



OCEAN HIGHWAY & PORT AUTHORITY

NASSAU COUNTY

Fernandina Beach Golf Course

2800 Bill Melton Road

Fernandina Beach, FL 32034

AGENDA

August 12, 2020

6:00 PM

Pursuant to Executive Order No. 20-69, issued by the Office of Governor Ron DeSantis on March 20, 2020, municipalities may conduct meetings of their governing boards without having a quorum of its members present physically or at any specific location, and utilizing communications media technology such as telephonic or video conferencing, as provided by Section 120.54(5)(b)2, Florida Statutes.

6:00 PM – Meeting Called to Order – Chairman

Invocation

Pledge of Allegiance

Roll Call: Robert Sturgess, District 1; Danny Fullwood, District 2, Scott Hanna, District 3; Carrol Franklin, District 4; Mike Cole, District 5

- Comments - Audience (Comments emailed prior to the meeting)

1. Approval of Minutes

- July 8, 2020 Meeting Minutes

2. Consent Items

- Invoice for upgrade to Port of Fernandina sign
- Carlos Alvarez, Esq., Professional Services - \$1,878.87

3. Report by Pierre LaPorte, Port Accountant

- Financial Report – July 2020
- Quarterly Report – 3rd Quarter
- FY 20/21 Budget – First Draft

4. Report by Jeb Branham, Port Attorney

5. Port Director Report

6. Port of Fernandina Report

- Tonnage Report – July 2020

7. Unfinished Business

None

8. New Business

- Current FDOT Grants and Update from Worldwide on Progress
- Authorization to Execute American Marine Highway Grant Agreement

Committee Reports

- Port Security – Commissioner Fullwood
- Customs House – Commissioner Franklin
- Army Corp of Engineers – Commissioner Sturgess
- Economic Development – Commissioner Cole
- Emergency Management – Commissioner Franklin
- Technical Coordinating Committee – Commissioner Hanna
- TPO – Commissioner Cole
- Nassau Chamber East Side – Commissioner Sturgess
- Nassau Chamber West Side – Commissioner Cole

9. Administrative Office Manager Report

10. Other items to be brought by Commissioners

11. Adjourn

If a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Fla. Stat. § 286.0105.



Minutes



OCEAN HIGHWAY & PORT AUTHORITY

Robert Sturgess – Commissioner, District 1
Danny Fullwood – Chairman, District 2
Scott Hanna – Secretary/Treasurer, District 3
Carrol Franklin – Commissioner, District 4
Mike Cole – Vice Chairman, District 5

Monthly Meeting Minutes

July 8, 2020

The Ocean Highway and Port Authority of Nassau County held its Monthly Meeting on Wednesday, July 8, 2020 at the County Commissioners Chambers at the James S. Page Government Complex, 96153 Nassau Place, Yulee, Florida 32097.

The meeting was called to order at 6:00 PM by Chairman Fullwood.

The invocation was given and the Pledge of Allegiance was led by Chairman Fullwood. Roll call was conducted by Mrs. Barbara Amergian. All Commissioners were present with Commissioner Sturgess attending via video conference. Also in attendance were Jeb Branham, Port Attorney; Pierre LaPorte, Port Accountant; and Chris Ragucci, Port Director/Operator.

Chairman Fullwood recognized City Commissioner Chip Ross, 210 North 3rd Street, Fernandina Beach, FL for public comment. Commissioner Ross had questions regarding the installation of the fabric warehouse at the Port. He requested that the local building official to take a look at the warehouse specs before the contract is signed to be sure all wind load, flood, foundations, etc. specifications are met. Mr. Ross also indicated that the building official would need to sign off on the building permit.

Commissioner Cole made the motion to accept the June 10, 2020 Monthly Meeting minutes and the June 25, 2020 Special Meeting minutes. Motion seconded by Commissioner Hanna. Motion passed unanimously.

Port Accountant Pierre LaPorte presented the June Financials to the Board, everything was on budget. Mr. LaPorte outlined the 2020-2021 Budget Planning Process. He will present the first draft of the 20/21 Budget at the August 12, 2020 monthly meeting for review. The new Budget will need to be approved at the September 2020 monthly meeting.

Port Operator Chris Ragucci requested moving to the New Business item regarding Big Top Warehouse at this point in the meeting. Mr. Ragucci presented the Board with the latest proposal from Big Top Manufacturing (the only bidder in response to the RFP.) The contract is between Big Top Manufacturing and OHPA with Worldwide Terminals as the guarantor. The cost of the warehouse is \$298,368 including supplies, erection of the building, and engineering drawings. Commissioner Hanna asked about submitting the plans to the City. Mr. Ragucci responded by informing the Board that the plan is to submit the approved building plans to the City and listen to and respond to any concerns the City may have and address those concerns as

necessary. According the OHPA Charter, a building permit from the City is not required however, Chairman Fullwood would like to have the City Building Official review the documents. Mr. Ragucci introduced Dustin McCormack with Big Top Manufacturing to answer any questions regarding the installation of the fabric warehouse. Mr. Ragucci also informed the Board that FDOT Grant GOL06 funds can be used for the warehouse with a 63%/37% match (\$223,776/\$14,592) with 60% of Bond funding. Three payments will be made to Big Top – 50% at the signing of the contract, 30% upon shipment, and 20% due when installed. Commissioner Franklin expressed concerns about any potential hidden costs.

Chairman Fullwood recognized City Commissioner Ross to address any additional concerns he had with the proposed installation of the fabric warehouse. Mr. Ross cited the Florida Statute 553.72 Section 2 and again suggested meeting with the local Building Official prior to installation.

Commissioner Cole made the motion to authorize Chairman Fullwood to execute the contract with Big Top Manufacturing with stipulation that City Building Official reviews the plans and addition of the prevailing parties attorney fees provision and adding Nassau Terminals to the guaranty and indemnity obligation. Commissioner Hanna seconded. Motion passed unanimously.

Port Attorney Jeb Branham presented his report to the Board. Mr. Branham reminded the Board that Mediation with the City of Fernandina is scheduled to take place on Wednesday, July 15, 2020 at the Fernandina Beach Golf Course. Commissioner Hanna will be attending via teleconference due to a family emergency.

Mr. Branham has received changes to the Interlocal Agreement from City Attorney Tammi Bach. He told the Board that he is not comfortable with the changes and would discuss with Attorney Bach to find the middle ground.

TranSystems has filed their lawsuit against OHPA and Worldwide for nonpayment of invoices but has not served it yet. Mr. Branham will accept service of the lawsuit and will work to schedule a mediation session to resolve before additional attorney fees are incurred. Commissioner Sturgess pointed out his concerns with the contract, including the mediation provision. Mr. Branham will review and advise. Commissioner Franklin asked again for the list of complaints that Worldwide Terminals has against the work done by TranSystems and the reason for nonpayment of invoices. Mr. Ragucci told Commissioner Franklin that the complaints are part of litigation and he can't provide at this time. Mr. Branham will pursue mediation with TranSystems.

Under New Business, the Ocean Highway & Port Authority is required to register and complete the data sheet for the Florida DEP which provides billing information, sale tax information and other data required pursuant to Section 24.115(4) for the Florida Statutes.

Commissioner Hanna made the motion to authorize Chairman Fullwood to sign the Public Lease Application as it pertains to the dredging project. Motion was seconded by Commissioner Franklin. Motion passed unanimously.

A recess was called at 7:14 PM. The meeting resumed at 7:17 PM.

Port Director Chris Ragucci presented his report to the Board. Mr. Ragucci reported that the Channel Maintenance Dredging project was underway by Army Corp of Engineers with completion expected at the end of 2020. Mr. Ragucci is preparing the SeaCIP application and is working on a five-year Capital Improvement Plan (CIP) to submit in conjunction with the application. He reviewed the funding requests and project information with the Board. Mr. Ragucci will be attending the Florida Ports Council meeting on September 2, 2020.

Commissioner Cole excused himself from the meeting at this point for health reasons.

Mr. Ragucci reported on the Port Operations for the month of June. Tonnage is up for the month of June and surpassed the 2019 YTD tonnage. The cruise ship is still in berth through July with potential of remaining through September.

Chairman Fullwood will contact Lissa Braddock to arrange a mutually agreeable time to attend the dedication of the Customs House with a plaque honoring her late husband, Commission Ronald Braddock.

There was discussion regarding the new business agenda item – adding a 30,000 SF warehouse to two lots (total of .08 acres) at the corner of North 2nd Street/Broome Street and Front Street. Chairman Fullwood pointed out that OPHA had an agreement with the City of Fernandina that the Port would not develop outside the Port footprint. There will be more information and discussion at future meetings.

Due to the ongoing precautions with COVID19, there was nothing new to report with the Committees.

With no further business to come before the Board, the meeting adjourned at 8:10 PM.

Danny Fullwood
Chairman



Consent Items

Created Date: 7/27/2020

DESCRIPTION: SP_Port of Fernandina Sign Face Replacement - MDO with Vinyl Digital Print

Bill To: Ocean Highway & Port Authority
403 N 3rd St
Fernandina Beach, FL 32034
US

Installed: Ocean Highway & Port Authority
403 N 3rd St
Fernandina Beach, FL 32034
US

Requested By: Barb Amergian
Email: ohpanc@gmail.com
Work Phone: (207) 475-5459
Tax ID: 85-8013158425C-4

Salesperson: Sharon Palmer
Email: sharon.palmer@fastsigns.com

NO.	Product Summary	QTY	UNIT PRICE	AMOUNT
1	76" x 38" Custom Cut / MDO 1/2" Thick with Vinyl Digital Print	1	\$500.12	\$500.12
2	Remove existing sign face and replace with new	1	\$217.50	\$217.50

Estimate is valid for 30 days

Credit Card information is not kept on file.

Sign Installation including most necessary materials. Installation fee subject to change according to actual time spent on the job. If you are not present at the time of the installation and you would like to alter the placement of your sign after installation is complete; additional charges may be added.

Subtotal:	\$717.62
Taxes:	\$0.00
Grand Total:	\$717.62
Deposit Required:	\$358.81

CARLOS ALVAREZ, Esq.
Mediations, Facilitations and Negotiations
309 Belmont Road
Tallahassee, Florida 32301

Email: ca.alvarez@embarqmail.com
Website: www.carlosalvarezmediations.com
Tel.: 850-567-7223

INVOICE FOR PROFESSIONAL SERVICES RENDERED

**Mediation: Chapter 164, F.S. Mediation -- City of Fernandina Beach and the
Ocean, Highway and Port Authority of Nassau County**

July 27, 2020

DATE	BY TMKPR	HOURS	DESCRIPTION
2-26-2020	CA	.3 hrs.	Draft and email retention and scheduling letter to attorneys.
3-4-2020	CA	.4 hrs.	Conference call with Tammi Bach and Jeb Branham on process matters.
4-10-2020	CA	1.2 hrs.	Review of mediation statements, pleadings and background materials from all parties.
7-14-2020 and 7-15-2020	CA	1 hr. (travel time)	Roundtrip travel to City of Fernandina Beach, FL from Tallahassee, FL.
7-15-2020	CA	6.2 hrs.	Mediation conference in City of Fernandina Beach, FL.

Summary of Fees

CA	Carlos Alvarez	8.1 hrs. @ \$375/hr. -----	\$3,037.50
CA	Carlos Alvarez	Travel Time Charge 1 hr. @ \$375/hr. ---	\$375.00

Total Fees ----- \$3,412.50

Disbursements

Car mil.: @ \$.50 per mile: rd. trip Tall./City of Fernandina Beach.:
416 miles rd. trip ----- \$208.00

Hotel: Comfort Inn, Fernandina Beach: 7-14-2020 ----- \$137.25

No charge for meals, copies, long distance telephone

Total Disbursements ----- \$345.25

Total Amount (Total Fees + Total Disbursements) ----- \$3,757.75

Amount Due From Each Party: One-half (1/2)
of Total Amount ----- \$1,878.87



Port Accountant Report

NASSAU COUNTY OCEAN HIGHWAY & PORT AUTHORITY

BUDGET 2020-2021 -- PROPOSED v1

	Jun-20 YTD ACTUAL	BUDGET 2019-2020	BUDGET 2020-2021	CPI - June 2020
Revenues				
Quarterly Fee	258,891.67	251,675.00	253,300.15	1.0064573
PILOT Payment	0.00	50,000.00	0.00	
Audit Fee Reimbursement	0.00	7,000.00	0.00	
Misc Income	547.70	2,000.00	2,000.00	
Interest	14.26	60.00	60.00	
TOTAL REVENUES	259,453.63	310,735.00	255,360.15	
EXPENSES				
COMMISSION DIRECT				
Salaries - Commissioners	87,500.00	120,000.00	120,000.00	
Payroll Taxes	7,061.82	11,361.00	11,361.00	
Unemployment	66.07	75.00	75.00	
Conferences & Travel	0.00	1,000.00	1,000.00	
Insurance	0.00	102.00	102.00	
Salaries - Board Attorney	23,630.00	30,000.00	30,000.00	
TOTAL COMMISSION DIRECT	118,257.89	162,538.00	162,538.00	
COMMISSION OPERATION				
Salaries- Accountant	12,000.00	18,000.00	18,000.00	
Salaries - Office Administrator	16,762.99	23,535.68	23,535.68	
Expenses - Office Administrator	2,471.10	7,000.00	4,000.00	
Travel - Office Administrator	0.00	100.00	100.00	
TOTAL COMMISSION OPERATION	31,234.09	48,635.68	45,635.68	
COMMISSION DISCRETIONARY				
Dept. of Revenue (Special Dist. Fee)	225.00	175.00	225.00	
TPO. - Membership	1,293.00	1,257.00	1,257.00	
Greater Nassau Chamber of Commerce	280.00	280.00	280.00	
Advertisement	611.79	500.00	600.00	
Special Meeting - Court Reporter	0.00	0.00	0.00	
Web Site	0.00	300.00	0.00	
Awards & Presentations	647.00	120.00	120.00	
Discretionary	913.00	100.00	720.00	
TOTAL COMMISSION DISCRETIONARY	3,969.79	2,732.00	3,202.00	
PORT OPERATIONS				
FB Annual Fee - PILOT	0.00	50,000.00	0.00	
CSX Right of Way Fee	2,241.50	750.00	750.00	
Insurance	12,275.00	11,500.00	12,275.00	
Audit	29,300.00	32,800.00	25,800.00	
FL Ports Council Dues	15,500.00	20,500.00	20,500.00	
Nassau Cty Economic Dev Board	10,000.00	10,000.00	0.00	
Sponsorships	0.00	0.00	0.00	
TOTAL PORT OPERATIONS	69,316.50	125,550.00	59,325.00	
TOTAL EXPENSES	222,778.27	339,455.68	270,700.68	
Excess Revenues over Expenditures	36,675.36	-28,720.68	-15,340.53	

NASSAU COUNTY OCEAN HIGHWAY & PORT AUTHORITY

Customs House

BUDGET 2020-2021 -- PROPOSED v1

	YTD Jun-20 ACTUAL	BUDGET 2019-2020	BUDGET 2020-2021
INCOME			
GSA - Customs House - RENTAL INCOME	17,590.71	16,131.22	0.00
Interest			
TOTAL INCOME	17,590.71	16,131.22	0.00
CUSTOMS HOUSE			
Bug Out Pest Control	300.00	50.00	312.00
River Pest Control Termite Bond	490.00	275.00	500.00
Bug Out Termite Bond	225.00	250.00	250.00
Lawn Service	0.00	0.00	0.00
Cleaning Service	2,520.00	3,360.00	3,360.00
City of Fernandina Beach (Water)	920.81	1,500.00	1,500.00
Florida Public Utilities (Electric)	3,002.44	5,000.00	5,000.00
Maintenance	0.00	5,696.22	0.00
TOTAL CUSTOMS HOUSE	7,458.25	16,131.22	10,922.00
<u>Net Increase(decrease) in Funds</u>	10,132.46	0.00	-10,922.00



Attorney Report

JEB T. BRANHAM, P.A.
Jeb T. Branham
419 3rd Street North
Jacksonville Beach, Florida 32250
Tel: (904) 339-0500; Fax: (904) 339-0501
jeb@jebbranham.com
www.jebbranham.com

August 2020

Below are updates on the near-term legal issues:

1. The mediation for the dispute resolutions proceedings to resolve the dispute with Fernandina Beach regarding the end date for the PILOT payments resulted in impasse. Fernandina Beach has retained Nikki Day of Bryant, Miller & Olive to represent it in litigation. Ms. Day informed me that the city is planning to file suit.
2. We are still working on the interlocal agreement with the City of Fernandina Beach to assume financial liability associated with the westward channel realignment. I plan to discuss the city's proposed revisions with Ms. Bach later this month.
3. TranSystems has filed suit against OHPA and WTF over unpaid invoices. OHPA's response to the complaint is due on August 24, 2020. OHPA will have to assert a formal demand for indemnification against WTF in connection with the lawsuit. I discussed early mediation with TranSystem's lawyer. He tells me that TranSystems is not interested in an early mediation.

Jeb T. Branham, Esq.
419 3rd Street North
Jacksonville Beach, FL 32250

Invoice submitted to:
Ocean Highway and Port Authority

August 5, 2020

Invoice # 13118

Professional Services

	<u>Hrs/Rate</u>	<u>Amount</u>
7/6/2020 Telephone conference with C. Franklin regarding WTF land acquisition;	0.20 200.00/hr	40.00
7/7/2020 Telephone conference with C. Ragucci regarding fabric warehouse contract;	0.30 200.00/hr	60.00
7/8/2020 Revise fabric warehouse contract; review and analyze TranSystems complaint; telephone conference with C. Ragucci regarding port matters; attend regular meeting;	4.10 200.00/hr	820.00
7/9/2020 Revise and finalize Big Top contract (.4); research fire safety inspections; email regarding fire safety inspections (1.6);	2.00 200.00/hr	400.00
7/10/2020 Emails with T. Bach and C. Alvarez regarding PILOT dispute mediation; emails with B. Amergian regarding mediation; review special district posting requirements to determine applicability to open mediation;	0.60 200.00/hr	120.00
7/11/2020 Email to D. Fullwood regarding PILOT payments;	0.10 200.00/hr	20.00
7/14/2020 Prepare for mediation; telephone conference with R. Sturgess;	4.50 200.00/hr	900.00
7/15/2020 Attend mediation of Fernandina Beach PILOT dispute;	6.20 200.00/hr	1,240.00
7/17/2020 Telephone conference with T. Arnold regarding TranSystems litigation;	0.30 200.00/hr	60.00

	<u>Hrs/Rate</u>	<u>Amount</u>
7/20/2020 Review public records requests regarding WTF asset reports; review charter; review operating contract; email to B. Amergian regarding WTF asset reports;	0.40 200.00/hr	80.00
7/31/2020 Telephone conference with N. Day regarding PILOT litigation;	0.30 200.00/hr	60.00
8/3/2020 Email to C. Ragucci regardint TranSystems litigation and telephone conference with C. Ragucci regarding TranSytems litigation (.2); review correspondence from T. Bach regarding port planning and operations and email to B. Amergian regarding letter (.2);	0.40 200.00/hr	80.00
For professional services rendered	19.40	\$3,880.00
Previous balance		\$1,900.00
Accounts receivable transactions		
7/2/2020 Payment - thank you. Check No. 2333		(\$1,900.00)
8/5/2020 Credit		(\$900.00)
Total payments and adjustments		(\$2,800.00)
Balance due		<u>\$2,980.00</u>



City of Fernandina Beach

Tammi E. Bach

Office of the City Attorney

tbach@fbfl.org

July 31, 2020

Jeb T. Branham
Jeb T. Branham, P.A.
419 3rd St. North
Jacksonville Beach, FL 32250-7028

Via Email and U.S. Mail First Class

RE: Ocean, Highway and Port Authority of Nassau County (OHPA) – Master Plan Requirement, Demolition of Building in Historic District and Port Expansion

Dear Mr. Branham:

The City Commission asked me to reach out to your board, OHPA, through you, to mention a few items that the City is concerned about regarding Port development. First, OHPA has not submitted a comprehensive master plan to the City since the City Planning Board rejected the draft master plan submitted by OHPA in 2014 for noncompliance with the City's Coastal Management Element of the Comprehensive Plan. As you know, § 163.3178(2)(k), Fla. Stats. requires that OHPA submit a master plan to the City that complies with the criteria in the statute and the City's Comprehensive Plan – Coastal Management Element. Second, the City is concerned about statements made at a recent OHPA public meeting indicating that the building that currently houses U.S. Customs will be demolished. This building is owned by OHPA but located within the City's Downtown Historic District. To demolish any building in the Downtown Historic District requires that the property owner (in this case, OHPA) seek a certificate of approval from the City's Historic District Council. Finally, the City Commission is very concerned that OHPA and/or the Port operator, Worldwide Terminals, LLC has plans to expand further into the Downtown Historic District by acquiring properties, including residential properties, and building commercial and/or industrial structures on these residentially-zoned properties. This issue of expansion was huge for City officials and residents when the preliminary development agreement and DRI were negotiated between the City and OHPA in the 1980's. The City officials and residents that were part of these negotiations over 30 years ago still remember well that the Port was not authorized to expand into the residential area of the Downtown Historic District.

Please advise OHPA that the above-referenced issues are very important to the City Commission, and the City has every intention of making sure that OHPA is following all state and local laws. In addition, the City is not going to "sit back and watch" if the Port of Fernandina attempts to further encroach on the beloved Downtown Historic District which has been listed on the U.S. National Register of Historic Places since 1973.

Sincerely,

Tammi E. Bach
City Attorney

cc: Chris Ragucci, Port Director
Mayor and City Commissioners
Dale L. Martin, City Manager
Kelly Gibson, Planning and Conservation Director



New Business

Project List

[Add New Project](#)

Filter By:

Port

▼

Ocean Highway and Port Authority

▼

Open

▼

➔

Search Results

[Agency Projects Map View](#)

	Item Seq	Port	Project Title	UPIN	Contract #	Requested Years	Requested Amount	Allocated Years	Allocated Amount	Status
Select	438826-1	Ocean Highway and Port Author...	Pier Maintenance and Improvements	PFS0002481	G0L06	2017-2019	\$2,050,000.00	2017	\$250,000.00	Open
Select	443401-1-94-01	Ocean Highway and Port Author...	Port of Fermandina Multi Purpose Dock Crane & War...	PFS0002572	G0Z02	2019	\$5,000,000.00	2019	\$2,000,000.00	Open
Select	444933-1-94-01	Ocean Highway and Port Author...	Seaport Security Grant Program [Port Wide Lightin...	PFS0002615	G1700	2019	\$207,404.00	2019	\$207,404.00	Open
Select	438826-1-94-02	Ocean Highway and Port Author...	Pier Maintenance & Improvements [and Maintenance...	PFS0002645	G1938	2019-2020	\$1,800,000.00	2019	\$1,505,288.00	Open
Select	443401-1-94-02	Ocean Highway and Port Author...	Multi Purpose Dock Crane & Warehouse [Warehouse 1...	PFS0002646	G1943	2019	\$7,800,000.00	2019	\$7,800,000.00	Open
Select	438826-1-94-04	Ocean Highway and Port Author...	Port Master Plan	PFS0002687	G1L46	2021	\$236,000.00	2020	\$236,000.00	Open
Select	438826-1-94-03	Ocean Highway and Port Author...	On-Dock Warehouses	PFS0002689		2021	\$1,100,000.00	2021	\$1,100,000.00	Open
Select	444933-1-94-02	Ocean Highway and Port Author...	[Lighting Portwide and Warehouses] Port of Fernan...	PFS0002708	G1K57	2020	\$400,000.00	2020	\$32,764.00	Open

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

**GRANT AGREEMENT UNDER THE
CONSOLIDATED APPROPRIATIONS ACT, 2019
(PUB. L. 116-6, February 15, 2019)
FOR THE SHORT SEA TRANSPORTATION PROGRAM
(FY 2019 AMERICA’S MARINE HIGHWAY GRANTS)**

**Ocean Highway & Port Authority
of Nassau County**

M-95 Fernandina Express Container on Barge Service

MARAD FY 2019 America’s Marine Highway Grant No. 693JF72040010

70X1750SST 2020 1FE2040010 152001 41010 61006600 – \$1,291,800

This America’s Marine Highway Grant Agreement (“Agreement”) is entered into between the United States of America, represented by the U.S. Department of Transportation Maritime Administration (“MARAD”), and the Ocean Highway & Port Authority of Nassau County (“Recipient”). It reflects the selection of the Recipient for an award under the provisions of the Consolidated Appropriations Act, 2019 (Pub. L. 116-6, February 15, 2019), regarding the Short Sea Transportation Program (“America’s Marine Highways”) as described in the Notice of Funding Opportunity for America’s Marine Highways Projects, 84 FR 27838 (June 14, 2019) (the “NOFO”). In this Agreement, “America’s Marine Highway Grant” means an award under those provisions.

ARTICLE 1. AWARD TERMS AND CONDITIONS

1.1 **Operating Administration.** The Maritime Administration (“MARAD”) will administer this Agreement.

1.2 **Application.**

(a) The application for funding was dated September 20, 2019, and titled “M-95 Fernandina Express Container Barge Service.” It contained Standard Form 424 and all information and attachments submitted with that form through Grants.gov.

(b) The Recipient states that:

(1) all material statements of fact in the Technical Application were accurate when that application was submitted; and

(2) Attachment E documents all known material changes in the information contained in the Technical Application.

(c) 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; and
- (3) MARAD's selection of the Project to receive this award prevented awards under the NOFO to other eligible applicants.

1.3 **Purpose.** The purpose of this award is to advance projects related to documented vessels and port and landside infrastructure. 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 application identified in Section 1.2, as modified by Section 2.3 and Attachment C.

In this Agreement, the “**Project**” means the project proposed in the application identified in Section 1.2, as modified by the negotiated provisions of this Agreement, including Sections 2.1, 2.2, and 2.3, and the attachments referenced in Section 1.11.

1.4 **Statements on Capacity.** The Recipient states that:

- (1) it has the legal authority to complete the Project;
- (2) not less than the difference between the “Total Project Cost” and the “America’s Marine Highway Grant Amount” listed in Section 2.3 are committed to fund the Project; and
- (3) it has sufficient funds available to ensure that infrastructure or equipment completed, procured, or improved under this Agreement will be operated and maintained in compliance with this Agreement and applicable Federal law.

1.5 **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.

1.6 **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, in a manner acceptable to MARAD, to promptly acquire, extinguish, or modify any outstanding rights or claims of right of others that would interfere with the Recipient's performance under this Agreement.
- 1.7 **Federal Award Amount.** MARAD hereby awards an FY 2019 America's Marine Highway Grant in the amount of One Million Two Hundred Ninety-One Thousand Eight Hundred Dollars (\$1,291,800) for the period of performance. MARAD shall not provide funding greater than this amount under this Agreement. The Recipient acknowledges that MARAD is not liable for payments that exceed this amount.
- 1.8 **Period of Performance.**
- (a) 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 2.2.
- (b) The Recipient shall not charge to this award costs that are incurred after the period of performance.
- 1.9 **Fund Obligation.** This Agreement obligates the total amount of funds stated in Section 1.7.
- 1.10 **Federal Award Identification Number.** MARAD identifies this award with the following federal award identification number: **693JF72040010**
- 1.11 **Attachments.** This Agreement includes the following attachments as integral parts:
- | | |
|---------------|-----------------------------------|
| Attachment A- | Statement of Work |
| Attachment B- | Estimated Project Schedule |
| Attachment C- | Estimated Project Budget |
| Attachment D- | Performance Measurement Table |
| Attachment E- | Material Changes from Application |

ARTICLE 2. PROJECT AND RECIPIENT INFORMATION

- 2.1 **Summary of the Project's Statement of Work.** (See Attachment A for additional details).
- The purpose of this grant is to purchase marine terminal and handling equipment essential for the efficient loading and unloading for the M-95 Fernandina Express Container on Barge Service between the Port of Fernandina, FL, and the Port of Charleston. The primary purchase is that of a tugboat. The procurement of this tug will reduce in-port operational costs associated with a weekly docking and undocking of a barge and tug. It is anticipated that because of this marine highway service, the Port of Fernandina shall act as a terminus along this M-95 Route, gathering cargo and loading and unloading containers onto and off the Fernandina Express Container Barge. To prepare for the increased container volume due to the barge service, the Recipient will make additional investments in container handling equipment such as procuring an empty handler, additional tractors, and bomb carts that will be used to shuttle containers within the Terminal.
- 2.2 **Summary of the Project's Estimated Schedule.** (See Attachment B for additional details).

Actual Completion of NEPA:	April 24, 2020
Planned Purchase of Equipment Start Date:	December 31, 2020
Planned Purchase of Equipment Substantial Completion Date:	March 31, 2021
Period of Performance End Date:	May 31, 2022
Planned Project Closeout Date:	July 31, 2022

2.3 Summary of Project’s Estimated Budget. (See Attachment C for additional details).

America’s Marine Highway Grant Funds and Additional Sources of Project Funds:

America’s Marine Highway Grant Amount:	\$1,291,800	80%
Other Federal Funds (if any):	\$ 0	0%
State Funds (if any):	\$ 0	0%
Local Funds (if any):	\$ 323,200	20%
Other Funds (if any):	\$ 0	0%
Total Project Cost:	\$1,615,000	100%

2.4 Recipient Cost Share Certification.

The Recipient hereby certifies that not less than Three Hundred Twenty-Three Thousand Two Hundred Dollars (\$323,200) in non-Federal funds are committed to fund the Project to satisfy the statutory requirement that at least 20% of the Project’s costs are funded by non-Federal sources.

2.5 Project’s State and Local Planning Requirements.

N/A.

2.6 Project’s Environmental Approvals and Processes.

Environmental Documentation Type, Titles and Date: Record of Categorical Exclusion (CatEx), approved April 24, 2020

Name of Agency and Office Approving each Environmental Decision Document:
Maritime Administration, Office of Environment

2.7 Recipient’s and any Sub-recipient’s Unique Entity Identifiers.

Dun and Bradstreet Data Universal Numbering System No. (the “*DUNS No.*”) of the Recipient: 124771945

Name of any First-Tier Sub-recipients
Worldwide Terminals Fernandina LLC

DUNS No. of First-Tier Sub-recipient: 01-612-3398.

2.8 **Recipient Contacts.**

Christopher Ragucci
Port Director
Ocean Highway & Port Authority of Nassau County
501 North 3rd Street, Fernandina Beach, FL 32034
Tel: 904-990-1400
chris.ragucci@worldwideterminals.com

ARTICLE 3. GENERAL REPORTING TERMS

- 3.1 **Report Submission.** The Recipient shall send all reports required by this Agreement to all of the MARAD contacts who are listed in Section 9.1.
- 3.2 **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.
- 3.3 **Reporting as History of Performance.** Under 2 C.F.R 200.205, any Federal awarding agency may consider the Recipient's timely submission of the reports that this Agreement requires, or the Recipient's failure to timely submit those reports, when evaluating the risks of making a future Federal financial assistance award to the Recipient.
- 3.4 **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. 2133-0541.

ARTICLE 4. PROGRESS REPORTING

- 4.1 **Quarterly Project Progress Reports.** On or before the 15th day of the first month of each calendar year quarter and until Project Closeout, the Recipient shall submit to MARAD a Quarterly Project Progress Report with the form and content described in Exhibit H. 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 in the second calendar year quarter that begins after the date of this Agreement.
- 4.2 **Closeout Information.** No later than 90 days after the period of performance end date that is listed in Section 2.2, the Recipient shall:
 - (1) submit a final Federal Financial Report (SF-425), a certification or summary of project expenses, third-party audit reports, and any other information required under MARAD's closeout procedures; and

- (2) provide a report comparing the final work, schedule, and budget to the statement of work described in Section 2.1, the schedule described in Section 2.2, and the budget described in Section 2.3.

- 4.3 **Project Closeout.** In this Agreement, “**Project Closeout**” means the date that MARAD notifies the Recipient that the award is closed out. Under 2 C.F.R. 200.343, Project Closeout should occur no later than one year after the Recipient liquidates all obligations under this award and submits the reports identified in Section 4.2.

ARTICLE 5. PERFORMANCE REPORTING

- 5.1 **Performance Measure Data Collection.** The Recipient shall collect the data necessary to report on each performance measure that is identified in the Performance Measurement Table in Attachment D.
- 5.2 **Pre-project Performance Measurement Report.** The Recipient shall submit to MARAD, on or before the Pre-project Report Date that is stated in Attachment D, a Pre-project Performance Measurement Report that contains:
 - (1) baseline data for each performance measure that is identified in the Performance Measurement Table in Attachment D, accurate as of the Pre-project Measurement Date that is stated in Attachment D; and
 - (2) a detailed description of the data sources, assumptions, variability, and estimated levels of precision for each measure.
- 5.3 **Interim Performance Measurement Reports.** After Project completion, the Recipient shall submit to MARAD on or before each of the periodic reporting dates specified in the Performance Measurement Table in Attachment D, an Interim Performance Measurement Report containing data for each performance measure that is identified in that table, accurate as of the final date of the measurement period specified in that table. If an external factor significantly affects the value of a performance measure during a measurement period, then in the Interim Performance Measurement Report the Recipient shall identify that external factor and discuss its influence on the performance measure.
- 5.4 **Project Outcomes Report.** The Recipient shall submit to MARAD, on or before the Project Outcomes Report Date that is stated in Attachment D, a Project Outcomes Report that contains:
 - (1) a narrative discussion detailing project success and the influence of external factors on project expectations;
 - (2) data for each performance measure that is identified in the Performance Measurement Table in Attachment D, accurate as of the Project Outcomes Measurement Date that is stated in Attachment D; and
 - (3) an *ex post* examination of project effectiveness relative to the baseline data that the Recipient reported in the Pre-project Performance Measurement Report.

ARTICLE 6. AGREEMENT MODIFICATIONS

- 6.1 **Bilateral Modifications.** The parties may amend, modify, or supplement this Agreement by mutual agreement in writing signed by the USDOT and the Recipient. Either party may request to amend, modify, or supplement this Agreement by written notice to the other party.
- 6.2 **Limited Unilateral Modifications.**
- (a) The Recipient may update the contacts who are listed in Section 2.8 (Recipient Contacts) by written notice to all of MARAD contacts who are listed in Section 9.1.
 - (b) The MARAD may update the contacts who are listed in Section 9.1 (MARAD Contacts) by written notice to all of the Recipient contacts who are listed in Section 2.8.
- 6.3 **Other Modifications.** The parties shall not amend, modify, or supplement this Agreement except as permitted under Section 6.1 or Section 6.2. If an amendment, modification, or supplement is not permitted under Section 6.1 and not permitted under Section 6.2, it is void.

ARTICLE 7. STATEMENT OF WORK, SCHEDULE, AND BUDGET CHANGES

- 7.1 **Notification Requirement.** The Recipient shall notify all MARAD representatives who are identified in Section 9.1 in writing within 30 calendar days of any change in circumstances or commitments that adversely affect the Recipient's plan to complete the Project. In that notification, the Recipient shall describe the change and what actions the Recipient has taken or plans to take to ensure completion of the Project. This notification requirement under this Section 7.1 is separate from any requirements under this Article 7 that the Recipient request modification of this Agreement.
- 7.2 **Statement of Work Changes.** If the Project's activities differ from the statement of work that is described in Section 2.1 and Attachment A, then the Recipient shall request a modification of this Agreement to update Section 2.1 and Attachment A.
- 7.3 **Schedule Changes.** If the Project's substantial completion date changes to a date that is more than six months after the substantial completion date listed in Section 2.2 or a schedule change would require the period of performance to continue after the period of performance end date listed in Section 2.2, then the Recipient shall request a modification of this Agreement to update Section 2.2 and Attachment B. For other schedule changes, the Recipient shall request a modification of this Agreement to update Section 2.2 and Attachment B unless MARAD has consented, in writing consistent with its requirements, to the change.
- 7.4 **Budget Changes.**
- (a) If in comparing the Project's budget to the amounts listed in Section 2.3, the "Other Federal Funds" amount increases or one or more of the "State Funds," "Local Funds," "Private Funds," "Other Funds," or "Total Project Cost" amounts decrease, then the Recipient shall request a modification of this Agreement to update Section 2.3 and Attachment C. For other budget changes, the Recipient shall request a modification of

this Agreement to update Attachment C unless MARAD has consented, in writing consistent with its requirements, to the change.

- (b) If the actual eligible project costs are less than the “Total Project Cost” that is listed in Section 2.3, then the Recipient may propose to MARAD, in writing consistent with MARAD’s requirements, specific additional activities that are within the scope of this award, as defined in Sections 1.3 and 2.1, and that the Recipient could complete with the difference between the “Total Project Cost” that is listed in Section 2.3 and the actual eligible project costs.
- (c) If the actual eligible project costs are less than the “Total Project Cost” that is listed in Section 2.3 and either the Recipient does not make a proposal under Section 7.4(b) or MARAD does not accept the Recipient’s proposal under Section 7.4(b), then:
 - (1) in a request under Section 7.4(a), the Recipient shall reduce the Federal Share by the difference between the “Total Project Cost” that is listed in Section 2.3 and the actual eligible project costs; 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 “America’s Marine Highway Grant Amount” and the “Other Federal Funds (if any)” amounts that are listed in Section 2.3.

- (d) The Recipient acknowledges that amounts that are required to be refunded under Section 7.4(c)(2) constitute a debt to the Federal Government that MARAD may collect under 2 C.F.R. 200.345 and the Federal Claims Collection Standards (31 C.F.R. parts 900–999).

7.5 MARAD Acceptance of Changes. MARAD may accept or reject modifications requested under this Article 7, and in doing so may elect to consider only the interests of the America’s Marine Highway Grant program and MARAD. The Recipient acknowledges that requesting a modification under this Article 7 does not amend, modify, or supplement this Agreement unless MARAD accepts that modification request, and the parties modify this Agreement under Section 6.1.

ARTICLE 8. TERMINATION AND EXPIRATION

8.1 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-America’s Marine Highway Grant contribution or alternatives approved by MARAD as provided in this Agreement and consistent with Sections 2.2 and 2.3;
- (2) The Recipient fails to begin procurement before February 15, 2021;

(3) The Recipient fails to begin expenditure of award funds by February 28, 2021;

(4) The Recipient fails to finish procurement (substantial completion) by May 31, 2021;

(5) The Recipient fails to meet the conditions and obligations specified under this Agreement, including a material failure to comply with the schedule in Section 2.2 even if it is beyond the reasonable control of the Recipient; or,

(6) MARAD, in its sole discretion, 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.

8.2 **Closeout Termination.** This Agreement terminates on Project Closeout.

8.3 **Fund Liquidation and Adjustment.**

(a) The Recipient shall liquidate all obligations under this award not later than 90 days after the period of performance end date that is listed in Section 2.2.

(b) Liquidation and adjustment of funds under this Agreement follow the requirements of 2 C.F.R. 200.343–.345.

8.4 **Reporting Survival.** The reporting requirements set forth in Articles 4 and 5 of this Agreement survive the termination of this Agreement.

8.5 **Post-Termination Adjustments.** The Recipient acknowledges that under 2 C.F.R. 200.344–200.345, 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.

ARTICLE 9. MARAD CONTACTS

9.1 **MARAD Contacts.** Except as authorized by MARAD under Section 3.2, the Recipient shall send all notices, reports, and information required by this Agreement to all of the following contacts:

Wilbur Turner
Grants/Contracting Officer, Office of Acquisition
DOT -- Maritime Administration
1200 New Jersey Ave, SE
Washington, DC 20590
MAR-380
W26-435
Mailstop 5
(202) 366-0700
wilbur.turner@dot.gov

and

Fred Jones
Logistics Manager
DOT – Maritime Administration
1200 New Jersey Avenue, SE
Washington, DC 20590
MAR 500
Cube W21-311
Mailstop 3
(202) 366-1123
fred.jones@dot.gov

and

Tim Pickering
Operations Development Manager
DOT – Maritime Administration
1200 New Jersey Avenue, SE
Washington, DC 20590
MAR 500
Cube W21-312
Mailstop 3
(202) 366-0704
tim.pickering@dot.gov

ARTICLE 10. MONITORING, FINANCIAL MANAGEMENT, AND RECORDS

10.1 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. 200.331(d).
- (c) The Recipient shall retain records relevant to the award as required under 2 C.F.R. 200.333.

10.2 USDOT Record Access. The USDOT may access Recipient records related to this award under 2 C.F.R. 200.336.

10.3 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 10.3(a) in accordance with a financial management system that meets the requirements of 2 C.F.R. 200.301–200.303 and 2 C.F.R. 200 Subpart F and will facilitate an effective audit in accordance with the Single Audit Act Amendments of 1996, 31 U.S.C. 7501–7507.
- (c) The Recipient shall make available to MARAD and the Comptroller General of the United States any books, documents, papers, and records of the Recipient that are related to this award for the purpose of audit and examination.
- (d) If an independent audit is made of the accounts of a Recipient relating to the Project or this award, the Recipient shall file a certified copy of that audit with the Comptroller General of the United States not later than six months following the close of the fiscal year for which the audit was made.
- (e) The Recipient shall separately identify expenditures under the fiscal year 2019 America’s Marine Highway Grants program in financial records required for audits under Single Audit Act Amendments of 1996, 31 U.S.C. 7501–7507. 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 E, including “FY 2019” 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 (March 25, 2019), including “FY 2019” in column c (“Additional Award Identification”).

ARTICLE 11. ADDITIONAL TERMS AND CONDITIONS

- 11.1 **Catalog of Federal Domestic Assistance Information.** This award is under the program titled “America’s Marine Highway Grants,” with number 20.816 in the Catalog of Federal Domestic Assistance.
- 11.2 **Research and Development Designation.** This award is not for research and development.
- 11.3 **Exhibits.** This Agreement includes the following exhibits as integral parts located at <https://maradpublicsp.marad.dot.gov>.

Exhibit A	Legislative Authority
Exhibit B	General Terms and Conditions
Exhibit C	Applicable Federal Laws and Regulations
Exhibit D	Grant Assurances
Exhibit E	Responsibility and Authority of the Recipient
Exhibit F	Reimbursement of Project Costs
Exhibit G	Grant Requirements and Contract Clauses
Exhibit H	Quarterly Progress Reports: Format and Content

- 11.4 **Construction.** If a provision in the exhibits or the attachments conflicts with a provision in Articles 1 – 13, then the provision in Articles 1 – 13 prevails. If a provision in the attachments conflicts with a provision in the exhibits, then the provision in the attachments prevails.
- 11.5 **Disclaimer of Federal Liability.** The USDOT 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.
- 11.6 **Federal Freedom of Information Act.**
- (a) The USDOT 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.

ARTICLE 12. SPECIAL GRANT REQUIREMENTS

12.1 Reimbursement Requests.

- (a) The Recipient may request reimbursement of costs incurred in the performance of this Agreement if those costs do not exceed the funds available under Section 1.7 and are allowable under the applicable cost provisions of 2 C.F.R. Part 200, Subpart E. The Recipient shall not request reimbursement more frequently than monthly.
- (b) The Recipient shall request reimbursement of a cost incurred as soon as practicable after incurring that cost. If the Recipient requests reimbursement of a cost more than 180 days after that cost was incurred, MARAD may deny the request for being untimely.
- (c) The Recipient shall request reimbursement by completing forms in iSupplier, which is on-line and paperless. MARAD may deny a payment request that is not submitted through iSupplier.
- (d) The Recipient shall complete training on using iSupplier before submitting a request for reimbursement. To encourage the Recipient to complete this training, MARAD provides the following additional information, which may change after execution of this Agreement:
 - (1) The Recipient may access the training from MARAD “Delphi eInvoicing System” webpage at <https://www.transportation.gov/cfo/delphi-einvoicing-system>. The training is linked on the right side of that page under the heading “Web-Based Training (WBT).” The Recipient should click on “Grant Recipient WBT” to access the training, which is also available directly at https://www.transportation.gov/sites/all/dot_assets/DOT_GR_04-24-2012/lessons/index.html.
 - (2) A username and password is not required to access the on-line training.
 - (3) The training is currently available and will be accessible 24/7.

- (4) The training will take approximately 1 hour to complete.
- (e) After the Recipient completes training on using iSupplier, the Recipient shall request and complete the External User Access Request form to receive a username and password. The Recipient can request the form by sending an email to Wilbur Turner at wilbur.turner@dot.gov.
- (f) Requests for Reimbursement: When requesting reimbursement of costs incurred, the Recipient shall submit supporting cost detail with the SF-270 (available at <https://www.grants.gov/forms/post-award-reporting-forms.html>) to clearly document costs incurred. Cost detail includes a detailed breakout of all costs incurred including direct labor, indirect costs, other direct costs, travel, etc. The DOT/Enterprise Service Center (ESC) OFO/FAA, Oklahoma City, OK and the Program Office, DOT/MAR 510 reserve the right to withhold processing requests for reimbursement until sufficient detail is received. In addition, reimbursement will not be made without DOT/ESC OFO/FAA and program official review and approval to ensure that progress on the Agreement is sufficient to substantiate payment. After approval, ESC will certify and forward the request for reimbursement to the payment office.

12.2 Buy American Requirements.

- (a) The Recipient shall apply, comply with, and implement all provisions of the Buy American Act, 41 U.S.C. §§ 8301-8305.
- (b) This Section 12.2 implements 41 U.S.C. §§ 8301-8305, the Buy American Act, by providing a preference for domestic products or material. The Recipient shall not use foreign products or materials in performing this Agreement, except that:
 - (1) the Recipient may use a commercially available off-the-shelf item under 41 U.S.C. § 1907 regardless of its components if the item is manufactured in the U.S.;
 - (2) the Recipient may use information technology that is a commercial item;
 - (3) the Recipient may use foreign products or materials that are listed at 48 C.F.R. 25.104; and
 - (4) the Recipient may use foreign products or materials if MARAD has authorized their use under Section 12.2(d).
- (c) If the Recipient uses foreign products or material in violation of Section 12.2(b), MARAD may disallow and deny reimbursement of costs incurred by the Recipient and take other remedial actions under Section 8.1 and 2 C.F.R. 200.338.
- (d) MARAD may authorize the Recipient to use foreign products or material, by modifying this Agreement under Section 6.1, if MARAD determines that:
 - (1) applying the Buy American statute to the products or material would be impracticable or inconsistent with the public interest;

- (2) the product or material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality; or
- (3) the cost of domestic product or material is unreasonable.

The cost of a domestic product or material is unreasonable under Section 12.2(d)(3) if the cost of that material exceeds the cost of comparable foreign material by more than 6 percent.

- (e) The Recipient may request that MARAD authorize the Recipient to use foreign products or material under Section 12.2(d). If the Recipient requests under this Section 12.2(e), the Recipient shall provide adequate information for MARAD to evaluate the request, including:

- (1) a description of the foreign and domestic products or materials;
- (2) unit of measure;
- (3) quantity;
- (4) price, including all delivery costs to the project site and any applicable duty (whether or not a duty-free certificate may be issued);
- (5) time of delivery or availability;
- (6) location of the project;
- (7) name and address of the proposed supplier;
- (8) a detailed justification of the reason for use of foreign products or materials identifying the specific basis for an exception under Section 12.2(d);
- (9) if the Recipient requests authorization under Section 12.2(d)(3), a reasonable survey of the market and a full price comparison measuring the relative costs of the available domestic and foreign products or materials; and
- (10) if the Recipient submits the request after contract award, an explanation why the Recipient could not have, before contract award: (A) reasonably foreseen the need for the determination; and (B) requested the determination.

- (f) The Recipient acknowledges that (1) this Agreement is not a Government procurement contract; (2) acquisitions of supplies, services, or construction materials by the Recipient under this Agreement are not acquisitions by the Government; and (3) the Free Trade Agreement exceptions to the Buy American Act as provided by 48 C.F.R. Part 25, Subpart 25.4 are inapplicable to this Agreement.

- (g) In this Section 12.2, the following definitions apply:

“Commercially available off-the-shelf (COTS) item”

- (1) Means any item or supply that is—

- (i) A commercial item as defined by 48 C.F.R. § 2.101;
- (ii) Sold in substantial quantities in the commercial marketplace; and
- (iii) Offered to the Government, under an agreement, without modification, in the same form in which it is sold in the commercial marketplace; and
- (2) Does not include bulk cargo, as defined in 46 U.S.C. § 40102(4), such as agricultural products and petroleum products.

“Product or Material” means an article, material, or supply brought to the construction site by the Recipient for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site.

“Cost of components” means—

- (1) For components purchased by the Recipient, the acquisition cost, including transportation costs to the place of incorporation into the product or material (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
- (2) For components manufactured by the Recipient, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the product or material.

“Domestic product or material” means—

- (1) An unmanufactured product or material mined or produced in the United States;
- (2) A product or material manufactured in the United States, if—
 - (i) The cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which non-availability determinations have been made are treated as domestic; or
 - (ii) The product or material is a COTS item.

“Foreign products or material” means a product or material other than a domestic product or material.

“United States” means the 50 States, the District of Columbia, and outlying areas.

ARTICLE 13. EXECUTION

13.1 Counterparts. This Agreement may be executed in counterparts, which constitute one document. The parties shall execute this Agreement in triplicate and intend each countersigned original to have identical legal effect.

13.2 Effective Date. This Agreement is effective when fully executed by authorized representatives of the Recipient and MARAD. The Recipient shall execute this Agreement and

then submit three original signed copies of the Agreement to MARAD for execution. This instrument constitutes an FY 19 America's Marine Highway Grant when it is signed and dated by the authorized official of MARAD.

EXECUTION BY THE MARITIME ADMINISTRATION

Executed this _____ day of _____, 2020.

Signature of MARAD's Authorized Representative

Name of MARAD's Authorized Representative

Title

EXECUTION BY OCEAN HIGHWAY & PORT AUTHORITY OF NASSAU COUNTY

By signature below, the Recipient acknowledges that it accepts and agrees to be bound by this Agreement.

Executed this _____ day of _____, 2020.

Signature of Recipient's Authorized Representative

Name of Recipient's Authorized Representative

Title

ATTACHMENT A STATEMENT OF WORK

The Project will establish a US coastwise barge network along what is defined as the M-95 corridor that will seek to compete with trucking and rail networks already established along the I-95 corridor. The goal will be to create an environmentally efficient container barge service that can compete with trucking or rail elements connecting Fernandina to large mega-container terminals, such as Savannah and Charleston. Worldwide Terminals Fernandina LLC (“Worldwide Terminals”) will be the operator of the Port of Fernandina M-95 Fernandina Express Container on Barge Service. Fernandina’s location is close to 3 large-scale manufacturers that export a significant volume of cargo via Savannah, Charleston, and Jacksonville. These manufacturers are expected to provide a captive volume of cargo that Worldwide Terminals will seek to bring on to the barge service.

Engage Shipping Partners and Purchase Equipment

In initiating this service, Worldwide Terminals will need to first reengage the major manufacturers in the area and reaffirm their conceptual commitment to the M-95 Barge. Worldwide Terminals will then seek to find a tug and barge operator to run this service. Worldwide Terminals has already spoken to three such US-flagged operators. To prepare for the increased container volume due to the barge service, Worldwide Terminals will make additional investments in container handling equipment such as an empty handler, additional tractors, and bomb carts that will be used to shuttle containers within the Terminal.

ATTACHMENT B
ESTIMATED PROJECT SCHEDULE

Actual Completion of NEPA:	April 24, 2020
Planned Contract Award Date:	October 31, 2020
Planned Purchase of Equipment Start Date:	December 31, 2020
Planned Purchase of Equipment Substantial Completion Date:	March 31, 2021
Period of Performance End Date:	May 31, 2022
Planned Project Closeout Date:	June 30, 2022

ATTACHMENT C **ESTIMATED PROJECT BUDGET**

Component	FY19 AMH Grant Funds	Matching Funds	Total Cost
Tugboat	\$800,000	\$200,000	\$1,000,000
Empty Container Handler	\$312,000	\$78,000	\$390,000
Terminal Yard Tractor	\$176,000	\$44,000	\$220,000
Bomb Cart	\$3,800	\$1,200	\$5,000
Totals:	\$1,291,800	\$323,200	\$1,615,000

ATTACHMENT D

PERFORMANCE MEASUREMENT TABLE

Study Area: Southeast Coast of the US from Fernandina, FL to Charleston, SC

Pre-project Measurement Period: July 31, 2020

Pre-project Report Date: December 31, 2020

Project Outcomes Report Date: December 31, 2024

PERFORMANCE MEASURES

The Recipient agrees to collect the data necessary to track and report on each of the performance measures identified in the Performance Measure Table contained in this Section of the Grant Agreement. The Recipient should include the data collected for each measure in each required report. Reports must be submitted for each performance measure following project completion at the intervals, and for the time periods, specified in the Performance Measurement Table included herein. Reports must include a narrative discussion detailing project successes and/or the influence of external factors on project expectations. The final report must include an *ex post examination* of project effectiveness and a comprehensive "lessons learned" analysis of the project.

Reporting Period	Due
January – March -	April 15
April – June -	July 15
July – September -	October 15
October – December -	January 15

Performance Measurement Table

Measure	Description of Measure	Measurement Period	Reporting Period
Freight Movements	TEU's movements over project study area.	<p>Baseline Measurement: Annual average, accurate as of the Pre-project Measurement Date</p> <p>Interim Performance Measures: Quarterly Accurate as of the last day of the quarter that is being reported.</p>	<p>Pre-project (baseline measurement) dates listed in Pre-project Measurement Report Period.</p> <p>Performance Measurements Period: 3 years of reporting starting the first full quarter after the Purchase of Equipment Substantial Completion Date</p>
Greenhouse Gas Emissions	This measure will quantify the emissions and fuel consumed by the Marine Highway service, which, when subtracted from total truck miles eliminated, will result in the net savings in emissions and energy consumption due to the Marine Highway service between the Port of Fernandina, FL, Jacksonville, FL and other Ports along the M-95 Marine Highway Route.	<p>Baseline Measurement: Annual average, accurate as of the Pre-project Measurement Date</p> <p>Interim Performance Measures: Quarterly Accurate as of the last day of the quarter that is being reported.</p>	<p>Pre-project (baseline measurement) dates listed in Pre-project Measurement Report Period.</p> <p>Performance Measurements Period: 3 years of reporting starting the first full quarter after the Purchase of Equipment Substantial Completion Date</p>
Reduced Infrastructure and Highway Miles Savings	Savings, calculated based on the elimination of highway miles that each container would	<p>Baseline Measurement: Annual average, accurate as of the Pre-project Measurement Date</p>	<p>Pre-project (baseline measurement) dates listed in Pre-project</p>

	<p>have traveled on surface roads.</p> <p>The Program Office will provide a spreadsheet with the formula needed to make the calculations.</p>	<p>Interim Performance Measures: Quarterly</p> <p>Accurate as of the last day of the quarter that is being reported.</p>	<p>Measurement Report Period.</p> <p>Performance Measurements Period: 3 years of reporting starting the first full quarter after the Purchase of Equipment Substantial Completion Date</p>
--	---	--	--

ATTACHMENT E

MATERIAL CHANGES FROM APPLICATION

The only material change between the initial grant application submitted by Ocean Highway & Port Authority of Nassau County and this Agreement is found in Attachments A-C. This change includes the reallocation of funds for the purchase of a tugboat in place of some of the cargo handling equipment mentioned in the application. Funds were reallocated from the purchase of a new reach stacker as well as some additional bomb carts and tractors. The reason for this is two-fold. First, we analyzed the costs associated with this project and determined that a tugboat will provide a material reduction in actual “per-box” costs.

Second, after the grant application was submitted but before the grant was awarded, Worldwide Terminals had a successful bond issuance wherein they purchased a reach stacker. This was due to the necessity to acquire this piece of equipment for the terminal. Since that purchase represented much of the funds requested in the grant application, it freed up funds for another item that would be necessary for the barge operation, and thus MARAD and the Recipient settled on the use of a portion of the funds for the purchase of a tug.

ADMINISTRATIVE OFFICE MANAGER'S REPORT

August 2020

Hours Worked July – 80

- Attended and completed meeting minutes for the July 8, 2020 Monthly Meeting
- Attended Joint Mediation with City of Fernandina on July 15, 2020
- Attended Dedication Ceremony on July 27, 2020, coordinated news reporters and press release.
- Worked with Joanne at Coursun & Stam on budget and reconciliations
- Invoices paid and entered into QuickBooks
- Payroll entered into QuickBooks
- Agenda for August meeting
- Responded to all emails and corresponding documents/letters
- Website Updates

Public Records Request Received in June - 1

- Joe Zimmerman – request for list of equipment utilized and projected maintenance for the Port for 2018, 2019, 2020 as addressed in the Port Operating Agreement.