award, the employee will--
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
 - (e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of conviction. Employers of convicted employees must provide notice, including position title, to the Department. Notice shall include the order number of the grant award;
 - (f) Taking one of the following actions, within 30 days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted--
 - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended, or

- (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

B. The Grantee *may*, but is not required to, insert in the space provided below the site for the performance of work done in connection with the specific grant.

Places of Performance (street address, city, county, state, zip code). For the provision of services pursuant to the grant award, workplaces include outstations, maintenance sites, headquarters office locations, training sites and any other worksites where work is performed that is supported by the grant award.

Check [] if there are workplaces on file that are not identified here.

Grantee Signature

Date

3. Certification Regarding Debarment, Suspension and Other Responsibility Matters:

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
MARITIME ADMINISTRATION**

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER
RESPONSIBILITY MATTERS – PRIMARY COVERED TRANSACTIONS**

2 CFR Part 1200, 49 CFR Part 32

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. See Nonprocurement Suspension and Debarment (2 CFR Part 1200) and Government wide Requirements for Drug-Free Workplace Grants (49 CFR Part 32).6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

6. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

**Certification Regarding Debarment, Suspension, and Other Responsibility Matters -
- Primary Covered Transactions**

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Name

Title

Date

4. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
MARITIME ADMINISTRATION**

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from

Federal Procurement and Non-procurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility an Voluntary Exclusion -- Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Name

Title

Affiliation

Date

6. Grant Assurances Specific to TIGER Discretionary Grant Program

Certification. The Grantee hereby assures and certifies, with respect to this grant, that it will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

General Federal Legislation

- a. Davis-Bacon Act - 40 U.S.C. 3141, et seq.
- b. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- c. Hatch Act - 5 U.S.C. 1501, et seq.
- d. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title - 42 U.S.C. 4601, et seq.
- e. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470f
- f. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469a through 469c.
- g. Native American Graves Protection and Repatriation Act - 25 U.S.C. 3001, et seq.
- h. Clean Air Act, P.L. 90-148, as amended
- i. Section 404 of the Clean Water Act, as amended 33 U.S.C. 1251, et seq.
- j. Section 7 of the Endangered Species Act, P.L. 93-205, as amended.
- k. Coastal Zone Management Act, P.L. 92-583, as amended.
- l. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a
- m. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- n. American Indian Religious Freedom Act, P.L. 95-341, as amended
- o. Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. 1101, et seq.
- p. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, P.L. 91-616, as amended - 42 U.S.C. 4541, et seq.
- q. Sections 523 and 527 of the Public Health Service Act of 1912, as amended, 42 U.S.C. 290dd through 290dd-2
- r. Architectural Barriers Act of 1968 - 42 U.S.C. 4151, et seq.
- s. Power Plant and Industrial Fuel Use Act of 1978, P.L. 100-42 - Section 403 - 42 U.S.C.8373
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. 3701, et seq.
- u. Copeland Anti-kickback Act, as amended - 18 U.S.C. 874 and 40 U.S.C. 3145
- v. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended – 16 U.S.C. 1271, et seq.
- x. Federal Water Pollution Control Act, as amended - 33 U.S.C. 1251-1376
- y. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.
- z. Americans with Disabilities Act of 1990 - 42 U.S.C. 12101, et seq.
- aa. Title IX of the Education Amendments of 1972, as amended - 20 U.S.C. 1681 through 1683, and 1685 through 1687
- bb. Section 504 of the Rehabilitation Act of 1973, as amended - 29 U.S.C. 794
- cc. American Recovery and Reinvestment Act of 2009 – P.L. 111-5
- dd. Title VI of the Civil Rights Act of 1964 - 42 U.S.C. 2000d *et seq.*
- ee. Title IX of the Federal Property and Administrative Services Act of 1949 - 40 U.S.C. 541, et seq.
- ff. Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting

- and Financial Transactions – 31 U.S.C. 1352
- gg. Freedom of Information Act - 5 U.S.C. 552, as amended
- hh. Magnuson-Stevens Fishery Conservation and Management Act – 16 U.S.C. 1855
- ii. Farmlands Protection Policy Act of 1981 – 7 U.S.C. 4201
- jj. Noise Control Act of 1972 – 42 U.S.C. 4901, et seq.
- kk. Fish and Wildlife Coordination Act of 1956 – 16 U.S.C. 661
- ll. Section 9 of the Rivers and Harbors Act and General Bridge Act of 1946 - 33 U.S.C. 401
- mm. Section 4(f) of the Department of Transportation Act of 1966, 49 U.S.C. 303 and 23 U.S.C. 138
- nn. Resource Conservation and Recovery Act of 1976 (RCRA), as amended -- 42 U.S.C. 6901, et seq.
- oo. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended --42 U.S.C. 9601-9657
- pp. Safe Drinking Water Act -- 42 U.S.C. 300F-300J-6
- qq. Wilderness Act -- 16 U.S.C. 1131-1136
- rr. Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 -- 42 U.S.C. 6901, et seq.
- ss. Native American Grave Protection and Repatriation Act -- 25 U.S.C. 3001 et seq.
- tt. Migratory Bird Treaty Act 16 U.S.C. 760c-760g

Executive Orders

- a. Executive Order 11246 - Equal Employment Opportunity
- b. Executive Order 11990 - Protection of Wetlands
- c. Executive Order 11988 – Floodplain Management
- d. Executive Order 12372 - Intergovernmental Review of Federal Programs
- e. Executive Order 12549 – Debarment and Suspension
- f. Executive Order 12898 – Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
- g. Executive Order 13166 – Improving Access to Services for Persons With Limited English Proficiency

General Federal Regulations

- a. Interim Final Guidance on Buy American – 74 FR 18449 (April 23, 2009), 2 CFR Part 176
- b. Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations – 2 CFR Part 215
- c. Cost Principles for State and Local Governments – 2 CFR Part 225
- d. Non-procurement Suspension and Debarment – 2 CFR Part 1200
- e. Investigative and Enforcement Procedures - 14 CFR Part 13
- f. Procedures for predetermination of wage rates - 29 CFR Part 1
- g. Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States - 29 CFR Part 3
- h. Labor standards provisions applicable to contracts governing federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act) - 29 CFR

Part 5

- i. Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements) - 41 CFR Parts 60, et seq.
- j. Contractor Qualifications - 48 CFR Part 9
- k. Uniform administrative requirements for grants and cooperative agreements to state and local governments - 49 CFR Part 18
- l. New Restrictions on Lobbying – 49 CFR Part 20
- m. Nondiscrimination in Federally Assisted Programs of the Department of Transportation –Effectuation of Title VI of the Civil Rights Act of 1964 – 49 CFR Part 21
- n. Uniform relocation assistance and real property acquisition for Federal and Federally assisted programs - 49 CFR Part 24
- o. Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance - 49 CFR Part 25
- p. Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs – 49 CFR Part 26
- q. Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance - 49 CFR Part 27
- r. Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation – 49 CFR Part 28
- s. Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors - 49 CFR Part 30
- t. Governmentwide Requirements for Drug-Free Workplace (Financial Assistance) – 49 CFR Part 32
- u. DOT's implementing ADA regulations, including the ADA Accessibility Guidelines in Part 37, Appendix A - 49 CFR Parts 37 and 38
- v. Procedures for Transportation Workplace Drug and Alcohol Testing Programs – 49 CFR Part 40

Office of Management and Budget Circulars

- a. A-87 – Cost Principles Applicable to Grants and Contracts with State and Local Governments
- b. A-102 – Grants and Grant Agreements with State and Local Governments
- c. A-133 - Audits of States, Local Governments, and Non-Profit Organizations
- d. Any other applicable OMB Circular based upon the specific TIGER Grant Recipient

Additional Federal Regulations or Statutes to be Applied by Maritime Administration (MARAD)

The grantee may be required to submit additional information in response to requests from DOT, OMB, the Congressional Budget Office, The Government Accountability Office or the Department of Transportation's Inspector General. The Government will inform the grantee if such reports are required.

Specific assurances required to be included in grants by any of the above laws, regulations, or circulars are hereby incorporated by reference into the Grant.

Responsibility and Authority of the Grantee.

1. The Grantee has the legal authority to apply for the grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

2. Funds Availability. It has sufficient funds available for that portion of the project costs that are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under the grant that it will own or control.

3. Preserving Rights and Powers.

It will not take or permit any action that would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in the grant without the written approval of the DOT, and will act promptly to acquire, extinguish, or modify any outstanding rights or claims of right of others that would interfere with such performance by the Grantee. The Grantee agrees that this will be done in a manner acceptable to the DOT.

4. Accounting System, Audit, and Record Keeping Requirements.

a. The Grantee agrees to keep all project accounts and records that fully disclose the amount and disposition by the grantee of the proceeds of the grant, the total cost of the project in connection with which the grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984, as amended (31 USC 7501-7507).

b. The Grantee agrees to make available to the DOT and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the Grantee that are pertinent to the grant. The DOT may require that a Grantee conduct an appropriate audit. In any case in which an independent audit is made of the accounts of a Grantee relating to the disposition of the proceeds of a grant or relating to the project in connection with which

the grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

5. Minimum Wage Rates. It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this grant that involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 3141, et seq), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

In addition, in order to incorporate the provisions of Section 1606 of the Recovery Act, which applies Davis-Bacon Act prevailing wage requirements to projects funded directly by or assisted in whole or in part by and through the Federal Government using laborers and mechanics, the grantee agrees to insert the clauses found in 29 CFR 5.5(a) provided in Attachment B of this grant in all Grantee contracts and grants using funds obligated to carry out this grant.

6. Engineering and Design Services. It will award each contract or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541, et seq) or an equivalent qualifications-based requirement prescribed for or by the Grantee as approved by the Secretary.

7. Foreign Market Restrictions. It will not allow funds provided under this grant to be used to fund any project that uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

8. Relocation and Real Property Acquisition. (1) It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B. (2) It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24. (3) It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

Grantee

Signature of Authorized Grantee Official

Date

ATTACHMENT C: RECOVERY ACT REQUIREMENTS AND CONTRACT CLAUSES

1. Davies-Bacon Wage Rate Requirements and Contract Clauses

- a) Section 1606 of the Recovery Act 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 Recovery 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.
- b) Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section. Federal agencies providing grants, cooperative agreements, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant covered contracts that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).
- c) Federal agencies providing grants, grants, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant covered contracts that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).
- d) For additional guidance on the wage rate requirements of section 1606, contact your awarding agency. Recipients of grants, grants and loans should direct their initial inquiries concerning the application of Davis-Bacon requirements to a particular federally assisted project to the Federal agency funding the project. The Secretary of Labor retains final coverage authority under Reorganization Plan Number 14.

2. Buy American Act Requirements and Contract Clauses

- a) Definitions. As used in this award term and condition—
 - (1) Manufactured good means a good brought to the construction site for incorporation into the building or work that has been—
 - (i) Processed into a specific form and shape; or
 - (ii) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.
 - (2) Public building and public work means a public building of, and a public

work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

(3) Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) Domestic preference.

(1) This award term and condition implements Section 1605 of the American Recovery and Reinvestment Act of 2009 (Recovery Act) (Pub. L. 111-5), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States except as provided in paragraph (b)(3) and (b)(4) of this section and condition.

(2) This requirement does not apply to the material listed by the Federal Government as follows:

None

(3) The award official may add other iron, steel, and/or manufactured goods to the list in paragraph (b)(2) of this section and condition if the Federal Government determines that—

(i) The cost of the domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;

(ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

(c) Request for determination of inapplicability of Section 1605 of the Recovery Act.

(1)(i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(3) of this section shall include adequate information for Federal Government evaluation of the request, including—

(A) A description of the foreign and domestic iron, steel, and/or manufactured goods;

(B) Unit of measure;

- (C) Quantity;
 - (D) Cost;
 - (E) Time of delivery or availability;
 - (F) Location of the project;
 - (G) Name and address of the proposed supplier; and
 - (H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(3) of this section.
- (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this section.
 - (iii) The cost of iron, steel, and/or manufactured goods material shall include all delivery costs to the construction site and any applicable duty.
 - (iv) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.
- (2) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds by at least the differential established in 2 CFR 176.110(a).
- (3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods is noncompliant with section 1605 of the American Recovery and Reinvestment Act.

(d) Data. To permit evaluation of requests under paragraph (b) of this section based on unreasonable cost, the Recipient shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Items Cost Comparison

Description	Unit of measure	Quantity	Cost (dollars)*
<i>Item 1:</i>			
Foreign steel, iron, or manufactured good	_____		
Domestic steel, iron, or manufactured good	_____		
<i>Item 2:</i>			
Foreign steel, iron, or manufactured good	_____		
Domestic steel, iron, or manufactured good	_____		

[List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]

[Include other applicable supporting information.]

[*Include all delivery costs to the construction site.]

3. 48 C.F.R. Subpart 52.247-64 Preference for Privately Owned Commercial U.S. Flag Vessels – Cargo Preference Act of 1954

(a) Except as provided in paragraph (e) of this clause, the Cargo Preference Act of 1954 requires that Federal departments and agencies shall transport in privately owned U.S.-flag commercial vessels at least 50 percent of the gross tonnage of equipment, materials, or commodities that may be transported in ocean vessels 19 (computed separately for dry bulk carriers, dry cargo liners, and tankers). Such transportation shall be accomplished when any equipment, materials, or commodities, located within or outside the United States that may be transported by ocean vessel are—

- (1) Acquired for a U.S. Government agency account;
- (2) Furnished to, or for the account of, any foreign nation without provision for reimbursement;
- (3) Furnished for the account of a foreign nation in connection with which the United States advances funds or credits, or guarantees the convertibility of foreign currencies; or
- (4) Acquired with advance of funds, loans, or guaranties made by or on behalf of the United States.

(b) The Contractor shall use privately owned U.S.-flag commercial vessels to ship at least 50 percent of the gross tonnage involved under this contract (computed separately for dry bulk carriers, dry cargo liners, and tankers) whenever shipping any equipment, materials, or commodities under the conditions set forth in paragraph (a) of this clause, to the extent that

such vessels are available at rates that are fair and reasonable for privately owned U.S.-flag commercial vessels.

(c)(1) The Contractor shall submit one legible copy of a rated on-board ocean bill of lading for each shipment to both—

(i) The Contracting Officer, and the

(ii) Office of Cargo Preference Maritime Administration 1200 New Jersey Avenue, SE
Washington DC 20590

Subcontractor bills of lading shall be submitted through the Prime Contractor.

(2). The Contractor shall furnish these bill of lading copies (i) within 20 working days of the date of loading for shipments originating in the United States, or (ii) within 30 working days for shipments originating outside the United States. Each bill of lading copy shall contain the following information:

(A) Sponsoring U.S. Government agency.

(B) Name of vessel.

(C) Vessel flag of registry.

(D) Date of loading.

(E) Port of loading.

(F) Port of final discharge.

(G) Description of commodity.

(H) Gross weight in pounds and cubic feet if available.

(I) Total ocean freight revenue in U.S. dollars

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts or purchase orders under this contract, except those described in paragraph (e)(4).

(e) The requirement in paragraph (a) does not apply to—

(1) Cargoes carried in vessels as required or authorized by law or treaty;

(2) Ocean transportation between foreign countries of supplies purchased with foreign currencies made available, or derived from funds that are made available, under the Foreign Assistance Act of 1961 (22 U.S.C. 2353);

(3) Shipments of classified supplies when the classification prohibits the use of non-Government vessels; and

(4) Subcontracts or purchase orders for the acquisition of commercial items unless—

(i) This contract is—

(A) A contract or agreement for ocean transportation services; or

(B) A construction contract; or

(ii) The supplies being transported are—

(A) Items the Contractor is reselling or distributing to the Government without adding value.

(Generally, the Contractor does not add value to the items when it subcontracts items for f.o.b. destination shipment); or

(B) Shipped in direct support of U.S. military—

(1) Contingency operations;

(2) Exercises; or

(3) Forces deployed in connection with United Nations or North Atlantic Treaty Organization humanitarian or peacekeeping operations.

(f) Guidance regarding fair and reasonable rates for privately owned U.S.flag - commercial vessels may be obtained from the:

Office of Costs and Rates Maritime Administration 1200 New Jersey Avenue, S.E.

Washington DC 20590 Phone: (202) 366-4610

4. Single Audit Information for Recipients of Recovery Act Funds Requirements

(a) To maximize the transparency and accountability of funds authorized under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) (Recovery Act) as required by Congress and in accordance with 2 CFR 215.21 “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations” and OMB Circular A–102 “Grants and Cooperative Agreements with State and Local Governments.” Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of Recovery Act funds. OMB Circular A–102 is available at <http://www.whitehouse.gov/omb/circulars/a102/a102.html>.

(b) For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A–133, “Audits of States, Local Governments, and Non-Profit Organizations,” recipients agree to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF–SAC) required by OMB Circular A–133. OMB Circular A–133 is available at <http://www.whitehouse.gov/omb/circulars/a133/a133.html>. This shall be accomplished by identifying expenditures for Federal awards made under the Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF–SAC by CFDA number, and inclusion of the prefix “ARRA-” in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF–SAC.

(c) Recipients agree to separately identify to each subrecipient, and document at the time of subaward and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of Recovery Act funds. When a recipient awards Recovery Act funds for an existing program, the information furnished to subrecipients shall distinguish the subawards of incremental Recovery Act funds from regular subawards under the existing program.

(d) Recipients agree to require their subrecipients to include on their SEFA information to specifically identify Recovery Act funding similar to the requirements for the recipient SEFA described above. This information is needed to allow the recipient to properly monitor subrecipient expenditure of ARRA funds as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

ATTACHMENT D
MONTHLY PROGRESS REPORTS
FORMAT AND CONTENT

[Note: Subject to 44 (USC 3501) under the Paperwork Reduction Act, the grantee shall submit monthly progress reports as described in this Attachment].

The purpose of the monthly progress reports is to ensure that the project budget and schedule will be maintained to the maximum extent possible, that the project will be completed with the highest degree of quality, and that compliance with Federal regulations will be met.

The Grantee should develop a project reporting and tracking system to collect, assess and maintain project status information and data that is timely, independent, and accurate. This system should provide current information on project prosecution, progress, changes, and issues. This information should be used to identify trends and forecast project performance and to identify and proactively address challenges to eliminate major project surprises.

The need to continuously and accurately report cost increases; schedule changes; deficient quality items; and the causes, impacts, and proposed measures to mitigate these issues is paramount to effectively managing, administering, and protecting the public investment in the project. Any apparent reporting deficiencies or questionable data should be completely resolved. Ultimately, the Grantee and the Government must be fully aware of the complete status of the project, and therefore be in a position to take appropriate action if necessary.

A monthly cost, schedule, and status report will be produced by the Grantee, and a status meeting will be held with the Grantee at least quarterly, with the Government and other applicable agencies in attendance. The quarterly status meetings should discuss the project costs, schedules, quality issues, compliance with Federal requirements, and other status items in sufficient enough detail to allow all involved parties to be fully aware of the significant status issues and actions planned to mitigate any adverse impacts. In addition, significant issues occurring between status meetings must be communicated immediately without waiting for the next regularly scheduled meeting, with any highly significant or sensitive issues elevated immediately to the executive leadership.

The following is the required format for the monthly status reports. At the discretion of the Government, modifications or additions can be made in order to produce a monthly reporting format that will most effectively serve both the Grantee and the Government. It is recognized that some projects will have a more extensive monthly status than others. In the case of smaller projects, the content of the monthly reports will be streamlined and project status meetings will be held on a less-frequent basis.

Please note that the initial monthly progress report should include a detailed description, and where appropriate, drawings, of the items funded.

1. Executive Summary. The executive summary should be a clear and concise summary of the current status of the project, including any major issues that have an impact on the project's scope, budget, schedule, quality, or safety. It may be done in a bulleted format. The following summary information is an example of items that should be covered in the Executive Summary section:

- Current total project cost (forecast) vs. latest budget vs. baseline budget. Include an explanation of the reasons for any deviations from the approved budget.
- Current overall project completion percentage vs. latest plan percentage.
- Any delays or exposures to milestone and final completion dates. Include an explanation of the reasons for the delays and exposures.
- A summary of the projected and actual dates for notices to proceed for significant contracts, start of construction, start of expenditure of TIGER Discretionary Grant funds, and project completion date. Include an explanation of the reasons for any discrepancies from the corresponding project milestone dates included in the Grant.
- Any Federal obligations and/or TIFIA disbursements occurring during the month versus planned obligations or disbursements.
- Any significant contracts advertised, awarded, or completed.
- Any significant scope of work changes.
- Any significant items identified as having deficient quality.
- Any significant safety issues.
- Any significant Federal issues such as environmental compliance, Buy America, Davis Bacon Act Prevailing Wage requirements, etc.

2. Project Activities and Deliverables. The purpose of this section is to: (1) highlight the project activities and deliverables occurring during the previous month (reporting period), and (2) define the activities and deliverables planned for the next two reporting periods. Activities and deliverables to be reported on should include meetings, audits and other reviews, design packages submitted, advertisements, awards, construction submittals, construction completion milestones, submittals related to Recovery Act requirements, media or Congressional inquiries, value engineering/constructability reviews, and other items of significance. The two-month "look ahead schedule" will enable the Government to accommodate any activities requiring input or assistance.

3. Action Items/Outstanding Issues. This section should draw attention to, and track the progress of, highly significant or sensitive issues requiring action and direction in order to resolve. In general, issues and administrative requirements that could have a significant or adverse impact to the project's scope, budget, schedule, quality, safety, and/or compliance with Federal requirements should be included. Status, responsible person(s), and due dates should be included for each action item/outstanding issue. Action items requiring action or direction should be included in the quarterly status meeting agenda. The action items/outstanding issues may be dropped from this section upon full implementation of the remedial action, and upon no further monitoring anticipated.

4. Project Schedule. An updated master program schedule reflecting the current status of the program activities should be included in this section. A Gantt (bar) type chart is probably the most appropriate for monthly reporting purposes, with the ultimate format to be agreed upon between the Grantee and the Government. It is imperative that the master program schedule be integrated, i.e., the individual contract milestones tied to each other, such that any delays occurring in one activity will be reflected throughout the entire program schedule, with a realistic completion date being reported.

Narratives, tables, and/or graphs should accompany the updated master program schedule, basically detailing the current schedule status, delays and potential exposures, and recovery efforts. The following information should also be included:

- Current overall project completion percentage vs. latest plan percentage.
- Completion percentages vs. latest plan percentages for major activities such as right-of-way, major or critical design contracts, major or critical construction contracts, and significant force accounts or task orders. A schedule status description should also be included for each of these major or critical elements.
- Any delays or potential exposures to milestone and final completion dates. The delays and exposures should be quantified, and overall schedule impacts assessed. The reasons for the delays and exposures should be explained, and initiatives being analyzed or implemented in order to recover the schedule should be detailed.

5. Project Cost. An updated cost spreadsheet reflecting the current forecasted cost vs. the latest approved budget vs. the baseline budget should be included in this section. One way to track project cost is to show: (1) Baseline Budget, (2) Latest Approved Budget, (3) Current Forecasted Cost Estimate, (4) Expenditures or Commitments To Date, and (5) Variance between Current Forecasted Cost and Latest Approved Budget. Line items should include all significant cost centers, such as prior costs, right-of-way, preliminary engineering, environmental mitigation, general engineering consultant, section design contracts, construction administration, utilities, construction packages, force accounts/task orders, wrap-up insurance, construction contingencies, management contingencies, and other contingencies. The line items can be broken-up in enough detail

such that specific areas of cost change can be sufficiently tracked and future improvements made to the overall cost estimating methodology. A Program Total line should be included at the bottom of the spreadsheet.

Narratives, tables, and/or graphs should accompany the updated cost spreadsheet, basically detailing the current cost status, reasons for cost deviations, impacts of cost overruns, and efforts to mitigate cost overruns. The following information should be provided:

- Reasons for each line item deviation from the approved budget, impacts resulting from the deviations, and initiatives being analyzed or implemented in order to recover any cost overruns.
- Transfer of costs to and from contingency line items, and reasons supporting the transfers.
- Speculative cost changes that potentially may develop in the future, a quantified dollar range for each potential cost change, and the current status of the speculative change. Also, a comparison analysis to the available contingency amounts should be included, showing that reasonable and sufficient amounts of contingency remain to keep the project within the latest approved budget.
- Detailed cost breakdown of the general engineering consultant (GEC) services (if applicable), including such line items as contract amounts, task orders issued (amounts), balance remaining for tasks, and accrued (billable) costs.
- Federal obligations and/or TIFIA disbursements for the project, compared to planned obligations and disbursements.

6. Project Funding Status. The purpose of this section is to provide a status report on the non-TIGER Discretionary Grant funds necessary to complete the project. This report section should include a status update of any legislative approvals or other actions necessary to provide the non-TIGER Discretionary Grant funds to the project. Such approvals might include legislative authority to charge user fees or set toll rates, or the commitment of local funding revenues to the project. In the event that there is an anticipated or actual project cost increase, the project funding status section should include a report on the anticipated or actual source of funds to cover the cost increase and any significant issues identified with obtaining additional funding.

7. Project Quality. The purpose of this section is to: (1) summarize the Quality Assurance/Quality Control activities during the previous month (reporting period), and (2) highlight any significant items identified as being deficient in quality. Deficient items noted should be accompanied by reasons and specifics concerning the deficiencies, and corrective actions taken or planned. In addition, the agency or firm responsible for the corrective action should be documented. Planned corrective actions should then be included as Action Items/Outstanding Issues.

8. Other Status Reports. The Grantee and the Government may agree that other reports may be beneficial in ensuring that project status issues are fully and openly communicated. Such reports may include the public relations plan, value engineering and constructability review plan, environmental compliance report, and/or compliance with the Buy America requirements.

**ATTACHMENT E
PROJECT BUDGET**

MSPA PROJECT FUNDING

Sources and Distribution of Funds

MSPA project funding is a combination of federal, state, and local sources as follows: The Project, which covers Phase I is funded in part by the TIGER Discretionary Grant Program which shall not exceed \$20,000,000.

Phase I

TIGER Discretionary Grant	\$20,000,000
CDBG	\$23,000,000
Sub-Total Phase II	\$43,000,000
TOTAL PROJECT	\$43,000,000

Total Project Funding Allocation

Federal Funds	46.51%
Local Sources Funds	53.49%

UPDATED PROJECT ITEMS & ESTIMATE

**ESTIMATED COST FOR REHABILITATION OF
GULFPORT MAIN LINE PHASE I
KCS M.P. 0.0 - M.P. 67.5**

DESCRIPTION	U/M	ESTIMATE 03/17/2010			Harrison & Stone Counties	Remaining Line
		QTY	COST	TOTAL		
RAIL RENEWAL						
1.) Relay 90# Curves with 115HH Rail	LF	113,976	\$ 41.04	\$ 4,677,551	\$ 2,757,772	\$ 1,919,779
2.) Relay 90# and 115# Tangent with 115HH Rail (MP4.0-67.5)	LF	514,272	\$ 40.11	\$ 20,627,435	\$ 12,066,873	\$ 8,560,562
3.) Lay 115# SH Rail generated from Main Line Relay	LF					
TOTAL - RAIL RENEWAL				\$25,304,986	\$ 14,824,645	\$ 10,480,341
IN TRACK WELDING / JOINT REMOVAL						
1.) Welding of 1,440 LF strings	EA	436	\$ 1,000	\$436,283	\$ 255,592	\$ 180,692
TOTAL - IN TRACK WELDING				\$436,283	\$ 255,592	\$ 180,692
TURNOUTS / FROGS						
1.) Rehabilitate (43) 115# Turnouts (ties, component rehab)	EA	43	\$ 40,000	\$1,720,000	\$ 993,778	\$ 726,222
TOTAL - TURNOUTS				\$1,720,000	\$ 993,778	\$ 726,222
TIE RENEWAL						
1.) Replace Ties Main Line M.P. 0.0 - M.P. 67.5 (1,000 ties per mile, includes surfacing)	EA	67,500	\$ 125.64	\$ 8,480,587	\$ 4,899,895	\$ 3,580,692
TOTAL - TIE RENEWAL				\$8,480,587	\$ 4,899,895	\$ 3,580,692
BALLAST RENEWAL						
1.) Included in Tie Program		0	\$ -	\$0	\$ -	\$ -
TOTAL - BALLAST RENEWAL				\$0	\$ -	\$ -
SIGNALS						
1.) Signals	LS	0	\$ -	\$0	\$ -	\$ -
TOTAL - SIGNALS				\$0	\$ -	\$ -
BRIDGES						
1.) Replace Bridges (MP 14.1 & 44.7), other general maintenance	LS	1	\$ 6,847,300	\$6,847,300	\$ 5,088,520	\$1,758,780
TOTAL - BRIDGES				\$6,847,300	\$ 5,088,520	\$ 1,758,780
CROSSING RENEWALS						
1.) 100% Renewals of all Main Line Crossings	LF	3,102	\$ 490.63	\$ 1,521,932	\$ 879,338	\$ 642,593
TOTAL - CROSSING RENEWALS				\$1,521,932	\$ 879,338	\$ 642,593
GRADE CROSSING SIGNAL UPGRADES						
1.) Upgrade 2 Sets of Cross Bucks to Signal Crossings	EA	2	\$ 200,000	\$400,000	\$ 400,000	\$ -
TOTAL - YARD				\$400,000	\$ 400,000	\$ -
YARD						
1.) Renewal program (ties, rail and switches)	LS		\$ -	\$0	\$ -	\$ -
TOTAL - YARD				\$0	\$ -	\$ -
SALVAGE 90# Rail						
1.) Salvage 56.2 Track Miles of 90# Rail	TN	11,333	\$ (150)	(\$1,699,950)	\$ (995,897)	(\$704,053)
TOTAL - SALVAGE 90# RAIL				(\$1,699,950)	\$ (995,897)	\$ (704,053)
TOTAL				\$43,011,138	\$ 26,345,871	\$ 16,665,267

ATTACHMENT F

PROJECT SCHEDULE

The MSPA Phase I project is primed to move forward. (See Attachment H for specific milestone attainment dates). The full project is completely permitted by Federal, state and local agencies. The bridge replacement portion for Phase I will consist of replacing 2 Major Bridges (Milepost (“MP”) 14.1 and MP 44.7). In addition, general maintenance (stringers, caps, ties) of 19 other bridge locations is included as required to allow for 286,000 pound gross rail load traffic. The material for this portion of the Project is available. This portion of the Project scope of work will require engineering design and environmental permitting prior to start of construction.

Construction/rehabilitation and upgrade of a line of railroad from the Port of Gulfport to Hattiesburg, MS will take approximately 12 to complete. The entire MSPA Phase I project would be complete within 425 days or 14 months of grant award, demonstrating expeditious use of the federal stimulus funds.

MSPA- Phase I is a shovel ready project that fulfills the aims of the American Recovery and Reinvestment Act. The funds provided by the TIGER Discretionary Grant will have immediate and ongoing positive economic impacts across a broad region and numerous communities and industry sectors.

ATTACHMENT G

TECHNICAL APPLICATION

Implementation Plan for TIGER Grant Awarded to the Mississippi State Port Authority for the Rehabilitation and Upgrade of a Line of Railroad from the Port of Gulfport to Hattiesburg

Project Description and Timing

In response to the U.S. Department of Transportation's award of a \$20 million Tiger Grant to The Mississippi State Port Authority ("MSPA"), with The Kansas City Southern Railway Company ("KCSR") as First Tier Subawardee, MSPA and KCSR have determined to develop the entire Project in two different phases. While the entire Project costs are still estimated at approximately \$70 million, there will now be two phases. Phase I is proposed to start in 2010 and would utilize \$43 million in funds, funded by the \$20 million Tiger Grant funds and \$23 million of Community Development Block Grant ("CDBG") funds, which were awarded as part of Hurricane Katrina disaster relief program. All of the \$23 million in CDBG funds will be used for improvements in Stone and Harrison Counties.³ Phase II is proposed in the amount of \$27 million to complete the Project over a period of time with anticipated funding sources being a possible second, follow-on TIGER Grant award and State and/or KCSR annual participation, but targeted to be completed *before* the proposed container port at Gulfport becomes operational.

This "phased approach" is intended to maximize the independent utility of each phase of the Project by completing the essential work of the Project needed to allow double-stack container operations at operating speeds of up to 49 MPH over most of the line. Phase I would include much of the track work and some of the bridge work, but most of the bridge work would occur as part of Phase II. Thus, even after completion of Phase I, there would still be speed restrictions at some of the bridges until Phase II was completed. Phase II would be completed over time, as funding becomes available, but the goal would be to complete both phases before the proposed container port becomes fully operational.

KCSR intends to complete all \$43 million of Phase I work in one construction period commencing from the start of construction until Phase I completion to facilitate construction efficiency and resulting cost savings. Currently, the line is capable of single-stack intermodal operations and it takes approximately 8.5 hours for a train to travel from Gulfport to Hattiesburg. Completion of Phase I of the project will improve the line so as to allow double-stack container movements and will reduce transit times by 4.75 hours, resulting in a total transit time of approximately 3.75 hours. Completion of

Phase I will provide for the majority of the improvements needed to increase line speeds over the entire route and upgrade the entire line segment to handle 286,000 pound rail cars and double stack intermodal container traffic. Under Phase I, KCSR would have to maintain speed restrictions on the seven bridge locations that are not projected for completion in Phase I, until such time that these bridges are upgraded in Phase II. Phase II work could be timed over subsequent months as funding allows, but in any event to be targeted for completion before the proposed container port is operational. A general scope of the work to be done in the two phases and the availability of the construction materials to be used in that scope of work follows:

Phase I

The cross tie renewal portion for Phase I will consist of installing approximately 1,000 cross ties per mile, or 67,500 total ties, across the entire line. The material for this portion of the Project is readily available and there are no issues with either engineering feasibility or procurement of the material.

The rail renewal portion for Phase I will consist of installing approximately 59 track miles of 115lb Head Hardened Rail across the line. The material for this portion of the Project has a lead time of approximately 4 months. There are no issues with the engineering feasibility and we have the option to use for this Project rail procured for KCSR maintenance-of-way (“MoW”) projects until the rail for this Project begins to arrive on site.

The bridge replacement portion for Phase I will consist of replacing 2 Major Bridges (Milepost (“MP”) 14.1 and MP 44.7). In addition, general maintenance (stringers, caps, ties) of 19 other bridge locations is included as required to allow for 286,000 pound gross rail load traffic. The material for this portion of the Project is available. This portion of the Project scope of work will require engineering design and environmental permitting prior to start of construction.

The crossing renewal portion for Phase I will consist of performing 100% renewal of all main line crossing surfaces during rail laying and tie installation. All crossings will be 100% timber except for the State road crossings that are currently concrete and will remain so. The material for this portion of the Project is readily available and there are no issues with either engineering feasibility or procurement of the material.

The turnout renewal portion for Phase I consists of rehabilitating 43 mainline turnouts. KCSR has budgeted \$40,000 per turnout for switch tie replacement, and some component replacement (e.g. frog, point), but not complete replacement of the turnouts. A scope of work for each turnout will need to be performed.

The signal crossing gates and flashers portion for Phase I will consist of upgrading 2 sets of cross bucks to gates and flashers. This portion of the Project scope of work will require engineering design and coordination with local municipalities. The material for this portion of the work is not readily available and will require a longer lead time.

Phase II

The cross tie renewal portion for Phase II will consist of installing the remaining 400 cross ties per mile, or 27,000 ties across the entire line. In addition,

approximately 5,000 ties will be installed in the new siding. The material for this portion of the Project is readily available and there are no issues with either engineering feasibility or procurement of the material.

The rail renewal portion for Phase II will consist of installing four miles of new 115lb Head Hardened Rail from MP 0-4. In addition 17,000 LF of Second Hand 115lb Rail generated from the relay will be installed in the new siding. The material for this portion of the Project has a longer lead time of 4 months. There are no issues with the engineering feasibility and we will use rail procured in the fall of 2010.

The bridge replacement portion for Phase II will consist of rebuilding 7 Major Bridges (MP 7.5, 10.9, 30.1, 49.4, 52.7, 61.5, and 62.6). The material for this portion of the Project is available. This portion of the Project scope of work will require engineering design prior to start of construction. This work will allow these locations to achieve 49 MPH.

The yard renewal portion for Phase II consists of renewing ties, rail, and switches in Track # 1 thru Track #5, the engine track, and the sanding track. All material is readily available for this phase of the Project except for the second hand 90# rail. We will use 90# rail generated from the rail renewal Project.

The turnout renewal portion for Phase II consists of installing 2 new 115lb #11 turnouts for the new siding and continued rehabilitation of 43 mainline turnouts (budgeted at \$25,000 per turnout). A scope of work for each turnout will need to be performed.

The new siding construction portion for Phase II will consist of building one (1) new 8,500ft long siding. This portion of work will require engineering design. All materials are readily available for this work.

The signal crossing gates and flashers portion for Phase II will consist of upgrading 23 sets of cross bucks to gates and flashers. This portion of the Project scope of work will require engineering design and coordination with local municipalities. The material for this portion of the work is not readily available and will require some additional lead time.

ATTACHMENT H

MILESTONE/DELIVERABLE SCHEDULE

Implementation Plan For TIGER Grant Awarded
To The Mississippi State Port Authority For The Rehabilitation And
Upgrade Of A Line Of Railroad From The Port Of Gulfport To Hattiesburg

Budget and Milestones

MSPA and KCSR are currently negotiating an agreement whereby KCSR will become the sub-tier awardee to MSPA and perform the necessary rail work for Phases I and II. KCSR will submit its invoices to MSPA, which will in turn use the proceeds from the TIGER Grant and CDBG funds to pay those invoices. KCSR is prepared to begin work on the Project immediately upon the completion of the necessary agreements between MSPA and DOT and between MSPA and KCSR. KCSR anticipates beginning construction as soon as the fall of 2010 and expects to complete the construction of Phase I within a one year period. KCSR anticipates using American made supplies and rail as well as American contractors. The projected expenses associated with each component for each of the phases are contained in the tables below. While the tables below do not contain any expenses associated with the NEPA process, KCSR and MSPA are undertaking that process and intend for any NEPA expenses, including the expense of complying with and implementing any NEPA associated environmental mitigation conditions, to come out of the TIGER grant proceeds.

As for projected milestones, it is difficult to provide precise dates for such milestones, but with respect to Phase I, as noted, the materials for the cross tie and crossing renewal components are ready and available, as are the materials for the bridge work. The turnout renewal materials and the materials needed for the rail replacement and crossing gates (signals, flashers, etc...) will need to be obtained. KCSR expects that these materials can be obtained well within its one year construction cycle. Accordingly, given the availability of most of the materials, MSPA and KCSR suggest the following as milestones for which the Project can be measured against:

- July/August – 2010 – completion of agreements between MSPA and DOT and between MSPA and KCSR
- August - 2010– completion of NEPA process (Note: an agreement between MSPA and an independent environmental consulting will be finalized this month)
- September – 2010 – rehabilitation project to begin
- September – 2011 – Completion of Phase I

**Performance Measures Addendum
Transportation Investments Generating Economic
Recovery (Tiger) Discretionary Grant Program**

**Kansas City Southern Railway
Track Upgrade Project
Hattiesburg to Gulfport, MS**

Study Area: The Project seeks to upgrade the Kansas City Southern (KCS) Line between Hattiesburg, MS and Gulfport, MS as necessary so that the line will accommodate 49 mph inter-modal service. The upgrades will improve the existing road crossings and bridges so as to accommodate double-stacked containers with track rated for 286,000 pound line loads. The upgrades are a necessary part of the effort to expand and improve container traffic capability at the Port of Gulfport as part of the post-Katrina reconstruction of southern Mississippi. The Project involves upgrading the capacity of an existing line, without expansion of right-of-way, land acquisition, or major alterations to the facility size.

Reporting: Annual reports should measure and report data as described in Table 1 below for the first full year of operation and annually for the duration of the Measurement Period defined in Table 1 below. Quarterly reports should measure and report data in the first full quarter of operation and continue for the duration of the Measurement Period defined in Table 1. Grantee need not include any analysis in addition to the described data. Quarterly report due dates are as follows:

<u>Reporting Period</u>	<u>Due</u>
January, February, March	May 1st
April, May, June	August 1st
July, August, September	November 1st
October, November, December	February 1st

Table 1 Performance Measure Table

Measure	Description of Measure	Measurement Period
Rail cars per month	The average number of rail cars using the South Rail Loop per month.	<p>Before (Baseline) Measurement: Before project construction.</p> <p>After (Performance) Measurement: Quarterly reports for a period of 3 years, beginning after project completion.</p>
Monthly tonnage of cargo	The average monthly tons of cargo moved over the South Rail Loop.	<p>Before (Baseline) Measurement: Before project construction.</p> <p>After (Performance) Measurement: Quarterly reports for a period of 3 years, beginning after project completion.</p>
Average Annual Average Truck Traffic	The monthly truck traffic from the port.	<p>Before (Baseline) Measurement: Before project construction.</p> <p>After (Performance) Measurement: Quarterly reports for a period of 3 years, beginning after project completion.</p>
Annual Average Containerized Freight	Quarterly number of containers measured in Twenty-foot Equivalent Units (TEU's).	<p>Before (Baseline) Measurement: Before project construction.</p> <p>After (Performance) Measurement: Quarterly reports for a period of 3 years, beginning after project completion.</p>