

MISSISSIPPI DEVELOPMENT AUTHORITY

ACE FUND PROGRAM

GRANT AGREEMENT

**Express Grain Terminals, LLC
Leflore County, Mississippi**

EXHIBIT "A"

This Grant Agreement ("Agreement"), dated as of February 27, 2020, by and between the Mississippi Development Authority (acting for and on behalf of the State of Mississippi ("MDA") and the local economic development entity set forth in Item 1A of Annex A (the "Local Sponsor") and the business or industry set forth in Item 1B of Annex A (the "Company").

WITNESSETH:

WHEREAS, the ACE Fund, Section 57-1-16, Mississippi Code of 1972, as amended ("ACE Fund"), was created for the purpose of maximizing extraordinary economic development opportunities related to any new or expanding business or industry in the State of Mississippi (the "State") by way of grants to local economic development entities; and

WHEREAS, MDA is authorized to make grants to local economic development entities which will aid in the consummation of a project within the State to assist any new or expanding business or industry which meets the criteria set out in Section 57-1-16 and the ACE Fund Regulations; and

WHEREAS, pursuant to the ACE Fund statute and the ACE Fund Regulations (the "Regulations") adopted by MDA, the Local Sponsor has filed an application (the "Application") with MDA for a grant to be used for the development of the Project, more particularly described in Item 2 of Annex A (the "Project"); and

WHEREAS, based upon the Application and other relevant factors, MDA has agreed to provide the Local Sponsor with a grant under the ACE Fund in the amount set forth in Item 3 of Annex A (the "Grant") under the terms and conditions set forth in Item 4 of Annex A, in order to fund, in part, and develop the Project; and

WHEREAS, the Local Sponsor has committed to use the Grant funds to maximize an extraordinary economic development opportunity in conjunction with the Company; and

WHEREAS, the Project satisfies the provisions of the ACE Fund and the Regulations; and

WHEREAS, the parties hereto agree that it is necessary to provide for and demonstrate compliance with the provisions of the Act;

NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS, that the parties hereto intend to be legally bound hereby and in consideration of the mutual covenants hereinafter contained do hereby agree as follows:

Section 1. Grant. MDA hereby agrees to make to the Local Sponsor and the Local Sponsor hereby agrees to accept from MDA a Grant pursuant and subject to the terms of this Agreement and the ACE Fund as set forth in Annex A. The Local Sponsor hereby agrees that it will apply the proceeds of the Grant only to the costs of the Project as more fully described in the Application. The Grant shall be disbursed by MDA to the Local Sponsor in installments as provided in this Agreement pursuant to Item 4A of Annex A. MDA's obligation to make the Grant and to disburse the Grant in installments shall be subject to all of the terms and conditions of this Agreement and the Local Sponsor and the Company satisfying all of its obligations under this Agreement and the ACE Fund.

Section 2. Disbursements. The obligation of MDA to make any disbursement of the Grant shall be subject to the following conditions, as well as any others herein set forth:

- a. the Local Sponsor shall not be in default under this Agreement or the ACE Fund;
- b. development of the Project shall have progressed at a rate and in a manner reasonably satisfactory to MDA; and
- c. receipt by MDA of a certificate of a representative of the Local Sponsor in the form set forth in Section 3 hereof and the notice required of the Local Sponsor set forth in Section 4 hereof for such disbursement in a form satisfactory to MDA. If the Local Sponsor fails at any time to meet the conditions precedent to any disbursement of the Grant as specified in the preceding sentence, the obligation of MDA to make further disbursements in connection with the grant shall cease until such time as such condition precedent is met and satisfied. The parties hereto agree that disbursements by MDA to the Local Sponsor of the Grant may be made from time to time or at one time over a one (1) year period. The disbursements shall be made in accordance with Item 4 of Annex A. All rights of the Local Sponsor to request disbursement of any portion of the Grant not disbursed prior to the anniversary date of the Grant Agreement, shall be forfeited to the State and the funds shall revert to the ACE Fund.

Section 3. Conditions. A condition precedent to all disbursements of the Grant shall be the delivery of a certificate of a representative of the Local Sponsor to the effect that:

- a. to the best of its knowledge, the representations and warranties of the Local Sponsor contained in this Agreement are true and correct as of the date of the disbursements with the same effect as if made on the date of such disbursements;
- b. this Agreement has been duly authorized, executed and delivered by the Local Sponsor and constitutes a legal, valid and binding obligation of the Local Sponsor enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, reorganization, insolvency, moratorium or other laws affecting creditors' rights generally and except to the extent that the enforceability of the rights set forth herein may be limited by the availability of any particular remedies;
- c. this Agreement has not been amended or supplemented or modified since the date of its execution and remains in full force and effect as of the date of the disbursement;
- d. the authorization, execution and delivery of this Agreement by the Local Sponsor, and compliance by the Local Sponsor with the provisions hereof, will not conflict with or constitute a breach or default of the Local Sponsor's duties hereunder or under any law,

administrative regulation, court decree, resolution, charter, bylaw or other agreement to which the Local Sponsor is subject or by which it is bound; and

- e. there is no action, suit, proceeding or investigation at law or in equity before or by any court or governmental agency or body pending or, to the best of its knowledge, after reasonable investigation and due inquiry, threatened against the Local Sponsor in any way contesting or affecting the validity of this Agreement or contesting the powers of the Local Sponsor to enter into or perform its obligations under this Agreement.

Section 4. Requisitions. A condition precedent to all disbursements of the Grant shall be the presentation to the State Treasurer of a warrant issued by the Department of Finance and Administration of the State or its successor to such duties, which warrant shall be issued under proper requisition signed by the Executive Director of MDA, all pursuant to Section 57-1-16(2). Warrants may only be issued for costs and expenses that are authorized by the ACE Fund and the Regulations. No requisition shall be executed by the Executive Director of MDA until the following shall have been satisfied:

- a. The Local Sponsor shall have provided MDA with reasonable written notice of the amount of the Grant disbursement requested by the Local Sponsor. Such notice shall contain all information necessary to enable MDA to prepare the requisition for a warrant described in this Section 4 including, without limitation, the name and title of the requesting representative of the Local Sponsor, the name of the party to be reimbursed and a description of the work product or service. In addition, such notice shall certify that the amount requested is the just amount due at the current time, is for a work product or service which has heretofore been delivered or performed and that all statutory requirements in connection with the acquisition of such work product or service have been complied with by the Local Sponsor.
- b. MDA shall have indicated in writing its approval of the request for the Grant disbursement.

Section 5. Representations of MDA. MDA makes the following representations as the basis for the undertakings on the part of the Local Sponsor herein contained:

- a. MDA is an agency of the State and is authorized pursuant to the provisions of the ACE Fund and the Regulations to enter into the transactions contemplated by this Agreement.
- b. MDA has full power and authority to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder.
- c. MDA has been duly authorized to execute and deliver this Agreement and by proper action has duly authorized the execution and delivery hereof and as to MDA, this Agreement is valid and legally binding

and enforceable in accordance with its terms except to the extent that the enforceability thereof may be limited:

- (1) by bankruptcy, reorganization, or other similar laws limiting the enforceability of creditors' rights generally; or
- (2) by the availability of any discretionary equitable remedies.

- d. The Grant to assist in funding an extraordinary economic development opportunity to promote economic growth, as provided by this Agreement, which will further the purposes of this Act; to-wit:

for the purpose of enhancing the process of local economic development through the creation of jobs.

Section 6. Representations of the Local Sponsor. The Local Sponsor makes the following representations as a basis for the Grant and the undertakings on the part of MDA, herein contained:

- a. The Local Sponsor has all necessary power and authority to enter into and perform its duties under this Agreement and, when executed and delivered by the respective parties hereto, this Agreement will constitute a legal, valid and binding obligation of the Local Sponsor enforceable in accordance with its terms except to the extent that the enforceability of the rights set forth herein may be limited:
 - (1) by bankruptcy, reorganization, insolvency, moratorium or other laws affecting creditors' rights generally
 - (2) by the validity of any particular remedy.
- b. The execution and delivery of this Agreement and compliance with the provisions hereof will not conflict with, or constitute a breach of or default under, the Local Sponsor's duties under any law, administrative regulation, court decree, resolution, charter, bylaws or other agreement to which the Local Sponsor is subject or by which it is bound.
- c. There is no consent, approval, authorization or other order of, filing with, or certification by, any regulatory authority having jurisdiction over the Local Sponsor required for the execution, delivery or the consummation by the Local Sponsor of any of the transactions contemplated by this Agreement and not already obtained.
- d. There is no action, suit proceeding or investigation at law or in equity before or by any court or governmental agency or body pending or, to the best knowledge of the Local Sponsor, after reasonable investigation and due inquiry, threatened against the Local Sponsor in any way contesting or affecting the validity of this Agreement or contesting the powers of the Local Sponsor to adopt, enter into or perform its obligations under this Agreement or materially and

adversely affecting the properties or condition (financial or otherwise) or existence or powers of the Local Sponsor.

- e. The Local Sponsor will not discriminate against any employee or any applicant for employment because of race, religion, color, national origin, sex or age.
- f. The Local Sponsor shall comply with the terms and provisions of this Agreement and the Act.
- g. The Local Sponsor certifies that all of the material information contained in the Application is true and correct as of the date of the Application and the date of this Agreement. The Local Sponsor further acknowledges that MDA, in making the Grant, is relying upon the truthfulness and correctness of the material information contained in the Application.
- h. The Local Sponsor represents and warrants that it will further the purposes of the Act, to wit:

to assist in funding extraordinary economic development opportunities to promote economic growth for the purpose of enhancing the process of local economic development through the creation of jobs.

Section 7. Representations of the Company. The Company makes the following representations as a basis for the undertakings on the part of MDA and the Local Sponsor, herein contained:

- a. The Company has all necessary power and authority to enter into and perform its duties under this Agreement and, when executed and delivered by the respective parties hereto, this Agreement will constitute a legal, valid and binding obligation of the Company enforceable in accordance with its terms except to the extent that the enforceability of the rights set forth herein may be limited:
 - (1) by bankruptcy, reorganization, insolvency, moratorium or other laws affecting creditors' rights generally
 - (2) by the validity of any particular remedy.
- b. The execution and delivery of this Agreement and compliance with the provisions hereof will not conflict with, or constitute a breach of or default under, the Company's duties under any law, administrative regulation, court decree, resolution, charter, bylaws or other agreement to which the Company is subject or by which it is bound.
- c. There is no consent, approval, authorization or other order of, filing with, or certification by, any regulatory authority having jurisdiction over the Company required for the execution, delivery or the

consummation by the Company of any of the transactions contemplated by this Agreement and not already obtained.

- d. There is no action, suit proceeding or investigation at law or in equity before or by any court or governmental agency or body pending or, to the best knowledge of the Company, after reasonable investigation and due inquiry, threatened against the Company in any way contesting or affecting the validity of this Agreement or contesting the powers of the Company to adopt, enter into or perform its obligations under this Agreement or materially and adversely affecting the properties or condition (financial or otherwise) or existence or powers of the Company.
- e. The Company will not discriminate against any employee or any applicant for employment because of race, religion, color, national origin, sex or age.
- f. The Company shall comply with the terms and provisions of this Agreement and the Act and specifically with the terms set out in Item 4B of Annex A.
- g. The Company represents and warrants that this project will further the purposes of the Act to assist in funding extraordinary economic development opportunities to promote economic growth for the purpose of enhancing the process of local economic development through the creation of jobs.
- h. Upon request of the MDA or the Office of the State Auditor, the Company will provide reasonable verification of its compliance with the jobs creation and maintenance commitment and the investment commitment as set out in Annex A. Additionally, the Company will cooperate fully with MDA and/or the Office of the State Auditor in performing audits from time to time to determine the Company's compliance with the provision of this Agreement. The Company further agrees that MDA and/or the Office of the State Auditor shall have the right to inspect books, records, plans and other data related to the Project.
- i. The Company shall follow General Auditing Standards for financial and other record retention.
- j. The Company shall comply with the following requirements and responsibilities: enroll in the E-Verify program; display the E-Verify participation posters (English & Spanish) in prominent places that are visible to prospective employees and all employees who are to be verified through the system; comply with the most recent version of the E-Verify Manual; comply with current Form I-9 procedures; initiate E-verify verification procedures for new employees within three (3) business days after each employee has been hired, and record the case verification numbers on the employee's Form I-9 or

print the screen containing the verification number and attach it to the employee's Form I-9.

- k. The Company is legally authorized to transact business in the State of Mississippi.

Section 8. Termination. MDA may terminate its obligation to honor any disbursement of the Grant at any time prior to any disbursement of the Grant if any event occurs, which would constitute a default under this Agreement.

Section 9. Notice Addresses. All notices given pursuant to this Agreement shall be in writing signed by the party giving the notice and shall be given by:

- a. certified mail, postage prepaid;
- b. prepaid overnight delivery; or
- c. hand delivery.

For the purposes of this Agreement, notices shall be sent to the parties at the addresses set forth on Item 5 of Annex A hereto or to such other addresses that the parties may designate in writing.

Section 10. Miscellaneous.

- a. No party may assign or delegate its rights or obligations pursuant to this Agreement without the prior written consent of the other parties. Such consent shall not be unreasonably withheld.
- b. This Agreement has been made by MDA (acting for and on behalf of the State), the Local Sponsor and the Company, and no person other than the foregoing and their successors or assigns shall acquire or have any right under or by virtue of this Agreement.
- c. This Agreement shall become effective upon the execution and the acceptance hereof by the parties hereto and shall be valid and enforceable from and after the time of such execution and acceptance.
- d. If any section or part of a section of this Agreement shall be declared null and void or unenforceable against any of the parties hereto by any court of competent jurisdiction, such declaration shall not affect the validity or enforceability of any other section or part of a section of this Agreement.
- e. In the event any agreement contained in this Agreement shall be breached and such breach shall thereafter be waived, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

- f. This Agreement shall inure to the benefit of MDA, the Local Sponsor and the Company and shall be binding upon MDA, the Local Sponsor and the Company and their respective successors and assigns.
- g. This Agreement, and all claims or causes of action (whether in contract, tort or statute) that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution or performance of this Agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement or as an inducement to enter into this Agreement), shall be governed by, and enforced in accordance with, the internal laws of the State of Mississippi, including its statutes of limitation and without regard to conflict of law principles.

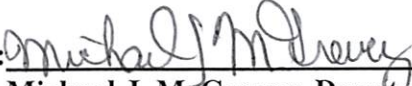
All disputes regarding this Agreement, and all claims or causes of action (whether in contract, tort or statute) that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution or performance of this Agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement or as an inducement to enter into this Agreement), must be brought or filed in state court in the First Judicial District of Hinds County, Mississippi, which shall be the exclusive forum and jurisdiction for such disputes.

The Parties agree that their choice of laws and exclusive forum set forth above are mandatory and shall not be deemed permissive.

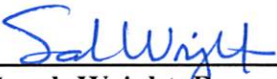
- h. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original; but such counterparts shall together constitute but one and the same agreement.
- i. No amendment, change, modification, or alteration of this Agreement shall be made other than pursuant to a written instrument signed by the parties to this Agreement.
- j. This Agreement has been prepared by the efforts of all the parties. In any construction to be made to this Agreement, it shall not be construed against any party on the basis of authorship.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

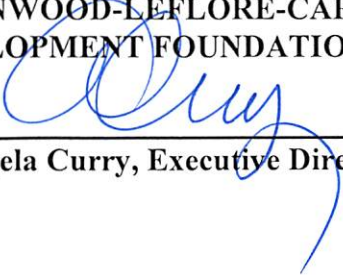
MISSISSIPPI DEVELOPMENT AUTHORITY
(ACTING FOR AND ON BEHALF OF THE STATE
OF MISSISSIPPI)

By: 
Michael J. McGrevey, Deputy Director


ATTEST:


Sarah Wright, Bureau Manager


GREENWOOD-LEFLORE-CARROLL ECONOMIC
DEVELOPMENT FOUNDATION

By: 
Angela Curry, Executive Director

ATTEST:


Title: Quality Control manager

EXPRESS GRAIN TERMINALS, LLC

By: 
John Coleman, President

ATTEST:


Title IT Director

**Annex A
to
Grant Agreement**

Item 1A- Name of Local Sponsor: **Greenwood-Leflore-Carroll Economic Development Foundation**

Item 1B- Name of Company: **Express Grain Terminals, LLC**

Item 2A- Description of Project: **ACE funds to be used to assist Express Grain Terminals, LLC with road, rail, water, fire suppression, building improvements and other expenditures related to their expansion as approved by MDA at its Leflore County, Mississippi facility.**

Item 2B- Soft Cost Expenses: **Engineering, Architectural, Project Management and other soft costs shall not exceed 10% of this MDA grant amount.**

Item 3- Grant Amount: **\$750,000**

Item 4A- Grant Terms and Conditions:

Funds will be disbursed on a reimbursable and services rendered basis. All documentation for disbursements must be received by February 27, 2021.

At the request of the Local Sponsor, which such request, the parties acknowledge, has been made, the State shall disburse the Grant funds directly to the Company on behalf of the Local Sponsor rather than distributing such funds to the Local Sponsor.

Item 4B- Terms and Conditions for Company:

The Company commits that the Project shall make an investment of at least \$18,017,250 and create at least one-hundred (100) new direct full-time jobs at the Mississippi Project Site, in addition to the seventy-nine (79) existing full-time jobs, for a total of one-hundred and seventy-nine (179) full-time jobs located at the Mississippi Project Site in Leflore County, within three (3) years of the date of this Agreement ("Job Creation Commitment") and must maintain those jobs for a two (2) year maintenance period ("Job Maintenance Commitment").

As used herein, the term new "Full-Time Job" shall mean that each such job shall be for no less than thirty-five (35) hours per week and did not exist in the State before the Effective Date and shall include such employment only at the Project Site. In order to qualify as a Full-Time Job, the principal site of employment of each such person must be at the Project Site and the person must receive wages subject to Mississippi withholding. For any job to count as a Full-Time Job, the employer must maintain and make available to the Mississippi Department of Employment Security its employment records to verify employment data. Third-party services which do not directly relate to the

Company's business operations, such as janitorial, security or grounds maintenance services, are not considered Full-Time Jobs.

In the event that the Company fails to satisfy its Job Creation Commitment within three (3) years of the date of this Agreement, then the Company shall pay the State a per job amount for each job by which the number of jobs falls short of the required number. The per job amount shall be calculated in accordance with the following formula:

$$a/100$$

a = the amount of grant funds actually disbursed by MDA to the Company

The maintenance period shall commence on the date that the company notifies MDA that it has satisfied the Job Creation Commitment but not later than three (3) years after the date of this Agreement. If the Company thereafter fails to satisfy its Jobs Maintenance Commitment with respect to such jobs during the maintenance period, the Company shall pay the State an amount calculated in accordance with the following formula:

$$(a/2) * (1-[b/100])$$

a = the amount of grant funds actually disbursed by the MDA to the Company in accordance herewith, minus any recaptured funds during the Job Creation Commitment period.

b = the number of new full-time jobs created by the Company for such calendar year during which such default occurred. The number of new full-time jobs created is calculated by subtracting the number of existing full-time jobs (79) from the total number of full-time jobs on the current payroll.

MDA shall provide the Company with written notice of default and the Company will be given thirty (30) days following receipt of such notice to cure such default prior to the per job payment becoming due and owing.

Item 5-

Address Notice:

Mississippi Development Authority
Post Office Box 849
Jackson, Mississippi 39205
Attention: Financial Resources

Greenwood-Leflore-Carroll Economic Development Foundation
402 Highway 82 West
Greenwood, Mississippi 38930
Attention: Ms. Angela Curry

Express Grain Terminals, LLC
2015 River Road Extension
Greenwood, Mississippi 38930
Attention: Mr. John Coleman

ACKNOWLEDGMENT OF MISSISSIPPI DEVELOPMENT AUTHORITY

STATE OF MISSISSIPPI)
) ss:
COUNTY OF HINDS)

Personally appeared before me, the undersigned authority in and for the said county and state, on this the 21st day of April, 2020, within my jurisdiction, the within named Michael J. McGrevey, respectively, who acknowledged he is the Deputy Director, of the Mississippi Development Authority and that for and on behalf of said Department and as its act and deed, he executed the above and foregoing instrument, after first having been duly authorized by said Department so to do.

GIVEN UNDER MY HAND AND OFFICIAL SEAL OF OFFICE, this the 21st
day of April, 2020.

Anne Marie Barnes
Notary Public

My Commission Expires:



ACKNOWLEDGMENT OF LOCAL SPONSORS

STATE OF MISSISSIPPI)
) ss:
COUNTY OF LEFLORE)

Personally appeared before me, the undersigned authority in and for the said county and state,
on this the 9th day of April, 2020, within my
jurisdiction, the within named Victoria Mullins and Angela Curry and
Victoria Mullins, who acknowledged they are
Executive Director and Quality Control Manager, of
Greenwood Economic Development Foundation, and that for and on behalf of said
Express Grain Terminals LLC, and as its act and deed, they executed the
above and foregoing instrument, after first having been duly authorized by said
Express Grain Terminals LLC so to do.

GIVEN UNDER MY HAND AND OFFICIAL SEAL OF OFFICE, this the 9th
day of April, 2020.

Allison J. Smithee
Notary Public

My Commission Expires:

Jan. 31, 2024

[S E A L]





EXHIBIT "A"

ACKNOWLEDGMENT OF COMPANY

STATE OF _____)
) ss:
COUNTY OF _____)

Personally appeared before me, the undersigned authority in and for the said county and state, on this the 9th day of April, 2020, within my jurisdiction, the within named John Coleman and Pearman Casanova, who acknowledged they are President and IT Manager, of Express Grain Terminals LLC, and that for and on behalf of said Express Grain Terminals LLC, and as its act and deed, they executed the above and foregoing instrument, after first having been duly authorized by said Express Grain Terminals LLC so to do.

GIVEN UNDER MY HAND AND OFFICIAL SEAL OF OFFICE, this the 9th day of April, 2020.

Allison J. Smithee
Notary Public

My Commission Expires:

Jan. 31, 2024

[SEAL]





EXHIBIT "A"