

CITY OF MILWAUKEE DEPARTMENT: PORT MILWAUKEE

DATE OF SUBAWARD: _____

FINAL COST AND PROGRAM ACTIVITY REPORT DUE: November 15, 2029

FINAL PAYMENT REQUEST DUE: November 16, 2026

SUBRECIPIENT: THE DELONG CO., Inc.

FUND NUMBER: 20.823

COMMON COUNCIL RESOLUTION:

Distribution

Original – Port Milwaukee

Copy 1 - Subrecipient

Copy 2 - Comptroller

SUBRECIPIENT AGREEMENT FOR MARAD FUNDS

This Subrecipient Agreement (“Agreement”) is by and between the City of Milwaukee, whose principal address is 200 E. Wells Street, Milwaukee, Wisconsin 53202, acting through Port Milwaukee (collectively “City”, “Port” or “Port Milwaukee”), and The DeLong Co., Inc., a Wisconsin corporation, with its principal address at 214 Allen St., Clinton, WI 53525 (hereinafter referred to as “Subrecipient”)(each a “Party” and together, the “Parties”).

WHEREAS, Port Milwaukee and Subrecipient initiated a Port Infrastructure Development Program (“PIDP”) grant proposal to the U.S. Department of Transportation Maritime Administration (“MARAD”), attached hereto as **Exhibit B**, seeking funding for Phase 2 of the Agriculture Maritime Export Facility (“AMEF”); and

WHEREAS, Phase 1 of the AMEF was constructed to receive, store, and load vessels with one product at a time, currently only dried distiller grains with solubles (“DDGS”); and

WHEREAS, the expansion of the AMEF is crucial given the recent closure and sale of the grain terminal located at the Milwaukee Harbor, which leaves a service gap in the region; and

WHEREAS, AMEF Phase 2 will help close that service gap by allowing Subrecipient to receive multiple commodities simultaneously and load them on a single vessel with multiple cargo holds, only possible by adding two grain silos and associated handling equipment; and

WHEREAS, the Parties anticipate the total cost of the AMEF Phase 2, as further described on **Exhibit B** attached hereto (the “Project”), will be \$15,793,921.00; and

WHEREAS, the PIDP 2023 grant funding request of \$9,276,352.00 (“PIDP Funds”) will allow the Parties to complete the Project and expand Port Milwaukee infrastructure to efficiently serve as a national and international economic hub; and

WHEREAS, MARAD approved the PIDP 2023 grant proposal and awarded the requested \$9,276,352.00 to reimburse the Parties for certain costs incurred for the Project, as provided in the MARAD Grant Agreement attached hereto as **Exhibit A**; and

WHEREAS, the Port is providing such PIDP Funds to Subrecipient in the form of a grant (“Subaward”), for Subrecipient’s use in connection with the construction and development of the Project, and conditioned upon complying with the terms and conditions provided in this Agreement; and

WHEREAS, Subrecipient is making a match contribution of \$6,184,235.00 toward completion of the Project; and

WHEREAS, Subrecipient has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of any programs outlined by this Agreement;

NOW, THEREFORE, Port and Subrecipient agree to the following:

1. **AGREEMENT DOCUMENTS**. The following constitute the Agreement Documents, which are all incorporated into the Agreement and together form a single Agreement. If there is any conflict or ambiguity, the Agreement Documents shall control in descending order:

- i. This Subrecipient Agreement (this document)
- ii. MARAD PIDP 2023 Grant Agreement (Exhibit A)
- iii. 2023 PIDP Grant Proposal (Exhibit B)
- iv. MARAD General Terms and Conditions (Exhibit C)
- v. Insurance Requirements (Exhibit D)

2. **FEDERAL SUBAWARD INFORMATION REQUIRED BY 2 CFR 200.332.**

Subrecipient Name: The DeLong Co., Inc.

Subrecipient Unique Entity Identifier (UEI) #: VN39YUDUMGY6

Federal Award Identification Number (FAIN): 639JF72444075

Date of Award to the City by the Federal Agency: [pending]

Subaward Period of Performance Start & End Date: _____ – November 15, 2029

Subaward Budget Start & End Date: _____ – November 16, 2026

Amount of Federal Funds Obligated to Subrecipient by this Award: \$9,276,352.00

Total Amount of Federal Funds Obligated to the Subrecipient by City Including Current Subaward: \$25,169,895.00

Total Amount of the Federal Award Committed to the Subrecipient by this Agreement:
\$9,276,352.00

Federal Award Project Description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA): See Exhibit B.

Name of Federal Awarding Agency: U.S. Department of Transportation Maritime Administration

Assistance Listings Number and Title/CFDA number: 20.823

Research & Development? No

Indirect Cost Rate: N/A

3. **STATEMENT OF WORK.** Subrecipient shall administer the Project as outlined in **Exhibit A** and **Exhibit B** and shall assist the Port in evaluating the Project implementation and complying with the reporting requirements provided herein.
4. **PERIOD OF PERFORMANCE.** The period of performance under this Agreement shall be from _____ through November 15, 2029. The period of performance may only be extended due to Force Majeure Delays, as defined herein. All costs must be incurred on or after _____, and must be expended by November 16, 2026. Funds will not be distributed to Subrecipient for any costs obligated or expended, respectively, outside of these deadlines. Subrecipient shall return any PIDP Funds erroneously provided by Subrecipient for any costs obligated or expended outside of these deadlines.
5. **AWARD AMOUNT.**
 - 5.1 Port shall subaward the PIDP Funds to Subrecipient in an amount not to exceed \$9,276,352.00 (“Subaward”) to cover a portion of the total costs associated with Subrecipient’s implementation of the Project. Such amount shall not be exceeded without written amendment to this Agreement.
 - 5.2 Should the availability of the PIDP Funds be reduced, the Port may reduce the Subaward as needed. In the event of such a reduction, the Parties shall attempt in good faith to negotiate modifications to the Project.
 - 5.3 Reimbursements under the Agreement are conditioned upon the Port’s actual receipt of PIDP Funds from the granting authority, and Subrecipient undertakes any work performed before the Port’s receipt of such PIDP Funds at its own risk.
6. **PAYMENT.** Port will disburse proceeds of the Subaward to Subrecipient, in response to receiving timely payment requests in accordance with the following:
 - 6.1 **Contents of Payment Requests:** Payment requests must be accompanied by appropriate supporting documentation from Subrecipient demonstrating that the costs being invoiced are both allowable and allocable to the Subaward. At a minimum, the supporting documentation should include cost reports, general ledgers, invoices, cancelled checks or other proof of payment, a list of payees, personnel activity reports to substantiate personnel costs, documentation required herein and in the MARAD General Terms and Conditions, any other additional information that Port may reasonably request. Payment requests must also include the following certification signed by an officer or designated official of Subrecipient:

“I certify that this request represents actual costs incurred during the invoice period and that these costs are appropriate and in accordance with this Agreement. The Subrecipient further certifies that payment made by Port under this Agreement shall not duplicate

*reimbursement of costs and services which are received from other sources. The Subrecipient further certifies that it maintains documentation sufficient to demonstrate that all procurements and subawards and any other relevant activities of the Subrecipient were conducted in full compliance with all applicable aspects of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 200) (“the Uniform Guidance”), including the cost principles and restrictions on general provisions for selected items of cost. **This includes, but is not limited to, the procurement standards set forth in the Uniform Guidance at 2 CFR 200.317 through 2 CFR 200.327.**”*

6.2 Payment and Return of Misused Funds.

- 6.2.1 Payment by Port to Subrecipient under this Agreement shall be contingent upon each payment request being reviewed and approved by the Port, which shall not be unreasonably withheld, conditioned or delayed. The Port shall not reimburse Subrecipient for any costs incurred: (a) in excess of the amount of the Subaward, (b) in violation of any federal, state, or local law, regulation, ordinance or rule, (c) in violation of the terms of the agreement granting the PIDP Funds to the Port; (d) in violation of this Agreement; and/or (e) which were not procured in accordance with and directly related to the Project. The determinations of the Port as to whether costs are reimbursable shall prevail.
- 6.2.2 Port shall require at least ten (10) business days to review and approve/disapprove payment requests. Port shall make payment to Subrecipient within thirty (30) days of Subrecipient’s payment request submission, subject to and conditioned upon Port’s receipt of funds from MARAD. Such payments by Port shall be subject to the City’s “Prompt Payment Policy” and consistent with Wis. Stat. § 66.0135. For the avoidance of doubt, no interest shall be paid on payment requests by Subrecipient if Port has not received funds from MARAD.
- 6.2.3 Final payment under this Agreement shall be predicated upon receipt and acceptance by the Port of all documentation required herein, the assignment to the Port of any necessary refunds, rebates, and credits and, at Port’s option, final audit by the City of Milwaukee.
- 6.2.4 Final cost and program activity reports, and final payment requests are due at the date and time listed in Section 2 of this Agreement.
- 6.2.5 Subrecipient shall be responsible for reimbursement to Port for any disbursed funds Port determines have actually been misused or misappropriated by Subrecipient. Any reimbursement of funds required by Port shall be due upon Port’s written demand to Subrecipient. This provision shall survive termination of the Agreement and shall continue indefinitely.

7. REPORTING REQUIREMENTS.

- 7.1 Port is required to submit quarterly and annual reports to MARAD as set forth in **Exhibit C** to this Agreement. Upon written request by Port, Subrecipient shall timely provide Port with all information that may be necessary to comply with those reporting requirements which will include, among other things, information about Subrecipient expenditures during the reporting period, information about the use of evidence based practices as part of the Project and information about Project demographic distribution. MARAD may issue subsequent and additional reporting requirements, and Port will inform Subrecipient in writing of the specific

information required by MARAD and the format and timing in which it must submit such information to Port as such information becomes available. Subrecipient will comply with such requests made by Port in writing.

7.2 In addition, Port has public transparency obligations as well as subrecipient monitoring responsibilities under 2 CFR Part 200. As such, quarterly, concurrent with information submitted to Port for MARAD reporting, Subrecipient will submit a qualitative report describing Subrecipient's progress toward achieving Project objectives, in the form and with content specified by Port.

7.3 Records shall be maintained after final audit of the Agreement for a period of not less than seven (7) years unless the program requirements are longer.

8. OTHER RECORDS AND INFORMATION REQUIREMENTS.

8.1 **Requests by Port.** Subrecipient shall furnish the Port with such statements, records, reports, data, and information as Port may reasonably request pertaining to matters covered by the Agreement.

8.2 **Wisconsin Public Records Law.** Subrecipient understands that Port is bound by the Wisconsin Public Records Law, Wis. Stat. §19.21, et. seq. Pursuant to Wis. Stat. §19.36(3), Port may be obligated to produce, to a third party, the records of Subrecipient that are "produced or collected" by Subrecipient under this Agreement ("Records"). Subrecipient is further directed to Wis. Stat. §19.21, et. seq. for the statutory definition of Records subject to disclosure under this paragraph, and Subrecipient acknowledges that it has read and understands that definition. Irrespective of any other term of this Agreement, Subrecipient is (1) obligated to retain Records for seven years from the date of the Record's creation, and (2) produce such Records to Port if, in Port's reasonable determination, Port is required to produce the Records to a third party in response to a valid public records request. Subrecipient's failure to retain and produce Records as required by this paragraph shall constitute a material breach of this Agreement, and Subrecipient must defend and hold Port harmless from liability due to its breach of such obligation. The requirements of this section are in addition to, and not in place of, the retention requirements of any other section or paragraph. This term shall survive for a period of seven years after termination or expiration of this Agreement.

8.3 **Audit.**

8.3.1 *Port Audit Rights.* Subrecipient shall make documents related to the Subaward available to Port to allow Port to audit, examine, excerpt or transcribe the documents and audit, examine, excerpt or transcribe all contracts, invoices, materials, payrolls, records of personnel, conditions of employment, and other data relating to all matters covered by this Agreement any time during normal business hours and as often as Port may reasonably deem necessary. If federal or state grants or aids are involved in this Agreement, Subrecipient shall make the documents available to the appropriate federal or state agency or the United States Comptroller General to allow the appropriate federal or state agency or Comptroller General to audit, examine, excerpt or transcribe the documents and audit, examine, excerpt or transcribe all contracts, invoices, materials, payrolls, records of personnel, conditions of employment, and other data relating to all matters covered by this Agreement any time during normal business hours and as often as the appropriate federal or state agency or Comptroller General may reasonably deem necessary. Subrecipient shall not charge any additional fees to Port, appropriate federal or state agency, or Comptroller General by virtue of any additional work or costs associated with the performance of Subrecipient's duties under this section. These requirements are

in addition to, not in place of, any other audit requirements set forth in this Agreement. This term shall survive for a period of seven years after termination or expiration of this Agreement.

8.3.2 *Single Audit Act.* Subrecipient shall provide any relevant or necessary documentation to support Port's compliance with the Single Audit Act.

8.4 **Documentation of Costs and Procurement.** Subrecipient shall maintain records sufficient to support identifiable charges to the project and procurement documentation detailing the history of all Subaward-funded procurements, including at least: (1) the rationale for the method of purchase, (2) selection of the contract type, (3) contractor selection or rejection, and (4) the basis of the contract price (*see* 2 CFR 200.318(i)). The requirements of this section are in addition to, and not in place of, the retention requirements of any other section or paragraph.

8.5 **Client Beneficiary Records.** If applicable, Subrecipient shall maintain records of all individuals and businesses served. This information shall include name, address, and racial makeup to the extent provided by the individuals served and such records shall be made available upon written request by Port.

9. LAW AND SAFETY.

9.1 **Compliance with Law and Safety Standards.** Subrecipient agrees to comply with all applicable federal, state and local laws, regulations, rules, or court orders. Additionally, all material, equipment and supplies utilized must comply fully with all safety requirements as set forth by the Wisconsin Administrative Code, Department of Safety and Professional Services and all applicable Occupational Safety and Health Administration ("OSHA") Standards.

9.2 **Choice of Law and Venue.** This Agreement shall be governed by, construed, interpreted and enforced in accordance with the laws of the State of Wisconsin without regard to conflict of law provisions. The Parties agree that for any claim or suit or other dispute relating to this Agreement that cannot be mutually resolved, jurisdiction and venue shall be in Milwaukee County, Wisconsin, for matters arising under state law or, should federal courts have jurisdiction, the eastern district of Wisconsin. The Parties agree to submit themselves to the jurisdiction of said courts, to the exclusion of any other court that may have jurisdiction over such a dispute according to any other law. However, if another party obtains jurisdiction over the Port for claims or other actions involving or related to this Agreement in a different forum or venue, the Subrecipient agrees that they shall submit to the jurisdiction of such forum or venue. This term shall survive for a period of seven years after termination or expiration of this Agreement.

10. COMPLIANCE WITH TERMS OF PROJECT, ASSURANCES AND CERTIFICATIONS.

Subrecipient certifies, by signing this document, that Subrecipient will comply with the applicable terms and conditions of the Project description which is incorporated herein by reference. Subrecipient specifically certifies that the following assurances and certifications that apply to the program are met. Such assurances and certifications required by the Subrecipient shall include but are not necessarily limited to:

- a. The Subrecipient is licensed or authorized to do business in Wisconsin.
- b. The Subrecipient will maintain in good standing all licenses and registrations necessary to operate as a licensed or authorized organization in the State of Wisconsin.

- c. Subrecipient has the financial ability to meet payroll for project staff for at least thirty (30) days in the event that payment under the Agreement is delayed or a financial penalty for inadequate performance is applied.
- d. Sex Discrimination. Subrecipient will comply with Section 901 of Title IX of the Education Amendments of 1972 as amended.
- e. Age Discrimination. Subrecipient will comply with the Age Discrimination Act of 1975 as amended.
- f. Drug-Free Workplace. Subrecipient and Owner will comply with the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F.

11. SAM.GOV PROFILE. Subrecipient is required to maintain an active profile on SAM.GOV.

12. FINANCIAL MANAGEMENT. Subrecipient agrees to maintain a financial management system that complies with the rules, regulations and requirements of Article 22 of Exhibit C to this Agreement, and with other standards as/if established by Port to assure funds are spent in accordance with law and to assure that accounting records for funds received under this Agreement are sufficiently segregated from those of other funding sources, agreements, programs, and/or projects. Subrecipient shall maintain a uniform double entry, full accounting system and a financial management information system in accordance with Generally Accepted Accounting Principles. Subrecipient's chart of accounts and accounting system shall permit timely preparation of reports of program expenditures by provider type. Subrecipient shall also have a certified annual audit performed utilizing Generally Accepted Accounting Principles and Generally Accepted Auditing Standards. Subrecipient's financial management system must also meet all requirements of 2 CFR 200.302.

13. INDEMNIFICATION. Subrecipient shall indemnify Port and its officers, agents and employees for all losses, damages, costs, expenses, judgments, or other liabilities, arising out of any third-party claim, action in a court, or proceeding before an administrative agency that is brought against Port (or the City of Milwaukee) or any of its subcontractors, officers, agents, or employees for the acts or omissions of Subrecipient or any of its subcontractors, officers, agents, or employees in whole or in part in the performance of the covenants, acts, or matters covered by this Agreement, or for injury or damage caused by the acts or omissions of Subrecipient or any of its subcontractors, its officers, agents or employees directly related to the performance of the covenants, acts, or matters covered by this Agreement, except to the extent caused by Port's willful misconduct or negligence. Port will, at its sole option, decide whether to tender the defense of any claim, action in court, or proceeding before an administrative agency in which Subrecipient has a duty to indemnify to Port and upon such tender it shall be the duty of Subrecipient (and Subrecipient's insurer) to defend such claim, action, or proceeding without cost or expense to Port or its officers, agents, or employees using counsel selected by Subrecipient and Subrecipient's insurer and reasonably approved by Port. Subrecipient shall not settle any claim, action in any court, or proceeding before an administrative agency relating to Port unless Port consents to the settlement in writing, which consent shall not be unreasonably withheld conditioned, or delayed. This term shall survive for a period of seven years after termination or expiration of this Agreement.

Port shall indemnify Subrecipient and its officers, agents and employees for all losses, damages, costs, expenses, judgments, or other liabilities, or decrees arising out of any third-party claim, action in a court, or proceeding before an administrative agency that is brought against Subrecipient or any of its subcontractors, officers, agents, or employees for the acts or omissions of Port or any of its subcontractors, officers, agents, or employees in whole or in part in the performance of the covenants, acts, or matters covered by this Agreement, or for injury or damage caused by the acts or omissions of Port or any of its subcontractors, its officers, agents or employees directly related to the performance of the covenants, acts, matters or things covered by this Agreement. Subrecipient will, at its sole

option, decide whether to tender the defense of any claim, action in court, or proceeding before an administrative agency in which Port has a duty to indemnify to Subrecipient and upon such tender it shall be the duty of Port to defend such claim, action, or proceeding without cost or expense to Subrecipient or its officers, agents, or employees using counsel selected by Port. Port shall not settle any claim, action in any court, or proceeding before an administrative agency relating to Subrecipient unless Subrecipient consents to the settlement in writing, which consent shall not be unreasonably withheld, conditioned, or delayed. This term shall survive for a period of seven years after termination or expiration of this Agreement.

14. **CONFLICT OF INTEREST.** Any contract in which a member of the City of Milwaukee Common Council is an interested party shall be voidable at the sole discretion of City, and City may sue to recover any amounts paid on such contract.

Furthermore, Subrecipient understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Subrecipient must disclose in writing to Port any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

15. **WITHHOLDING OF SALARIES.** Notwithstanding anything in this Agreement, if in the performance of this Agreement there is any underpayment of salaries by Subrecipient or its subcontractor/subawardee to any employee, Port shall be allowed, in its sole discretion, to withhold payment under this Agreement to Subrecipient in an amount equal to the difference between the salaries required to be paid and the salaries actually paid to such employee. The amounts withheld shall be disbursed by Port on behalf of Subrecipient or subcontractor, if any, to the employee(s) to whom they are due. Subrecipient shall credit Port for any payments made to Subrecipient's employee(s) pursuant to this Subsection as though the payments were made to Subrecipient pursuant to this Agreement.

16. **INSURANCE.** Throughout the term of this Agreement, Subrecipient is solely responsible for meeting their insurance needs. At a minimum, Subrecipient shall carry insurance that meets the insurance requirements set forth in the Insurance Requirements, attached hereto as **Exhibit D**. Any failure to comply with these minimum requirements during the term of this Agreement is a material breach of this Agreement permitting Port to, in its sole discretion, to terminate this Agreement upon five (5) days prior notice and opportunity to cure and without any further obligation to Subrecipient.

17. **NOTICES.** Any notices to be given under these terms and conditions, unless otherwise stated, shall be given in writing to the Parties at the addresses below or such other address designated by the Parties in writing from time to time in accordance with this Section 17:

For Port: Port Milwaukee
2323 South Lincoln Memorial Drive
Milwaukee, WI 53207
Attention: Jackie Q. Carter, Port Director
Email: Port@Milwaukee.gov

For Subrecipient: The DeLong Co., Inc.
214 Allen St.
Clinton, WI 53525
Attention: Derek Abbas
Email: DAbbas@delongcompany.com

Notice shall be given either by personal delivery, electronic mail, or by certified mail postage prepaid. Notices personally delivered shall be deemed delivered upon actual receipt or upon refusal to accept delivery. Notices served by electronic mail shall be deemed received upon acknowledgment of receipt of electronic transmission. Notices served by certified mail shall be deemed delivered two business days after mailing or upon refusal to accept delivery.

18. **REMEDIES FOR NONCOMPLIANCE.** If Subrecipient fails to comply with any term of this Agreement or in the underlying award documents (federal, state, or otherwise), Port may take one or more of the following actions:
- (a) Temporarily withhold disbursement pending correction of the deficiency or breach by the Subrecipient.
 - (b) Disallow (that is, deny both use of funds and matching credit for) all or part of the activity or action not in compliance;
 - (c) Wholly or partially suspend the Subaward;
 - (d) Withhold further reimbursement;
 - (e) Terminate the Agreement
 - (f) Take other remedies that may be legally available.

Prior to taking any action listed in subsections (b) through (f) above, Port must provide written notice to Subrecipient of the noncompliance and Subrecipient shall cure such noncompliance within 30 days therewith. If the noncompliance cannot reasonably be cured within 30 days, Port may, in its reasonable discretion, extend the time to cure such noncompliance as long as Subrecipient is diligently pursuing a cure. Whether or not Subrecipient is diligently pursuing a cure shall be in the Port's sole discretion. However, under no circumstances shall the time to achieve performance be extended greater than six (6) months, excepting extensions for a Force Majeure Delay.

19. **TERMINATION FOR CONVENIENCE.** Port may terminate this Agreement for any reason upon thirty (30) days' written notice to Subrecipient. Subrecipient will be reimbursed for costs to date of termination and non-cancelable obligations properly incurred in connection with the Project prior to the date of termination, provided, however, that such costs are properly documented as required elsewhere in this Agreement, and provided such costs shall not exceed the amount allowed under this Agreement and that a report of progress to date of termination has been submitted to the Port. Upon notice of termination, Subrecipient and shall cease to incur or obligate new costs under this program.
20. **TERMINATION BY SUBRECIPIENT.** Subrecipient may terminate this Agreement as provided in 2 CFR § 200.340(a)(3), upon MARAD approval.
21. **AMENDMENT.** This Agreement may be amended only by joint written agreement between the Parties.
22. **PUBLICITY.** Any statements, press releases, requests for proposals, bid solicitations, and other documents describing the project funded by this Agreement shall include mention of the partnership with Port Milwaukee.
23. **LOBBYING.** Subrecipient agrees that no Federal appropriated funds have been reimbursed or will be reimbursed, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal 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 cooperative agreement and the extension, continuation, or renewal of the aforementioned agreements in this section. PIDP Funds provided to Subrecipient pursuant to this Agreement may not be used to influence federal contracting or financial transactions.

24. PERSONNEL. All personnel utilized by Subrecipient who are funded by the Subaward shall be fully qualified for their assigned work, and shall be authorized, permitted, or licensed, if applicable, under state and local law to perform such services.

25. NONDISCRIMINATION.

25.1 **Federal Requirements.** Subrecipient is required to meet legal requirements relating to nondiscrimination and nondiscriminatory use of Federal funds. Such requirements include those federal laws applicable to “Recipient” in **Exhibit A** to this Agreement. Subrecipient shall also comply with the nondiscrimination requirements in the MARAD General Terms and Conditions, attached hereto as **Exhibit C**. Furthermore, Subrecipient must not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following authorities: Title VI of the Civil Rights Act of 1964 (Title VI) Public Law 88-352, 42 U.S.C. 2000d-1 et seq.; Section 504 of the Rehabilitation Act of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794; Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 et seq. MARAD may request that recipients submit data for postaward compliance reviews, including information such as a narrative describing their Title VI compliance status.

25.2 **City Requirements.** In addition, it is City’s policy not to discriminate against any qualified employee or qualified applicant for employment because of an individual’s sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation, gender identity or expression, victimhood of domestic abuse or sexual assault, past or present membership in the military service, HIV status, domestic partnership, genetic identity, homelessness, familial status, or an individual’s affiliation or perceived affiliation with any of these categories (“Protected Classes”), pursuant to Milwaukee Code of Ordinances (“MCO”) Section 109-9. Subrecipients and their subcontractors/subawardees employing any resident of City of Milwaukee may not discriminate against any member of the Protected Classes, and such contractors must insert this clause into any subcontracts of subcontractors employing any resident of City of Milwaukee.

26. DEBARMENT. By executing this Agreement, Subrecipient certifies that throughout the term of this Agreement, neither the Subrecipient, nor any of its principals are, or will be, debarred, suspended, or proposed for debarment for federal financial assistance (e.g. General Services Administration’s List of Parties Excluded from Federal Procurement and Non-Procurement Programs), and that Subrecipient shall not enter into any transactions with any subrecipients, contractors, or any of their principals who are debarred, suspended or proposed for debarment.

27. ASSIGNABILITY. Subrecipient shall not assign any interest in this Agreement and shall not transfer any interest in the same in any manner without the written consent of Port, which consent may not be unreasonably withheld, delayed, or conditioned and provided, however, that claims for money due or to become due Subrecipient from Port under this Agreement may be assigned to a bank, trust company or other financial institution without such approval. Notices of any such assignment or transfer shall be furnished promptly to Port.

28. LITERATURE. Subrecipient must acknowledge the receipt of federal funds awarded in literature and

promotional materials in the following manner: “This project is funded through a Port Milwaukee subaward of the MARAD Port Infrastructure Development Program.”

29. **CHANGES.** If Subrecipient wishes to request a change in the Project description and/or reimbursement, Subrecipient shall direct the request in writing to the Port as set forth in the Notice requirements. The Port may approve or disapprove the request in accordance with any applicable Port policies, requirements of the funding source, and otherwise in the Port’s discretion.
30. **SUBCONTRACTS.** Subrecipient may not employ subcontractors to perform under this Agreement without written pre-approval from Port, which preapproval may not be unreasonably withheld, conditioned, or delayed. If Subrecipient receives written preapproval to hire subcontractors from Port, Subrecipient shall hire such subcontractors via written subcontract, and Subrecipient shall insert language into each such subcontract specifying that the subcontractor shall be subject to applicable provisions of this Agreement, including, but not limited to, all insurance requirements, the Uniform Guidance, and all applicable Federal Compliance Requirements. Additionally, Subrecipient shall require all subcontractors performing “professional services,” including but not limited to architectural and/or engineering services, to obtain professional liability insurance in an amount not less than \$1,000,000 per occurrence. Subrecipient shall be as fully responsible to Port for the acts and omissions of its subcontractors and of persons indirectly employed by it as it is for the acts and omissions of its own employees.
31. **INDEPENDENT LEGAL ENTITIES.** Subrecipient is an independent legal entity, and neither Subrecipient nor Subrecipient’s respective employees or agents are employees of Port Milwaukee or the City, nor are they entitled to any fringe benefits or any other benefits to which City’s salaried employees are entitled to or are receiving. Personal income tax payments, social security contributions, insurance, and all other governmental reporting and contributions required as a consequence of Subrecipient receiving payment under this Agreement shall be the sole responsibility of Subrecipient. Port and Subrecipient form no joint venture or legal partnership under this Agreement.
32. **FORCE MAJEURE.** If either party cannot perform any of its obligations due to events beyond its control, the time provided for performing such obligations shall be extended by a period of time equal to the duration of such events; provided, however, that failure to perform monetary obligations shall never be deemed to be an event beyond a party’s control. Events beyond the parties’ control (also referred to herein as “Force Majeure Delays”) include, but are not limited to, acts of God, war, civil commotion, labor disputes, strikes, fire, flood or other casualty, shortages of labor or material, government regulation or restriction, terrorism, and weather conditions. Notwithstanding the foregoing, in no event shall either party be entitled to any extension for a Force Majeure Delay unless such party has notified the other party, in writing, of the Force Majeure Delay no later than ten (10) days after the occurrence of the Force Majeure Delay.
33. **ENTIRE AGREEMENT, AMENDMENTS, SEVERABILITY.**
 - 33.1 **Entire Agreement.** The Agreement Documents constitute the entire agreement between the Parties concerning the subject matter hereof and supersedes all prior agreements, discussions, representations, warranties and covenants between the Parties concerning the subject matter hereof. Any amendments, changes or modifications to this Agreement shall be in writing and executed by the Parties.
 - 33.2 **Severability.** If any term of this Agreement is, to any extent, held invalid or incapable of being enforced, such term shall be excluded only to the extent of such invalidity or unenforceability. All other terms hereof shall remain in full force and effect and, to the extent possible, the invalid or unenforceable term shall be deemed replaced by a term that is valid and enforceable and that comes

closest to expressing the intention of such invalid or unenforceable term as reasonably determined by Port. If such invalid and unenforceable term has a material and adverse effect on a Party and a valid and enforceable replacement that comes closest to expressing the intention of such invalid or unenforceable term as determined by Port cannot be created, the Party materially and adversely impacted shall be allowed to terminate the Agreement pursuant to Sections 18-20 of this Agreement.”

- 33.3 **Effect of Regulations.** Should any local, state or national regulatory authority having jurisdiction over Port enter a valid and enforceable order upon Port which has the effect of changing or superseding any term or condition of the Agreement, such order shall be complied with, but only so long as such order remains in effect and only to the extent actually necessary under the law. In such event, the Agreement shall remain in effect and be modified or terminated in the manner provided for by the section entitled “Severability.”
34. REMEDIES AND NO WAIVER. Nothing in this Agreement shall be construed to waive any privilege, right of recovery, cause of action, defense, remedy, category of damages, or immunity to which Port or Subrecipient is entitled under common law, or federal, state, or local law; waiver of any of the foregoing may only be accomplished in writing by an individual with the authority to bind the relevant Party.
35. SURVIVAL. Unless otherwise authorized in writing by the Port or specifically noted in the term itself, the terms and conditions of this Agreement shall survive the Period of Performance in Section 2 and shall continue in full force and effect until Subrecipient has completed and is in compliance with all the requirements of this Agreement.
36. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument. Any Party may execute this Agreement by facsimile or .pdf copy; provided that the Party provides an original of the facsimile or .pdf signature to the other Party within five (5) calendar days of transmission of the facsimile signature. Failure to provide such original will not invalidate such facsimile or .pdf signature or this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, Port Milwaukee and Subrecipient have fully executed this Agreement as of the date of the final signature below:

CITY OF MILWAUKEE,
A Municipal Corporation

By Its PORT MILWAUKEE

Countersigned:

By: _____
Jackie Q. Carter, Port Director

Bill Christianson, City Comptroller

Date: _____

Date: _____

SUBRECIPIENT:

The DeLong Co., Inc.

By: _____
Christopher R. DeLong, President

UEI Number: VN39YUDUMGY6

Date: _____

City Attorney Approval (MCO 304-21)

Alex Carson
Assistant City Attorney

MARAD Grant Agreement (Exhibit A)

**U.S. DEPARTMENT OF TRANSPORTATION
MARITIME ADMINISTRATION**

**GRANT AGREEMENT UNDER THE
FISCAL YEAR 2023 PORT INFRASTRUCTURE DEVELOPMENT PROGRAM (PIDP)**

MARAD FY 2023 PIDP Grant No. 693JF72444075

702333PIDG 2025 1AM2444075 0000150000 41010 61006600 — \$9,276,352

This agreement is between the United States Department of Transportation Maritime Administration (“**MARAD**”) and the City of Milwaukee¹ (the “**Recipient**”).

This agreement reflects the selection of the Recipient to receive a PIDP Grant for the Agricultural Maritime Export Facility – Phase 2 Project.

The parties therefore agree to the following:

**ARTICLE 1
GENERAL TERMS AND CONDITIONS**

1.1 General Terms and Conditions.

- (a) In this agreement, “**General Terms and Conditions**” means the content of the document titled “General Terms and Conditions Under the Fiscal Year 2023 Port Infrastructure Development Program Grants,” dated October 2, 2024, which is available at <https://www.maritime.dot.gov/grants-finances/federal-grant-assistance/fy-2023-pidp-general-terms-conditions-october-2-2024>. The General Terms and Conditions reference the information contained in the schedules to this agreement. The General Terms and Conditions are part of this agreement.
- (b) The Recipient states that it has knowledge of the General Terms and Conditions.
- (c) The Recipient acknowledges that the General Terms and Conditions impose obligations on the Recipient and that the Recipient’s non-compliance with the General Terms and Conditions may result in remedial action, terminating of the PIDP Grant, disallowing costs incurred for the Project, requiring the Recipient to refund to MARAD the PIDP Grant, and reporting the non-compliance in the Federal-government-wide integrity and performance system.

¹ The Recipient is referred to here as “City of Milwaukee” because that is the name associated with the Recipient’s unique entity identifier, as required by 2 C.F.R. 200.211(b)(1), but the remainder of this agreement will refer to the Recipient by its legal name, “City of Milwaukee, acting by and through its Board of Harbor Commissioners as the Port of Milwaukee.”

ARTICLE 2
SPECIAL TERMS AND CONDITIONS

2.1 Subrecipient Activities. The Recipient intends to subaward certain activities of this Project to its tenant and project partner, The DeLong Co., Inc. (“DeLong”). The Recipient shall monitor and oversee all subrecipient activities and ensure full compliance with all terms of this Grant Agreement, including section 15.5. Full details of the Recipient and subrecipient responsibilities are included in the Subrecipient Agreement between the Recipient and DeLong.

**SCHEDULE A
ADMINISTRATIVE INFORMATION**

1. Application.

Application Title: Agricultural Maritime Export Facility-Phase 2

Application Date: April 28, 2023

2. Recipient's Unique Entity Identifier.

Recipient's Unique Entity Identifier: JYGKV746MNG2

3. Recipient Contact(s).

Jackie Q. Carter
Director
Port Milwaukee
2323 S. Lincoln Memorial Drive
Milwaukee, WI 53207
414-286-3511
jqcarter@milwaukee.gov

4. Recipient Key Personnel.

None.

5. MARAD Project Contact(s).

Kelly Mitchell-Carroll
Grants and Cooperative Agreements Officer
DOT – Maritime Administration
1200 New Jersey Ave, SE
Washington, DC 20590
MAR-380
W26-422
Mailstop 5
(202) 366-9714
k.mitchell-carroll@dot.gov

and

David Bohnet
Grant Program Manager
DOT – Maritime Administration
1200 New Jersey Ave, SE
Washington, DC 20590
MAR-510

W21-226
Mailstop 3
(202) 366-0586
david.bohnet@dot.gov

6. Payment System.

MARAD Payment System: Delphi eInvoicing System

7. Federal Award Identification Number.

Federal Award Identification Number: 693JF72444075

SCHEDULE B PROJECT ACTIVITIES

1. General Project Description.

The Project will construct two grain storage silos, make electrical service upgrades, and fund purchase of additional grain and cargo handling equipment to expand the capacity of the port to handle the movement of grain and feed commodities.

2. Statement of Work.

The Recipient, in coordination with its subrecipient, will carry out the following activities on this Project:

Component 1 – Storage Silos:

- Excavation of foundations of storage silos
- Pilings and subsurface foundation supports
- Construction of two concrete silos: each will be 70 ft. in diameter and 125-135 ft. tall, having a capacity of approximately 9,000 metric tons (mt)
- Purchase and installation of a bin unloading system
- Purchase and installation of a bin aeration
- Engineering and construction management

Component 2 – Grain and Feed Handling Equipment:

- Purchase and installation of a bucket elevator and conveyor to add second receiving line in receiving building at an additional 20,000 bushels per hour capacity
- Purchase and installation of a second conveyor across Carferry Drive at 20,000 bushels per hour
- Purchase and installation of two fill conveyors and needed support structures to fill new concrete storage structures coming from original elevator at 30,000 bushels per hour
- Purchase and installation of two unload conveyors of new storage structures that come back to original ship loading system at 40,000 bushels per hour
- Purchase and installation of spouting and accessories to match correct capacity
- Engineering and construction management

Component 3 – Electrical:

- Tie into existing electrical service
- Add new Motor Control Center Room
- Wire all new motors at 480v 3 phase
- Wire in all hazard monitoring equipment for new conveyance
- Tie into existing Programmable Logic Controller
- Construction Management

Component 4 – Rolling Equipment:

- Purchase Railcar mover
- Purchase Wheel Loader w/ bucket & forks
- Purchase Excavator w/ corn bucket

3. Documents Describing Mitigation Activities.

Document Description	Date
Section 106 Consultation Correspondence with the Ho-Chunk Nation: Ho-Chunk Nation asks that the Project stop and all necessary parties be contacted if any archaeological resources are encountered.	May 29, 2020

**SCHEDULE C
AWARD DATES AND PROJECT SCHEDULE**

1. Award Dates.

Budget Period End Date: November 16, 2026

Period of Performance End Date: November 15, 2029

2. Estimated Project Schedule.

Milestone	Schedule Date
Component 1 Storage Silos – Planned Construction Start Date	March 1, 2025
Component 1 Storage Silos – Planned Construction Substantial Completion Date	December 1, 2025
Component 2 Grain and Feed Handling Equipment – Planned Construction Start Date	April 1, 2025
Component 2 Grain and Feed Handling Equipment – Planned Construction Substantial Completion Date	December 1, 2025
Component 3 Electrical – Planned Construction Start Date	April 1, 2025
Component 3 Electrical – Planned Construction Substantial Completion Date	January 15, 2026
Component 4 Rolling Equipment – Planned Procurement Start Date	March 1, 2025
Component 4 Rolling Equipment – Planned Procurement Completion Date	December 31, 2025

3. Special Milestone Deadlines.

None.

**SCHEDULE D
AWARD AND PROJECT FINANCIAL INFORMATION**

1. Award Amount.

PIDP Grant Amount: \$9,276,352

2. Federal Obligation Information.

Federal Obligation Type: Single

3. Approved Project Budget.

Eligible Project Costs

	Component 1 Storage Silos	Component 2 Grain and Feed Handling Equipment	Component 3 Electrical	Component 4 Rolling Equipment	Total
PIDP Funds	\$6,946,071	\$1,243,561	\$486,720	\$600,000	\$9,276,352
Non- Federal Funds	\$4,964,049	\$829,040	\$324,480	\$400,000	\$6,517,569
Total	\$11,910,120	\$2,072,601	\$811,200	\$1,000,000	\$15,793,921

4. Cost Classification Table.

Cost Classification	Total Costs	Eligible Costs
Site work	\$1,409,676	\$1,409,676
Construction	\$13,384,245	\$13,384,245
Equipment	\$1,000,000	\$1,000,000
Project Total	\$15,793,921	\$15,793,921

5. Approved Pre-award Costs.

None. MARAD has not approved under this award any requests for the use of non-Federal funds under 46 U.S.C. 54301(a)(10)(B) or any pre-award costs under 2 C.F.R. 200.458. Because unapproved costs incurred before the date of this agreement are not allowable costs under this award, MARAD will neither reimburse those costs under this award nor consider them as a non-Federal cost sharing contribution to this award. Costs incurred before the date of this agreement are allowable costs under this award only if approved in writing by MARAD before being included in the Project costs and documented in this section 5. See section 18.3 of the General Terms and Conditions.

**SCHEDULE E
CHANGES FROM APPLICATION**

Scope:

No changes in scope from application.

Schedule:

The original grant application had an estimated construction completion date of August 2024, which was too optimistic. Delays in finalizing the design and finding silos that would comply with the Build America, Buy America Act led to the schedule being pushed back. The application also had a scheduled overall construction timeframe of two months. This was a typo and it should have reflected a 13-month timeframe. The new schedule accurately reflects the current design/construction criteria that uses a 13-month construction timeframe.

The table below compares the Project milestone dates.

Milestone	Application	Agreement
Planned Project Substantial Completion Date	October 1, 2024	January 15, 2026

Budget:

The Recipient originally requested \$9,476,352 in PIDP funds. However, it later secured \$200K from an outside partner and MARAD reduced the Federal award accordingly.

The table below provides a summary comparison of the Project budget.

Fund Source	Application		Schedule D	
	\$	%	\$	%
Previously Incurred Costs				
Federal Funds				
Non-Federal Funds				
Total Previously Incurred Costs				
Future Eligible Project Costs				
PIDP Funds	\$9,476,352	60%	\$9,276,352	58.7%
Other Federal Funds				
Non-Federal Funds	\$6,317,569	40%	\$6,517,569	41.3%
Total Future Eligible Project Costs	\$15,793,921	100%	\$15,793,921	100%
Total Project Costs	\$15,793,921	100%	\$15,793,921	100%

**SCHEDULE F
PIDP DESIGNATIONS**

1. Urban or Rural Designation.

Urban-Rural Designation: Urban

2. Capital or Planning Designation.

Capital-Planning Designation: Capital

3. Historically Disadvantaged Community Designation.

HDC Designation: No

4. Funding Act.

Funding Act: IJJA

5. Security Risk Designation.

Security Risk Designation: Low

**SCHEDULE G
PIDP PERFORMANCE MEASUREMENT INFORMATION**

Study Area: DeLong Agricultural Maritime Export Facility at Port Milwaukee

Baseline Measurement Date: March 1, 2024 – February 28, 2025

Baseline Report Date: May 1, 2025

Table 1: Performance Measure Table

Measure	Category and Description	Measurement Frequency
Vessel Calls	<p style="text-align: center;">Economic Competitiveness and Opportunity</p> <p>Measures the number of vessels calling to the Project study area. Must be reported in total and disaggregated by any of the following where applicable: vessel type (e.g., container, bulk, ro-ro, LNG), freight capacity, vessel length, or other.</p>	Quarterly
Cargo Volume	<p style="text-align: center;">Economic Competitiveness and Opportunity</p> <p>Cargo volume measures the movement of freight through the Project study area. When applicable, report the total cargo volume and the volume disaggregated by type of freight (i.e., containers in TEU and bulk in tons) or type of intermodal transport (truck or rail).</p>	Quarterly

**SCHEDULE H
CLIMATE CHANGE AND ENVIRONMENTAL JUSTICE IMPACTS**

1. Consideration of Climate Change and Environmental Justice Impacts.

The Recipient states that rows marked with “X” in the following table are accurate:

	The Project directly supports a Local/Regional/State Climate Action Plan that results in lower greenhouse gas emissions. <i>(Identify the plan in the supporting narrative below.)</i>
	The Project directly supports a Local/Regional/State Equitable Development Plan that results in lower greenhouse gas emissions. <i>(Identify the plan in the supporting narrative below.)</i>
	The Project directly supports a Local/Regional/State Energy Baseline Study that results in lower greenhouse gas emissions. <i>(Identify the plan in the supporting narrative below.)</i>
	The Recipient or a project partner used environmental justice screening tools, such as the Climate & Economic Justice Screening Tool (CEJST), USDOT’s Equitable Transportation Community (ETC) Explorer, or the EPA’s EJSCREEN, to identify environmental justice communities that may be impacted by the Project to minimize adverse impacts of the Project on those communities. <i>(Identify the tool(s) in the supporting narrative below.)</i>
	The Project supports a modal shift in freight or passenger movement to reduce emissions or reduce induced travel demand. <i>(Describe that shift in the supporting narrative below.)</i>
X	The Project utilizes demand management strategies to reduce congestion, induced travel demand, and greenhouse gas emissions. <i>(Describe those strategies in the supporting narrative below.)</i>
	The Project incorporates electrification infrastructure, zero-emission vehicle infrastructure, or both. <i>(Describe the incorporated infrastructure in the supporting narrative below.)</i>
	The Project supports the installation of electric vehicle charging stations. <i>(Describe that support in the supporting narrative below.)</i>
	The Project promotes energy efficiency. <i>(Describe how in the supporting narrative below.)</i>
	The Project serves the renewable energy supply chain. <i>(Describe how in the supporting narrative below.)</i>

	The Project improves disaster preparedness and resiliency <i>(Describe how in the supporting narrative below.)</i>
	The Project avoids adverse environmental impacts to air or water quality, wetlands, and endangered species, such as through reduction in Clean Air Act criteria pollutants and greenhouse gases, improved stormwater management, or improved habitat connectivity. <i>(Describe how in the supporting narrative below.)</i>
	The Project repairs existing dilapidated or idle infrastructure that is currently causing environmental harm. <i>(Describe that infrastructure in the supporting narrative below.)</i>
	The Project supports or incorporates the construction of energy- and location-efficient buildings. <i>(Describe how in the supporting narrative below.)</i>
	The Project includes recycling of materials, use of materials known to reduce or reverse carbon emissions, or both. <i>(Describe the materials in the supporting narrative below.)</i>
	The Recipient has taken other actions to consider climate change and environmental justice impacts of the Project. <i>(Describe those actions in the supporting narrative below.)</i>
	The Recipient has not yet taken actions to consider climate change and environmental justice impacts of the Project but, before beginning construction of the Project, will take relevant actions described in schedule B. <i>(Identify the relevant actions from schedule B in the supporting narrative below.)</i>
	The Recipient has not taken actions to consider climate change and environmental justice impacts of the Project and will not take those actions under this award.

2. Supporting Narrative.

The Project in Phase 2 utilizes demand management strategies by incorporating advanced equipment such as upright storage and enclosed conveyors, which streamline grain handling, reduce reliance on heavy machinery, and optimize the flow of commodities. This reduces congestion at the facility by allowing more efficient loading of ships, minimizes the need for rolling stock, and cuts CO2 emissions. Automation and improved reliability also enhance operational efficiency, reducing downtime and ensuring a consistent flow of products. These strategies collectively support reduced induced travel demand, lower greenhouse gas emissions, and improved safety for employees.

**SCHEDULE I
RACIAL EQUITY AND BARRIERS TO OPPORTUNITY**

1. Efforts to Improve Racial Equity and Reduce Barriers to Opportunity.

The Recipient states that rows marked with “X” in the following table are accurate:

	A racial equity impact analysis has been completed for the Project. <i>(Identify a report on that analysis or, if no report was produced, describe the analysis and its results in the supporting narrative below.)</i>
	The Recipient or a project partner has adopted an equity and inclusion program/plan or has otherwise instituted equity-focused policies related to project procurement, material sourcing, construction, inspection, hiring, or other activities designed to ensure racial equity in the overall delivery and implementation of the Project. <i>(Identify the relevant programs, plans, or policies in the supporting narrative below.)</i>
	The Project includes physical-barrier-mitigating land bridges, caps, lids, linear parks, and multimodal mobility investments that either redress past barriers to opportunity or that proactively create new connections and opportunities for underserved communities that are underserved by transportation. <i>(Identify the relevant investments in the supporting narrative below.)</i>
	The Project includes new or improved walking, bicycling infrastructure, reduces automobile dependence, and improves access for people with disabilities and proactively incorporates Universal Design. <i>(Identify the new or improved access in the supporting narrative below.)</i>
	The Project includes new or improved freight access to underserved communities to increase access to goods and job opportunities for those underserved communities. <i>(Identify the new or improved access in the supporting narrative below.)</i>
X	The Recipient has taken other actions related to the Project to improve racial equity and reduce barriers to opportunity. <i>(Describe those actions in the supporting narrative below.)</i>
	The Recipient has not yet taken actions related to the Project to improve racial equity and reduce barriers to opportunity but, before beginning construction of the Project, will take relevant actions described in schedule B. <i>(Identify the relevant actions from schedule B in the supporting narrative below.)</i>
	The Recipient has not taken actions related to the Project to improve racial equity and reduce barriers to opportunity and will not take those actions under this award.

2. Supporting Narrative.

DeLong is committed to improving racial equity and reducing barriers to opportunity through its comprehensive Equal Employment Opportunity (EEO) policy, which ensures a harassment-free, non-discriminatory workplace. The company recruits from diverse sources, including over 60 websites, walk-ins, and employee referrals, to attract candidates from various racial and ethnic backgrounds. Additionally, DeLong partners with a service that assists Mexican workers in obtaining work visas, providing them with housing and training. This initiative has successfully created opportunities for underrepresented groups and enhanced workforce diversity.

**SCHEDULE J
LABOR AND WORK**

1. Efforts to Support Good-Paying Jobs and Strong Labor Standards

The Recipient states that rows marked with “X” in the following table are accurate:

	The Recipient or a project partner has adopted the use of project labor agreements in the overall delivery and implementation of the Project. <i>(Identify the relevant agreements and describe the scope of activities they cover in the supporting narrative below.)</i>
	The Recipient or a project partner has adopted the use of registered apprenticeships in the overall delivery and implementation of the Project. <i>(Describe the use of registered apprenticeship in the supporting narrative below.)</i>
	The Recipient or a project partner will provide training and placement programs for underrepresented workers in the overall delivery and implementation of the Project. <i>(Describe the training programs in the supporting narrative below.)</i>
	The Recipient or a project partner will support free and fair choice to join a union in the overall delivery and implementation of the Project by investing in workforce development services offered by labor-management training partnerships or setting expectations for contractors to develop labor-management training programs. <i>(Describe the workforce development services offered by labor-management training partnerships in the supporting narrative below.)</i>
	The Recipient or a project partner will provide supportive services and cash assistance to address systemic barriers to employment to be able to participate and thrive in training and employment, including childcare, emergency cash assistance for items such as tools, work clothing, application fees and other costs of apprenticeship or required pre-employment training, transportation and travel to training and work sites, and services aimed at helping to retain underrepresented groups like mentoring, support groups, and peer networking. <i>(Describe the supportive services and/or cash assistance provided to trainees and employees in the supporting narrative below.)</i>
	The Recipient or a project partner has documented agreements or ordinances in place to hire from certain workforce programs that serve underrepresented groups. <i>(Identify the relevant agreements and describe the scope of activities they cover in the supporting narrative below.)</i>

	<p>The Recipient or a project partner participates in a State/Regional/Local comprehensive plan to promote equal opportunity, including removing barriers to hire and preventing harassment on work sites, and that plan demonstrates action to create an inclusive environment with a commitment to equal opportunity, including:</p> <ul style="list-style-type: none"> a. affirmative efforts to remove barriers to equal employment opportunity above and beyond complying with Federal law; b. proactive partnerships with the U.S. Department of Labor’s Office of Federal Contract Compliance Programs to promote compliance with EO 11246 Equal Employment Opportunity requirements; c. no discriminatory use of criminal background screens and affirmative steps to recruit and include those with former justice involvement, in accordance with the Fair Chance Act and equal opportunity requirements; d. efforts to prevent harassment based on race, color, religion, sex, sexual orientation, gender identity, and national origin; e. training on anti-harassment and third-party reporting procedures covering employees and contractors; and f. maintaining robust anti-retaliation measures covering employees and contractors. <p><i>(Describe the equal opportunity plan in the supporting narrative below.)</i></p>
X	<p>The Recipient has taken other actions related to the Project to create good-paying jobs with the free and fair choice to join a union and incorporate strong labor standards. <i>(Describe those actions in the supporting narrative below.)</i></p>
	<p>The Recipient has not yet taken actions related to the Project to create good-paying jobs with the free and fair choice to join a union and incorporate strong labor standards but, before beginning construction of the Project, will take relevant actions described in schedule B. <i>(Identify the relevant actions from schedule B in the supporting narrative below.)</i></p>
	<p>The Recipient has not taken actions related to the Project to improving good-paying jobs and strong labor standards and will not take those actions under this award.</p>

2. Supporting Narrative.

DeLong is committed to creating good-paying jobs and upholding strong labor standards by ensuring compliance with all Federal, state, and local employment laws, including those related to union membership. The company offers competitive wages, regularly reviewed through employment data surveys, and strives to attract and retain employees through fair pay and benefits. DeLong fosters a work environment free from discrimination, harassment, and retaliation and actively seeks employee feedback through annual engagement surveys to improve working conditions. The Human Resources

department ensures compliance with labor standards and addresses any concerns related to equal employment opportunities.

**SCHEDULE K
CIVIL RIGHTS AND TITLE VI**

1. Recipient Type Designation.

Recipient Type Designation: New

2. Title VI Assessment Information.

Title VI Assessment Completion Date: June 20, 2024

RECIPIENT SIGNATURE PAGE

The Recipient, intending to be legally bound, is signing this agreement on the date stated opposite that party's signature.

CITY OF MILWAUKEE, ACTING BY AND THROUGH
ITS BOARD OF HARBOR COMMISSIONERS AS
THE PORT OF MILWAUKEE

_____ By: _____
Date Signature of Recipient's Authorized Representative

Jackie Q. Carter

Name

Port Director

Title

Countersigned:

Bill Christianson, City Comptroller

Date: _____

MARAD SIGNATURE PAGE

MARAD, intending to be legally bound, is signing this agreement on the date stated opposite that party's signature.

UNITED STATES DEPARTMENT OF
TRANSPORTATION MARITIME
ADMINISTRATION

Date

By: _____
Signature of MARAD's Authorized Representative

Name

Title

2023 PIDP Grant Proposal (Exhibit B)



2023 PIDP Grant Proposal: Agriculture Maritime Export Facility – Phase 2



NAME OF APPLICANT
Port of Milwaukee

PROJECT DESCRIPTION: The Port of Milwaukee is partnering with The DeLong Co., Inc. to construct the Agriculture Maritime Export Facility (AMEF) – Phase 2, located within the Port of Milwaukee. The project incorporates the most up-to-date technology for safety, efficiency, and reduced environmental impact. The AMEF is crucial to providing access to international markets for Wisconsin grains, thus filling the void left by the permanent closing of the only other grain handling facility in Wisconsin/Great Lakes in February 2023 (COFCO). AMEF Phase 2 will simultaneously allow for the receiving and on-site staging of multiple commodities, increasing handling efficiency and reducing vessel load times, reducing vessel demurrage and detention costs totaling \$15,000 per day. Once completed, this AMEF will transform the surrounding urban community with direct and indirect jobs, emission reductions, and economic vitality.

Name of lead applicant	Port of Milwaukee	Is the project located in a Historically Disadvantaged Community (HDC) or a Community Development Zone (CDZ)?	No
Is the applicant applying as a lead applicant with any joint applicants?	Yes	Has the same project been previously submitted for PIDP funding?	No
Project Name	Agriculture Maritime Export Facility – Phase 2	Is the applicant applying for other discretionary grant programs in 2023 for the same work or related scopes of work?	No
Is this a Planning Project?	No	Has the applicant previously received TIGER, BUILD, RAISE, FASTLANE, INFRA or PIDP funding?	No
Is this a project at a coastal, Great Lakes, or inland river port?	Great Lakes	PIDP Grant amount requested	\$9,476,352
Is this project located in a noncontiguous State or US territory?	No	Total Project Cost	\$15,793,921
GIS Coordinates in latitude and longitude format	Lat. 43° 05' N, Long 87° 55' W	Total Federal Funding	No other federal dollars are being requested for this project.
Is this project in an urban or rural area?	Urban	Total Non-Federal Funding	\$6,317,568
Project zip code	53207	Will RRIF or TIFIA funds be used as part of the project's financing?	No

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SECTION I: PROJECT DESCRIPTION (Phase 2)

1.1 Project Overview

The Port of Milwaukee (Port Milwaukee or Port) is partnering with The DeLong Co., Inc. (DeLong) for the construction of the Agriculture Maritime Export Facility (AMEF) – Phase 2, located within Port Milwaukee. AMEF Phase 1 was constructed to receive, store, and load vessels with one product at a time: dried distiller grains with soluble (DDGS). While DDGs will still be the initial commodity at the new facility, the intent has always been to expand the capacity to handle other agricultural products, such as grain, corn and soybeans. The expansion plans are being accelerated in response to the recent closure and sale of the grain terminal located at the Milwaukee Harbor. The sale of the terminal to a company that plans to use the site for cement has left a service gap in the region. State legislators have already heard concerns from constituents, namely farmers and growers, who will be forced to seek less efficient, more costly ways to export their goods. Port Milwaukee, in partnership with The DeLong Company, Inc., believes that AMEF Phase 2 can help to fill the gap in service by increasing agricultural capacity at the current AMEF. Phase 2 will allow DeLong to receive multiple commodities simultaneously and load them on a single vessel with multiple cargo holds (grocery boats) due to adding two grain silos and the associated handling equipment. It will also allow multiple commodities to be staged on-site, reducing vessel load times.

The AMEF is crucial to provide access to international markets for Wisconsin grains, thus filling the void left by the permanent closing of the only other grain handling facility in Wisconsin/Great Lakes in February 2023 (COFCO).

The PIDP 2023 grant funding request of \$9,476,352 (Project Total: \$15,793,921) will allow Port Milwaukee to expand infrastructure to prepare this critical asset to be resilient and efficiently serve as a national and international economic hub.

DeLong is a Port Milwaukee tenant, leasing three parcels to develop the AMEF for transloading agricultural commodities. Port Milwaukee is a vital deep draft international commercial harbor with several ship terminals, deep draft docking space, storage/transloading facilities for cargo, and a Harbor of Refuge.

DeLong operates 36 facilities nationwide, providing information, products, and services to the agriculture industry. It is a major supplier of food grains, domestically and internationally, and provides seed, fertilizer, chemical inputs, and services for growers in the Midwest. DeLong stores and delivers feed grains and seed products and manufactures livestock feeds. Today, DeLong is the number one exporter of containerized agricultural products.

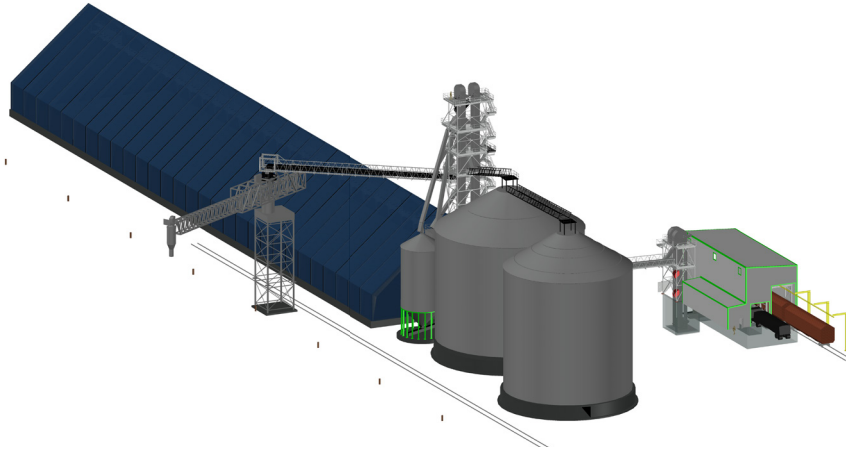


Figure 1: AMEF Phase 2

The following elements comprise the Phase 2 project:

1.2 Technical Description

- **Two Storage Silos** (One 105 feet in diameter [791,000 bushels] and one 90 feet in diameter [594,000 bushels]): These two bins will provide storage space for staging inbound grains and grains for vessel and barge loading.
- **Additional Grain Handling Equipment:** In addition to filling and emptying the storage silos, this equipment will allow DeLong to unload and handle two commodities simultaneously throughout the process. For instance, DeLong can receive soybeans while loading DDGS into a vessel or vice versa.
- **Rolling Equipment:** A locomotive can move rail cars, loaders, excavators, and skid steers to move product between flat storage and conveyors for loading into vessels.
- **Electrical:** Electrical service for 675 HP.

1.2a Project Background (Phase 1)

For Phase 1 of the AMEF, Port Milwaukee partnered with DeLong to redevelop an underutilized parcel within Port boundaries. Phase 1 was designed to be the first and only intermodal bulk export agricultural transload facility on the Great Lakes, aiming to move products via truck and rail to handysize (“Seawaymax”) vessels at the Port. The transload facility can receive products by rail or over-the-road truck, which are conveyed and then warehoused in a fabric building.

The AMEF site consists of three parcels totaling 4.64 acres. Parcels 1 and 3 were redeveloped during Phase 1 with the assistance of the USDOT MARAD PIDP, WisDOT HAP, and DeLong funding for the receiving, storage, and shipment of DDGS. The remaining leasehold portion will be redeveloped during Phase 2 to provide additional storage capacity for the facility to handle other bulk and specialty grains, such as soybeans, corn, and wheat, in the transshipment process.¹

¹Attachment 1: DeLong Milwaukee Port Lease 2022



Figure 2: AMEF Phase 1

1.2b Current Project Status (Phase 1)

DeLong is developing the three leased parcels from Port Milwaukee to create the AMEF for transloading agricultural commodities.

The 2019 USDOT MARAD PIDP Grant and a 2019 and 2020 HAP 0495-20-05 SEG were awarded, designed for the redevelopment of Parcels 1 and 3 for the receiving, conveyance, flat storage, and transloading of DDGS. These tasks are almost complete, with operations beginning in May 2023. In addition, receiving, conveyance, storage, and ship-loading structures have been installed in Phase 1 for materials such as DDGS and other bulk agricultural commodities. Phase 1 structures and equipment include the following:

- Receiving building (rail and truck)
- Receiving hopper
- Drag conveyors
- Bucket elevators
- Overhead covered conveyors
- Bulk weighing systems
- Storage building (capacity: 25,000 MT)
- Grain cleaner
- Reclaim conveyor
- Ship loader
 - o Rail
 - o Electrical
 - o Two small cone-bottom silos with 2021 WisDOT HAP and DeLong funds

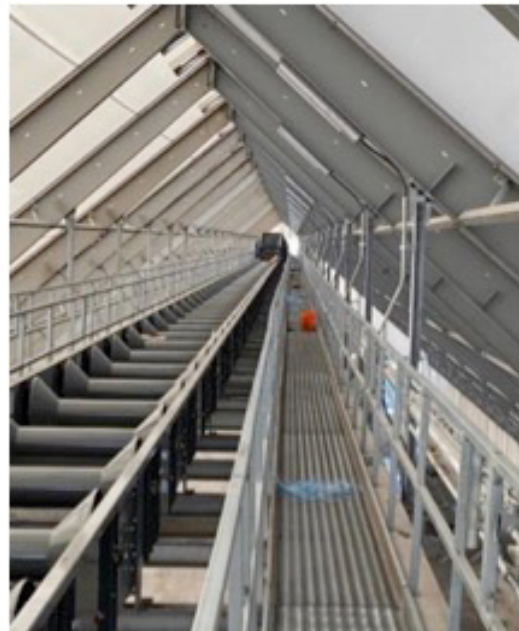


Figure 3: AMEF Storage Building Convey Belt System



Figure 4: Phase 1 Progress – April 2022



Figure 5: Phase 1 Progress – April 2023

In 2020, the AMEF Phase 1 was delayed because of the COVID-19 outbreak. Once bid packages restarted, the estimated costs of the various components had increased significantly, and several items were unavailable. As a result, it was necessary to go with higher-priced alternatives. Also, some AMEF upgrades and enhancements were made, including a more efficient and higher capacity vessel loader for \$3,504,000. As of March 31, 2023, the final estimated AMEF cost was \$40,472,252, with a completion date of May 2023, within the anticipated completion schedule.

Phase 1 has been totally funded and stands ready to start receiving products and exporting vessels of DDGS in the Spring of 2023. Phase 1 uses all American-assembled components.

Final figures will be known 30–60 days after completion.

For additional background information on Phase 1, please refer to Port Milwaukee and The DeLong Co., Inc. 2019 MARAD Port Infrastructure Development Program. ²

[ProjectNarrativeforPortMilwaukeeMARADPIDP.pdf](#)

Phase 1 is expected to be completed in May 2023, with operations to begin.

1.2c Process Description (Phase 2)

The AMEF Phase 2 will receive, store, and load various bulk agricultural commodities from trucks and covered hopper railcars to a blue-water (Seawaymax) bulk cargo vessel for transport. The adjacent waterway mooring can harbor a covered bulk blue-water (Seawaymax) material cargo vessel with sufficient capacity to load assorted products and deliver them worldwide. Next, Phase 2 will handle and provide intermediate storage for DDGS, grains, and specialty grains. The design capacity of the AMEF will be 800 MT per hour.

The AMEF currently includes rail and truck receiving areas connected to a single conveyance system for the movement of DDGS into a flat storage building. The facility should receive between 1,500 and 3,000 railcars annually to be unloaded in the receiving building. Inside the flat storage building, a reclaim system will relocate stored DDGS and convey them for loading into the covered bulk material cargo vessel. Phase 2 handling and silo storage will allow for the storage of additional grains. The stored grains will be moved from the silos and through a grain cleaner. Then, clean grains will move through the vessel loader into the ship, and the screened-out grains will be transferred to the hopper bin for removal.

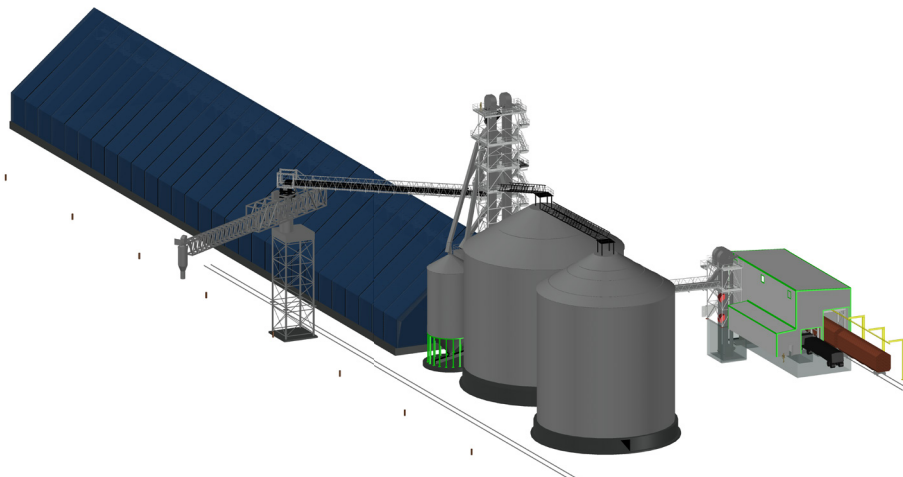


Figure 6: AMEF Phase 2

²Attachment 2: Project Narrative for Port Milwaukee MARAD PIDP

Upper Waterways: Lake Michigan
Lower Waterways: Milwaukee Harbor



Figure 7: DDG Flat Storage Building and Ship Loader



Figure 8: Receiving Building with Truck and Rail, Hard Car Unloader, and Fall Protection



Figure 9: Grain Vessel Loader and Grain Handling Equipment



Figure 10: Bucket Elevator and Distributor



Figure 11: Bulk Scale for Load-Out



Figure 12: New Rail Provided by the Port

SECTION II: PROJECT LOCATION

Port Milwaukee's commercial operations are on its South Harbor Tract at Jones Island, a peninsula bordered by the Kinnickinnic River, Milwaukee River, and Lake Michigan. Jones Island is a unique area of the City of Milwaukee used exclusively for industrial operations and utilities. The Milwaukee Metropolitan Sewerage District's (MMSD) Water Reclamation Facility occupies the northern third of the Jones Island peninsula, where milorganite has been made since 1926. Port Milwaukee, a City of Milwaukee department, owns and operates the remainder of the Jones Island peninsula as the international commercial shipping port. The Port leases its property to various tenants engaged in commercial shipping and distribution operations. The Port property at Jones Island is zoned Heavy Industrial and is not in a Qualified Opportunity Zone.

Port Milwaukee administers operations on 467 acres within the Milwaukee Harbor, located on the western shore of Lake Michigan at Lat 43° 05' N, Long 87° 55' W, about 75 miles north of the city of Chicago (Project WKID: 4326 Lat/Long: 43.01211°N/87.89809°W). The Port Milwaukee administration building is at 2323 S. Lincoln Memorial Drive, Milwaukee, Milwaukee County, Wisconsin. The selected site for the proposed AMEF Phase 2 is located at 1711 South Carferry Drive.

DeLong leases 4.64 acres of property at Port Milwaukee. The leasehold is located on the west side of Jones Island along the Municipal Mooring Basin with access to a deep draft dock along South Carferry Drive with the receiving building on the east side of the street and the flat storage building and ship loader on the west side. The product is transferred from the receiving building to the flat storage by a conveyor system elevated over South Carferry Drive.

Port Milwaukee owns approximately 13 miles of railroad track on Jones Island, and tenants are serviced by two Class 1 railroads: Canadian Pacific and Union Pacific. The receiving building has a dedicated railroad track lead, constructed during Phase 1 of the project, to receive products by railcar.³

³Attachment 1: Delong Milwaukee Port Lease 2022



Figure 13: AMEF Site Location

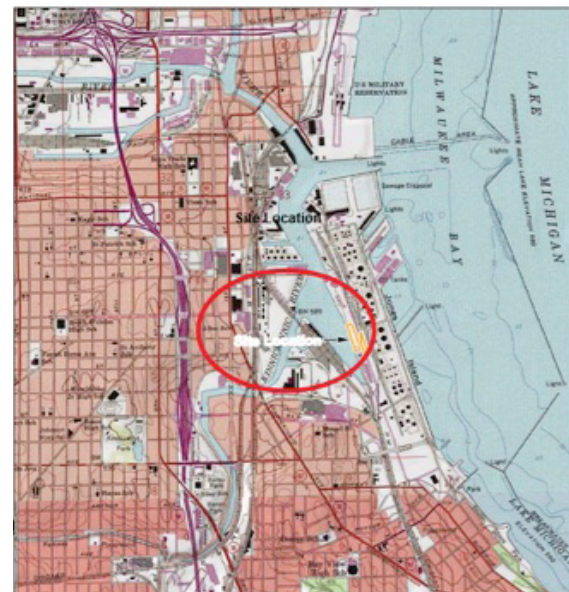


Figure 14: AMEF Site Location

Across the Municipal Mooring Basin to the west of Jones Island is a waterfront property formerly owned and operated by COFCO International (COFCO), which closed permanently. The site also features deep draft docking, rail access, and a series of large silos used for storing grain. The new owner of the site will not restore use of the grain terminal, a decision that has accelerated the need for expansion of the AMEF.

Port Milwaukee and its tenants depend on reliable and efficient transportation and multimodal networks. Highways (I-94/I-794), local streets, railroads, and shipping routes converge at the Port on Jones Island to carry the materials, cargo, and people that make the Port, its tenants, and customers work. Further strategic investments at the Port, including the AMEF, will help ensure that the transportation networks serving Jones Island continue to do so effectively.

SECTION III: GRANT FUNDS, SOURCES, AND USES OF PROJECT FUNDS (Phase 2)

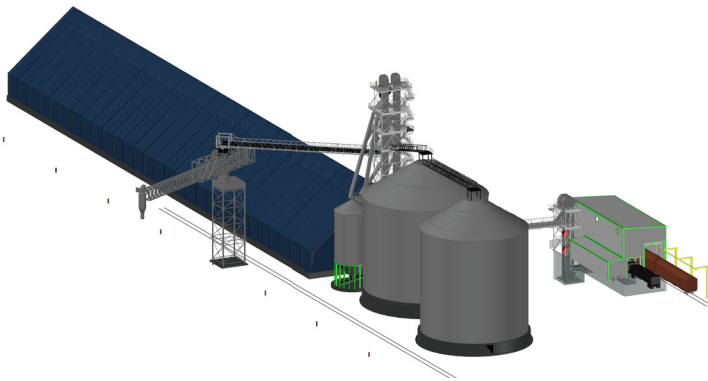


Figure 15: AMEF Phase 2

The total project costs, including PIDP funds (\$9,476,352) and DeLong match contribution (\$6,317,568), total \$15,793,921. Port Milwaukee is requesting \$9,476,352 in PIDP funding to transform Port Milwaukee's expansion from opportunity to reality. Cost estimates are based on engineering designs. If the \$9,476,352 PIDP request is granted, the project will be funded with 60% federal PIDP, 21% Harbor Assistance Program 3 (HAP 3), and 19% DeLong, making the total non-federal match 40%. An overview of the cost estimates and a detailed cost estimate by AMEF Phase 2 components are shown in Table 1 and Table 2.^{4,5}

The project had an estimated (undiscounted) cost in 2021 dollars of \$13.2 million. After discounting, the project yields a benefit-cost ratio of 2.0 and a net present value of \$10.3 million.

Phase 2 will allow farmers to deliver uninterrupted to the AMEF, resulting in more efficient commodity storage and, ultimately, vessel loading, reducing vessel demurrage and detention.

This phase demonstrates DeLong's commitment to the thoughtful development of infrastructure. It also shows how transformative the funding requested for this PIDP application would be for Port Milwaukee, DeLong, the surrounding urban community, and overall agricultural exports in the United States.

⁴Attachment 3: Commitment Letter

⁵Attachment 4: HAP 3 Agreement

GRANT FUNDS, SOURCES, AND USES OF PHASE 2 PROJECT FUNDS	
USES OF FUNDS	
Storage Silos	\$7,033,405
Additional grain handling equipment	\$3,561,937
Rolling Equipment	\$2,026,802
Electrical	\$811,200
Engineering, grant administration, project management, etc.	\$300,499
Contingency	\$2,060,078
TOTAL USES	\$15,793,921
SOURCES OF FUNDS	
MARAD PIDP Funds	\$9,476,352 60%
WISDOT HAP 3 Funds (already committed)	\$3,381,000 21%
DeLong Funds	\$2,936,569 19%
TOTAL SOURCES	\$15,793,921 100%

Table 1: Fund Breakdown for Phase 2

ENGINEERS COST ESTIMATE – 2022 BID PRICES					ADJUSTED TOTAL 2021 \$\$
Description	Material	Labor	Freight	Total	
Hard Construction	\$3,693,657	\$1,336,821	\$83,000	\$13,335,764	\$11,157,623
Engineering, Permitting, Construction Support	\$0	\$0	\$0	\$398,080	\$333,061
Contingency	\$0	\$0	\$0	\$2,060,077	\$1,723,603
TOTAL	\$3,693,657	\$1,336,821	\$83,000	\$15,793,921	\$13,214,287

Table 2: Fund Breakdown for Phase 2⁶

⁶Attachment 9: Port Milwaukee DeLong BCA

SECTION IV: MERIT CRITERIA

4.1 Achieving Safety, Efficiency, and Resiliency Improvements

Safety and Efficiency

Phase 1 installed a ship loader, replacing the previous method of loading ships directly from the facility with spouts. The ship loader has a greater range of motion and can trim the hold of a ship without requiring an operator to enter it with a piece of machinery, thus increasing loading efficiency and safety. The loader also has two dust systems and a telescoping spout, allowing for a cleaner loading process and reducing product loss.

DeLong uses a centralized programmable logic controller (PLC) system with hazard monitoring equipment that monitors bearing temperatures, speed, and belt tracking. This system ensures employee safety by keeping equipment and employees out of harmful situations. If the system detects anything out of the preset range, it shuts the equipment down safely and alerts the operator that it needs to be checked. The hazard monitoring equipment also allows DeLong to monitor trends in equipment performance, enabling the planning of shutdown work to avoid major repairs while loading.

To increase efficiency, DeLong also has a centralized scale and receiving pit for trucks, allowing for a more efficient truck throughput and relieving congestion within the Port. Historically, trucks weighed in, moved to the pit, positioned their first hopper, and repeated the process until all hoppers were empty. They then drove back to a scale to be weighed out and grabbed a ticket from the office. However, with the centralized scale and receiving pit, the trucker only needs to make one move, allowing for faster processing of trucks at the facility.

Finally, the facility has installed a hard car unloader and a hopper door opener on tracks to improve the efficiency and safety of unloading feed products from railcars. The hard car unloader improves unloading times while increasing productivity. The hopper door opener on tracks slides back and forth along the rail pit, allowing employees to open and close doors safely and efficiently. This equipment prevents injuries and other ergonomic issues, enabling the facility to unload railcars quickly and safely, thus preventing storage yard tie-ups.

In Phase 2, DeLong will expand on the equipment built in Phase 1 with upright storage and conveyance equipment for handling whole grains. Incorporating upright storage provides several benefits, such as handling multiple commodities at once and loading grocery ships with various products. With the additional conveyance equipment, the facility can stockpile a second commodity while loading one, ensuring a smooth process for the next ship.

Using upright storage will also reduce the number of employees required on-site during loading and the amount of rolling stock needed. By using gravity to feed the conveyors, the flow of products to the ship will be consistent, significantly reducing CO₂ emissions by reducing the need for rolling stock. This method will also create a safer work environment for the employees, eliminating the hazards of working around heavy equipment and reducing physical demand.

Furthermore, upright storage allows for better separation of commodities based on quality, allowing operators to blend products to ensure quality control, eliminating the need to unload products from the ship while ensuring safe and efficient loading. This approach will allow more ships to pass through the Port. The incorporation of hazard monitoring equipment will also be included to manage the safety of employees and equipment.

Port Resilience

The reliability and resiliency that Phase 1 brought to the AMEF facility will continue to be utilized during Phase 2. Many elevators in the Great Lakes region still use traditional manual methods to load vessels, including manually starting/stopping equipment or changing between spouts. The AMEF facility has incorporated a PLC system allowing operators to run the facility from a centralized computer or remote touch screens, which eliminates the need to walk back to a central control panel or piece of equipment to change, start, or stop the operation. In addition, just like Phase 1, several redundant paths for grain to flow will be built into the system to ensure that it can continue to flow and ships can continue to be loaded even if there is an issue with a particular part of the system. This setup significantly supersedes older elevators, which may be down for hours or even days in case of an issue.

Phase 2 will also use enclosed belt conveyors with internal idlers, which are more reliable, easier to repair, and have a longer service life than chain conveyors and screw augers. These conveyors allow quick repairs and less downtime in the event of breakdowns, allowing the facility to get back up and running quickly and keep loading on schedule. The redundant paths and advanced conveyor systems are just a few examples of the reliability and resiliency incorporated into Phase 2, making it a more efficient and effective facility.

4.2 Supporting Economic Vitality at the Regional or National Level

This BCA was conducted following the USDOT's latest Benefit-Cost Analysis Guidance for Discretionary Grant Programs (January 2023.) After discounting, the AMEF Phase 2 yields a benefit-cost ratio of 2.0 and an NPV of \$10.3 million.⁷

The following general parameters and assumptions were used in the BCA:

- A real discount rate of 7% was applied to all costs and benefits except for carbon emissions reductions discounted at 3%.
- The analysis covered 30 years of operations applicable to new facilities.
- A residual value was assumed at the close of the 30 years of operation, based on the project's full 50-year useful life.
- Phase 2 construction was assumed to commence in late 2024 and end in late 2026, with operation commencing in 2027.
- All costs and benefits used in the BCA were in (or were converted to) 2021 constant dollars.
- The year 2021 was used as the base year for discounting, with 2021 considered year 0.

⁷Attachment 8: BCA Report Port Milwaukee DeLong PIDP

4.3 Overview of Project Benefits

By constructing and operating vertical silo storage facilities that facilitate rapid and efficient gravity loading of export barges (versus the current horizontal load facilities and processes) and making other key facility improvements, the AMEF will be able to accomplish the following:

- Fill the void left by the closure of another Great Lakes grain elevator export operator (COFCO in Milwaukee).
- Load grocery boats with multiple commodities, making loading grain boats easier than handling grain in its flat building.
- Take in multiple commodities simultaneously, making more efficient use of labor and making it easier to originate grain and DDGS shipments.
- More easily and efficiently load barges for export because the product will already be staged.
- Improve coordination of vessel loading by having additional storage.
- Reduce vessel demurrage and detention costs (currently \$15,000 per day) when loading two different commodities on the same vessel.
- Provide access to smaller grain buyers with less storage at their destination.
- Help maintain and grow export market opportunities for Wisconsin soybean and wheat growers.

As a result of these and other specific benefits from the AMEF, DeLong estimates significant beneficial increases per year in its loading and throughput volumes. Specifically, DeLong agricultural and supply chain experts project the following increases in annual handling volumes through the facility:

- 60,000 more MT of soybeans by bulk vessel (HAP 3).
- 60,000 more MT by barge to Chicago, then to the Illinois and Mississippi River systems to the Gulf.
- An additional 60,000 MT of DDGS because of the ability to load two products on the same vessel (grocery boats).

The following categories of benefits have been captured and monetized:

- 1. Salvage Value:** The BCA assumes a 75-year useful life of the AMEF for the elements of cost recaptured in salvage.
- 2. Shipper Cost Savings (Benefits from Increased Bulk Cargo Throughput):** Benefits arise from an additional projected 180,000 tons of grain and other dry bulk commodity exports due to vessel loading improvements.
- 3. Vessel Loading Labor Efficiencies from New Silo Storage/Vertical Loading Capability:** Loading vessels from silos (gravity-based vertical loading system) dramatically reduces the workforce required to load vessels from horizontal storage.
- 4. Emissions Reductions from Vertical Loading Capability:** Loading vessels from silos also eliminates the need to use diesel-operated heavy equipment over extended periods when vessels are loaded under the current horizontal configuration.

5. **Emissions Reductions from Reduced Truck Vehicle Miles Traveled (VMT):** These benefits arise from the increased maritime activity and resulting truck VMT and vehicle hours traveled (VHT) reductions described above.
6. **Truck Crash Savings from Reduced Truck VMT:** These benefits are similar due to the reductions in truck VMT.

Details of the calculations and assumptions used in the BCA model to derive each benefit type are provided below, referencing the worksheets where these calculations are found in the accompanying Excel spreadsheet model. Tab designations are color coded to the Excel spreadsheet.⁸

4.4 Leveraging Federal Funding to Attract Non-Federal Sources of Infrastructure Investment

On February 28, 2023, the COFCO facility, the only other grain handling facility in Wisconsin/Great Lakes located ¼ mile east of the AMEF project site, permanently closed its doors, leaving a major void in the grain exporting industry in Wisconsin and Northern Illinois. Built in the 1950s, the COFCO facility was outdated, with slow receiving and load-out capacities and labor-intensive processes compared to the AMEF. It was also designed to handle grains only, excluding bulk feedstuffs. With COFCO gone, the AMEF is now the only USDA- and FDA-approved Port Milwaukee facility for handling grains and grain by-products. Completing Phase 2 will enable the facility to handle corn, soybean, wheat, and other grains, in addition to DDGS that Phase 1 allows while offering additional storage capacity. This addition will provide access to international markets for Wisconsin grains, thus filling the void left by COFCO, which exported approximately 200,000 MT of grains annually.

Without Phase 2, the loss of COFCO would result in a \$1,306,513 annual loss in the value of soybeans at the farm gate. However, adding Phase 2 with upright storage and the ability to handle multiple commodities will restore exports through the new facility and absorb the loss of 200,000 MT of COFCO, preventing producers from turning to alternative markets further away at a lower net farm value. As a result, Phase 2 will allow producers to continue receiving higher grain values. The net savings to producers will be \$1,306,513 annually, calculated by multiplying the loss per bushel (\$0.1742) by the number of bushels (7,500,000) or 200,000 MT. The addition of Phase 2 will result in better crop prices for producers than the alternatives left after the closure of COFCO.

SECTION V: SELECTION CONSIDERATIONS

5.1 Climate Change and Sustainability

DeLong is dedicated to pursuing sustainable practices and recognizes the importance of minimizing their environmental impact. The company strives to implement environmentally conscious initiatives, such as sourcing sustainably produced products and installing solar panels. With a focus on sustainability, DeLong is committed to pursuing opportunities to contribute to a better future for the company and the planet.

⁸Attachment 8: BCA Report Port Milwaukee DeLong PIDP

Sustainable Products

International markets continue to evolve, and demand for sustainably produced products is increasing. DeLong is committed to meeting this demand by continuously developing initiatives that exploit these opportunities. One of the significant initiatives that will help leverage greater market access for crops out of Port Milwaukee is the Partnerships for Climate-Smart Commodities (CSC) grant awarded to DeLong through the USDA. The \$40,000,000 program will use the awarded federal funds to incentivize sustainable practices on farms, including cover crops, nutrient management plans, residue and tillage management, and windbreaks.



Figure 16: CSC – Port Milwaukee

To gain this improved market access, DeLong is developing a climate-smart brand to market the crops grown in the program. The brand will help differentiate the product and educate consumers on the environmental benefits gained from the sustainable practices implemented by growers enrolled in the program. In addition to the carbon footprint reduction of truck transportation provided by the AMEF at Port Milwaukee, the CSC program will aid in sustainability efforts by taking carbon reduction another step upstream in the supply chain and reducing the carbon footprint of farming. The Climate-Smart Program is estimated to remove close to 900,000 MT of CO₂ equivalent by the end of the five-year program.



Figure 17: A map of the proposed solar array location

Solar Panels

DeLong is committed to contributing to sustainable practices by designing, engineering, procuring, and constructing a 60.48 kW solar array that will produce an estimated 63,849 kWh of electricity. The array, a roof-mounted installation shown in the proposal graphic, is expected to provide an estimated 3.2% offset based on guidance from DeLong's Joliet Super Center, as the site's historical load data is unavailable. This solar array will help the company reduce its carbon footprint and environmental impact.

In terms of equipment, the solar array will consist of 112 GCL 540 W (or equivalent) panels, one SMA CORE1-50-US-41 inverter, Iron Ridge racking, and other system components. In addition, DeLong will provide installation services for the panels, inverters, racking, and monitoring. The company will handle interconnection documentation with the utility and ensure that monitoring is set up, which requires an internet connection.

Overall, this contribution represents DeLong’s ongoing efforts to promote sustainability and reduce its environmental impact. Thus, the company will reduce its carbon footprint by implementing this solar array while stepping toward renewable energy sources. DeLong is committed to continuing these efforts and pursuing other opportunities to contribute to sustainable practices in the future.⁹

5.2 Equity and Justice⁴⁰

Equal Employment Opportunity Policy Statement

The DeLong Co., Inc. is committed to the principles of equal employment and complying with all federal, state, and local laws providing equal employment opportunities and all other employment laws and regulations. We intend to maintain a work environment free from harassment, discrimination, or retaliation because of race, color, creed, ancestry, national origin, age, sex (including pregnancy, gender identity, and sexual orientation), handicap or disability, parental status, family medical history or genetic information, political affiliation, arrest/conviction record, military service, use/nonuse of lawful products, or any other status protected by federal, state, or local laws. The company is dedicated to fulfilling this policy concerning all aspects of employment, including but not limited to recruiting, hiring, placement, transfer, training, promotion, pay rates and other compensation, termination, and all other terms, conditions, and privileges. The company will conduct a prompt and thorough investigation of all allegations of discrimination, harassment, retaliation, or any violation of the company’s Equal Employment Opportunity Policy, in accordance with the company’s Reporting Discrimination and Harassment Policy detailed below. We are all responsible for upholding the company’s Equal Employment Opportunity Policy, so any claimed violations of that policy should be brought to the attention of a manager or human resources director.

5.3 Workforce Development, Job Quality, and Wealth Creation

The upcoming AMEF Phase 2 is expected to significantly impact the local economy, anticipated to create both direct and indirect jobs. According to the available information, AMEF Phase 2 is estimated to create three or four direct jobs. However, the impact will be even greater in terms of indirect job creation, as it is anticipated that the AMEF will generate between 75 and 100 jobs in the form of commodity producers and truckers. These individuals will play a vital role in the supply chain and production process of the AMEF, ensuring its success and overall positive contribution to the local economy. Overall, the AMEF has the potential to create a considerable number of jobs, both directly and indirectly, significantly boosting the region’s economy.

⁹Attachment 5: Convergence Energy Proposal for DeLong Port of MKE

SECTION VI: PROJECT READINESS

6.1 Technical Capacity

The AMEF Phase 2 is part of an ongoing project within Port Milwaukee. DeLong's experience with Phase 1 of the AMEF will also be a critical factor in the ability to carry out Phase 2 successfully. The company has gained valuable experience and knowledge in managing construction and complying with all applicable regulations and requirements during Phase 1. This experience will be highly valuable in carrying out Phase 2 of the AMEF, making it well-positioned to manage and complete Phase 2 effectively and efficiently when granted additional funding from USDOT MARAD.

Along with the 2019 USDOT MARAD PIDP grant, DeLong received funding from the Wisconsin Harbor Assistance Program (HAP) 0495-20-05 SEG for 2019 and 2020¹⁰. HAP is a state-funded program providing financial assistance to harbor communities for various harbor maintenance, development, and improvement projects. The Wisconsin Department of Transportation (WisDOT) administers the program, which oversees the grant application and review process. These grants aimed to support the redevelopment of Parcels 1 and 3, enabling the efficient handling of DDGS, including their receiving, conveyance, flat storage, and transloading. These tasks are nearly complete, and operations are scheduled to begin in May 2023. Phase 1 of the AMEF has involved the installation of structures for the receiving, conveyance, storage, and loading of materials such as DDGS and other bulk agricultural commodities.

DeLong is committed to a 40% local match contribution dedicated to the AMEF Phase 2 upon successful awarding of federal grant funding.

As part of the program, DeLong was awarded a grant of \$3,381,000 from the WisDOT to support its harbor development and expansion project. The grant helped fund the construction of the AMEF storage facility and associated equipment, increasing the company's capacity to handle and transport agricultural products via waterways. This project is expected to create jobs and promote economic development in the region.

6.1a Cyber-Security

Due to technological advances, DeLong actively reduces cyber-security risks using next-generation firewalls (NGFWs). NGFWs offer several benefits over traditional firewalls, primarily focused on filtering traffic based on protocol, source and destination IP addresses, and port numbers. Some of the key benefits of using NGFWs include the following:

- 1. Enhanced Security:** NGFWs provide enhanced security features such as deep packet inspection, intrusion prevention, malware detection, and application-level filtering to detect and prevent advanced threats and attacks that traditional firewalls cannot detect.

¹⁰Attachment 4: HAP 3 Agreement

2. **Application Visibility and Control:** NGFWs allow administrators to monitor and control application traffic in real time to identify unauthorized or malicious applications while enforcing policies for acceptable use of applications.
3. **Increased Performance:** NGFWs use hardware and software optimization techniques to provide faster and more efficient traffic processing, reducing latency while improving the overall network’s performance.
4. **Simplified Management:** NGFWs offer centralized management and reporting capabilities, allowing administrators to manage multiple devices from a single console, simplifying management while reducing operational overhead.

6.1b Project Schedule

ANTICIPATED PROJECT SCHEDULE	
Permitting & Compliance	Completed
Geotech/Survey	Completed
Final Design/Specifications	Completed
Bid Management	February 2024– March 2024
Construction/Installation	July 2024– August 2024
Operational	Harvest 2024

DeLong has already completed most of the design, geo-tech, permitting and engineering work for this phase

6.2 Environmental Risk

A NEPA EA was completed in 2020, including the area occupied by the grain bins and associated conveyance equipment, per the National Historic Preservation Act and Endangered Species Act reviews. Based on the findings, it is improbable that additional risk factors will be identified as part of the AMEF Phase 2. However, if an updated NEPA EA is deemed necessary by MARAD, it will be completed immediately upon award.

6.2a Risk Mitigation

Increased project costs or material delays are potential risks the AMEF may face, although the risk is low. A 10% contingency has been included in the cost estimate to address this risk. Construction material delivery delays could potentially delay the project; however, these delays will not threaten completing the project within five years of grant fund obligation.

Flood events are always a risk to port operations, as evidenced not only by the historic 2019 flood but even flooding during insignificant rain events, as experienced during the development of this grant application. However, constructing a new levee as part of the Flood Protection Improvement Project and additional stormwater mitigation improvements can help mitigate this risk to the project.

All construction materials and equipment will comply with domestic preference requirements for the civil and mechanical work associated with the project and maximize domestic content. Therefore, the applicants do not anticipate needing a waiver of domestic content provisions. If selected for a grant award, the availability of the items to comply with domestic preference requirements would be specified and determined during construction tendering.

This project will include requests for proposals (RFPs) written and distributed, requiring all domestic preference guidelines for the PIDP program to be met. All RFPs will require bidders to agree to and prove they can meet all domestic preference provisions associated with the PIDP program. Heavy equipment acquisition and foreign construction components are not needed for this project.

6.2b Environmental Permits and Reviews

Preliminary approvals necessary for the redevelopment of this underutilized parcel, including preliminary design, Phase I environmental site assessment, and required permitting and approval evaluation, have been completed. A NEPA environmental assessment was conducted with a finding of no significant impact, which received MARAD concurrence in October 2020.

As for air permitting, the facility is exempt from obtaining construction and operating permits under Wisconsin Code 406.04(1)(zh)1 and NR 407.03(1m). Nevertheless, record-keeping requirements are mandated to be followed. Meanwhile, the stormwater permitting process has been finished for Phase 2. On the building permits front, DeLong has obtained the permit from the City of Milwaukee for the larger of the two bins, leaving only the smaller one requiring permits. DeLong will continue efforts to fulfill all requirements and obtain the required permits and reviews.

SECTION VII: DOMESTIC PREFERENCE/BUY AMERICAN

Materials and manufactured products used in the project will be produced or manufactured domestically. This provision will be included in all procurement documents used by contractors or tenants. Materials used to improve the Port property and equipment installed to develop the export facility will not require any exception or waiver of the Buy American provisions described in the Notice of Funding Opportunity. The Port intends to source products locally to enhance local benefits and job creation and will require Buy American provisions to flow down to every task undertaken in the project description and funded with MARAD Port Development Grant funding.

SECTION VIII: PROJECT DETERMINATION

PROJECT DETERMINATION	GUIDANCE
<p>1. The project improves the safety, efficiency, or reliability of the movement of goods through a port or intermodal connection to the Port.</p>	<p>The AMEF – Phase 2 consists of four project components that will improve the safety, efficiency, and reliability of the movement of goods through Port Milwaukee. The AMEF Phase 2 will receive, store, and load bulk commodities from trucks and covered hopper railcars to a blue-water bulk cargo vessel for transport. In addition, the proposed project will fill the market void of losing COFCO, Wisconsin’s only other Great Lakes exporting elevator.</p>
<p>2. The project is cost-effective</p>	<p>The BCR is 2.0, with an NPV of \$10.3 million</p>
<p>3. The eligible applicant has the authority to carry out the project</p>	<p>Port Milwaukee, a department of the City of Milwaukee, is partnering with The DeLong Co., Inc. to construct Phase 2 of the AMEF.</p>
<p>4. The eligible applicant has sufficient funding to meet the matching requirements</p>	<p>DeLong is committed to a 40% local match contribution dedicated to the AMEF Phase 2 upon the successful awarding of federal grant funding.¹¹</p>
<p>5. The project will be completed without unreasonable delay</p>	<p>Based on the project schedule in this application, DeLong is phasing project construction and design to complete the proposal without delays.</p>
<p>6. The project cannot be easily and efficiently completed without federal funding or financial assistance from the project sponsor Value</p>	<p>In order to complete Phase 2 of the AMEF, the \$9,476,352 PIDP grant is needed. Port Milwaukee’s capital budget cannot fund a project at this scale. Federal grants are typically the only source to fund a project of this cost, so the full scope cannot be completed without federal assistance.</p>

¹¹Attachment 3: Commitment Letter

MARAD General Terms and Conditions (Exhibit C)

**U.S. DEPARTMENT OF TRANSPORTATION
MARITIME ADMINISTRATION**

**GENERAL TERMS AND CONDITIONS UNDER THE
FISCAL YEAR 2023 PORT INFRASTRUCTURE DEVELOPMENT PROGRAM
GRANTS**

October 2, 2024

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USDOT 6

GENERAL TERMS AND CONDITIONS

The Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (Nov. 15, 2021), and the Consolidated Appropriations Act, 2023, Pub. L. No. 117-328 (Dec. 29, 2022) appropriated funds to the United States Department of Transportation (the “**USDOT**”) Maritime Administration (“**MARAD**”) for fiscal year (FY) 2023 under the heading “Port Infrastructure Development Program.” The funds are available to make grants to improve port facilities at coastal seaports, inland river ports, or Great Lakes ports. The MARAD program administering those funds is the Port Infrastructure Development Program (PIDP).

On February 10, 2023, MARAD posted a funding opportunity at Grants.gov with funding opportunity title “2023 Port Infrastructure Development Program Grants” and funding opportunity number MA-PID-23-001. The notice of funding opportunity posted at Grants.gov (the “**NOFO**”) solicited applications for Federal financial assistance under the FY 2023 PIDP. On November 7, 2023, MARAD announced application selections under the NOFO.

These general terms and conditions are incorporated by reference in a project-specific agreement under the FY 2023 PIDP. The term “Recipient” is defined in the project-specific portion of the agreement. The project-specific portion of the agreement includes schedules A through K. The project-specific portion of the agreement may include special terms and conditions in project-specific articles.

ARTICLE 1 PURPOSE

- 1.1 Purpose.** The purpose of this award is to make grants to improve port facilities at coastal seaports, inland river ports, or Great Lakes ports. The parties will accomplish that purpose by achieving the following objectives:
- (1) timely completing the Project; and
 - (2) ensuring that this award does not substitute for non-Federal investment in the Project, except as proposed in the Technical Application, as modified by schedule D.

ARTICLE 2 MARAD ROLE

- 2.1 Administration.** MARAD will administer this agreement.
- 2.2 MARAD Program Contacts.**

Peter Simons
Director, Office of Port Infrastructure Development

DOT – Maritime Administration
1200 New Jersey Ave, SE
Washington, DC 20590
MAR-510
W21-308
Mailstop 3
(202) 366-8921
peter.simons@dot.gov

ARTICLE 3 RECIPIENT ROLE

3.1 Statements on the Project. The Recipient states that:

- (1) all material statements of fact in the Technical Application were accurate when that application was submitted; and
- (2) schedule E documents all material changes in the information contained in that application.

3.2 Statements on Authority and Capacity. The Recipient states that:

- (1) it has the authority to receive Federal financial assistance under this agreement;
- (2) it has the legal authority to complete the Project;
- (3) it has the capacity, including institutional, managerial, and financial capacity, to comply with its obligations under this agreement;
- (4) not less than the difference between the total eligible project costs listed in section 3 of schedule D and the PIDP Grant Amount listed in section 1 of schedule D is committed to fund the Project;
- (5) it has sufficient funds available to ensure that infrastructure completed or improved under this agreement will be operated and maintained in compliance with this agreement and applicable Federal law; and
- (6) the individual executing this agreement on behalf of the Recipient has authority to enter this agreement and make the statements in this article 3 and in section 21.7 on behalf of the Recipient.

3.3 MARAD Reliance. The Recipient acknowledges that:

- (1) MARAD relied on statements of fact in the Technical Application to select the Project to receive this award;

- (2) MARAD relied on statements of fact in both the Technical Application and this agreement to determine that the Recipient and the Project are eligible under the terms of the NOFO;
- (3) MARAD relied on statements of fact in both the Technical Application and this agreement to establish the terms of this agreement; and
- (4) MARAD's selection of the Project to receive this award prevented awards under the NOFO to other eligible applicants.

3.4 Project Delivery.

- (a) The Recipient shall complete the Project under the terms of this agreement.
- (b) The Recipient shall ensure that the Project is financed, constructed, operated, and maintained in accordance with all Federal laws, regulations, and policies that are applicable to projects of MARAD.

3.5 Rights and Powers Affecting the Project.

- (a) The Recipient shall not take or permit any action that deprive it of any rights or powers necessary to the Recipient's performance under this agreement without written approval of MARAD.
- (b) The Recipient shall act promptly, in a manner acceptable to MARAD, to acquire, extinguish, or modify any outstanding rights or claims of right of others that would interfere with the Recipient's performance under this agreement.

3.6 Notification of Changes to Key Personnel. The Recipient shall notify MARAD within 30 calendar days of any change in key personnel who are identified in section 4 of schedule A.

ARTICLE 4 AWARD AMOUNT, OBLIGATION, AND TIME PERIODS

4.1 Federal Award Amount. MARAD hereby awards a PIDP Grant to the Recipient in the amount listed in section 1 of schedule D as the PIDP Grant Amount.

4.2 Federal Funding Source.

- (a) If section 4 of schedule F identifies the Funding Act as "IIJA," then the PIDP Grant is from PIDP grant funding that was appropriated in division J of the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (Nov. 15, 2021).
- (b) If section 4 of schedule F identifies the Funding Act as "FY2023," then the PIDP Grant is from PIDP grant funding that was appropriated in the Consolidated Appropriations Act, 2023, Pub. L. No. 117-328 (Dec. 29, 2022).

- (c) If section 4 of schedule F contains a table that lists separate amounts for “IIJA” and “FY2023,” then the amount listed for “IIJA” is from PIDP grant funding that was appropriated in division J of the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (Nov. 15, 2021) and the amount listed for “FY2023” is from PIDP grant funding that was appropriated in the Consolidated Appropriations Act, 2023, Pub. L. No. 117-328 (Dec. 29, 2022).
- (d) If section 4 of schedule F identifies the Funding Act as something other than “FY2023” or “IIJA”, then the PIDP Grant includes PIDP grant funding that was appropriated under a different funding act than “FY2023” or “IIJA”.

4.3 Federal Obligations.

- (a) This agreement obligates for the budget period the amount listed in section 1 of schedule D as the PIDP Grant Amount.
- (b) If section 1 of schedule D contains an “Other Federal Funds Grant Amount”, then MARAD was transferred other Federal funds from another Federal agency, and, therefore, in addition to the PIDP Grant Amount, this agreement also obligates the Other Federal Funds Grant Amount for the budget period. The total amount of Federal funds obligated is the total of the PIDP Grant Amount and the Other Federal Funds Grant Amount listed in section 1 of schedule D. Unless otherwise stated in the project-specific agreement, the Federal Award Date, period of performance start and end date, and the budget period start and end date will be the same for the PIDP Grant Amount and Other Federal Funds Grant Amount obligated by this agreement.

ARTICLE 5 STATEMENT OF WORK, SCHEDULE, AND BUDGET CHANGES

- 5.1 Change Notification Requirement.** The Recipient shall notify MARAD within 30 calendar days of any change in circumstances or commitments that adversely affect the Recipient’s capacity or intent to complete the Project in compliance with this agreement. In that notice, the Recipient shall describe the change and what actions the Recipient has taken or plans to take to ensure completion of the Project. The notification requirement under this section 5.1 is separate from any requirements under this article 5 that the Recipient request modification of this agreement.
- 5.2 Scope and Statement of Work Changes.** If the Project’s activities differ from the activities described in schedule B, then the Recipient shall request a modification of this agreement to update schedule B.
- 5.3 Schedule Changes.** If one or more of the following conditions are satisfied, then the Recipient shall request a modification of this agreement to update schedule C:

- (1) a completion date for the Project or a component of the Project is listed in section 2 of schedule C and the Recipient's estimate for that milestone changes to a date that is more than six months after the date listed in section 2 of schedule C;
- (2) a schedule change would require the budget period to continue after the budget period end date listed in section 1 of schedule C; or
- (3) a schedule change would require the period of performance to continue after the period of performance end date listed in section 1 of schedule C.

For other schedule changes, the Recipient shall follow the applicable procedures of MARAD and document the changes in writing.

5.4 Budget Changes.

- (a) The Recipient acknowledges that if the cost of completing the Project increases:
 - (1) that increase does not affect the Recipient's obligation under this agreement to complete the Project; and
 - (2) MARAD will not increase the amount of this award to address any funding shortfall.
- (b) The Recipient shall request a modification of this agreement to update schedule D if, in comparing the Project's budget to the amounts listed in section 3 of schedule D:
 - (1) the total "Non-Federal Funds" amount decreases; or
 - (2) the total eligible project costs amount decreases.
- (c) For budget changes that are not identified in section 5.4(b), the Recipient shall follow the applicable procedures of MARAD and document the changes in writing.
- (d) If there are Project Cost Savings, then the Recipient may propose to MARAD, in writing consistent with MARAD's requirements, to include in the Project specific additional activities that are within the scope of this award, as defined in section 1.1 and schedule B, and that the Recipient could complete with the Project Cost Savings.

In this agreement, "**Project Cost Savings**" means the difference between the actual eligible project costs and the total eligible project costs listed in section 3 of schedule D, but only if the actual eligible project costs are less than the total eligible project costs that are listed in section 3 of schedule D. There are no Project Cost Savings if the actual eligible project costs are equal to or greater than the total eligible project costs that are listed in section 3 of schedule D.

- (e) If there are Project Cost Savings and either the Recipient does not make a proposal under section 5.4(d) or MARAD does not accept the Recipient's proposal under section 5.4(d), then:

- (1) in a request under section 5.4(b), the Recipient shall reduce the PIDP award amount of the Federal Share by the Project Cost Savings; however, if the total eligible project costs that are listed in section 3 of schedule D are more than the total estimated project costs in the Technical Application, the Recipient may request to MARAD to only reduce the PIDP award amount of the Federal Share by the difference between the actual eligible project costs and the total estimated project costs in the Technical Application so long as the Recipient is providing under this agreement the non-Federal share amount committed to in the Technical Application; and
- (2) if that modification reduces this award and MARAD had reimbursed costs exceeding the revised award, the Recipient shall refund to MARAD the difference between the reimbursed costs and the revised award.

In this agreement, “**Federal Share**” means the sum of the total “PIDP Funds” and “Other Federal Funds” amounts that are listed in section 3 of schedule D.

- (f) The Recipient acknowledges that amounts that are required to be refunded under section 5.4(e)(2) constitute a debt to the Federal Government that MARAD may collect under 2 C.F.R. 200.346 and the Federal Claims Collection Standards (31 C.F.R. parts 900–999).

5.5 MARAD Acceptance of Changes. MARAD may accept or reject modifications requested under this article 5, and in doing so may elect to consider only the interests of the PIDP grant program and MARAD. The Recipient acknowledges that requesting a modification under this article 5 does not amend, modify, or supplement this agreement unless MARAD accepts that modification request and the parties modify this agreement under section 20.1.

ARTICLE 6 GENERAL REPORTING TERMS

- 6.1 Report Submission.** The Recipient shall send all reports required by this agreement to all MARAD contacts who are listed in section 5 of schedule A and all MARAD contacts who are listed in section 2.2.
- 6.2 Alternative Reporting Methods.** MARAD may establish processes for the Recipient to submit reports required by this agreement, including electronic submission processes. If the Recipient is notified of those processes in writing, the Recipient shall use the processes required by MARAD.
- 6.3 Paperwork Reduction Act Notice.** Under 5 C.F.R. 1320.6, the Recipient is not required to respond to a collection of information that does not display a currently valid control number issued by the Office of Management and Budget (the “OMB”). Collections of information conducted under this agreement are approved under OMB Control No. 2133-0552.

**ARTICLE 7
PROGRESS AND FINANCIAL REPORTING**

- 7.1 Quarterly Project Progress Reports and Recertifications.** On or before the 20th day of the first month of each calendar year quarter and until the end of the budget period, the Recipient shall submit to MARAD a Quarterly Project Progress Report and Recertification, including a Federal Financial Report (SF-425) as an attachment, in the format and with the content described in exhibit C. If the date of this agreement is in the final month of a calendar year quarter, then the Recipient shall submit the first Quarterly Project Progress Report, Recertification, and SF-425 in the second calendar year quarter that begins after the date of this agreement.
- 7.2 Final Progress Reports and Financial Information.** No later than 120 days after the end of the budget period, the Recipient shall submit:
- (1) a Final Project Progress Report and Recertification in the format and with the content described in exhibit C for each Quarterly Project Progress Report and Recertification, including a final Federal Financial Report (SF-425); and
 - (2) any other information required under MARAD’s award closeout procedures.

**ARTICLE 8
PERFORMANCE REPORTING**

- 8.1 Baseline Performance Measurement.** If the Capital-Planning Designation in section 2 of schedule F is “Capital,” then:
- (1) the Recipient shall collect data for each performance measure that is identified in the Performance Measure Table in schedule G, accurate as of the Baseline Measurement Date that is identified in schedule G; and
 - (2) on or before the Baseline Report Date that is stated in schedule G, the Recipient shall submit a Baseline Performance Measurement Report that contains the data collected under this section 8.1 and a detailed description of the data sources, assumptions, variability, and estimated levels of precision for each performance measure that is identified in the Performance Measure Table in schedule G.
- 8.2 Post-construction Performance Measurement.** If the Capital-Planning Designation in section 2 of schedule F is “Capital,” then:
- (1) for each performance measure that is identified in the Performance Measure Table in schedule G with quarterly measurement frequency, for each of 12 consecutive calendar quarters, beginning with the first calendar quarter that begins after the Project substantial completion date, at least once during the quarter, the Recipient shall collect data for that performance measure;

- (2) for each performance measure that is identified in the Performance Measure Table in schedule G with annual measurement frequency, the Recipient shall collect data for that performance measure on at least three separate occasions: (i) once during the four consecutive calendar quarters that begin after the Project substantial completion date; (ii) once during the fourth calendar quarter after the first collection; and (iii) once during the eighth calendar quarter after the first collection; and
- (3) not later than January 31 of each year that follows a calendar year during which data was collected under this section 8.2, the Recipient shall submit to MARAD a Post-construction Performance Measurement Report containing the data collected under this section 8.2 in the previous calendar year and stating the dates when the data was collected.

If an external factor significantly affects the value of a performance measure collected under this section 8.2, then the Recipient shall identify that external factor in the Post-construction Performance Measurement Report and discuss its influence on the performance measure.

8.3 Project Outcomes Report. If the Capital-Planning Designation in section 2 of schedule F is “Capital,” then the Recipient shall submit to MARAD, not later than January 31 of the year that follows the final calendar year during which data was collected under section 8.2, a Project Outcomes Report that contains:

- (1) a narrative discussion detailing project successes and the influence of external factors on project expectations;
- (2) all baseline and post-construction performance measurement data that the Recipient reported in the Baseline Performance Measurement Report and the Post-construction Performance Measurement Reports; and
- (3) an *ex post* examination of project effectiveness relative to the baseline data that the Recipient reported in the Baseline Performance Measurement Report.

ARTICLE 9 CLIMATE CHANGE AND ENVIRONMENTAL JUSTICE

9.1 Climate Change and Environmental Justice. Consistent with Executive Order 14008, “Tackling the Climate Crisis at Home and Abroad” (Jan. 27, 2021), schedule H documents the consideration of climate change and environmental justice impacts of the Project.

**ARTICLE 10
RACIAL EQUITY AND BARRIERS TO OPPORTUNITY**

- 10.1 Racial Equity and Barriers to Opportunity.** Consistent with Executive Order 13985, “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government” (Jan. 20, 2021), schedule I documents activities related to the Project to improve racial equity and reduce barriers to opportunity.

**ARTICLE 11
LABOR AND WORK**

- 11.1 Labor and Work.** Consistent with Executive Order 14025, “Worker Organizing and Empowerment” (Apr. 26, 2021), and Executive Order 14052, “Implementation of the Infrastructure Investment and Jobs Act” (Nov. 15, 2021), schedule J documents the consideration of job quality and labor rights, standards, and protections related to the Project.

**ARTICLE 12
CIVIL RIGHTS AND TITLE VI**

12.1 Civil Rights and Title VI.

- (a) Consistent with Executive Order 13985, “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government” (Jan. 20, 2021), Executive Order 14091, “Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government” (Feb. 16, 2023), and DOT Order 1000.12C, “The U.S. Department of Transportation Title VI Program” (June 11, 2021), the purpose of sections 12.1(b)–12.1(c) is to ensure that the Recipient has a plan to comply with civil rights obligations and nondiscrimination laws, including Title VI and 49 C.F.R. part 21.
- (b) If the Recipient Type Designation in section 1 of schedule K is “Existing,” then the Recipient shall submit to MARAD either:
- (1) not later than one month after the date of this agreement, documentation showing that the Recipient has complied with all reporting requirements under MARAD’s implementation of Title VI; or
 - (2) not later than six months after the date of this agreement, both a Title VI Plan and a Community Participation Plan, as those plans are described in chapter II, sections 3–4 of DOT Order 1000.12C.

- (c) If the Recipient Type Designation in section 1 of schedule K is “New,” then MARAD completed a Title VI Assessment of the Recipient, as described in chapter II, section 2 of DOT Order 1000.12C, before entering this agreement, as documented in section 2 of schedule K.
- (d) In this section 12.1, “**Title VI**” means Title VI of the Civil Rights Act of 1964, Pub. L. No. 88-352 (codified at 42 U.S.C. 2000d to 2000d-4a).

12.2 Legacy Infrastructure and Facilities. In furtherance of the Americans with Disabilities Act of 1990 (ADA), Pub. L. No. 101-336 (codified at 42 U.S.C. 12101–12213), and Section 504 of the Rehabilitation Act of 1973, Pub. L. No. 93-112 (codified at 29 U.S.C. 794), not later than one year after the date of this agreement, the Recipient shall develop a plan to address any legacy infrastructure or facilities that are not compliant with ADA standards and are involved in, or closely associated with, the Project. Consistent with 49 C.F.R. part 27, even in the absence of prior discriminatory practice or usage, a Recipient administering a program or activity receiving Federal financial assistance is expected to take action to ensure that no person is excluded from participation in or denied the benefits of the program or activity on the basis of disability.

ARTICLE 13

CRITICAL INFRASTRUCTURE SECURITY AND RESILIENCE

13.1 Critical Infrastructure Security and Resilience.

- (a) Consistent with Presidential Policy Directive 21, “Critical Infrastructure Security and Resilience” (Feb. 12, 2013), and the National Security Presidential Memorandum on Improving Cybersecurity for Critical Infrastructure Control Systems (July 28, 2021), the Recipient shall consider physical and cybersecurity and resilience in planning, design, and oversight of the Project.
- (b) If the Security Risk Designation in section 5 of schedule F is “Elevated,” then the Recipient shall:
 - (1) in the first Quarterly Project Progress Report and Recertification that the Recipient submits under section 7.1, identify a cybersecurity Point of Contact for the transportation infrastructure being improved in the Project; and
 - (2) in the second Quarterly Project Progress Report and Recertification that the Recipient submits under section 7.1, provide a plan for completing the requirements in section 13.1(c).
- (c) If the Security Risk Designation in section 5 of schedule F is “Elevated,” then not later than the eighth Quarterly Project Progress Report and Recertification that the Recipient submits under section 7.1, the Recipient shall include each of the following in a Quarterly Project Progress Report and Recertification that the Recipient submits under section 7.1:

- (1) a cybersecurity incident reporting plan for the transportation infrastructure being improved in the Project or a summary of that plan;
- (2) a cybersecurity incident response plan for the transportation infrastructure being improved in the Project or a summary of that plan;
- (3) the results of a self-assessment of the Recipient's cybersecurity posture and capabilities or a summary of those results; and
- (4) a description of any additional actions that the Recipient has taken to consider or address cybersecurity risk of the transportation infrastructure being improved in the Project.

ARTICLE 14 PIDP DESIGNATIONS

- 14.1 Effect of Urban or Rural Designation.** Based on information that the Recipient provided to MARAD, including the Technical Application, section 1 of schedule F designates this award as an urban award or a rural award, as defined in the NOFO. The Recipient shall comply with the requirements that accompany that designation on geographic location and cost sharing.
- 14.2 Effect of Historically Disadvantaged Community.** If section 3 of schedule F lists "Yes" for the "HDC Designation," then based on information that the Recipient provided to MARAD, including the Technical Application, MARAD determined that the Project will be carried out in a historically disadvantaged community, as defined in the NOFO. The Recipient shall incur a majority of the costs under this award in historically disadvantaged communities.

ARTICLE 15 CONTRACTING AND SUBAWARDS

- 15.1 Minimum Wage Rates.** The Recipient shall include, in all contracts in excess of \$2,000 for work on the Project that involves labor, provisions establishing minimum rates of wages, to be predetermined by the United States Secretary of Labor, in accordance with the Davis-Bacon Act, 40 U.S.C. 3141–3148, that 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.
- 15.2 Buy America.**
- (a) For the purpose of the award term at exhibit B, term B.5, the Project is "an infrastructure project." The Recipient acknowledges that iron, steel, manufactured products, and construction materials used in the Project are subject to the Buy America preference in

that award term and this agreement is not a waiver of that preference. All noninfrastructure spending is subject to the Buy American Act, 41 U.S.C. chapter 83.

- (b) If the Recipient uses iron, steel, manufactured products, or construction materials that are not produced in the United States in violation of the award term at exhibit B, term B.5, MARAD may disallow and deny reimbursement of costs incurred by the Recipient and take other remedial actions under article 16 and 2 C.F.R. 200.339–200.340.
- (c) Under 2 C.F.R. 200.322, as appropriate and to the extent consistent with law, the Recipient should, to the greatest extent practicable under this award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The Recipient shall include the requirements of 2 C.F.R. 200.322 in all subawards including all contracts and purchase orders for work or products under this award.
- (d) For all iron, steel, manufactured products, or construction materials incorporated into the Project and to which a Buy America preference applies, the manufacturer or supplier of the item(s) should provide to the Recipient a signed certification statement attesting that each item procured under this award meets the applicable Buy America preference requirements. The Recipient must maintain on file any certifications received under this section 15.2(d) and provide to MARAD copies of any such certifications or other documentation supporting compliance upon request of MARAD pursuant to article 24 and 2 C.F.R. 200.334-200.338.

15.3 Small and Disadvantaged Business Requirements.

- (a) If any funds under this award are administered by a State Department of Transportation, the Recipient shall expend those funds in compliance with the requirements at 49 C.F.R. part 26 (“Participation by disadvantaged business enterprises in Department of Transportation financial assistance programs”).
- (b) If any funds under this award are not administered by a State Department of Transportation, the Recipient shall expend those funds in compliance with the requirements at 2 C.F.R. 200.321 (“Contracting with small businesses, minority businesses, women’s business enterprises, veteran-owned businesses, and labor surplus area firms”).

15.4 Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment. The Recipient acknowledges that Section 889 of Pub. L. No. 115-232 and 2 C.F.R. 200.216 prohibit the Recipient and all subrecipients from procuring or obtaining certain telecommunications and video surveillance services or equipment under this award.

15.5 Pass-through Entity Responsibilities.

- (a) If the Recipient makes a subaward under this award, the Recipient shall comply with the requirements on pass-through entities under 2 C.F.R. parts 200 and 1201, including 2 C.F.R. 200.331–200.333.
- (b) By accepting this award, the Recipient certifies that it either has systems in place to comply with the requirements set forth at 2 C.F.R. 200.331-333 and described in this section 15.5(b)(1)-(9) or will refrain from making subawards until the systems are designed and implemented:
- (1) The Recipient is responsible for selecting subrecipients using a system for properly differentiating between subrecipients and procurement contractors under the standards at 2 C.F.R. 200.331.
 - (2) The Recipient must establish and follow a system that ensures all subaward agreements are in writing and contain all the elements required by 2 C.F.R. 200.332(b).
 - (3) Prior to making subawards under this award, the Recipient must ensure that each subrecipient has a Unique Entity Identifier.
 - (4) The Recipient must ensure that subrecipients are aware that they are subject to the same requirements as those that apply to the pass-through entity's PIDP award, as required by 2 C.F.R. 200.332(b)(2), including but not limited to, applicable Buy America requirements, procurement standards, reporting subawards and executive compensation under the Federal Funding Accountability and Transparency Act, certifications regarding lobbying, and Title VI of the Civil Rights Act of 1964 requirements.
 - (5) The Recipient must establish and follow a system for evaluating subrecipient risks of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward as required by 2 C.F.R. 200.332(c) and document that evaluation.
 - (6) The Recipient must establish and follow a system for deciding whether to impose additional requirements on subrecipients based on risk factors as required by 2 C.F.R. 200.332(d).
 - (7) The Recipient must establish and follow a system for monitoring subrecipient performance that includes the elements required by 2 C.F.R. 200.332(e) and report the results of the monitoring in the quarterly progress reports referenced in article 7 of this agreement.
 - (8) The Recipient must verify that every subrecipient is audited as required by subpart F of 2 C.F.R. 200 when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in 2 C.F.R. 200.501.
 - (9) The Recipient may not make a fixed amount subaward without prior approval from MARAD.

15.6 Disclosing Conflict of Interest.

- (a) The Recipient must establish and maintain written Standards of Conduct to address, resolve, and disclose to MARAD conflicts of interest affecting any contract or subaward and governing the performance of its employees that are engaged in or otherwise involved in the award or administration of third-party contracts. Additionally, the Recipient must be aware of conflict of interest issues a prospective contractor might have, including lack of impartiality, impaired objectivity, or unfair competitive advantage.
- (b) If the Recipient has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, the Recipient must also maintain written standards of conduct covering organizational conflicts of interest.
- (c) The Recipient must disclose in a timely manner, in writing, any potential or real conflicts of interest described in section 15.6(a)-(b) to MARAD in accordance with 2 C.F.R. 200.112, including the Recipient's approach for resolving or mitigating the conflict of interest.

ARTICLE 16 NONCOMPLIANCE AND REMEDIES

16.1 Noncompliance Determinations.

- (a) If MARAD determines that the Recipient may have failed to comply with the United States Constitution, Federal law, or the terms and conditions of this agreement, MARAD may notify the Recipient of a proposed determination of noncompliance. For the notice to be effective, it must be written and MARAD must include an explanation of the nature of the noncompliance, describe a remedy, state whether that remedy is proposed or effective at an already determined date, and describe the process through and form in which the Recipient may respond to the notice.
- (b) If MARAD notifies the Recipient of a proposed determination of noncompliance under section 16.1(a), the Recipient may, not later than 7 calendar days after the notice, respond to that notice in the form and through the process described in that notice. In its response, the Recipient may:
 - (1) accept the remedy;
 - (2) acknowledge the noncompliance, but propose an alternative remedy; or
 - (3) dispute the noncompliance.

To dispute the noncompliance, the Recipient must include in its response documentation or other information supporting the Recipient's compliance.

- (c) MARAD may make a final determination of noncompliance only:

- (1) after considering the Recipient's response under section 16.1(b); or
 - (2) if the Recipient fails to respond under section 16.1(b), after the time for that response has passed.
- (d) To make a final determination of noncompliance, MARAD must provide a notice to the Recipient that states the bases for that determination.

16.2 Remedies.

- (a) If MARAD makes a final determination of noncompliance under section 16.1, MARAD may impose a remedy, including:
- (1) additional conditions on the award;
 - (2) any remedy permitted under 2 C.F.R. 200.339–200.340, including withholding of payments; disallowance of previously reimbursed costs, requiring refunds from the Recipient to MARAD; suspension or termination of the award; or suspension and disbarment under 2 C.F.R. part 180; or
 - (3) any other remedy legally available.
- (b) To impose a remedy, MARAD must provide a written notice to the Recipient that describes the remedy, but MARAD may make the remedy effective before the Recipient receives that notice.
- (c) If MARAD determines that it is in the public interest, MARAD may impose a remedy, including all remedies described in section 16.2(a), before making a final determination of noncompliance under section 16.1. If it does so, then the notice provided under section 16.1(d) must also state whether the remedy imposed will continue, be rescinded, or modified.
- (d) In imposing a remedy under this section 16.2 or making a public interest determination under section 16.2(c), MARAD may elect to consider the interests of only MARAD.
- (e) The Recipient acknowledges that amounts that MARAD requires the Recipient to refund to MARAD due to a remedy under this section 16.2 constitute a debt to the Federal Government that MARAD may collect under 2 C.F.R. 200.346 and the Federal Claims Collection Standards (31 C.F.R. parts 900–999).

16.3 Other Oversight Entities. Nothing in this article 16 limits any party's authority to report activity under this agreement to the United States Department of Transportation Inspector General or other appropriate oversight entities.

ARTICLE 17
AGREEMENT TERMINATION

17.1 MARAD Termination.

- (a) MARAD may terminate this agreement and all of its obligations under this agreement if any of the following occurs:
 - (1) the Recipient fails to obtain or provide any non-PIDP Grant contribution or alternatives approved by MARAD as provided in this agreement and consistent with schedule D;
 - (2) a completion date for the Project or a component of the Project is listed in section 2 of schedule C and the Recipient fails to meet that milestone by six months after the date listed in section 2 of schedule C;
 - (3) the Recipient fails to meet a milestone listed in section 3 of schedule C by the deadline date listed in that section for that milestone;
 - (4) the Recipient fails to comply with the terms and conditions of this agreement, including a material failure to comply with the project schedule in schedule C even if it is beyond the reasonable control of the Recipient;
 - (5) circumstances cause changes to the Project that MARAD determines are inconsistent with MARAD's basis for selecting the Project to receive a PIDP Grant; or
 - (6) MARAD determines that termination of this agreement is in the public interest.
- (b) In terminating this agreement under this section, MARAD may elect to consider only the interests of MARAD.
- (c) This section 17.1 does not limit MARAD's ability to terminate this agreement as a remedy under section 16.2.
- (d) The Recipient may request that MARAD terminate the agreement under this section 17.1.

17.2 Closeout Termination.

- (a) This agreement terminates on Project Closeout.
- (b) In this agreement, "**Project Closeout**" means the date that MARAD notifies the Recipient that the award is closed out. Under 2 C.F.R. 200.344, Project Closeout should occur no later than one year after the end of the period of performance.

17.3 Post-Termination Adjustments. The Recipient acknowledges that under 2 C.F.R. 200.345–200.346, termination of the agreement does not extinguish MARAD's authority

to disallow costs, including costs that MARAD reimbursed before termination, and recover funds from the Recipient.

17.4 Non-Terminating Events.

- (a) The end of the budget period described under section 28.4 does not terminate this agreement or the Recipient's obligations under this agreement.
- (b) The end of the period of performance described under section 28.5 does not terminate this agreement or the Recipient's obligations under this agreement.
- (c) The cancellation of funds under section 19.2 does not terminate this agreement or the Recipient's obligations under this agreement.

17.5 Other Remedies. The termination authority under this article 17 supplements and does not limit MARAD's remedial authority under article 16 or 2 C.F.R. part 200, including 2 C.F.R. 200.339–200.340.

**ARTICLE 18
COSTS, PAYMENTS, AND UNEXPENDED FUNDS**

18.1 Limitation of Federal Award Amount. Under this award, MARAD shall not provide funding greater than the amount obligated under section 4.3. The Recipient acknowledges that MARAD is not liable for payments exceeding that amount, and the Recipient shall not request reimbursement of costs exceeding that amount.

18.2 Projects Costs. This award is subject to the cost principles at 2 C.F.R. 200 subpart E, including provisions on determining allocable costs and determining allowable costs.

18.3 Timing of Project Costs.

- (a) The Recipient shall not charge to this award costs that are incurred after the budget period.
- (b) Except as permitted under section 18.3(d)–(e), the Recipient shall not charge to this award costs that were incurred before the date of this agreement.
- (c) This agreement hereby terminates and supersedes any previous MARAD approval for the Recipient to incur costs under this award for the Project. Section 5 of schedule D is the exclusive MARAD approval of costs incurred before the date of this agreement.
- (d) If section 5 of schedule D identifies a pre-award approval under 2 C.F.R. 200.458 that will be reimbursed with Federal funds, then the Recipient may charge to this award, for payment from the PIDP Grant or other Federal amounts, costs that were incurred before the date of this agreement, were consistent with that approval, and would have been allowable if incurred during the budget period.

- (e) If MARAD approves a request from the Recipient under 46 U.S.C. 54301(a)(10)(B) and section 5 of schedule D describes that approval, then the Recipient may charge to this award, for payment from non-Federal amounts, costs that were incurred before the date of this agreement, were consistent with that approval, and would have been allowable if incurred during the budget period.

18.4 Recipient Recovery of Federal Funds. The Recipient shall make all reasonable efforts, including initiating litigation, if necessary, to recover Federal funds if MARAD determines, after consultation with the Recipient, that those funds have been spent fraudulently, wastefully, or in violation of Federal laws, or misused in any manner under this award. The Recipient shall not enter a settlement or other final position, in court or otherwise, involving the recovery of funds under the award unless approved in advance in writing by MARAD.

18.5 Unexpended Federal Funds. Any Federal funds that are awarded at section 4.1 but not expended on allocable, allowable costs remain the property of the United States.

18.6 Timing of Payments to the Recipient.

- (a) Reimbursement is the payment method for the PIDP grant program.
- (b) The Recipient shall not request reimbursement of a cost before the Recipient has entered into an obligation for that cost.

18.7 Payment Method.

- (a) If the MARAD Payment System identified in section 6 of schedule A is “Delphi eInvoicing System,” then the Recipient shall complete all applicable forms and attach supporting documents, including the SF 270, in Delphi eInvoicing System, which is on-line and paperless, to request reimbursement. To obtain the latest version of these standard forms, visit <https://www.grants.gov/forms/>. The Recipient shall review the training on using Delphi eInvoicing System before submitting a request for reimbursement. To guide the Recipient when reviewing this training, MARAD provides the following additional information, which may change after execution of this agreement:

- (1) The Recipient may access the training from the MARAD “Delphi eInvoicing System” webpage at <https://einvoice.esc.gov>. The training is linked under the heading “Grantee Training.” The Recipient should click on “Grantee Training” to access the training.
- (2) A username and password are not required to access the on-line training. It is currently available, will be accessible 24/7, and will take approximately 10 minutes to review.
- (3) Once the above referenced training has been reviewed, Recipients must request and complete the External User Access Request form. Recipients can request the External User Access Request form by sending an email to a Grants/Contracting

Officer who is identified in in section 5 of schedule A or section 2.2. A request to establish access will be sent once the External User Access Request form is received.

- (b) MARAD may deny a payment request that is not submitted using the method identified in this section 18.7.

18.8 Information Supporting Expenditures.

- (a) If the MARAD Payment System identified in section 6 of schedule A is “Delphi eInvoicing System,” then when requesting reimbursement of costs incurred or credit for cost share incurred, the Recipient shall electronically submit and attach the SF 270 (Request for Advance or Reimbursement), shall identify the Federal share and the Recipient’s share of costs, and shall submit supporting cost detail to clearly document all costs incurred. As supporting cost detail, the Recipient shall include a detailed breakout of all costs incurred, including direct labor, indirect costs, other direct costs, and travel.
- (b) If the Recipient submits a request for reimbursement that MARAD determines does not include or is not supported by sufficient detail, MARAD may deny the request or withhold processing the request until the Recipient provides sufficient detail.

18.9 Reimbursement Request Timing Frequency.

- (a) If the MARAD Payment System identified in section 6 of schedule A is “Delphi eInvoicing System,” the Recipient shall request reimbursement of a cost incurred as soon as practicable after incurring that cost. If the Recipient requests reimbursement for a cost more than 180 days after that cost was incurred, MARAD may deny the request for being untimely.
- (b) If the MARAD Payment System identified in section 6 of schedule A is “Delphi eInvoicing System,” then the Recipient should not request reimbursement more frequently than once every 30 days.

ARTICLE 19 LIQUIDATION, ADJUSTMENTS, AND FUNDS AVAILABILITY

19.1 Liquidation of Recipient Obligations.

- (a) The Recipient shall liquidate all obligations of award funds under this agreement not later than the earlier of (1) 120 days after the end of the period of performance or (2) the statutory funds cancellation date identified in section 19.2.
- (b) Liquidation of obligations and adjustment of costs under this agreement follow the requirements of 2 C.F.R. 200.344–200.346.

19.2 Funds Cancellation.

- (a) PIDP grant funding that was appropriated in division J of the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (Nov. 15, 2021) for fiscal year 2023, is canceled by statute after September 30, 2038, and then unavailable for any purpose, including adjustments.
- (b) PIDP grant funding that was appropriated in the Consolidated Appropriations Act, 2023, Pub. L. No. 117-328 (Dec. 29, 2022), or a previous annual appropriations act, remains available until expended.
- (c) Section 4.2 identifies the specific source or sources of funding for this award.

ARTICLE 20 AGREEMENT MODIFICATIONS

20.1 Bilateral Modifications. The parties may amend, modify, or supplement this agreement by mutual agreement in writing signed by MARAD and the Recipient. Either party may request to amend, modify, or supplement this agreement by written notice to the other party.

20.2 Unilateral Contact Modifications.

- (a) The Recipient may update the contacts who are listed in section 3 of schedule A by written notice to all of the MARAD contacts who are listed in section 5 of schedule A and section 2.2.
- (b) MARAD may update the contacts who are listed in section 5 of schedule A and section 2.2 by written notice to all of the Recipient contacts who are listed in section 3 of schedule A.

20.3 MARAD Unilateral Modifications.

- (a) MARAD may unilaterally modify this agreement to comply with Federal law, including the Program Statute.
- (b) To unilaterally modify this agreement under this section 20.3, MARAD must provide a notice to the Recipient that includes a description of the modification and state the date that the modification is effective.

20.4 Other Modifications. The parties shall not amend, modify, or supplement this agreement except as permitted under sections 20.1, 20.2, or 20.3. If an amendment, modification, or supplement is not permitted under section 20.1, not permitted under section 20.2, or not permitted under section 20.3, it is void.

ARTICLE 21
FEDERAL FINANCIAL ASSISTANCE, ADMINISTRATIVE, AND NATIONAL
POLICY REQUIREMENTS

21.1 Uniform Administrative Requirements for Federal Awards. The Recipient shall comply with the obligations on non-Federal entities under 2 C.F.R. parts 200 and 1201.

21.2 Federal Law and Public Policy Requirements.

- (a) The Recipient shall ensure that Federal funding is expended in full accordance with the United States Constitution, Federal law, and statutory and public policy requirements: including but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.
- (b) The failure of this agreement to expressly identify Federal law applicable to the Recipient or activities under this agreement does not make that law inapplicable.

21.3 Federal Freedom of Information Act.

- (a) MARAD is subject to the Freedom of Information Act, 5 U.S.C. 552.
- (b) The Recipient acknowledges that the Technical Application and materials submitted to MARAD by the Recipient related to this agreement may become MARAD records subject to public release under 5 U.S.C. 552.

21.4 History of Performance. Under 2 C.F.R. 200.206, any Federal awarding agency may consider the Recipient's performance under this agreement, when evaluating the risks of making a future Federal financial assistance award to the Recipient.

21.5 Whistleblower Protection.

- (a) The Recipient acknowledges that it is a "grantee" within the scope of 41 U.S.C. 4712, which prohibits the Recipient from taking certain actions against an employee for certain disclosures of information that the employee reasonably believes are evidence of gross mismanagement of this award, gross waste of Federal funds, or a violation of Federal law related to this award.
- (b) The Recipient shall inform its employees in writing of the rights and remedies provided under 41 U.S.C. 4712, in the predominant native language of the workforce.

21.6 External Award Terms and Obligations.

- (a) In addition to this document and the contents described in article 29, this agreement includes the following additional terms as integral parts:
 - (1) Appendix A to 2 C.F.R. part 25: System for Award Management and Universal Identifier Requirements;

- (2) Appendix A to 2 C.F.R. part 170: Reporting Subawards and Executive Compensation;
- (3) 2 C.F.R. 175.15(b): Trafficking in Persons; and
- (4) Appendix XII to 2 C.F.R. part 200: Award Term and Condition for Recipient Integrity and Performance Matters.

(b) The Recipient shall comply with:

- (1) 49 C.F.R. part 20: New Restrictions on Lobbying;
- (2) 49 C.F.R. part 21: Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964;
- (3) 49 C.F.R. part 27: Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance; and
- (4) Subpart B of 49 C.F.R. part 32: Governmentwide Requirements for Drug-free Workplace (Financial Assistance).

21.7 Incorporated Certifications. The Recipient makes the statements in the following certifications, which are incorporated by reference:

- (1) Appendix A to 49 C.F.R. part 20 (Certification Regarding Lobbying).

ARTICLE 22 MONITORING, FINANCIAL MANAGEMENT, CONTROLS, AND RECORDS

22.1 Recipient Monitoring and Record Retention.

- (a) The Recipient shall monitor activities under this award, including activities under subawards and contracts, to ensure:
 - (1) that those activities comply with this agreement; and
 - (2) that funds provided under this award are not expended on costs that are not allowable under this award or not allocable to this award.
- (b) If the Recipient makes a subaward under this award, the Recipient shall monitor the activities of the subrecipient in compliance with 2 C.F.R. 200.332(e) and section 15.5 of this agreement.
- (c) The Recipient shall retain records relevant to the award as required under 2 C.F.R. 200.334.

22.2 Financial Records and Audits.

- (a) The Recipient shall keep all project accounts and records that fully disclose the amount and disposition by the Recipient of the award funds, the total cost of the Project, and the amount or nature of that portion of the cost of the Project supplied by other sources, and any other financial records related to the Project.
- (b) The Recipient shall keep accounts and records described under section 22.2(a) in accordance with a financial management system that meets the requirements of 2 C.F.R. 200.302–200.307 and 2 C.F.R. 200 subpart F and will facilitate an effective audit in accordance with 31 U.S.C. 7501–7506.
- (c) The Recipient shall separately identify expenditures under the FY 2023 PIDP Grants in financial records required for audits under 31 U.S.C. 7501–7506. Specifically, the Recipient shall:
 - (1) list expenditures under that program separately on the schedule of expenditures of Federal awards required under 2 C.F.R. 200 subpart F, including “FY 2023” in the program name; and
 - (2) list expenditures under that program on a separate row under Part II, Item 1 (“Federal Awards Expended During Fiscal Period”) of Form SF-SAC, including “FY 2023” in column c (“Additional Award Identification”).

22.3 Internal Controls. The Recipient shall establish and maintain internal controls as required under 2 C.F.R. 200.303.

22.4 MARAD Record Access. MARAD may access Recipient records related to this award under 2 C.F.R. 200.337 in order to make audits, examinations, excerpts, and transcripts. This right also includes timely and reasonable access to the Recipient’s personnel for the purpose of interview and discussion related to such documents.

ARTICLE 23 NOTICES

23.1 Form of Notice.

- (a) For a notice under this agreement to be valid, it must be in writing.
- (b) For a notice to MARAD under this agreement to be valid, it must be signed and dated by an individual with authority to act on behalf of the Recipient.

23.2 Method of Notice to MARAD.

- (a) For a notice to MARAD under this agreement to be valid, it must be sent by one or more of the following: (1) email; (2) a national transportation company with all fees prepaid

and receipt of delivery; or (3) by registered or certified mail with return receipt requested and postage prepaid.

- (b) For a notice to MARAD under this agreement to be valid, it must be addressed to all of the MARAD contacts who are listed in section 5 of schedule A and section 2.2.
- (c) Except as specified in section 23.2(d), a valid notice to MARAD under this agreement will be deemed to have been received on the earliest of (1) when the email is received by MARAD, as recorded by MARAD's email systems, and (2) when indicated on the receipt of delivery by national transportation company or mail.
- (d) If a valid notice or other communication to MARAD under this agreement is received after 5:00 p.m. on a business day, or on a day that is not a business day, then the notice will be deemed received at 9:00 a.m. on the next business day.

23.3 Method of Notice to Recipient.

- (a) Except as specified in section 23.3(d), for a notice to the Recipient under this agreement to be valid, it must be sent by one or more of the following: (1) email; (2) a national transportation company with all fees prepaid and receipt of delivery; or (3) registered or certified mail with return receipt requested and postage prepaid.
- (b) For a notice to the Recipient under this agreement to be valid, it must be addressed to all of the Recipient contacts who are listed in section 3 of schedule A.
- (c) A valid notice to the Recipient under this agreement is effective when received by the Recipient. It will be deemed to have been received:
 - (1) for email, on receipt; and, for other delivery, when indicated on the receipt of delivery by national transportation company or mail; or
 - (2) if the Recipient rejects or otherwise refuses to accept it, or if it cannot be delivered because of a change in address or representatives for which no notice was given, then on that rejection, refusal, or inability to deliver.
- (d) For a notice to the Recipient under article 16 to be valid, it must be sent by one or more of the following: (1) a national transportation company with all fees prepaid and receipt of delivery or (2) registered or certified mail with return receipt requested and postage prepaid.

23.4 Recipient Contacts for Notice. If a Recipient contact who is listed in section 3 of schedule A is unable to receive notices under this agreement on behalf of the Recipient, then the Recipient shall promptly identify one or more replacement contacts under section 20.2(a).

23.5 Additional Mandatory Notices to MARAD. The Recipient shall notify MARAD if any one of the following conditions is satisfied, not later than 5 business days after that condition is satisfied:

- (1) the Recipient receives a communication related to this award or this agreement from the United States Comptroller General, a Federal Inspector General, or any other oversight entity; or
- (2) the Recipient becomes aware of waste, fraud, abuse, or potentially criminal activity related to this agreement.

23.6 Scope of Notice Requirements. The form and method requirements of this article 23, including sections 23.1, 23.2, and 23.3, apply only to communications for which this agreement expressly uses one or more of the following words: “notice”; “notification”; “notify”; or “notifying.” This article 23 does not control or limit other communication between the parties about the Project or this agreement.

ARTICLE 24 INFORMATION REQUESTS

24.1 MARAD Information Requests.

- (a) By notice, MARAD may request from the Recipient any information that MARAD determines is necessary to fulfill its oversight responsibilities under the Program Statute or other Federal law.
- (b) If MARAD requests information from the Recipient under section 24.1(a), the Recipient shall respond in the form and at the time detailed in the notice requesting information.
- (c) This section 24.1 does not limit the Recipient’s obligations under section 22.4 or 2 C.F.R. 200.337 to provide access to Recipient records.

ARTICLE 25 ASSIGNMENT

25.1 Assignment Prohibited. The Recipient shall not transfer to any other entity any discretion granted under this agreement, any right to satisfy a condition under this agreement, any remedy under this agreement, or any obligation imposed under this agreement.

ARTICLE 26 WAIVER

26.1 Waivers.

- (a) A waiver of a term of this agreement granted by MARAD will not be effective unless it is in writing and signed by an authorized representative of MARAD.

- (b) A waiver of a term of this agreement granted by MARAD on one occasion will not operate as a waiver on other occasions.
- (c) If MARAD fails to require strict performance of a term of this agreement, fails to exercise a remedy for a breach of this agreement, or fails to reject a payment during a breach of this agreement, that failure does not constitute a waiver of that term or breach.

ARTICLE 27

ADDITIONAL TERMS AND CONDITIONS

27.1 Disclaimer of Federal Liability. MARAD 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 agreement.

27.2 Relocation and Real Property Acquisition.

- (a) To the greatest extent practicable under State law, the Recipient shall comply with the land acquisition policies in 49 C.F.R. 24 subpart B and shall pay or reimburse property owners for necessary expenses as specified in that subpart.
- (b) The Recipient shall provide a relocation assistance program offering the services described in 49 C.F.R. 24 subpart C and shall provide reasonable relocation payments and assistance to displaced persons as required in 49 C.F.R. 24 subparts D–E.
- (c) The Recipient shall make available to displaced persons, within a reasonable period of time prior to displacement, comparable replacement dwellings in accordance with 49 C.F.R. 24 subpart E.

27.3 Real Property and Equipment Disposition.

- (a) In accordance with 2 C.F.R. 200.311, when real property is no longer needed for the originally authorized purpose, the Recipient or subrecipient must obtain disposition instructions from the Federal awarding agency or pass-through entity.
- (b) In accordance with 2 C.F.R. 200.313 and 1201.313, equipment acquired under this award must be used by the Recipient or subrecipient in the Project as long as needed, whether or not the Project continues to be supported by the Federal award. When no longer needed for the originally awarded Project or another Federal award:
 - (1) if the entity that acquired the equipment is a State, the State shall dispose of that equipment in accordance with State laws and procedures;
 - (2) if the entity that acquired the equipment is an Indian Tribe, the Indian Tribe shall dispose of that equipment in accordance with tribal laws and procedures. If such laws and procedures do not exist, Indian Tribes must follow the guidance in 2 C.F.R. 200.313; and

- (3) if the entity that acquired the equipment is neither a State nor an Indian Tribe, that entity shall request disposition instructions from MARAD.
- (c) In accordance with 2 C.F.R. 200.443(d), the distribution of the proceeds from the disposition of equipment must be made in accordance with 2 C.F.R. 200.310–200.316 and 2 C.F.R. 1201.313.
- (d) The Recipient shall ensure compliance with this section 27.3 for all tiers of subawards under this award.

27.4 Environmental Review.

- (a) The Recipient shall not begin final design, begin construction, or take other actions that represent an irretrievable commitment of resources for the Project unless and until:
 - (1) MARAD complies with the National Environmental Policy Act, 42 U.S.C. 4321 to 4370m-12, Section 106 of the National Historic Preservation Act, 54 U.S.C. 306108, Section 7 of the Endangered Species Act, 16 U.S.C. 1531, and any other applicable environmental laws and regulations; and
 - (2) MARAD provides the Recipient with written communication stating that the environmental review process is complete.
- (b) The Recipient acknowledges that:
 - (1) MARAD’s actions under section 27.4(a) depend on the Recipient conducting necessary environmental analyses and submitting necessary environmental documents to MARAD; and
 - (2) applicable environmental statutes and regulations may require the Recipient to prepare and submit documents to other Federal, State, and local agencies.
- (c) To the extent practicable and consistent with Federal law, the Recipient shall coordinate all environmental investigations, reviews, and consultations as a single process.
- (d) The activities described in schedule B and other information described in this agreement may inform environmental decision-making processes, but the parties do not intend this agreement to document the alternatives under consideration under those processes. If a build alternative is selected that does not align with schedule B or other information in this agreement, then:
 - (1) the parties may amend this agreement under section 20.1 for consistency with the selected build alternative; or
 - (2) if MARAD determines that the condition at section 17.1(a)(5) is satisfied, MARAD may terminate this agreement under section 17.1(a)(5).

- (e) The Recipient shall complete any mitigation activities described in the environmental documents and correspondence for the Project, including the terms and conditions contained in the required permits and authorizations for the Project. Section 3 of schedule B identifies environmental documents and correspondence describing mitigation activities, but the absence of a document or correspondence from that section does not relieve the Recipient of any compliance obligations. MARAD may determine that any failure to complete the mitigation activities within the Project environmental documents is non-compliance of the grant agreement subject to the remedies identified in article 16.
- (f) The Recipient acknowledges that, unless MARAD indicates otherwise in writing, upon termination of an agreement for the Project entered into under 36 C.F.R. 800.6(c) or 36 C.F.R. 800.14(b), the Recipient shall immediately cease all Project activities related to the “undertaking” as defined in that agreement, pending MARAD’s determinations under 36 C.F.R. 800 and applicable law.

ARTICLE 28

MANDATORY AWARD INFORMATION

28.1 Information Contained in a Federal Award. For 2 C.F.R. 200.211:

- (1) the “Federal Award Date” is the date of this agreement, as defined under section 30.2;
- (2) the “Assistance Listings Number” is 20.823 and the “Assistance Listings Title” is “Port Infrastructure Development Program”; and
- (3) this award is not for research and development.

28.2 Federal Award Identification Number. The Federal Award Identification Number is listed in section 7 of schedule A.

28.3 Recipient’s Unique Entity Identifier. The Recipient’s Unique Entity Identifier, as defined at 2 C.F.R. 25.415, is listed in section 2 of schedule A.

28.4 Budget Period. The budget period for this award begins on the date of this agreement and ends on the budget period end date that is listed in section 1 of schedule C. In this agreement, “budget period” is used as defined at 2 C.F.R. 200.1.

28.5 Period of Performance. The period of performance for this award begins on the date of this agreement and ends on the period of performance end date that is listed in section 1 of schedule C. In this agreement, “period of performance” is used as defined at 2 C.F.R. 200.1.

ARTICLE 29
CONSTRUCTION AND DEFINITIONS

29.1 Schedules. This agreement includes the following schedules as integral parts:

Schedule A	Administrative Information
Schedule B	Project Activities
Schedule C	Award Dates and Project Schedule
Schedule D	Award and Project Financial Information
Schedule E	Changes from Application
Schedule F	PIDP Designations
Schedule G	PIDP Performance Measurement Information
Schedule H	Climate Change and Environmental Justice Impacts
Schedule I	Racial Equity and Barriers to Opportunity
Schedule J	Labor and Work
Schedule K	Civil Rights and Title VI

29.2 Exhibits. The following exhibits, which are located in the document titled “Exhibits to MARAD Grant Agreements Under the Fiscal Year 2023 Port Infrastructure Development Program Grants,” dated October 2, 2024, and available at <https://www.maritime.dot.gov/grants/federal-grant-assistance/federal-grant-assistance>, are part of this agreement.

Exhibit A	Applicable Federal Laws and Regulations
Exhibit B	Additional Standard Terms
Exhibit C	Quarterly Project Progress Reports and Recertifications: Format and Content

29.3 Construction.

(a) In these General Terms and Conditions:

- (1) unless expressly specified, a reference to a section or article refers to that section or article in these General Terms and Conditions;
- (2) a reference to a section or other subdivision of a schedule listed in section 29.1 will expressly identify the relevant schedule; and
- (3) there are no references to articles or sections in project-specific portions of the agreement that are not contained in schedules listed in section 29.1.

(b) If a provision in these General Terms and Conditions or the exhibits conflicts with a provision in the project-specific portion of the agreement, then the project-specific portion of the agreement prevails. If a provision in the exhibits conflicts with a provision in these General Terms and Conditions, then the provision in these General Terms and Conditions prevails.

29.4 Integration. This agreement constitutes the entire agreement of the parties relating to the PIDP grant program and awards under that program and supersedes any previous agreements, oral or written, relating to the PIDP grant program and awards under that program.

29.5 Definitions. In this agreement, the following definitions apply:

“**General Terms and Conditions**” means this document, including articles 1–30.

“**Program Statute**” means the collective statutory text:

- (1) at 46 U.S.C. 54301;
- (2) under the heading “Port Infrastructure Development Program” in title VIII of division J of the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (Nov. 15, 2021), and all other provisions of that act that apply to amounts appropriated under that heading; and
- (3) under the heading “Port Infrastructure Development Program” in title I of division L of the Consolidated Appropriations Act, 2023 Pub. L. No. 117-328 (Dec. 29, 2022), and all other provisions of that act that apply to amounts appropriated under that heading.
- (4) If a Funding Act not described in (1)-(3) above is identified in section 4 of schedule F, then all provisions of that act that apply to amounts appropriated under that heading for the PIDP shall also apply.

“**Project**” means the project proposed in the Technical Application, as modified by the negotiated provisions of this agreement, including schedules A–K.

“**PIDP Grant**” means an award of funds that were made available under the NOFO.

“**Technical Application**” means the application identified in section 1 of schedule A, including Standard Form 424 and all information and attachments submitted with that form through Grants.gov.

29.6 References to Times of Day. All references to times of day in this agreement are deemed references to that time at the prevailing local time in Washington, DC.

ARTICLE 30 AGREEMENT EXECUTION AND EFFECTIVE DATE

30.1 Counterparts. This agreement may be executed in counterparts, which constitute one document. The parties intend each countersigned original to have identical legal effect.

30.2 Effective Date. The agreement will become effective when all parties have signed it. The date of this agreement will be the date this agreement is signed by the last party to sign it.

This instrument constitutes a PIDP Grant when MARAD's authorized representative signs it.

Insurance Requirements (Exhibit D)

Insurance Requirements. Throughout the term of this Agreement, Subrecipient is solely responsible for meeting its insurance needs. At a minimum, Subrecipient shall carry insurance that meets the insurance requirements set forth in this Exhibit. Any failure to comply with these minimum requirements during the Term is a material breach of this Agreement permitting the Port in its sole discretion, terminate this Agreement upon five (5) days prior written notice and opportunity to cure.

1. Certificate of Insurance Required. A certificate of insurance acceptable to the Port must be provided prior to final execution of this Agreement. The certificate shall state that the issued insurance policies meet the requirements outlined below and must be an original certificate issued by a company licensed to do business in the State of Wisconsin or signed by an agent licensed by the State of Wisconsin. Subrecipient shall send Port a current and valid Certificate of Insurance and/or Policy within fourteen (14) days of any request by Port. Immediately upon any material change to Subrecipient’s insurance coverage, Subrecipient shall send Port an updated Certificate of Insurance and/or Policy.

2. Port’s Authority to Terminate. The certificate shall be approved by the City Attorney and placed on file with the Port prior to commencement of work under this Agreement.. If the required certificate is not received and approved, the Port has the authority to terminate this Agreement.

3. City as Additional Insured. The City of Milwaukee, which includes the Port, shall be named as an additional insured (using ISO Form CG2026 or its equivalent) with respect to liability coverage other than professional liability. The certificate holder shall be designated as:

City of Milwaukee
200 E. Wells Street, Room 601
Milwaukee, WI 53202

4. Approval of Insurance Companies. Insurance companies must have a current A.M. Best rating of A-VIII or better.

5. Use of Occurrence Form. All policies other than professional liability and pollution liability policies shall be written on an occurrence form.

6. Notice of Cancellation or Non-Renewal. The Port shall be provided with at least 30 days written notice of cancellation, non-renewal of any and all insurance policies required by this contract, for any reason including non-payment of premium. To ensure that such notice occurs, an endorsement must be added to the policy/policies permitting Earlier Notice of Cancellation or Non-Renewal.

A copy of the endorsement of Earlier Notice of Cancellation or Non-Renewal stipulation must be submitted with the Certificate of Insurance.

7. Required Coverages. Each of the following coverages is required pursuant to this Agreement unless “No” is indicated in the left-hand column:

REQUIRED?	COVERAGE	MINIMUM AMOUNT OF COVERAGE REQUIRED
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Yes	Worker's Compensation	Statutory Limits Coverage must include a Waiver of Subrogation Endorsement in favor of City and its directors, officers, agents, employees, and volunteers.
	(The City does require Worker's Compensation coverage for Sole Proprietorships)	
Yes	Employer's Liability	Each Accident: \$100,000 Disease – Policy Limit: \$500,000 Disease – Each Employee: \$100,000
Yes	Commercial General Liability	Each Occurrence Limit: \$1,000,000 General Aggregate: \$2,000,000 Products-Completed Operations Limit: \$2,000,000 Personal and Advertising injury Limit: \$1,000,000 <ul style="list-style-type: none"> • Coverage must be equivalent to ISO Form CG0001 or better. • Coverage must include a Waiver of Subrogation Endorsement in favor of City and its directors, officers, agents, employees, and volunteers. • Coverage must apply on a primary and non-contributory basis.

Yes	Automobile Liability	<p>Bodily Injury: \$1,000,000 per person \$1,000,000 per occurrence</p> <p>Property Damage: \$1,000,000 per occurrence</p> <p>Or Combined Limit: \$1,000,000 per occurrence</p> <ul style="list-style-type: none"> • If the Subrecipient owns or has any long term leased vehicles, coverage must be for Any Auto (Symbol 1). If there are no owned or long term leased vehicles, then coverage must be for Hired and Non-Owned Auto Liability (Symbols 8 and 9). • Coverage must include a Waiver of Subrogation Endorsement in favor of City including its directors, officers, agents, employees and volunteers. • If Federal or State government(s) require a Motor Carrier filing, such filing shall be made available to City upon request.
Yes	Professional Liability:	See Section 30
Yes	Umbrella (Excess) Liability	<p>\$5,000,000 per occurrence \$5,000,000 aggregate</p> <ul style="list-style-type: none"> • Must provide coverage in excess of the Employer's Liability, Commercial General Liability and Auto Liability Coverages (inclusive of the amendments stated above).

Yes	Crime Insurance	Employee Dishonesty: \$500,000 per loss <ul style="list-style-type: none"> • Must provide coverage for Third Party Employee Dishonesty.
Yes	Pollution Liability	\$1,000,000 per occurrence <ul style="list-style-type: none"> • Coverage must include a Waiver of Subrogation Endorsement in favor of City including its directors, officers, agents, employees and volunteers.
No	Cyber Insurance	\$1,000,000 per occurrence <ul style="list-style-type: none"> • Coverage must include cost of notification, cost of identity protection and repair insurance for affected individuals and third party liability. • Depending on the situation, other required coverages may include: <ul style="list-style-type: none"> ○ Regulatory Fines & Penalties ○ PCI Fines & Penalties ○ Cyber Extortion/Ransomware ○ Business Interruption ○ Data Reconstruction ○ Media/Website Liability ○ Breach Response Mitigation <ul style="list-style-type: none"> ▪ Forensic investigations ▪ Legal expenses ▪ Notifications ▪ Identity monitoring
No	Garage & Garage Keeper's Liability	In the amount of contract or greater

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