

EXAMPLE SUMMARY
FOR INFORMATION PURPOSES ONLY

**RRIF Express Loan Agreement
for corporate borrowers**

Summary of Terms and Conditions

THE FOLLOWING SUMMARY OF TERMS AND CONDITIONS DESCRIBE CERTAIN OF THE PRINCIPAL TERMS AND CONDITIONS OF THE PROPOSED RRIF LOAN AGREEMENT, IS FOR INFORMATION PURPOSES ONLY AND IS NOT TO BE CONSTRUED NOR REFERENCED IN ANY WAY AS A COMMITMENT OR UNDERTAKING OF THE RRIF LENDER, OR ANY OF ITS AFFILIATES OR AGENCIES, TO PROVIDE A RRIF LOAN OR ANY OTHER TYPE OF FINANCING. FURTHER, THE FOLLOWING IS INTENDED TO SUMMARIZE CERTAIN BASIC TERMS OF THE RRIF LOAN AGREEMENT AND NOT INTENDED TO BE A DEFINITIVE LIST OF ALL OF THE REQUIREMENTS OF THE RRIF LENDER IN CONNECTION WITH THE RRIF LOAN AGREEMENT. THE ACTUAL TERMS AND CONDITIONS UNDER WHICH THE RRIF LENDER MAY BE WILLING TO PROVIDE THE RRIF LOAN AGREEMENT TO THE BORROWER SHALL BE SUBJECT TO SATISFACTORY COMPLETION BY THE RRIF LENDER OF ITS DUE DILIGENCE PROCESS, OBTAINING NECESSARY INTERNAL CREDIT APPROVALS AND NEGOTIATION AND EXECUTION OF DEFINITIVE DOCUMENTS.

RRIF Express Program	The RRIF Express Program is a pilot program aimed at expediting long-term, low-cost loans for America's short line and regional freight railroads. It is a pilot program under the Railroad Rehabilitation & Improvement Financing program (" RRIF ") administered by the United States Department of Transportation.
Borrower:	Railroads, state or local governments, government sponsored authorities or corporations, or joint ventures eligible to be a borrower under the Railroad Rehabilitation & Improvement Financing Express program.
Guarantors:	Each of the Borrower's existing and subsequently acquired or organized subsidiaries shall jointly and severally guarantee the obligations of Borrower. All Guarantors will be deemed credit parties and be subject to the representations, warranties, covenants and events of default of the RRIF Loan Agreement and related loan documents (collectively, the " RRIF Loan Documents ").
RRIF Lender:	The United States Department of Transportation, an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau.
Project:	Project used to develop railroad infrastructure and otherwise deemed to be a project eligible for financing under the RRIF Express Program (as set forth in the Notice of Funding Opportunity for Letters of Interest

for the RRIF Express Pilot Program under the Railroad Rehabilitation & Improvement Financing Program (the “**NOFO**”).

- RRIF Loan Agreement:** Senior secured or unsecured term loan facility in an amount to be determined based on the RRIF Lender’s underwriting, but in no event in excess of 100% of the Eligible Project Costs (as defined below). The term loan facility (the “**RRIF Loan**”) will be evidenced by the RRIF Loan Agreement and other documents delivered in connection therewith (the “**RRIF Loan Documents**”).
- Purpose/Use of Proceeds:** The proceeds of the RRIF Loan Agreement will be used solely to directly pay for, or reimburse Borrower for its prior payment of, those costs associated with the Project, in each case as detailed in the project budget approved by the RRIF Lender; provided, however, that all uses of RRIF Loan proceeds will be in respect of such eligible costs in accordance with applicable federal law and the NOFO (the “**Eligible Project Costs**”). In addition, at the discretion of the RRIF Lender, a portion of the RRIF Loan may include the refinancing of non-federal debt, subject to the conditions therefore set forth in the NOFO. No proceeds disbursed under the RRIF Loan Agreement may be used to pay for the Borrower’s operating expenses and no such operating expenses will be deemed Eligible Project Costs.
- Availability:** Amounts available under the RRIF Loan Agreement shall be made pursuant to a requisition and certification (a “**Requisition**”), along with all documentation and other information required thereby (such as invoices), submitted by the Borrower to, and approved by, the RRIF Lender through the date on which the Project is substantially completed (subject to additional grace periods for financing as determined by the RRIF Lender).
- Maturities:** A date as determined by the RRIF Lender in its discretion but in no event later than the earlier to occur of (i) up to the 35th anniversary of the completion of the Project and (ii) the estimated expiration of the useful life of the Project.
- Amortization:** The outstanding principal amount of the term facility will be payable in quarterly or semi-annual amounts each year based on a percentage of the original aggregate principal amount of the RRIF Loan Agreement. Accrued interest shall be paid concurrently with each principal payment unless otherwise agreed to by the parties. Amortization percentages and frequency, including the commencement of amortization, will be determined by the RRIF Lender based on due diligence and underwriting procedures; provided, however, that amortization of the term facility will begin no later than five years following substantial completion of the Project.
- RRIF Interest Rate:** All amounts outstanding under the RRIF Loan Agreement will bear interest at a fixed rate, calculated by adding one basis point (.01%) to the rate of securities of a similar maturity as published, on the execution date of the RRIF Loan Agreement, in the United States Treasury Bureau of Public Debt’s daily rate table for State and Local

Government Series (“**SLGS**”) securities, currently located on the Internet at <https://www.treasurydirect.gov/GA-SL/SLGS/selectSLGSDate.htm>. Interest shall be computed on the basis of a 365- or 366-day year, as appropriate, for the actual number of days elapsed for each quarterly or semi-annual period, as applicable, or portion thereof. The RRIF Loan shall also bear interest at a rate of 200 basis points (2.00%) above the otherwise applicable interest rate upon the occurrence of an Event of Default under the RRIF Loan Agreement.

Fees: The Borrower shall pay to the RRIF Lender a loan servicing, advisory fee and other fees as may be required by the RRIF Lender in amounts to be determined by RRIF Lender (subject to any award of Cost Assistance (as defined in the NOFO)).

Prepayments: **Optional Prepayments:** The RRIF Loan Agreement may be prepaid in whole or in part without premium or penalty.

Mandatory Prepayments: The Borrower shall make mandatory prepayments as required by the RRIF Lender based on due diligence and underwriting procedures, in each case, subject to certain basket amounts and exceptions to be negotiated customary for transactions of this type including. Examples of mandatory prepayments to be required include, without limitation and to the extent applicable: (a) 100% of the net cash proceeds from any extraordinary asset disposition, (b) 100% of the net cash proceeds from issuances of capital securities (with standard exclusions) or other extraordinary receipts, (c) to the extent the term facility is based on a required asset value, 100% of the amount by which the loan balance exceeds such adjusted asset value, and (d) others based on diligence of the RRIF Lender such as excess cash flow sweeps.

Security: The obligations under the RRIF Loan Documents may be secured by specific assets of the Borrower or Guarantors or, substantially all of the assets of Borrower or such Guarantors (the “**Collateral**”). Collateral provided to the RRIF Lender as security may lower the credit risk premium applicable to the RRIF Loan Agreement. Any Collateral provided will require reappraisals from time to time which such frequency as the RRIF Lender may require in its discretion. All costs for such reappraisal shall be paid by the Borrower.

If the RRIF Loan Agreement is secured, all the pledges, security interests and mortgages shall be created on terms, and pursuant to documentation, satisfactory to the RRIF Lender, and none of the Collateral shall be subject to any other pledges, security interests or mortgages, subject to customary and limited exceptions to be agreed. Collateral pledged as security for the RRIF Loan Document obligations may require one or more of the following, to the extent applicable, with respect to which Borrower shall be required to maintain perfection at its sole cost during the term of the RRIF Loan:

- (1) Filing of customary mortgages with respect to any assets constituting real property, together with local counsel legal opinions required in connection with the recording and enforceability of such mortgages in the jurisdiction in which such real property is located;
- (2) customary uniform commercial code financing statements to be filed in the jurisdiction of incorporation (or formation) of the Borrower and each Guarantor;
- (3) for all locomotive equipment and rolling stock, filings with the Surface Transportation Board together with an opinion of counsel regarding such STB filing;
- (4) for all rail assets owned by the Borrower, Uniform Commercial Code transmitting utility filings in each state in which the Borrower owns rail assets; and
- (5) for all rail assets licensed by Borrower, consent from the licensor of such rail assets.

The foregoing Collateral requirements may require tax, lien and judgment searches on a county level basis depending on the way in which the Borrower holds title or has rights in such rail assets. Any Collateral granted by one or more of the Borrower and Guarantors shall be cross collateralized. All costs of tax, lien and judgment searches, Collateral filings, and local or special counsel (such as STB counsel) shall be paid by the Borrower.

**Financial and Certain
Other Covenants:**

The RRIF Loan Agreement will include financial covenants as deemed appropriate by the RRIF Lender. The RRIF Lender expects to include one or more of the following covenants¹ at levels to be determined by the RRIF Lender in response to due diligence and underwriting procedures:

- (1) Fixed Charge Coverage Ratio: the ratio of (i) Consolidated Earnings Before Interest, Taxes, Depreciation and Amortization (“EBITDA”) for such any period, to (ii) the sum without duplication of (A) consolidated interest expense of Borrower and Guarantors, (B) scheduled payments of principal on consolidated indebtedness of Borrower and Guarantors, (C) consolidated capital expenditures of Borrower and Guarantors, and (D) all mandatory dividends on capital securities of Borrower or any Guarantor;

¹ Ratios included in loan agreement covenants as well as definitions of such ratios are subject to change, if necessary, based on the unique circumstances of each loan, including ratio covenants not explicitly listed herein.

- (2) Leverage Ratio: the ratio of (i) consolidated indebtedness of Borrower and Guarantors as of any date, to (ii) Consolidated EBITDA for the period of four quarters then ended;
- (3) Others Potential Ratios and Financial Covenants: consolidated interest coverage ratio (ratio of Consolidated EBITDA to consolidated interest expense), consolidated debt service coverage ratio (ratio of Consolidated EBITDA to debt service obligations), minimum tangible net worth, total liabilities to tangible net worth ratio and capital expenditure limitations;
- (4) Restricted Payments: neither the Borrower nor any Guarantor will (i) make any dividend or distribution to any holders of its equity interests, (ii) purchase or redeem any of its equity interests, or (iii) pay any management fees, transaction-based fees or similar fees to any of its equity holders or any affiliate, (each a “**Restricted Payment**”), except (A) the Borrower may declare and pay dividends with respect to its equity interests payable solely in additional shares of its common stock and (B) subsidiaries of Borrower may declare and pay dividends ratably with respect to their equity interests. Other exceptions and carve outs may be permitted in the discretion of the RRIF Lender based on diligence and underwriting policies; provided, however, that any carve outs to the foregoing restriction will be conditioned upon no default or event of default existing under the RRIF Loan Documents including, without limitation, pro forma compliance with financial covenants and may include other limitations such as dollar amount caps, frequency and others to be determined by the RRIF Lender;
- (5) Debt Restriction: except for permitted indebtedness to be defined in the RRIF Loan Documents, neither the Borrower or any other Guarantor issue or incur any indebtedness. Indebtedness permitted under the RRIF Loan Documents will be determined based on due diligence and underwriting procedures of the RRIF Lender. Examples of types of permitted indebtedness that may be considered in the discretion of the RRIF Lender include the following: (i) certain existing indebtedness of the Borrower which is not repaid by the RRIF Lender, (ii) capital lease obligations up to a to be determined amount incurred to finance discrete items of equipment not integral to the Project, (iii) indebtedness incurred in the ordinary course of business in respect of performance bonds and similar instruments, (iv) intercompany indebtedness and (v) other types of

indebtedness not adverse to the interests of the RRIF Lender, in each case, as determined in the sole discretion of the RRIF Lender;

- (6) Sale of Assets: neither Borrower nor any Guarantor will sell, transfer or otherwise dispose of any asset except sales, transfers and dispositions of inventory in the ordinary course of business and used, obsolete, worn out or surplus equipment or other tangible property (other than rolling stock) in the ordinary course of business and certain other exceptions as determined by the RRIF Lender in its discretion based on its diligence and underwriting procedures.

For purposes of the financial covenants, Consolidated EBITDA shall mean, for any period of determination, consolidated net earnings of Borrower and Guarantors before nonrecurring items (in accordance with GAAP and as reasonably agreed to by the RRIF Lender), plus, to the extent deducted in determining such net earnings, interest, taxes, depreciation, amortization and other add backs and adjustments agreed to by the RRIF Lender in its sole discretion, in each case, all as determined in accordance with GAAP, consistently applied.

Federal Requirements:

The RRIF Loan Documents will contain certain representations, warranties and covenants by the Borrower that are required by federal law and Bureau policy. In particular, standard representations such as compliance with laws will have specific references to compliance with certain federal requirements, including, without limitation those set forth on Exhibit A. In addition, the RRIF Loan Documents will include following representations and warranties: suspension, debarment or voluntary exclusion representations and verification and notice requirements; completion of NEPA review and receipt of a final NEPA determination confirming compliance (CE, FONSI, or ROD); compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and Title VI of the Civil Rights Act of 1964); compliance with OFAC²; and compliance with the Patriot Act³.

² The RRIF Loan Agreement will include a representation that none of the Borrower, other loan party or principal project party is a sanctioned person as listed by OFAC or the US Department of State; (b) none of the Borrower, other loan party or principal project party is in violation of or since the date is 5 years prior to the execution of the RRIF Loan Agreement violated in anti-money laundering laws, applicable sanctions, applicable anti-corruption laws or anti-drug tracking, anti-terrorism or anti-corruption laws, civil or criminal; (c) there is no pending or threatened claims or investigations by any governmental authority against the Borrower or any principal project party with respect to an alleged violation of sanctions, anti-money laundering laws, anti-corruption laws or any anti-drug trafficking or anti-terrorism laws; and (d) no use of the proceeds of the RRIF loan will violate applicable sanctions, anti-money laundering laws, anti-corruption laws or any anti-drug trafficking or anti-terrorism laws.

³ The Borrower and each of the loan parties have established an anti-money laundering compliance program as required by the Patriot Act and is in compliance with the Patriot Act.

The Borrower will also include covenants in the RRIF Loan Documents as to: providing notices with respect to certain events; not using the RRIF Loan proceeds for purposes not related to the railroad operations if such use would impair its ability to provide services in an efficient and economic manner or perform any of its obligations; maintaining its capital program, equipment, facilities, and operations on a continuing basis; ensuring that laborers and mechanics employed by its contractors and subcontractors in construction work will be paid wages not less than those prevailing in similar construction in the locality; and complying with protective arrangements with respect to employees affected by actions taken in connection with the Project.

The RRIF Loan Documents will also include covenants as to: acquisition of a Federal Employer Identification Number (“*EIN*”), Data Universal Numbering System (“*DUNS*”) number and registration with the federal System for Award Management (“*SAM*”) (www.SAM.gov)⁴; small and disadvantaged business⁵; Patriot Act; Cargo Preference Act⁶; domestic content requirements⁷; lobbying restrictions and disclosures.

Operational Covenants: The RRIF Loan Documents will contain such affirmative and negative covenants by the Borrower as are reasonably deemed appropriate by the RRIF Lender for this transaction in particular (but with customary exceptions, qualifications and baskets to be agreed), including, without limitation:

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- ⁴ Acquisition of a DUNS number and registration with SAM can have significant lead times (often in excess of thirty (30) days) and are the requirements of the Borrower to pursue and obtain. The USDOT advises applicants to begin this process early to avoid any delays in closing due to failure to obtain active registration status.
- ⁵ Borrower will, in connection with the Project, and will cause its contractors and subcontractors at all tiers for the Project to: (i) provide maximum practicable opportunities for small businesses, including veteran-owned small businesses and service disabled veteran-owned small businesses, and (ii) implement best practices, consistent with our nation’s civil rights and equal opportunity laws, for ensuring that all individuals – regardless of race, gender, age, disability, and national origin – benefit from activities funded through the RRIF Loan Agreement.
- ⁶ The Borrower will agree and will insert the following clauses in contracts entered into by the Borrower pursuant to which equipment, materials or commodities may be transported by ocean vessel in carrying out the Project:
- (a) at least 50% of any equipment, materials or commodities procured, contracted for or otherwise obtained with RRIF loan proceeds, and which may be transported by ocean vessel, shall be transported on privately owned United States-flag commercial vessels, if available;
 - (b) within 20 days following the date of loading for shipments originating within the United States or within 30 business days following the date of loading for shipments originating outside the United States, a legible copy of a rated, ‘on-board’ commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (i) above shall be furnished to both the RRIF Lender and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.
- ⁷ Borrower will comply, and will require its contractors and subcontractors at all tiers for the Project to comply, with Federal Railroad Administration’s “RRIF Buy America” policy, adopted in 75 Fed. Reg. 60165-66, which follows 49 U.S.C. § 24405(a) and applicable Federal Railroad Administration guidance. In accordance with the foregoing, the steel, iron, and manufactured goods used in the Project must be produced in the United States unless an applicable waiver is granted by the Federal Railroad Administration.

Affirmative Covenants: delivery of quarterly unaudited, and annual audited, financial statements and other periodic reports and notices upon the occurrence of certain events, including, without limitation, substantial completion, default or event of default, litigation, delayed governmental approvals, environmental, insurance, ratings change, principal project contract defaults, ERISA, project changes, failure to comply with certain federal transportation and railroad laws and other adverse events; financial plan; project monitoring and construction progress reports; delivery of permitted debt documents; use of proceeds; performance of principal project contracts; prosecution of work; operation and maintenance; insurance; maintenance of legal structure; reserve accounts; permitted investments; compliance with law; payment of material obligations; environmental matters; hedging; events of loss; and further assurances.

Negative Covenants: limitations with respect to other indebtedness, lien extinguishment or adverse amendments to documents relating to the Project, liens, mergers, payment of subordinated debt, investments, transactions with affiliates, restrictive agreements, conduct of business and deployment of assets, amendment of organizational documents, fiscal year, changes of control, amendment or waiver of subordinated debt, no payment with federal funds, change in legal nature, OFAC, hedging, abandonment, salaries of officers, ERISA, and prohibited interest.

*Exceptions and carve outs from the affirmative and negative covenants may be added in the discretion of the RRIF Lender based on diligence and underwriting procedures. Certain allowances agreed to by the RRIF Lender will be premised on there being no default or event of default existing under the RRIF Loan Agreement at the time of such event, and, to the extent applicable, pro forma compliance with financial covenants and may include other limitations such as dollar amount caps, frequency and others to be determined by the RRIF Lender.

Representations and Warranties:

The RRIF Loan Documents will contain representations and warranties usual and customary for corporate transaction credit facilities (i.e. existence, authorization, absence of litigation, compliance with laws, non-contravention, no defaults, insurance, etc.). In addition, the RRIF Loan Documents will contain representations and warranties as are reasonably deemed appropriate by the RRIF Lender in light of the loan being made under the RRIF Program. In addition, the RRIF Loan Documents may include one or more of the following representations and warranties: governmental approvals necessary as of the execution date of the RRIF loan agreement have been obtained; principal project contracts are in full force and effect; compliance with environmental matters; sufficient rights and utilities; valid title or leasehold interest in its real or personal property; no felony conviction or securities law

violation; Section 1168 of the Bankruptcy Code⁸; and public benefit of RRIF financial assistance.

Events of Default:

The RRIF Loan Documents will include such events of default (and, as appropriate, grace periods and thresholds to be agreed) as are deemed appropriate by the RRIF Lender for this transaction in particular, including, without limitation, failure to make payments when due, noncompliance with other covenants under the RRIF Loan Documents, failure to diligently prosecute the work related to or otherwise complete the Project by the projected substantial completion date, breaches of representations and warranties, defaults under the Project documents or other agreements or instruments of indebtedness, judgments in excess of specified amounts, change of control, bankruptcy, abandonment of the Project, invalidity of the RRIF Loan Documents, cessation of operations, ERISA, and material adverse effect.

Conditions Precedent to Effectiveness:

The effectiveness of the RRIF credit agreement will be subject to the delivery of certain agreements, certificates, instruments or documents or the satisfaction of certain conditions as are deemed appropriate by the RRIF Lender for this transaction in particular, including, without limitation, the RRIF Loan Documents, legal opinions (including opinions of local counsel with respect to state and local county filings, if necessary, and an opinion of STB counsel, if applicable), no debarment certificate, evidence of adequacy of funding for the Project, principal contracts relating to the Project, payment of invoiced fees and expenses, evidence of compliance with NEPA and other applicable laws, federal EIN, DUNS number, active registration status with the SAM, insurance, certified organizational documents, resolutions and incumbency, if requested, a performance security instrument delivered to the Borrower under any principal project contract, accuracy of representations and warranties, certification regarding lobbying, plan for incorporation of USDOT's Disadvantage Business Enterprise program procedures, and other items required by the RRIF Lender.

Conditions to All Disbursements:

Each disbursement by the RRIF Lender will be subject to the delivery of certain agreements, certificates, instruments or documents or the satisfaction of certain conditions as are deemed appropriate by the RRIF Lender for this transaction in particular, including, without limitation, the payment of the credit risk premium (subject to any award of CRP Assistance (as defined in the NOFO)), for any disbursement occurring 60 days or more after the execution of the RRIF credit agreement, any RRIF security documents entered into after the execution of the RRIF credit agreement, certified copies of the principal project contracts and all additional project contracts, governmental approvals, insurance, no default or event of default, accuracy of representations and warranties, no material adverse effect,

⁸ If applicable, the Borrower will have to include a representation on whether it is a ["Class I Railroad" within the meaning of 49 C.F.R. Part 1201] [and a "railroad" within the meaning of section 1168 of the Bankruptcy Code]. The RRIF Lender will be entitled to the benefits of Section 1168 of the Bankruptcy Code with respect to any collateral constituting rolling stock in the event of a case under Chapter 11.

requisition, payment of all invoiced fees and expenses, and performance security instrument delivered to the Borrower under any principal project contract. No more than one disbursement shall be made in any given month and each disbursement shall be made by the RRIF Lender within a reasonable time following receipt and review of all materials provided in connection with such disbursement request. The anticipated timing for each disbursement is 15 days following such receipt, however, is subject to change based on diligence conducted by the RRIF Lender specific to the Project.

Miscellaneous:

Typical provisions for leveraged financing transactions to be included such as restrictions on assignments, allowances for participations, amendment and waiver provisions, taxes and yield protection, governing law and venue (which is anticipated to be the State of New York). Neither the Borrower's rights or obligations hereunder nor any interest therein may be assigned, delegated, or transferred by the Borrower without the prior written consent of the RRIF Lender.

Indemnity and Expenses:

The RRIF Loan Documents will contain customary indemnification (including coverage of environmental liabilities) and expense reimbursement provisions by the Borrower and each Guarantor in favor of the RRIF Lender, including in respect of the fees and expenses of its outside financial and legal advisors (subject to any award of Cost Assistance (as defined in the NOFO)).

A preliminary due diligence request list is attached as Exhibit B.

Exhibit A

List of Generally Applicable Federal Law

Borrower shall, and shall require its contractors and subcontractors at all tiers for the Project to, comply in all material respects with any and all applicable federal and state laws. The following list of federal laws is illustrative of the type of requirements generally applicable to transportation projects. It is not intended to be exhaustive.

1. The Americans with Disabilities Act of 1990 and implementing regulations (42 U.S.C. § 12101 *et seq.*; 28 C.F.R. Part 35; 29 C.F.R. Part 1630);
2. Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d *et seq.*) and USDOT implementing regulations (49 C.F.R. Part 21);
3. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. § 4601 *et seq.*), with the understanding that the requirements of said Act are not applicable with respect to utility relocations except with respect to acquisitions by Borrower of easements or other real property rights for the relocated facilities;
4. Equal employment opportunity requirements under Executive Order 11246 dated September 24, 1965 (30 F.R. 12319), any Executive Order amending such order, and implementing regulations (29 C.F.R. §§ 1625-27, 1630; 28 C.F.R. Part 35; 41 C.F.R. Part 60; and 49 C.F.R. Part 27);
5. Restrictions governing the use of federal appropriated funds for lobbying (31 U.S.C. § 1352; 49 C.F.R. Part 20);
6. The Clean Air Act, as amended (42 U.S.C. § 7401 *et seq.*);
7. The National Environmental Policy Act of 1969 (42 U.S.C. § 4321 *et seq.*);
8. The Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251 *et seq.*);
9. The Endangered Species Act, 16 U.S.C. § 1531, *et seq.*;
10. 49 U.S.C. § 303;
11. The prevailing wage requirements set forth in 40 U.S.C. §§ 3141-3144, 3146, and 3147, and 49 U.S.C. § 24308(a);
12. The Buy America requirements set forth in 49 U.S.C. § 24405(a);
13. The Cargo Preference Act of 1954, as amended (46 U.S.C. § 1241(b)), and implementing regulations (46 C.F.R. Part 381); and
14. The Railroad Retirement Act of 1974 (45 U.S.C. Chapter 9, Subchapter IV), and implementing regulations.

Exhibit B

Preliminary Due Diligence Request

In connection with the Borrower's request for financing from the RRIF Lender and to assist the RRIF Lender in considering such financing, the following facts are represented and warranted to you to be true and correct as it relates to the Borrower and each Guarantor. For purposes of this Preliminary Due Diligence Request, please respond to the following and treat all subsidiaries and holding companies of the Borrower as the "Company".

1. The name of the Company as shown on its Certificate of Incorporation or other formation documents and state of incorporation is as follows:
2. The Company is qualified to do business in each of the following states:
3. The Company currently uses the following trade names(s) in the operation of its business (e.g., billing, advertising, etc.):
4. List all officers, directors (and persons holding similar positions) and the key management team of the Company.
5. List the chief executive office and principal place of business of the Company and all other locations of the Company at which the Company maintains assets or otherwise operates business.
6. List any accounts receivable due from or contracts with the United States Government or any United States agency or department.
7. List all owned or licensed trademarks, patents or copyrights (including applications therefor) and identify all relevant registration information with respect thereto.
8. The landlords (if leased premises) and mortgages (if the premises are owned by the Company) and bailees (if the items are stored at a warehouse location) for the premises where the Company has additional places of business and/or maintains inventory, merchandise or fixed assets (such as machinery and equipment). Please indicate the nature of activity carried on at each place (such as business development, billing, sales, manufacturing, finishing, shipping, warehousing, etc.) and the nature of assets held at each location. Also indicate whether premises are owned by corporation or leased. If leased, give name of owner.
9. The Company may, from time to time, maintain assets at the following locations (do not list if the locations are already shown in 4 or 7 above):
10. The Company maintains the following bank accounts:
11. The total outstanding stock or other equity interests of the Company consists of the following (please include the names of the shareholders and their stock holdings):
12. The Company owns stock in the following corporations (indicate whether shares constitute entire outstanding stock majority interest or controlling interest):
13. The Company is affiliated with the following corporations through common management:

14. The Company owns or leases, or has right of way/easement rights in, the following real estate and fixtures (provide full legal address including county & state, description of the Company's interest (with applicable legal descriptions of any leased real estate or fixtures), and all encumbrances against such with Lender and mortgage information), including, without limitation, all leasehold, licensed or fee simple interests in any rail assets, track and the land on which such rail assets or track are located:
15. Indicate whether any of the premises owned by the Company are subject to mortgages. If so, state name of mortgagee and approximate principal balance of mortgage.
16. Please attach a schedule of all information required by U.C.C. §9-502(b) or former U.C.C. §9-402(5) of each state in which any of the assets of the Company or leased assets of the Company consisting of fixtures are or are to be located and the name and address of each real estate recording office where a mortgage (or leasehold mortgage) on the real estate on which such fixtures are or are to be located would be recorded.
17. The Company's assets are subject to the following security interest(s):
18. Please list any litigation in which the Company is party or, to the Company's knowledge, which is threatened against the Company:
19. The Company presently maintains liability, fire and extended coverage insurance as follows:
20. The Company presently owns or is named as beneficiary on the following life insurance:
21. At present, there are no delinquent taxes owed by the Company, except:
22. There are no tax liens, judgments, or lawsuits filed or pending against the Company, its subsidiaries, affiliates, or any of its officer or directors, except:
23. The Company has guaranteed or endorsed the following obligations for others:
24. Please list the following on a schedule hereto:
 - a. Leases of all premises occupied by corporation wherein it is not the owner. Please include all track leases or similar leases for rail assets.
 - b. Schedule listing all notes from corporation to officers, directors or stockholders.
 - c. Agreements pertaining to purchase and sale of corporation, including agreements among shareholders, provisions in corporate minutes pertaining to acquisition of shares, agreements with employees pertaining to acquisitions of shares held by employees, and agreements under which corporation may be obligated to purchase its own shares in the future.
 - d. All of the material contracts to which the Company is a party or by which the Company is bound is set forth below. For purposes of this Item d., the list of material contracts should include any long term or significant customer agreements which are material to Company's business, long term or significant supply agreements which are material to the Company's business, real estate leases related to locations at which the Company's books and records are maintained or at which a material amount of collateral is maintained, agreements pursuant to which material intellectual property is licensed or other material licensing

- agreements, collective bargaining agreements, and material management and consulting agreements.
- e. Schedule listing all licenses, permits and certificates necessary to the operation of the Company's business.
 - f. Schedule listing any strikes or other labor disputes pending or, to the Company's knowledge, threatened against the Company.
25. Except as set forth as follows, the Company have not received any notices of material noncompliance with laws or regulations received by the Company from any governmental authority during the 5-year period preceding the closing date, including with respect to any environmental laws or regulations, securities laws or regulations, tax laws or regulations, health and safety laws or regulations or ERISA.
26. Describe all equipment owned or leased by the Company, including railroad rolling stock, locomotives, maintenance of way equipment, cranes, trucks, shop machinery, spare parts (including trackage), signaling, office machines and computers, and include, as appropriate, AAR reporting marks, address of location of equipment (other than rolling stock), identification as owned or leased and the name of any mortgagee, lienor or lessor.
27. The Company does not own any assets that are of a type in which a lien may be registered, recorded or filed under, or notice thereof given under, any federal statute or regulation, except for the intellectual property identified above and except:
28. The following is a list of equipment subject to a certificate of title statute (including, without limitation, any motor vehicles, rolling stock, etc.)

Supplemental and follow up diligence requests (including requests for underlying documents) may be made by the RRIF Lender based on review of the initial responses to the foregoing.