



THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



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CHRISTOPHER D. CLEMENT, SR.
COMMISSIONER

JEFF BRILLHART, P.E.
ASSISTANT COMMISSIONER

August 29, 2014
Bureau of Rail and Transit

Her Excellency, Governor Margaret Hassan
and the Honorable Council
State House
Concord NH 03301

Retroactive

REQUESTED ACTION

Authorize the Department of Transportation to enter into a retroactive contract with the New Hampshire Northcoast Railroad Company, Ossipee, NH (VC#156085) for an amount not to exceed \$1,550,000 for improvements on the New Hampshire Northcoast Railroad in Strafford and Carroll Counties, effective from August 30, 2013 through January 31, 2016. 91.3% Federal funds, 9.7% General funds.

Funding is available as follows:

Table with 2 columns: Description and FY 2015 amount. Rows include Railroad Contracts (\$1,400,000) and Capital Projects New Construction (\$150,000).

EXPLANATION

This contract is retroactive to a pre-agreement cost date of August 30, 2013 as approved by the Federal Railroad Administration (FRA). The FRA grant agreement is included as an exhibit in this contract and details the terms and conditions of the federal eligibility for the Federal Railroad Administration (FRA) Transportation Investment to Generate Economic Recovery (TIGER) grant awarded to the Department for railroad improvements on the New Hampshire Northcoast Railroad in Strafford and Carroll Counties.

The Consolidated and Further Continuing Appropriations Act of 2013 authorized the Federal Railroad Administration (FRA) to furnish funding for the Transportation Investment to Generate Economic Recovery Grant Program (TIGER) of 2013 and the Department was subsequently awarded \$1,400,000 of 2013 TIGER funds for 42 miles of track improvements for the New Hampshire Northcoast Railroad in Strafford and Carroll Counties. Pursuant to the Laws of 2013, Chapter 195:1-XVI:A3, the State appropriated \$150,000 of capital budget funds as part of the required match for the TIGER grant. This contract is representative of the FRA TIGER grant funds and the State Capital Budget funds, but it should be noted that the New Hampshire Northcoast Railroad will provide \$465,000 of matching funds for the project, thus making the entire rehabilitation project budget \$2,015,000.

This contract will provide funding for the New Hampshire Northcoast Railroad to make improvements to its 42-mile privately-owned short line railroad that runs between Ossipee and Rollinsford. Improvements to and rehabilitation of this line will continue to allow rail freight movement of aggregate and other commodities and help provide safer operations and a safe increase in the volume of rail cars on the corridor. Major components of the project include the repair and refurbishment of a .7 mile washout in Ossipee, the upgrade of two grade crossings in Somersworth and Wakefield, and track refurbishment of a 39.0-mile section of track to accommodate industry-standard 286,000-lb. rail cars and increase train speeds. The repairs and improvements, which will also include over 10,000 cross tie replacements, ballast work, and line resurfacing, will allow the railroad to maintain present FRA track class standards and allow the railroad to better serve existing customers and attract new business.

New Hampshire Northcoast Railroad Corporation owns and operates a 42-mile short line railroad that runs between Ossipee and Rollinsford and connect with the Pan Am Railway Main Line, to the south, in Rollinsford. The line carries predominantly sand, gravel, and granite from Ossipee to Boston, MA. The line, which parallels NH Route 16 and provides an alternative to freight trucking, has a present volume of approximately 5,000 rail cars per year.

The Department of Transportation will administer these funds as authorized by RSA 228:63 and RSA 228:66 and has previously received and administered Federal grants for railroad rehabilitation. The implementation of this program is strictly pass-through of federal funds to the New Hampshire Northcoast Railroad; therefore, indirect costs, audit fund set-aside, and additional fringe benefits have not been budgeted for this project.

The Agreement has been approved by the Attorney General as to form and execution, and the Department verified that the necessary funds are available. Copies of the fully executed Agreement are on file at the Secretary of State's Office and the Department of Administrative Service's Office, and subsequent to Governor and Council approval will be on file at the Department of Transportation.

Sincerely,



Christopher D. Clement, Sr.
Commissioner

SPECIAL AGREEMENT
NEW HAMPSHIRE NORTHCOAST RAIL IMPROVEMENT PROJECT

THE STATE OF NEW HAMPSHIRE
NEW HAMPSHIRE NORTHCOAST CORPORATION

NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION
BUREAU OF RAIL & TRANSIT
PO BOX 483, 7 HAZEN DRIVE
CONCORD, NH 03302-0483

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Effective upon the date of approval by Governor & Council, this Special Agreement, New Hampshire Northcoast Rail Improvement Project is made and entered into between New Hampshire Northcoast Corporation and the State of NH; acting through and by its Department of Transportation, Bureau of Rail & Transit.

Whereas, the Department of Transportation, Bureau of Rail & Transit, situated at 7 Hazen Drive, Concord NH 03301 (hereinafter referred to as the "NHDOT"), is the agency responsible for matters relating to rail service; and

Whereas, the New Hampshire Northcoast Corporation, a corporation or other legal entity (hereinafter the "Grantee"), owns and operates a railroad in and through Ossipee, Milton, Wakefield, Rochester, Somersworth and Rollinsford, New Hampshire; and

Whereas, the Grantee has agreed to provide the required matching funds by means of cash, labor and materials toward the rehabilitation project; and

Whereas, pursuant to RSA 14:30-a, VI the State will accept a grant awarded for \$1,400,000 of Federal Railroad Administration (FRA) funds for the rehabilitation of 39.2 miles of track between MP 70.1 and 109.3 on the New Hampshire Northcoast Railroad in the Towns of Ossipee, Milton, Wakefield, Rollinsford and the Cities of Rochester, Somersworth, Counties of Strafford and Carroll, State of New Hampshire.

Whereas, pursuant to the Laws of 2013, Chapter 195:1-XVI:A3, the State appropriated \$150,000 of capital budget funds for the rehabilitation of 39.2 miles of track between MP 70.1 and 109.3 on the New Hampshire Northcoast Railroad in the Towns of Ossipee, Milton, Wakefield, Rollinsford and the Cities of Rochester, Somersworth, Counties of Strafford and Carroll, State of New Hampshire.

Subject to the provisions of Section 18, the parties to this Agreement acknowledge that the NHDOT and the State of New Hampshire shall not acquire or gain any interest of ownership or otherwise in any of the Grantee's property, whether personal, real or otherwise.

Now, therefore, in consideration of the premises and the covenants and agreements hereinafter set forth, the NHDOT and the Grantee do hereby contract and agree:

1. AUTHORIZATION OF FUNDS

The NHDOT shall expend a maximum of \$1,550,000 for the replacement of cross ties, ballast, rail and rehabilitation of the New Hampshire Northcoast Railroad line in Rollinsford, Somersworth, Rochester, Milton, Wakefield and Ossipee, New Hampshire from MP 70.1 to MP 109.3, in accordance with State and Federal requirements. Funding shall include \$1,400,000 of Federal Railroad Administration funds and \$150,000 of State Capital Budget funds.

The funds shall be made available upon Governor and Council approval for eligible expenses as identified in the FRA Grant FR-TII-0027-14-01-00. It is noted that this contract, in concert with FRA Grant FR-TII-0027-14-01-00, recognizes August 30, 2013 as the eligible start date for reimbursable expenses, referred to as pre-agreement costs by FRA.

2. PROJECT DESCRIPTION

The project consists of the installation of new cross-ties, ballast, new continuous welded rail, repair of washout, siding upgrade, crossing repairs and resurfacing from MP 70.1 to MP 109.3 on the main line of the New Hampshire Northcoast Railroad Company (NHNC) in Rollinsford, Somersworth, Rochester and Ossipee, Strafford and Carroll Counties, New Hampshire as described in the FRA grant application. The

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work will be performed by or for the Grantee, and accepted by the NHDOT for partial funding with funds provided by Federal Railroad Administration Grant FR-TII-0027-14-01-00 and State Capital Budget funds

3. DEFINITIONS

- A. Grantee – New Hampshire Northcoast Railroad. Grantee’s Representative - The Grantee shall designate a person to coordinate and manage all Grantee responsibilities regard the development of the Project.
- B. Grantor – State of New Hampshire, Department of Transportation
- C. Contracting Officer – Commissioner, New Hampshire Department of Transportation or the person designated by the NHDOT to coordinate and manage all NHDOT responsibilities regarding the Project
- D. Grant Agreement – USDOT, Federal Railroad Administration, Grant FR-TII-0027-14-01-00, Exhibit A
- E. Scope – The Grantee shall furnish all personnel, facilities, equipment, and other materials and services (except as otherwise specified herein) necessary to perform the approved Project, as set forth in Attachment 2 of Exhibit A, Statement of Work, New Hampshire Northcoast Rail Corridor Improvement Project, Strafford and Carroll Counties, New Hampshire.
- F. Project Completion Date – **January 31, 2016.**
- G. Project Cost – The total estimated cost of the Project, as defined in the FRA Grant Agreement, which is in Attachment 3 of Exhibit A, is \$2,015,000 and includes Federal funds (\$1,400,000), State funds (\$150,000) and NH Northcoast Corporation contributions (\$465,000). State reimbursement to the New Hampshire Northcoast Corporation under this Agreement shall not exceed \$1,550,000.00 (Federal funds + State funds).

4. CONTRIBUTION BY THE RAILROAD

The Grantee shall be responsible for the matching share (non-NHDOT) of all eligible Project Costs as described in the FRA Grant Agreement budget, attached. Also, the grantee shall be fully responsible for all Project Costs deemed ineligible for NHDOT participation and all Project Costs that exceed the maximum amount reimbursable to the Grantee by the NHDOT, as stated above.

- A. The Grantee shall submit, for NHDOT approval, an acceptable line item budget containing an itemization of estimated Project costs; and a work plan and schedule describing how and when the Grantee intends to prosecute the Project work.
- B. The Grantee shall not perform or authorize any services or work under this agreement without first receiving approval in writing from the NHDOT.
- C. The Grantee shall develop and prepare all necessary design plans, specifications, estimates and contract documents for the Project. The Grantee shall submit all such plans, specifications, estimates and contract documents to the NHDOT for review and approval prior to commencing any Project work or procuring any third-party contract.

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- D. The Grantee shall obtain all permits and licenses necessary to construct the Project. Also, the Grantee shall develop and prepare all environmental studies and reports necessary for the Project.
- E. The Grantee shall certify to NHDOT that it has right, title and interest to the property upon which the Project will be constructed or has obtained written authorization in the form of easements or licenses from the owners of the property upon which all or a portion of the Project will be constructed. Such right, title and interest or easement or license shall remain with the Grantee for the term described below in Section 18, unless assignment or release of the lien specified in Section 18 is approved in writing from NHDOT.

5. GRANT OBLIGATIONS

Any duty imposed upon the State by the United States Department of Transportation through Grant Agreement FR-TII-0027-14-01-00 between FRA & NHDOT, including any amendments, or any references contained therein, including the 2013 TIGER Grant Assurances and Certifications, are hereby made an obligation of the Grantee.

These include but are not limited to:

- A. The Grantee shall develop and prepare all Reports, Presentations and Other Deliverables as described in Sections 10 through 14 of referenced FRA Grant FR-TII-0027-14-01-00. The Progress reports following the form of FRA Attachment # 3 must accompany each request for payment, and at a minimum shall be submitted quarterly. These reports shall relate the state of completion of items in the scope of work to expenditures of the relevant budget elements.
- B. Four quarterly progress reports are also required for periods referred to in Sections 11-13 of the Grant Agreement: January 1- March 31, April 1-June 30, July 1- September 30 and October 1-December 31. The Grantee shall provide 3 copies of the quarterly progress report to the NHDOT Bureau of Rail & Transit on or before the fourteenth (14) calendar day of the month following the end of the quarter being reported.
- C. A draft final report must be submitted by October 31, 2015 and the final report by January 30, 2016.
- D. The Grantee agrees to include the applicable requirements in the Grant Agreement between FRA and NHDOT in any subcontracts with persons who perform any part of the work under this Agreement. There shall be provisions for a further flow down of such requirements to each sub-tier contractor or grantee as required.

6. REIMBURSEMENT PROCEDURES

The Grantee shall submit an invoice to the NHDOT, no less than quarterly, for all claims for reimbursement of eligible Project costs incurred pursuant to the terms of this Agreement. Costs are incurred whenever work is performed, goods and services are received or a cash disbursement is made. All claims submitted for reimbursement shall be submitted on the Grantee's billhead, reference Project #26273 and Grant FR-TII-0027-14-01-00, and shall contain the following:

- A. An itemized account of expenditures consistent with the approved line item budget required in Section 4.A. of this agreement. Backup documentation and proof of payment to suppliers, tradesmen, material men and contractors must be submitted with each invoice.
- B. A cumulative total of all costs incurred by budget line item; and

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- C. A certificate from the chief financial officer, or designee, of the Grantee that all amounts so claimed for reimbursement are correct, due and not claimed previously and that all work for which such reimbursement is being claimed was performed in accordance with the terms of this Agreement.

7. GENERAL PROVISIONS

Independent Capacity The Grantee, its employees, agents, representative, consultants or contractors, shall, in performance of the work under this Agreement, act in an independent capacity from and not as officers, employees or agents of the NHDOT.

- A. Access The Grantee shall permit reasonable access to the Project by authorized representatives of the NHDOT and Federal Railroad Administration.
- B. Inspection An inspector from the NHDOT will regularly and randomly inspect the work during the rehabilitation project and after its completion for the purpose of insuring compliance with the terms of this Agreement.

8. INDEMNIFICATION

The Grantee, its successors and assigns, shall indemnify and hold harmless the NHDOT and its employees, contractors, consultants and agents against any and all claims, demands or actions arising from or related to the Project that are caused by any wrongful act or omission of the Grantee or its employees, officers, contractors, subcontractors, consultants, licensees and invitees including any claims, demands or actions related to injury, death, or property loss, including reasonable attorney's fees. This provision shall survive the project completion or early termination of this Agreement.

9. PROJECT RECORDS

The Grantee shall maintain any and all records associated with the Project and shall make said records available to authorized representatives of the NHDOT for audit purposes. The Grantee shall maintain said records for a period of at least five (5) years after completion of the Project.

- A. Project Accounts – Grantee agrees to establish and maintain for the Project either a separate set of accounts or accounts within the framework of an established accounting system, in a manner consistent with 49 C.F.R 18.20 or 49 CFR 19.21, as amended, whichever is applicable.
- B. The Grantee agrees that all requests for reimbursement shall be in compliance with OMB Circular A-87, Cost Principles & Allowable Costs.
- C. Documentation of Project Cost and Program Income – All costs charged to the Project, including any approved services contributed by the Grantee or others, shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers describing in detail the nature and propriety of the charges. The Grantee agrees to maintain accurate records of all Program Income derived from Project implementation.
- D. Checks, Orders, and Vouchers – The Grantee agrees that all checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to the Project shall be clearly identified, readily accessible, and, to the extent feasible, kept separate from documents not pertaining to the Project.

10. THIRD PARTIES

The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

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11. CONDITIONAL NATURE OF AGREEMENT

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account established for this project in the event funds or unavailable.

12. INTERPRETATION AND PERFORMANCE

This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

13. ENTIRE AGREEMENT

This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

14. TERMS

All of the provisions set forth in this Agreement, excepting Sections 9 and 18, shall be satisfactorily completed by January 31, 2016.

15. NOTICE

All notice required pursuant to this Agreement shall be forwarded by regular mail to the following:

To the Grantor:

NH Department of Transportation
Bureau of Rail & Transit
PO Box 483, 7 Hazen Drive
Concord, NH 03302-0483

Attention: Louis A. Barker
Railroad Planner

To the Grantee:

New Hampshire Northcoast Corp.
PO Box 429
Ossipee, NH 03864-0429

Attention: Ron Corriveau
Project Manager

16. SEVERABILITY

In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

17. PROJECT COMPLETION, AUDIT, AND CLOSEOUT

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- A. Project Completion – Within 90 days of the Construction Completion date or termination by the NHDOT, the grantee will submit a final Financial Status Report (FRA Standard Form 269), a certification or summary of Project expenses, and third party audit reports, as applicable.
- B. Audits – Grantee agrees to assist the State in audits required by 49 CFR 18.26 and OMB Circular A-128 or any revision or supplement thereto.
- C. Project Closeout – Project closeout occurs when all required Project work and all administrative procedures described in 49 CFR Part 18, or 49 CFR 19, as applicable, have been completed, and when the FRA notifies the State and final payment has been forwarded to the Grantee. Project closeout shall not invalidate any continuing obligations imposed on the Grantee by this Agreement or FRA’s final notification or acknowledgement.

18. CONTINUATION OF SERVICE, MAINTENANCE AND LIEN

The Grantee agrees to use and maintain the improvements constructed as part of this Project for the purpose of moving freight for a period of ten (10) years after completion of the Project or other term as defined by the FRA. The NHDOT reserves the right to recover from the Grantee the fair market value of all materials incorporated into the Project in the event the Grantee fails to use improvements for the purpose of moving freight for said period. The NHDOT’s right, as described above in this Section 18 shall be limited to the actual current fair market value of the reimbursement paid by the NHDOT to the Grantee under this Agreement. Grantee agrees to notify NHDOT immediately if the rail line is withdrawn from service.

The Grantee shall develop and implement, or cause to be developed and implemented, a maintenance plan acceptable to NHDOT which assures an appropriate level of maintenance of the improvements constructed under this Agreement pursuant to the FRA Track Safety Standards.

Pursuant to RSA 228:66, V, the NHDOT and the Railroad agree that a lien on the improved property shall be created in favor of the State of New Hampshire in an amount which equals all of the pro rata share, of the improvements made. The lien shall expire 10 years from the date the improvements are completed; provided that the lien shall be recorded in the State’s registry of deeds of the county or counties in which the improved property is situated and shall not supersede any lien created by a mortgage affecting such property. If the line upon which the improvements have been made is operated and maintained for normal use for a period of 10 years subsequent to the completion of the improvements, the lien shall expire, and the State shall record a suitable release of the lien.

19. TERMINATION AND DEFAULT

The NHDOT reserves the right to terminate the payment provisions of this Agreement in the event of any substantial default by the Grantee. Substantial default shall include by not be limited to:

- A. Misrepresentation or falsification of any claims submitted by the Grantee for reimbursement pursuant to Section 6, above.
- B. Breach of any material provisions of this Agreement: and,
- C. Failure to complete the Project within the Terms as set forth in this Agreement and as detailed in Grant FR-TII-0027-14-01-00.

In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) calendar days after the date of termination, a report (“Termination Report”) describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in Grant FR-TII-0027-14-01-00 and hereto included as an exhibit to this Agreement.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement in triplicate.

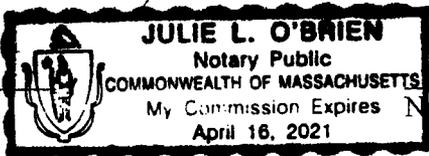
Grantee: New Hampshire Northcoast Corporation

Date: 8/27/14 By: Dean M Boylan
(Name)
President
(Title)

STATE OF Massachusetts
COUNTY OF Suffolk

On, 08/27/14, before the undersigned officer personally appeared Dean M. Boylan
known to me (or satisfactorily proven) to be the President of the corporation identified in
the foregoing document, and acknowledged that he executed the foregoing document.

In witness whereof I hereunto set my hand and official seal.

08/27/14
Date  Julie L O'Brien
Notary Public

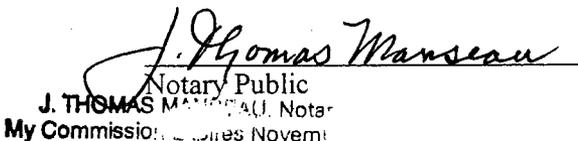
Grantor: State of New Hampshire, Department of Transportation

Date: 8/29/14 By: Patrick C. Herlihy
(Name)
Director
(Title)

STATE OF New Hampshire
COUNTY OF Merrimack

On, 8/29/14, before the undersigned officer personally appeared PATRICK C. HERLIHY
known to me (or satisfactorily proven) to be the DIRECTOR of the corporation identified in
the foregoing document, and acknowledged that he executed the foregoing document.

In witness whereof I hereunto set my hand and official seal.

August 29, 2014
Date  J. Thomas Manseau
Notary Public
J. THOMAS MANSEAU, Notary Public
My Commission Expires November

Approved by Attorney General this 8th day of September 2014, as to form and execution.

By: Deanne Martin
Assistant Attorney General

Approved by Governor and Council on _____, 20____, Item # _____.

ATTEST: _____
Secretary of State

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EXHIBITS TO AGREEMENT

- A. USDOT Federal Railroad Administration Grant/Cooperative Agreement FR-TII-0027-14-01-00
- B. TIGER 2013 Grant Assurances and Certifications Compliance Sign-off
- C. Certificate of Good Standing
- D. Certificate of Corporate Vote/Authority

EXHIBIT A

USDOT Federal Railroad Administration Grant/Cooperative Agreement FR-TII-0027-14-01-00

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U.S. Department
of Transportation
**Federal Railroad
Administration**

Grant/Cooperative Agreement

1. RECIPIENT NAME AND ADDRESS New Hampshire Department of Transportation PO BOX 483 7 HAZEN DRIVE Concord, NH 03302-0483		2. AGREEMENT NUMBER: FR-TII-0027-14-01-00		3. AMENDMENT NO. 0	
		4. PROJECT PERFORMANCE PERIOD: FROM 08/08/2014 TO 10/31/2015			
		5. FEDERAL FUNDING PERIOD: FROM 08/08/2014 TO 10/31/2015			
1A. IRS/VENDOR NO. 026000618		6. ACTION New			
1B. DUNS NO. 808591697					
7. CFDA#: 20.933		9. TOTAL OF PREVIOUS AGREEMENT AND ALL AMENDMENTS		0.00	
8. PROJECT TITLE New Hampshire Northcoast Rail Improvement Project		10. AMOUNT OF THIS AGREEMENT OR AMENDMENT		1,400,000.00	
		11. TOTAL AGREEMENT AMOUNT		1,400,000.00	
12. INCORPORATED ATTACHMENTS THIS AGREEMENT INCLUDES THE FOLLOWING ATTACHMENTS, INCORPORATED HEREIN AND MADE A PART HEREOF: Standard Terms and Conditions, Attachment 1; Statement of Work, Attachment 2 Approved Project Budget, Attachment 3; Performance Measurement Table, Attachment 4 Assurances and Certifications, Attachment 5					
13. STATUTORY AUTHORITY FOR GRANT/ COOPERATIVE AGREEMENT Consolidated and Further Continuing Appropriations Act, 2013 (Public Law 113-6 (March 26, 2013))					
14. REMARKS					
GRANTEE ACCEPTANCE			AGENCY APPROVAL		
15. NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL Mr. Patrick C Herlihy <i>Patrick C Herlihy</i>			17. NAME AND TITLE OF AUTHORIZED FRA OFFICIAL Joseph C. Szabo Administrator		
16. SIGNATURE OF AUTHORIZED GRANTEE OFFICIAL Electronically Signed		16A. DATE 08/08/2014	18. SIGNATURE OF AUTHORIZED FRA OFFICIAL <i>Joseph C. Szabo</i>		18A. DATE 8/8/14
AGENCY USE ONLY					
19. OBJECT CLASS CODE: 41010			20. ORGANIZATION CODE: 9000000000		
21. ACCOUNTING CLASSIFICATION CODES					
DOCUMENT NUMBER	FUND	BY	BPAC	AMOUNT	
FR-TII-0027-14-01-00	2713140143	2014	0143T529Y0	1,400,000.00	

AWARD ATTACHMENTS

New Hampshire Department of Transportation

FR-TII-0027-14-01-00

1. Standard Terms and Conditions, Attachment 1
2. Statement of Work, Attachment 2
3. Approved Project Budget, Attachment 3
4. Performance Measurement Table, Attachment 4
5. Assurances and Certifications, Attachment 5

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**GRANT AGREEMENT UNDER THE
CONSOLIDATED AND FURTHER CONTINUING APPROPRIATIONS
ACT, 2013 (DIVISION F, TITLE I, PUBLIC LAW 113-6, MARCH 26, 2013),
FOR THE NATIONAL INFRASTRUCTURE INVESTMENTS
DISCRETIONARY GRANT PROGRAM (FY 2013 TIGER
DISCRETIONARY GRANTS)**

This agreement (the "Agreement" or "Grant Agreement") reflects the selection of the recipient identified in section 1 of the Grant/Cooperative Agreement (page 1) ("Grantee" or "Recipient") as a Recipient of a grant awarded under the provisions of the Further Continuing Appropriations Act, 2013 (Public Law 113-6, March 26, 2013), regarding National Infrastructure Investments (the "Act"). The grant program under the Act is referred to as "FY 2013 TIGER Discretionary Grants" or "TIGER Discretionary Grants."

SECTION 1. LEGISLATIVE AUTHORITY

- a) The U.S. Department of Transportation ("DOT" or "Government") is authorized to award \$473.847 million in FY 2013 TIGER Discretionary Grants pursuant to the Act. This appropriation is similar, but not identical to the appropriation for the Transportation Investment Generating Economic Recovery, or "TIGER Discretionary Grant" program authorized and implemented pursuant to the American Recovery and Reinvestment Act of 2009 (the "Recovery Act"), the FY 2010 TIGER Discretionary Grants pursuant to Title I (Department of Transportation) of Division A of the Consolidated Appropriations Act, 2010, the FY 2011 TIGER Discretionary Grants pursuant to Title XII (Transportation, Housing and Urban Development, and Related Agencies) of Division B of the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Public Law 112-10, April 15, 2011), and the FY 2012 TIGER Discretionary Grants pursuant to The Consolidated and Further Continuing Appropriations Act, 2012 (Public Law 112-055, November 18, 2011). Because of the similarity in program structure and objectives, DOT is referring to the grants for National Infrastructure Investments under the Act as the "FY 2013 TIGER Discretionary Grants" or "TIGER Discretionary Grants."
- b) The grant awards made under TIGER Discretionary Grant program are in full compliance with the Act and the Notice of Funding Availability published in the *Federal Register* (78 FR 24786, April 26, 2013).
- c) Funds for the TIGER Discretionary Grant program are being awarded on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area or a region. Additionally, the awards ensure an equitable geographic distribution of funds, an appropriate balance in addressing the needs of urban and rural areas, and the investment in a variety of transportation modes.
- d) The Act specifies that not less than \$120 million of the funds provided for FY 2013 TIGER Discretionary Grants be used for projects located in rural areas.

Attachment 1

SECTION 2. GENERAL TERMS AND CONDITIONS

- a) This Agreement is entered into between DOT, acting through the Federal Railroad Administration ("FRA"), and the Grantee. The Agreement will be administered by FRA (also referred to herein as the "Government").
- b) The Grantee shall be responsible for ensuring that the Project is financed, constructed, operated and maintained in accordance with this Agreement and in compliance with all applicable Federal laws, regulations and policies.
- c) The maximum obligation of the Government payable under this Agreement shall be as specified in section 4(d) of this Attachment 1 of the Agreement, subject to all the terms and conditions in this Agreement and of all other Federal grant awards funding the Project. FY 2013 TIGER Discretionary Grant funds for this Project will be authorized for expenditure by the Grantee only when this Agreement is fully executed by both parties.
- d) Payment of the Grant will be made pursuant to and in accordance with 49 C.F.R. Parts 18 and 19 (to the extent that a non-governmental grantee receives grant funding), and the provisions of such regulations and procedures as the Government may prescribe. Final determination of the Grant's expenditures may be based upon a final review of the total amount of agreed Project costs and settlement will be made for adjustments to the Grant amount in accordance with applicable government-wide cost principles under 2 C.F.R. 225 (State and Local Governments); 2 C.F.R. 215 (Higher Education Institutions); and 2 C.F.R. 230 (Non-Profit Organizations). If there are any differences between the requirements of 49 C.F.R. Parts 18 and 19 and Title 49 of the United States Code and Code of Federal Regulations, the Title 49 requirements will take precedence.
- e) The Grantee agrees to notify the Government within 14 calendar days of any change in circumstances or commitments that adversely affect the Grantee's plan to complete the Project as is described in Attachments 2 and 3 to this Agreement. In its notification, the Grantee shall advise the Government of the actions it has taken or plans to take to ensure completion of the Project and shall reaffirm its commitment to the Government as set forth in this Agreement. The Government is not responsible for any funding shortfalls regarding the non-TIGER Discretionary Grant amount share. The FY 2013 TIGER Discretionary Grant Amount will remain unchanged. (See Section 13 of this Attachment 1 to the Agreement regarding termination).
- f) The Grantee agrees to carry out and complete the Project without undue delays and in accordance with the terms hereof, including the Estimated Project Schedule set out in Attachment 2, and such regulations and procedures as the Government may prescribe.
- g) The Grantee has submitted a request for Federal assistance, hereinafter referred to as the "Technical Application" or "Application," hereby incorporated by reference into this Agreement, and the Government is relying upon the Grantee's assurances, certifications, and other representations made in the Technical Application, or any other related documents submitted to the Government; and, in its submissions, the Grantee has demonstrated justification for the

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Attachment 1

Project, and has demonstrated the financial and technical feasibility of the Project, including the ability to start construction quickly upon receipt of the Grant; to expend Grant funds once construction starts; and to receive all necessary environmental, state and local planning, and legislative approvals necessary for the Project to proceed in accordance with the Project Schedule. This Grant is made to the Grantee for the Project, including the Project's scope, assurance/confirmation that all required funding has been obtained and committed, and the timeline for completion of the Project.

h) The Government has determined that the Project is an Eligible Project as it provides a highway or bridge project, public transportation project, passenger or freight rail transportation project, or a port infrastructure project, or other such eligible project as authorized, and that the Project will have a significant impact on the Nation, a metropolitan area, or a region. The Government has determined that Grantee should receive the award of a Grant based on a review of the Project's Technical Application, as it meets the requirements specified in the Act and the March 26, 2013, Federal Register Notice, "Notice of Funding Availability for the Department of Transportation's National Infrastructure Investments Under the Consolidated and Further Continuing Appropriations Act, 2013" (Available at <https://www.federalregister.gov/articles/2013/04/26/2013-09889/notice-of-funding-availability-for-the-department-of-transportations-national-infrastructure>).

i) The Grantee will be monitored periodically by the Government, both programmatically and financially, to ensure that the Project goals, objectives, performance requirements, timelines, milestone completion, budgets, and other related program criteria are being met. Monitoring will be accomplished through a combination of office-based reviews and onsite monitoring visits. Monitoring will involve the review and analysis of the financial, programmatic, performance and administrative issues relative to each program and will identify areas where technical assistance and other support may be needed. The Grantee is responsible for monitoring award activities, to include sub-awards, to provide reasonable assurance that the Federal award is administered in compliance with applicable requirements. Responsibilities include the accounting of receipts and expenditures, cash management, maintaining adequate financial records, and refunding disallowed expenditures.

j) The Grantee agrees to take all steps, including initiating litigation, if necessary, to recover Federal funds if the Government determines, after consultation with the Grantee, that such funds have been spent fraudulently, wastefully, or in violation of Federal laws, or misused in any manner in undertaking the Project. For the purposes of this Agreement, the term "Federal funds" means funds however used or disbursed by the Grantee that were originally paid pursuant to the Agreement.

k) The Grantee agrees to retain all documents relevant to the Grant award for a period of three years from completion of the Project and receipt of final reimbursement from the Government. The Grantee agrees to furnish the Government, upon request, all documents and records pertaining to the determination of the Grant amount or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Grantee, in court or otherwise, involving the recovery of such Grant amount shall be approved in advance by the Government.

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l) The Government is subject to the Freedom of Information Act (FOIA). The Grantee should therefore be aware that all applications and related materials submitted by the Grantee related to this Agreement will become agency records and thus are subject to FOIA and to public release through individual FOIA requests.

m) The Government shall not be responsible or liable for any damage to property or any injury to persons that may arise from, or be incident to, performance or compliance with this Agreement.

n) The Grantee agrees to: 1) provide maximum practicable opportunities for small businesses, including veteran-owned small businesses and service disabled veteran-owned small businesses, and 2) implement best practices, consistent with our nation's civil rights and equal opportunity laws, for ensuring that all individuals – regardless of race, gender, age, disability, and national origin – have an opportunity to benefit from activities funded through this Agreement. An example of a best practice under 2) above would be to incorporate key elements of the Department's Disadvantage Business Enterprise (DBE) program (see 49 C.F.R. Part 26) in contracts under this Agreement. This practice would involve setting a DBE contract goal on contracts funded under this Agreement that have subcontracting possibilities. The goal would reflect the amount of DBE participation on the contract that the Grantee would expect to obtain absent the effects of discrimination and consistent with the availability of certified DBE firms to perform work under the contract. When a DBE contract goal has been established by a Grantee, the contract would be awarded only to a bidder/offer that has met or made (or in the case of a design/build project, is committed to meeting or making) documented, good faith efforts to reach the goal. Good faith efforts are defined as efforts to achieve a DBE goal or other requirement of this Agreement which, by their scope, intensity, and appropriateness to the objective can reasonably be expected to achieve the goal or other requirement. The Grantee must provide FRA a plan for incorporating the above best practice into its implementation of the Project within 30 days following execution of this Agreement. If the Grantee is not able to substantially incorporate Part 26 elements in accordance with the above-described best practice, the Grantee agrees to provide the FRA with a written explanation and an alternative program for ensuring that contractors owned and controlled by socially and economically disadvantaged individuals are provided the opportunity to benefit from activities funded through this Agreement.

o) The Government encourages the Grantee and the State Department of Transportation acting as the limited agent on behalf of the Grantee (if applicable), to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies that bar text messaging while driving company-owned or –rented vehicles, or government-owned, leased, or rented vehicles or privately-owned vehicles when on official government business or when performing any work for or on behalf of the Government. See Executive Order 13513 "Federal Leadership on Reducing Text Messaging While Driving," Oct. 1, 2009 (available at <http://edocket.access.gpo.gov/2009/E9-24203.htm>) and DOT Order 3902.10 "Text Messaging While Driving," Dec. 30, 2009, as implemented by Financial Assistance Policy Letter (No. FAP-2010-01, Feb. 2, 2010, available at http://www.dot.gov/sites/dot.dev/files/docs/FAPL_2010-01.pdf). This includes, but is not limited to, the Grantee and the State Department of Transportation acting as the limited agent on behalf of the Grantee:

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- 1) considering new rules and programs or re-evaluating existing programs to prohibit text messaging while driving;
- 2) conducting education, awareness, and other outreach for employees about the safety risks associated with texting while driving; and
- 3) encouraging voluntary compliance with the agency's text messaging policy while off duty.

The Grantee is encouraged to insert the substance of this clause in all assistance awards.

- p) The Grantee shall comply with the Buy America provisions set forth in 49 U.S.C. 24405(a) for the Project with respect to the use of steel, iron, and manufactured goods produced in the United States, subject to the conditions therein set forth.
- q) The Grantee agrees that it will comply with the provisions of the Davis-Bacon Act, 40 U.S.C. § 3141, et seq., as is specified in the Act.

SECTION 3. APPLICABLE FEDERAL LAWS AND REGULATIONS

By entering into the Agreement the Grantee assures and certifies, with respect to this grant, that it will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Project. Performance under this Agreement shall be governed by and in compliance with the following requirements, as applicable to the type of organization of the Recipient and any applicable sub-recipients. The applicable provisions to the Agreement include but are not limited to the following:

General Federal Legislation

- a. Davis-Bacon Act - 40 U.S.C. 3141, et seq.
- b. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- c. Hatch Act - 5 U.S.C. 1501, et seq.
- d. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title - 42 U.S.C. 4601, et seq.
- e. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470f
- f. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469a through 469c.
- g. Native American Graves Protection and Repatriation Act - 25 U.S.C. 3001, et seq.
- h. Clean Air Act, P.L. 90-148, as amended
- i. Section 404 of the Clean Water Act, as amended 33 U.S.C. 1251, et seq.
- j. Section 7 of the Endangered Species Act, P.L. 93-205, as amended.
- k. Coastal Zone Management Act, P.L. 92-583, as amended.
- l. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a
- m. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- n. American Indian Religious Freedom Act, P.L. 95-341, as amended
- o. Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. 1101, et seq.
- p. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, P.L. 91-616, as amended - 42 U.S.C. 4541, et seq.
- q. Sections 523 and 527 of the Public Health Service Act of 1912, as amended, 42 U.S.C.

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- r. Architectural Barriers Act of 1968 - 42 U.S.C. 4151, et seq.
- s. Power Plant and Industrial Fuel Use Act of 1978, P.L. 100-42 - Section 403 - 42 U.S.C.8373
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. 3701, et seq.
- u. Copeland Anti-kickback Act, as amended - 18 U.S.C. 874 and 40 U.S.C. 3145
- v. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended - 16 U.S.C. 1271, et seq.
- x. Federal Water Pollution Control Act, as amended - 33 U.S.C. 1251-1376
- y. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.
- z. Americans with Disabilities Act of 1990 - 42 U.S.C. 12101, et seq.
- aa. Title IX of the Education Amendments of 1972, as amended - 20 U.S.C. 1681 through 1683, and 1685 through 1687
- bb. Section 504 of the Rehabilitation Act of 1973, as amended - 29 U.S.C. 794
- cc. Title VI of the Civil Rights Act of 1964 - 42 U.S.C. 2000d *et seq.*
- dd. Title IX of the Federal Property and Administrative Services Act of 1949 - 40 U.S.C. 541, et seq.
- ee. Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions - 31 U.S.C. 1352
- ff. Freedom of Information Act - 5 U.S.C. 552, as amended
- gg. Magnuson-Stevens Fishery Conservation and Management Act - 16 U.S.C. 1855
- hh. Farmlands Protection Policy Act of 1981 - 7 U.S.C. 4201
- ii. Noise Control Act of 1972 - 42 U.S.C. 4901, et seq.
- jj. Fish and Wildlife Coordination Act of 1956 - 16 U.S.C. 661
- kk. Section 9 of the Rivers and Harbors Act and General Bridge Act of 1946 - 33 U.S.C. 401
- ll. Section 4(f) of the Department of Transportation Act of 1966, 49 U.S.C. 303 and 23 U.S.C. 138
- mm. Resource Conservation and Recovery Act of 1976 (RCRA), as amended -- 42 U.S.C. 6901, et seq.
- nn. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended --42 U.S.C. 9601-9657
- oo. Safe Drinking Water Act -- 42 U.S.C. 300F-300J-6
- pp. Wilderness Act -- 16 U.S.C. 1131-1136
- qq. Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 -- 42 U.S.C. 6901, et seq.
- rr. Migratory Bird Treaty Act 16 U.S.C. 760c-760g
- ss. The Federal Funding Transparency and Accountability Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Public Law 110-252)
- tt. Cargo Preference Act of 1954 - 46 U.S.C. 5530

Executive Orders

- a. Executive Order 11246 - Equal Employment Opportunity
- b. Executive Order 11990 - Protection of Wetlands
- c. Executive Order 11988 - Floodplain Management
- d. Executive Order 12372 - Intergovernmental Review of Federal Programs

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- e. Executive Order 12549 – Debarment and Suspension
- f. Executive Order 12898 – Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
- g. Executive Order 13166 – Improving Access to Services for Persons With Limited English Proficiency

General Federal Regulations

- a. Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations – 2 C.F.R. Part 215
- b. Cost Principles for State, Local, and Indian Tribal Governments – 2 C.F.R. Part 225
- c. Non-procurement Suspension and Debarment – 2 C.F.R. Part 1200
- d. Investigative and Enforcement Procedures - 14 C.F.R. Part 13
- e. Procedures for predetermination of wage rates - 29 C.F.R. Part 1
- f. Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States - 29 C.F.R. Part 3
- g. Labor standards provisions applicable to contracts governing federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act) - 29 C.F.R. Part 5
- h. Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements) - 41 C.F.R. Parts 60, et seq.
- i. Contractor Qualifications - 48 C.F.R. Part 9
- j. Uniform administrative requirements for grants and cooperative agreements to state and local governments - 49 C.F.R. Part 18
- k. New Restrictions on Lobbying – 49 C.F.R. Part 20
- l. Nondiscrimination in Federally Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 – 49 C.F.R. Part 21
- m. Uniform relocation assistance and real property acquisition for Federal and Federally assisted programs - 49 C.F.R. Part 24
- n. Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance - 49 C.F.R. Part 25
- o. Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance - 49 C.F.R. Part 27
- p. Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation – 49 C.F.R. Part 28
- q. Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors - 49 C.F.R. Part 30
- r. Governmentwide Requirements for Drug-Free Workplace (Financial Assistance) – 49 C.F.R. Part 32
- s. DOT's implementing ADA regulations, including the ADA Accessibility Guidelines in Part 37, Appendix A - 49 C.F.R. Parts 37 and 38
- t. Procedures for Transportation Workplace Drug and Alcohol Testing Programs – 49 C.F.R. Part 40
- u. Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs – 49 C.F.R. Part 26

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- v. Preference for Privately Owned Commercial U.S. Flag Vessels – 46 C.F.R. Part 381.

Office of Management and Budget Circulars

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

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

SECTION 4. GRANTEE AND PROJECT INFORMATION

a) Grantee: This Grant is made to the Grantee for the project as described in the Grantee's Technical Application (the "Project") and the negotiated provisions on the Project's material terms and conditions, including the Project's scope, assurance/confirmation that all required funding has been obtained and committed, and the timeline for completion of the Project. The Grantee agrees to abide and comply with all terms and conditions of this Agreement and to abide by, and comply with, all requirements as specified in all exhibits and attachments, which are considered as integral parts of this Agreement. In the case of any inconsistency or conflict between the specific provisions of this Agreement, the exhibits and the attachments, such inconsistency or conflict shall be resolved as follows: first, by giving preference to the specific provisions and terms of this Agreement; second, by giving preference to the provisions and terms of Attachment 1; and third, by giving preference to the provisions and terms of other attachments.

The Dun and Bradstreet Data Universal Numbering System (DUNS) No. of the Grantee is identified in section 1B on the Grant/Cooperative Agreement (page 1)

Name of any First-Tier Sub-Grantees or Sub-Recipients (if applicable—to be reported if/when identified. If not applicable, note as N/A) N/A

DUNS No. of First-Tier Sub-Grantees or Sub-Recipients (if applicable—to be reported if/when identified. If not applicable, note as N/A) N/A

b) Notices:

Notices required by this Agreement should be addressed as follows:

As to the FRA:

Michael Longley

Transportation Industry Analyst

MMU

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U.S. Department of Transportation/Federal Railroad Administration
1200 New Jersey Avenue, SE
Washington, DC 20590
Room W36-446
202-493-6377
michael.longley@dot.gov

As to the Grantee:

Shelley Winters
Bureau Administrator
NH Department of Transportation
PO Box 483, Concord, NH 03302-0483
603-271-2468
SWinters@dot.state.nh.us

Notwithstanding section 13(c) of this Attachment, the Grantee may update contact information listed in this paragraph by written notice (formal letter) to the Government without the need for a formal amendment to this Agreement.

c) Project Description and Milestones

- 1) Project Description: The Grantee shall furnish all personnel, facilities, and equipment, and other materials and services (except as otherwise specified herein) necessary to perform the approved Project, as set forth in the Statement of Work and the Estimated Project Schedule (Attachment 2), the Approved Project Budget (Attachment 3), and in accordance with the representations, certifications, and assurances set forth in the Grantee's Application, incorporated herein and made a part hereof. In the event of a conflict, in describing the Project, between the Grantee's Application and the Statement of Work, the Statement of Work will govern.
- 2) Term: Unless sooner terminated in accordance with its terms, this Agreement shall be valid for the time period indicated on the Grant/Cooperative Agreement (page 1), sections 4 and 5. This time period includes the period for both completion of the Project, and completion and submission of any reports or deliverables required by this Agreement.
- 3) State and Local Planning:

Planning Program Date: New Hampshire State Rail Plan June 2012.

EPMA

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4) Environmental Approvals and Processes:

Environmental Documentation Type, Titles, and Date: A Categorical Exclusion (CE) for the project was signed on May 5, 2014 and a subsequent NEPA Re-Evaluation Form was signed on July 3, 2014.

Environmental Decision Type and Date: A Categorical Exclusion (CE) for the project was signed on May 5, 2014 and a subsequent NEPA Re-Evaluation Form was signed on July 3, 2014.

Name of Agency and Office Approving Each Environmental Decision Document:
Federal Railroad Administration.

Planned Completion of NEPA: NEPA process was completed on July 3, 2014.

1) Project Schedule:

Planned or Actual Contract Award Date (if applicable): 08/15/2014

Planned or Actual Construction Start Date: 08/22/2014

Planned Project Completion Date: 10/31/2015

Planned Completion of Final Design: 07/03/2014

d) Project Funding

1) FY 2013 TIGER Discretionary Program Funding:

The total not-to-exceed amount of Federal funding that is provided under this Agreement is identified on the Grant/Cooperative Agreement (page 1) sections 10 and 11. The FRA's liability to make payments to the Grantee under this Agreement is limited to those funds obligated under this Agreement as indicated above and any subsequent amendments.

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- D. When requesting payment, the Grantee must identify: (1) the total amount of costs for which funding is requested; (2) Grantee funding assistance applied to the Project; and (3) the balance of federal assistance dollars requested for payment.
- E. Funding responsibility for the Project under this Agreement is recapped as follows:

FRA Funding Assistance	+	Grantee Cash Contribution	+	Grantee In-Kind	=	Total Project Funding
\$1,400,000.00	+	\$615,000.00	+	\$000,000.00	=	\$2,015,000.00

- F. FRA hereby authorizes the reimbursement of pre-agreement costs by the Grantee on or after August 30, 2013, in anticipation of the execution of this Grant Agreement, but such costs are allowable only to the extent that they are otherwise allowable under the terms of this Agreement.

SECTION 5. REIMBURSEMENT OF PROJECT COSTS

Pursuant to 49 C.F.R. 18.21(d) or 19.22(e), as applicable, the Grantee may request reimbursement of costs incurred in the performance hereof as are allowable under the applicable cost provisions, not-to-exceed the funds currently available as stated in this Agreement, and in accordance with the provisions of section 4(d)(3) of Attachment 1.

- a) Requests for Reimbursement: When requesting reimbursement of costs incurred, the Grantee shall submit supporting cost detail with the SF 270 to clearly document costs incurred. Cost detail includes a detailed breakout of all costs incurred including direct labor, indirect costs, other direct costs, and travel. The FRA contact person identified in section 4(b) of this Attachment 1 reserves the right to withhold processing requests for reimbursement until sufficient detail is received. In addition, reimbursement will not be made without review and approval by the FRA contact person identified in section 4(b) of this Attachment 1 to ensure that progress on the Agreement is sufficient to substantiate payment.
- b) Payment of FRA funding through FRA’s Office of Financial Services, shall be made on a reimbursable basis whereby the Grantee will be reimbursed, after the submission of proper invoices, for actual expenses incurred.

The Grantee will use the Automated Clearing House (ACH) Electronic Vendor Payment method for transfer of reimbursed funds and submit a SF-270 form. Requests for reimbursement must be made through the Department of Transportation’s Delphi eInvoicing System. Information on the Delphi eInvoicing System can be found at: <http://www.dot.gov/cfo/delphi-einvoicing-system.html>. To obtain access to the Delphi eInvoicing System, please contact the FRA individual identified in Section 4(b).

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2) FY 2013 Non-TIGER Financial Commitment (if any):

- A. The Grantee hereby commits and certifies that it will provide funds (and ensure the availability of other sources of funding, such as local/private funding or in-kind contributions) in an amount sufficient, together with the Federal contribution (acknowledging the limitations as set forth in this Agreement), to assure timely and full payment of the Project costs as necessary to complete the Project.
- B. The Grantee agrees to notify the FRA within 14 calendar days of any change in circumstances or commitments that adversely affect the Grantee's plan to fund the Project costs necessary to complete the Project as set forth in the Grantee's Application. In its notification, the Grantee shall advise the FRA of what actions it has taken or plans to take to ensure adequate funding resources and shall reaffirm its commitment to the FRA as set forth in subsection (A) of this section 4(d)(2). The FRA is not responsible for any funding shortfalls regarding the FY 2013 non-TIGER grant amount share. The FY 2013 TIGER Discretionary Grant Amount will remain unchanged (See section 13 of this Attachment to the Agreement regarding termination).

3) Grant Funds and Sources of Project Funds:

- A. The total estimated cost of the Project (as set forth in the Approved Project Budget) is \$ 2,015,000.
- B. FRA funding assistance under the FY 2013 TIGER Discretionary Grant Program is limited to an estimated 69.4789% of the total estimated cost for completing the Project, but not greater than \$ 1,400,000. If there are any cost savings, or if the contract award is under the engineer's estimate, the Grantee's funding amount and percentage share may be reduced, provided that the Grantee's share of the costs under the Act may not be reduced below 20% for urban area projects.
- C. Grantee funding assistance (including all sources other than that provided in (B) above, which may include other Federal funds, state funds, local funds, or other contributed funds) is estimated to be 30.5211% of the total cost of the Project. Consequently, of the amount specified in subparagraph (A) of this subsection, Grantee funding is estimated to be \$ 615,000. If there are any cost savings, or if the contract award is under the engineer's estimate, the Grantee's funding amount and percentage share may be reduced, provided that the Grantee's share of the costs under the Act may not be reduced below 20% for urban area projects.

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- c) To seek reimbursement from the Government, the Grantee shall submit documentary evidence of all obligations associated with the Project set forth in this Agreement, and set forth the breakdown of those Project costs (those to be covered by the Federal FY 2013 TIGER Discretionary Grant Program contribution, and those to be covered by all sources other than the FY 2013 TIGER Discretionary Grant Program, which may include other Federal funds, state funds, local funds, or other contributed funds). The FRA will reimburse the Grantee upon request for all valid expenses (FY 2013 TIGER Discretionary Grant Program share of Project costs), upon FRA's acceptance of such documentation. All reimbursement requests to the Government shall be supported by sufficient documentation to justify reimbursement of the Grantee, including invoices and proof of payment of an invoice.
- d) The Grantee shall have entered into obligations for services and goods associated with the Project prior to seeking reimbursement from the Government.
- e) The Grantee shall ensure that the funds provided by the Government are not misappropriated or misdirected to any other account, need, project, line-item, or the like.
- f) Any Federal funds not expended in conjunction with the Project will remain the property of the Government.
- g) **Financial Management System:** By signing this agreement, the Grantee verifies that it has, or will implement, a financial management system adequate for monitoring the accumulation of costs, and that it complies with the financial management system requirements of 49 C.F.R. Part 18 or Part 19, as applicable. The Grantee's failure to comply with these requirements may result in Agreement termination.
- h) **Allowability of Costs:** Determination of allowable costs will be made in accordance with the applicable Federal cost principles, e.g., OMB Circular A-87 (2 C.F.R. Part 225). Disallowed costs are those charges determined to not be allowed in accordance with the applicable Federal cost principles or other conditions contained in this Agreement.

SECTION 6. RESPONSIBILITY AND AUTHORITY OF THE GRANTEE

- a) **Legal Authority.** The Grantee affirms that it has the legal authority to apply for the grant, and to finance and carry out the proposed project identified in its Technical Application; that a resolution, motion or similar action has been duly adopted or passed as an official act of the Grantee's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the Grantee to act in connection with the application and to provide such additional information as may be required.
- b) **Funds Availability.** The Grantee affirms that it has sufficient funds available for that portion of the Project costs that are not to be paid by the Government. The Grantee also affirms that it has sufficient funds available to assure operation and maintenance of items funded under the Agreement that it will own or control.
- c) **Preserving Rights and Powers.** The Grantee will not take or permit any action that would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in the Agreement without the written approval of the Government, and will act promptly to acquire, extinguish, or modify any outstanding rights or claims of right

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of others that would interfere with such performance by the Grantee. The Grantee agrees that this will be done in a manner acceptable to the Government.

d) Accounting System, Audit and Record Keeping Requirements.

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

2. The Grantee agrees to make available to the DOT and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the Grantee that are pertinent to the grant. The Government may require that a Grantee conduct an appropriate audit. In any case in which an independent audit is made of the accounts of a Grantee relating to the disposition of the proceeds of a grant or relating to the Project in connection with which the grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

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

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

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

SECTION 7. LABOR REQUIREMENTS

a) The Act, regarding FY 2013 TIGER Discretionary Grants, requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government shall be paid wages at rates not less

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than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of Title 40, United States Code.

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

SECTION 8. TRANSPARENCY ACT REQUIREMENTS

**[THIS SECTION MAY BE UPDATED BASED ON
FURTHER OMB GUIDANCE OR REGULATION]**

Pursuant to the Federal Funding Transparency and Accountability Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Public Law 110-252, hereafter referred to as "the Transparency Act" or "the Act") and the OMB Interim Final Rule (75 FR 55663 (September 14, 2010) (available at <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf>) (codified at 2 C.F.R. Part 170), the Grantee is required to report as required under the Act, in addition to including the following clause in all first-tier Subawards:

I. Reporting Subawards and Executive Compensation.
a. Reporting of First-Tier Subawards.

1) Applicability. Unless the Grantee (hereinafter in this section referred to as "you") are exempt as provided in paragraph d. of this section, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in subsection e. of this section).

2) Where and when to report.

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a. You must report each obligating action described in subsection a.1. of this section to <http://www.fsrs.gov>.

b. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

3) What to report. You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.

b. Reporting Total Compensation of Recipient Executives.

1) Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—

a. the total Federal funding authorized to date under this award is \$25,000 or more;

b. in the preceding fiscal year, you received—

(1) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. 170.320 (and subawards); and

(2) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. 170.320 (and subawards); and

c. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.)

2) Where and when to report. You must report executive total compensation described in subsection b.1. of this section:

a. As part of your registration profile at <http://www.ccr.gov>.

b. By the end of the month following the month in which this award is made, and annually thereafter.

c. Reporting of Total Compensation of Subrecipient Executives.

1) Applicability and what to report. Unless you are exempt as provided in subsection d. of this section, for each first-tier subrecipient under this award, you shall report the names and total

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compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—

a. in the subrecipient's preceding fiscal year, the subrecipient received—

(1) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. 170.320 (and subawards); and

(2) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

b. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.)

2) Where and when to report. You must report subrecipient executive total compensation described in subsection c.1. of this section:

a. To the recipient.

b. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. Exemptions.

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

a. Subawards,

and

b. The total compensation of the five most highly compensated executives of any subrecipient.

e. Definitions. For purposes of this section:

1) Entity means all of the following, as defined in 2 C.F.R. Part 25:

a. A Governmental organization, which is a State, local government, or Indian tribe;

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- b. A foreign public entity;
- c. A domestic or foreign nonprofit organization;
- d. A domestic or foreign for-profit organization;
- e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

2) Executive means officers, managing partners, or any other employees in management positions.

3) Subaward:

a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.

b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. ——.210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").

c. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

4) Subrecipient means an entity that:

a. Receives a subaward from you (the recipient) under this award; and

b. Is accountable to you for the use of the Federal funds provided by the subaward.

5) Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 C.F.R. 229.402(c)(2)):

a. Salary and bonus.

b. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

c. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

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- d. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
- e. Above-market earnings on deferred compensation which is not tax-qualified.
- f. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

SECTION 9. SINGLE AUDIT INFORMATION FOR RECIPIENTS OF TIGER DISCRETIONARY GRANT FUNDS

- a) To maximize the transparency and accountability of funds authorized under the Act as required by Congress and in accordance with 2 C.F.R. 215.21 "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Non-Profit Organizations" and OMB Circular A-102 "Grants and Cooperative Agreements with State and Local Governments" Common Rule provisions, recipients agree to maintain records that identify adequately the source and application of TIGER Discretionary Grant funds. OMB Circular A-102 is available at <http://www.whitehouse.gov/omb/circulars/a102/a102.html>.
- b) For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," recipients agree to separately identify the expenditures for Federal awards under the Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. OMB Circular A-133 is available at <http://www.whitehouse.gov/omb/circulars/a133/a133.html>. This shall be accomplished by identifying expenditures for Federal awards made under the Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "FY 2013 TIGER -" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

SECTION 10. REPORTING

Subject to the Paperwork Reduction Act, and consistent with the purposes of the FY 2013 TIGER Discretionary Grant Program, the Grantee agrees to collect data necessary to measure performance of the Project and to ensure accountability and transparency in Government spending. The Grantee further agrees to submit periodic reports to the Government that contain data necessary to measure performance of the Project and to ensure accountability and transparency in Government spending.

- a) Project Outcomes and Performance Measurement Reports. The Grantee shall collect the data necessary to track and report on each of the performance measures identified in the Performance Measurement Table in Attachment 4, and report results of the data for each measure to the Government periodically, according the reporting schedule identified in Attachment 4. Furthermore, the Grantee agrees to provide an initial Pre-project Report and a final Project Outcomes Report to the Government. The Pre-project Report shall consist of current baseline data for each of the performance measures specified in the Performance

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Measurement Table in Attachment 4. The Pre-project Report shall include a detailed description of data sources, assumptions, variability, and the estimated level of precision for each measure. The Grantee shall submit the report to the Government before initiating work under this Agreement. The Grantee shall represent that the data in the Pre-project Report is current as of the date it is issued. The Grantee shall submit interim Project Performance Measurement Reports to the Government for each of the performance measures specified in the Performance Measurement Table in Attachment 4 following Project completion. The Grantee shall submit reports at each of the intervals identified for the duration of the time period specified in the Performance Measurement Table in Attachment 4. The Grantee shall represent that the data in each of the interim Project Performance Reports is current as of the final date of the reporting interval. The Project Outcomes Report shall consist of a narrative discussion detailing Project successes and/or the influence of external factors on Project expectations. The Grantee shall submit the Project Outcomes Report to the Government within 3 months of the end date of performance under this Agreement, which includes an *ex post* examination of Project effectiveness in relation to the Pre-project Report baselines. The Grantee shall represent that the data in the Project Outcomes Report is current as of the date it is issued, in accordance with Attachment 4. The Grantee shall submit each report via email to each of the Government contacts identified in section 4(b) of this Attachment 1 of this Agreement and, additionally, to outcomes@dot.gov. The email shall reference and identify in the email subject line the TIGER Grant Number and provide the number of the Performance Measures report submitted.

b) Project Progress and Monitoring Reports. Consistent with the purposes of the FY 2013 TIGER Discretionary Grant Program, to ensure accountability and transparency in Government spending, the Grantee shall submit quarterly progress reports (January 1, April 1, July 1, October 1), and the Federal Financial Report (SF-425), as set forth in Section 14(h): to the Government on a quarterly basis, on the 30th of the month following the quarter being reported, until completion of the Project. The initial report shall include a detailed description, and, where appropriate, drawings, of the items funded. The Grantee shall submit all required reports and documents to the FRA contact person identified in Attachment 1, section 4(b), referencing the Agreement number, and through GrantSolutions in the case of the Federal Financial Report (SF-425)

c) Annual Budget Review and Program Plan. The Grantee shall submit an Annual Budget Review and Program Plan to the Government via e-mail 60 days prior to the end of each Agreement year. The Annual Budget Review and Program Plan shall provide a detailed schedule of activities, estimate of specific performance objectives, include forecasted expenditures, and schedule of milestones for the upcoming Agreement year. If there are no proposed deviations from the Approved Project Budget, Attachment 3, the Annual Budget Review shall contain a statement stating such. The Grantee will meet with the Government to discuss the Annual Budget Review and Program Plan. If there is an actual or projected Project cost increase, the annual submittal should include a written plan for providing additional non-TIGER Discretionary Grant sources of funding to cover the Project budget shortfall or supporting documentation of committed non-TIGER Discretionary Grant funds to cover the cost increase.

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d) Closeout Process. Closeout occurs when all required Project work and all administrative procedures described in Title 23 (or 49 C.F.R. part 18 or part 19, as applicable) are completed, and the Government notifies the Grantee and forwards the final Federal assistance payment, or when the Government acknowledges Grantee's remittance of the proper refund. Within 90 days of the Project completion date or termination by the Government, the Grantee agrees to submit a final Financial Status Report (SF-425), a certification or summary of Project expenses, and third-party audit reports.

SECTION 11. SPECIAL GRANT REQUIREMENTS

a) Except as otherwise provided herein, the Grantee shall ensure the maintenance of Project property to the level of utility (including applicable FRA track safety standards) which exists when the Project improvements are placed in service (as set forth in the Statement of Work (Attachment 2) for a period of twenty (20) years from the date such Project property was placed in service. In the event the Grantee fails to maintain project property as required by this section for a period of time in excess of six (6) months, the Grantee will refund to the Government a pro-rata share of the Federal contribution, based upon the percentage of the twenty (20) year period remaining at the time of such original default.

b) The Grantee acknowledges that the purpose of the Project is to benefit railroad transportation. In the event that all intercity passenger rail service making use of the Project property is discontinued (for any reason) at any time during a period of twenty (20) years from the date such Project property was placed in service, as set forth above, and if such intercity passenger rail service is not reintroduced during a one (1) year period following the date of such discontinuance, the Grantee shall refund to the Government, no later than eighteen (18) months following the date of such discontinuance, a pro-rata share of the Federal contribution, based upon the percentage of the twenty (20) year period remaining at the time of such discontinuance.

SECTION 12. ASSURANCES AND CERTIFICATIONS

The Grantee will ensure compliance with the standard FY 2013 TIGER grant program assurances and certifications, attached hereto as Attachment 5 and made a part hereof.

SECTION 13. TERMINATION, EXPIRATION, AND MODIFICATION

a) Subject to terms set forth in this Agreement, the Government reserves, in its sole discretion, the right to terminate this Agreement, and all of its obligations with this Agreement, unless otherwise agreed to in a signed writing between the Grantee and the Government, if any of the following occurs:

- 1) The Grantee fails to obtain or provide any non-FY 2013 TIGER Discretionary Grant Program contribution or alternatives approved by the Government, in accordance with section 4(d) of Attachment 1 of this Agreement;
- 2) The Grantee fails to begin construction before 09/30/2014

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- 3) The Grantee fails to begin expenditure of Grant funds by 11/01/2014
 - 4) The Grantee fails to meet the conditions and obligations specified under this Agreement, including, but not limited to, a material failure to comply with the Project Schedule, after giving the Grantee a reasonable opportunity to cure such failure;
 - 5) The Government determines that the public objectives of the Project cannot be accomplished.
- b) Funds made available under this Agreement are required to be obligated by the Government on or before September 30, 2014. Funds made available under this Agreement, once obligated, are available for liquidation and adjustment through September 30, 2019, the "Grant Termination Date." Unless otherwise agreed to by the parties, this Agreement shall terminate on the Grant Termination Date.
- c) Either party (the Government or the Grantee) may seek to amend or modify this Agreement prior to the Grant Termination Date by written notice (formal letter) to the other party and in accordance with 49 C.F.R. Parts 18.43 and 18.44. The Grant Agreement may be amended or modified only on the mutual written agreement by both parties. Changes to Attachment 2 (Estimated Project Schedule and Approved Project Budget) do not require modification through the process in this paragraph if such modifications do not affect the dates or amounts in sections 4(c)(5) and 4(d)(3) of Attachment 1 of this Agreement, and the change has been consented to by the Government in writing consistent with the requirements of the administering Operating Administration (including by e-mail).

SECTION 14. QUARTERLY PROGRESS REPORTING REQUIREMENTS—FORMAT AND CONTENT

- a) The purpose of the calendar quarterly progress reports under the Agreement for the TIGER Discretionary Grants program is to ensure that the project budget and schedule will be maintained to the maximum extent possible, that the project will be completed with the highest degree of quality, and that compliance with Federal regulations will be met. To that end, along with the quarterly progress, as outlined below, the Grantee should also submit a Federal Financial Report (SF-425) with each quarterly progress report.
- b) The Grantee should develop a project reporting and tracking system to collect, assess and maintain project status information and data that is timely, independent, and accurate. This system should provide current information on project prosecution, progress, changes, and issues. This information should be used to identify trends and forecast project performance and to identify and proactively address challenges to eliminate major project surprises.
- c) The need to continuously and accurately report cost increases; schedule changes; deficient quality items; and the causes, impacts, and proposed measures to mitigate these issues is paramount to effectively managing, administering, and protecting the public investment in the project. Any apparent reporting deficiencies or questionable data should be completely resolved.

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Ultimately, the Grantee and the Government must be fully aware of the complete status of the project, and therefore be in a position to take appropriate action if necessary.

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

e) The following is the required format for the quarterly progress reports. At the discretion of the Government, modifications or additions can be made in order to produce a quarterly reporting format that will most effectively serve both the Grantee and the Government. It is recognized that some projects will have a more extensive quarterly status than others. In the case of smaller projects, the content of the quarterly reports will be streamlined and project status meetings will be held on a less-frequent basis. Please note that the initial quarterly progress report should include a detailed description, and where appropriate, drawings, of the items funded. In lieu of the following information, the Grantee may submit information set forth in the TIGER Quarterly Progress Report Excel template.

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

- Current total project cost (forecast) vs. latest budget vs. baseline budget. Include an explanation of the reasons for any deviations from the approved budget.
- Current overall project completion percentage vs. latest plan percentage.
- Any delays or exposures to milestone and final completion dates. Include an explanation of the reasons for the delays and exposures.
- A summary of the projected and actual dates for notices to proceed for significant contracts, start of construction, start of expenditure of TIGER Discretionary Grant funds, and project completion date. Include an explanation of the reasons for any discrepancies from the corresponding project milestone dates included in the Agreement.
- Any Federal obligations and/or TIFIA disbursements occurring during the month versus planned obligations or disbursements.
- Any significant contracts advertised, awarded, or completed.

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- Any significant scope of work changes.
- Any significant items identified as having deficient quality.
- Any significant safety issues.
- Any significant Federal issues such as environmental compliance, Buy America/Buy American (whichever is applicable to this Project), Davis Bacon Act Prevailing Wage requirements, etc.

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

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

(d) Project Schedule. An updated master program schedule reflecting the current status of the program activities should be included in this section. A Gantt (bar) type chart is probably the most appropriate for quarterly reporting purposes, with the ultimate format to be agreed upon between the Grantee and the Government. It is imperative that the master program schedule be integrated, i.e., the individual contract milestones tied to each other, such that any delays occurring in one activity will be reflected throughout the entire program schedule, with a realistic completion date being reported. Narratives, tables, and/or graphs should accompany the updated master program schedule, basically detailing the current schedule status, delays and potential exposures, and recovery efforts. The following information should also be included:

- Current overall project completion percentage vs. latest plan percentage.
- Completion percentages vs. latest plan percentages for major activities such as right-of-way, major or critical design contracts, major or critical construction contracts, and significant force accounts or task orders. A schedule status description should also be included for each of these major or critical elements.

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- Any delays or potential exposures to milestone and final completion dates. The delays and exposures should be quantified, and overall schedule impacts assessed. The reasons for the delays and exposures should be explained, and initiatives being analyzed or implemented in order to recover the schedule should be detailed.

(e) Project Cost. An updated cost spreadsheet reflecting the current forecasted cost vs. the latest approved budget vs. the baseline budget should be included in this section. One way to track project cost is to show: (1) Baseline Budget, (2) Latest Approved Budget, (3) Current Forecasted Cost Estimate, (4) Expenditures or Commitments to Date, and (5) Variance between Current Forecasted Cost and Latest Approved Budget. Line items should include all significant cost centers, such as prior costs, right-of-way, preliminary engineering, environmental mitigation, general engineering consultant, section design contracts, construction administration, utilities, construction packages, force accounts/task orders, wrap-up insurance, construction contingencies, management contingencies, and other contingencies. The line items can be broken-up in enough detail such that specific areas of cost change can be sufficiently tracked and future improvements made to the overall cost estimating methodology. A Program Total line should be included at the bottom of the spreadsheet. Narratives, tables, and/or graphs should accompany the updated cost spreadsheet, basically detailing the current cost status, reasons for cost deviations, impacts of cost overruns, and efforts to mitigate cost overruns. The following information should be provided:

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

(f) Project Funding Status. The purpose of this section is to provide a status report on the non-TIGER Discretionary Grant funds necessary to complete the project. This report section should include a status update of any legislative approvals or other actions necessary to provide the non-TIGER Discretionary Grant funds to the Project. Such approvals might include

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legislative authority to charge user fees or set toll rates, or the commitment of local funding revenues to the project. In the event that there is an anticipated or actual project cost increase, the project funding status section should include a report on the anticipated or actual source of funds to cover the cost increase and any significant issues identified with obtaining additional funding.

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

(h) Federal Financial Report (SF-425). The Federal Financial Report (SF-425) (available at http://www.whitehouse.gov/sites/default/files/omb/assets/grants_forms/SF-425.pdf) is a financial reporting form used throughout the Federal Government Grant system. The Grantee shall submit the Federal Financial Report (SF-425) on a quarterly basis throughout the lifecycle of the grant. Reports are due 30 days from the close of the calendar quarter and should be submitted online through GrantSolutions. Reports should be submitted in accordance with the form's instructions, requiring reporting of all transactions, including Federal cash, Federal expenditures and unobligated balance, recipient share, and program income. The final SF-425 is due within 90 days after the end of the award period, but may be submitted as soon as all outstanding expenditures have been completed.

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

STATEMENT OF WORK
New Hampshire Northcoast Rail Corridor Improvement Project

1.0 BACKGROUND

The New Hampshire Northcoast Corporation (NHN) operates a 42-mile short line railroad that runs between Ossipee, NH and Rollinsford, NH. The line carries a large amount of sand, gravel and granite from Ossipee, NH to a concrete plant in Boston, MA. The line also carries propane and other mixed freight. This line parallels Route 16, which is a major thoroughfare to the lakes and mountains region of New Hampshire for both tourists and freight traffic. The railroad allows for the separation of a larger volume of freight traffic and tourist traffic in New Hampshire along Route 16. The present volume on the line is approximately 5,000 rail cars per year. While this project does not include any proposed passenger rail service, the improvements to the track will increase the future viability of passenger service in this corridor and provide a connection to an existing passenger rail service.

2.0 GENERAL OBJECTIVE

The project has three major components: 1) the repair and refurbishment of a wash-out and a section of track north of NHN's Ossipee location, 2) the upgrade of two grade crossings, and 3) the rehabilitation of the track structure in key areas (the Project). The Project will help provide safer operations and a safe increase in the volume of rail cars in the rail corridor. The expansion of dependable freight service is crucial to the economic vitality of the overall region and to the recovery of the struggling economy of the northeast region of New Hampshire. The infrastructure improvements will ensure connectivity to the north, a competitive and safe rail transportation network for the region for energy, aggregate, wood, steel, and manufacturing products.

3.0 PROJECT LIMITS

The line runs north to south between Ossipee, NH and Rollinsford, NH. To the north it connects to an abandoned rail corridor, which is owned by the State of New Hampshire, running from Ossipee to Conway, NH. To the south the line connects with the Pan Am Railway main line in Rollinsford, NH.

EMA

Attachment 2

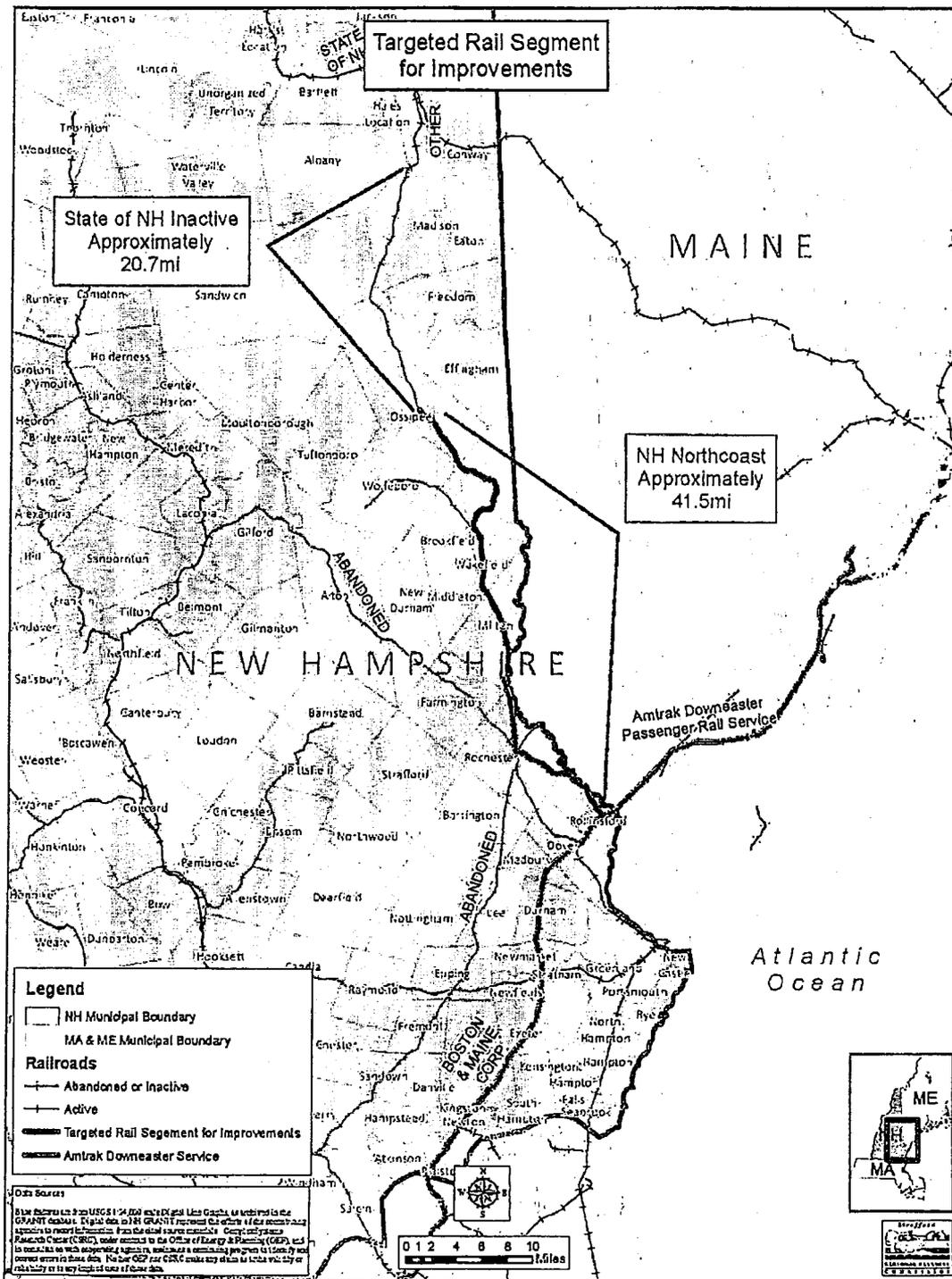


Figure 1: Location of the NHN Rail Line

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4.0 DESCRIPTION OF WORK

The Project has three major components: 1) the repair and refurbishment of a wash-out and a section of track north of NHN's Ossipee location between MP 108.6 to MP 109.3, 2) upgrade of two grade crossings, Mill Number 1 MP 73 and Acton Ridge Road MP 101.5, and 3) the rehabilitation of track structure in key areas from MP 70.1 to MP 108.1.

Task 1: Development of Detailed Work Plan & Project Management Plan

The Grantee will complete and submit the following requirements to FRA:

Task 1a: Detailed Work Plan

The objective of a Detailed Work Plan is to provide details on tasks and subtasks identified in the Statement of Work. Specifically the Detailed Work Plan describes, in detail, the steps to be taken to implement the Project and provides an updated budget and schedule to match the scope of work to be completed. As the Project progresses the initial Detailed Work Plan should also be updated as new and more accurate data related to budget, schedule, financing, and carload estimates become available. The Detailed Work Plan shall include the following information:

- Overview
 - The location of the Project, including geographical and physical boundaries (e.g. mileposts and names of municipalities,), include a map of the project area keeping the scale of the map appropriate for the nature of the Project.
- Environmental Determination
 - Identify the appropriate environmental document (e.g. Categorical Exclusion, Environmental Assessment/FONSI, or Environmental Impact Statement) covering the scope of this Project and the date it was approved by the FRA.
- Description of Work
 - Any public or agency sentiments about the Project, including issues or concerns and the public outreach or involvement conducted and planned for the Project.
 - Describe in detail the activities to complete tasks for the Project, identify key milestones or other checkpoints to be used to monitor progress.

BMC

Attachment 2

- Identify work products and deliverables for the Project and the roles and responsibilities of partners/stakeholders in executing, reviewing and approving them.
- Summarize design criteria that will be used by the Project team and how they relate to realizing the Project outcomes (e.g. service outcomes, design speed, and track work).
- Identify agreements and permits required for implementation.
- Schedule
 - Detailed schedule to include timeframes for completing major processes, reaching milestones, and finalizing work products/deliverables within each task.
- Budget
 - Align budget line items to FRA's Standard Cost Categories.

Task 1b: Project Management Plan

The Grantee shall develop a Project Management Plan (PMP). A PMP is the Grantee's overarching Project implementation plan that spans the entire period of the Project. It should describe a Grantee's approved policies, practices, and procedures related to the management, design, and construction of the Transportation Investment Generating Economic Recovery (TIGER) Discretionary Grant. As the Project progresses an initial PMP should also be updated as new and improved procedures are implemented. A PMP should include the following sections:

- A description of the scope of work for the Project;
- Adequate staff organization with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;
- Organizational structures, management skills, and staffing levels required throughout the Project;
- A document control procedure and recordkeeping system;
- Procedures for monitoring and controlling Project costs, schedule, and scope to ensure they don't exceed or deviate from the requirements;

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- Risk management plan identifying potential risks and methods to manage those risks as well as describing procedures for monitoring, identifying and managing future risks as they arise;
- A change order procedure that includes a documented, systematic approach to handling Project scope, budget and scheduling changes;
- Quality control and quality assurance functions, programs and responsibilities for the Project;
- A documented system health and safety plan for the entire Project lifecycle;
- If applicable, description of required safety certifications and processes;
- Identification of required stakeholder agreements, right of way agreements, and other critical third party agreements and the process for obtaining those agreements;
- Required government actions or approvals;
- Material testing policies and procedures, if applicable to the project;
- Internal plan implementation, communications and reporting requirements;
- Criteria and procedures to be used for testing the operational system or its major components

Task 2: Engineering Design

The Grantee will complete and submit the following Preliminary Engineering requirements to FRA for approval:

Preliminary Engineering Design

- The Grantee will provide scale maps or scale aerial photography of existing conditions at a scale of one inch = 100 to 500 feet depending on complexity of location. Since the Project is primarily oriented towards track rehabilitation, the FRA may determine that a sufficiently annotated set of track charts will be sufficient for adequately defining the work limits for the Project elements instead of scaled drawings. For supplementary alterations, the track charts may require additional details including scaled drawings of minor reconfigurations and enhancements.
- If the determination is made by the FRA that scale design plans are needed for the Project improvements, the Grantee will prepare scale drawings overlaid on

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maps/photography showing existing right-of-way limits along with railroad ownership; proposed track changes including removals and installations; track centers, track speeds, turnout sizes curve and spiral data; vertical profiles and grades of existing and proposed construction; typical cross sections to scale showing the proposed work to existing conditions for each change in track configuration and at other locations requiring retaining walls or right-of-way acquisitions; public and private at-grade crossings; passenger stations, building(s), platforms, parking, access to primary highway system in the area, and public transit services and facilities.

- For complex or dense track configurations, the Grantee will prepare drawings of existing and proposed signal design; and the drawings will include route and aspect charts, preliminary block design, and signal equipment locations.
- Design submittals should include a title sheet identified with a drawing revision number or date; an index identifying various plan sheets comprising the drawing set; a legend of symbols or abbreviations.
- The Grantee will obtain signature approval of the preliminary engineering cover sheet by all stakeholders impacted by the proposed track configuration.
- The Grantee will provide an updated budget upon completion of preliminary engineering, including the unit costs for each task below, the professional services broken out by discipline (e.g. design and project administration), and the project contingency.

Final Design

- Upon FRA approval of the Preliminary Engineering Design, the grantee will advance the Preliminary Engineering into Final Design. Upon completion of Final Design, the Final Design plans will be submitted to FRA for acceptance.
- The Grantee will provide an updated budget upon completion of Final Design, including the unit costs for each task below, the professional services broken out by discipline (e.g. design and project administration), and the project contingency.

Task 3: Track and Wash-out Repair in Ossipee

This project will refurbish the seven-tenths (0.7) of a mile of rail north of the NHN engine house in Ossipee. The repaired rail line will provide a connection to potential customers and other rail lines owned by the State of New Hampshire, including the Conway Branch, which runs to Conway, NH. The work from MP 108.6 to MP 109.3 will include replacement of a culvert, placement and compaction of fill that rebuilds

Attachment 2

the embankment to restore the track alignment, ballast and crosstie placement, and reinstallation of existing rail. Design of drainage will include calculation of flows and sizing of the opening to meet the 100 year storm event. This portion of the rail line was purchased from the Boston and Maine Railroad in 1987, and has been unused since a washout occurred in 1993.

Task 4: Two Grade Crossing Renovations

Rehabilitation of these two grade crossings is critical to the continued safe efficient operation of the railroad. The crossings are located in Somersworth at Mill Number 1, and in Wakefield at Acton Ridge Road.

Task 4 A) Mill Number 1, Somersworth

This private at-grade crossing extending from Canal Street to the former Roberts Shoe Mill (factory) needs to be signalized with flashing lights. New residential and commercial developments in the old Mill Building adjacent to the crossing have necessitated the upgrade of this grade crossing. The upgrade will consist of the installation of 2 masts, new 12" LED flashing lights, bells, a control cabinet, and track components for the signal interface.

Task 4 B) Acton Ridge Road, Wakefield

This grade crossing must be upgraded to allow the safe passage of trains and to remove speed restrictions. The rail through the grade crossing needs to be vertically realigned to allow the safe movement of trains through the crossing. This will be accomplished by elevating the rail, re-grading and repaving the easterly approach of the road and the replacement of existing lights with 12" LED flashing lights.

Task 5: Track Refurbishment MP 70.1 to MP 108.1

The condition of the ties, surface and ballast has limited the freight operations of the NHN. This Project will replace 10,802 ties, add approximately 5,580 tons of ballast, and surface the line from MP 70.1 to MP 108.1, which will bring the track to a state of good repair allowing the railroad to maintain present FRA track class standards and provide the capability of the track to handle heavier rail cars (up to 286,000 lbs.), which is the industry standard. This will improve capacity on the line and allow the railroad to better serve existing customers and attract new business. In addition, this effort will remove and replace 4,875 linear feet of radius (curved) rail between MP 70.1 - 70.03 and MP 100.6 - 100.9.

Attachment 2

Task 6: Historical Documentation of the Rail Line

As a condition of the No Adverse Effect finding that was issued by the New Hampshire Department of Historical Resources (NHDHR), NHN agreed to provide the following documentation to NHDHR.

Task 6 A) Completion of an Individual Inventory Form

NHN will complete and submit to NHDHR an Individual Inventory Form on the stone box culvert in Ossipee, to be left in place and a new concrete box culvert constructed adjacent to the structure.

Task 6 B) Pictures and Narrative of the Acton Ridge Road Crossing

Pictures of the Acton Ridge Road Crossing in Wakefield will be provided to NHDHR along with a narrative of the proposed work prior to any construction. Following construction, 'after' pictures will be provided to NHDHR.

Task 6 C) Pictures and Narrative of the Canal Street Crossing Signals

Pictures of the Canal Street Crossing signals will be provided to NHDHR prior to any sign replacement, along with representative pictures of the proposed new signs to be installed. Following installation, 'after' pictures will be provided to NHDHR.

5.0 PROJECT PERIOD OF PERFORMANCE

The period of performance for the above work shall be 15 months, beginning August 8, 2014 and ending October 31, 2015. An approved Project schedule is on file with the FRA. Any modifications to the approved Project schedule must be approved by FRA in writing before any such change shall take effect.

6.0 PROJECT BUDGET

The total estimated cost of the project is \$2,015,000 for which the TIGER 2013 will contribute 69.4789% of the total cost, but no more than \$1,400,000. FRA will consider salvaged rail and materials as program income under 49 C.F.R. 18.25. The salvage value of 4,875 lf of old rail that will be taken up is estimated to be \$15,000. This income is added to the budget as a contingency for any Project cost overrun.

FRA hereby authorizes the incurrence of pre-agreement costs by the Grantee on or after August 30, 2013, in anticipation of the execution of this Grant Agreement, but such costs are allowable only to the extent that they are otherwise allowable under the terms of this Agreement

6.1 Cost Summary

Attachment 2

A detailed budget can be found in Attachment 3 of this grant agreement.

6.2 Funding Sources

Funding Source	Funding Amount
Federal Contribution: TIGER 2013 Grant	\$1,400,000
Non-Federal Contribution: New Hampshire Northcoast Railroad (includes Program Income)	\$465,000
Non-Federal Contribution: New Hampshire Department of Transportation	\$150,000
Project Total	\$2,015,000

7.0 DELIVERABLES

The following table lists the deliverables and due dates required from the Grantee as part of this agreement

Task	Deliverable	Due Date
Attachment 1 Sect. 10.a	Pre-Project Performance Measurement Report	According to schedule from Attachment 4
Attachment 1 Sect. 10.c	Annual Budget Review and Program Plan	Within 60 days of the end of each Agreement Year
Task 1	Detailed Work Plan	Within 60 days of Agreement date
Task 1	Project Management Plan	Within 90 days of Agreement date
Task 2	Preliminary Engineering	Within 6 months of Agreement date
Task 2	Final Design	Within 12 months of Agreement date
Task 6	Section 106 Documentation A. Individual Inventory Form for Culvert Replacement B. Pictures and Narrative of the Acton Ridge Road Crossing C. Pictures and Narrative of the Canal Street Crossing Signals	November 30, 2014
Task 5	Final Performance Report	October 1, 2015

Attachment 2

8.0 ENVIRONMENTAL DETERMINATION

A Categorical Exclusion (CE) for the project was signed by FRA on May 5, 2014 and a subsequent NEPA Re-Evaluation Form was signed by FRA on July 3, 2014.

9.0 PROJECT COORDINATION

The Grantee shall perform all tasks required for the project through a coordinated process; including as appropriate all railroad owners, operators, and funding partners within the project area. Under the cooperative agreement, FRA will participate in the Project, as described in this statement of work.

Type	Organization Name	Role/Involvement
Funding	Federal Railroad Administration	• \$1,400,000 of TIGER 2013 funding
Various	New Hampshire Northcoast Corporation	• Non-Federal Funding • Rail Line Operator
Various	New Hampshire Department of Transportation	• Non-Federal Funding • Project Oversight

10.0 PROJECT MANAGEMENT

The New Hampshire Department of Transportation will enter into a contract with NH Northcoast that will require the approval of the NH Governor and Executive Council. The agreement between NHDOT and NHN will include all required FRA clauses and deliverables. NHDOT will assign a contract officer (NHDOT Railroad Planner) that will enforce the contract and work with NHN's assigned operations/project manager.

NH Northcoast will manage the Project. Some functions and work, including some construction activities will be done through force account work by NHN, whereas other activities will be completed by contractors and/or consultants selected through a solicitation process.

NH Northcoast will submit invoices and required reports and deliverables to NHDOT's contract officer. NHDOT's contract officer will, in turn, submit all required reports and updates to FRA. NHDOT will also be responsible for requesting reimbursements through eInvoicing.

Attachment 3

PROJECT COST AND BUDGET

The total estimated cost of the Project is \$2,015,000 for which the TIGER 2013 will contribute 69.5% of the total cost, but no more than \$1,400,000. There is program income expected from the salvage value of 4,875 lf of old rail that will be taken up. The grantee estimates this income to be \$15,000. This income is added to the budget as a contingency for any Project cost overrun.

Cost Summary by FRA Standard Cost Category (SCC) and Task

SCC Category	Task	Work Scope/Items	Cost Estimate
10		Track and Track Structures	
10.04	3	Track Structure: Culverts and drainage structures	\$ 44,875
10.11	5	Track Rehabilitation: Ballast and surfacing	\$ 221,820
10.13	3 & 5	Track Rehabilitation: Component replacement (rail-ties)	\$ 1,274,305
		Subtotal Track and Track Structures Cost	\$ 1,541,000
40		Sitework	
40.01	3	Demolition, clearing, site preparation	\$ 306,000
50		Communications & Signaling	
50.06	4	Grade Crossing Protection (Signals)	\$ 124,000
		Subtotal Construction Cost	\$ 1,971,000
80	1, 2, and 6	Professional Services	\$ 29,000
90		Contingency	\$ 15,000
Total TIGER Project Cost Estimate			\$ 2,015,000

Funding Sources

Funding Source	Funding Amount
Federal Contribution: TIGER 2013 Grant	\$1,400,000
Non-Federal Contribution: New Hampshire Northcoast Railroad (includes Program Income)	\$465,000
Non-Federal Contribution: New Hampshire Department of Transportation	\$150,000
Project Total	\$2,015,000

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Attachment 4

Performance Measurement Table

Measure	Description of Measure	Measurement Period	Reporting Period
FRA Level of Service	This performance measure will report the FRA class of track this section of rail is restored and maintained to.	Pre-Project (Baseline) Measurement: Accurate as of 6/1/14	Pre-Project (Baseline) Measurement: Submitted by 9/1/14
		Interim Performance Measurement: Accurate as October 31, annually, beginning after project completion	Interim Performance Measurement: December 31 annually, for a period of 3 years beginning December 31, 2016
Track Miles with 286,000 Railcar Capacity Rating	This measure will show the increase in the number of track miles on the line that are able to accommodate 286,000 lb. rail cars as a result of the Project.	Pre-Project (Baseline) Measurement: Accurate as of 6/1/14	Pre-Project (Baseline) Measurement: Submitted by 9/1/14
		Interim Performance Measurement: Accurate as October 31, annually, beginning after project completion.	Interim Performance Measurement: December 31 annually, for a period of 3 years beginning December 31, 2016

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Average Monthly Slow Orders	The number of miles traversed on the rail line below the normal speed limit.	Pre-Project (Baseline) Measurement: Annual average, accurate as of 6/1/14	Pre-Project (Baseline) Measurement: Submitted by 9/1/14
		Interim Performance Measurement: Accurate as October 31, annually, beginning after project completion	Interim Performance Measurement: December 31 annually, for a period of 3 years beginning December 31, 2016
Annual Vehicle Crashes by Type and Severity	The annual number and categorization of crashes on a specific road or highway segment differentiated by severity, i.e., fatal, injury, and property-damage-only (PDO) crashes.	Pre-Project (Baseline) Measurement: Annual average, accurate as of 6/1/14 Interim Performance Measurement: Accurate as October 31, annually, beginning after project completion	Pre-Project (Baseline) Measurement: Submitted by 9/1/14 Interim Performance Measurement: December 31 annually, for a period of 3 years beginning December 31, 2016
Annual Non-Vehicle (Bike and Pedestrian) Crashes by Type and Severity	The annual number and categorization of non-vehicle crashes will be measured and identified by the following severity categories: fatal, injury, and property-damage-only (PDO) crashes	Pre-Project (Baseline) Measurement: Annual average, accurate as of 6/1/14 Interim Performance Measurement: Accurate as October 31, annually, beginning after project completion	Pre-Project (Baseline) Measurement: Submitted by 9/1/14 Interim Performance Measurement: December 31 annually, for a period of 3 years beginning December 31, 2016

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TIGER 2013 GRANT
ASSURANCES AND CERTIFICATIONS

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

During the performance of this Grant/Cooperative Agreement, the Grantee, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities (as applicable to this grant); including but not limited to:

Potentially Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

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Attachment 5

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

DISCLOSURE OF LOBBYING ACTIVITIES

By signing and submitting the Technical Application and by entering into the Agreement under the TIGER 2013 Discretionary Grant program, the Grantee hereby agrees that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any grant agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or grant agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or grant agreement, the undersigned shall complete and submit Standard Form-LLL (Rev. 7-97), "Disclosure of Lobbying Activities," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and grant agreements) and that all subgrantees shall certify and disclose accordingly.
4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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

The Grantee certifies that it will, or will continue, to provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Grantee's

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workplace, and specifying the actions that will be taken against employees for violation of such prohibition.

2. Establishing an ongoing drug-free awareness program to inform employees about:
 - (a) The dangers of drug abuse in the workplace;
 - (b) The Grantee's policy of maintaining a drug-free workplace;
 - (c) Any available drug counseling, rehabilitation, and employee assistance programs; and,
 - (d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
3. Making it a requirement that each employee to be engaged in the performance of work supported by the grant award be given a copy of the statement required by paragraph 1.
4. Notifying the employee in the statement required by paragraph 1 that, as a condition of employment supported by the grant award, the employee will:
 - (a) Abide by the terms of the statement; and
 - (b) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.
5. Notifying the agency in writing, within ten calendar days after receiving notice from an employee or otherwise receiving actual notice of conviction. Employers of convicted employees must provide notice, including position title, to the Department. Notice shall include the order number of the grant award.
6. Taking one of the following actions, within 30 days of receiving notice under paragraph 4(b), with respect to any employee who is so convicted:
 - (a) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended, or
 - (b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency.
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of the commitments made in this certification.
8. The Grantee may, but is not required to, provide the site for the performance of work done in connection with the specific grant. For the provision of services pursuant to the Agreement, workplaces include outstations, maintenance sites, headquarters office locations, training sites and any other worksites where work is performed that is supported by the grant award.

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

2 C.F.R. Part 1200, 49 C.F.R. Part 32

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By signing and submitting the Technical Application and by entering into the Agreement under the TIGER 2013 Discretionary Grant program, the Grantee is providing the assurance and certification set out below.

1. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
2. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
3. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. See Nonprocurement Suspension and Debarment (2 C.F.R. Part 1200) and Government wide Requirements for Drug-Free Workplace Grants (49 C.F.R. Part 32). The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
5. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 C.F.R. part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

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

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

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

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

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

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

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

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

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

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

By signing and submitting the Technical Application and by entering into the Agreement under the TIGER 2013 Discretionary Grant program, the Grantee is providing the assurance and certification set out below.

1. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

2. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that

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its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

4. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

5. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

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

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

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

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

By signing and submitting the Technical Application and by entering into the Agreement under the TIGER 2013 Discretionary Grant program, the Grantee is providing the assurance and certification set out below.

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

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

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EXHIBIT B

By signing below the Contractor agrees to comply with the applicable Federal Railroad Administration Grant Agreement FR-TII-0027-14-01-00 Tiger 2013 Grant Assurances and Certifications, Attachment 5, Exhibit A.

Date: 08/27/14

Company Name: New Hampshire Northeast Corporation

Authorized Name: Dean M. Boylan

Signature: Dean M. Boylan

Title: President

EXHIBIT C

Insert Certificate of Good Standing

Initial KMA

State of New Hampshire
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that NEW HAMPSHIRE NORTHCOAST CORP. is a New Hampshire corporation duly incorporated under the laws of the State of New Hampshire on March 12, 1986. I further certify that all fees and annual reports required by the Secretary of State's office have been received and that articles of dissolution have not been filed.



In TESTIMONY WHEREOF, I hereto
set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 29th day of August, A.D. 2014

A handwritten signature in cursive script, appearing to read "William M. Gardner".

William M. Gardner
Secretary of State

EXHIBIT D

Insert Certificate Corporation Vote/Authority

Initial *R/M*

NEW HAMPSHIRE NORTHCOAST CORPORTION

CERTIFICATE OF VOTE

I, Jeanne-Marie Boylan, do hereby certify that I am duly elected Secretary of the New Hampshire Northcoast Corporation, a corporation organized under the laws of the State of New Hampshire.

I hereby certify the following is a true and correct copy of a vote taken at a meeting of the Board of Directors of the Corporation, held on August 27, 2014 in accordance with the By-laws, at which a quorum was present, and that the same is still in force and effect:

1. RESOLVED, that Dean M. Boylan, Jr., President, be and is hereby authorized to execute proposals and contracts, at limits established from time to time by the Board of Directors, on behalf of New Hampshire Northcoast Corporation, and that the Corporation will be bound according to the provisions of such proposals and/or contracts. The signature of Dean M. Boylan, Jr. shall serve to bind the Corporation on all such proposals and contracts.
2. RESOLVED, that Dean M. Boylan, Jr. is President of New Hampshire Northcoast Corporation, and he is authorized, on behalf of the Corporation, to enter into and execute a Special Agreement regarding the expenditure and administration of all federal and state funds associated with the TIGER 2013 grant, and any and all documents attendant thereto, with the State of New Hampshire, Department of Transportation.

IN WITNESS WHEREOF, I have subscribed my name as Jeanne-Marie Boylan, Secretary and have caused the Seal of the Corporation to be hereunto affixed this 27 day of August, 2014.

August 27, 2014
Date

Jeanne-Marie Boylan
Jeanne-Marie Boylan, Secretary
New Hampshire Northcoast Corporation

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF SUFFOLK

Before the undersigned officer personally appeared Jeanne-Marie Boylan, known to me (or satisfactorily proven) to be the Secretary of the corporation identified in the foregoing certificate, and acknowledged that she executed the foregoing certificate.

In witness whereof I hereunto set my hand and official seal.

August 27, 2014
Date

Julie L. O'Brien
Notary Public

