



RESOLUTION NO. 19-07

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE NORTHERN INDIANA
COMMUTER TRANSPORTATION DISTRICT AUTHORIZING THE EXECUTION
OF AN AMENDED AND RESTATED GOVERNANCE AGREEMENT RELATED TO
THE CONSTRUCTION, FINANCING, MAINTENANCE, OPERATION AND
DEVELOPMENT OF CERTAIN RAIL PROJECTS AND AUTHORIZING CERTAIN
OTHER RELATED MATTERS IN CONNECTION THEREWITH**

WHEREAS, the Northern Indiana Commuter Transportation District (the “District”), governed by a Board of Trustees (the “Board”), exists and operates under Indiana Code 8-5-15, as amended from time to time (the “Act”); and

WHEREAS, Indiana Code 5-1.3 (the “IFA Bond Act”) authorizes the District, the Northwest Indiana Regional Development Authority (the “RDA”), and the Indiana Finance Authority (the “IFA”) to cooperate for the construction, financing, maintenance, operation, and development of rail projects including the mainline double-tracking project (the “Double Track Project”) and the West Lake corridor project (the “West Lake Project” and together with the Double Track Project, the “Projects”); and

WHEREAS, the District, the RDA, and the IFA previously entered into a Governance Agreement Concerning Development of the Rail Projects effective as of August 31, 2018 (the “Original Governance Agreement”), for the purpose of defining the roles and responsibilities among those parties for the construction, financing, maintenance, operation, and development of the Projects under a single comprehensive development plan; and

WHEREAS, the District adopted a resolution on July 20, 2018 (the “Prior Resolution”) authorizing the execution of the Original Governance Agreement together with other related financing documents; and

WHEREAS, additional funding for the Projects has been made available by the State of Indiana pursuant to the provisions of Indiana Code 8-14-14.3-5 and Indiana Code 5-13-10.5-20 (the “Additional Funding”); and

WHEREAS, in connection with the Original Governance Agreement, the District, the RDA, and the IFA developed a financing plan with respect to the West Lake Project, which is an exhibit to the Original Governance Agreement and which was presented as the financial plan for the review of the State Budget Committee at its meeting on August 15, 2018, in accordance with the IFA Bond Act (the “West Lake Financing Plan”); and

WHEREAS, the exhibits to the Original Governance Agreement pertaining to the West Lake Project need to be amended to update the West Lake Financing Plan, and the West Lake Project budget and schedule; and

WHEREAS, the exhibits pertaining to the Double Track Project financing plan, budget, and schedule need to be approved so they can be incorporated into the Amended and Restated Governance Agreement (as hereinafter defined); and

WHEREAS, the Original Governance Agreement and the West Lake Financing Plan attached to the Original Governance Agreement did not contemplate the Additional Funding, and the parties now desire to update the West Lake Financing Plan to take into account the Additional Funding; and

WHEREAS, the IFA, the RDA, and the District desire to enter into the Amended and Restated Governance Agreement Concerning Development of the Rail Projects in substantially the form attached hereto as Exhibit A (the “Amended and Restated Governance Agreement”) to: (i) update the West Lake Financing Plan to take into account the Additional Funding, and to update the West Lake Project budget and schedule; (ii) incorporate the Double Track Financing Plan and Double Track Project budget and schedule into the Amended and Restated Governance Agreement; and (iii) make certain other updates and changes to the Original Governance Agreement; and

WHEREAS, it has been proposed that the IFA, the RDA, and the District enter into one or more Development Agreements (the “Development Agreements,” and each a “Development Agreement”), after execution and delivery of the Amended and Restated Governance Agreement, for the purpose of setting forth in more detail the terms and conditions for the Projects, the responsibilities of the parties, the means of addressing changes in circumstances, and details of the financing plans; and

WHEREAS, the District has previously filed a grant application with the FTA for the West Lake Project, and it has been proposed that the District will file a grant application with the FTA for the Double Track Project (the “FTA Grant Applications”) pursuant to the Amended and Restated Governance Agreement for the purpose of financing a substantial portion of the Projects and the RDA and the IFA shall have the right to review, comment on, and approve any FTA Grant Application materials prior to the District’s submission to the FTA; and

WHEREAS, it has been proposed that the IFA finance the Projects, in part, through the issuance by the IFA of one or more series of bonds, notes, or other similar obligations issued under Indiana Code 5-1.3 (the “IFA Bonds”); and

WHEREAS, in connection with the IFA Bonds, it has been proposed that the District, the RDA, and the IFA enter into one or more leases described herein for the purpose of providing for the issuance and repayment of the IFA Bonds; and

WHEREAS, Indiana Code 5-1.3-3-5 authorizes the District to lease real estate, existing improvements thereon, and after-acquired assets, and premises to the RDA, and it is proposed that the District lease to the RDA the real property, existing improvements thereon, after-acquired assets, and premises upon which the Projects will be constructed (the “Leased Premises”), pursuant to one or more leases substantially in the form attached hereto as Exhibit B-1 for the West Lake Project, and substantially in the form attached hereto as Exhibit B-2 for the Double Track Project (collectively, the “District Ground Leases” and each a “District Ground Lease”); and

WHEREAS, it is proposed that the RDA will in turn lease the Leased Premises to the IFA in accordance with one or more underlying leases, and that the IFA will in turn lease the Lease Premises to the RDA who will then lease the Leased Premises back to the District for the purpose of constructing, operating, maintaining, and developing the Projects pursuant to one or more operating leases from the RDA to the District in substantially the form attached hereto as Exhibit C-1 for the West Lake Project, and substantially in the form attached hereto as Exhibit C-2 for the Double Track Project (collectively, the “District Operating Leases,” each a “District Operating Lease”); and

WHEREAS, it is proposed that the District, the RDA, the IFA, the Trustee for the IFA Bonds, and a Trustee to be determined by the IFA enter into a Revenue Trust Fund Agreement in substantially the form attached hereto as Exhibit D (the “Revenue Trust Fund Agreement”) for the purposes of receiving and safeguarding substantially all funds for the Projects, including funding sources to be used to pay lease rentals supporting the payment of IFA Bonds and substantially all IFA Bond proceeds as provided in the financing plans for the Projects; and

WHEREAS, the form of the District Ground Leases attached hereto as Exhibits B-1 and B-2, the form of the District Operating Leases attached hereto as Exhibits C-1 and C-2 and the form of Revenue Trust Fund Agreement attached hereto as Exhibit D are substantially similar in form to the form of District Ground Lease, the form of District Operating Lease and the form of Revenue Trust Fund Agreement previously approved by the Board pursuant to the Prior Resolution and attached to the Original Governance Agreement; and

WHEREAS, the Board now desires to approve and authorize the execution and delivery of the: (i) Amended and Restated Governance Agreement, (ii) the District Ground Leases, (iii) the District Operating Leases, (iv) the Revenue Trust Fund Agreement, and (v) such other documents, certificates and instruments as are necessary for the construction, financing, maintenance, operation, and development of the Projects;

NOW THEREFORE, BE IT RESOLVED BY BOARD OF TRUSTEES OF THE NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT, AS FOLLOWS:

SECTION 1. The Board hereby approves the Amended and Restated Governance Agreement, including the Double Track Financing Plan and the updated West Lake Financing Plan, in the form presented at this meeting, and authorizes and directs the Chair of the Board, the Secretary of the Board or the President/Manager of the District (collectively the “Authorized Officers” and each an “Authorized Officer”) to execute and deliver, as appropriate, the Amended and Restated Governance Agreement in the name and on behalf of the District, in substantially the form presented at this meeting with such changes, additions, and deletions to form and substance as they approve, but materially consistent with the intent of the form attached hereto and this Resolution, such approval to be conclusively evidenced by such individual’s execution thereof. The Authorized Officers are also authorized to take any and all actions necessary to accomplish the purposes of the Amended and Restated Governance Agreement, including approving, executing, and delivering any other agreements or contracts necessary or desirable to accomplish the purposes of this Resolution.

SECTION 2. The Board hereby approves the Development Agreements in substantially the forms to be reviewed, negotiated, and approved by the Authorized Officers of the District and the District's legal team, and authorizes any of the Authorized Officers, for and on behalf of the District, to execute and deliver, as appropriate, the Development Agreements in the name and on behalf of the District, in substantially such forms with such changes in form or substance as the Authorized Officers executing such instrument shall approve, but materially consistent with this Resolution, such approval to be conclusively evidenced by such individual's execution thereof.

SECTION 3. The Board hereby approves the leasing of the Projects to the RDA pursuant to the Ground Leases and the lease back from RDA of the Projects pursuant to the District Operating Leases.

SECTION 4. The Board hereby approves the District Ground Leases in the forms presented at this meeting, and authorizes and directs the Authorized Officers to execute and deliver, as appropriate, the District Ground Leases in the name and on behalf of the District, in substantially the forms presented at this meeting with such changes in form or substance as the Authorized Officers executing such instruments shall approve, but materially consistent with this Resolution, such approval to be conclusively evidenced by such individual's execution thereof.

SECTION 5. The Board hereby approves the District Operating Leases in the forms presented at this meeting, and authorizes and directs the Authorized Officers to execute and deliver, as appropriate, the District Operating Leases in the name and on behalf of the District, in substantially the forms presented at this meeting with such changes in form or substance as the Authorized Officers executing such instruments shall approve, but materially consistent with this Resolution, such approval to be conclusively evidenced by such individual's execution thereof.

SECTION 6. The Board hereby authorizes the filing of any FTA Grant Applications necessary for the Projects in accordance with the terms of the Amended and Restated Governance Agreement.

SECTION 7. The Board hereby approves the Revenue Trust Fund Agreement in the form presented at this meeting, and authorizes and directs the Authorized Officers to execute and deliver, as appropriate, the Revenue Trust Fund Agreement in the name and on behalf of the District, in substantially the form presented at this meeting with such changes in form or substance as the Authorized Officers executing such instrument shall approve, but materially consistent with this Resolution, such approval to be conclusively evidenced by such individual's execution thereof.

SECTION 8. The Board hereby authorizes and delegates to the Authorized Officers the power and authority to take any action, require actions, grant approvals, pay invoices, make decisions, enter into agreements, and effectuate any actions or sequencing required for the Projects, including those required or permitted under the Amended and Restated Governance Agreement, any of the other documents authorized herein, or any other agreements.

SECTION 9. The Board hereby authorizes, in connection with the Projects and the Original Governance Agreement and the Amended and Restated Governance Agreement, the Authorized Officers, and each of them, to take any and all such actions and to execute and deliver, for and on behalf of the District, such documents, certificates, and instruments and to take any other action determined by such Authorized Officers to be necessary, desirable, or convenient to effect the

transactions contemplated by this Resolution, including, but not limited to, one or more continuing disclosure undertaking agreements in compliance with Rule 15c2-12 of the Securities Exchange Act of 1934, if required in connection with the issuance of the IFA Bonds, which determination shall be conclusively evidenced by such Authorized Officer's execution and delivery of such document, certificate or instrument or taking of such other action, and any such execution and delivery or taking of such other action heretofore effected is hereby ratified and approved.

SECTION 10. This Resolution is intended to supplement the Prior Resolution, which Prior Resolution is hereby ratified and confirmed as of the date hereof.

ADOPTED AND APPROVED at a meeting of the Board of Trustees of the Northern Indiana Commuter Transportation District held on the 24th day of June, 2019.

NORTHERN INDIANA COMMUTER
TRANSPORTATION DISTRICT

By: 

Chair of the Board of Trustees

ATTEST:



Secretary of the Board of Trustees

RESOLUTION 19-07 EXHIBIT A

Form of Amended and Restated Governance Agreement

**AMENDED AND RESTATED
GOVERNANCE AGREEMENT
CONCERNING
DEVELOPMENT OF THE RAIL PROJECTS**

by and among

**NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY,
NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT,**

and

INDIANA FINANCE AUTHORITY

TABLE OF CONTENTS

ARTICLE I. DEFINITIONS OF TERMS AND LIST OF ACRONYMS USED.....2

ARTICLE II. CONDITIONS PRECEDENT.....10

ARTICLE III. PROJECT MANAGEMENT AND COORDINATION11

ARTICLE IV. PROPERTY INTERESTS AND ACTIVITIES14

ARTICLE V. FINANCING AND FUNDING.....16

ARTICLE VI. NICTD OPERATIONS COVENANTS18

ARTICLE VII. DESIGN, CONSTRUCTION AND DEVELOPMENT OF THE RAIL
PROJECTS20

ARTICLE VIII. OPERATIONS AND MAINTENANCE26

ARTICLE IX. INSURANCE AND BONDING30

ARTICLE X. DISPUTE RESOLUTION.....31

ARTICLE XI. ADVERSE CONDITIONS / ENHANCED OVERSIGHT / STEP-IN
RIGHTS.....32

ARTICLE XII. RESTORATION.....37

ARTICLE XIII. TERMINATION.....37

ARTICLE XIV. THIRD PARTY AGREEMENTS38

ARTICLE XV. GENERAL MATTERS39

EXHIBITS

Exhibit 1 Double Track Project2

Exhibit 2 West Lake Corridor Project10

Exhibit 3A Double Track Project Cost Budget11

Exhibit 3B West Lake Corridor Project Cost Budget14

Exhibit 4A Double Track Project Schedule16

Exhibit 4B West Lake Corridor Project Schedule.....18

Exhibit 5A Double Track Financing Plan18

Exhibit 5B West Lake Corridor Financing Plan.....

Exhibit 6 West Lake Operating Deficit Calculation.....

Exhibit 7 Agreed Form of Calculation for Revenue Coverage and Debt Coverage.....

Exhibit 8 West Lake Deficit Cost Submission Form.....

Exhibit 9 Form of Lease(s).....

Lease State Appropriation Master Lease Agreement

Underlying Lease Agreement

Operating Lease Agreement

Ground Lease Agreement

Exhibit 10 SSI.....

**AMENDED AND RESTATED GOVERNANCE AGREEMENT
CONCERNING
DEVELOPMENT OF THE RAIL PROJECTS**

This Amended and Restated Governance Agreement (hereinafter “Amended Governance Agreement”) is made by and among the Northwest Indiana Regional Development Authority (“RDA”), the Northern Indiana Commuter Transportation District (“NICTD”) and the Indiana Finance Authority (“IFA”). RDA, NICTD, and IFA are sometimes referred to individually herein as a “Party,” or collectively as “the Parties.” This Amended Governance Agreement shall be effective as of _____, 2019.

Recitals

A. WHEREAS, the South Shore Line is a commuter train service between South Bend, Indiana and Millennium Station in Chicago, Illinois;

B. WHEREAS, NICTD is a commuter transportation district and a municipal corporation formed pursuant to IC 8-5-15;

C. WHEREAS, NICTD has owned and operated the South Shore Line for nearly forty years and has experience in developing capital rail projects for the South Shore Line and in requesting, obtaining and managing federal grant funds through the Federal Transit Administration;

D. WHEREAS, RDA is a separate body corporate and politic formed pursuant to IC 36-7.5 to foster development in northwest Indiana and has since its inception fostered economic development throughout northwest Indiana and has been vested pursuant to IC 36-7.5-4-18 with certain powers and duties with respect to the projects hereinafter described;

E. WHEREAS, IFA is a body politic and corporate formed pursuant to IC 5-1.2-3-1 to oversee State debt issuance and provide effective financing solutions to facilitate State, local and business investment in Indiana and has participated in numerous important economic development activities throughout Indiana;

F. WHEREAS, the RDA and NICTD have developed and advanced plans for improvements to the South Shore Line, specifically the Double Track Project and the West Lake Corridor Project more fully described herein (collectively, the “Rail Projects”), which will improve the South Shore Line and foster economic development throughout northwest and north central Indiana by shortening commute times, providing new rail service to areas not serviced by rail transportation to Chicago, enhancing the economic and community development of the northwest Indiana region, and increasing the convenience to the areas served;

G. WHEREAS, the RDA has determined that the execution and delivery of this Amended Governance Agreement is authorized pursuant to the provisions of IC 5-1.3 and that providing assistance to the Rail Projects in the manner herein provided serves a public purpose for which the RDA was created;

H. WHEREAS, it is expected that the Rail Projects will also encourage business investment in and near the station areas, provide faster, less expensive and reliable transportation, will relieve existing and anticipated traffic congestion, reduce vehicular emissions, reduce commuting costs and attract and retain families and younger residents in northwest and north central Indiana;

I. WHEREAS, the Rail Projects will provide faster travel times, will accommodate more trains to improve service during rush hour travel and will be safer to operate;

J. WHEREAS, the RDA, IFA and NICTD have identified and obtained committed local and State funding for the Rail Projects;

K. WHEREAS, NICTD is in the process of applying for necessary federal grant funding from the Federal Transit Administration (“FTA”) on behalf of the RDA and the State, and in its capacity as the CIG grantee, and as the signatory party to the Full Funding Grant Agreement with the FTA, will maintain continuing control of the assets receiving the FTA CIG funding, subject to the terms herein and the Leases;

L. WHEREAS, the Parties desire to jointly complete the FTA grant application processes for the Rail Projects, in order to facilitate the further development, design, construction and financing of the West Lake Corridor Project and the Double Track Project as improvements to the South Shore Line commuter rail system;

M. WHEREAS, any obligations of the RDA or the IFA herein shall not constitute a debt of the State or any municipality, or a pledge of the full faith and credit thereof, under the Constitution of the State;

N. WHEREAS, a Term Sheet for Development of the Rail Projects was finalized on April 26, 2018, and was superseded in its entirety by the Governance Agreement Concerning Development of the Rail Projects by and among RDA, NICTD and IFA, effective date August 31, 2018;

O. WHEREAS, additional funding for the Rail Projects has been made available by the State of Indiana pursuant to the provisions of IC 8-14-14.3-5 and IC 5-13-10.5-20; and

P. WHEREAS, the Parties have reached agreement with respect to the terms of this Amended Governance Agreement;

NOW, THEREFORE, in consideration of the mutual agreements set forth herein, the Parties agree as follows:

ARTICLE I.

DEFINITIONS OF TERMS AND LIST OF ACRONYMS USED

1.1 **Annual Report** means the Year End Performance Report prepared by NICTD and provided to IFA and RDA pursuant to Section 8.7.

1.2 **Availability Breach** means a failure to maintain the South Shore Line for use and availability in the manner provided in the Leases, unless such failure is due to a Force Majeure event.

1.3 **Availability Breach Notice** means notice by IFA or RDA of an Availability Breach.

1.4 **Availability Cure Period** means the 30-day period following an Availability Breach Notice, or such longer period as the Parties may agree in writing.

1.5 **Books and Records** means any and all documents, books, records, papers, or other information relating to the South Shore Line and/or the obligations herein, including (i) all design and construction documents, and operations and maintenance documents, including but not limited to drawings, specifications, submittals, subcontracts, subconsultant agreements, purchase orders, invoices, schedules, meeting minutes, budgets, forecasts, change orders, (ii) income statements, balance sheets, statements of cash flow and changes in financial position, operating income, expenses, capital expenditures and budgeted operating results relating to the Rail Projects, (iii) all budgets, certificates, claims, contract agreements, correspondence, data (including test data), documents, expert analyses, facts, files, information, investigations, materials, notices, plans, projections, proposals, records, reports, requests, samples, schedules, settlements, statements, studies, surveys, tests, test results, and (iv) with respect to all of the above, any information that is stored electronically or on computer-related media, including in any electronic document management system; provided however, that nothing in the Agreement shall require the disclosure by any Party of Books and Records protected by the attorney-client or other legal privilege based upon an opinion of counsel reasonably satisfactory to the other Party, and all disclosures shall be subject to the SSI Policy, if applicable.

1.6 **Bond Resolution** means Resolution No. 15-07 (adopted by NICTD on November 9, 2015), or such other bond resolution substantially similar in form and acceptable to IFA and RDA entered into or otherwise executed or adopted for the purpose of issuing and/or securing bonds or other Permitted NICTD Debt issued by NICTD as provided in Section 6.3 and Section 6.4.

1.7 **Bond Trustee** means the bank serving as the trustee for the IFA Bonds.

1.8 **Business Plan** means the annual report prepared by NICTD detailing the plan for operations and maintenance for the forthcoming year and the five-year capital plan for the South Shore Line as provided in Section 8.8.

1.9 **Capital Expenditures** has the meaning set forth in Section 6.1(e).

1.10 **Construction Adverse Condition** means the occurrence of one or more of the conditions in Sections 11.1.1 – 11.1.8.

1.11 **Construction Adverse Condition Notice** means a notice pursuant to Section 11.2.

1.12 **Construction Period Step-In Rights** means the rights of IFA and/or RDA to step in and assume design and construction of the Rail Projects pursuant to Section 11.4.

1.13 **Consultation Period** has the meaning set forth in Section 11.6.2.

1.14 **Cost Budget** means the Project Costs and Project Contingency for design, construction, and development for completion of each of the Rail Projects, which are attached as Exhibit 3A (Double Track Project Cost Budget) and Exhibit 3B (West Lake Corridor Project Cost Budget), as applicable, which may be amended by the Parties.

1.15 **CSS** means Chicago South Shore & South Bend Railroad.

1.16 **D/B Substantial Completion** means the date by when NICTD's design-builder or contractor shall achieve substantial completion of the West Lake Corridor Project or the Double Track Project, as applicable, which date is set forth in the applicable Project Schedule.

1.17 **Debt Coverage** means the calculation of the debt service coverage ratio as provided in Section 6.3 and Exhibit 7 and certified by NICTD in a manner consistent with Exhibit 7, and subject to verification by the IFA and/or RDA in their discretion as provided in Section 6.8.

1.18 **Deposit Trustee** means the bank serving as trustee under the Revenue Trust Fund Agreement.

1.19 **Decision Making Framework Factors** are the factors to be considered during the decision making process set forth in Section 3.1.2.

1.20 **Development Agreement** means an agreement that may be negotiated and executed by the Parties prior to the issuance of any bonds or other financing for the Rail Projects which may set forth additional terms and conditions for the Rail Projects, responsibilities of the Parties, means of addressing changed circumstances and the details of the financing plans.

1.21 **Double Track Project** means the addition of an east/west rail line for a portion of the South Shore Line from Gary to Michigan City and related improvements, all as more fully described in Exhibit 1.

1.22 **Draw Down Bonds** means the IFA Bonds issued pursuant to IC 5-13-10.5-20(d).

1.23 **Enhanced Oversight** means the activities provided for in Section 11.2.

1.24 **Equivalent Alternative Funding** means funding secured from the General Assembly in the manner provided in Section 8.4.5 in an amount that is equal to or exceeds the immediately prior four quarters of Tax Credit Dollars, whether received by or provided to any Party or any other entity, in each case in any manner that is dedicated or made available for use to subsidize the West Lake Operating Deficit.

1.25 **Escrow Fund** means the escrow fund into which RDA is to deposit Tax Credit Dollars as provided in Section 8.4.1.

1.26 **Excess Construction Costs** means Project Costs in excess of the Cost Budget for completion of the applicable Rail Project without regard to whether such excess Project Costs are approved or not.

1.27 **FFGA** means a full funding grant agreement executed with FTA for either Rail Project.

1.28 **FFGA Approval** means execution of an FFGA by FTA.

1.29 **Financing Lease** means the lease agreements from IFA to the RDA for the financing of the Rail Projects through the issuance of the IFA Bonds, which lease agreements shall be payable from lease rentals paid by the RDA in the manner described therein and in the Financing Plan, and in a manner consistent with IC 5-1.3, IC 36-7.5, IC 6-3.6-11-6, IC 6-3.6-11-7, IC 5-13-10.5-20.

1.30 **Financing Plan** means the plan prepared by RDA and IFA, and agreed to by NICTD, that describes how NICTD, RDA, and IFA intend to finance and fund the State and local share of the capital costs of each of the Rail Projects, and the agreed sources and uses of the monetary contributions, grant funds, and bond proceeds for the Rail Projects, which shall be integrated into the FTA Financial Plan for each Rail Project prepared by NICTD as required by the FTA CIG Program. The respective Financing Plans are attached as Exhibit 5A (Double Track Financing Plan) and Exhibit 5B (West Lake Corridor Financing Plan).

1.31 **FONSI** means a Finding of No Significant Impact signed by the FTA.

1.32 **Force Majeure** means an Act of God, fire, tornado, hurricane, flood, earthquake, explosion, war on American soil, terrorist acts, civil disturbance, labor strikes on a national level or labor strikes that impact the Rail Projects, freight embargoes and similar unavoidable circumstances beyond NICTD's or its agent's control and not caused by any of the following: (i) the negligent or intentional act or omission of NICTD, its agents, contractors or consultants (at whatever tier), or anyone else for whom NICTD is responsible, (ii) breach of this Amended Governance Agreement by NICTD, its agents, contractors or consultants (at whatever tier), or anyone else for whom NICTD is responsible, or (iii) breach of a project labor or "no strike" agreement by NICTD, its agents, contractors or consultants (at whatever tier), or anyone else for whom NICTD is responsible.

1.33 **FTA** means the Federal Transit Administration.

1.34 **FTA CIG Program** means the Federal Transit Administration Capital Investment Grants Program.

1.35 **FTA Financial Plans** means the financial plans prepared by NICTD as required by the FTA CIG Program and that are approved in writing by IFA and RDA.

1.36 **GANS** means the grant anticipation notes issued by IFA pursuant to IC 5-1.3-6 for the purpose of financing a portion of the Project Costs, which GANs are to be paid from reimbursements received from FTA under the FFGA or as otherwise provided in IC 8-14-15.2.

1.37 **Grants** has the meaning set forth in Section 6.1(b).

1.38 **Gross Revenues** has the meaning set forth in Section 6.1(a).

1.39 **IFA** means the Indiana Finance Authority.

1.40 **IFA Bonds** means the bonds, notes or other obligations, including Draw Down Bonds, GANS, issued by IFA for the Rail Projects described in Section 5.2, including bonds, notes or other obligations issued to refund or refinance such bonds, notes or other obligations.

1.41 **IFA Initial Notice** means IFA's notice of a NICTD Operations Adverse Condition pursuant to Section 11.5.

1.42 **Indiana Design Build Statute** means Indiana Code §5-30-1 et seq.

1.43 **Indemnitors** means the following entities who undertake a duty to indemnify a Party hereunder: (i) nonparty consultants, contractors, designers, design-builders, and other professionals involved in the design and/or construction of the Rail Projects, as provided in Section 7.2.6.1; and (ii) NICTD, as provided in Section 15.6.

1.44 **INDOT** means the Indiana Department of Transportation.

1.45 **Interlocal Agreement** means the "Interlocal Cooperation Agreement Between and Among Several Lake County Governmental Entities with the Purpose of Providing Resources to Support the Extension and Improvement of Commuter Rail Services Provided by the Northern Indiana Commuter Transit District."

1.46 **Leased Premises** means that portion of the improvements constructed in connection with the Rail Projects and the real property upon which such improvements shall be constructed, together with the existing rail lines and any real and personal property acquired after the execution of Leases, all as more fully described in the Leases, and shall not include any existing stations, existing parking facilities, existing buildings, or NICTD rolling stock, except to the extent costs related thereto are included in the applicable Cost Budget.

1.47 **Level of Service** has the meaning set forth in Section 8.7.

1.48 **Leases** means each Lease with respect to the acquisition, construction, development and financing of the Rail Projects, including a lease from NICTD to RDA, a lease from RDA to IFA, the Financing Lease from IFA to RDA and an operating lease from RDA to NICTD all for each Rail Project and as contemplated by IC 5-1.3, the substantially final forms of which are attached as Exhibit 9.

1.49 **Major Contract** means a contract pertaining to the Rail Projects and that is (i) in excess of \$500,000, or (ii) a contract with an entity, when contracts with that entity or any related person or affiliate thereof in aggregate exceed \$500,000, or (iii) any of a series of contracts entered into by NICTD for the purpose of avoiding the determination of whether the contracts would be a Major Contract pursuant to clause (i) or (ii) hereof.

- 1.50 **Maximum Debt Service** has the meaning set forth in Section 6.3.
- 1.51 **Maximum NICTD Excess Cost Contribution** means the amount equal to the maximum proceeds of bonds issued, or loan proceeds from a loan, having maximum annual principal and interest payments of \$3 Million per year over a period of up to 30 years.
- 1.52 **Metra** means the Metropolitan Rail system providing commuter rail service in the Chicago, Illinois area.
- 1.53 **NEPA** means National Environmental Policy Act, 42 U.S.C. § 4321 et seq.
- 1.54 **NICTD** means the Northern Indiana Commuter Transportation District.
- 1.55 **NICTD Excess Cost Contribution** means NICTD's agreed contribution for Excess Construction Costs pursuant to Section 7.8.1.
- 1.56 **NICTD Financial Operations Report** means the annual report to be prepared by NICTD and provided to IFA and RDA pursuant to Sections 6.1 and 6.3.
- 1.57 **NICTD Initial Notice** means NICTD's notice of a NICTD Operations Adverse Condition under Section 8.9.
- 1.58 **NICTD Operations Adverse Condition** means the occurrence of any of the conditions listed in Section 11.5.
- 1.59 **NIPSCO** means Northern Indiana Public Service Company.
- 1.60 **O&M** means operation and maintenance.
- 1.61 **Operations Cure Period** means the period provided to NICTD following approval by IFA and RDA of the Recovery Plan in which to cure a NICTD Operations Adverse Condition as provided in Section 11.6.4.
- 1.62 **Operations Expenses** has the meaning set forth in Section 6.1(d).
- 1.63 **Operations Step-In Notice** means the notice by IFA provided for in Section 11.9.
- 1.64 **Operations Step-In Period** means the period from the date of Operations Step-In Notice through Termination.
- 1.65 **Operations Step-In Rights** means the rights of IFA to step in and assume operation and maintenance of the South Shore Line pursuant to Section 11.9.
- 1.66 **Participating Entities** means the governmental entities located in Lake County, Indiana who are parties to the Interlocal Agreement, including any such entities who hereinafter agree to participate therein.
- 1.67 **Payment Request** means a NICTD request for payment or reimbursement of Project Costs incurred for the Rail Projects.

1.68 **Permitted NICTD Debt** has the meaning set forth in Section 6.3.

1.69 **Project Contingency** means the dollar amount(s) set forth in the applicable Cost Budget, over and above the estimated Project Costs, whether allocated to specific aspects of the Rail Projects or unallocated, which may be used for Project Costs as permitted by this Amended Governance Agreement.

1.70 **Project Costs** means all direct and indirect actual costs for completion of design, construction and development of each of the Rail Projects.

1.71 **Project Executives** means:

- (a) The CEO of the RDA, or delegate
- (b) The President and CEO of NICTD, or delegate; and
- (c) The Public Finance Director of the State of Indiana (in the capacity as the executive director of IFA), or delegate.

1.72 **Project Schedule** means the agreed time schedule for completion of development, design and construction of each of the Rail Projects, attached as Exhibit 4A (Double Track Project Schedule) and Exhibit 4B (West Lake Corridor Project Schedule), as applicable, which includes dates for major milestones, including for the start of Revenue Services Operations, and D/B Substantial Completion, and reasonable float times for unanticipated contingencies. Each Project Schedule may be updated from time to time during construction of the Rail Projects as the Parties may agree in writing.

1.73 **Rail Projects** means

- (a) the Double Track Project and
- (b) the West Lake Corridor Project.

1.74 **Rail Project** means either the Double Track Project or the West Lake Corridor Project, depending on the context.

1.75 **Rail Projects Improvements** means the improvements to be constructed in connection with the Rail Projects.

1.76 **Rail Projects Property** means all real and personal property interests, including but not limited to Leased Premises, Rail Projects Improvements, and such easements, licenses, leases, or property rights, in whatever form reasonably necessary to construct the Rail Projects and operate the South Shore Line, but not including existing stations, existing parking facilities, or existing buildings, or NICTD rolling stock except to the extent any costs for rolling stock are included in the applicable Cost Budget).

1.77 **RDA** means the Northwest Indiana Regional Development Authority.

1.78 **RDA Initial Notice** means RDA's notice of a NICTD Operations Adverse Condition under Section 11.5.

1.79 **RDA/IFA Project Costs** means RDA's and IFA's internal costs, consultant costs and financing costs for the Rail Projects.

1.80 **Recovery Plan** means NICTD's written recovery plan setting forth NICTD's plans and proposed steps to cure NICTD Operations Adverse Condition(s).

1.81 **Restricted Taxes** has the meaning set forth in Section 6.1.

1.82 **Revenue Coverage** means the calculation of the revenue coverage ratio as provided in Section 6.3 and Exhibit 7 and certified by NICTD in a manner consistent with Exhibit 7, and subject to verification by the IFA and/or RDA in their discretion as provided in Section 6.8.

1.83 **Revenue Service Operations Date** means the date by when NICTD shall commence revenue operations for the West Lake Corridor Project or the Double Track Project, as applicable, which date is set forth in the applicable Project Schedule.

1.84 **Revenue Trust Fund** means the trust fund established and maintained to receive, hold and disburse Rail Projects funds, including FTA grant funds, bond proceeds, member dues, State appropriations and local contributions according to the terms of this Amended Governance Agreement.

1.85 **Revenue Trust Fund Agreement** means the agreement pursuant to which the Revenue Trust Fund is created and governed.

1.86 **ROW** means right of way.

1.87 **SSI Policy** means the terms and conditions of the NICTD Policy and Procedures on Sensitive Security Information as adopted by NICTD on January 26, 2018, a copy of which is attached as Exhibit 10.

1.88 **South Shore Line** means the existing South Shore Line Passenger Railroad, a commuter train service between South Bend, Indiana and Millennium Station in Chicago, Illinois, including those portions of the Double Track Project when complete and those portions of the West Lake Corridor Project when complete, including those assets being funded under the FTA CIG Program and including all other assets, whether now owned or hereafter acquired or leased by NICTD for operation of the South Shore Line.

1.89 **State** means the State of Indiana.

1.90 **State Budget Director** means the SBA Director of the State, or in the absence of this position, the person designated by the Governor to serve in the capacity of the State Budget Director under this Amended Governance Agreement.

1.91 **Subsidy Shortfall** means the amount of any insufficiency of the Escrow Fund to cover any West Lake Corridor Project Deficit in any quarter pursuant to Section 8.4.4.

1.92 **Taxes** has the meaning set forth in Section 6.3.

1.93 **Tax Credit Dollars** means the funds received by RDA pursuant to IC 6-3.1-20-7(d) from the Indiana Department of Revenue as described in Section 8.4.1.

1.94 **TDD** means Transit Development District/s.

1.95 **Termination** means the termination or expiration of this Amended Governance Agreement as provided in Article 13.

1.96 **Unrestricted Taxes** has the meaning set forth in Section 6.1(a).

1.97 **West Lake Corridor Project** means an approximately 8-mile new north/south passenger rail line connected to the existing South Shore Line, with four stations, between Hammond (Gateway Station) and Munster/Dyer (Main Street Station, including all property owned or leased by NICTD for the operation of the South Shore Line over the West Lake Corridor Project), all as more fully described in Exhibit 2.

1.98 **West Lake Deficit Cost Submission** means the NICTD request for payment for West Lake Corridor Operating Deficits, if any, as provided in Section 8.4.3 and in compliance with the West Lake Corridor Deficit Cost Submission Form attached hereto as Exhibit 8, accompanied by a completed form of Exhibit 6 that is certified by NICTD and subject to verification by the IFA and/or RDA in their discretion.

1.99 **West Lake Operating Deficit** means the operating cost deficit, if any, related to the West Lake Corridor Project (direct and indirect costs of NICTD, including administrative overhead and costs associated with operating and maintaining the West Lake Corridor Project after completion, minus all revenue associated or derived from the West Lake Corridor Project) as calculated as set forth in Exhibit 6, which shall be subject to verification by IFA and/or RDA in their discretion.

1.100 **WL Deficit Alternative Funding** means funding secured from the General Assembly in an amount that is equal to or exceeds that year's West Lake Operating Deficit, whether received by or provided to any Party or any other entity, in each case in any manner that is dedicated or made available for use to subsidize the West Lake Operating Deficit.

ARTICLE II.

CONDITIONS PRECEDENT

2.1 The following are conditions precedent to the Amended Governance Agreement being effective as to each Rail Project:

2.1.1 Agreement to the Cost Budgets, attached as Exhibit 3A and 3B;

2.1.2 Agreement to the Project Schedules, attached as Exhibit 4A and 4B;

2.1.3 Agreement to the Financing Plans as Exhibit 5A and 5B;

2.1.4 NICTD delivers the information regarding third party agreements as required in Section 14.2, which is approved by RDA and IFA in writing;

2.1.5 Approval of the Amended Governance Agreement, including all exhibits hereto, by the boards of each of the Parties; and

2.1.6 Review of the applicable Financing Plan by the State Budget Committee of the State and approval of the applicable Financing Plan and the Amended Governance Agreement by the State Budget Director.

ARTICLE III.

PROJECT MANAGEMENT AND COORDINATION

3.1 The Rail Projects shall be managed by the Project Executives in the manner herein provided, who shall conduct bi-weekly progress meetings to report on the progress of the Parties' respective duties and obligations as set forth in the Amended Governance Agreement and any Development Agreement that may be entered into.

3.1.1 Where and when possible, decisions on the Rail Projects shall be determined by agreement among the Project Executives. Where such agreement is not able to be achieved, the dispute resolution procedures in Article 10 shall apply.

3.1.2 In making decisions regarding the Rail Projects, the Project Executives shall consider factors that include: (1) cost containment; (2) meeting FTA grant criteria and satisfying grant assurances; (3) the applicable Project Schedule, including the timeliness of decision making during the funding, design and construction phases; (4) incremental revenue opportunities; (5) market acceptance; (6) the Parties' contractual obligations and duties to third parties, including their respective contractual risks, duties and liabilities; (7) the impact on current and future FTA grants on NICTD, RDA and IFA projects; (8) impact on future TDD; (9) the State's bond rating; and (10) the availability of funds. These factors are collectively referred to herein as "Decision Making Framework Factors".

3.2 NICTD and RDA shall consult with IFA in advance of taking any action, or making any decision, regarding the Rail Projects that would, in the judgment of IFA, materially impact a bond issuance or the security for a bond issuance, in which IFA acts as the issuer, and such action and/or decision shall be subject to IFA approval.

3.3 NICTD, RDA and IFA shall participate in bi-weekly progress meetings where NICTD shall update RDA and the IFA on the status and progress of the Rail Projects, including prompt updates as to any developments of significance that may impact the applicable Cost Budget or Project Schedule. NICTD, RDA and IFA may request more frequent updates at their individual discretion.

3.4 Prior to the issuance of any bonds or other financing of the Rail Projects, the Parties may enter into a Development Agreement, which, among other things may address details regarding the applicable Financing Plan.

3.5 The Parties intend to submit the West Lake Corridor Project for FFGA Approval prior to submission of the Double Track Project for FFGA Approval.

3.6 Federal Coordination

3.6.1 RDA, IFA and NICTD shall work together to coordinate overall federal strategy, interface, and implementation.

3.6.2 Federal Transit Administration

(a) NICTD, with assistance of RDA, shall be the lead agency in the FTA grant application preparation process and interfacing with the FTA, except as otherwise provided herein.

(b) NICTD, RDA and IFA representatives involved with or assigned to the Rail Projects shall work together to assure that NICTD, RDA and IFA are timely informed of any regularly scheduled meetings, submittals, or calls with FTA to help secure full involvement, awareness and cooperation regarding interactions with FTA, including but not limited to the FTA grant application process. NICTD, RDA and IFA, and their representatives, shall jointly coordinate and participate on all FTA regularly scheduled meetings, conference calls and submittals. The Parties also shall promptly inform each other as to any potential issues or concerns relating to, or raised by, FTA, and shall inform each other as to all substantive communications with FTA.

(c) NICTD, RDA and IFA shall share with each other, and their respective representatives, copies of all draft documents to be provided to FTA, with adequate opportunity (no less than 15 calendar days, unless otherwise agreed in writing) to review in advance of submission to FTA; and also shall promptly provide copies of all documents exchanged with FTA.

(d) FTA Grant Application

(i) Subject to the provisions herein, NICTD shall be the applicant of record on the FTA grant program applications regarding the Rail Projects, and shall lead such grant application process.

(ii) NICTD, RDA and IFA shall work together to identify potential issues related to the FTA grant application process, shall keep each other informed of progress on the FTA grant applications, and shall promptly inform each other of substantive communications with FTA regarding the FTA grant applications. NICTD, RDA and IFA commit to each other to promptly and fully participate in the FTA grant application process.

(iii) RDA and/or IFA may hire technical consultant(s) to conduct independent review(s) of grant application materials and support the grant application process. NICTD shall cooperate with any such technical consultant hired by RDA and/or IFA. IFA and RDA shall have the right to review, comment and approve any grant application materials prior to submission to FTA.

(iv) To the maximum extent possible, all costs incurred by RDA and IFA, including but not limited to financing costs, interest, costs for professional services and legal fees as estimated, identified and included in the applicable Cost Budget or necessarily incurred with respect to the Rail Projects, shall be reimbursable with FTA grant funds, other funds (not including funds from NICTD other than as set forth in this Amended Governance Agreement), or bond proceeds. RDA, IFA and NICTD shall timely exchange information with each other as to the types and amounts of all estimated future Project Costs so that they are sufficiently identified and can be included in the cost estimate submitted to and approved by FTA. In order to help maintain eligibility for cost reimbursement under the FTA grants, all Parties shall report to each other monthly as to the costs that are being incurred and the basis for asserting such costs are eligible for reimbursement with an FTA grant. Without regard to whether any costs incurred by IFA or RDA are reimbursable by FTA grant funds, IFA and RDA may be reimbursed from the proceeds of the IFA Bonds or the rental payments due under the Leases in their sole and absolute discretion.

(v) The IFA, RDA, and NICTD shall meet to determine the process with respect to transitioning the Double Track Project into the New Starts FTA grant process (or other grant mechanism/process) and the desired timeline for implementation of this transition. Upon conclusion of that process, the recommendation with respect to timing for submission of the Double Track Project or into which FTA grant program the Double Track Project shall be submitted, must be approved in writing by the IFA and RDA. The Parties shall meet to determine the necessary activities and expenditures, and the timing thereof, in order to successfully progress the Double Track Project through the FTA process.

3.7 State Coordination

3.7.1 RDA and NICTD shall coordinate with the IFA, and the State executive and legislative branches, as necessary to keep them informed of project progress.

3.7.2 NICTD shall interface with INDOT on technical matters, as necessary, and shall provide RDA updates and opportunity to comment with respect to such matters.

3.8 Local Government Coordination

3.8.1 RDA shall coordinate with local units of government on local funding commitments. NICTD shall provide support.

3.8.2 NICTD is responsible for the NEPA process and, therefore, shall be responsible for coordinating alignment and technical decisions with local units and communities of the Rail Projects. NICTD shall advise RDA in advance, and RDA shall be provided an opportunity to comment in advance, with respect to such plans.

3.8.3 RDA, NICTD, and IFA agree that promptly upon execution of this Amended Governance Agreement, they will jointly cooperate and proceed in good faith to attempt to secure the funds from the cash participants referenced in I.C. 36-7.5-4.5-16, as provided in the Double Track Financing Plan attached as Exhibit 5A, and to deposit such funds in the Revenue Trust Fund.

3.9 Community Engagement

3.9.1 NICTD shall conduct local community outreach regarding the technical elements of the Rail Projects (e.g., station location, bike paths, station design, parking, etc.). NICTD's outreach shall be consistent and coordinated with RDA's development plans regarding TDDs.

3.9.2 NICTD shall coordinate with local units of government on ancillary infrastructure improvements to facilitate the Rail Projects.

3.9.3 NICTD shall update RDA and IFA regularly through the bi-weekly progress meetings on local government and community engagement.

ARTICLE IV.

PROPERTY INTERESTS AND ACTIVITIES

4.1 NICTD shall lead ROW acquisition activities for the Rail Projects. NICTD shall timely acquire or shall utilize its powers, once the requisite approvals for all aspects of real estate acquisition by RDA and IFA have been provided, including eminent domain and condemnation powers, to timely acquire the Rail Projects Property and shall timely add any such property to the properties leased to RDA under the applicable Lease.

4.1.1 If agreed by the Parties, responsibility for ROW acquisition may be performed by a NICTD consultant or transferred to the successful design-builder or prime contractor, depending on final delivery and procurement structure.

4.1.2 NICTD's ROW acquisition plans shall be subject to RDA's right to review and approve, with adequate time for review. RDA's review shall be to insure the Project scope, schedule and budget are met and to ensure consistency with TDD goals. Any RDA ROW modification requests must be timely made and any change requested in the ROW must be within the project scope, schedule and budget of the Rail Projects, otherwise RDA must secure additional funds to potentially cover any increased land

acquisition costs and construction delay costs that may occur as a result of this RDA review process.

4.2 NICTD shall own the Rail Projects Property, and shall make such Rail Projects Property available for development, construction, and operation of the Rail Projects through Termination, through inclusion of such Rail Projects Property in the property subject to the Leases.

4.2.1 At such time as agreed to by the Parties, but in no event later than the issuance of any IFA Bonds,

(a) the Parties shall enter into the Leases pursuant to which NICTD shall lease the Rail Projects Property to RDA and RDA shall lease the Rail Projects Property to IFA substantially in the form of the Leases attached as Exhibit 9.

(b) IFA shall enter into one or more Financing Leases pursuant to which IFA shall lease the Rail Projects Property to RDA, substantially in the form of Lease attached as Exhibit 9.

(c) RDA shall enter into one or more leases pursuant to which RDA shall lease the Rail Projects Property to NICTD, substantially in the form of Lease attached as Exhibit 9, thus enabling NICTD to acquire, equip, construct, operate and maintain the Rail Projects.

4.2.2 Notwithstanding the substantially final form of the Leases attached as exhibits to this Amended Governance Agreement, IFA shall be authorized to make such changes in the form of the Leases prior to the issuance of the IFA Bonds as deemed necessary or desirable by IFA for the issuance of the IFA Bonds and the receipt of the most desirable amount of proceeds thereof.

4.2.3 Upon repayment of all of the IFA Bonds, except in the event that IFA has elected to exercise its Operations Step-In Rights in the manner provided in Section 11.9 (unless and until: (a) IFA agrees to no longer exercise its Operations Step-In Rights; or (b) upon the written request of NICTD to the State Budget Director, the State Budget Director determines, in its sole discretion, that the Leases may terminate or expire by their terms), the Leases shall terminate or expire by their terms.

4.3 NICTD shall obtain all required federal and state permits for the Rail Projects and shall take the lead defending any challenges to such permits. RDA has the right, but not the obligation, to assist NICTD in defending any challenges to the permits and to cooperate with NICTD in that defense.

4.4 NICTD shall be responsible for all utility relocation processes for the Rail Projects. RDA has the right, but not the obligation, to participate in utility relocation.

4.4.1 RDA has approval rights of final utility locations with respect to those utility relocations that impact future TDD opportunities. If RDA requires an alternative

utility relocation based on its impact to future TDD opportunities, then any additional costs of such utility relocation are to be funded by RDA so that there are otherwise no cost increases or time delays to the applicable Cost Budget and the Project Schedule.

4.5 NICTD shall be responsible for achieving and maintaining compliance with NEPA, and with any environmental approval processes for the Rail Projects, including but not limited to any applicable Record of Decision, FONSI, or federal, state or local laws. RDA has the right, but not the obligation, to participate in the environmental approval process and compliance therewith.

4.5.1 NICTD shall promptly inform RDA as to the status of all environmental issues and invite RDA to all meetings and conference calls with EPA, IDEM, U.S. Army Corps of Engineers and/or other governmental entities; shall promptly provide RDA with draft copies of all documents to be provided to such entities in advance; and shall promptly provide RDA with copies of all documents exchanged with such entities.

4.6 NICTD shall be responsible for securing all necessary trackage rights for the Rail Projects.

4.7 NICTD shall be responsible for complying with all applicable state and federal requirements, including but not limited to: FTA requirements, FFGA requirements, and FTA grant requirements, which include all FTA requirements as to reporting and/or providing other information.

ARTICLE V.

FINANCING AND FUNDING

5.1 Subject to Indiana Code 5-1.3, RDA is the exclusive fiscal officer for the Rail Projects. RDA shall coordinate with IFA on funding and financing from State and local jurisdictions.

5.2 IFA shall act as issuer for any bond financing pursuant to IC 5-1.3-6 and IC 5-13-10.5-20. IFA shall be responsible to determine financings, including determining the timing and manner of issuance of the IFA Bonds, and disbursement of financing proceeds to RDA, NICTD or their assignees, as applicable, subject to market conditions. Except for the Draw Down Bonds, the IFA Bonds are not expected to be issued to provide financing for a Rail Project until an FFGA has been executed for that Rail Project. In connection with the issuance of the IFA Bonds, the RDA and NICTD shall cooperate in any manner with the issuance of the IFA Bonds, the compliance by the Parties with the provisions of the financing agreements entered into in connection with the IFA Bonds, including the Leases, any continuing disclosure obligations and business interruption insurance required from the Parties in connection with the IFA Bonds. The IFA Bonds shall be payable from lease rentals payable under the Financing Leases entered into by IFA and RDA to the extent that funds have been appropriated to RDA in the manner provided in the Financing Leases and the applicable Financing Plan.

5.3 RDA and IFA have developed the Financing Plans, attached hereto as Exhibit 5A and 5B. Notwithstanding any other provisions herein, IFA's and RDA's obligations to provide funding and financing for the Rail Projects and for the repayment of IFA Bonds shall be limited to no more than the amounts set forth in the applicable Financing Plan and as set forth in the applicable Cost Budget, which may be amended only by written agreement of the Parties. The amount of proceeds derived from the IFA Bonds from the funding described in the applicable Financing Plan shall be determined at the time of issuance of the IFA Bonds, depending on, among other matters, market conditions. As stated in the applicable Financing Plan, except with respect to the Draw Down Bonds, the IFA does not anticipate issuing bonds until receipt of FFGA Approval. All funds provided by RDA and/or IFA to NICTD prior to FFGA Approval shall be limited to payment for Project Costs that are included in the applicable Cost Budget (as amended and updated by written agreement of the Parties), and that also are individually and specifically approved in advance and in writing (both as to the timing and amount of such costs being incurred) by IFA and RDA. For clarity, notwithstanding any other provisions or approvals herein, prior to FFGA Approval, neither IFA nor RDA shall be obligated to provide funding for contracts or other costs that have not been individually and specifically approved in advance by IFA and RDA in writing.

5.4 RDA and/or the IFA shall annually request the \$12 Million State-appropriated funds for the Rail Projects from the State Budget Agency in accordance with the Financing Plans. RDA shall make additional rental payments annually from the funds described in the applicable Financing Plan.

5.5 The Parties shall establish a Revenue Trust Fund in which the Deposit Trustee shall receive, hold and disburse Rail Project funds, including FTA grant funds, bond proceeds and local contributions. Any and all Rail Projects grant funds received from FTA or any other source shall be transferred to the Deposit Trustee to be held in the Revenue Trust Fund for use in support of the Rail Projects, provided that FTA requirements are maintained for the use and disposition of FTA grant funds. In addition, all State appropriations, RDA member dues and local contributions used as security for any IFA Bonds shall also be deposited into the Revenue Trust Fund and held by the Deposit Trustee.

5.6 Disbursement of Funds

5.6.1 NICTD shall submit Payment Requests for Project Costs incurred in accordance with the applicable Cost Budget, (along with such supporting material as IFA and/or RDA may reasonably require), to RDA and IFA for review and approval, by the tenth (10th) day of each month. Payment Requests shall be made not more frequently than monthly. IFA and RDA shall conduct their review concurrently and approve or reject Payment Requests within 14 days of receipt of a Payment Request. If no objection is made by either IFA or RDA (in writing) within 14 days, then the Payment Request shall be deemed approved after three business days' advance written notice to IFA and RDA by NICTD. Upon IFA and RDA approval, IFA shall submit NICTD's request for payment, along with RDA/IFA Project Costs, to the Deposit Trustee under the Revenue Trust Fund Agreement to issue payment in accordance with the procedures for disbursement of funds as provided in the Revenue Trust Fund Agreement and in accordance with the applicable Financing Plan. In the event that a payment request is

deemed approved, NICTD shall retain the right to transmit the payment request to the Deposit Trustee should IFA not do so.

5.6.2 NICTD must adhere to all Federal laws, regulations and procedures related to the administration and reimbursement of Federal funding for the Rail Projects, including but not limited to submitting timely and complete requests for payment to the FTA and following all reporting procedures established by the FTA under the FFGA. If NICTD is required to be the recipient of Federal funding under the FFGA, then NICTD shall deposit all Federal funding received from the FTA for the Rail Projects into the appropriate accounts in accordance with the Revenue Trust Fund Agreement.

5.6.3 Disbursements for approved Payment Requests shall be made by the Deposit Trustee no later than 7 days after approval, unless withheld by the Deposit Trustee in accordance with the Revenue Trust Fund Agreement.

5.6.4 The contractual payment terms in the contracts entered into by NICTD for the Rail Projects shall take into account and not be inconsistent with the procedures and time requirements for RDA, IFA, and the Deposit Trustee to review and approve disbursement of funds for the Payment Requests (e.g., the provisions of this Section allow for a 31-day review, approval, and disbursement process. Contracts entered into by NICTD should take this into account so that penalties for payment delay are not incurred).

5.7 NICTD hereby assigns to RDA all rights, title and interest of NICTD in the instrument entitled Interlocal Cooperation Agreement Between and Among Several Lake County Governmental Entities with the Purpose of Providing Resources to Support the Extension and Improvement of Commuter Rail Services Provided by the Northern Indiana Commuter Transit District, including any revenues paid thereunder from the Participating Entities, and covenants and agrees that all rights, title and interest of NICTD in such Interlocal Cooperation Agreement are hereby vested in RDA. NICTD further agrees to cooperate in any manner requested by RDA with respect to the administration of such Interlocal Cooperation Agreement and the use of such revenues to support the financing contemplated from such revenues in the applicable Financing Plan, including seeking cooperation and support from Lake County, Indiana, with respect thereto.

ARTICLE VI.

NICTD OPERATIONS COVENANTS

6.1 NICTD agrees to provide to RDA and IFA by April 30th of each year (commencing on April 30, 2019) a copy of NICTD's audited Comprehensive Annual Financial Report for the preceding year, as well as a financial report ("NICTD Financial Operations Report") for such preceding calendar year of NICTD's financial performance for such calendar year, which includes itemization of:

- (a) all revenues, those taxes collected pursuant to the provisions of IC 8-3-1.5-20.5 and 20.6, except those defined as Restricted Taxes below

(“Unrestricted Taxes”), and any other income received by or on behalf of NICTD, but excluding Restricted Taxes and Grants each as defined below (collectively “Gross Revenues”);

(b) federal and State capital grants received by or behalf of NICTD (“Grants”);

(c) Indefinite Situs Taxes and any other taxes that may not be used to pay Operations Expenses (defined below) (“Restricted Taxes”);

(d) NICTD operating and maintenance expenses, excluding noncash expenses such as depreciation and amortization (“Operations Expenses”); and

(e) capital expenditures incurred by or on behalf of NICTD (“Capital Expenditures”).

6.2 All amounts in Section 6.1(a) through (e) (collectively) above shall be annual amounts based on a calendar year (excluding any prior revenue balances).

6.3 Together with the NICTD Financial Operations Report NICTD shall also provide a debt coverage (“Debt Coverage”) calculation demonstrating the ratio of Restricted Taxes and Unrestricted Taxes (“Taxes”) pledged to the debt service pursuant to the Bond Resolution and reported for such calendar year divided by the maximum annual debt service on outstanding NICTD debt in the then current or any future year (“Maximum Debt Service”) and a revenue coverage (“Revenue Coverage”) calculation demonstrating the ratio of Gross Revenues for such calendar year together with current unrestricted cash, as of January 1 of such calendar year, to the sum of Operations Expenses for such calendar year all as reported in NICTD's audited financial statements for the previous fiscal year. As used herein “Permitted NICTD Debt” shall mean: (i) existing parity NICTD debt, (ii) contemplated GARVEE bonds for the rail cars in the maximum par amount of not more than \$120 Million, the payment of the principal of and interest on which can be paid by a pledge by NICTD of a maximum amount of \$8 Million per year, 80% of which is payable from Section 5337 State of Good Repair grants and 20% of which may be payable from Taxes over the applicable bond term, (iii) a contemplated \$7.5 Million note for operations expenses maturing no later than December 31, 2018, (iv) parity senior debt permitted by IFA and RDA pursuant to the Bond Resolution, subject to Section 6.4; (v) debt incurred in a manner consistent with the requirements of Section 6.4; and (vi) issuance of debt for cost overruns pursuant to Section 7.8.1.

6.4 NICTD shall incur no additional debt or otherwise pledge any of its Gross Revenues or Taxes for any purpose (other than Permitted NICTD Debt) without the prior written consent of the RDA and IFA (i) during the period until the construction and development of both Rail Projects are completed and are operational; or (ii) thereafter, unless NICTD can demonstrate Debt Coverage of at least 2.0, after taking into account the debt service of such additional debt and all other debt RDA and IFA expect NICTD will need to issue to fund Capital Expenditures contemplated in NICTD's most recent five-year capital plan submitted to FTA.

6.5 NICTD shall manage its operations in each calendar year so that NICTD has a Revenue Coverage in such calendar year of not less than the 1.12 required for the FTA grant application.

6.6 Revenue Coverage and the Debt Coverage shall be calculated according to the form of calculation attached as Exhibit 7.

6.7 Except as otherwise provided in Article 6, NICTD may use its Gross Revenues, Restricted Taxes and Grants in any manner determined by NICTD in its discretion.

6.8 NICTD's Financial Operations Report, Debt Coverage calculation and Revenue Coverage calculation shall be subject to verification by the IFA and/or the RDA in their discretion.

ARTICLE VII.

DESIGN, CONSTRUCTION AND DEVELOPMENT OF THE RAIL PROJECTS

7.1 NICTD shall complete and deliver the Rail Projects in accordance with the applicable Cost Budget (as amended by written agreement of the Parties) and applicable Project Schedule (as amended by written agreement of the Parties), and in compliance with the limitations in this Amended Governance Agreement concerning the use of Project Contingency.

7.2 NICTD, with the assistance of RDA, shall be the procuring entity for the design, acquisition, construction, construction management/owner's representative, and/or program management of the Rail Projects.

7.2.1 NICTD shall make a recommendation to RDA and IFA regarding procurement and delivery structure/s for each Rail Project. Such recommendation shall be subject to RDA and IFA review and approval. IFA shall provide support to RDA on financing and commercial elements, as necessary, subject to the applicable Financing Plan.

7.2.2 NICTD shall lead the review of design plans, technical proposals, reports, and related technical documents as necessary or helpful to facilitate the procurements. Subject to the SSI Policy, RDA shall have the right, but not the obligation, to participate.

7.2.3 The Parties acknowledge and agree that representatives of RDA and IFA, and their respective designees, who are exercising rights and functions described or contemplated in this Amended Governance Agreement are persons with a "need to know" under the SSI Policy and are entitled to receive and review sensitive security information, provided they comply with the requirements of the SSI Policy. RDA and IFA will provide to NICTD (updated as necessary) a list of representatives and designees that they identify as "need to know".

7.2.4 All procurement proposal or bid evaluations related to the design, construction, construction management/owner's representative, and/or program

management on the Rail Projects that are being procured through the design-build project delivery process shall involve a coordinated team of evaluators selected by NICTD that shall constitute the Technical Review Committee in conformance with the Indiana Design-Build Statute. RDA and IFA each shall be entitled to representation on the Technical Review Committee (a majority of the membership of which will be appointed by NICTD) and/or any other committee or body formed for purposes of evaluating the proposals or bids at any stage of the procurement process.

(a) NICTD shall lead the technical proposal evaluations and conduct the selection process through solicitation of statements of qualifications and qualitative and price proposals in accordance with the Indiana Design-Build Statute and the SSI Policy. RDA and IFA shall have the right, but not the obligation, to attend evaluation sessions and interviews, subject to the provisions in the SSI Policy.

(b) For procurements utilizing the design-bid-build competitive bidding project delivery system, bids and proposals shall be evaluated by NICTD in accordance with the statutory requirements. RDA and IFA shall have the right, but not the obligation, to attend bid and proposal evaluation sessions, subject to the provisions in the SSI Policy.

(c) If any other delivery method for procurement is selected, the Parties shall agree on the procedures for evaluation and selection.

7.2.5 NICTD shall lead the preparation of all procurement documents (including technical specifications) and of all contracts pertaining to the Rail Projects. Copies of all executed contracts shall be provided to IFA and RDA upon execution, but in all events, no later than submission of any related Payment Request.

7.2.6 Unless RDA and IFA consent otherwise, NICTD shall include in all contracts pertaining to the Rail Projects (and shall require that all lower-tier subcontracts or subconsultant agreements thereto also include) the following provisions:

(a) to the fullest extent permitted by law, the contracting party shall defend, indemnify and hold harmless, NICTD, IFA, RDA, and the State, (and each of their respective agents and employees), from and against third-party claims arising out of or resulting from the services provided under the contract;

(b) all of the insurance policies (excepting workers compensation and professional liability) provided by the contracting party shall provide that NICTD, IFA, RDA and the State are named as additional insureds;

(c) the contracting party shall provide IFA and/or RDA access to all Books and Records, and shall provide IFA and/or RDA copies of all Books and Records upon request, at the contracting party's cost and expense;

(d) that without RDA or IFA assuming any liability or obligation thereunder, RDA and the IFA are intended third party beneficiaries of the contract and are entitled to enforce its terms, consistent with third party beneficiary rights and on the same terms and conditions as NICTD;

(e) that such contracts may be assigned to IFA and/or RDA or their respective designees in the event of Step-In pursuant to Section 11.4 herein;

(f) that payments thereunder shall be subject to State appropriation and availability, and that to the extent a determination is made by RDA or IFA that funds are not appropriated or otherwise available to support continuation of performance, such contract shall be subject to being terminated for convenience by NICTD at no cost to NICTD, RDA and/or IFA;

(g) that NICTD, RDA and/or IFA shall have the right to monitor construction through independent technical representative(s), who also shall have access to the Rail Projects and all of the Books and Records (any such representative shall be subject to any contractual confidentiality terms and the SSI Policy).

7.2.7 The Parties shall confer and coordinate regularly regarding and during the development of the procurement documents. RDA and IFA shall have an opportunity to review and comment on all NICTD proposed final drafts of procurement documents for Major Contracts and NICTD proposed final drafts of all other Major Contracts and shall have not less than 30 days (excepting in case of emergency or as otherwise agreed by the Parties) to review and approve such NICTD proposed final draft procurement documents and such NICTD proposed final draft contracts prior to issuance and/or distribution to third parties. NICTD shall advise RDA and IFA of its final recommendation of the preferred proposer or bidder prior to award, and such preferred proposer or bidder shall be subject to RDA and IFA written consent and approval. RDA and IFA's consent and approval decision as to the preferred proposer or bidder and as to the form of final contract to be entered therewith shall be conveyed to NICTD within 10 business days of NICTD's recommendation. NICTD shall not enter any proposed Major Contract until RDA and IFA consent and approve in writing. Once RDA and IFA approve such contract in writing, and provided the amount and timing of the cost of such contract is as stated in the applicable Cost Budget and the applicable Financing Plan, NICTD shall be able to rely upon that commitment as binding in entering into its contractual obligations, subject to other terms herein.

7.3 Attached as Exhibits 3A, Exhibit 3B, Exhibit 4A, and Exhibit 4B are the agreed Cost Budgets and the Project Schedules for the Rail Projects, each of which may be amended or modified only by written agreement of the Parties. NICTD shall be responsible to ensure that project development, design and construction shall be performed to meet the applicable Cost Budget and Project Schedule, as amended by written agreement of the Parties. The Parties agree that the Cost Budgets include the Project Contingency required as part of the FTA requirement for the FTA CIG Program and the Financing Plans are designed to provide funding for the Cost Budgets. Notwithstanding the Financing Plans designed to fund the Cost Budgets, NICTD

agrees to work closely with IFA and RDA to complete the Rail Projects using only the Project Contingency provided in Section 7.3.2, including the Project Contingency approved by IFA and RDA, so as to minimize the amount of funding required to fund actual Project Costs.

7.3.1 The Cost Budgets, Project Schedules and written job cost reports prepared by NICTD per Section 7.4.1 shall be reviewed by NICTD, RDA and IFA on a monthly basis.

7.3.2 The following proposed changes are subject to the review and written approval of RDA and IFA:

(a) changes to the applicable Cost Budget for either Rail Project,

(b) any use of Project Contingency set forth in the applicable Cost Budget, whether allocated or unallocated, in excess of \$250,000 (per month in the aggregate, per Rail Project); and/or

(c) any adjustment to the applicable Project Schedule that will extend either the Revenue Service Operations Date or the D/B Substantial Completion Date, or extends any other major milestone date established in the Project Schedule, for, in each case, either Rail Project.

7.4 Monthly Reporting.

7.4.1 NICTD shall report to RDA and IFA on a monthly basis in a written job cost report in a form to be agreed upon by the Parties, that reconciles the historic expenditures and realistic projections for the costs of and schedule for the Rail Projects against the applicable Cost Budget and Project Schedule.

7.4.2 The monthly report shall include, but not be limited to: (i) a report on all proposed, rejected and approved change orders, (ii) a projected Project Contingency drawdown curve, actual use of Project Contingency, and the amount of remaining Project Contingency, (iii) a list of deviations between costs included in and underlying the applicable Cost Budget and the current projected actual cost of the Rail Projects (including without limitation all actual, incurred and estimated Project Costs), (iv) a list of deviations between the applicable Project Schedule and the actual projected schedule for the work, including any failure to achieve milestones and the effect, if any, on the cost forecast.

7.4.3 NICTD must adhere to the reporting process in order to receive funding for approved Project Costs. NICTD will also inform RDA and IFA promptly in writing of any additional material deviations in the projected actual Project Costs versus the applicable Cost Budget, and any additional material deviations in the projected schedule versus the applicable Project Schedule. In the event of actual or projected Project Cost overruns or schedule delay, NICTD shall, as part of its monthly report to RDA and IFA, report what actions NICTD is taking or will take to bring the actual projected Project

Costs within the applicable Cost Budget and/or the actual projected schedule within the applicable Project Schedule, as applicable.

7.5 RDA and IFA have established an agreed-upon budget for RDA/IFA Project Costs which are included in the applicable Cost Budget. RDA/IFA Project Costs shall be reported and shared with NICTD on an ongoing basis in the same manner and time as NICTD costs are shared with RDA and IFA.

7.5.1 To the extent permitted by FTA, up to \$1 Million of the Project Contingency in the applicable Cost Budget may be used to fund any overrun in the RDA/IFA Project Costs (\$500,000 allocated to each of RDA and IFA).

7.5.2 Any overrun of costs incurred by RDA and/or IFA above such allocated Project Contingency shall be paid for by RDA or IFA, as applicable, with funds other than FFGA funds or bond proceeds, except as provided in Section 3.6.2.4.4 (*i.e.*, the costs are necessarily incurred with respect to the Rail Projects) and/or except to the extent such overruns relate to Enhanced Oversight, Construction Period Step-In Rights and/or Operations Step-In Rights. In the event of either such exception, FFGA funds (to the extent permitted by FTA), bond proceeds and/or any other Project funding may be used to cover such RDA/IFA Project Costs. Notwithstanding the foregoing, NICTD shall not be responsible for paying any RDA/IFA Project Costs including any overrun of costs incurred by RDA and/or IFA, except to the extent such RDA/IFA Project Costs are paid from the NICTD Excess Cost Contribution in accordance with Section 7.8, provided however that NICTD shall be liable for any such RDA/IFA Project Cost overruns that are caused by NICTD's failure to adhere to the Amended Governance Agreement or its willful misconduct or gross negligence.

7.6 NICTD shall review, approve or reject, as appropriate, individual invoices submitted in accordance with the respective contract terms and NICTD's contractual payment obligations.

7.7 NICTD or NICTD's retained construction manager/technical representative/owners representative shall perform construction observation/inspection of the Rail Projects, verify contractor invoices, and provide such reports as reasonably requested by RDA or the IFA on thirty (30) days' advance notice.

7.8 Except as provided in Section 7.5 with respect to RDA/IFA Project Costs, or otherwise approved by IFA and RDA in writing, NICTD shall be responsible for the costs of the Rail Projects in excess of the applicable Cost Budget, incurred while NICTD is in charge of the Rail Projects, up to the amount of the Maximum NICTD Excess Cost Contribution. All costs, to the extent permitted by law, shall be submitted as a part of the overall Project Costs for potential federal grant reimbursement.

7.8.1 In the event Excess Construction Costs are incurred, upon direction from IFA and RDA from time to time, NICTD agrees to make the NICTD Excess Cost Contribution by providing financing for such Excess Construction Costs, except as provided below, up to the Maximum NICTD Excess Cost Contribution. NICTD may

choose to fund Excess Construction Costs from the payment of cash in lieu of funding the NICTD Excess Cost Contribution with the proceeds of bonds or a loan at the time of such direction.

7.8.2 If NICTD elects to issue bonds or other debt to fund the NICTD Excess Cost Contribution, NICTD shall also be obligated to provide such debt service coverage, in addition to the \$3 Million annually, needed to adequately secure such bonds or other debt. NICTD agrees that the form and structure of such bonds or other debt shall be reasonably acceptable to IFA and RDA.

7.8.3 Subject to the Maximum NICTD Excess Cost Contribution, IFA and RDA may request that additional Excess Construction Costs be funded at any time and from time to time until the Rail Projects are constructed and operational. The Parties agree that the first dollar in excess of each applicable Cost Budget shall be NICTD's responsibility to fund. Notwithstanding the foregoing, NICTD's obligation to fund Excess Construction Costs is limited to Excess Construction Costs and shall be no more than the Maximum NICTD Excess Cost Contribution.

7.8.4 The proceeds of the NICTD Excess Cost Contribution or any cash paid in lieu thereof shall be deposited in the Revenue Trust Fund in the same manner as IFA bond proceeds, local contributions and FTA grant funds are deposited. The NICTD Excess Cost Contribution shall be used toward Excess Construction Costs prior to any action by RDA or IFA to cooperate with NICTD to seek additional funding or additional revenues.

7.8.5 If additional funds are required to finance any Excess Construction Costs after the Maximum NICTD Excess Cost Contribution has been funded, the Parties shall seek additional funding or additional revenues through the Indiana General Assembly or from other sources.

7.8.6 Following completion of the Rail Projects, if the NICTD Excess Costs Contribution is in excess of the actual cost overrun, such excess amount shall be returned to NICTD.

7.9 Any contribution NICTD has agreed to provide in the applicable Financing Plan shall be provided on or before FFGA Approval. Such contribution shall be in addition to the Maximum NICTD Excess Cost Contribution.

7.10 If the actual costs for completing the Double Track Project exceed the Cost Budget allocable to that project, NICTD and RDA shall certify such deficit, and the Parties shall jointly seek to enforce the contributions required from the entities described in IC 36-7.5-4.5-16(d)(5). Such contributions shall not constitute any part of the Maximum NICTD Excess Cost Contribution.

7.11 NICTD shall provide all documents and reasonable requests for information requested by RDA and IFA, including obtaining or requesting such documents or information from its contractors and consultants. RDA and IFA shall make such document and information

requests to NICTD in writing and NICTD shall be provided a reasonable period of time in which to furnish or respond to such requests.

7.12 NICTD shall provide RDA and IFA unfettered access to all Books and Records and shall provide copies of all Books and Records requested by RDA and the IFA, subject to the SSI Policy.

7.13 RDA and IFA each retain the right to perform observation of construction by their respective independent technical representative for IFA's and RDA's respective benefit only.

7.14 By no later than May 1, 2019 (unless otherwise extended by mutual agreement of the Parties), NICTD shall deliver a fully executed agreement with Metra concerning trackage rights that has been approved in writing in advance by both IFA and RDA.

7.15 By no later than December 31, 2018 (unless otherwise extended by mutual agreement of the parties), NICTD shall deliver a fully executed agreement or agreements with NIPSCO or others, (including CSS) concerning solutions for the Bailey station issues impacting the Rail Projects that has/have been approved in writing in advance by both IFA and RDA.

ARTICLE VIII.

OPERATIONS AND MAINTENANCE

8.1 NICTD shall operate and maintain the South Shore Line during construction and after completion of the Rail Projects.

8.2 Except as provided herein, NICTD shall be responsible for payment of all O&M costs of the South Shore Line, including during construction of the Rail Projects and after each of the Rail Projects are completed. Except as provided in Section 8.4, RDA shall have no responsibility for the costs of O&M of the Rail Projects.

8.3 NICTD shall pay O&M costs and rolling stock acquisition costs on the Double Track Project.

8.3.1 NICTD shall have the ability to seek reimbursement for a portion of O&M and rolling stock acquisition costs on the Double Track Project, from the FTA through federal formula funds, provided that any such request or reimbursement has no impact on the grant monies being pursued for reimbursement from FTA for capital costs for the Rail Projects.

8.3.2 RDA and IFA shall have no responsibility to pay O&M or rolling stock acquisition costs for the Double Track Project except the Parties shall work cooperatively to seek funding for O&M costs that NICTD is unable to fund or finance as provided in Article 6, and such costs shall not be treated as a cost of the Rail Projects under the Cost Budget.

8.4 NICTD shall pay O&M costs on the West Lake Corridor Project, subject to the further provisions in this Section 8.4, which shall govern in the event of a West Lake Operating Deficit.

8.4.1 Indiana Code 6-3.1-20-7(d) provides that the RDA will receive certain Tax Credit Dollars, in an amount as determined by the Indiana Department of Revenue, to establish or improve public mass rail transportation systems in Lake County. Upon the execution of the Governance Agreement the RDA shall deposit all Tax Credit Dollars in its possession into the Escrow Fund and shall thereafter upon receipt, deposit all Tax Credit Dollars into the Escrow Fund until Equivalent Alternative Funding is secured pursuant to Section 8.4.5 or WL Deficit Alternative Funding is secured pursuant to Section 8.4.6.

8.4.2 All Tax Credit Dollars received by the RDA shall be maintained in the Escrow Fund and not utilized by RDA for any purpose other than toward a West Lake Operating Deficit, except as provided in Section 8.4.6.

8.4.3 Beginning with the second calendar quarter after completion of the West Lake Corridor Project, RDA shall provide to NICTD, on a quarterly basis upon submission by NICTD to RDA of a West Lake Deficit Cost Submission, from the moneys held at that time in the Escrow Fund (if available) a sum equal to the amount of West Lake Operating Deficit for the preceding calendar quarter. The Parties agree that each West Lake Deficit Cost Submission shall include a completed West Lake Deficit Cost Submission Form attached as Exhibit 8, accompanied by a completed form of Exhibit 6 certified by NICTD. NICTD also shall provide RDA a copy of any West Lake Corridor deficit information NICTD provides to the FTA. The West Lake Operating Deficit shall be subject to verification by RDA and/or IFA in their discretion.

8.4.4 To the extent there exists a Subsidy Shortfall, NICTD will retain the right to collect such Subsidy Shortfall from the Tax Credit Dollars remaining in the Escrow Fund, except to the extent funds in the Escrow Fund are unavailable as a result of the operation of Section 8.4.6, and to collect such Subsidy Shortfall from future Tax Credit Dollars deposited into the Escrow Funds, except as otherwise provided in Section 8.4.5.

8.4.5 Upon the request of RDA, the Parties agree to cooperate in seeking funding to subsidize the West Lake Operating Deficit from the General Assembly. If at any time Equivalent Alternative Funding from the General Assembly to address the West Lake Operating Deficit is secured in an amount for the next year that equals or exceeds the immediately prior four quarters of Tax Credit Dollars, whether received by or provided to any Party or any other entity, in each case in any manner that is dedicated to subsidize the West Lake Operating Deficit the RDA shall have no further or continuing obligation, whether under Section 8.4 or otherwise, to deposit Tax Credit Dollars in the Escrow Fund or to otherwise provide Tax Credit Dollars for the West Lake Operating Deficit (other than funds on deposit in the Escrow Fund when such Equivalent Alternative Funding is secured, which shall continue to be held, except as provided in

Section 8.4.6, in the Escrow Fund and disbursed to NICTD to cover any portion of the West Lake Operating Deficit not covered by the Equivalent Alternative Funding).

8.4.6 As of the last day of the first year in which either (i) WL Deficit Alternative Funding is secured, or (ii) the Tax Credit Dollars collected for that year pursuant to Section 8.4.1, is equal to or greater than that year's West Lake Operating Deficit, any moneys that remain in the Escrow Fund (after disbursement to NICTD for such year's West Lake Operating Deficit), from whatever source, shall be released to RDA upon direction of the RDA.

(a) In the event WL Deficit Alternative Funding has been secured per Section 8.4.6(i), RDA shall have no further or continuing obligation, whether under this Section 8.4 or otherwise, to provide Tax Credit Dollars for the West Lake Operating Deficit or to deposit such Tax Credit Dollars into the Escrow Fund.

(b) In the event Tax Credit Dollars collected for that year pursuant to Section 8.4.1, are equal to or greater than that year's West Lake Operating Deficit per Section 8.4.6(ii), Tax Credit Dollars as received shall continue thereafter to be deposited into the Escrow Fund and made available to NICTD to cover any West Lake Operating Deficit in accordance with the terms of this Section 8.4, until either Equivalent Alternative Funding or WL Deficit Alternative Funding is secured, in either event of which RDA shall have no further or continuing obligation, whether under this Section 8.4 or otherwise, to provide Tax Credit Dollars for the West Lake Operating Deficit or to deposit such Tax Credit Dollars into the Escrow Fund.

(c) In no event shall RDA be responsible for West Lake Operating Deficits beyond (i) the Tax Credit Dollars collected under this Section 8.4, and (ii) cooperating with NICTD and IFA to seek the Equivalent Alternative Funding as provided in Section 8.4.5.

8.4.7 For avoidance of doubt, RDA shall have no responsibility for the costs of operations and maintenance of the Rail Projects beyond Tax Credit Dollars, and only to the extent provided in this Section 8.4.

8.4.8 The Escrow Fund Agreement shall provide that RDA and NICTD shall receive monthly account statements. Until such time as WL Deficit Alternative Funding has been secured, by August 15 of each year, RDA shall provide NICTD a statement specifying the Tax Credit Dollars received and deposited into the Escrow Fund and disbursed from the Escrow Fund that are attributable to the preceding State fiscal year.

8.5 IFA and RDA shall not be responsible for the cost of rehabilitating or acquiring railway cars for use as rolling stock on the West Lake Corridor Project except to the extent such costs are included in the Cost Budget.

8.6 Neither IFA nor RDA shall be responsible for any lifecycle costs of the South Shore Line or the Rail Projects.

8.7 In addition to the NICTD Operations Financial Report required pursuant to Sections 6.1 and 6.3, at the end of each calendar year, NICTD shall prepare and furnish to IFA, RDA and others to whom it is statutorily or contractually required, an Annual Report that includes a certification as to whether or not its completed annual commuter rail services have been in substantial conformance with its published services schedule (“Level of Service”), and also provides NICTD's current financial position and plans with respect to the following.

8.7.1 The custody, safeguarding, investment and application of all moneys received or to be received by NICTD;

8.7.2 The establishment of funds, reserves and accounts, including those required or held under the Bond Resolution;

8.7.3 The construction, improvement, maintenance, repair, operation and insurance of the South Shore Line, including the anticipated Level of Service;

8.7.4 The rates of fees, tolls, rentals, or other charges to be collected for the use of the South Shore Line; and

8.7.5 Debt Coverage and Revenue Coverage for such year.

8.8 Additionally, by the end of January of each calendar year, NICTD shall prepare and furnish to IFA and RDA a certified report for the operation and maintenance of the South Shore Line that includes (i) the information set forth in Section 8.7 for the next succeeding calendar year, and (ii) a copy of NICTD’s five-year capital plan (collectively "Business Plan"). A copy of the proposed Business Plan shall be provided to IFA and RDA for their review and comment at least 30 days before approval by the NICTD Board of Trustees. The Business Plan shall be approved by the NICTD Board of Trustees annually before it is implemented. Upon approval by the NICTD Board of Trustees, NICTD shall furnish a copy of the final approved Business Plan to IFA, RDA and others to whom it is statutorily and contractually required. Failure of NICTD to provide the Business Plan as required herein, the Annual Report as required by Section 8.7, or the NICTD Financial Operations Report required by Sections 6.1 and 6.3 shall be a material breach of this Amended Governance Agreement and constitutes an NICTD Operations Adverse Condition under Section 11.5. The Annual Report, and/or any parts thereof, shall be subject to verification by IFA and/or RDA in their discretion.

8.9 During the term of the Amended Governance Agreement, if at any point in time during the calendar year or as part of its annual year-end review and reporting, NICTD determines (1) that NICTD is not operating the South Shore Line in substantial compliance with the Business Plan then in effect, (2) that NICTD is not maintaining Revenue Coverage of 1.12 as set out in Section 6.5, or (3) that NICTD is otherwise in breach of any material provision in the Amended Governance Agreement or the Development Agreement (if entered), with respect to the operations and maintenance of the South Shore Line, and/or Leases, including that NICTD is otherwise unable to maintain the South Shore Line for use and occupancy in the manner

provided in the Leases, NICTD shall so advise IFA and RDA, in writing, within 30 days of NICTD's determination with a NICTD Initial Notice.

ARTICLE IX.

INSURANCE AND BONDING

9.1 NICTD shall develop, or shall engage an insurance consultant to develop, for the review and approval of IFA and RDA, an insurance program for the Rail Projects and for the South Shore Line after completion of each Rail Project. NICTD's proposed insurance program shall be delivered to IFA and RDA by no later than fifteen (15) days prior to the issuance of any Request for Proposal that is related to construction or other work to be performed on-site for either of the Rail Projects.

9.1.1 The insurance program for each Rail Project prior to its completion shall provide insurance protection for the benefit of IFA, RDA, NICTD, contractors, subcontractors and other Rail Project participants. The program may be an owner controlled program (OCIP), a contractor controlled program (CCIP), or a comprehensive program of insurance requirements for the insurance to be provided by the contractors, subcontractors or other consultants working on or providing services with respect to the Rail Project to be complied with by each participant on the Rail Project and shall include insurance and coverage amount requirements for:

- (a) Workers Compensation
- (b) General Liability, including completed operations and contractual liability coverage
- (c) Employer's Liability
- (d) Automobile Liability
- (e) Contractor's Pollution
- (f) Pollution Legal Liability
- (g) Builder's Risk
- (h) Professional Errors and Omissions
- (i) Delayed opening coverage, for protection regarding payments on the IFA Bonds

9.1.2 The insurance program for the South Shore Line after completion of a Rail Project and continuing for the term of this Governance Agreement shall provide insurance protection for the benefit of IFA, RDA and NICTD and shall include insurance coverage amount requirements for:

- (a) Workers Compensation
- (b) General Liability
- (c) Employers Liability
- (d) Automobile Liability
- (e) Property Insurance
- (f) Business Interruption Insurance

9.1.3 NICTD, IFA, RDA, the State, the Bond Trustee, and the Deposit Trustee shall be named as additional insureds on such policies (except Workers Compensation and Professional Errors and Omissions insurance policies.)

(a) IFA, RDA and the State shall have no liability for deductibles or self-insured retentions.

(b) Each insurance policy shall provide that the coverage is primary and non-contributory with respect to the named and additional insureds.

(c) Coverages for Builder's Risk, Delayed Opening, Business Interruption, and Property Insurance shall provide coverage for all Force Majeure events as may be commercially reasonable and available.

(d) Each insurance policy shall provide a waiver of subrogation in favor of all additional insureds.

9.2 NICTD shall require a 100% performance and payment bond from its design-builder or construction contractor.

9.3 Costs of insurance and bonding shall be included in the Cost Budget.

ARTICLE X.

DISPUTE RESOLUTION

10.1 For disputes between and among the Parties regarding the Rail Projects, RDA shall coordinate with NICTD and IFA to compile objective data to consider and analyze, along with the potential outcomes and impacts of a given decision or dispute. The Parties hereto, together with their consultants, shall support this process, as necessary.

10.2 The Project Executives shall confer in good faith in an attempt to reach a consensus on disputes after considering the compiled data and other appropriate factors, including the Decision Making Framework Factors. To the extent permitted by law, the Parties agree to maintain as confidential the deliberations (which include written communications and other documents) contemplated herein.

10.3 If consensus cannot be reached by the Project Executives on disputes between and among the Parties regarding the Rail Projects or proposed changes to the Amended Governance Agreement or Development Agreement (if entered), then the dispute, issue, or proposed change shall be decided by a majority vote among the Project Executives, taking into consideration the Decision Making Framework Factors.

10.4 Any such majority decision by the Project Executives may be appealed to the State Budget Director within 10 business days of the decision.

10.5 Additionally, the State Budget Director (or his or her delegate) has the power to veto or override even a majority decision by the Project Executives for issues that, in the State Budget Director's sole discretion, materially and negatively impacts the State.

10.6 Except as provided in Sections 15.6, 15.7 and 15.8, nothing herein is intended to operate as a waiver of any Party's rights under the Amended Governance Agreement, the Development Agreement (if entered into) or such contractual, statutory, common law, and/or equitable rights and remedies as may otherwise exist by law.

ARTICLE XI

ADVERSE CONDITIONS / ENHANCED OVERSIGHT / STEP-IN RIGHTS

11.1 In addition to the remedy set forth in Section 15.7, IFA and/or RDA, shall be entitled to Enhanced Oversight on the Rail Projects in such manner and to such level as they deem appropriate in the event one or more of the following Construction Adverse Conditions occurs:

11.1.1 The Revenue Service Operations Date or the date of D/B Substantial Completion for either Rail Project is projected to be later than the date set forth in the applicable Project Schedule (as amended by written agreement of the Parties) or any major milestone date established in the applicable Project Schedule is not achieved by the date set forth in the applicable Project Schedule;

11.1.2 The costs for either Rail Project is projected to be more than the amounts set forth in the applicable Cost Budget (not including any amounts added by written amendment agreed by the Parties), unless such increase is due to a change in scope requested by RDA;

11.1.3 NICTD breaches any material provision in this Amended Governance Agreement, the Development Agreement (if entered), and/or a Lease, including, but not limited to: (i) failure of NICTD to fund the NICTD Excess Cost Contribution as required by Section 7.8.1; (ii) failure to maintain Revenue Coverage of 1.12 as required by Section 6.5; (iii) incurrence of debt contrary to the provisions of Section 6.4; or (iv) failure to comply with the requirements of Sections 7.14;

11.1.4 The occurrence of any circumstance that has a material adverse effect on the applicable Financing Plan;

11.1.5 NICTD fails to comply with a decision rendered or direction given by the State Budget Director;

11.1.6 NICTD, or an entity under the control of NICTD, takes action that deviates from the originally planned scope of work that has a materially negative impact on one or more TDDs or the development thereof;

11.1.7 NICTD, or an entity under the control of NICTD, fails to effectively prepare any FTA grant application;

11.1.8 The occurrence of any circumstance(s) that subject IFA or RDA to material liabilities not contemplated in the applicable Financing Plan; or

11.1.9 NICTD, or any entity under the control of NICTD, fails to materially comply with FTA grant requirements and/or FFGA requirements.

11.2 In the event of the occurrence of one or more of the above Construction Adverse Conditions, IFA and/or RDA may send a notice to NICTD of intent to exercise Enhanced Oversight with respect to one or more Construction Adverse Conditions (each, a "Construction Adverse Condition Notice"). If the Construction Adverse Condition is not cured within 30 calendar days of NICTD's receipt of such Construction Adverse Condition Notice, in addition to all of their other rights hereunder, RDA and/or IFA shall have the right (but not the obligation) to exercise Enhanced Oversight on the Rail Projects, which shall include the right of RDA, IFA, and/or its designee(s), to engage in one or more of the following Enhanced Oversight activities at RDA or IFA's discretion (provided FTA has no objection after consultation):

11.2.1 review and approve all change orders, contracts (and amendments thereto), and third party agreements (and amendments thereto) prior to execution;

(a) review and approve any allocations of remaining Project Contingency;

(b) require NICTD to prepare additional cost containment measures, including investigation of value engineering options or project scope changes;

(c) review and make recommendations regarding staffing and/or sequencing of Work;

(d) require NICTD to prepare and provide additional reports, including: job cost reports, scheduling reports, and/or additional value engineering / scope reduction alternatives;

(e) participate in all Project progress meetings; and

(f) require NICTD to assist IFA and RDA, in their discretion, in seeking additional funding for the Rail Projects, including, but not limited to, from the General Assembly.

11.3 The inclusion of items in Sections 11.2.1 – 11.2.7 or Sections 11.8.1 – 11.8.8 shall be cumulative of any rights provided to NICTD, IFA or RDA under this Amended Governance Agreement, the Development Agreement (if entered into), or the Leases.

11.4 In the event a Construction Adverse Condition noted in Section 11.1 above, occurring prior to completion of construction of either or both Rail Project/s, is not curable or is not cured within 90 calendar days after the Construction Adverse Condition Notice, in its discretion, the IFA, RDA or one of their respective designees has the right, but not the obligation (provided FTA has no objection after consultation), to exercise Construction Period Step-In Rights and assume all facets of the design and construction of the Rail Projects, including but not limited to all of the following: design, construction, FTA grant application, land acquisition, utility relocation, and environmental approvals, until completion of the construction of the Rail Project(s).

11.4.1 To the extent the IFA and/or RDA (or one of their respective designees) exercises its Construction Period Step-In Rights under this Section 11.4, the IFA and/or RDA (as applicable) shall assume all responsibility for the design and construction of the Rail Projects and all further design and construction responsibilities of NICTD shall be terminated.

11.4.2 In the event IFA or RDA exercises Construction Period Step-in Rights and NICTD is no longer in charge of the Rail Projects for the duration of the construction thereof, NICTD shall not be responsible for any costs in excess of the applicable Cost Budget that are incurred by RDA or IFA, except for the Maximum NICTD Excess Cost Contribution. Notwithstanding the foregoing, NICTD shall be liable for any such excess costs that are caused by NICTD's failure to adhere to the Amended Governance Agreement or its willful misconduct or gross negligence occurring either before or after NICTD is no longer in charge of the Rail Projects, to the same extent as if RDA and/or IFA had not exercised Construction Period Step-In Rights. For the duration of such exercise of the Construction Period Step-In Rights, NICTD, RDA and IFA shall coordinate the construction and railroad operations so as to minimize interference with the construction of the Rail Projects or the operation of the South Shore Line, including by developing a reasonable operations plan, and shall cooperate to effectuate assignment or enforcement of rights under contracts with respect to the Rail Projects.

11.5 If at any point in time during the calendar year, or as part of the annual year-end review and reporting, until Termination of this Amended Governance Agreement, IFA and/or RDA determine that any of the following conditions exist, which are NICTD Operations Adverse Conditions, IFA and/or RDA may so advise NICTD in writing with an IFA Initial Notice or RDA Initial Notice, as applicable:

11.5.1 that NICTD is not operating the South Shore Line in substantial compliance with the Business Plan then in effect,

11.5.2 that NICTD is not maintaining Revenue Coverage of 1.12 as set out in Section 6.5, or

11.5.3 that NICTD is otherwise in breach of any material provision in the Amended Governance Agreement or the Development Agreement (if entered) with respect to the operations and maintenance of the South Shore Line, and/or the Leases, including that NICTD is otherwise unable to maintain the South Shore Line for use and occupancy in the manner provided in the Leases. Such a determination must be based upon documented financial statements or other evidence which demonstrate NICTD's alleged failure to meet and maintain the items set forth in this Section 11.5.

11.6 Within 60 days of the date of the NICTD Initial Notice under Section 8.9, or within 60 days of the date of receipt by NICTD of an IFA Initial Notice or RDA Initial Notice, NICTD shall submit a written Recovery Plan to IFA, RDA and FTA setting forth NICTD's plans and proposed steps to cure the NICTD Operations Adverse Condition(s).

11.6.1 Any distribution of the Recovery Plan by IFA, RDA or other parties shall remain subject to the NICTD SSI Policy.

11.6.2 The Recovery Plan is subject to the review and approval of IFA and RDA. Assuming no objections by FTA after IFA and RDA consultation with FTA, and within 30 days after receiving the Recovery Plan, the IFA, RDA and FTA may consult with NICTD and propose changes or additions to the Recovery Plan which, in their best judgment, may enhance the Recovery Plan and improve it ("Consultation Period").

11.6.3 Barring written directive not to do so from IFA, RDA or FTA during the Consultation Period, NICTD shall commence the preliminary steps to implement the Recovery Plan upon its being tendered to the IFA, RDA and FTA and while waiting for formal approval thereof by IFA and RDA, provided there are no objections to the Recovery Plan by FTA.

11.6.4 NICTD shall commence and diligently prosecute such Recovery Plan to completion for a period not to exceed 120 days following receipt of the written approval of the Recovery Plan by IFA and RDA, as may be amended, or if such Recovery Plan requires work to be done, actions to be taken, or conditions to be remedied, which by their nature cannot reasonably be done, taken or remedied within such 120-day period, such 120-day period shall be extended for so long as NICTD shall commence such remedy within such 120-day period and shall diligently and continuously prosecute the same to completion, for a period not to exceed an additional 30 days (for a maximum of 150 days), or such longer period as agreed to in writing by the IFA and RDA ("Operations Cure Period"). NICTD regularly (and no less than monthly) shall keep IFA, RDA and FTA informed of the cure efforts NICTD is undertaking during the Operations Cure Period.

11.7 A failure by NICTD to maintain the South Shore Line for use and availability in the manner provided in the Leases, unless such failure is due to a Force Majeure Event, shall be an Availability Breach.

11.7.1 In the event of an Availability Breach, notice thereof may be provided by IFA and/or RDA.

11.7.2 In the event of an Availability Breach Notice from either IFA or RDA, NICTD shall have the Availability Cure Period in which to cure the Availability Breach.

11.8 Beginning with the date of a NICTD Initial Notice, an IFA Initial Notice, an RDA Initial Notice, and/or an Availability Breach Notice, the IFA, RDA and FTA, and its or their designees or consultants, subject to continued compliance with the NICTD SSI Policy, may monitor and observe the actions of NICTD in implementing the Recovery Plan or other efforts to cure (to the extent applicable), and to engage in one or more of the following activities:

11.8.1 Review all NICTD contracts and proposed amendments to contracts prior to execution;

11.8.2 Review and make recommendations to undertake cost containment measures;

11.8.3 Review and make recommendations regarding staffing, sequencing and/or performance of operations and maintenance;

11.8.4 Require NICTD to prepare and provide additional periodic reports, including, but not limited to, cost reports, scheduling reports, and/or status and progress reports on current or future operations and maintenance plans;

11.8.5 Require NICTD, consistent with applicable law, to pursue steps to increase revenues and/or cut expenses to the extent needed to cure a failure to achieve the Revenue Coverage of 1.12;

11.8.6 Prohibit NICTD from incurring any debt unless such debt is part of the Recovery Plan;

11.8.7 Review and approve any capital projects, other than those required by FTA;

11.8.8 Participate in regular Recovery Plan scheduled meetings.

11.9 IFA may provide an Operations Step-In Notice in the event of any of the following: (i) at the conclusion of the Availability Cure Period, if NICTD has failed to cure the Availability Breach; or (ii) at the conclusion of the Operations Cure Period if NICTD has failed to cure the NICTD Operations Adverse Condition(s) described in the NICTD Initial Notice, RDA Initial Notice and/or IFA Initial Notice, has failed to substantially complete and implement the Recovery Plan, or has failed to demonstrate its continued ability to maintain and operate the South Shore Line as statutorily required for its essential purpose as a commuter transportation rail line.

11.9.1 After consultation with RDA and FTA, in addition to other remedies available under the Amended Governance Agreement, IFA shall have the right to exercise the following Operations Step-In Rights effective immediately after sending to NICTD an Operations Step-In Notice: to assume or engage an operator acceptable to

FTA of IFA's choosing or to take over all facets of the operation and maintenance of the South Shore Line for the Operations Step-In Period by assignment or other means.

11.9.2 In the event IFA exercises its Operations Step-in Rights for operation and maintenance of the South Shore Line as provided herein, NICTD shall cooperate in all respects therewith, including but not limited to the NICTD Board of Trustees transferring or making available to the IFA, or any operator designated by IFA, all NICTD assets of the South Shore Line during the Operations Step-In Period.

11.9.3 If prior to the expiration of the Operations Cure Period or the Availability Cure Period, as applicable, NICTD has cured all of the NICTD Operations Adverse Conditions set forth in Section 11.5 above, or as applicable, has cured the Availability Breach, IFA shall not be entitled to exercise any Operations Step-In Rights.

ARTICLE XII.

RESTORATION

12.1 If at any point during the term of the Amended Governance Agreement, any part of the Rail Projects or the South Shore Line are destroyed or damaged by casualty or other cause of any kind or nature, to the extent that there is insurance coverage available, NICTD shall undertake the repair or restoration using available insurance proceeds and other sources of funds available to NICTD.

ARTICLE XIII.

TERMINATION

13.1 Except for the Draw Down Bonds, once the IFA Bonds or any other similar financing by IFA or RDA are issued with respect to the Rail Projects, or either Rail Project, pursuant to this Amended Governance Agreement, this Amended Governance Agreement shall remain in full force and effect for so long as any such IFA Bonds, similar financings or any refunding bonds remain outstanding. When all such IFA Bonds, similar financings, and any refunding bonds with respect to the Rail Projects are retired, this Amended Governance Agreement shall terminate, except in the event IFA has exercised Operational Step-In Rights, unless in such event: (a) the IFA agrees to terminate this Amended Governance Agreement; or (b) upon the written request of NICTD to the State Budget Director, the State Budget Director determines, in its sole discretion, that this Amended Governance Agreement may terminate.

13.2 [Intentionally omitted.]

13.3 In the event the FTA declares that either the Double Track Project or the West Lake Corridor Project is not eligible for FFGA Approval, the provisions of this Amended Governance Agreement shall no longer apply with respect to ongoing or future obligations with respect to that ineligible Rail Project, subject to applicable law.

ARTICLE XIV.

THIRD PARTY AGREEMENTS

14.1 NICTD shall be responsible for securing all necessary third party agreements for the Rail Projects.

14.2 By no later than September 1, 2018, NICTD shall provide RDA and IFA with a comprehensive list of all necessary third party agreements and a plan for securing the agreements, including the projected costs thereof, which list shall be subject to the review and approval of the RDA and IFA. Such consent decisions shall take into consideration, without limitation, the Decision Making Framework Factors and whether FTA consent or approval is needed. Once RDA and IFA approve such contract in writing, and provided the amount and timing of the cost of such contract is consistent with agreed upon projections that underlie the applicable Cost Budget and the applicable Financing Plan, NICTD shall be able to rely upon that commitment as binding in entering into its contractual obligations, subject to other terms herein. This RDA and IFA approval is separate and distinct from the Major Contracts review and approval process set out in Section 7.2.7.

14.3 All prospective agreements with third parties shall provide that:

14.3.1 without RDA or IFA assuming any liability or obligation thereunder, RDA and the IFA are intended third party beneficiaries thereof and are entitled to enforce their terms, consistent with third party beneficiary rights and on the same terms and conditions as NICTD.

14.3.2 the contract may be assigned to IFA and/or RDA or their respective designees in the event of the exercise of Construction Period Step-In Rights and/or Operations Step-In Rights per Article 11;

14.3.3 (for all contracts that are to be funded or financed by RDA or IFA) payments thereunder shall be subject to State appropriation and availability, and that to the extent a determination is made by RDA or IFA that funds are not appropriated or otherwise available to support continuation of performance, such contract shall be subject to being terminated for convenience by NICTD at no cost to NICTD, RDA and/or IFA except for costs of work performed or services provided prior to termination.

14.3.4 the third party is required to provide RDA and IFA with access to all documents related to the Rail Projects, and such third party shall provide copies of all documents to RDA at RDA's request, or the IFA, at the IFA's request, at the third party's cost and expense.

14.4 For all prospective agreements with utilities, municipalities and governmental agencies, NICTD shall seek agreement that any rights of NICTD shall extend to NICTD's assignees or successors in interest.

14.5 In the event that IFA and/or RDA exercise any of its Construction Period Step-In Rights or IFA exercises any of its Operations Step-In Rights under Article 11, NICTD shall enforce its rights in all third party agreements as requested by RDA and/or IFA, as applicable.

ARTICLE XV.

GENERAL MATTERS

15.1 Governing Law and Venue. This Amended Governance Agreement shall be governed by and construed in accordance with the laws of the State. Any suit must be brought in the State Court in Marion County, Indiana.

15.2 Confidentiality. The Parties and their respective consultants and contractors shall maintain the confidentiality of confidential data or information provided by the Parties and shall not disclose such information to third parties not similarly bound to a non-disclosure agreement, except as may be required by statute, ordinance, or order of court, or as authorized by the Party which provided the data or information. The Parties and their respective consultants and contractors shall provide notice to the other Parties of any request for such information.

15.3 Press Releases and Public Records Requests.

15.3.1 Neither NICTD nor RDA shall make press releases or written statements regarding the Rail Projects without the prior consent of the IFA, NICTD and RDA.

15.3.2 The Parties shall provide to each other copies of all public records requests received as to the Rail Projects promptly after receipt and shall develop a process for a coordinated and mutually agreed response.

15.4 Taxes. NICTD shall perform its obligations hereunder such that purchases and contracts are exempt from sales and use taxes to the maximum extent permitted by law.

15.5 Third Party Claims. NICTD shall bear the costs of all losses or liabilities arising from tort claims for personal injury or property damage asserted by third parties with respect to the Rail Projects that are not covered by insurance, the Indemnitors as provided in Section 7.2.6.1, or another third party, except in the event that IFA and/or RDA exercises Construction Period Step-In Rights and/or IFA exercises Operations Step-In Rights, under Article 11. In the event of such exercise, NICTD shall bear the costs of such claims that arise prior to the effective date of the step-in, and those that arise after the Rail Projects are transferred back to NICTD, if applicable. The party (IFA or RDA, as applicable) that exercises such step-in rights shall bear the costs of claims that arise during any such period while step-in rights are being exercised.

15.6 Indemnity. Except as provided in this Section 15.6, NICTD shall release, protect, defend, indemnify and hold harmless the RDA, IFA, the Bond Trustee, and the Deposit Trustee from and against any and all claims, causes of action, suits, judgments, demands, and/or losses, in each case if asserted or incurred by or awarded to any third party, arising out of or relating to or resulting from NICTD's design, construction or operation of the Rail Projects or the South

Shore Line. NICTD's indemnity obligation shall not extend to: (i) any third party claim to the extent directly caused by the negligence, recklessness, willful misconduct, or breach of any material obligation under the Amended Governance Agreement by IFA or RDA, or (ii) any claims, causes of action, suits, judgments, demands, and/or losses resulting from any action of the RDA or IFA during an Operations Step-In Period or resulting from any actions taken by the RDA or IFA after the exercise of any Construction Period Step-In Rights, provided however that nothing herein shall relieve NICTD of responsibility to pay up to the Maximum NICTD Excess Cost Contribution for Excess Construction Costs irrespective of the exercise of Construction Period Step-In Rights. The RDA and IFA shall have no obligation to indemnify NICTD.

15.7 Liability Among the Parties. Notwithstanding Section 10.6, none of the Parties shall be liable to any of the other Parties for claims and/or actions (whether alleging negligence, breach of contract, strict liability, warranty, breach of professional services, detrimental reliance, or otherwise) relating to: (i) design, construction, operation or maintenance of any portion of the Rail Projects; (ii) financing or funding of any portion of the Rail Projects; and/or (iii) any other obligations hereunder, and each Party expressly disclaims any and all express or implied representations or warranties with respect thereof, including any warranties of suitability or fitness for use. The limitation of liability provided herein shall not apply to the following:

15.7.1 damages to the extent covered and paid for by insurance;

15.7.2 NICTD's indemnity obligation under Section 15.6;

15.7.3 damages to the extent covered and paid for by an Indemnitor pursuant to an indemnity obligation described in Section 7.2.6.1; and

15.7.4 damages to the extent paid for by a responsible party (other than a Party to this Amended Governance Agreement) pursuant to applicable federal and state environmental laws.

15.8 Injunctive Relief. Notwithstanding Section 10.6, the Parties are entitled to seek injunctive relief for specific performance of any obligation set forth in this Amended Governance Agreement, provided: such injunctive relief or specific performance relief is timely sought so as to not result in prejudice to the other Parties; and the IFA and RDA are entitled to pursue any remedies needed to protect the payment of the IFA Bonds.

15.9 Fare Policy. NICTD is authorized to set fare policy. NICTD as operator will collect and deposit farebox and any other revenues, including taxes, into the system revenue account (or similar account), except in the event IFA exercises Operations Step-In Rights under Section 11.9.1, in which case IFA shall have the authority to set fare policy and right to collect farebox and any other revenues during such Operations Step-In Period.

15.10 Amendment and Assignment. This Amended Governance Agreement may be amended, supplemented, or modified only by a written document executed by the Parties. Except as otherwise provided herein or pursuant to applicable law, neither this Amended Governance Agreement nor any of the rights, duties, or obligations described herein may be assigned by any Party hereto without the prior express written consent of the other Parties, and

such consent shall not be unreasonably withheld so long as such assignment is consistent with the purposes of this Amended Governance Agreement.

15.11 Notice to Parties. Notices under the Amended Governance Agreement shall be in writing and (a) delivered personally; (b) sent by certified mail, return receipt requested; or (c) sent by recognized overnight mail or courier services, with delivery receipt requested, to the following addresses:

As to RDA: President and/or Chief Executive Officer
Northwest Indiana Regional Development Authority
9800 Connecticut Drive
Crown Point, IN 46307

With a copy to: Office of the Indiana Attorney General
302 W. Washington Street, 5th Floor
Indianapolis, IN 46204

As to NICTD: President and/or Chief Executive Officer
Northern Indiana Commuter Transportation District
33 E. US Highway 12
Chesterton, IN 46304

With a copy to: Office of General Counsel
Northern Indiana Commuter Transportation District
33 E. US Highway 12
Chesterton, IN 46304

As to IFA: Public Finance Director of the State of Indiana
Indiana Finance Authority
One North Capitol Avenue, Suite 900
Indianapolis, IN 46204

With a copy to: General Counsel
Indiana Finance Authority
One North Capitol Avenue, Suite 900
Indianapolis, IN 46204

15.12 Authority. Each of the undersigned attests that he/she is the properly authorized representative, agent, member or officer of the Party indicated.

15.13 Severability. If any provision of this Amended Governance Agreement shall be held invalid, illegal or unenforceable, the validity, legality or enforceability of the other provisions hereof shall not be affected thereby, and there shall be deemed substituted for the provision at issue a valid, legal and enforceable provision as similar as possible to the provision at issue. This provision shall not be interpreted to materially alter the relationships of the Parties as set forth in this Amended Governance Agreement or materially affect the ability of the Parties to achieve the purpose of this Agreement.

15.14 No Third Party Beneficiaries. This Amended Governance Agreement is solely for the benefit of the Parties hereto, and to the extent provided herein, their respective directors, officers, employees, agents and representatives; and no provision in this Amended Governance Agreement shall be deemed to confer upon other persons any remedy, claim, reimbursement, cause of action or other right.

15.15 Limitation on Recourse. No recourse shall be had for the payment or performance of any obligation or covenant in this Amended Governance Agreement, or for any claim against a Party to this Amended Governance Agreement, personally against any past, present or future director, member, officer, employee, agent or official of any of the Parties under any rule of law or equity, statute, or constitution or by the enforcement of any assessment or penalty or otherwise, and all such personal liability is hereby expressly waived.

15.16 Entire Understanding. This Amended Governance Agreement sets forth the entire fully integrated understanding and agreement of the Parties hereto as of the effective date hereof with respect to the transactions contemplated hereby and supersedes any and all prior agreements, arrangements, and understandings among the Parties relating to the subject matter hereof.

15.17 Counterparts. This Amended Governance Agreement may be signed in any number of counterparts, each of which is an original and all of which taken together form one single document. Signatures delivered by email in PDF format or facsimile shall be effective.

15.18 Non-Waiver of Rights. Except as provided in Section 15.7, the failure of a Party hereto at any time or times to require performance of any provision hereof shall in no manner affect its right at a later time to enforce the same. No waiver by a Party of any condition or any breach of any term, covenant, representation or warranty contained in this Amended Governance Agreement shall be effective unless in writing, and no waiver in any one or more instances shall be deemed to be a further or continuing waiver of any such condition or breach in other instances.

15.19 Successors and Assigns. This Amended Governance Agreement shall be binding upon and inure to the benefit of the Parties and each of their permitted successors, assigns and legal representatives.

15.20 Survival. The dispute resolution provisions in Article 10 and the provisions contained in this Amended Governance Agreement, which by their inherent character should survive Termination, shall survive Termination.

15.21 Further Assurances. In connection with the structure contemplated by this Amended Governance Agreement, each Party shall execute and deliver such additional documents and instruments and perform such additional acts that may be necessary or appropriate to deliver the Rail Projects in the manner described herein and/or to further the intent of this Amended Governance Agreement.

15.22 Subject to Appropriation. Except with respect to those funds that as a matter of law are not subject to appropriation by the General Assembly, the Parties acknowledge that the

funds for the Financing Plans under this Amended Governance Agreement are subject to biennial appropriation by the General Assembly and the availability of the amounts necessary to fund such appropriations. The obligation of IFA and RDA to fund does not constitute an indebtedness of the State or any political subdivision thereof within the meaning or application of any constitutional provision or limitation, nor does it constitute a pledge of the faith, credit or taxing power of the State or any political subdivision thereof within the meaning or application of any constitutional provision or limitation. IFA and RDA have no taxing power. No Party has the right to have taxes levied or compel appropriations by the General Assembly for any payment contemplated hereunder.

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IN WITNESS WHEREOF, the Parties, intending to be legally bound, have executed this Amended Governance Agreement as of the date first written above.

**NORTHWEST INDIANA REGIONAL
DEVELOPMENT AUTHORITY**

By: _____

Name: Bill Hanna

Title: President and Chief Executive Officer

**NORTHERN INDIANA COMMUTER
TRANSPORTATION DISTRICT**

By: _____

Name: Michael Noland

Title: President

INDIANA FINANCE AUTHORITY

By: _____

Name: _____

Title: Chair

**APPROVED AS TO FORM AND
SUBSTANCE:**

By: _____
_____, State Budget Director

APPROVED AS TO FORM AND LEGALITY:

By: _____
_____, Indiana Attorney General

EXHIBIT 1

Double Track Project

The Double Track Project includes implementing double-tracking and platform upgrades at five stations along a 26.6 mile-segment of the SSL between Gary and Michigan City, Indiana. Approximately 8.7 miles of double track already exists, and minimal construction would take place in this section. Within the remaining 16.4 mile segment, a new second main track would be constructed, mostly within existing railroad right-of-way (ROW) and next to the existing track. Additionally, in Michigan City, the street running tracks on 10th and 11th Streets would be removed and two new tracks would be constructed from Sheridan Avenue to Michigan Boulevard. Approximately 7.9 miles of active passing sidings exist along the route and would be used as the second main track to help reduce project scope and cost. Five platform upgrades would occur at the following stations:

- **Gary/Miller Station:** Construct two new high level platforms, two 8-car storage tracks for additional rush hour trains, a station house, and additional parking.
- **Portage/Ogden Dunes Station:** Construct two new high-level platforms and additional parking.
- **Dune Park Station:** Construct second boarding platform, re-align Calumet Trail under State Route (SR) 49 bridge, and construct additional parking.
- **Beverly Shores Station:** Construct two low level platforms.

Michigan City/11th Street Station: Remove street-running tracks along 10th and 11th Streets; construct two new tracks south of the 10th Street ROW from Sheridan Avenue to Chicago Street (where it crosses Amtrak), two new tracks along 11th Street, two high-level platforms, and a new station house at 11th Street Station; and convert 11th Street to one-way auto traffic.

EXHIBIT 2

West Lake Corridor Project

The West Lake Corridor Project is an approximately eight-mile southern extension of the existing NICTD South Shore Line (SSL) between Dyer and Hammond, Indiana. Traveling north from the southern terminus near Main Street at the Munster/Dyer municipal boundary, the West Lake Project would include new track operating at-grade on a separate right-of-way (to be acquired) adjacent to the CSX Transportation (CSX) Monon Subdivision freight line in Dyer and Munster. The West Lake Project alignment would be elevated from 45th Street to the Canadian National Railway (CN) Elsdon Subdivision freight line at the Maynard Junction. North of the CN, the West Lake Project alignment would return to grade and join with the publicly owned former Monon Railroad corridor in Munster and Hammond, Indiana, and continue north. The West Lake Project would relocate the existing Monon Trail pedestrian bridge crossing over the Little Calumet River and build a new rail bridge at the location of the former Monon Railroad Bridge. The West Lake Project alignment would cross under US 80/94 and continue north on the former Monon Railroad corridor until Sibley Street. From Douglas Street north, the West Lake Project would be elevated over all streets and railroads, using a combination of retaining walls, elevated structures, and bridges.

The West Lake Project would end just east of the Indiana Harbor Belt at the state line, where it would connect with the SSL. Trains would operate on the existing Metra Electric District (MED) line for the final 14 miles, terminating at Millennium Station in downtown Chicago. Station locations for the West Lake Project are Munster/Dyer Main Street, Munster Ridge Road, South Hammond, and Hammond Gateway. The four new stations along the alignment—two in Munster and two in Hammond—would have high-level station platforms proposed to be 720 feet long and approximately 10 feet wide. They would typically have three ramps: one at both ends and a third in the middle, depending on access needs based on the surrounding area. Each station stop would have warming shelters, a depot (except at the Munster Ridge Road Station), parking facilities, benches, trash receptacles, bicycle racks, and other site amenities.

Additional project elements include a maintenance facility with a layover yard just south of the Hammond Gateway Station and west of Sheffield Avenue, and three traction power substations (TPSSs) powering the overhead catenary system at the following locations: the vehicle maintenance and storage facility site, the South Hammond Station parking lot, and the Munster/Dyer Main Street Station. The TPSSs would be enclosed to secure installations housing electrical equipment and controls. The TPSSs would feed an overhead catenary system that powers the vehicles. The Monon Trail, an existing pedestrian/bicycle route, would be preserved as part of the West Lake Corridor Project.

EXHIBIT 3A

Double Track Project Cost Budget

The Parties agree that this Exhibit constitutes the Double Track Project Cost Budget. The obligations of IFA and RDA to fund and finance Project Costs are limited to the amounts set forth in this Cost Budget, which may be subsequently amended in writing by agreement of the Parties, and by the terms of the applicable Financing Plan and the Governance Agreement.

Base Cost and Allocated Contingency												
SCC Category		Total From Right	2017 Q1	2017 Q2	2017 Q3	2017 Q4	2018 Q1	2018 Q2	2018 Q3	2018 Q4		
10	GUIDEWAY & TRACK ELEMENTS (route miles)	\$72,240,549	Base Cost	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
		\$14,354,033	Allocated Contingency	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
20	STATIONS, STOPS, TERMINALS, INTERMODAL (number)	\$29,781,492	Base Cost	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
		\$4,467,224	Allocated Contingency	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
30	SUPPORT FACILITIES: YARDS, SHOPS, ADMIN. BLDGS	\$196,383	Base Cost	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
		\$29,457	Allocated Contingency	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
40	SITWORK & SPECIAL CONDITIONS	\$44,693,729	Base Cost	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
		\$10,513,565	Allocated Contingency	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
50	SYSTEMS	\$91,576,404	Base Cost	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
		\$13,854,179	Allocated Contingency	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
60	ROW, LAND, EXISTING IMPROVEMENTS	\$36,791,635	Base Cost	\$0	\$0	\$1,616	\$248,743	\$2,836	\$20,193	\$0	\$0	\$0
		\$4,270,861	Allocated Contingency	\$0	\$0	\$163	\$25,023	\$285	\$2,031	\$0	\$0	\$0
80	PROFESSIONAL SERVICES (applies to Cats. 10-50)	\$57,284,012	Base Cost	\$1,511,360	\$1,511,360	\$1,511,360	\$1,517,581	\$171,142	\$171,142	\$171,142	\$118,514	\$660
		\$7,296,912	Allocated Contingency	\$8,421	\$8,421	\$8,421	\$8,456	\$954	\$954	\$954	\$660	\$660
Grand Total		\$332,564,204	Base Cost	\$1,511,360	\$1,511,360	\$1,512,977	\$1,766,324	\$173,977	\$191,334	\$171,142	\$118,514	\$660
		\$54,786,232	Allocated Contingency	\$8,421	\$8,421	\$8,584	\$33,479	\$1,239	\$2,985	\$954	\$660	\$660
FTA Ineligible Costs ⁽¹⁾		\$838,769	Base Cost	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$31,549	\$0
		\$41,938	Allocated Contingency	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$1,577	\$0
Cumulative Grand Total Minus FTA Ineligible Costs			Base Cost	\$1,511,360	\$3,022,721	\$4,535,698	\$6,302,022	\$6,475,999	\$6,667,333	\$6,838,475	\$6,925,440	\$660
			Allocated Contingency	\$8,421	\$16,843	\$25,427	\$58,906	\$60,145	\$63,130	\$64,084	\$63,167	\$660
Cumulative Grand Total			Base Cost	\$1,511,360	\$3,022,721	\$4,535,698	\$6,302,022	\$6,475,999	\$6,667,333	\$6,838,475	\$6,956,989	\$660
			Allocated Contingency	\$8,421	\$16,843	\$25,427	\$58,906	\$60,145	\$63,130	\$64,084	\$64,744	\$660

Unallocated Contingency												
SCC Category		Total From Right	2017 Q1	2017 Q2	2017 Q3	2017 Q4	2018 Q1	2018 Q2	2018 Q3	2018 Q4		
10	GUIDEWAY & TRACK ELEMENTS (route miles)	\$7,224,055	Unallocated Contingency	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
20	STATIONS, STOPS, TERMINALS, INTERMODAL (number)	\$2,978,149	Unallocated Contingency	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
30	SUPPORT FACILITIES: YARDS, SHOPS, ADMIN. BLDGS	\$19,638	Unallocated Contingency	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
40	SITWORK & SPECIAL CONDITIONS	\$3,830,178	Unallocated Contingency	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
50	SYSTEMS	\$9,157,640	Unallocated Contingency	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
60	ROW, LAND, EXISTING IMPROVEMENTS	\$2,847,241	Unallocated Contingency	\$0	\$0	\$108	\$16,682	\$190	\$1,354	\$0	\$0	\$0
80	PROFESSIONAL SERVICES (applies to Cats. 10-50)	\$2,575,260	Unallocated Contingency	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Grand Total		\$28,632,161	Unallocated Contingency	\$0	\$0	\$108	\$16,682	\$190	\$1,354	\$0	\$0	\$0
Cumulative Total			Unallocated Contingency	\$0	\$0	\$108	\$16,790	\$16,981	\$18,335	\$18,335	\$18,335	\$18,335
Cumulative Project Contingency Total			All Contingency	\$8,421	\$16,843	\$25,535	\$75,697	\$77,126	\$81,465	\$82,419	\$83,079	\$83,079
Remaining Project Contingency			All Contingency	\$83,409,972	\$83,401,550	\$83,392,858	\$83,342,696	\$83,341,267	\$83,336,928	\$83,335,974	\$83,335,314	\$83,335,314
Project Grand Total (Excl. IFA/RDA Advisor Costs, Finance Costs)		\$415,982,597		\$1,519,782	\$1,519,782	\$1,521,669	\$1,816,486	\$175,406	\$195,673	\$172,095	\$119,174	\$119,174
Cumulative Project Grand Total				\$1,519,782	\$3,039,564	\$4,561,233	\$6,377,719	\$6,553,125	\$6,748,798	\$6,920,894	\$7,040,067	\$7,040,067

⁽¹⁾ Project Development as described by FTA expired on 11/13/2018 and Entry to Engineering is expected to be approved on 11/15/2019. Project costs that occur between these two milestone dates are considered ineligible for FTA reimbursement. As these dates fall midway through Q4 2018 and Q4 2019 respectively, the cash flow exhibit reflects a partial allocation of ineligible costs during these quarters. This cost allocation methodology spreads contingency within each cost category, since contingency is not something that is typically "cash flowed" which results in an inconsistency in the allocation between "base" and "allocated contingency". As a result, all costs expected to be expended during Q1, Q2 and Q3 2019 are considered ineligible for FTA reimbursement, while Q4 2018 and Q4 2019 forecasts a partial allocation of those total costs as FTA ineligible costs.

Base Cost and Allocated Contingency		2019 Q1	2019 Q2	2019 Q3	2019 Q4	2020 Q1	2020 Q2	2020 Q3	2020 Q4	2021 Q1	2021 Q2	2021 Q3	2021 Q4
10	GUIDEWAY & TRACK ELEMENTS (route miles)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$394,332	\$5,515,680	\$11,976,498
20	STATIONS, STOPS, TERMINALS, INTERMODAL (number)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$78,866	\$1,680,358	\$2,610,047
30	SUPPORT FACILITIES: YARDS, SHOPS, ADMIN. BLDGS	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$1,489,075	\$2,978,149	\$2,978,149
40	SITWORK & SPECIAL CONDITIONS	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$223,361	\$446,722	\$446,722
50	SYSTEMS	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$9,819	\$19,638	\$19,638
60	ROW, LAND, EXISTING IMPROVEMENTS	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$1,473	\$2,946	\$2,946
80	PROFESSIONAL SERVICES (applies to Cats. 10-50)	\$86,115	\$86,115	\$611,134	\$2,200,844	\$3,912,657	\$3,912,657	\$3,912,657	\$3,912,657	\$3,912,657	\$2,095,973	\$3,694,248	\$3,694,248
Grand Total		\$480	\$480	\$11,731	\$301,178	\$554,518	\$554,518	\$554,518	\$554,518	\$554,518	\$299,594	\$539,335	\$539,335
FTA Ineligible Costs		\$82,471	\$82,471	\$530,071	\$112,206	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Cumulative Grand Total Minus FTA Ineligible Costs		\$4,124	\$4,124	\$26,504	\$5,610	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Cumulative Grand Total		\$6,929,083	\$6,932,727	\$7,013,791	\$10,629,711	\$19,066,649	\$28,012,525	\$37,165,376	\$45,767,469	\$54,562,205	\$77,657,277	\$107,090,419	\$144,364,743
		\$59,523	\$55,879	\$41,106	\$519,644	\$2,276,174	\$3,554,655	\$4,850,607	\$6,063,451	\$7,299,373	\$10,589,874	\$16,409,778	\$23,243,431
		\$7,043,104	\$7,129,219	\$7,740,353	\$11,468,479	\$19,905,417	\$28,851,294	\$38,004,145	\$46,606,238	\$55,400,973	\$78,496,045	\$107,929,187	\$145,203,511
		\$65,224	\$65,704	\$77,434	\$561,583	\$2,318,113	\$3,596,593	\$4,892,546	\$6,105,389	\$7,341,311	\$10,631,813	\$16,451,716	\$23,285,370

Unallocated Contingency		2019 Q1	2019 Q2	2019 Q3	2019 Q4	2020 Q1	2020 Q2	2020 Q3	2020 Q4	2021 Q1	2021 Q2	2021 Q3	2021 Q4
10	GUIDEWAY & TRACK ELEMENTS (route miles)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$39,433	\$551,568	\$1,197,650
20	STATIONS, STOPS, TERMINALS, INTERMODAL (number)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$148,907	\$297,815	\$297,815
30	SUPPORT FACILITIES: YARDS, SHOPS, ADMIN. BLDGS	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$982	\$1,964	\$1,964
40	SITWORK & SPECIAL CONDITIONS	\$0	\$0	\$0	\$0	\$82,144	\$74,184	\$101,725	\$84,937	\$84,937	\$618,125	\$918,913	\$465,400
50	SYSTEMS	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$212,224	\$1,354,687
60	ROW, LAND, EXISTING IMPROVEMENTS	\$0	\$0	\$0	\$121,980	\$295,736	\$342,741	\$337,276	\$306,696	\$322,082	\$780,977	\$321,418	\$0
80	PROFESSIONAL SERVICES (applies to Cats. 10-50)	\$0	\$0	\$2,882	\$106,959	\$198,408	\$198,408	\$198,408	\$198,408	\$198,408	\$110,349	\$190,263	\$190,263
Grand Total		\$0	\$0	\$2,882	\$228,939	\$576,288	\$615,333	\$637,408	\$590,041	\$605,427	\$1,698,774	\$2,494,164	\$3,507,779
Cumulative Total		\$18,335	\$18,335	\$21,217	\$250,156	\$826,444	\$1,441,778	\$2,079,186	\$2,669,227	\$3,274,654	\$4,973,427	\$7,467,591	\$10,975,370
Cumulative Project Contingency Total		\$83,559	\$84,039	\$98,652	\$811,739	\$3,144,557	\$5,038,371	\$6,971,732	\$8,774,616	\$10,615,965	\$15,605,240	\$23,919,308	\$34,260,739
Remaining Project Contingency		\$83,334,834	\$83,334,354	\$83,319,742	\$82,606,654	\$80,273,836	\$78,380,022	\$76,446,661	\$74,643,777	\$72,802,428	\$67,813,153	\$59,499,085	\$49,157,654
Project Grand Total (Excl. IFA/RDA Advisor Costs, Finance Costs)		\$86,595	\$86,595	\$625,747	\$4,441,213	\$10,769,756	\$10,839,690	\$11,086,212	\$10,404,977	\$10,636,085	\$28,084,347	\$37,747,210	\$47,615,756
Cumulative Project Grand Total		\$7,126,662	\$7,213,257	\$7,839,005	\$12,280,218	\$23,049,974	\$33,889,665	\$44,975,877	\$55,380,854	\$66,016,938	\$94,101,285	\$131,848,495	\$179,464,251

In addition to the Double Track Project construction costs set forth above, the RDA/IFA Project Costs for the Double Track Project are \$20,000,000.00 and shall be paid as Project Costs from the proceeds of the IFA Bonds and/or FFGA funds (for the latter, to the extent permissible).

In addition to the RDA/IFA Project Costs, IFA has projected interest on the IFA Bonds for the Double Track Project during the term of the federal grant in the amount of \$42,500,000, which IFA expects will be paid from sources other than the proceeds of the IFA Bonds.

The Parties agree that the RDA/IFA Project Costs and the allowable interest will be included in the FTA Financial Plan for the Double Track Project to the extent permitted by the FTA CIG Program.

EXHIBIT 3B

West Lake Corridor Project Cost Budget

The Parties agree that this Exhibit constitutes the West Lake Corridor Project Cost Budget. The obligations of IFA and RDA to fund and finance Project Costs are limited to the amounts set forth in this Cost Budget, which may be subsequently amended in writing by agreement of the Parties, and by the terms of the applicable Financing Plan and the Governance Agreement.

Base Cost and Allocated Contingency														
SCC Category		Total From Right	2016 Q4	2017 Q1	2017 Q2	2017 Q3	2017 Q4	2018 Q1	2018 Q2	2018 Q3	2018 Q4			
10	GUIDEWAY & TRACK ELEMENTS (route miles) Total	\$164,471,707	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
		\$41,117,927	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
20	STATIONS, STOPS, TERMINALS, INTERMODAL (number) Total	\$18,492,257	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
		\$4,623,064	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
30	SUPPORT FACILITIES: YARDS, SHOPS, ADMIN. BLDGS Total	\$45,056,809	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
		\$11,396,516	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
40	SITework & SPECIAL CONDITIONS Total	\$125,232,777	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
		\$33,974,113	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
50	SYSTEMS Total	\$52,764,125	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
		\$13,191,031	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
60	ROW, LAND, EXISTING IMPROVEMENTS Total	\$57,607,662	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
		\$11,777,919	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
70	VEHICLES (number) Total	\$30,540,535	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$166,195	\$0
		\$6,108,107	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$33,239	\$0
80	PROFESSIONAL SERVICES (applies to Cats. 10-50) Total	\$126,119,929	\$3,602,261	\$3,692,497	\$3,465,079	\$3,465,079	\$3,465,079	\$3,457,055	\$106,115	\$106,115	\$106,115	\$106,115	\$106,115	\$106,115
		\$25,262,314	\$23,094	\$23,673	\$22,215	\$22,215	\$22,215	\$22,163	\$680	\$680	\$680	\$680	\$680	\$680
Grand Total		\$620,285,801	\$3,602,261	\$3,692,497	\$3,465,079	\$3,465,079	\$3,465,079	\$3,457,055	\$106,115	\$106,115	\$106,115	\$106,115	\$272,310	\$272,310
		\$147,450,992	\$23,094	\$23,673	\$22,215	\$22,215	\$22,215	\$22,163	\$680	\$680	\$680	\$680	\$33,919	\$33,919
Cumulative Grand Total			\$3,602,261	\$7,294,758	\$10,759,837	\$14,224,916	\$17,689,995	\$21,147,050	\$21,253,165	\$21,359,279	\$21,631,589	\$21,631,589	\$170,856	\$170,856
			\$23,094	\$46,767	\$68,982	\$91,197	\$113,412	\$135,576	\$136,256	\$136,936	\$136,936	\$136,936	\$170,856	\$170,856

Unallocated Contingency														
SCC Category		Total From Right	2016 Q4	2017 Q1	2017 Q2	2017 Q3	2017 Q4	2018 Q1	2018 Q2	2018 Q3	2018 Q4			
10	GUIDEWAY & TRACK ELEMENTS (route miles)	\$16,447,171	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
20	STATIONS, STOPS, TERMINALS, INTERMODAL (number)	\$1,849,226	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
30	SUPPORT FACILITIES: YARDS, SHOPS, ADMIN. BLDGS	\$4,505,681	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
40	SITework & SPECIAL CONDITIONS	\$12,523,278	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
50	SYSTEMS	\$5,276,413	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
60	ROW, LAND, EXISTING IMPROVEMENTS	\$4,907,466	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
70	VEHICLES (number)	\$3,054,053	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$16,619	\$0
80	PROFESSIONAL SERVICES (applies to Cats. 10-50)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Grand Total		\$48,563,287	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$16,619	\$16,619
Cumulative Total			\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$16,619	\$16,619

Cumulative Project Contingency Total		All Contingency	\$23,094	\$46,767	\$68,982	\$91,197	\$113,412	\$135,576	\$136,256	\$136,936	\$136,936	\$187,475	\$187,475
Remaining Project Contingency		All Contingency	\$195,991,185	\$195,967,512	\$195,945,297	\$195,923,082	\$195,900,867	\$195,878,703	\$195,878,023	\$195,877,343	\$195,877,343	\$195,826,804	\$195,826,804
Project Grand Total (Excl. IFA/RDA Advisor Costs, Finance Costs)			\$816,300,080	\$3,625,355	\$3,716,170	\$3,487,294	\$3,487,294	\$3,487,294	\$3,479,219	\$106,795	\$106,795	\$322,848	\$322,848
Cumulative Project Grand Total				\$3,625,355	\$7,341,525	\$10,828,819	\$14,316,113	\$17,803,407	\$21,282,625	\$21,389,421	\$21,496,216	\$21,819,064	\$21,819,064

Base Cost and Allocated Contingency		2019 Q1	2019 Q2	2019 Q3	2019 Q4	2020 Q1	2020 Q2	2020 Q3	2020 Q4	2021 Q1	2021 Q2	2021 Q3	2021 Q4
10	GUIDEWAY & TRACK ELEMENTS (route miles) Total	\$0	\$0	\$0	\$0	\$0	\$0	\$171,297	\$22,495,101	\$26,846,411	\$16,789,764	\$16,789,764	\$22,152,508
		\$0	\$0	\$0	\$0	\$0	\$0	\$42,824	\$5,623,775	\$6,711,603	\$4,197,441	\$4,197,441	\$5,538,127
20	STATIONS, STOPS, TERMINALS, INTERMODAL (number) Total	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$1,849,226	\$3,698,451	\$3,698,451	\$1,849,226
		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$462,306	\$924,613	\$924,613	\$462,306
30	SUPPORT FACILITIES: YARDS, SHOPS, ADMIN. BLDGS Total	\$0	\$0	\$0	\$0	\$72,834	\$72,834	\$177,099	\$861,111	\$748,595	\$8,630,296	\$8,661,699	\$6,469,195
		\$0	\$0	\$0	\$0	\$19,352	\$19,352	\$47,055	\$228,798	\$198,902	\$2,178,054	\$2,186,397	\$1,632,603
40	SITWORK & SPECIAL CONDITIONS Total	\$0	\$0	\$0	\$624,789	\$1,948,605	\$5,170,977	\$13,654,956	\$14,121,632	\$9,912,689	\$17,702,099	\$17,990,135	\$6,598,332
		\$0	\$0	\$0	\$156,197	\$549,714	\$1,506,193	\$3,810,526	\$3,874,726	\$2,643,823	\$4,638,657	\$4,710,908	\$1,785,703
50	SYSTEMS Total	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$3,377,226	\$5,276,413	\$7,175,599	\$7,175,599	\$7,704,046
		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$844,307	\$1,319,103	\$1,793,900	\$1,793,900	\$1,926,011
60	ROW, LAND, EXISTING IMPROVEMENTS Total	\$419,177	\$1,349,573	\$5,850,934	\$6,991,778	\$11,425,902	\$12,301,319	\$16,549,563	\$2,719,416	\$0	\$0	\$0	\$0
		\$80,346	\$278,194	\$1,206,082	\$1,441,250	\$2,355,278	\$2,535,732	\$3,320,470	\$560,567	\$0	\$0	\$0	\$0
70	VEHICLES (number) Total	\$309,349	\$571,857	\$2,530,711	\$571,857	\$982,297	\$982,297	\$3,556,337	\$3,886,900	\$3,886,900	\$3,283,986	\$2,941,151	\$982,297
		\$61,870	\$114,371	\$506,142	\$114,371	\$196,459	\$196,459	\$711,267	\$777,380	\$777,380	\$656,797	\$588,230	\$196,459
80	PROFESSIONAL SERVICES (applies to Cats. 10-50) Total	\$731,362	\$901,205	\$1,931,585	\$2,192,060	\$2,318,510	\$9,775,406	\$10,991,324	\$10,991,324	\$10,986,726	\$8,058,291	\$4,504,716	\$4,348,431
		\$66,894	\$150,913	\$500,353	\$565,472	\$597,084	\$2,502,235	\$2,844,202	\$2,844,202	\$2,843,052	\$1,994,513	\$989,689	\$950,618
Grand Total		\$1,459,888	\$2,822,636	\$10,313,230	\$10,380,483	\$16,748,148	\$28,302,833	\$45,100,576	\$58,452,711	\$59,506,959	\$65,338,486	\$61,761,515	\$50,104,034
Cumulative Grand Total		\$209,109	\$543,479	\$2,212,577	\$2,277,290	\$3,717,887	\$6,759,972	\$10,776,345	\$14,753,755	\$14,956,169	\$16,383,975	\$15,391,179	\$12,491,828
		\$23,091,477	\$25,914,112	\$36,227,342	\$46,607,826	\$63,355,974	\$91,658,806	\$136,759,383	\$195,212,094	\$254,719,052	\$320,057,538	\$381,819,053	\$431,923,087
		\$379,965	\$923,443	\$3,136,021	\$5,413,311	\$9,131,198	\$15,891,170	\$26,667,515	\$41,421,269	\$56,377,439	\$72,761,414	\$88,152,593	\$100,644,421

Unallocated Contingency		2019 Q1	2019 Q2	2019 Q3	2019 Q4	2020 Q1	2020 Q2	2020 Q3	2020 Q4	2021 Q1	2021 Q2	2021 Q3	2021 Q4
10	GUIDEWAY & TRACK ELEMENTS (route miles)	\$0	\$0	\$0	\$0	\$0	\$0	\$17,130	\$2,249,510	\$2,684,641	\$1,678,976	\$1,678,976	\$2,215,251
20	STATIONS, STOPS, TERMINALS, INTERMODAL (number)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$184,923	\$369,845	\$369,845	\$184,923
30	SUPPORT FACILITIES: YARDS, SHOPS, ADMIN. BLDGS	\$0	\$0	\$0	\$0	\$7,283	\$7,283	\$17,710	\$86,111	\$74,859	\$863,030	\$866,170	\$646,919
40	SITWORK & SPECIAL CONDITIONS	\$0	\$0	\$0	\$62,479	\$194,861	\$517,098	\$1,365,496	\$1,412,163	\$991,269	\$1,770,210	\$1,799,013	\$659,833
50	SYSTEMS	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$337,723	\$527,641	\$717,560	\$717,560	\$770,405
60	ROW, LAND, EXISTING IMPROVEMENTS	\$33,477	\$115,914	\$502,534	\$600,521	\$981,366	\$1,056,555	\$1,383,529	\$233,569	\$0	\$0	\$0	\$0
70	VEHICLES (number)	\$30,935	\$57,186	\$253,071	\$57,186	\$98,230	\$98,230	\$355,634	\$388,690	\$388,690	\$328,399	\$294,115	\$98,230
80	PROFESSIONAL SERVICES (applies to Cats. 10-50)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Grand Total		\$64,412	\$173,100	\$755,605	\$720,185	\$1,281,739	\$1,679,166	\$3,139,498	\$4,707,767	\$4,852,023	\$5,728,020	\$5,725,680	\$4,575,560
Cumulative Total		\$81,032	\$254,132	\$1,009,737	\$1,729,923	\$3,011,662	\$4,690,828	\$7,830,326	\$12,538,092	\$17,390,116	\$23,118,135	\$28,843,815	\$33,419,375
Cumulative Project Contingency Total		\$460,997	\$1,177,575	\$4,145,758	\$7,143,234	\$12,142,860	\$20,581,998	\$34,497,841	\$53,959,362	\$73,767,555	\$95,879,549	\$116,996,408	\$134,063,796
Remaining Project Contingency		\$195,553,282	\$194,836,704	\$191,868,521	\$188,871,045	\$183,871,419	\$175,432,281	\$161,516,438	\$142,054,917	\$122,246,724	\$100,134,730	\$79,017,871	\$61,950,483
Project Grand Total (Excl. IFA/RDA Advisor Costs, Finance Costs)		\$1,733,409	\$3,539,214	\$13,281,413	\$13,377,959	\$21,747,775	\$36,741,970	\$59,016,419	\$77,914,232	\$79,315,151	\$87,450,481	\$82,878,373	\$67,171,423
Cumulative Project Grand Total		\$23,552,473	\$27,091,687	\$40,373,100	\$53,751,059	\$75,498,834	\$112,240,805	\$171,257,224	\$249,171,456	\$328,486,607	\$415,937,088	\$498,815,461	\$565,986,883

Base Cost and Allocated Contingency		2022 Q1	2022 Q2	2022 Q3	2022 Q4	2023 Q1	2023 Q2	2023 Q3	2023 Q4	2024 Q1	2024 Q2	2024 Q3	2024 Q4	2025 Q1	2025 Q2
SCC Category															
10	GUIDEWAY & TRACK ELEMENTS (route miles) Total	\$21,981,211	\$13,928,922	\$13,928,922	\$2,346,952	\$2,346,952	\$2,346,952	\$2,346,952	\$0	\$0	\$0	\$0	\$0	\$0	\$0
		\$5,495,303	\$3,482,231	\$3,482,231	\$586,738	\$586,738	\$586,738	\$586,738	\$0	\$0	\$0	\$0	\$0	\$0	\$0
20	STATIONS, STOPS, TERMINALS, INTERMODAL (number) Total	\$1,849,226	\$1,849,226	\$924,613	\$924,613	\$924,613	\$924,613	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
		\$462,306	\$462,306	\$231,153	\$231,153	\$231,153	\$231,153	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
30	SUPPORT FACILITIES: YARDS, SHOPS, ADMIN. BLDGS Total	\$6,468,527	\$6,283,035	\$6,283,035	\$205,748	\$122,803	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
		\$1,632,426	\$1,583,140	\$1,583,140	\$54,667	\$32,629	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
40	SITWORK & SPECIAL CONDITIONS Total	\$6,598,332	\$9,237,470	\$9,237,470	\$3,859,597	\$2,738,173	\$2,738,173	\$3,099,350	\$0	\$0	\$0	\$0	\$0	\$0	\$0
		\$1,785,703	\$2,489,994	\$2,489,994	\$1,080,741	\$782,666	\$782,666	\$885,903	\$0	\$0	\$0	\$0	\$0	\$0	\$0
50	SYSTEMS Total	\$7,704,046	\$5,486,986	\$5,486,986	\$1,688,613	\$1,688,613	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
		\$1,926,011	\$1,371,746	\$1,371,746	\$422,153	\$422,153	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
60	ROW, LAND, EXISTING IMPROVEMENTS Total	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
70	VEHICLES (number) Total	\$982,297	\$982,297	\$1,340,472	\$982,297	\$400,259	\$400,259	\$400,259	\$400,259	\$0	\$0	\$0	\$0	\$0	\$0
		\$196,459	\$196,459	\$268,094	\$196,459	\$80,052	\$80,052	\$80,052	\$80,052	\$0	\$0	\$0	\$0	\$0	\$0
80	PROFESSIONAL SERVICES (applies to Cats. 10-50) Total	\$4,268,239	\$4,268,239	\$4,268,239	\$4,268,239	\$4,246,913	\$5,217,816	\$5,217,816	\$2,223,276	\$1,036,734	\$1,036,734	\$871,350	\$0	\$0	\$0
		\$930,570	\$930,570	\$930,570	\$930,570	\$925,238	\$1,167,964	\$1,167,964	\$555,819	\$259,183	\$259,183	\$217,838	\$0	\$0	\$0
Grand Total		\$49,851,878	\$42,036,174	\$41,469,736	\$14,276,059	\$12,468,325	\$11,627,812	\$11,064,376	\$2,623,535	\$1,036,734	\$1,036,734	\$871,350	\$0	\$0	\$0
Cumulative Grand Total		\$481,774,965	\$523,811,139	\$565,280,876	\$579,556,934	\$592,025,259	\$603,653,071	\$614,717,448	\$617,340,983	\$618,377,717	\$619,414,451	\$620,285,801	\$620,285,801	\$620,285,801	\$620,285,801
		\$113,073,199	\$123,589,647	\$133,946,575	\$137,449,058	\$140,509,687	\$143,358,260	\$146,078,916	\$146,714,787	\$146,973,971	\$147,233,154	\$147,450,992	\$147,450,992	\$147,450,992	\$147,450,992

Unallocated Contingency		2022 Q1	2022 Q2	2022 Q3	2022 Q4	2023 Q1	2023 Q2	2023 Q3	2023 Q4	2024 Q1	2024 Q2	2024 Q3	2024 Q4	2025 Q1	2025 Q2
SCC Category															
10	GUIDEWAY & TRACK ELEMENTS (route miles)	\$2,198,121	\$1,392,892	\$1,392,892	\$234,695	\$234,695	\$234,695	\$234,695	\$0	\$0	\$0	\$0	\$0	\$0	\$0
20	STATIONS, STOPS, TERMINALS, INTERMODAL (number)	\$184,923	\$184,923	\$92,461	\$92,461	\$92,461	\$92,461	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
30	SUPPORT FACILITIES: YARDS, SHOPS, ADMIN. BLDGS	\$646,853	\$628,303	\$628,303	\$20,575	\$12,280	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
40	SITWORK & SPECIAL CONDITIONS	\$659,833	\$923,747	\$923,747	\$385,960	\$273,817	\$273,817	\$309,935	\$0	\$0	\$0	\$0	\$0	\$0	\$0
50	SYSTEMS	\$770,405	\$548,699	\$548,699	\$168,861	\$168,861	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
60	ROW, LAND, EXISTING IMPROVEMENTS	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
70	VEHICLES (number)	\$98,230	\$98,230	\$134,047	\$98,230	\$40,026	\$40,026	\$40,026	\$40,026	\$0	\$0	\$0	\$0	\$0	\$0
80	PROFESSIONAL SERVICES (applies to Cats. 10-50)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Grand Total		\$4,558,364	\$3,776,794	\$3,720,150	\$1,000,782	\$822,141	\$641,000	\$584,656	\$40,026	\$0	\$0	\$0	\$0	\$0	\$0
Cumulative Total		\$37,977,739	\$41,754,533	\$45,474,682	\$46,475,464	\$47,297,606	\$47,938,605	\$48,523,261	\$48,563,287	\$48,563,287	\$48,563,287	\$48,563,287	\$48,563,287	\$48,563,287	\$48,563,287
Cumulative Project Contingency Total		\$151,050,939	\$165,344,179	\$179,421,258	\$183,924,522	\$187,807,292	\$191,296,865	\$194,602,178	\$195,278,075	\$195,537,258	\$195,796,441	\$196,014,279	\$196,014,279	\$196,014,279	\$196,014,279
Remaining Project Contingency		\$44,963,340	\$30,670,100	\$16,593,021	\$12,089,757	\$8,206,987	\$4,717,414	\$1,412,101	\$736,204	\$477,021	\$217,838	\$0	\$0	\$0	\$0
Project Grand Total (Excl. IFA/RDA Advisor Costs, Finance Costs)		\$66,839,020	\$56,329,415	\$55,546,815	\$18,779,323	\$16,351,095	\$15,117,385	\$14,369,689	\$3,299,432	\$1,295,917	\$1,295,917	\$1,089,188	\$0	\$0	\$0
Cumulative Project Grand Total		\$632,825,904	\$689,155,319	\$744,702,134	\$763,481,456	\$779,832,552	\$794,949,936	\$809,319,626	\$812,619,058	\$813,914,975	\$815,210,893	\$816,300,080	\$816,300,080	\$816,300,080	\$816,300,080

In addition to the West Lake Corridor Project construction costs set forth above, the RDA/IFA Project Costs for the West Lake Corridor Project are \$20,000,000.00 and shall be paid as Project Costs from the proceeds of the IFA Bonds and/or FFGA funds (for the latter, to the extent permissible).

In addition to the RDA/IFA Project Costs, IFA has projected interest on the IFA Bonds for the West Lake Corridor Project during the term of the federal grant in the amount of \$116,600,000, which IFA expects will be paid from sources other than the proceeds of the IFA Bonds.

The Parties agree that the RDA/IFA Project Costs and the allowable interest will be included in the FTA Financial Plan for the West Lake Corridor Project to the extent permitted by the FTA CIG Program.

EXHIBIT 4A

Double Track Project Schedule

<u>Major Milestones</u>	<u>Start Date</u>	<u>End Date</u>
Project Development Phase (1 st Major CIG Requirement)	05/13/16	11/13/18
Entry into Engineering (2 nd Major CIG Requirement)	06/28/19	11/14/19
Interim Project Rating	-----	11/15/19
Project Rating (Overall Medium Rating or Higher)	-----	02/11/20
FFGA Negotiation and Execution (3 rd Major CIG Requirement)	12/21/20	06/01/21
Real Estate Acquisition	11/18/19	07/01/21
Third Party Agreements Negotiation and Execution	11/01/18	11/01/19
Construction Contract Bid Process	02/23/21	06/30/21
Construction Contract Award	07/01/21	07/30/21
Construction Contract Notice to Proceed	-----	08/20/21
Construction Substantial Completion	-----	08/31/23
Utility Relocation Process	08/23/21	10/25/22
Production of Rolling Stock	01/07/21	12/15/23
Commissioning and Testing	05/23/22	03/04/24
Revenue Service Operations	03/05/24	-----
Project Close-out	03/05/24	08/29/24

EXHIBIT 4B

West Lake Corridor Project Schedule

<u>Major Milestones</u>	<u>Start Date</u>	<u>End Date</u>
Project Development Phase (1 st Major CIG Requirement)	09/28/16	03/28/19
Entry into Engineering (2 nd Major CIG Requirement)	09/04/18	08/01/19
Project Rating (Medium High)	-----	03/15/19
FFGA Negotiation and Execution (3 rd Major CIG Requirement)	02/19/20	07/02/20
Real Estate Acquisition	01/09/19	12/31/20
Third Party Agreements Negotiation and Execution	12/18/17	02/28/20
D/B RFQ and Shortlist	03/22/19	06/24/19
D/B RFP Issuance	-----	07/02/19
D/B Contract Award	-----	02/20/20
D/B Contract Notice to Proceed	-----	08/05/20
D/B Substantial Completion	11/21/23	08/05/24
Utility Relocation Process	04/03/20	12/17/21
Rehabilitation of Rolling Stock	12/31/18	02/20/24
Completion of Eight Cars of Rolling Stock for Testing	-----	01/21/20
Commissioning and Testing	11/21/23	08/05/24
Revenue Service Operations	02/04/25	-----
Project Close-out	02/05/25	07/22/25

EXHIBIT 5A

Double Track Financing Plan

The Financing Plan (this "Financing Plan") for the Double Track Project (the "DT") is set forth herein. A similar financing plan for the West Lake Corridor Project ((the "WLC") and collectively, with DT, the "Rail Projects") is set forth within Exhibit 5B. Subject to IC 5-1.3, the RDA is the exclusive fiscal officer for the Rail Projects and has final approval for financing a Rail Project pursuant to IC 36-7.5-4-18. IC 5-1.3 and related amendments (the "Bond Act") have been enacted to provide specific statutory authority for IFA, RDA and NICTD to complete the Financing Plan and for dedication of the obligations of the State and the RDA with respect thereto, which may be used to finance the DT, depending upon the sequencing of the review and approval of the Federal Transit Administration ("FTA"). RDA and the IFA have no obligation to fund or finance the Rail Projects other than as specifically set forth herein.

IFA, RDA, NICTD, and a trustee bank serving as trustee under the bonds issued by IFA as described below, will execute with a trustee bank (the "Deposit Trustee") a Revenue Trust Fund Agreement (the "Trust Fund Agreement") pursuant to which all such entities will agree to deposit proceeds, funds and revenues received by them for the Rail Projects into the respective funds, accounts, and subaccounts held by the Deposit Trustee under the Trust Fund Agreement ("Revenue Trust Fund"), including FTA grant proceeds received in reimbursement for Rail Project expenditures. The revenues received by the Deposit Trustee will be used to pay any bonds issued by IFA as described below, including any grant anticipation notes IFA may issue to provide interim funding for the Rail Projects and direct project costs.

The following funding sources for the DT described in this Financing Plan are designed in part to provide the local governmental unit share pursuant to 49 U.S.C. 5309(d) and 49 C.F.R. 611.205 (the "Local Governmental Funding Share"). These funding sources will be elaborated in the subsequent paragraphs. A commonly drafted lease financing structure will be used for all of the bonds issued by IFA (the "IFA Bonds") as described below. The RDA, NICTD and the IFA have adopted resolutions to authorize or approve, as applicable: (1) the ground lease, pursuant to which NICTD (the owner of the existing facilities) will lease to the RDA the interests of NICTD in such facilities, including any assets or properties acquired by NICTD hereinafter for the DT, except as provided in the Amended and Restated Governance Agreement among RDA, NICTD and IFA (the "Amended Governance Agreement"); (2) the underlying lease, pursuant to which the RDA will lease to the IFA such lease interests obtained from NICTD, to provide IFA the property interests sufficient to finance the DT; (3) the master financing leases, pursuant to which the IFA will lease the DT to the RDA during and after construction of the DT and will provide for the repayment of the Bonds from payments described herein (the "Master Leases"); and (4) the operating lease from RDA to NICTD of the DT so that NICTD can complete the construction of the DT and thereafter to operate and maintain the DT, subject to the provisions of the Amended Governance Agreement (collectively, the "Leases").

The IFA Bonds will be paid from the various rental payments made by the RDA to the IFA pursuant to the respective Master Leases.

- 1) State Funded Bonds/Contributions. IFA has taken action to approve the issuance of the following IFA Bonds:
 - a. The first type of IFA Bonds for DT will consist of the draw down bonds pursuant to IC 5-13-10.5-20 (the “DT Draw Down”). The Indiana General Assembly provided for additional funding to be accessed to maintain progress on the Rail Projects. A portion of this money will be accessed for DT. \$185,000,000 is available from the Next Level Connection Fund (the “NLCF”) under the Northern Indiana Commuter Rail Account (the “NLCF Rail Account”). An additional \$20,000,000 is available to be transferred into the NLCF Rail Account upon Governor’s approval. The IFA must submit a request to the treasurer of state in order to access the funds. The maximum principal amount of the bonds is \$205,000,000 for the Rail Projects. It is expected that approximately \$81,200,000 will be utilized for DT.
 - b. The second type of IFA Bonds for DT shall consist of lease rental subject-to-appropriation bonds (the “IFA Appropriations Bonds”) that will provide funding based upon market conditions and bond structuring at the time of issuance. In 2015, 2017 and 2019 legislation, the Indiana legislature specifically identified the annual appropriations the State planned to use to assist the RDA and NICTD in the financing of the Rail Projects using the lease financing structure set forth in the Bond Act. Specifically, as shown in Exhibit A, in 2015 the State commenced appropriating \$6,000,000 million per year for WLC, in 2017 the State commenced appropriating in the combined amount of \$12 million per year for the Rail Projects to pay to the RDA the annual lease payments described below, and in 2019, the State continue to appropriate \$12 million per year. The IFA has adopted a resolution to authorize the issuance of one or more series of bonds and notes to finance the DT using the provisions of the Bond Act and the Leases. The rental payments owed by the RDA to the IFA under the respective Master Lease shall be subject to appropriations from the General Assembly to the RDA as lessee. Attached hereto as Exhibit B is a report of IFA's financial advisor (the "FA Report") estimating that approximately \$87,100,000 of funding for the DT should be expected from the proceeds of the IFA appropriation bonds. The amount of funding for the DT will be determined on the date of sale of these IFA Bonds based upon market conditions and final structuring payable only from an estimated \$5.5 million of the \$12.0 million in appropriations described above in each of 29 years. IFA, RDA, and the State's sole obligation with respect to the amount of funding provided from the IFA Appropriation Bonds is to dedicate those annual appropriations pledged to the IFA Appropriation Bonds for the DT through the State’s fiscal year 2050 or until all obligations are paid. The proceeds of the IFA Appropriation Bonds will be deposited into the IFA Appropriation Project Account of the Project Fund established pursuant to the Trust Fund Agreement with respect to the DT.

- c. The third type of IFA Bonds for DT shall consist of notes (the “IFA GANS”) that will be issued by IFA pursuant to the Bond Act and the Leases as needed to fund expenditures on the DT pending receipt of FTA grants using the Leases. The Indiana General Assembly created the Next Generation Trust Fund pursuant to IC 8-14-15.2 (the “Fund”). In particular, pursuant to IC 8-14-15.2-10, the Fund may be used to make and secure lease rental payments due under the respective Master Lease that are payable from grant proceeds from the federal government, which lease rental payments will be used to pay the IFA GANS. The principal of the Fund is \$250,000,000. The FA Report estimates that approximately \$135,800,000 of funding for the DT should be expected from the IFA GANS. IFA, RDA and the State’s sole obligations with respect to the payment of the IFA GANS for DT are the grant proceeds received from the FTA and the moneys held in the Fund to the extent grant proceeds are insufficient to pay debt service. The proceeds of the IFA GANS will be deposited into the FTA Grant Reimbursement Project Account of the Project Fund established pursuant to the Trust Fund Agreement with respect to the DT.
- d. Of the State appropriations referenced in subsection (b) above, the IFA and the State intends to utilize \$6,000,000 of State funds for DT as cash funding. In addition, \$4,700,000 of the NLCF funds referenced in subsection (a) above are expected to be utilized as cash funding after the receipt of the FTA’s Full Funding Grant Agreement (the "FFGA").
- e. Notwithstanding anything stated in this Section (1), except as provided in subsection (a), IFA is not obligated to issue the IFA Appropriation Bonds or the IFA GANS or provide funding for DT until the FFGA for DT is executed, except as provided in Section 5.3 of the Amended Governance Agreement.

2) RDA Funds.

- a. An additional type of IFA Bonds (the “IFA RDA Member Dues Bonds”) for DT payable by RDA Master Lease rental payments from RDA Member Dues. For these IFA Bonds (the “IFA RDA Member Dues Bonds”), statutorily-prescribed taxes from the Lake County cities of East Chicago, Hammond and Gary and from Lake and Porter Counties (the "Members") payable to RDA from the Members will be available as the source of payment of lease rentals paid by RDA to IFA to pay the debt service on the IFA RDA Member Dues Bonds. Each Member is obligated to pay dues (the "Member Dues") annually to RDA. The Indiana General Assembly has provided that the State Treasurer withhold Member Dues before the remaining taxes due to the Members are distributed to the Members and transfer those withheld Member Dues to the RDA.
- b. The RDA board has authorized the commitment in the approximate amount of \$2,200,000 million annually Member Dues to the RDA Master Lease rentals for the IFA RDA Member Dues Bonds. As set forth in Table 3: Double Track

Financing Overview included in Exhibit B hereof (“Table 3”), the annual amount is needed in order to provide approximately \$32,800,000 in proceeds for DT capital costs as projected in Table 3. The Member Dues set forth in Exhibit C shall constitute the sole source of payment of the IFA RDA Member Dues Bonds by the RDA

- c. The FA Report estimates that approximately \$32,800,000 of funding for DT capital costs projected in Table 3 should be expected from IFA RDA Member Dues Bonds. The amount of funding for the DT from the IFA RDA Member Dues Bonds will be determined on the date of sale of these Bonds based upon market conditions and final structuring. IFA, RDA and the State’s sole obligations with respect to the amount of funding for DT provided from the IFA RDA Member Dues Bonds is to make available the Member Dues as set forth in clause (b) above. The proceeds of the IFA RDA Member Dues Bonds will be deposited into the IFA RDA Member Project Account of the Project Fund established pursuant to the Trust Fund Agreement with respect to the DT.
- d. RDA has by resolution adopted on June 20, 2019 (the “RDA DT Resolution”), agreed to commit \$3,721,000 of cash funding to the DT, although as set forth in Table 3.
- e. Notwithstanding anything stated in this section (2), and except as provided in Section (1)(a), RDA is not obligated to enter into any Master Leases or provide funding for DT until the FFGA for DT is executed, except as provided in Section 5.3 of the Amended Governance Agreement.

3) Cash Participant Resolutions for DT

- a. Three northern Indiana units of government passed resolutions committing financial support to the DT (the “Cash Participant Resolutions”) (all attached as Exhibit D). In total, these Cash Participant Resolutions provide \$36,500,000 to the DT (the “Cash Participant Monies”).
 - i. The Michigan City Common Council passed Resolution No. 4679 which was signed by the Mayor on June 13, 2017 (the “Michigan City Resolution”). Under the Resolution, the Council committed to \$12,166,666.67 through the Redevelopment District as approved by the Redevelopment Commission (through Resolution No. 8-17, dated May 31, 2017), payable to the Revenue Trust Agreement for the DT. Under the Redevelopment Commission Resolution, the \$12,166,666.67 was committed and appropriated by the Commission (\$6,776,666.67 is from cash on hand from the “South Tax Increment Financing District”; and the remainder to be paid through the issuance of Bonds by the “South Tax Increment Financing District” in the amount of \$5,390,000.00) within 120 days upon receipt of written

notice that the RDA and IFA has each approved the Financing Plan for DT

- ii. The LaPorte County Council passed Resolution No. 2017-5 (the “LaPorte County Resolution”). Under the LaPorte County Resolution, the Council committed and appropriated \$6,083,333.33 to the Double Track Project to be paid as directed by the IFA within 120 days after the Financing Plan is agreed to by the RDA and the IFA; \$5,000,000.00 of which is to come from the LaPorte County’s Major Bridge Fund and \$1,083,333.33 to come from the special LIT distribution currently within the Emergency Reserve Fund.
- iii. On July 11, 2017, the St. Joseph County Council passed Resolution No. R7-17, Bill No. 60-17 (the “St. Joseph Resolution”). Under the St. Joseph Resolution, the Council committed and appropriated \$18,250,000 to be paid within 120 days after the financing plan is agreed to by the IFA and the RDA.
- iv. On June 20, 2019 the IFA and RDA each passed the Financing Plan for DT. Pursuant to the each of these Cash Participant Resolutions and under IC 36-7.5-4.5-16, as cash participants, the monies shall be deposited into the Revenue Trust Fund created by the IFA, RDA, and NICTD for the DT within 120 days of the passing of the Financing Plan. By Friday, October 18, 2019 the Cash Participant monies should be deposited into the Revenue Trust Fund. As a Cash Participant, the action taken under the Cash Participant Resolutions triggered the Councils to accept the state intercept provision under IC 36-7.5-4-16 and IC 36-7.5-4.5-16(d)(2) and the Cash Participant Resolutions are valid and binding under IC 6-3.6-11-7 and IC 5-1-14-4.
- v. The Parties agree to jointly and in good faith work to obtain the Cash Participant Monies as soon as practicable once the Amended Governance Agreement and Financing Plan are adopted by the Parties with the goal of securing such monies within 120 days of adoption of this Financing Plan and Amended Governance Agreement. The Parties will deposit the Cash Participant Monies into the Revenue Trust Fund.

4) Maximum Principal Amounts of IFA Bonds.

The IFA has authorized the issuance of IFA Bonds in an aggregate principal amount not to exceed \$400,000,000 for DT.

5) Initial Project Development Funding

At the outset of the Double Track Project a Preliminary Engineering and Environmental Study was needed as part of the Project Development phase. NICTD therefore reached out to Lake

County, Porter County, LaPorte County and St. Joseph County to help with funding that study. St. Joseph County provided \$800,000; Michigan City (LaPorte County) provided \$550,000; LaPorte County provided \$250,000; and the RDA provided \$1,600,000 on behalf of its members, Lake County and Porter County. In total, \$3,200,000 was invested into the initial Project Development.

6) Federal Funding.

- a. In addition to the federal grant proceeds to be used to repay the IFA GANS, the FA Report estimates that approximately \$25,000,000 of federal grant proceeds will be used to construct the DT prior to the issuance of the IFA GANS.

EXHIBIT A

State of Indiana Biennial Budget Appropriations to
Northwest Indiana Regional Development Authority for the Rail Projects

House Enrolled Act 1001 – 2015

Budget Bill: Page 104 <https://iga.in.gov/static-documents/5/3/8/6/53861fe8/HB1001.05.ENRH.pdf>

	<i>FY 2015-2016 Appropriation</i>	<i>FY 2016-2017 Appropriation</i>	<i>Biennial Appropriation</i>
FOR THE STATE BUDGET AGENCY			
Aviation Technology Center			2,285,632
Airport Facilities Leases			40,136,288
Stadium Lease Rental			166,544,023
Convention Center Lease Rental			48,468,078
State Fair Lease Rental			8,524,426
Indiana Motorsports Commission			4,000,000
Northwest Indiana Regional Development Authority			12,000,000

House Enrolled Act 1001 – 2017

Budget Bill: Page 94 <https://iga.in.gov/static-documents/d/4/d/7/d4d75ee8/HB1001.06.ENRS.pdf>

	<i>FY 2017-2018 Appropriation</i>	<i>FY 2018-2019 Appropriation</i>	<i>Biennial Appropriation</i>
FOR THE STATE BUDGET AGENCY			
Airport Facilities Leases			29,548,602
Stadium Lease Rental			131,032,945
Convention Center Lease Rental			48,918,732
State Fair Lease Rental			8,536,075
Indiana Motorsports Commission			14,000,000
Northwest Indiana Reg. Dev. Authority	6,000,000	12,000,000	
White River State Park Commission			12,000,000

House Enrolled Act 1001 - 2019

Page 89: <http://iga.in.gov/static-documents/a/4/7/2/a47201d3/HB1001.06.ENRS.pdf>

	<i>FY 2019-2020 Appropriation</i>	<i>FY 2020-2021 Appropriation</i>	<i>Biennial Appropriation</i>
FOR THE STATE BUDGET AGENCY			
Stadium Lease Rental	66,397,560	68,540,540	
Convention Center Lease Rental	21,962,110	22,510,343	
State Fair Coliseum Lease Rental	4,049,338	4,047,738	
Indiana Motorsports Commission	7,000,000	7,000,000	
Northwest Indiana Reg. Dev. Authority	12,000,000	12,000,000	
Water Infrastructure Assistance	0	20,000,000	
First Responder Regional Training Pilot	0	250,000	

EXHIBIT B

Report of the Financial Advisor

PFM Financial Advisors LLC, with input and assistance from the IFA, RDA, NICTD and each entity's consultants have drafted a preliminary capital financing plan for the construction of the DT. The following discussion and tables outline the information provided upon which the preliminary capital financing plan is based, the assumptions utilized and the resulting cashflow. The capital cost estimate of \$455.2 million includes \$415.1 million of acquisition, construction, improvement and professional service costs and \$40.1 million of Project finance charges that are eligible for 38% reimbursement through the New Starts program. In addition, \$0.9 million of project costs are not eligible for reimbursement through the New Starts program. The Project finance charges were calculated based upon estimated bond interest through the term of the Federal Grant plus the costs of issuance related to the issuance of the bonds. It is currently anticipated that the IFA will issue four distinct types of debt for the DT based upon security and source of repayment – RDA Available Revenue-backed bonds, DT Draw Down bonds, State Appropriation-Backed bonds, and Grant Anticipation Notes (“GANs”) which will receive credit support from the State's Next Generation Trust Fund. We recognize that the Next Level Connections Fund monies will be initially provided through the purchase of DT Draw Down bonds. Given the forgivable nature of such draw-down bonds upon receipt of an FFGA, we have not included any assumptions with regards to financing charges or debt service on such DT Draw Down bonds.

Based upon a construction schedule developed by NICTD utilizing a 25% budget contingency, a financing plan was developed which utilized the committed local funding sources and Section 5309 Capital Investment Grant dollars on a PAY-GO basis until the pace of construction needs requires bonding. The following table summarizes the sources of funds and when they are deployed for funding construction.

Table 1: Double Track Project Flow (YOES\$, in millions)

FTA CIG Projects	2018 ¹	2019	2020	2021	2022	2023	2024	2025	Total
Double Track									
Uses of Funds									
Double Track Project Costs ²	\$7.0	\$5.2	\$43.1	\$124.1	\$210.4	\$26.1			\$416.0
Finance Charges (RDA Member Dues)			\$0.0	\$1.1	\$1.6	\$1.5	\$1.5	\$0.0	\$5.8
Finance Charges (Appropriation Bonds)				\$2.5	\$4.1	\$4.1	\$4.0	\$0.0	\$14.7
Finance Charges (Grant Anticipation Notes)				\$4.5	\$6.3	\$5.1	\$2.8	\$0.8	\$19.6
Total Uses of Funds	\$7.0	\$5.2	\$43.1	\$132.2	\$222.4	\$36.8	\$8.3	\$0.8	\$456.0
Sources of Funds									
Federal									
FTA Section 5309 New Starts Funds			\$0.0	\$12.5	\$50.0	\$50.0	\$50.0	\$10.5	\$173.0
FTA Section 5309 New Starts Grant Anticipation Note Proceeds				\$1.3	\$114.4	\$21.4			\$137.1
FTA Section 5309 New Starts Grant Anticipation Note Principal Repayment ³				-\$1.5	-\$30.6	-\$48.2	-\$47.2	-\$9.6	-\$137.1
Local	\$7.0	\$5.2	\$43.1	\$120.0	\$88.7	\$13.6	\$5.5	\$0.0	\$283.1
Local Contribution (Cash)	\$3.2			\$36.5					\$39.7
RDA Member Dues (Cash)	\$3.7	\$0.0	\$0.0	\$0.8	\$2.0	\$2.0	\$1.5		\$10.1
RDA Member Dues (Bonds)				\$33.2					\$33.2
Next Level Connections Fund (Cash)	\$0.1	\$5.2	\$43.1	\$32.7	\$0.0	\$4.7			\$85.9
State Appropriation (Cash)	\$0.0	\$0.0	\$0.0	\$8.0	\$7.1	\$6.9	\$4.0	\$0.0	\$26.0
State Appropriation (Bonds)			\$0.0	\$8.7	\$79.5	\$0.0	\$0.0	\$0.0	\$88.2
Total Sources of Funds	\$0.7	\$5.2	\$43.1	\$132.2	\$222.4	\$36.8	\$8.3	\$0.8	\$456.0

1 Includes funds expended in prior years for project.

2 Includes \$0.9 million of project costs (Project Development costs) that are not available for Federal matching.

3 Represents year of debt service fund deposit and includes premium.

RDA Member Dues

The RDA has committed to contributing a portion of the local share of capital funding from its member dues and participating unit revenues. Member dues are paid from statutorily-prescribed taxes from the Lake County cities of East Chicago, Hammond and Gary and from Lake and Porter Counties. Each member is obligated to pay dues annually to RDA.

Local Available Revenue

LaPorte County Participants and St. Joseph County are contributing \$36.5 million as local matching funds. In addition, \$3.2 million has previously been contributed by local participants.

State Appropriations

The Indiana General Assembly appropriated \$12 million in each of the State's fiscal years 2016 through 2019 for the Double Track and West Lake Projects. The State's annual appropriations of \$12 million per year is expected to continue over a 30-year period totaling \$360 million. Of the \$360 million, the State intends to utilize up to \$165.5 million to pay Double Track Project costs through cash or debt service.

Next Generation Trust Fund

Bridge financing, in the form of GANs, is anticipated to be required for the Project given the differences in timing between capital cost expenditures and reimbursement from Section 5309 funds. Effective March 21, 2018, the Indiana General Assembly further evidenced its commitment to the Project by allowing the Next Generation Trust Fund to be used to secure debt service payments on the GANs in order to further reduce borrowing costs and increase financing proceeds for the projects.

Next Level Connections Fund

The Indiana General Assembly recently established the Northern Indiana Commuter Rail Account (the “Account”) within the Next Level Connections Fund. The Account is a non-reverting fund, which means it is committed and immediately available. The Account may be used only to pay the costs of construction of the Rail Projects, which costs are broadly defined by statute. The Account consists of \$185 million and, upon the approval of the Governor, up to an additional \$20 million may be added to the Account. Upon the request of the IFA to the State Treasurer, the Treasurer purchases draw-down bonds from the Account to fund the construction costs as necessary. The draw-down bonds are secured by leases with the RDA. If a grant is awarded by the FTA, the Account funds need not be repaid. In the event a grant agreement is not awarded by the FTA, the RDA is responsible for repaying the bonds, plus interest at the U.S. Treasury rate. Of the available \$205 million it is expected DT will use \$85.9 million.

Financing Assumptions and Funding Totals

IFA is expected to issue bonds payable from three sources of funds: (i) RDA Available Revenues; (ii) State Appropriations and (iii) Section 5309 CIG Funds with additional credit support provided by the Next Generation Trust Fund as previously described. While each funding source will be marketed as a distinct credit, the IFA and RDA anticipate structuring the transactions in such a way as to secure double-A category ratings for each credit. Financing assumptions for each of the debt transactions are detailed below. Interest rates are based upon historical means and credit spreads to allow for market changes.

Table 2: Double Track Financing Assumptions¹

	RDA Member Dues Bonds	State Appropriation Bonds	Grant Anticipation Notes
Financing Date	7/1/2021	8/1/2021	6/1/2021
Final Maturity	6/1/2048	6/1/2050	6/1/2025
Anticipated Rating	AA-Category	AA-Category	AA-Category
Financing Proceeds	\$33.3 million	\$88.2 million	\$137.1 million
Costs of Issuance ²	\$0.5 million	\$1.1 million	\$1.3 million
Effective Interest Rate	4.58%	4.56%	3.02%
Est. Annual Debt Service	\$2.2 million	\$5.5 million	\$48.9 million
Total Projected Debt Service	\$58.2 million	\$159.2 million	\$148.0 million

¹ Assumptions are preliminary and subject to change.

² Included in SCC 100 – Finance Costs.

The following table outlines the allocable expected debt service by calendar year and the total funding by source.

Table 3: Double Track Financing Overview

FTA CIG Projects	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	
Double Track																			
Uses of Funds¹																			
Double Track Project Costs	\$6.4	\$0.7	\$5.2	\$43.1	\$124.1	\$210.4	\$26.1	\$0.0											
Debt Service (RDA Member Dues Bonds)					\$0.7	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	
Debt Service (State Appropriation Bonds)					\$1.4	\$5.9	\$5.5	\$5.5	\$5.5	\$5.5	\$5.5	\$5.5	\$5.5	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	
Debt Service (Grant Anticipation Notes) ²					\$4.0	\$33.5	\$50.0	\$50.0	\$10.5	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
Total Uses of Funds	\$6.4	\$0.7	\$5.2	\$43.1	\$130.1	\$251.9	\$83.7	\$57.6	\$18.1	\$7.6	\$7.6	\$7.6	\$7.6	\$7.6	\$7.6	\$7.6	\$7.6	\$7.6	
Sources of Funds																			
Bond/GAN Proceeds for Project Costs	\$0.0	\$0.0	\$0.0	\$0.0	\$40.4	\$193.9	\$21.4	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
FTA Section 5309 New Starts Grant Anticipation Note Proceeds					\$0.0	\$114.4	\$21.4												
RDA Member Dues (Bonds)					\$32.8														
State Appropriation (Bonds)					\$7.6	\$79.5													
Federal	\$0.0	\$0.0	\$0.0	\$0.0	\$12.5	\$50.0	\$50.0	\$50.0	\$10.5	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
FTA Section 5309 New Starts Funds					\$12.5	\$50.0	\$50.0	\$50.0	\$10.5										
Local	\$6.4	\$0.7	\$5.2	\$43.1	\$77.3	\$8.0	\$12.3	\$7.6	\$7.6	\$7.6	\$7.6	\$7.6	\$7.6	\$7.6	\$7.6	\$7.6	\$7.6	\$7.6	
RDA Member Dues (Cash)	\$3.2	\$0.5	\$0.0	\$0.0	\$0.7	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	
Local Contribution (Cash)	\$3.2				\$36.5														
State Appropriation (Cash)					\$7.4	\$5.9	\$5.5	\$5.5	\$5.5	\$5.5	\$5.5	\$5.5	\$5.5	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	
Next Level Connections Fund (Cash)		\$0.1	\$5.2	\$43.1	\$32.7	\$0.0	\$4.7												
Total Sources of Funds	\$6.4	\$0.7	\$5.2	\$43.1	\$130.1	\$251.9	\$83.7	\$57.6	\$18.1	\$7.6	\$7.6	\$7.6	\$7.6	\$7.6	\$7.6	\$7.6	\$7.6	\$7.6	
Double Track																			
Uses of Funds¹																			
Double Track Project Costs																			\$416.0
Debt Service (RDA Member Dues Bonds)	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$58.2
Debt Service (State Appropriation Bonds)	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	\$159.2
Debt Service (Grant Anticipation Notes) ²	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$148.0
Total Uses of Funds	\$7.6	\$7.6	\$7.6	\$7.6	\$7.6	\$7.5	\$7.5	\$7.5	\$7.5	\$7.5	\$7.5	\$7.5	\$7.5	\$7.5	\$7.5	\$7.5	\$7.5	\$7.5	\$781.4
Sources of Funds																			
Bond/GAN Proceeds for Project Costs	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$255.7
FTA Section 5309 New Starts Grant Anticipation Note Proceeds																			\$135.8
RDA Member Dues (Bonds)																			\$32.8
State Appropriation (Bonds)																			\$87.1
Federal	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$173.0
FTA Section 5309 New Starts Funds																			\$173.0
Local	\$7.6	\$7.6	\$7.6	\$7.6	\$7.6	\$7.5	\$7.5	\$7.5	\$7.5	\$7.5	\$7.5	\$7.5	\$7.5	\$7.5	\$7.5	\$7.5	\$5.4	\$5.4	\$352.7
RDA Member Dues (Cash)	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$2.1	\$0.0	\$0.0	\$62.0
Local Contribution (Cash)																			\$39.7
State Appropriation (Cash)	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	\$5.4	\$165.2
Next Level Connections Fund (Cash)																			\$85.9
Total Sources of Funds	\$7.6	\$7.6	\$7.6	\$7.6	\$7.6	\$7.5	\$7.5	\$7.5	\$7.5	\$7.5	\$7.5	\$7.5	\$7.5	\$7.5	\$7.5	\$7.5	\$5.4	\$5.4	\$781.4

1 Capital finance charges included as part of debt service.
 2 Represents year of debt service fund deposit.

EXHIBIT C

RDA Committed Member Dues Revenues Pledged to the Payment of IFA RDA Member Dues

Fiscal Year¹	RDA Member Dues Revenues²		Fiscal Year³	RDA Member Dues Revenues⁴
2017			2034	\$2,200,000
2018			2035	\$2,200,000
2019			2036	\$2,200,000
2020			2037	\$2,200,000
2021	\$700,000		2038	\$2,200,000
2022	\$2,200,000		2039	\$2,200,000
2023	\$2,200,000		2040	\$2,200,000
2024	\$2,200,000		2041	\$2,200,000
2025	\$2,200,000		2042	\$2,200,000
2026	\$2,200,000		2043	\$2,200,000
2027	\$2,200,000		2044	\$2,200,000
2028	\$2,200,000		2045	\$2,200,000
2029	\$2,200,000		2046	\$2,200,000
2030	\$2,200,000		2047	\$2,200,000
2031	\$2,200,000		2048	\$2,200,000
2032	\$2,200,000		2049	
2033	\$2,200,000		2050	
		Total		\$60,100,000

¹ For this purpose, fiscal year is the calendar year.

² Rounded up to the nearest \$100,000.

³ For this purpose, fiscal year is the calendar year.

⁴ Rounded up to the nearest \$100,000.

EXHIBIT D

Cash Participant Resolutions

FILED
JUN 06 2017

GALE A. NEULIEB
CITY CLERK
CITY OF MICHIGAN CITY

MICHIGAN CITY COMMON COUNCIL

RESOLUTION NO. 4679

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA, APPROVING THE ISSUANCE OF SPECIAL TAXING DISTRICT BONDS OF THE CITY OF MICHIGAN CITY, INDIANA, REDEVELOPMENT DISTRICT TO PAY A PORTION OF THE COSTS RELATED TO THE NICTD DUAL TRACKING PROJECT

WHEREAS, the Common Council of the City of Michigan City, Indiana (the "Common Council"), is the legislative body of the City of Michigan City, Indiana (the "City"); and

WHEREAS, the Michigan City Redevelopment Commission (the "Commission"), the governing body of the City of Michigan City, Indiana, Redevelopment District (the "District"), exists and operates under the provisions of Indiana Code 36-7-14, as amended from time to time (the "Act"); and

WHEREAS, the Commission is authorized to expend necessary funding to assist in the development and promote economic benefits within the district pursuant to procedures that adhere to I.C. 36-7-14 et seq.; and

WHEREAS, the Commission has the authority and power to take the actions necessary for the issuance of Bonds for the funding of projects designed to promote the economic development within the District in accordance with I.C. 36-7-14, et seq.; and

WHEREAS, the City of Michigan City and the Common Council have historically and currently demonstrated the support of the commuter rail operations of the South Shore Line; and

WHEREAS, the Commission adopted Resolution No. 8-17 on May 31, 2017, a copy of which is attached hereto as Exhibit A, authorizing the issuance of Bonds in an aggregate principal amount of Five Million Three Hundred Thousand Ninety and 00/100 Dollars (\$5,390,000.00) as a portion of Michigan City's share of cash payment for LaPorte County's share of the cost of the Northwest Indiana Commuter Transportation District's Dual Tracking project (Project); and

WHEREAS, the Common Council desires to approve the issuance of the Bonds of the District for the purpose of paying a portion of the costs of the Project in accordance with the Act and applicable Indiana law because the Common Council finds that it is in the best interest of the District and the City to do so in order to provide for completion of the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA, AS FOLLOWS:

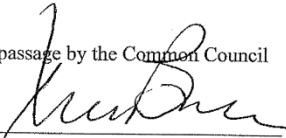
1. All of the above stated "WHEREAS" clauses are incorporated herein by reference.
2. The Council approves the City being a cash participant in the Northern Indiana Commuter Transportation District's Dual Tracking Project ("Project") in the total amount of Twelve Million One Hundred Sixty-six Thousand Six Hundred Sixty-six and 67/100 (\$12,166,666.67) Dollars pursuant to Indiana law and the City, through the Redevelopment District as approved by the Redevelopment Commission, and to make a cash payment to the Development Authority as defined for the Project by Indiana law, in contributing to LaPorte County's share of the local part of the state and local costs of the Project as directed by the Indiana Finance Authority.

CC: Redevelopment
Commission - Babcock
Planning (2x's)
Corporate Counsel
Controller (2x's)

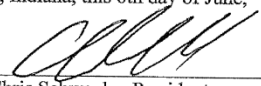
3. The issuance of the Bonds of the District in an aggregate principal amount of Five Million Three Hundred Thousand Ninety and 00/100 Dollars (\$5,390,000.00) for the purpose of paying a portion of the costs of the Project as approved by the Redevelopment Commission through its passage of its Resolution No. 8-17, a copy of which is attached hereto, is hereby approved.

This Resolution shall be in full force and effect from and after passage by the Common Council and approval by the Mayor.

INTRODUCED BY:

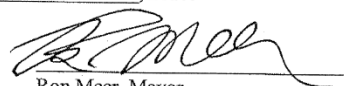

Tim Bietry, Member
Michigan City Common Council

Passed by the Common Council of the City of Michigan City, Indiana, this 6th day of June, 2017.

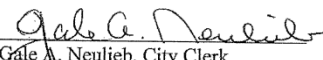

Chris Schwanke, President

Michigan City Common Council

Approved by me, this 13th day of June, 2017.


Ron Meer, Mayor
City of Michigan City, Indiana

ATTEST:


Gale A. Neulieb, City Clerk
Michigan City, Indiana

RESOLUTION NO. 8-17

**A RESOLUTION FOR THE
MICHIGAN CITY REDEVELOPMENT COMMISSION
TO BECOME A FINANCIAL PARTICIPANT
IN THE NORTHERN INDIANA COMMUTER TRANSPORTATION
DISTRICT'S MAIN LINE DOUBLE-TRACKING PROJECT**

WHEREAS, the Michigan City Redevelopment Commission (the "Commission") governing body of the City of Michigan City Department of Redevelopment (the "Department") and the Redevelopment District of the City of Michigan City, Indiana (the "Redevelopment District"), exists and operates under the provisions of the Redevelopment of Cities and Towns Act of 1953 which has been codified in I.C. 36-7-14, et seq., as amended from time to time (the "Act"); and

WHEREAS, the Commission is authorized to expend necessary funding to assist in the development and promote economic benefits within the district pursuant to procedures that adhere to I.C. 36-7-14 et seq.; and

WHEREAS, the Commission has the authority and power to take the actions necessary for the issuance of Bonds for the funding of projects designed to promote the economic development within the District in accordance with I.C. 36-7-14, et seq.; and

WHEREAS, the Commission has historically and currently demonstrated the support of the commuter rail operations of the South Shore Line; and

WHEREAS, Commission, in cooperation with Lake, Porter, LaPorte and St. Joseph Counties has previously committed funding for the preliminary engineering and environmental analysis necessary to advance the double tracking project which will reduce travel time, increase train frequency, reliability and safety for the benefit of Michigan City residents and the region as a whole; and

WHEREAS, the Commission, along with Lake, Porter, LaPorte and St. Joseph Counties, urged the General Assembly to provide funding for constructing of this project, which resulted in a State of Indiana commitment to fund this project of \$6 million per year for 30 years; and

WHEREAS, the funding provided by the General Assembly for the project requires a four county local match which will enable the Northern Indiana Commuter Transportation District to seek a 50% federal matching grant to undertake the construction of the project improvements; and

WHEREAS, the Commission, recognizing the substantial redevelopment and economic benefits that this project will bring to the residents of Michigan City, LaPorte County, the Northwest region and the entire State of Indiana in terms of increased job opportunity, income, populations growth, and revenue for the county, is prepared to join with LaPorte County to jointly fund the county share of the project:

NOW, THEREFORE, BE IT RESOLVED BY THE MICHIGAN CITY REDEVELOPMENT COMMISSION, GOVERNING BODY OF THE MICHIGAN CITY DEPARTMENT OF REDEVELOPMENT AS FOLLOWS:

That the aforementioned findings as described herein are recognized, approved and adopted and incorporated herein.

Section 1. The Commission resolves to be a cash participant in the Northern Indiana Commuter Transportation District's Main Line Double-Tracking Project ("Project") pursuant to Indiana law, and will make a cash payment to the Development Authority as defined for the Project by Indiana law, in contributing to LaPorte County's share of the local part of the state and local costs of the Project as detailed below.

Section 2. The Commission commits and appropriates \$12,166,666.67 to the Project with \$6,776,666.67 of which shall come from cash on hand from the South Tax Increment Financing District and through the issuance of Bonds by the South Tax Increment Financing District in the amount of \$5,390,000.00.

Section 3. The \$12,166,666.67 shall be paid as directed by the Indiana Finance Authority within 120 days after the final Financing Plan is agreed to by the Development Authority and the Indiana Finance Authority, or by December 31, 2017, whichever is earlier.

Section 4. The remainder of LaPorte County's share of the rail project's cost, same being \$6,083,333.33, shall come from the LaPorte County governmental unit.

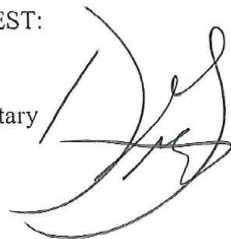
ALL OF WHICH IS RESOLVED this 31st day of May, 2017.

CITY OF MICHIGAN CITY, INDIANA
DEPARTMENT OF REDEVELOPMENT


By: Donald Babcock, President

ATTEST:

By:
Secretary



RESOLUTION NO. 2017-5

**A RESOLUTION OF THE LAPORTE COUNTY COUNCIL
MAKING LAPORTE COUNTY A FINANCIAL PARTICIPANT
IN THE NORTHERN INDIANA COMMUTER TRANSPORTATION
DISTRICT'S MAIN LINE DOUBLE-TRACKING PROJECT**

WHEREAS, LaPorte County has for decades supported the commuter rail operations of the South Shore Line; and

WHEREAS, LaPorte County, in cooperation with Lake, Porter and St. Joseph Counties committed to fund the preliminary engineering and environmental analysis necessary to advance the double tracking project which will reduce travel time, increase train frequency, reliability and safety for the benefit of LaPorte County residents and the region as a whole; and

WHEREAS, LaPorte County, along with Lake, Porter and St. Joseph Counties, urged the General Assembly to provide funding for constructing of this project, which resulted in a State of Indiana commitment to fund this project of \$6 million per year for 30 years; and

WHEREAS, the funding provided by the General Assembly for the project requires a four county local match which will enable the Northern Indiana Commuter Transportation District to seek a 50% federal matching grant to undertake the construction of the project improvements; and

WHEREAS, LaPorte County, recognizing the substantial benefits that this project will bring to the residents of the County in terms of increased job opportunity, income, economic development, populations growth, and revenue for the county, is prepared to join with Michigan City to jointly fund the county share of the project:

NOW THEREFORE IT IS HEREBY RESOLVED as follows:

Section 1. LaPorte County resolves to be a cash participant in the Northern Indiana Commuter Transportation District's Main Line Double-Tracking Project ("Project") pursuant to Indiana law, and will make a cash payment to the Development Authority as defined for the Project by Indiana law, for LaPorte County's share of the local part of the state and local costs of the Project as detailed below.

Section 2. LaPorte County commits and appropriates \$6,083,333.33 to the Project; \$5,000,000 of which shall come from LaPorte County's Major Bridge Fund and \$1,083,333.33 shall come from the special LIT distribution currently received in the Emergency Reserve Fund.

Section 3. The \$6,083,333.33 shall be paid as directed by the Indiana Finance Authority within 120 days after the final Financing Plan is agreed to by the Development Authority and the Indiana Finance Authority, or by December 31, 2017, whichever is earlier.

Section 4. The remainder of LaPorte County's share of the rail project's cost, the same being \$12,166,666.67, shall come from Michigan City governmental units.

ALL OF WHICH IS RESOLVED this 30th day of May, 2017.

LAPORTE COUNTY COUNCIL

By:

ATTEST:

Joie Winski, LaPorte County Auditor

Bill No. 60-17

RESOLUTION NO. B7-17

RESOLUTION OF THE ST. JOSEPH COUNTY COUNCIL APPROVING OF ST. JOSEPH COUNTY BECOMING A FINANCIAL PARTICIPANT IN THE NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT MAINLINE DOUBLE TRACKING PROJECT

WHEREAS, the St. Joseph County Council (the "Council") supports the efforts of the Northern Indiana Transportation District ("NICTD") to improve train frequency, reliability and safety, recognizing that improved rail service between the NICTD station in South Bend and Chicago will generate greater economic development opportunities in St. Joseph County (the "County");

WHEREAS, the County, along with LaPorte County, Porter County and Lake County urged the General Assembly to identify funding to support construction of the mainline double tracking project (the "Project") which resulted in the General Assembly committing the State of Indiana (the "State") to fund a portion of the cost of the Project in the amount of \$6,000,000 per year for 30 years; and

WHEREAS, the LaPorte County Council, the Michigan City Redevelopment Commission, the Common Council of Michigan City and the Northwest Indiana Regional Development Authority (the "RDA") (representing the interests of Porter County and Lake County) have each previously adopted resolutions approving of providing financial support to assist the completion of the Project and NICTD is seeking federal funding for a portion of the costs of the Project; and

WHEREAS, this Council desires to evidence the support of the County for the Project and to approve of the County becoming a "cash participant county" as such term is used in House Enrolled Act 1144 of the State, committing to providing funding when appropriate for a portion of the expenses related to the Project;

NOW, THEREFORE, BE IT RESOLVED BY THE ST. JOSEPH COUNTY COUNCIL AS FOLLOWS:

SECTION 1. Approval of Cash Participant County Designation. This Council hereby approves of the designation of the County as a cash participant county as such term is defined in House Enrolled Act 1144 for purposes of the County participating in the Project. As a cash participant county, the County hereby determines to make a cash payment to the RDA or the Indiana Finance Authority (the "IFA") in an amount not to exceed \$18,250,000 (the "Cash Payment") within 120 days upon receipt of written notice that the RDA and the IFA have each approved a final financing plan for the Project to pay for a portion of the costs of the Project

SECTION 2. Plan of Finance. The County anticipates funding the Cash Payment

through the issuance of bonds of the County. That portion of the Project funded with the County's Cash Payment will not constitute a "controlled project" as such term is defined by I.C. 6-1.1-20-1.1 because the County reasonably expects to pay debt service on such bonds from funds other than property taxes that are exempt from the levy limitations of I.C. 6-1.1-18.5.

SECTION 3. No Conflict. All ordinances, resolutions, and orders or parts thereof in conflict with the provisions of this Resolution are to the extent of such conflict hereby repealed.

SECTION 4. Effectiveness. This Resolution shall be in full force and effect from and after its passage.



Member, St. Joseph County Council

- **FILED** -
JUL 05 2017
AUDITOR
ST JOSEPH COUNTY

1st READING 7-11-17
PUBLIC HEARING 7-11-17
2nd READING
NOT APPROVED
REFERRED
PASSED 9-0

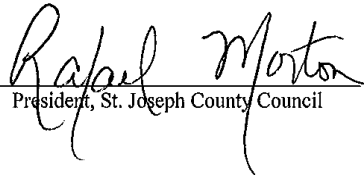
FILED
JUL 05 2017
COUNTY COUNCIL
ST. JOSEPH COUNTY INDIANA

Bill No. 60-17

RESOLUTION NO. B7-17

RESOLUTION OF THE ST. JOSEPH COUNTY COUNCIL APPROVING OF ST. JOSEPH COUNTY BECOMING A FINANCIAL PARTICIPANT IN THE NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT MAINLINE DOUBLE TRACKING PROJECT

This bill came before the St. Joseph County Council this 11th day of July, 2017, and was voted to duly pass/not to pass, this Resolution.



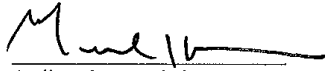
President, St. Joseph County Council

VOTES

Yes 9

No 0

ATTEST:



Auditor, St. Joseph County

EXHIBIT 5B

West Lake Corridor Financing Plan

The Financing Plan (this "Financing Plan") for the West Lake Corridor (the "WLC") is set forth herein. Subject to IC 5-1.3, the RDA is the exclusive fiscal officer and has final approval for financing the Rail Projects pursuant to IC 36-7.5-4-18. IC 5-1.3 and related amendments (the "Bond Act") have been enacted to provide specific statutory authority for IFA, RDA and NICTD to complete the Financing Plan and for dedication of the obligations of the State and the RDA with respect thereto, which may be used to finance the WLC, depending upon the sequencing of the review and approval of the Federal Transit Administration ("FTA"). RDA and the IFA have no obligation to fund or finance the Rail Projects other than as specifically set forth herein.

IFA, RDA, NICTD, and a trustee bank serving as trustee under the bonds issued by IFA as described below, will execute with a trustee bank (the "Deposit Trustee") a Revenue Trust Fund Agreement (the "Trust Fund Agreement") pursuant to which all such entities will agree to deposit proceeds, funds and revenues received by them for the Rail Projects into the respective funds, accounts, and subaccounts held by the Deposit Trustee under the Trust Fund Agreement ("Revenue Trust Fund"), including FTA grant proceeds received in reimbursement for Rail Project expenditures. The revenues received by the Deposit Trustee will be used to pay any bonds issued by IFA as described below, including any grant anticipation notes IFA may issue to provide interim funding for the Rail Projects and direct project costs.

The following funding sources for the WLC described in this Financing Plan are designed in part to provide the local governmental unit share pursuant to 49 U.S.C. 5309(d) and 49 C.F.R. 611.205 (the "Local Governmental Funding Share"). These funding sources will be elaborated in the subsequent paragraphs. A commonly drafted lease financing structure will be used for all of the bonds issued by IFA (the "IFA Bonds") as described below. The RDA, NICTD and the IFA have adopted resolutions to authorize or approve, as applicable: (1) the ground lease, pursuant to which NICTD (the owner of the existing facilities) will lease to the RDA the interests of NICTD in such facilities, including any assets or properties acquired by NICTD hereinafter for the WLC, except as provided in the Amended and Restated Governance Agreement among RDA, NICTD and IFA (the "Amended Governance Agreement"); (2) the underlying lease, pursuant to which the RDA will lease to the IFA such lease interests obtained from NICTD, to provide IFA the property interests sufficient to finance the WLC; (3) the master financing leases, pursuant to which the IFA will lease the WLC to the RDA during and after construction of the WLC and will provide for the repayment of the Bonds from payments described herein (the "Master Leases"); and (4) the operating lease from RDA to NICTD of the WLC so that NICTD can complete the construction of the WLC and thereafter to operate and maintain the WLC, subject to the provisions of the Amended Governance Agreement (collectively, the "Leases"). The IFA Bonds will be paid from the various rental payments made by the RDA to the IFA pursuant to the respective Master Leases.

- 1) State Funded Bonds/Contributions. IFA has taken action to approve the issuance of the following IFA Bonds:
 - a. The first type of IFA Bonds for WLC will consist of the draw down bonds pursuant to IC 5-13-10.5-20 (the “WLC Draw Down”). The Indiana General Assembly provided for an additional funding to be accessed to maintain progress on the Rail Projects. A portion of this money will be accessed for WLC. \$185,000,000 is available from the Next Level Connection Fund (the “NLCF”) under the Northern Indiana Commuter Rail Account (the “NLCF Rail Account”). An additional \$20,000,000 is available to be transferred into the NLCF Rail Account upon Governor’s approval. The IFA must submit a request to the treasurer of state in order to access the funds. The maximum principal amount of the bonds is \$205,000,000 for the Rail Projects.
 - b. The second type of IFA Bonds for WLC shall consist of lease rental subject-to-appropriation bonds (the “IFA Appropriations Bonds”) that will provide funding based upon market conditions and bond structuring at the time of issuance. In 2015, 2017, and 2019 legislation, the Indiana legislature specifically identified the annual appropriations the State planned to use to assist the RDA and NICTD in the financing of the Rail Projects using the lease financing structure set forth in the Bond Act. Specifically, as shown in Exhibit A, in 2015 the State commenced appropriating \$6 million per year for WLC and, in 2017 and 2019 the State continued appropriating in the combined amount of \$12 million per year for the Rail Projects to pay to the RDA the annual lease payments described below. The IFA has adopted a resolution to authorize the issuance of one or more series of bonds and notes to finance the WLC using the provisions of the Bond Act and the Leases. The rental payments owed by the RDA to the IFA under the respective Master Lease shall be subject to appropriations from the General Assembly to the RDA as lessee. Attached hereto as Exhibit B is a report of IFA's financial advisor (the "FA Report") estimating that approximately \$102,600,000 of funding for the WLC should be expected from the proceeds of the IFA appropriation bonds. The amount of funding for the WLC will be determined on the date of sale of these IFA Bonds based upon market conditions and final structuring payable only from an estimated \$6.5 million of the \$12 million in appropriations described above in each of 29 years. IFA, RDA, and the State's sole obligation with respect to the amount of funding provided from the IFA Appropriation Bonds is to dedicate those annual appropriations pledged to the IFA Appropriation Bonds for the WLC through the State’s fiscal year 2050. The proceeds of the IFA Appropriation Bonds will be deposited into the IFA Appropriation Project Account of the Project Fund established pursuant to the Trust Fund Agreement with respect to the WLC.
 - c. The third type of IFA Bonds for WLC shall consist of notes (the “IFA GANS”) that will be issued by IFA pursuant to the Bond Act and the Leases as needed to fund expenditures on the WLC pending receipt of FTA grants using the Leases. The Indiana General Assembly created the Next Generation

Trust Fund pursuant to IC 8-14-15.2 (the "Fund"). In particular, pursuant to IC 8-14-15.2-10, the Fund may be used to make and secure lease rental payments due under the respective Master Lease that are payable from grant proceeds from the federal government, which lease rental payments will be used to pay the IFA GANS. The principal of the Fund is two hundred fifty million dollars (\$250,000,000). The FA Report estimates that approximately \$305,200,000 of funding for the WLC should be expected from the IFA GANS. IFA, RDA and the State's sole obligations with respect to the payment of the IFA GANS for WLC are the grant proceeds received from the FTA and the moneys held in the Fund to the extent grant proceeds are insufficient to pay debt service. The proceeds of the IFA GANS will be deposited into the FTA Grant Reimbursement Project Account of the Project Fund established pursuant to the Trust Fund Agreement with respect to the WLC.

- d. Of the State appropriations referenced in subsection (b) above, the IFA and the State intends to utilize \$6,000,000 of State funds for WLC as cash funding. In addition, \$53,700,000 of the NLCF funds referenced in subsection (a) above are expected to be utilized as cash funding after the receipt of the FTA's Full Funding Grant Agreement (the "FFGA")
- e. Notwithstanding anything stated in this Section (1), except as provided in subsection (a), IFA is not obligated to issue the IFA Appropriation Bonds or the IFA GANS or provide funding for WLC until the FFGA for WLC is executed, except as provided in Section 5.3 of the Amended Governance Agreement.

2) RDA Funds.

- a. There is an additional type of IFA Bonds (the "IFA Available Revenue Bonds") for WLC payable by RDA Master Lease rental payments from Available Revenues. Available Revenues are derived from two sources:
 - i. The first source is statutorily-prescribed taxes from the Lake County cities of East Chicago, Hammond and Gary and from Lake and Porter Counties (the "Members") payable to RDA from the Members will be available as a source of payment of lease rentals paid by RDA to IFA to pay the debt service on the IFA Available Revenue Bonds. Each Member is obligated to pay dues (the "Member Dues") annually to RDA. The Indiana General Assembly has provided that the State Treasurer withhold Member Dues before the remaining taxes due to the Members are distributed to the Members and transfer those withheld Member Dues to the RDA. The second revenue stream for IFA Available Revenue Bonds is payments which will be received directly from the Auditor of State and sent directly to the RDA and can be used by RDA for payment of the IFA Available Revenue Bonds in lieu of the Member Dues. These payments were originally promised

pursuant to an Interlocal Agreement, a resolution, ordinance, or other action offering to provide revenue to support and finance from their already existing local income taxes the WLC (the “Participant Unit Revenue”). The Indiana General Assembly codified portions of the Interlocal Agreement in 2019 within House Enrolled Act 1473-2019. Pursuant to IC 36-7.5-4-21, the Participant Unit Revenue will not be deposited into the Revenue Trust Fund and/or utilized as Available Revenues until the RDA adopts a resolution taking notice of an executed FFGA. The RDA will determine what amount and from what source the Available Revenues will be applied for the payment of debt service on the IFA Available Revenues Bonds.

- ii. The RDA board has authorized the commitment of approximately \$14,100,000 annually of Available Revenues to the RDA Master Lease rentals for the IFA Available Revenues Bonds under RDA Resolution 19-01 adopted on June 20, 2019. As set forth in Table 3: West Lake Corridor Financing Overview included in Exhibit B hereof (“Table 3”), the annual amount (beginning in 2020) is needed in order to provide proceeds of \$217,800,000 for West Lake Corridor capital costs. The Available Revenues set forth in Exhibit C shall constitute the sole source of payment of IFA Available Revenues Bonds by the RDA.
- b. The FA Report estimates that \$217,800,000 of funding for WLC capital costs projected in Table 3 should be expected from IFA Available Revenues Bonds. The amount of funding for the WLC from the IFA Available Revenues Bonds will be determined on the date of sale of these Bonds based upon market conditions and final structuring. IFA, RDA and the State’s sole obligations with respect to the amount of funding for WLC provided from the IFA Available Revenues Bonds is to make available the Available Revenues as set forth in clause (a)(ii) above. The proceeds of the IFA Available Revenues Bonds will be deposited into the IFA Available Revenue Project Account of the Project Fund established pursuant to the Trust Fund Agreement with respect to the WLC.
- c. RDA also agreed to commit \$47,841,283 of cash funding to the WLC pursuant to RDA Resolution 19-01. Part of this cash funding may be utilized from the Participating Unit Revenue after the RDA adopts a resolution taking notice of an executed FFGA.
- d. Notwithstanding anything stated in this section (2), and except as provided in Section (1)(a) and 2(c), RDA is not obligated to enter into any Master Leases or provide funding for WLC until the FFGA for WLC is executed, except as provided in Section 5.3 of the Amended Governance Agreement.
- e. The RDA also committed additional financial support to WLC pursuant to IC 6-3.1-20-7(d) as described in Section 8.4 of the Amended Governance

Agreement “to establish or improve public mass rail transportation systems in Lake County.” Except as otherwise provided in Section 8.4 of the Governance Agreement, IFA and RDA have no obligations to fund operations of the Rail Projects or the South Shore Line.

3) Maximum Principal Amounts of IFA Bonds.

- a. The IFA has authorized the issuance of IFA Bonds in an aggregate principal amount not to exceed \$825,000,000 for WLC.

4) Federal Funding.

- a. In addition to the federal grant proceeds to be used to repay the IFA GANS, the FA Report estimates that approximately \$19,000,000 of federal grant proceeds will be used to construct the WLC prior to the issuance of the IFA GANS.

EXHIBIT A

State of Indiana Biennial Budget Appropriations to
Northwest Indiana Regional Development Authority for the Rail Projects

House Enrolled Act 1001 – 2015

2015 Budget Bill: Page 104 <https://iga.in.gov/static-documents/5/3/8/6/53861fe8/HB1001.05.ENRH.pdf>

	<i>FY 2015-2016 Appropriation</i>	<i>FY 2016-2017 Appropriation</i>	<i>Biennial Appropriation</i>
FOR THE STATE BUDGET AGENCY			
Aviation Technology Center			2,285,632
Airport Facilities Leases			40,136,288
Stadium Lease Rental			166,544,023
Convention Center Lease Rental			48,468,078
State Fair Lease Rental			8,524,426
Indiana Motorsports Commission			4,000,000
Northwest Indiana Regional Development Authority			12,000,000

House Enrolled Act 1001 – 2017

2017 Budget Bill: Page 94 <https://iga.in.gov/static-documents/d/4/d/7/d4d75ee8/HB1001.06.ENRS.pdf>

	<i>FY 2017-2018 Appropriation</i>	<i>FY 2018-2019 Appropriation</i>	<i>Biennial Appropriation</i>
FOR THE STATE BUDGET AGENCY			
Airport Facilities Leases			29,548,602
Stadium Lease Rental			131,032,945
Convention Center Lease Rental			48,918,732
State Fair Lease Rental			8,536,075
Indiana Motorsports Commission			14,000,000
Northwest Indiana Reg. Dev. Authority	6,000,000	12,000,000	
White River State Park Commission			12,000,000

House Enrolled Act 1001 - 2019

2019 Budget Bill: Page 89: <http://iga.in.gov/static-documents/a/4/7/2/a47201d3/HB1001.06.ENRS.pdf>

	<i>FY 2019-2020 Appropriation</i>	<i>FY 2020-2021 Appropriation</i>	<i>Biennial Appropriation</i>
FOR THE STATE BUDGET AGENCY			
Stadium Lease Rental	66,397,560	68,540,540	
Convention Center Lease Rental	21,962,110	22,510,343	
State Fair Coliseum Lease Rental	4,049,338	4,047,738	
Indiana Motorsports Commission	7,000,000	7,000,000	
Northwest Indiana Reg. Dev. Authority	12,000,000	12,000,000	
Water Infrastructure Assistance	0	20,000,000	
First Responder Regional Training Pilot	0	250,000	

EXHIBIT B

Report of the Financial Advisor

PFM Financial Advisors LLC, with input and assistance from the IFA, RDA, NICTD and each entity's consultants have drafted a preliminary capital financing plan for the construction of the WLC. The following discussion and tables outline the information provided upon which the preliminary capital financing plan is based, the assumptions utilized and the resulting cashflow. The capital cost estimate of \$933.1 million includes \$816.3 million of acquisition, construction, improvement and professional service costs and \$116.8 million of Project finance charges that are eligible for 38% reimbursement through the New Starts program. The Project finance charges were calculated based upon estimated bond interest through the term of the Federal Grant plus the costs of issuance related to the issuance of the bonds. It is currently anticipated that the IFA will issue four distinct types of debt for the Project based upon security and source of repayment – RDA Available Revenue-backed bonds, WLC Draw Down bonds, State Appropriation-Backed bonds, and Grant Anticipation Notes (“GANs”) which will receive credit support from the State's Next Generation Trust Fund. We recognize that the Next Level Connections Fund monies will be initially provided through the purchase of WLC Draw Down bonds. Given the forgivable nature of such draw-down bonds upon receipt of an FFGA, we have not included any assumptions with regards to financing charges or debt service on such WLC Draw Down bonds.

Based upon a construction schedule developed by NICTD utilizing a 31.5% budget contingency, a financing plan was developed which utilized the committed local funding sources and Section 5309 Capital Investment Grant dollars on a PAY-GO basis until the pace of construction needs requires bonding. The following table summarizes the sources of funds and when they are deployed for funding construction.

Table 1: West Lake Project Flow (YOE\$, in millions)

FTA CIG Projects	2018 ¹	2019	2020	2021	2022	2023	2024	2025	Total
West Lake									
Uses of Funds									
West Lake Corridor Project Costs	\$21.8	\$31.9	\$195.4	\$316.8	\$197.5	\$49.1	\$3.7		\$816.3
Finance Charges (RDA Available Revenue Bonds)			\$6.7	\$10.5	\$10.3	\$10.1	\$9.9	\$4.9	\$52.3
Finance Charges (State Appropriation Bonds)				\$3.7	\$4.9	\$4.8	\$4.7	\$2.3	\$20.5
Finance Charges (Grant Anticipation Notes)				\$16.9	\$11.7	\$8.5	\$5.2	\$1.7	\$44.0
Total Uses of Funds	\$21.8	\$31.9	\$202.1	\$347.9	\$224.3	\$72.5	\$23.5	\$9.0	\$933.1
Sources of Funds									
Federal									
Federal	\$0.0	\$0.0	\$18.8	\$123.2	\$204.4	\$5.3	\$2.1	\$0.7	\$354.6
FTA Section 5309 New Starts Funds			\$18.8	\$75.0	\$75.0	\$75.0	\$75.0	\$35.8	\$354.6
FTA Section 5309 New Starts Grant Anticipation Note Proceeds				\$111.5	\$196.6				\$308.2
FTA Section 5309 New Starts Grant Anticipation Note Principal Repayment ²				-\$63.3	-\$67.2	-\$69.7	-\$72.9	-\$35.1	-\$308.2
Local	\$21.8	\$31.9	\$183.4	\$224.7	\$19.9	\$67.2	\$21.4	\$8.2	\$578.5
Local Contribution (Cash) ³		\$10.4							\$10.4
RDA Available Revenues (Cash)	\$21.8	\$15.6	\$3.5	\$12.7	\$13.0	\$12.3	\$12.1	\$4.9	\$95.9
RDA Available Revenues (Bonds)			\$115.3	\$105.6					\$221.0
Next Level Connections Fund (Cash)		\$5.9	\$58.5	\$0.0	\$0.9	\$49.1	\$3.7	\$0.0	\$118.1
State Appropriation (Cash)			\$6.0	\$2.5	\$6.1	\$5.8	\$5.7	\$3.3	\$29.3
State Appropriation (Bonds)				\$103.9					\$103.9
Total Sources of Funds	\$21.8	\$31.9	\$202.1	\$347.9	\$224.3	\$72.5	\$23.5	\$9.0	\$933.1

1 Includes funds expended in prior years for project.

2 Represents year of debt service fund deposit and includes premium.

3 \$10.4 million of LIT revenues currently collected

RDA Member Dues and Participant Unit Revenues

The RDA has committed to contributing a portion of the local share of capital funding from its member dues and participating unit revenues. Member dues are paid from statutorily-prescribed taxes from the Lake County cities of East Chicago, Hammond and Gary and from Lake and Porter Counties. Each member is obligated to pay dues annually to RDA.

The RDA has also committed to contributing a portion of the local share of capital funding from local income tax revenues paid to the RDA from various local units of government in Lake County, Indiana (“Participant Unit Revenue”). Pursuant to IC 36-7.5-4-22, IC 6-3.9-9-5 and IC 6-3.6-11-5.5, the Department of Local Government Finance shall notify the Lake County Auditor and Auditor of State of the certified amounts to be withheld by the Auditor of State and sent directly to the RDA for utilization on the WLC annually. The financing plan includes \$14.1 million per year in estimated debt service payments from its member dues and participant unit revenues for the Project to support debt service payments on the bonds issued by the IFA which are payable from RDA member dues and Participant Unit Revenues (collectively referred to as “RDA Available Revenues”). This issuance is expected to provide a total of \$217.8 million in bond proceeds for West Lake Corridor capital costs. In addition to making annual payments for debt service, the financing plan shows RDA contributing \$37.4 million from member dues and \$10.4 million from Participant Unit Revenues for construction funding prior to bonds being issued, for a total of \$47.8 million. To date, RDA has already contributed \$22 million of the \$47.8 million from its RDA Available Revenues to capital costs on the Project.

State Appropriations

The Indiana General Assembly appropriated \$12 million in each of the State's fiscal years 2016 through 2021 for the Double Track and West Lake Corridor Projects. The State's annual appropriations of \$12 million per year is expected to continue over a 30-year period totaling \$360 million. Of the \$360 million, the State intends to utilize \$194.4 million to pay West Lake Corridor Project costs through cash or debt service.

Next Generation Trust Fund

Bridge financing, in the form of GANs, is anticipated to be required for the Project given the differences in timing between capital cost expenditures and reimbursement from Section 5309 funds. Effective March 21, 2018, the Indiana General Assembly further evidenced its commitment to the Project by allowing the Next Generation Trust Fund to be used to secure debt service payments on the GANs in order to further reduce borrowing costs and increase financing proceeds for the projects.

Next Level Connections Fund

The Indiana General Assembly recently established the Northern Indiana Commuter Rail Account (the "Account") within the Next Level Connections Fund. The Account is a non-reverting fund, which means it is committed and immediately available. The Account may be used only to pay the costs of construction of the Rail Projects, which costs are broadly defined by statute. The Account consists of \$185 million and, upon the approval of the Governor, up to an additional \$20 million may be added to the Account. Upon the request of the IFA to the State Treasurer, the Treasurer purchases draw-down bonds from the Account to fund the construction costs as necessary. The draw-down bonds are secured by leases with the RDA. If a grant is awarded by the FTA, the Account funds need not be repaid. In the event a grant agreement is not awarded by the FTA, the RDA is responsible for repaying the bonds, plus interest at the U.S. Treasury rate. Of the available \$205 million it is expected WLC will use \$118.1 million.

Financing Assumptions and Funding Totals

IFA is expected to issue bonds payable from three sources of funds: (i) RDA Available Revenues; (ii) State Appropriations and (iii) Section 5309 CIG Funds with additional credit support provided by the Next Generation Trust Fund as previously described. While each funding source will be marketed as a distinct credit, the IFA and RDA anticipate structuring the transactions in such a way as to secure double-A category ratings for each credit. Financing assumptions for each of the debt transactions are detailed below. Interest rates are based upon historical means and credit spreads to allow for market changes.

Table 2: West Lake Corridor Financing Assumptions¹

	RDA Available Revenue Bonds	State Appropriation Bonds	Grant Anticipation Notes
Financing Date	8/1/2020	6/1/2021	12/1/2020
Final Maturity	6/1/2048	6/1/2050	6/1/2025
Anticipated Rating	AA-Category	AA-Category	AA-Category
Financing Proceeds	\$221.0	\$103.9	\$308.2
Costs of Issuance ²	\$3.2	\$1.3	\$2.9
Effective Interest Rate	4.62%	4.56%	3.32%
Est. Annual Debt Service	\$14.1	\$6.5	\$73.5
Total Projected Debt Service	\$394.9	\$188.4	\$335.1

¹ Assumptions are preliminary and subject to change.

² Included in SCC 100 – Finance Costs.

The following table outlines the allocable expected debt service by calendar year and the total funding by source.

Table 3: West Lake Corridor Financing Overview

FTA CIG Projects	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	
West Lake																			
Uses of Funds¹																			
West Lake Project Costs	\$3.6	\$14.2	\$4.0	\$31.9	\$195.4	\$316.8	\$197.5	\$49.1	\$3.7										
Debt Service (RDA Available Revenue Bonds)					\$3.5	\$14.1	\$14.1	\$14.1	\$14.1	\$14.1	\$14.0	\$14.0	\$14.0	\$14.0	\$14.0	\$14.0	\$14.0	\$14.0	
Debt Service (State Appropriation Bonds)					\$0.0	\$2.5	\$6.5	\$6.5	\$6.5	\$6.4	\$6.5	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	
Debt Service (Grant Anticipation Notes) ²					\$43.5	\$73.5	\$73.5	\$73.5	\$71.8	\$0.0									
Total Uses of Funds	\$3.6	\$14.2	\$4.0	\$31.9	\$242.4	\$406.9	\$291.5	\$143.2	\$96.0	\$20.5	\$20.5	\$20.5	\$20.5	\$20.5	\$20.5	\$20.5	\$20.4	\$20.4	
Sources of Funds																			
Bond/GAN Proceeds for Project Costs	\$0.0	\$0.0	\$0.0	\$0.0	\$112.2	\$316.8	\$196.6	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
FTA Section 5309 New Starts Grant Anticipation Note Proceeds						\$108.6	\$196.6												
RDA Available Revenues (Bonds)					\$112.2	\$105.6	\$0.0	\$0.0	\$0.0										
State Appropriation (Bonds)						\$102.6													
Federal	\$0.0	\$0.0	\$0.0	\$0.0	\$62.3	\$73.5	\$73.5	\$73.5	\$71.8	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
FTA Section 5309 New Starts Funds					\$62.3	\$73.5	\$73.5	\$73.5	\$71.8	\$0.0									
Local	\$3.6	\$14.2	\$4.0	\$31.9	\$68.0	\$16.5	\$21.4	\$69.7	\$24.2	\$20.5	\$20.5	\$20.5	\$20.5	\$20.5	\$20.5	\$20.5	\$20.4	\$20.4	
RDA Available Revenues (Cash)	\$3.6	\$14.2	\$4.0	\$15.6	\$3.5	\$14.1	\$14.1	\$14.1	\$14.1	\$14.1	\$14.0	\$14.0	\$14.0	\$14.0	\$14.0	\$14.0	\$14.0	\$14.0	
Local Contribution (Cash)				\$10.4															
State Appropriation (Cash)					\$6.0	\$2.5	\$6.5	\$6.5	\$6.5	\$6.4	\$6.5	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	
Next Level Connections Fund (Cash)				\$5.9	\$58.5	\$0.0	\$0.9	\$49.1	\$3.7	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
Total Sources of Funds	\$3.6	\$14.2	\$4.0	\$31.9	\$242.4	\$406.9	\$291.5	\$143.2	\$96.0	\$20.5	\$20.5	\$20.5	\$20.5	\$20.5	\$20.5	\$20.5	\$20.4	\$20.4	
West Lake																			
Uses of Funds¹																			
West Lake Project Costs																			\$816.3
Debt Service (RDA Available Revenue Bonds)	\$14.0	\$14.0	\$14.0	\$14.0	\$14.0	\$14.0	\$13.9	\$13.9	\$13.9	\$13.9	\$13.9	\$13.9	\$13.9	\$13.8	\$13.8	\$0.0	\$0.0	\$0.0	\$394.9
Debt Service (State Appropriation Bonds)	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.3	\$188.4
Debt Service (Grant Anticipation Notes) ²																			\$335.8
Total Uses of Funds	\$20.4	\$20.4	\$20.4	\$20.4	\$20.4	\$20.4	\$20.3	\$20.3	\$20.3	\$20.3	\$20.3	\$20.3	\$20.2	\$20.2	\$20.2	\$6.4	\$6.3	\$0.0	\$1735.5
Sources of Funds																			
Bond/GAN Proceeds for Project Costs	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
FTA Section 5309 New Starts Grant Anticipation Note Proceeds																			\$625.6
RDA Available Revenues (Bonds)																			\$305.2
State Appropriation (Bonds)																			\$217.8
Federal	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
FTA Section 5309 New Starts Funds																			\$354.6
Local	\$20.4	\$20.4	\$20.4	\$20.4	\$20.4	\$20.4	\$20.3	\$20.3	\$20.3	\$20.3	\$20.3	\$20.3	\$20.2	\$20.2	\$20.2	\$6.4	\$6.3	\$0.0	\$755.3
RDA Available Revenues (Cash)	\$14.0	\$14.0	\$14.0	\$14.0	\$14.0	\$14.0	\$13.9	\$13.9	\$13.9	\$13.9	\$13.9	\$13.9	\$13.9	\$13.8	\$13.8	\$0.0	\$0.0	\$0.0	\$432.4
Local Contribution (Cash)																			\$10.4
State Appropriation (Cash)	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.4	\$6.3	\$194.4
Next Level Connections Fund (Cash)	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$118.1
Total Sources of Funds	\$20.4	\$20.4	\$20.4	\$20.4	\$20.4	\$20.4	\$20.3	\$20.3	\$20.3	\$20.3	\$20.3	\$20.3	\$20.2	\$20.2	\$20.2	\$6.4	\$6.3	\$0.0	\$1735.5

1 Capital finance charges included as part of debt service.
 2 Represents year of debt service fund deposit.

EXHIBIT C

RDA Committed Member Dues and Committed Available Revenues Pledged to the Payment of IFA Available Revenues Bonds

Fiscal Year¹	RDA Member Dues and Available Revenues²		Fiscal Year³	RDA Member Dues and Available Revenues⁴
2017	0		2034	\$14,000,000
2018	0		2035	\$14,000,000
2019	0		2036	\$14,000,000
2020	\$3,600,000		2037	\$14,000,000
2021	\$14,100,000		2038	\$14,000,000
2022	\$14,100,000		2039	\$14,000,000
2023	\$14,100,000		2040	\$14,000,000
2024	\$14,100,000		2041	\$14,000,000
2025	\$14,100,000		2042	\$14,000,000
2026	\$14,100,000		2043	\$14,000,000
2027	\$14,100,000		2044	\$13,900,000
2028	\$14,100,000		2045	\$13,900,000
2029	\$14,100,000		2046	\$13,900,000
2030	\$14,100,000		2047	\$13,900,000
2031	\$14,100,000		2048	\$13,900,000
2032	\$14,100,000		2049	0

¹ For this purpose, fiscal year is the calendar year.

² Rounded up to the nearest \$100,000.

³ For this purpose, fiscal year is the calendar year.

⁴ Rounded up to the nearest \$100,000.

2033	\$14,100,000		2050	0
		Total		\$396,400,000

EXHIBIT 6

WEST LAKE OPERATING DEFICIT CALCULATION

Direct* Operating Revenue and Expenses	SSL	WLC	Total
Passenger Revenue ¹			
<u>Non-Passenger Revenue²</u>			
Total Direct Operating Revenue (A)			
Operating Expenses ³			
Transportation			
Maintenance of Way			
Maintenance of Equipment			
Claims and Insurance			
<u>General and Administrative</u>			
Total Direct Operating Expenses (B)			
Direct Operating Surplus/(Deficit) (= A – B)			

* To the extent practicable, NICTD will track operating revenue and Operating Expenses using segment level accounting codes (Direct revenue and expenses), consistent with FTA’s Uniform System of Accounts. West Lake Passenger Revenue shall include all Fare Revenue (as defined by the Federal Transit Administration’s (FTA’s) National Transit Database (NTD) Glossary) collected for any trip with a West Lake origin or destination.

Allocated^ System Operating Revenue and Expenses	
Allocated Passenger Revenue	
<u>Allocated Non-Passenger Revenue</u>	
Total Allocated Operating Revenue	
Allocated Operating Expenses	
Transportation	
Maintenance of Way	
Maintenance of Equipment	
Claims and Insurance	
<u>General and Administrative</u>	
Total Allocated Operating Expenses	
Allocated Operating Surplus/(Deficit) (W)	
SSL Actual Vehicle Revenue Miles ⁴	
WLC Actual Vehicle Revenue Miles (X)	
System-Wide Actual Vehicle Revenue Miles (Y)	
WLC Allocation % (Z = X / Y)	
WLC Allocation of Surplus/(Deficit) (= Z * W)	

^ Operating revenue and Operating Expenses that cannot be directly tracked using segment level accounting codes will be allocated based on the ratio of West Lake Actual Vehicle Revenue Miles to system-wide Actual Vehicle Revenue Miles for the period unless the parties agree to an alternative allocation method.

Operating Deficit/Subsidy	
WLC Direct Surplus/(Deficit)	
<i>plus</i>	
WLC Allocated Surplus/(Deficit)	
<i>equals (if sum of above results in deficit):</i>	
Current quarterly West Lake Operating Deficit:	

Documentation including, but not limited to, general ledger and service reports will be provided to RDA at its request to provide adequate support for the reporting of revenues, costs, allocation, and calculation methods.

The undersigned, _____, the _____ of the Northern Indiana Commuter Transportation District (“NICTD”), with respect to the Governance Agreement by and among the Northwest Indiana Regional Development Authority, NICTD and the Indiana Finance Authority, effective as of _____, 2018 (the “Governance Agreement”), hereby certifies that the West Lake Operating Deficit for the quarter ended __ __, 20__ is ____, as evidenced by the above calculation. Capitalized terms used but not defined herein shall have the meaning ascribed to them in the Governance Agreement.

Dated: _____, 20__.

NORTHERN INDIANA COMMUTER
TRANSPORTATION DISTRICT

By: _____

Printed: _____

Title: _____

Defined Terms:

1. Passenger Revenue - All revenue as reported under Passenger Fares in NICTD's audited financial statements and amounts defined as Fare Revenues, Contract Revenues, Fare Assistance, and Passenger Fare Assistance under the Federal Transit Administration's (FTA's) National Transit Database (NTD) Glossary.
2. Non-Passenger Revenue – Ancillary revenue generated from or provided for the operations of the rail system including, but not limited to, parking lot collections or any other subsidy or grant used to fund or offset Operating Expenses of the rail system. Non-Passenger Revenue includes Park-and-Ride Parking Revenue, Auxiliary Transportation Funds, Other Auxiliary Transportation Revenues, Station Concessions, Vehicle Concessions, Local Operating Funds, State Operating Assistance, Public Mass Transportation Funds (per IC 8-23-3-8), Subsidies from other Sectors of Operations, and Operating Assistance as defined under the Federal Transit Administration's (FTA's) National Transit Database (NTD) Glossary. For the purposes of this West Lake Operating Deficit Calculation, Non-Passenger Revenue includes capital grant receipts to fund or offset eligible Operating Expenses including, but not limited to, preventative maintenance.
3. Operating Expenses - as defined under the Federal Transit Administration's (FTA's) National Transit Database (NTD) Glossary. For the purposes of this West Lake Operating Deficit Calculation, Operating Expenses excludes depreciation, amortization, and financing costs.
4. Actual Vehicle Revenue Miles (VRM) – as defined under the Federal Transit Administration's (FTA's) National Transit Database (NTD) Glossary.

EXHIBIT 7

Agreed Form of Calculation for Revenue Coverage and Debt Coverage

FORM OF DEBT COVERAGE CALCULATION⁵

Pledged Restricted and Unrestricted Taxes

<u>Fiscal Year</u>	<u>Commuter Rail Service Fund Indefinite Situs Tax Receipts</u>	<u>Commuter Rail Service Fund Sales Tax Receipts</u>	<u>Electric Rail Service Fund Receipts</u>	<u>Total</u>
20__	\$ _____	\$ _____	\$ _____	\$ _____

Maximum Annual NICTD Debt Service⁶: \$ _____

Debt Coverage Calculation

$$\frac{\$ \text{_____} \text{ (Total Pledged Restricted and Unrestricted Taxes)}}{\$ \text{_____} \text{ (Maximum Annual NICTD Debt Service)}} = \text{_____ (Debt Coverage)}$$

The undersigned, _____, the _____ of the Northern Indiana Commuter Transportation District (“NICTD”), with respect to the Governance Agreement by and among the Northwest Indiana Regional Development Authority, NICTD and the Indiana Finance Authority, effective as of _____, 2018 (the “Governance Agreement”), hereby certifies that the Debt Coverage for 20__ is _____, as evidenced by the above calculation. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Governance Agreement.

Dated: _____, 20__.

NORTHERN INDIANA COMMUTER
TRANSPORTATION DISTRICT

By: _____

Printed: _____

Title: _____

⁵ Pursuant to the Governance Agreement, Debt Coverage is defined as the ratio of pledged Restricted Taxes and Unrestricted Taxes for any fiscal year to maximum annual debt service on outstanding NICTD debt in the then current year or any future year.

⁶ For purposes of incurring additional debt under Section 6.4, this calculation requires demonstration of a Debt Coverage calculation taking into account the debt service of additional and other debt contemplated in NICTD's most recent five-year capital plan.

FORM OF REVENUE COVERAGE CALCULATION⁷

Gross Revenues for Fiscal Year Ending 20 , Together with
Unrestricted Cash on Hand at the Beginning of Such Fiscal Year

Operating Revenues

Passenger Fares (net of refunds) \$ _____
 Parking Lot Collections \$ _____

Non-operating Revenues

Federal maintenance grant \$ _____
 State operating assistance (excluding Restricted Taxes) \$ _____
 Other local funds \$ _____
 Other revenue \$ _____

Current Unrestricted Cash

Unrestricted Cash⁸ as of the previous Fiscal Year \$ _____

Total \$ _____
 (Gross Revenues)

Operations Expenses for Fiscal Year Ending 20

Operating Expenses⁹

Transportation \$ _____
 Maintenance of way \$ _____
 Maintenance of Equipment \$ _____
 Claims and insurance \$ _____
 General and Administrative \$ _____

Total \$ _____
 (Operations Expenses)

Revenue Coverage Calculation

$$\frac{\$ \text{_____} \text{ (Gross Revenues)}}{\$ \text{_____} \text{ (Operations Expenses)}} = \text{_____} \text{ (Revenue Coverage)}$$

The undersigned, _____, the _____ of the Northern Indiana Commuter Transportation District (“NICTD”), with respect to the Governance Agreement by and among

⁷ Pursuant to the Governance Agreement Revenue Coverage is defined as the ratio of Gross Revenues in such fiscal year, together with unrestricted cash collected in previous years and remaining on deposit with NICTD at the beginning of such fiscal year, to the sum of Operations Expenses for such fiscal year.

⁸ Includes current unrestricted cash as reported in NICTD's audited financial statements for the previous fiscal year.

⁹ Pursuant to the Governance Agreement, Operations Expenses is defined as NICTD operating and maintenance expenses, excluding noncash expenses such as depreciation and amortization.

the Northwest Indiana Regional Development Authority, NICTD and the Indiana Finance Authority, effective as of _____, 2018 (the “Governance Agreement”), hereby certifies that the Revenue Coverage for 20__ is ____, as evidenced by the above calculation. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Governance Agreement.

Dated: _____, 20__.

NORTHERN INDIANA COMMUTER
TRANSPORTATION DISTRICT

By: _____

Printed: _____

Title: _____

EXHIBIT 8

West Lake Deficit Cost Submission Form

To: RDA

From: NICTD

In accordance with the attached West Lake Operating Deficit Calculation, NICTD hereby certifies that the West Lake Operating Deficit is \$_____ for the period beginning _____ through _____ in accordance with the terms of the Governance Agreement.

NICTD Authorized Signature

Title: _____

Date: _____

Enclosure: West Lake Operating Deficit Calculation dated _____

EXHIBIT 9

Leases

State Appropriation Master Lease Agreement- Double Track
Underlying Lease Agreement - Double Track
Operating Lease Agreement - Double Track
Ground Lease Agreement - Double Track
RDA Member Dues Master Lease Agreement - Double Track

State Appropriation Master Lease Agreement- West Lake
Underlying Lease Agreement - West Lake
Operating Lease Agreement - West Lake
Ground Lease Agreement - West Lake
RDA Available Revenue Master Lease Agreement - West Lake

**STATE APPROPRIATION MASTER LEASE AGREEMENT
(DOUBLE TRACK PROJECT)**

by and between

**INDIANA FINANCE AUTHORITY
as Lessor**

and

**NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY
as Lessee**

Dated as of _____ 1, 20__

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I DEFINITIONS AND GENERAL PROVISIONS.....	1
<u>Section 1.01. Definitions</u>	1
<u>Section 1.02. Interpretations</u>	4
<u>Section 1.03. Not Indebtedness of State</u>	4
<u>Section 1.04. Not Indebtedness of RDA</u>	5
ARTICLE II CONSTRUCTION OF THE RAIL PROJECT.....	5
<u>Section 2.01. Construction of the Rail Project</u>	5
ARTICLE III LEASE AND MAINTENANCE OF LEASE PREMISES.....	5
<u>Section 3.01. Lease of Lease Premises</u>	5
<u>Section 3.02. Term of Lease</u>	5
<u>Section 3.03. Operation and Maintenance</u>	6
<u>Section 3.04. Alterations or Modifications of the Lease Premises</u>	6
<u>Section 3.05. Additional Lease Premises</u>	6
<u>Section 3.06. Additional Project</u>	7
ARTICLE IV RENTS.....	7
<u>Section 4.01. Timing for Payment</u>	7
<u>Section 4.02. Supplemental Agreements</u>	7
<u>Section 4.03. Appropriations</u>	7
<u>Section 4.04. Abatement of Rent</u>	8
ARTICLE V SUBLETTING	8
<u>Section 5.01. Subletting</u>	8
ARTICLE VI DEFAULT	8
<u>Section 6.01. Default</u>	8
<u>Section 6.02. Remedies</u>	9
<u>Section 6.03. Remedies Cumulative</u>	9
<u>Section 6.04. Limited Waiver</u>	9
ARTICLE VII COVENANTS.....	9
<u>Section 7.01. Power to Agree</u>	9
<u>Section 7.02. Appropriations</u>	9
<u>Section 7.03. Use of Lease Premises</u>	10
<u>Section 7.04. Maintenance of Insurance and Performance Bonds</u>	10

TABLE OF CONTENTS
(continued)

	<u>Page</u>
<u>Section 7.05.</u> <u>Completion of Performance; Reconstruction; Application of Proceeds</u>	10
<u>Section 7.06.</u> <u>Indemnification</u>	11
ARTICLE VIII MISCELLANEOUS	11
<u>Section 8.01.</u> <u>Effectiveness</u>	11
<u>Section 8.02.</u> <u>Notices</u>	12
<u>Section 8.03.</u> <u>Incorporation by Reference</u>	12
<u>Section 8.04.</u> <u>Severability</u>	12
<u>Section 8.05.</u> <u>Table of Contents; Captions</u>	12
<u>Section 8.06.</u> <u>Governing Law</u>	12
<u>Section 8.07.</u> <u>Successors and Assigns</u>	12
EXHIBIT A FORM OF SUPPLEMENT TO STATE APPROPRIATION MASTER LEASE AGREEMENT (DOUBLE TRACK PROJECT)	
EXHIBIT B LEASE PREMISES	
EXHIBIT C FORM OF MEMORANDUM	

**STATE APPROPRIATION MASTER LEASE AGREEMENT
(DOUBLE TRACK PROJECT)**

This STATE APPROPRIATION MASTER LEASE AGREEMENT (DOUBLE TRACK PROJECT) made and entered into as of the first day of _____, 20__ (this "Agreement"), by and between the INDIANA FINANCE AUTHORITY, a body politic and corporate, not a state agency but an independent instrumentality, exercising essential public functions, duly organized and validly existing under the laws of the State of Indiana (the "IFA"), pursuant to Indiana Code 5-1.2, and the NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY, duly created and existing under and by virtue of Indiana Code 36-7.5 (the "RDA");

WITNESSETH:

WHEREAS, this Agreement is designed to provide a master leasing structure with respect to various portions of the Rail Project defined herein that relate to bonds issued by IFA for the Rail Project and are payable from the Funding Source set forth herein (the "Related IFA Bonds");

WHEREAS, as additional series of Related IFA Bonds are authorized to provide additional funding for the Rail Project, IFA and RDA shall describe the Additional Project to be funded from that specific series of Related IFA Bonds and the lease rentals payable by RDA with respect thereto in a Supplemental Agreement; and

WHEREAS, it is the parties' intent that the terms within Indiana Code 5-1.3-5-2(a) are all contained herein and fulfilled;

In consideration of the mutual covenants herein set forth, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS AND GENERAL PROVISIONS

Section 1.01. Definitions. The following words and terms as used in this Agreement or in any Supplemental Agreement or other amendment or supplement hereto shall have the following meanings unless provided for in this Agreement or in any Supplemental Agreement or other amendment or supplement hereto, unless the context or use clearly indicates another or different meaning or intent:

"Act" shall mean Indiana Code 5-1.3, as amended or supplemented, or any successor thereto.

"Additional Lease Premises" shall mean any additional real property that is acquired for the Rail Project or an Additional Project with the proceeds of any series of Related IFA Bonds or incorporated therein in connection with any series of Related IFA Bonds, which is added to this Agreement pursuant to the terms set forth in Section 3.05.

"Additional Project" shall mean an additional portion of the Rail Project that becomes part of the Lease Premises in the manner provided in Section 3.06.

"Agreement" shall mean this State Appropriation Master Lease Agreement (Double Track Project) as from time to time amended or supplemented by any Supplemental Agreement or other amendment or supplement hereto, including a Supplemental Memorandum of Lease.

"Authorized Officer of IFA" shall mean the Chair of IFA or the Public Finance Director of the State of Indiana and, with reference to any act or document, also means any other person authorized by a resolution of IFA to perform such act or to sign such document.

"Authorized Officer of RDA" shall mean the Chair or the Chief Executive Officer of RDA and, with reference to any act or document, also means any other person authorized by a resolution of RDA to perform such act or to sign such document.

"Available Portion" shall mean, collectively, the portions of the Lease Premises that are available for use.

"Biennium" shall mean the biennium used for State budgetary and appropriation purposes.

"Bond Trustee" shall mean the trustee bank serving as Trustee for the Related IFA Bonds.

"Commencement Date" for any Lease Premises or any portion thereof shall mean the date on which a Completion Certificate for such Lease Premises or such portion thereof is accepted by an Authorized Officer of RDA.

"Completion Certificate" for any Lease Premises or any portion thereof shall mean a certificate (a) executed by an Authorized Officer of IFA certifying that such Lease Premises or such portion thereof is available for use by RDA and (b) accepted by an Authorized Officer of RDA acknowledging that such Lease Premises or such portion thereof is available for use by RDA.

"Construction" shall mean constructing, acquiring, renovating, rehabilitating, reconstructing, improving, extending or equipping the Rail Project or the Lease Premises or any portion thereof.

"Deposit Trustee" shall mean the trustee bank acting as the Deposit Trustee under the Revenue Trust Fund Agreement.

"Development Agreement" shall mean any development agreement entered into by NICTD, RDA and IFA for the purpose of governing the completion of the Rail Project in a manner consistent with and as contemplated by the Governance Agreement.

“Effective Date” shall mean the date of execution and delivery of this Agreement, which is _____, 20__.

"Fiscal Year" shall mean the twelve-month period commencing on July 1 of each year and ending on the succeeding June 30, or such other fiscal year of the State as may be mandated by law.

“Funded Interest Date” shall mean the date until which the proceeds of a series of Related IFA Bonds are expected to pay the interest thereon. The Funded Interest Date for that portion of the Rail Project being financed with the initial series of the Related IFA Bonds is _____, 20__.

“Funding Source” shall mean the Biennium appropriations contemplated to be made by the Indiana General Assembly to RDA to pay lease rentals on the Related IFA Bonds.

"Governance Agreement" shall mean the Governance Agreement effective as of August 31, 2018, by and among NICTD, RDA and IFA, as from time to time amended or supplemented in accordance with its terms.

“Ground Lease” shall mean the Ground Lease Agreement (Double Track Project), dated as of _____ 1, 20__, between NICTD, as lessor, and RDA, as lessee.

"IFA" shall mean the Indiana Finance Authority, a body politic and corporate, not a state agency but an independent instrumentality, exercising essential public functions, duly organized and validly existing under the laws of the State, pursuant to Indiana Code 5-1.2, as supplemented and amended.

"IFA Appropriations Revenue Account" shall mean the account of such name held under Section 5(a)(i) of the Revenue Trust Fund Agreement.

"Initial Term" shall mean the period of time commencing on the date hereof and ending on June 30, 2021.

"Lease Premises" shall mean the property described in Exhibit B hereto from time to time as Supplemental Agreements specify the portion of the Rail Project financed with Related IFA Bonds as provided in Section 3.06 hereof, including without limitation, all Rail Project Property related thereto and any Additional Lease Premises included in the Lease Premises by reason of Section 3.05 hereof.

"Memorandum" shall mean the Memorandum of Lease attached hereto as Exhibit C to be recorded contemporaneously with the execution of this Agreement with respect to identifying the Lease Premises.

"NICTD" shall mean the Northern Indiana Commuter Transportation District established under Indiana Code 8-5-15.

“Operating Lease” shall mean the Operating Lease Agreement (Double Track Project), dated as of _____ 1, 20__, between RDA, as lessor, and NICTD, as lessee.

"Projected Commencement Date" for any Additional Project shall mean the projected Commencement Date for such Additional Project, as set forth in the Supplemental Agreement covering such Additional Project.

"Rail Project" shall mean the Double Track Project described in Exhibit A to the Underlying Lease.

"Rail Project Property" shall mean all real and personal property interests, including, but not limited to, the Lease Premises, each Additional Project and such easements, licenses, leases, or property rights, in whatever form reasonably necessary to construct and operate the Rail Project, but not including NICTD rolling stock, except to the extent any costs for rolling stock are included in the applicable Cost Budget (as defined in the Governance Agreement), as the Rail Project is identified and described in Exhibit A to the Underlying Lease.

"RDA" shall mean the Northwest Indiana Regional Development Authority, organized and existing under Indiana Code 36-7.5.

"Related IFA Bonds" shall mean the bonds issued by IFA to finance the Rail Project, including any Additional Project, which are secured by the rental payments due under this Agreement. The initial series of Related IFA Bonds are the Indiana Finance Authority Lease State Appropriation Bonds (Double Tracking Project), Series 20__.

"Revenue Trust Fund Agreement" shall mean the Revenue Trust Fund Agreement, dated as of _____ 1, 20__, entered into by and among RDA, IFA, NICTD, the Bond Trustee, and the Deposit Trustee.

"State" shall mean the State of Indiana.

"Supplemental Agreement" shall mean any agreement supplemental or amendatory of this Agreement entered into in accordance with Article IV, including each Supplemental Agreement that describes an Additional Project to be included in the Lease Premises hereunder as provided in Section 3.06 hereof.

"Supplemental Memorandum of Lease" shall mean each Supplemental Memorandum of Lease recorded in connection with the addition of Additional Lease Premises in the manner provided in Section 3.05 hereof.

"Underlying Lease" shall mean the Underlying Lease Agreement (Double Track Project), dated as of _____ 1, 20__ between RDA and IFA as from time to time amended or supplemented in accordance with its terms.

Section 1.02. Interpretations. Unless the context indicates otherwise, words importing the singular number shall include the plural number and words importing the plural number shall include the singular number. The terms "hereof," "herein," "hereby," "hereto," "hereunder" and similar terms mean this Agreement.

Section 1.03. Not Indebtedness of State. It is expressly understood and agreed by the parties hereto that this Agreement does not constitute an indebtedness of the State within the

meaning or application of any constitutional provision or limitation, or a pledge of the faith or credit of the State.

Section 1.04. Not Indebtedness of RDA. It is expressly understood and agreed by the parties hereto that this Agreement does not constitute an indebtedness of RDA within the meaning or application of any constitutional provision or limitation, or a pledge of the faith or credit of RDA from the appropriations received. The obligations of RDA are limited solely to the funds from the appropriations.

ARTICLE II

CONSTRUCTION OF THE RAIL PROJECT

Section 2.01. Construction of the Rail Project. IFA and RDA represent that the Rail Project has been or will be constructed in accordance with the Governance Agreement, any Development Agreement and applicable plans and specifications therefor with all reasonable speed and dispatch in accordance with the applicable plans and specifications therefor.

ARTICLE III

LEASE AND MAINTENANCE OF LEASE PREMISES

Section 3.01. Lease of Lease Premises. In consideration of the rents, covenants and agreements contained herein, IFA does hereby demise and lease to RDA, and RDA does hereby rent and lease from IFA, the Lease Premises from and after the Effective Date for such Lease Premises. IFA and RDA shall file and record a Supplemental Memorandum of Lease covering any Additional Lease Premises as provided in Section 3.05 and any Supplemental Agreement adding any Additional Project as provided in Section 3.06 hereof.

Section 3.02. Term of Lease.

(a) The initial term of this Agreement shall be the Initial Term. This Agreement shall terminate upon the occurrence of the first of the following events:

(i) on June 30, 2021, or if this Agreement shall have been extended by IFA and RDA in accordance with this Section 3.02, on the last day of any Biennium in which notice of nonextension is given in accordance with this Section 3.02; or

(ii) on the latter of the first day for which funds have not been appropriated or the first day on which funds are not available to RDA or IFA to pay when due any amount payable by RDA under this Agreement or by IFA under the Act; or

(iii) Upon receipt of notice from IFA to RDA that all Related IFA Bonds have been paid in full and all other obligations and lease rentals due to IFA hereunder or under the Governance Agreement with respect to the Rail Project have been paid in full; or

- (iv) the termination of this Agreement by IFA pursuant to Section 6.02;
- or
- (v) the termination of the Underlying Lease.

(b) During the Initial Term, IFA and RDA shall have the right to extend the term of this Agreement from Biennium to Biennium, with the extensions not to exceed a lease term of 40 years from the Effective Date. IFA and RDA shall be deemed to have exercised such right to extend the term of this Agreement and this Agreement shall be extended for each successive Biennium, unless either IFA or RDA delivers written notice of nonextension to the other party hereto not less than six months prior to the last day of any Biennium, in which event this Agreement shall terminate on the last day of such Biennium.

Section 3.03. Operation and Maintenance. RDA shall cause NICTD at all times, in accordance with its then current practices, to operate and maintain the Lease Premises during the Initial Term of this Agreement and during any extensions thereof in an efficient and economical manner, as required by the Governance Agreement, and in accordance with its then current practices, to maintain the Lease Premises in good repair and sound operating condition and to make all necessary repairs, renewals, replacements and improvements thereto, all at the expense of NICTD, except that IFA shall maintain insurance on the Lease Premises in accordance with Section 7.04 at its expense. RDA shall cause NICTD to comply with all valid statutes, rules, regulations, orders and directions of any legislative, administrative or judicial body applicable to NICTD and the Lease Premises. RDA shall cause NICTD to adopt and keep in force reasonable rules and regulations governing the use of the Lease Premises and the operation thereof, and shall enforce such rules and regulations. RDA and IFA shall cause NICTD to comply with the foregoing requirements through the operation of the covenants and agreements of NICTD contained in the Governance Agreement, at which time RDA shall also cause NICTD to comply with the foregoing requirements through the operation of the covenants and agreements of NICTD contained in the Ground Lease and the Operating Lease.

Section 3.04. Alterations or Modifications of the Lease Premises. RDA shall not, without the prior written consent of an Authorized Officer of IFA, which consent shall not be unreasonably withheld, make or cause to be made or permit NICTD to make or cause to be made, any alteration, modification, addition or improvement to all or any portion of the Lease Premises, which alteration, modification, addition or improvement materially impairs the value of the Lease Premises, unless such alteration, modification, addition or improvement is, in the opinion of NICTD, as permitted by the Governance Agreement or as is necessary or advisable for the safety of the public.

Section 3.05. Additional Lease Premises. In the event Additional Lease Premises are added to the property leased by RDA to IFA pursuant to the Underlying Lease, such Additional Lease Premises shall immediately without further action become part of the Lease Premises subject to this Agreement upon the recordation of a Supplemental Memorandum of Lease

executed by IFA and RDA in the offices of the Recorder of Lake County, Indiana, the Recorder of Porter County, Indiana, and the Recorder of LaPorte County, Indiana.

Section 3.06. Additional Project. IFA and RDA contemplate that the Rail Project may be funded in part by the issuance of an additional series of Related IFA Bonds from time to time to finance an Additional Project that constitutes a part of the Rail Project. In that event, IFA and RDA shall execute and deliver a Supplemental Agreement at such time to describe the Additional Project, provide for the Construction of such Additional Project and specify the rent due from RDA for such Additional Project.

ARTICLE IV

RENTS

Section 4.01. Timing for Payment. Subject to Sections 4.03 and 4.04 hereof, after the Funded Interest Date, RDA shall pay, in arrears, solely from the Funding Source, without relief from valuation or appraisal laws and without a defense of set-off, counterclaim or recoupment, a monthly rental for the Lease Premises or any portions thereof available for use, in an amount equal, in accordance with Indiana Code 5-1.3-5-2(a)(4), to the aggregate monthly rental payments set forth in the Supplemental Agreements, to IFA by general transfer of funds from an account of RDA or from the IFA Appropriations Revenue Account to such account as IFA may from time to time specify, so as to assure immediately available funds in such account on or before the first day of each month succeeding those months during which the Lease Premises or such portions thereof were actually used or available for use by RDA pursuant to this Agreement (provided that if the first day of any such month is not a business day then on or before the immediately preceding business day).

Section 4.02. Supplemental Agreements. IFA and RDA may, on the date hereof and from time to time thereafter, enter into one or more Supplemental Agreements, substantially in the form of Exhibit A, which may (a) set forth the Available Portion as of the date of such Supplemental Agreement, (b) add Additional Lease Premises to this Agreement when added under the terms of the Underlying Lease or to finance an Additional Project, (c) remove a portion of the Lease Premises being replaced, (d) state the rent payable for the Lease Premises, (e) provide that all lease covenants, including the obligation to pay rent, shall be unitary, whether covered by this Agreement or a Supplemental Agreement, or (f) contain such other covenants and agreements as the parties thereto agree upon.

Section 4.03. Appropriations. The lease rentals payable hereunder during the Initial Term or during any extension of this Agreement are payable by RDA solely from Biennial appropriations from the General Assembly of the State to RDA for such period. RDA and IFA have both determined that the rents due under this Agreement are fair and reasonable for the Lease Premises included herein. RDA can pay lease rentals solely from available revenues from the fund established under Indiana Code 36-7.5-4.

Section 4.04. Abatement of Rent.

(a) The lease rentals payable hereunder during the Initial Term or during any extension of this Agreement are payable by RDA solely for the actual use or availability for use of the Lease Premises or portions thereof provided by IFA.

(b) After the Commencement Date for any portion of the Lease Premises, in the event such portion shall be damaged or destroyed, so as to render such portion unavailable for use by RDA, or shall for any other reason become unavailable for use by RDA: (i) any rental payments due for such unavailable portion of the Lease Premises shall be abated during such unavailability by an amount equal to the product of the portion of (A) the rental payments otherwise due on such portion of the Lease Premises, times (B) a fraction of such rental payments, the numerator of which fraction equals the then estimated expenses incurred or to be incurred by IFA and allocable to such portion and the denominator of which fraction equals the then estimated expenses incurred or to be incurred by IFA and allocable to the Lease Premises; or (ii) IFA may add Additional Lease Premises to this Agreement pursuant to a Supplemental Agreement so that there is no interruption in the lease rentals payable by RDA as described in clause (i) above.

ARTICLE V

SUBLETTING

Section 5.01. Subletting. Except for the Operating Lease, none of the Lease Premises nor any portions thereof shall be sublet by RDA to, and none of the Lease Premises nor any portions thereof shall be used by, any person (natural or otherwise), unless an Authorized Officer of IFA gives prior written consent. No such subletting shall relieve RDA from its obligations to pay any rental payment payable under this Agreement and to keep and perform all other covenants on its part to be kept and performed under this Agreement. In the event this Agreement is terminated pursuant to Section 3.02 or Section 6.02 following an event of default by RDA, other than by reason of IFA terminating this Agreement pursuant to Section 6.02 as a result of not having received a rental payment from the Funding Source under Section 6.01(a), the Operating Lease shall remain in force and effect for the benefit of IFA (who upon termination of this Agreement shall succeed to the rights, title and interest of RDA, as lessor under the Operating Lease) and NICTD.

ARTICLE VI

DEFAULT

Section 6.01. Default. An "event of default" shall mean, whenever that term is used in this Agreement, any one or more of the following events:

(a) failure by RDA to pay or cause to be paid any amount payable by RDA under this Agreement, including any Supplemental Agreement, when due; or

(b) the failure by RDA to observe or perform any covenant, condition or agreement on its part to be observed or performed under Section 7.02; or

(c) failure by RDA to observe or perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in subsection (a) or (b) of this Section 6.01, which failure continues for a period of thirty days after written notice, specifying such failure and requesting that it be remedied, is given to RDA by an Authorized Officer of IFA.

Section 6.02. Remedies. Whenever any event of default shall have happened and be subsisting and provided that the event of default has not been cured, IFA may terminate this Agreement by written notice to RDA and/or take whatever action at law or in equity may appear necessary or desirable to collect the payments then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of RDA under this Agreement.

Section 6.03. Remedies Cumulative. No remedy in this Agreement conferred upon or reserved to IFA is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. To entitle IFA to exercise any remedy reserved to it in this Agreement, it shall not be necessary to give any notice, other than such notice as may be expressly required by this Agreement.

Section 6.04. Limited Waiver. In the event any agreement contained in this Agreement shall be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach under this Agreement.

ARTICLE VII

COVENANTS

Section 7.01. Power to Agree. IFA and RDA each covenant to the other that the execution and delivery of this Agreement has been duly authorized by all necessary corporate action, and that this Agreement has been duly executed and delivered, and constitutes a legal, valid and binding agreement in accordance with its terms and provisions.

Section 7.02. Appropriations. RDA covenants that it will do all things lawfully within its power to obtain and maintain funds from which to meet its rental payment and operation and maintenance obligations under this Agreement, including, but not limited to, requesting an appropriation in an amount sufficient to meet its rental payment and operation and maintenance obligations under this Agreement in writing at a time sufficiently in advance of the date for payment thereof so that an appropriation may be made in the normal State budgetary process, using its *bona fide* best efforts to have such request approved, and exhausting all available

reviews and appeals in the event such request is not approved. RDA will pay rent at times and in amounts sufficient to pay in full the debt service payment under the terms of any Related IFA Bonds outstanding with respect to the Rail Project, including any additions to reserves for the Related IFA Bonds maintained by IFA and additional rent as provided by this Agreement.

Section 7.03. Use of Lease Premises. Notwithstanding any other provision of this Agreement to the contrary, RDA covenants that it: (a) will lease the Lease Premises to NICTD for use as a rail project as defined in Indiana Code 5-1.3-2-14, (b) will not use and will cause NICTD to agree not to use the Lease Premises or any portion thereof for any private business use within the meaning of Section 141(b)(6) of the Internal Revenue Code of 1986, as amended from time to time, without the prior written consent of an Authorized Officer of IFA, which consent shall not be unreasonably withheld, and (c) will comply with Section 148(f) of the Internal Revenue Code of 1986, as amended from time to time. Any agreement entered into by RDA in violation of this Section 7.03 shall be of no force or effect and shall not convey any rights or impose any obligation in respect to it, at law or in equity.

Section 7.04. Maintenance of Insurance and Performance Bonds. IFA shall keep or cause NICTD to keep the Lease Premises insured against loss or damage from causes customarily insured against under a standard extended coverage endorsement in an amount at least equal to one hundred percent of the full replacement cost of the Lease Premises or such lesser amount as IFA and RDA may agree upon, if, in the opinion of an Authorized Officer of IFA, such insurance is reasonably commercially available; provided, however, such insurance coverage may contain a reasonable loss deductible clause. IFA shall at all times use its best efforts to maintain or cause to be maintained insurance or reserves against loss or damage from such hazards and risks to the person and property of others as are usually insured or reserved against by those operating properties similar to the Lease Premises. IFA shall maintain or cause to be maintained or cause NICTD to maintain or cause to be maintained such performance bonds or performance insurance with respect to contracts it may enter into for Construction of the Lease Premises as are usually maintained by those constructing properties similar to the Lease Premises.

Section 7.05. Completion of Performance; Reconstruction; Application of Proceeds. If performance of any contract for Construction of the Lease Premises is not completed in accordance with its terms and, in the opinion of a registered engineer selected by NICTD and acceptable to IFA and RDA, the cost of completion of such performance shall not exceed the amount of proceeds from any performance bond or performance insurance to be received by reason of such noncompletion of performance and other amounts available therefor, IFA or RDA, as applicable, shall, as expeditiously as possible, continuously and diligently complete or cause to be completed or cause NICTD to complete or cause to be completed such performance. If all or any portion of the Lease Premises shall be damaged or destroyed and in the opinion of a registered engineer selected by NICTD and acceptable to IFA and RDA (a) the cost of such repair, replacement or reconstruction shall not exceed the amount of any insurance proceeds to be received by reason of such damage or destruction and other amounts available therefor, and (b) such repair, replacement or reconstruction can be completed within the period covered by any rent loss insurance maintained or caused to be maintained by IFA on the Lease Premises or other amounts available therefor, IFA shall, as expeditiously as possible, continuously and diligently prosecute or cause to be prosecuted, the repair, reconstruction or replacement thereof; provided,

however, IFA may substitute an Additional Project in lieu of reconstruction to the extent permitted by Section 4.04(b) hereof. In the event IFA does not substitute an Additional Project pursuant to Section 4.04(b) hereof, within one hundred twenty days after the noncompletion of performance of any contract for Construction or the occurrence of an event of damage or destruction to the Lease Premises, IFA, through any Authorized Officer of IFA, shall deliver to RDA and the Trustee the written opinion of the engineer referred to in this Section 7.05 stating whether or not the conditions set forth above with respect thereto are satisfied. The proceeds of any performance bond or performance insurance paid on account of such noncompletion of performance and from any insurance paid on account of such damage or destruction (other than any rent loss insurance) shall be made available for, and to the extent necessary shall be applied to, the cost of such repair, reconstruction or replacement. Such proceeds not applied within thirty-six months after receipt thereof by IFA to such completion of performance or such repair, reconstruction or replacement shall be applied to any lawful purpose of IFA.

Section 7.06. Indemnification. RDA agrees to cause NICTD, to the extent provided in the Ground Lease or the Operating Lease, to release, protect, defend, indemnify and hold harmless RDA, IFA, the Bond Trustee, the Deposit Trustee, and their respective agents, employees, representatives and consultants, from and against any and all claims, causes of action, suits, judgments, demands, and/or losses (including attorney fees), in each case if asserted or incurred by or awarded to any third party, arising out of or relating to or resulting from (a) NICTD's design, construction or operation of the Rail Project, (b) any act, omission, negligence, or willful misconduct of NICTD, any of its Ancillary Users (as defined in the Operating Lease) or anyone acting under its control or for whom it is legally responsible, (c) failure of NICTD, or anyone acting under its control or for whom it is legally responsible, to perform or observe any requirement or obligation imposed by this Agreement and (d) arising out of any other act or occurrence within the Rail Project. NICTD's indemnity obligation shall not extend to: (i) any third party claim to the extent directly caused by the sole negligence, recklessness, willful misconduct, or breach of any material obligation under this Agreement or the Governance Agreement by IFA or RDA; or (ii) any claims, causes of action, suits, judgments, demands, and/or losses resulting from any action of RDA or IFA during an Operations Step-In Period (as defined in the Governance Agreement) or resulting from any actions taken by RDA or IFA after the exercise of any Construction Period Step-In Rights (as defined in the Governance Agreement), provided however that nothing herein shall relieve NICTD of responsibility to pay up to the Maximum NICTD Excess Cost Contribution for Excess Construction Costs (as both such terms are defined in the Governance Agreement) irrespective of the exercise of Construction Period Step-In Rights. RDA and IFA shall have no obligation to indemnify NICTD.

ARTICLE VIII

MISCELLANEOUS

Section 8.01. Effectiveness. This Agreement shall be effective from and after the Effective Date, through the date on which this Agreement, or any extensions hereof, shall terminate in accordance with Section 3.02.

Section 8.02. Notices. All notices required or authorized to be given pursuant to this Agreement shall be in writing and shall be served personally or sent by certified mail to the main office of the party or parties to be notified, and the effective date thereof shall be the date of delivery, if served personally, or the date it is deposited in the mail, if mailed.

Section 8.03. Incorporation by Reference. All the covenants, agreements, terms and conditions required under the laws of the State, including the Act, to be included in any lease entered into under Indiana Code 5-1.3-5-2(a) are incorporated herein by this reference.

Section 8.04. Severability. In case any section or provision of this Agreement, or any covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Agreement, or any application thereof, is for any reason held to be illegal or invalid, or is at any time inoperable, that illegality, invalidity or inoperability shall not affect the remainder hereof or any other section or provision of this Agreement or any other covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Agreement, which shall be construed and enforced as if that illegal, invalid or inoperable portion were not contained herein. Any such illegality, invalidity or inoperability of any application shall not affect any legal, valid, and operable application, and each such section, provision, covenant, stipulation, obligation, agreement, act or action, or part thereof, shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent from time to time permitted by law.

Section 8.05. Table of Contents; Captions. The Table of Contents included within this Agreement and the captions included throughout this Agreement are for convenience and reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

Section 8.06. Governing Law. This Agreement shall be construed according to, and subject to, the laws of the State.

Section 8.07. Successors and Assigns. The rights and obligations of either party under this Agreement shall not be assignable by such party without the prior written consent of the other party, except that IFA may assign any of its rights under this Agreement to the Trustee. This Agreement shall inure to the benefit and shall be binding upon the respective successors and permitted assigns of the parties. Nothing herein expressed or implied is intended to confer upon any person, other than the parties or their respective successors or permitted assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers as of the day and year first hereinabove set forth.

INDIANA FINANCE AUTHORITY

By: _____
Cristopher R. Johnston, Chair

Attest:

Dan Huges, Public Finance Director
of the State of Indiana

NORTHWEST INDIANA REGIONAL
DEVELOPMENT AUTHORITY

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

Approved as to form and substance.

STATE BUDGET AGENCY

By: _____
_____, State Budget Director

Approved as to form and legality:

ATTORNEY GENERAL

By: _____

Name: _____

Title: _____

EXHIBIT A

FORM OF
SUPPLEMENT TO
STATE APPROPRIATION MASTER LEASE AGREEMENT (DOUBLE TRACK PROJECT)

This SUPPLEMENT TO STATE APPROPRIATION MASTER LEASE AGREEMENT (DOUBLE TRACK PROJECT) made and entered into as of the ____ day of _____, ____ (this "Supplemental Agreement"), by and between the INDIANA FINANCE AUTHORITY, a body politic and corporate, not a state agency but an independent instrumentality, exercising essential public functions, duly organized and validly existing under the laws of the State of Indiana (the "IFA"), pursuant to Indiana Code, 5-1.2, and the NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY, duly created and existing under by virtue of Indiana Code 36-7.5 (the "RDA");

WITNESSETH:

WHEREAS, the parties entered into a State Appropriation Master Lease Agreement (Double Track Project) as of the first day of _____, 20__ (the "Agreement"); and

WHEREAS, the Agreement provides that IFA and RDA may, on the date of the Agreement and from time to time thereafter, enter into one or more Supplemental Agreements, each of which may (1) set forth the Available Portion as of the date of such Supplemental Agreement, (2) add Additional Lease Premises to the Agreement when added under the terms of the Underlying Lease or to finance an Additional Project, (3) provide for the Construction of an Additional Project in the event such Additional Project shall be financed by an additional series of IFA Related Bonds, (4) add Additional Lease Premises so that there is no interruption in the lease rentals payable by RDA as described in Section 4.04(b) of the Agreement, (5) remove a portion of the Lease Premises being replaced, (6) state the rent payable for the Lease Premises, (7) provide that all lease covenants, including the obligation to pay rent, shall be unitary, whether covered by the Agreement or a Supplemental Agreement, or (8) contain such other covenants and agreements as the parties thereto agree upon; and

WHEREAS, the parties desire, by this Supplemental Agreement, to enter into such a Supplemental Agreement covering the [Available Portion] [Additional Project] [Additional Lease Premises], described in Schedule 1 attached herto, the total expenses incurred or to be incurred by IFA and allocable to which are currently estimated to be \$ _____ and the Commencement Date for which is currently projected to be _____ (the "Projected Commencement Date");

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants herein set forth, the parties agree as follows:

Section 1. Agreement to Remain in Effect. Subject to the amendments, modifications and agreements contained in this Supplemental Agreement, all the terms and

provisions of the Agreement shall remain in full force and effect, and are hereby incorporated herein by this reference. All capitalized terms used herein and not defined herein shall have the respective meanings set forth in the Agreement.

Section 2. Description of the [Available Portion] [Additional Project] [Additional Lease Premises]. The [Available Portion] [Additional Project] [Additional Lease Premises] covered by this Supplemental Agreement is described in Schedule 1 attached hereto. [IFA and RDA represent that the Additional Project has been or will be constructed in accordance with the Governance Agreement, any Development Agreement and applicable plans and specifications therefor with all reasonable speed and dispatch in accordance with the applicable plans and specifications therefor. The Funded Interest Date for the Additional Project is _____.]

Section 3. Rental Payments. Commencing on the Commencement Date for the [Available Portion] [Additional Project] [Additional Lease Premises] through _____, _____, RDA shall pay on a monthly basis, in arrears, the rental payments set forth in the Addendum attached hereto in accordance with Article IV of the Agreement.

Section 4. Amendments. IFA and RDA shall, on the Commencement Date for the [Available Portion] [Additional Project] [Additional Lease Premises] and from time to time thereafter, enter into one or more amendments to this Supplemental Agreement, each of which amendments shall include an addendum superseding the Addendum to: (a) adjust the rental payments under this Supplemental Agreement to reflect the then estimated expenses incurred or to be incurred by IFA in accordance with Indiana Code 5-1.3-5-2(a)(4); and (b) make such other changes as the parties may agree upon.

Section 5. Covenants Unitary. All covenants under the Agreement, this Supplemental Agreement or any other Supplemental Agreement, including the obligation to pay rent, shall be unitary and include all Lease Premises, whether covered by the Agreement, this Supplemental Agreement or any other Supplemental Agreement.

IN WITNESS WHEREOF, the parties have caused this Supplemental Agreement to be executed by their duly authorized officers as of the day and year first hereinabove set forth.

INDIANA FINANCE AUTHORITY

By: _____
_____, Chair

Attest:

_____, Public Finance Director
of the State of Indiana

NORTHWEST INDIANA REGIONAL
DEVELOPMENT AUTHORITY

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

Approved as to form and substance:

STATE BUDGET AGENCY

By: _____
_____, State Budget Director

Approved as to form and legality:

ATTORNEY GENERAL

By: _____

Name: _____

Title: _____

ADDENDUM

MONTHLY RENTAL PAYMENT SCHEDULE

<u>Month Available For Use</u>	<u>Month Payments Due</u>	<u>Rental Payments</u>
--	-----------------------------------	----------------------------

SCHEDULE 1

[AVAILABLE PORTION] [ADDITIONAL PROJECT] [ADDITIONAL LEASE PREMISES]

EXHIBIT B
LEASE PREMISES

EXHIBIT C
FORM OF MEMORANDUM

UNDERLYING LEASE AGREEMENT (DOUBLE TRACK PROJECT)

by and between

NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY

and

INDIANA FINANCE AUTHORITY

Dated as of [_____], 20__

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I DEFINITIONS AND GENERAL PROVISIONS	2
Section 1.01. Definitions.....	2
Section 1.02. Incorporation by Reference.....	3
Section 1.03. Interpretations.....	3
ARTICLE II LEASE AND MAINTENANCE OF THE RAIL PROJECT PROPERTY	3
Section 2.01. Lease of the Rail Project Property.....	3
Section 2.02. Term of Lease.....	4
Section 2.03. Operation and Maintenance	4
Section 2.04. Additional Lease Premises	4
ARTICLE III RENTS	4
Section 3.01. Payment.....	4
Section 3.02. Supplemental Agreements.....	4
ARTICLE IV MISCELLANEOUS.....	4
Section 4.01. Power to Agree.....	4
Section 4.02. Effectiveness	5
Section 4.03. Notices.....	5
Section 4.04. Severability.....	5
Section 4.05. Table of Contents; Captions.....	5
Section 4.06. Governing Law.....	5
Section 4.07. Successors and Assigns.....	5
EXHIBIT A DOUBLE TRACK PROJECT	
EXHIBIT B LEASE PREMISES	
EXHIBIT C FORM OF MEMORANDUM OF LEASE	

UNDERLYING LEASE AGREEMENT (DOUBLE TRACK PROJECT)

by and between

NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY

and

INDIANA FINANCE AUTHORITY

This UNDERLYING LEASE AGREEMENT (DOUBLE TRACK PROJECT) made and entered into as of [_____], 20__ (this "Agreement"), by and between the Northwest Indiana Regional Development Authority ("RDA" or the "Lessor"), a separate body corporate and politic formed pursuant to Indiana Code 36-7.5 (the "RDA Act"), and the Indiana Finance Authority ("IFA" or the "Lessee"), a body politic and corporate duly organized and validly existing under and pursuant to Indiana Code 5-1.2 (the "IFA Act");

WITNESSETH:

WHEREAS, the Northern Indiana Commuter Transportation District ("NICTD"), a commuter transportation district and a municipal corporation formed pursuant to Indiana Code 8-5-15 (the "NICTD Act"), and RDA have entered into a ground lease (the "Ground Lease") pursuant to which NICTD has leased to RDA all right, title and interests of NICTD in and to certain property described in the Ground Lease (the "Lease Premises"), including any property acquired by NICTD from time to time and leased to RDA as provided in the Ground Lease, on such terms and conditions as prescribed therein;

WHEREAS, the purpose of this Agreement is to lease from RDA to IFA all right, title and interests of the RDA in and to the Lease Premises leased to RDA under the Ground Lease;

WHEREAS, as a result of this Agreement, IFA will be authorized to finance through the issuance of bonds, notes or other obligations pursuant to Indiana Code 5-1.3, the development of the Rail Project (as defined herein) through a lease financing structure pursuant to which IFA shall, pursuant to one or more Master Leases (as defined herein), lease to RDA the Rail Project as constructed and when completed;

WHEREAS, as to be required by the Master Leases, RDA shall then lease the Rail Project to NICTD pursuant to the Operating Lease (as defined herein) so that NICTD will be obligated to construct, acquire, develop, operate and maintain the Rail Project in the manner provided in the Governance Agreement [and the Development Agreement]; and

WHEREAS, the Lessor and the Lessee have agreed to record a Memorandum of Lease contemporaneous with the execution of this Agreement;

In consideration of the mutual covenants herein set forth, the parties agree as follows:

ARTICLE I

DEFINITIONS AND GENERAL PROVISIONS

Section 1.01. Definitions. The following words and terms, as used in this Agreement or in any Supplemental Agreement or other amendment or supplement hereto, shall have the following meanings unless otherwise provided for in this Agreement or such Supplemental Agreement or other amendment or supplement, unless the context or use clearly indicates another or different meaning or intent:

"Agreement" shall mean this Underlying Lease Agreement (Double Track Project) as from time to time amended or supplemented by any Supplemental Agreement and Supplemental Memorandum of Lease or other amendment or supplement hereto.

"Fiscal Year" shall mean the twelve-month period commencing on July 1 of each year and ending on the succeeding June 30, or such other fiscal year of IFA as may be mandated by law.

"Governance Agreement" shall mean the Governance Agreement effective as of August 31, 2018, by and between NICTD, the RDA and the IFA, as from time to time amended or supplemented in accordance with its terms.

"Ground Lease" means the Ground Lease Agreement (Double Track Project), dated as of [_____] from NICTD to RDA of the Lease Premises, which Lease Premises shall then be leased by RDA to IFA pursuant to this Agreement.

"IFA Bond Act" shall mean Indiana Code 5-1.3, as amended or supplemented, or any successor thereto.

"Lease Premises" shall mean all property described in Exhibit B attached hereto, including without limitation, any and all Lease Premises leased to RDA by NICTD under the Ground Lease.

"Lessee" shall mean IFA.

"Lessor" shall mean RDA.

"Master Lease" or "Master Leases" shall mean the one or more Master Leases entered into or to be entered into from IFA to RDA that provides for financing the Rail Project through lease rental payments from RDA to IFA and obligates RDA to cause NICTD, pursuant to the Operating Lease, to acquire, construct, develop, operate and maintain the Rail Project in the manner provided by the Governance Agreement [and Development Agreement].

"Memorandum of Lease" shall mean the Memorandum of Lease, a form of which is set forth in Exhibit C attached hereto, which is to be recorded contemporaneous with the execution of this Agreement for the purpose of identifying the Lease Premises.

"Operating Lease" shall mean the lease, dated as of [_____] from RDA to NICTD of the Rail Project Property, including the Rail Project Property leased to RDA by IFA pursuant to the

Master Leases, pursuant to which Operating Lease NICTD shall agree to acquire, construct, develop, operate and maintain the Rail Project in the manner provided by the Governance Agreement [and Development Agreement].

"Rail Project" shall mean the project described in Exhibit A attached hereto (the "Double Track Project").

"Rail Improvements" shall mean the existing improvements located on the Real Estate, together with any new improvements constructed (or placed for use) on the Real Estate, whether as part of the Rail Project or otherwise.

"Rail Project Property" shall mean all real and personal property interests, including, but not limited to, the Lease Premises, the Rail Improvements, and such easements, licenses, leases, or property rights, in whatever form reasonably necessary to construct and operate the Rail Project, but not including NICTD rolling stock, except to the extent any costs for rolling stock are included in the applicable Cost Budget (as defined in the Governance Agreement), as the Rail Project is identified and described in Exhibit A attached hereto.

"Real Estate" means the real property described in Exhibit B attached hereto, as the same may be amended or modified in the manner provided herein.

"State" shall mean the State of Indiana.

"Supplemental Agreement" shall mean any agreement supplemental or amendatory of this Agreement entered into in accordance with Article III.

"Supplemental Memorandum of Lease" shall mean each Supplemental Memorandum of Lease recorded in connection with the addition of Lease Premises in the manner provided in Section 2.04 hereof.

Section 1.02. Incorporation by Reference. The provisions of the Ground Lease, Master Leases, Operating Lease and Governance Agreement [and Development Agreement] are hereby incorporated herein by reference.

Section 1.03. Interpretations. Unless the context indicates otherwise, words importing the singular number shall include the plural number and words importing the plural number shall include the singular number. The terms "hereof," "herein," "hereby," "hereto," "hereunder" and similar terms mean this Agreement.

ARTICLE II

LEASE AND MAINTENANCE OF THE RAIL PROJECT PROPERTY

Section 2.01. Lease of the Rail Project Property. In consideration of the rents, covenants and agreements contained herein, the Lessor does hereby demise and lease to the Lessee, and the Lessee does hereby rent and lease from the Lessor, the Lease Premises.

Section 2.02. Term of Lease. The term of this Agreement shall commence on the date hereof and shall terminate on _____; provided the term shall end earlier or later than such date, in the event the Governance Agreement is terminated and all bonds, notes or other financing provided by IFA for the Rail Project are fully paid or their payment is fully provided for, in which case, the term shall end on such date. Upon the expiration or termination of this Agreement, the ownership of all Lease Premises and Rail Project Property shall revert to NICTD.

Section 2.03. Operation and Maintenance. RDA shall cause NICTD, pursuant to the Ground Lease and the Operating Lease, to operate and maintain the Rail Project Property during the term of this Agreement in an efficient and economical manner and to maintain the same in good repair and sound operating condition and make all necessary repairs, renewals, replacements and improvements thereto. RDA shall cause NICTD, pursuant to the Ground Lease and the Operating Lease, to comply with all valid statutes, rules, regulations, orders and directions of any legislative, administrative or judicial body applicable to NICTD, RDA and the Rail Project Property. RDA shall cause NICTD, pursuant to the Governance Agreement, the Ground Lease and the Operating Lease, to adopt and keep in force reasonable rules and regulations governing the use of the Rail Project Property and the operation thereof, and enforce such rules and regulations.

Section 2.04. Additional Lease Premises. Whenever, pursuant to the Ground Lease, NICTD leases to RDA additional Lease Premises by execution of a supplemental agreement or memorandum to the Ground Lease, the Lease Premises shall become, by the recording of a Supplemental Memorandum of Lease, the same Lease Premises that are leased to RDA by NICTD under the Ground Lease.

ARTICLE III

RENTS

Section 3.01. Payment. The IFA shall pay, in arrears, without relief from valuation or appraisal laws and without a defense of set-off, counterclaim or recoupment, an annual rental for the Lease Premises, in an amount equal to One Dollar, payable to the Lessor during the term hereof on the first day of each Fiscal Year after the date hereof.

Section 3.02. Supplemental Agreements. The Lessor and the Lessee may, on the date hereof and from time to time thereafter, enter into one or more Supplemental Agreements which shall contain such covenants and agreements as the parties agree upon.

ARTICLE IV

MISCELLANEOUS

Section 4.01. Power to Agree. The Lessor and the Lessee each covenant to the other that the execution and delivery of this Agreement has been duly authorized by all necessary action, and that this Agreement has been duly executed and delivered, and constitutes a legal, valid and binding agreement in accordance with its terms and provisions.

Section 4.02. Effectiveness. This Agreement shall be effective from and after the date hereof, through the date on which this Agreement shall terminate in accordance with Section 2.02.

Section 4.03. Notices. All notices required or authorized to be given pursuant to this Agreement shall be in writing and shall be served personally or sent by certified mail to the main office of the party or parties to be notified, and the effective date thereof shall be the date of delivery, if served personally, or the date it is deposited in the mail, if mailed.

Section 4.04. Severability. In case any section or provision of this Agreement, or any covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Agreement, or any application thereof, is for any reason held to be illegal or invalid, or is at any time inoperable, that illegality, invalidity or inoperability shall not affect the remainder hereof or any other section or provision of this Agreement or any other covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Agreement, which shall be construed and enforced as if that illegal, invalid or inoperable portion were not contained herein. Any such illegality, invalidity or inoperability of any application shall not affect any legal, valid and operable application, and each such section, provision, covenant, stipulation, obligation, agreement, act or action, or part thereof, shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent from time to time permitted by law.

Section 4.05. Table of Contents; Captions. The Table of Contents included in this Agreement and the captions included throughout this Agreement are for convenience and reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

Section 4.06. Governing Law. This Agreement shall be construed according to, and subject to, the laws of the State.

Section 4.07. Successors and Assigns. The rights and obligations of either party under this Agreement shall not be assignable by such party without the prior written consent of the other party. This Agreement shall inure to the benefit and shall be binding upon the respective successors and permitted assigns of the parties. Nothing herein expressed or implied is intended to confer upon any person, other than the parties or their respective successors or permitted assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers as of the day and year first hereinabove set forth.

NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

INDIANA FINANCE AUTHORITY

By: _____

Cristopher R. Johnston, Chair

Attest:

Dan Huges, Public Finance Director of the
State of Indiana

June 20, 2019 draft

Approved as to form and substance:

STATE BUDGET AGENCY

By: _____
_____, State Budget Director

Approved as to form and legality:

ATTORNEY GENERAL

By: _____

Name: _____

Title: _____

EXHIBIT A

DOUBLE TRACK PROJECT

The Double Track Project includes implementing double-tracking and platform upgrades at five stations along a 26.6 mile-segment of the SSL between Gary and Michigan City, Indiana. Approximately 8.7 miles of double track already exists, and minimal construction would take place in this section. Within the remaining 16.4 mile segment, a new second main track would be constructed, mostly within existing railroad right-of-way (ROW) and next to the existing track. Additionally, in Michigan City, the street running tracks on 10th and 11th Streets would be removed and two new tracks would be constructed from Sheridan Avenue to Michigan Boulevard. Approximately 7.9 miles of active passing sidings exist along the route and would be used as the second main track to help reduce project scope and cost. Five platform upgrades would occur at the following stations:

- **Gary/Miller Station:** Construct two new high level platforms, two 8-car storage tracks for additional rush hour trains, a station house, and additional parking.
- **Portage/Ogden Dunes Station:** Construct two new high-level platforms and additional parking.
- **Dune Park Station:** Construct second boarding platform, re-align Calumet Trail under State Route (SR) 49 bridge, and construct additional parking.
- **Beverly Shores Station:** Construct two low level platforms.
- **Michigan City/11th Street Station:** Remove street-running tracks along 10th and 11th Streets; construct two new tracks south of the 10th Street ROW from Sheridan Avenue to Chicago Street (where it crosses Amtrak), two new tracks along 11th Street, two high-level platforms, and a new station house at 11th Street Station; and convert 11th Street to one-way auto traffic.

EXHIBIT B

LEASE PREMISES

(See attached)

EXHIBIT C

FORM OF MEMORANDUM OF LEASE

OPERATING LEASE AGREEMENT (DOUBLE TRACK PROJECT)

between

NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY

as Lessor

and

NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT

as Lessee

Dated as of _____, _____

INDEX

	<u>Page</u>
Section 1.	<u>Definitions; Interpretation</u>3
Section 2.	<u>Lease of Facilities</u>8
Section 3.	<u>Rental Payments; Supplements; Nature of Obligations</u>9
Section 4.	<u>Damage or Destruction of Facilities; Failure to Construct</u>10
Section 5.	<u>Nature of Operating Lease</u>10
Section 6.	<u>Nonliability of IFA or RDA</u>11
Section 7.	<u>Construction; Repairs and Maintenance; Alteration; Operations; Equipment or Furnishings</u>11
Section 8.	<u>Insurance</u>13
Section 9.	<u>Use of Insurance and Condemnation Proceeds</u>14
Section 10.	<u>Liability Insurance</u>15
Section 11.	<u>General Insurance Provisions</u>15
Section 12.	<u>General Covenants</u>15
Section 13.	<u>Covenants Regarding the Bond Act; IFA Bonds</u>16
Section 14.	<u>Utility Service</u>16
Section 15.	<u>Environmental Laws Covenants</u>16
Section 16.	<u>Indemnity by NICTD</u>17
Section 17.	<u>No Broker</u>17
Section 18.	<u>Transfer to NICTD</u>18
Section 19.	<u>Title to Real Estate</u>18
Section 20.	<u>Defaults; Remedies</u>18
Section 21.	<u>Notices</u>19
Section 22.	<u>Construction of Covenants</u>20
Section 23.	<u>Supplemental Operating Leases</u>20
Section 24.	<u>No Personal Liability</u>20
Section 25.	<u>Successors or Assigns; Use Restrictions</u>21
Section 26.	<u>Validity</u>21
Section 27.	<u>Severability; Complete Agreement; Counterparts; Survival of Terms; Governing Law; Etc.</u>21
Exhibit A	Legal Description and Map of the Real Estate
Exhibit B	Form of Supplemental Operating Lease Agreement (Double Track Project) between Northwest Indiana Regional Development Authority and Northern Indiana Commuter Transportation District

OPERATING LEASE AGREEMENT (DOUBLE TRACK PROJECT)

This Operating Lease Agreement (Double Track Project) (this "Operating Lease") is entered into this ____ day of _____, 20____, between the NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY, a separate body corporate and politic formed pursuant to Indiana Code 36-7.5, as supplemented and amended from time to time ("RDA"), and the NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT, a commuter transportation district and a municipal corporation formed pursuant to Indiana Code 8-5-15, as amended ("NICTD").

RECITALS

1. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the hereinafter defined Governance Agreement;
2. The South Shore Line is a commuter train service between South Bend, Indiana and Millennium Station in Chicago, Illinois;
3. NICTD has owned and operated the South Shore Line for nearly forty years and has experience in developing capital rail projects for the South Shore Line and in requesting, obtaining and managing federal grant funds through the Federal Transit Administration;
4. RDA fosters development in northwest Indiana and has since its inception fostered economic development throughout northwest Indiana and has been vested pursuant to IC 36-7.5-4-18 with certain powers and duties with respect to the Rail Project;
5. IFA oversees State debt issuance and provides effective financing solutions to facilitate State, local and business investment in the State and has participated in numerous important economic development activities throughout the State;
6. RDA and NICTD have developed and advanced plans for improvements to the South Shore Line, specifically the Double Track Project (as defined below and also defined as the "Rail Project") and the West Lake Corridor Project (as defined below), which will improve the South Shore Line and foster economic development throughout northwest and north central Indiana by shortening commute times, providing new rail service to areas not serviced by rail transportation to Chicago, enhancing the economic and community development of the northwest Indiana region, and increasing the convenience to the areas served;
7. RDA has determined that providing assistance to the Rail Project in the manner herein provided serves a public purpose for which RDA was created;
8. The Rail Project is expected to encourage business investment in and near the station areas, provide faster, less expensive and reliable transportation, relieve existing and anticipated traffic congestion, reduce vehicular emissions, reduce commuting costs and attract and retain families and younger residents in northwest and north central Indiana;
9. The Rail Project is expected to provide faster travel times, accommodate more trains to improve service during rush hour travel and be safer to operate;

10. RDA, IFA and NICTD have identified and obtained committed local and State funding for the Rail Project;

11. NICTD has applied for necessary federal grant funding from FTA on behalf of RDA and the State, and in its capacity as the grantee, and as the signatory party to that certain Full Funding Grant Agreement with FTA, will maintain continuing control of the assets receiving FTA funding, subject to the terms of the Governance Agreement, the Development Agreement, if any, this Operating Lease and the other leases described herein;

12. The Parties desire to jointly complete FTA grant application processes for the Double Track Project, in order to facilitate the further development, design, construction and financing of the Double Track Project as improvements to the South Shore Line commuter rail system;

13. Any obligations of RDA or IFA shall not constitute a debt of the State or any municipality, or a pledge of the full faith and credit thereof, under the Constitution of the State;

14. Providing financial support to the Rail Project and the development and operation thereof are valid public purposes of RDA, IFA and NICTD, will contribute importantly to the economic and community development of northwest Indiana and will benefit the citizens of northwest Indiana;

15. In connection with the IFA Bonds, RDA, NICTD, and IFA are required to enter into one or more leases for the purpose of providing for the issuance and repayment of the IFA Bonds;

16. The funding for the payment of lease rentals by RDA for payment of the IFA Bonds will be provided from State appropriations, FTA Grant Reimbursements, moneys on deposit in the next generation trust fund established under IC 8-14-15.2 and Member Dues;

17. NICTD expects that FTA funding will fund a portion of the costs of the Rail Project, subject to local funding of the remaining share;

18. NICTD, RDA, and IFA intend to enter into the Revenue Trust Fund Agreement with the Deposit Trustee and the Bond Trustee for the purposes of receiving and safeguarding substantially all funds for the Rail Project, including substantially all funding sources to be used to pay lease rentals;

19. RDA and IFA are willing to assist NICTD in providing a mechanism to fund the Rail Project pursuant and subject to the Governance Agreement and the Development Agreement and to comply with and advance the public purposes described herein;

20. In connection therewith and subject to this Operating Lease, certain Real Estate and Rail Improvements will be leased by NICTD to RDA pursuant to the Ground Lease, then leased by RDA to IFA pursuant to the Underlying Lease, then leased by IFA to RDA pursuant to the Master Leases, and then leased by RDA to NICTD pursuant to this Operating Lease, and IFA

will issue the IFA Bonds and cause certain proceeds thereof to be made available to NICTD to pay costs incurred in undertaking the Rail Project;

21. Contemporaneous with or subsequent to the commencement of existence of the leasehold estate under this Operating Lease, RDA and IFA shall cause the Underlying Lease, IFA and RDA shall cause the Master Leases, and RDA and NICTD shall cause the Ground Lease, to each be effective; and

22. NICTD acknowledges that IFA's and RDA's right of occupancy and continuous possession of the Real Estate (and the Rail Improvements) and its lawful right to lease the Real Estate (and the Rail Improvements) throughout the stated term of this Operating Lease are essential to the funding mechanism for the Rail Project and the realization of the public purposes described herein.

WITNESSETH:

In consideration of the mutual covenants herein contained, the parties hereto hereby agree as follows:

Section 1. Definitions; Interpretation.

(a) The terms defined in this Section shall for all purposes of this Operating Lease have the meanings herein specified unless the context otherwise requires.

"Ancillary Users" means any party that uses or has any interest in users of the Facilities of any kind whatsoever (including any subtenants, occupants, employees, agents, contractors, customers or invitees of NICTD).

"Authorized Officer of IFA" means the Chair of IFA or the Public Finance Director of the State of Indiana and, with reference to any act or document, also means any other person authorized by a resolution of IFA to perform such act or to sign such document.

"Authorized Officer of NICTD" means the President of NICTD and, with reference to any act or document, also means any other person authorized by a resolution of NICTD to perform such act or to sign such document.

"Authorized Officer of RDA" means the Chair or the Chief Executive Officer of RDA and, with reference to any act or document, also means any other person authorized by a resolution of RDA to perform such act or to sign such document.

"Biennium" means the biennium used for State budgetary and appropriation purposes.

"Bond Act" means Indiana Code 5-1.3, as amended or supplemented, or any successor thereto.

"Bond Trustee" means the trustee serving as such with respect to the IFA Bonds.

"Completion Certificate" for the Facilities or any portion thereof means a certificate (a) executed by an Authorized Officer of NICTD certifying that such Facilities or such portion thereof is available for use by RDA and (b) accepted by an Authorized Officer of RDA acknowledging that such Facilities or such portion thereof is available for use by RDA.

"Concurrence" means the written concurrence of the Authorized Officer of IFA and the Authorized Officer of RDA to the referred approval or other action of NICTD pursuant to the Governance Agreement, the Development Agreement or the Leases; *provided* that:

(a) concurrence may be withheld or delayed if the Authorized Officer of IFA and/or the Authorized Officer of RDA determines a referenced action (i) may adversely affect the Continuing Rent Obligation and (ii) be inconsistent with applicable laws (and the requirements of the Governance Agreement, the Development Agreement, the Leases and/or any documents related thereto);

(b) concurrence when given shall not be deemed to estop or otherwise waive IFA's and/or RDA's right to later assert or enforce any requirement under the Governance Agreement, the Development Agreement, the Leases and/or any documents related thereto, including IFA's and RDA's ability to seek claims, damages, losses and expenses, including attorneys' fees and other IFA and RDA costs arising out of or resulting from the action of NICTD for which concurrence has been given; and

(c) concurrence when given and later found to be contrary to any requirement under the Governance Agreement, the Development Agreement, the Leases and/or any documents related thereto shall not expose NICTD to a claim or assertion that such failure is, in and of itself, a failure to obtain a concurrence in the first instance and, as such, without having received a concurrence, a basis for a NICTD Event of Default. To the extent NICTD receives Concurrence under this Operating Lease it shall be able to rely upon such Concurrence.

"Continuing Rent Obligation" means (a) RDA's obligation under the Master Leases to continue to pay the Master Leases Rental and (b) NICTD's obligation under this Operating Lease to continue to pay the Operating Lease Rental, each without delay or diminution as to amount.

"Deposit Trustee" means the trustee bank acting as the Deposit Trustee under the Revenue Trust Fund Agreement.

"Development Agreement" means any development agreement entered into by NICTD, RDA and IFA for the purpose of governing the completion of the Rail Project in a manner consistent with and as contemplated by the Governance Agreement.

"Double Track Project" means the addition of an east/west rail line for a portion of the South Shore Line from Gary to Michigan City and related improvements, all as more fully described in Exhibit 1 of the Governance Agreement.

"Environmental Laws" means all federal, state and local statutes, common law principles, rules, regulations, ordinances, permits, licenses, written approvals, orders, writs, injunctions,

judgments and consent decrees relating to pollution control, protection of environmental quality, or protection of the health or safety of workers or the public from exposure to Hazardous Materials, including laws relating to emissions, discharges, releases or threatened releases of pollutants, contaminants, chemicals, or hazardous, toxic or dangerous substances, materials or wastes in the environment (including ambient air, surface water, ground water, land surface or subsurface strata) or otherwise relating to the generation, manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials. Without limiting the generality of the foregoing, "Environmental Laws" shall encompass any "Superfund" or "Superlien" Law (including those otherwise referenced in this definition) and each of the following statutes and the regulations promulgated thereunder, in any similar applicable federal, state or local law, rule or regulation, each as amended: (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980; (ii) the Solid Waste Disposal Act; (iii) the Hazardous Materials Transportation Act; (iv) the Toxic Substances Control Act; (v) the Clean Water Act; (vi) the Clean Air Act; (vii) the Safe Drinking Water Act; (viii) the National Environmental Policy Act of 1969; (ix) the Superfund Amendments and Reauthorization Act of 1986; (x) Title III of the Superfund Amendments and Reauthorization Act of 1986; (xi) the Federal Insecticide, Fungicide and Rodenticide Act; (xii) provisions of the Occupational Safety and Health Act of 1970 relating to the handling of and exposure to Hazardous Materials; and (xiii) any state or local analogue to any of the foregoing.

"Facilities" means the Real Estate and the Rail Improvements.

"FFGA" means the grant agreement awarded by FTA for the Rail Project.

"Force Majeure" shall have the meaning ascribed to such term in the Governance Agreement.

"FTA" means the Federal Transit Administration.

"FTA Grant Reimbursements" means funds received from FTA as reimbursement for expenditures by the Parties for moneys spent on one or both of the projects constituting the Rail Project pursuant to the FFGA for the Rail Project.

"Governance Agreement" means the Governance Agreement effective as of August 31, 2018, by and between NICTD, RDA and the IFA, as from time to time amended or supplemented in accordance with its terms.

"Ground Lease" means the Ground Lease Agreement (Double Track Project) as the same may be amended, modified or supplemented by any amendments or modifications thereof and supplements thereto entered into in accordance with the provisions hereof.

"Hazardous Materials" means any hazardous, toxic or dangerous substance, material and waste, including petroleum and hydrocarbon compounds derived from petroleum (including naturally occurring or man-made petroleum and derivative hydrocarbons), flammable explosives, asbestos, urea formaldehyde insulation, radioactive materials, polychlorinated biphenyls, pesticides, herbicides and any other kind and/or type of pollutants or contaminants (including materials which include hazardous constituents), sewage, sludge, solvents and/or any other

similar substances, materials or wastes that are or become regulated under any Environmental Law as hazardous or toxic.

"IC" means the Title, Article, Chapter and/or Section of the Indiana Code as referenced, and as such may be supplemented, amended or replaced from time to time.

"IFA" means the Indiana Finance Authority, a body politic and corporate, not a State agency, but an independent instrumentality exercising essential public functions, organized and existing under IC 5-1.2, or if said Indiana Finance Authority shall be abolished, the board, body, commission or agency succeeding to the principal functions thereof.

"IFA Bonds" means one or more series of bonds, notes or other similar obligations issued under IC 5-1.3-1 *et seq.* to finance or refinance all or a portion of the costs for the Rail Project;

"Including" or "including" in this Operating Lease shall be construed as if followed by the phrase "without limitation" or "but not limited to".

"Independent Expert" means an independent registered architect, registered engineer, construction manager or contractor selected by NICTD with Concurrence.

"Lease Premises" means the leasehold estate and interests created by and pursuant to this Operating Lease, including, without limitation, the leasing of the Facilities, as the same may be amended and modified from time to time as needed for the Rail Project in the manner as provided for in the Leases.

"Leases" means, collectively, the Ground Lease, the Underlying Lease, the Master Leases and this Operating Lease.

"Master Leases" means the various leases from IFA to RDA in support of the IFA Bonds, including specifically the State Appropriation Master Lease Agreement (Double Track Project), the RDA Member Dues Master Lease Agreement (Double Track Project) and the Federal Grant Anticipation Master Lease Agreement (Double Track Project), each as from time to time amended or supplemented by any amendment or supplement thereto, including any supplemental memorandum of lease recorded in connection therewith.

"Master Leases Rental" means the rental payments payable by RDA as provided in the Master Leases.

"Member Dues" means the portion of the annual payments to RDA from the Cities of Gary, East Chicago and Hammond and the Counties of Lake and Porter due under Indiana Code 6-3.6-6-9, Indiana Code 36-7.5-4-2 and Indiana Code 6-3.6-11-6.

"Operating Lease" means this Operating Lease, as from time to time amended or supplemented by any amendment or supplement hereto, including any supplemental memorandum of lease recorded in connection therewith.

"Operating Lease Rental" means the rental payments payable by NICTD as provided in this Operating Lease.

"Parties" means IFA, NICTD and RDA.

"Permitted Encumbrances" means (a) this Operating Lease, the Ground Lease, the Underlying Lease, and the Master Leases, (b) utility, access and other easements, licenses and rights of way, covenants, conditions and restrictions, and other exceptions to title, which in each case will not materially and adversely affect the construction, development and operation of the Rail Project as contemplated by this Operating Lease or materially impair the interest of IFA, RDA or NICTD in, or its use of, the Facilities, (c) any liens to the extent permitted in this Operating Lease, and (d) any other liens which are not prohibited under this Operating Lease, but only if in the opinion of counsel satisfactory to IFA and the Bond Trustee, such liens do not materially impair the interest of IFA, RDA or NICTD in, or its use of, the Facilities.

"Permitted Uses" means any use permitted under the Governance Agreement, subject to Section 25(c) hereof.

"Rail Project" means the Double Track Project, as defined in IC 5-1.3-2-14 and IC 36-7.5-1-13.5.

"Rail Improvements" means the existing improvements located on the Real Estate, together with any new improvements constructed (or placed for use) on the Real Estate, whether as part of the Rail Project or otherwise.

"Real Estate" means the real property described on Exhibit A of this Operating Lease, as the same may be amended or modified in the manner provided herein and the other Leases.

"Revenue Trust Fund" means the development authority revenue fund established under the Revenue Trust Fund Agreement.

"Revenue Trust Fund Agreement" means the Revenue Trust Fund Agreement, dated as of _____, 20____, entered into by and among RDA, IFA, NICTD, the Bond Trustee, and the Deposit Trustee in connection with the Revenue Trust Fund.

"State" means the State of Indiana.

"Supplemental Operating Lease" means any Operating Lease supplemental to this Operating Lease entered into in accordance herewith and substantially in the form set forth in Exhibit B.

"Trust Indenture" means the Trust Indentures to be entered into between IFA and the Bond Trustee relating to the IFA Bonds, and all supplements and amendments thereto.

"West Lake Corridor Project" means an approximately eight (8) mile new north/south passenger rail line connected to the existing South Shore Line located in Lake County, Indiana, with four stations from and including Hammond (Gateway Station) to and including

Munster/Dyer (Main Street Station, including all property owned or leased by NICTD for the operation of the South Shore Line over the West Lake Corridor Project), all as more fully described in Exhibit 2 of the Governance Agreement.

(b) The terms "herein", "hereto", "hereunder" and all terms of similar import shall be deemed to refer to this Operating Lease as a whole rather than to any Section or Exhibit to this Operating Lease.

(c) Unless otherwise specified, references in this Operating Lease to (i) "Section ___" shall be deemed to refer to the Section of this Operating Lease bearing the number so specified, (ii) "Exhibit ___" shall be deemed to refer to the Exhibit of this Operating Lease bearing the letter or number so specified, and (iii) this "Operating Lease" means this Operating Lease and any exhibits and attachments hereto.

(d) Captions used for or in Sections and Exhibits of this Operating Lease are for convenience of reference only and shall not affect the construction of this Operating Lease.

Section 2. Lease of Facilities.

(a) In consideration of certain payments and other terms and conditions herein specified, RDA does hereby lease, demise and let to NICTD the Facilities (such constituting a part of the Lease Premises), to have and to hold the same with all rights, privileges, easements and appurtenances thereunto belonging unto NICTD for a term beginning on the date hereof and ending on _____; provided, however, the term shall end earlier or later than such date in the event the conditions set forth in Section 18 hereof are met, in which case, the term shall end on such date (the "Term").

(b) The parties agree that the Rail Project will be undertaken on the Real Estate pursuant to the Governance Agreement and the Development Agreement. The parties acknowledge and agree that the Real Estate is available for use from and after the date hereof, and such availability for use (and the value thereof to RDA and NICTD) is not in any way diminished while the Rail Project is being undertaken. By one or more endorsements each recorded as soon as practical and as a Supplemental Operating Lease entered into in substantially the form set forth in Exhibit B, but in any event, when the Rail Improvements are complete and ready for use as part of the Rail Project, the parties shall revise or increase the real estate described in Exhibit A, if necessary to reflect the final site location acquired for the Rail Project and upon which the Rail Improvements as part of the Rail Project are constructed; provided that such additional Real Estate is also added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases. When complete, the parties shall set forth and make known the date or dates the Rail Improvements, as part of the Rail Project (or portions thereof), are complete and ready for use, which shall also be made available as the Lease Premises pursuant to this Operating Lease.

(c) NICTD hereby represents and warrants that, upon compliance with its obligations under Section 19 hereof, RDA will possess a good and indefeasible leasehold estate, subject only to Permitted Encumbrances, to all of the Real Estate, which includes real estate upon which the

Rail Improvements that are part of the Rail Project are to be acquired, improved and constructed pursuant to the Governance Agreement and the Development Agreement, and NICTD warrants and will defend the same against all claims whatsoever not suffered or caused by the acts or omissions of RDA.

(d) Each of the Master Leases shall provide that in the event the Master Lease is terminated pursuant to the terms and conditions of such Master Lease following an event of default (as defined in such Master Lease) by RDA, this Operating Lease shall remain in full force and effect for the benefit of IFA (who upon termination of such Master Lease shall succeed to the rights, title and interest of RDA, as sublessor under this Operating Lease) and NICTD.

(e) NICTD shall not use the Facilities and shall use commercially reasonable efforts to not allow the Facilities to be used (including by any Ancillary Users) for any purpose or in any manner that would invalidate any policy of insurance now or hereafter carried in respect of the Facilities.

Section 3. Rental Payments; Supplements; Nature of Obligations.

(a) During the term of this Operating Lease, NICTD agrees to pay rentals to RDA without relief from valuation or appraisal laws and without a defense or set-off, counterclaim or recoupment, for the use of the Real Estate and all existing Rail Improvements (and if and when complete, and for the use of any Rail Improvements that are part of the Rail Project), in arrears in the monthly amount of One Dollar (\$1), together with such additional amounts as may be set forth in any Supplement Operating Lease, on or before the first (1st) business day of each calendar month (collectively, the "Operating Lease Rental").

(b) After the Commencement Date (as defined in the Master Leases), for any portion of the Lease Premises, in the event such portion shall be damaged or destroyed or taken, so as to render such portion unavailable for use by NICTD, or shall for any other reason become unavailable for use by NICTD: (i) any rental payments due for such unavailable portion of the Lease Premises shall be abated during such unavailability by an amount equal to the product of the portion of (A) the rental payments otherwise due on such portion of the Lease Premises, times (B) a fraction of such rental payments, the numerator of which fraction equals the then estimated expenses incurred or to be incurred by RDA and allocable to such portion and the denominator of which fraction equals the then estimated expenses incurred or to be incurred by RDA and allocable to the Lease Premises; or (ii) RDA may add additional Lease Premises to this Operating Lease pursuant to a Supplemental Operating Lease so that there is no interruption in the lease rentals payable by NICTD as described in clause (a) above; provided that such additional Lease Premises are also added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.

(c) All rental obligations under this Operating Lease shall be deposited solely and exclusively into the Revenue Trust Fund.

(d) During the term of this Operating Lease, NICTD and RDA may enter into one or more Supplemental Operating Leases in the event NICTD proposes to construct portions of the

Rail Project that are not within the boundaries of the Facilities in substantially the form set forth in Exhibit B, so that such portions are within the boundaries of the Facilities.

(e) It is expressly understood and agreed by RDA and NICTD that the obligations of RDA and NICTD created by or arising out of this Operating Lease or of any amendments hereto shall not be, represent, or constitute an indebtedness of the State, IFA or RDA within the meaning or application of any constitutional limitation of the State or the laws of the State or a pledge of the faith or credit of the State, IFA or RDA.

Section 4. Damage or Destruction of Facilities; Failure to Construct.

(a) In the event the Facilities or any portion thereof shall be damaged or destroyed so as to render the same unfit for its intended use in the opinion of an Independent Expert, it shall then be the obligation of NICTD to cause the Facilities (or such portion thereof) to be restored and rebuilt as promptly as may be done, unavoidable strikes and other causes beyond the control of NICTD excepted, if in the opinion of an Independent Expert:

(i) the cost of such restoration or rebuilding does not exceed the amount of the proceeds received by the Trustee from the insurance provided for in Section 8 hereof, together with other moneys (I) IFA, at its discretion, may cause to be made available therefor pursuant to the terms of the Trust Indenture or the Revenue Trust Fund Agreement, as applicable, or (II) NICTD, at its discretion, may make available and deposit with the Trustee, and

(ii) such restoration or rebuilding can be sufficiently completed within the period of time covered by business income insurance provided for in Section 8 hereof in order to not adversely affect the Continuing Rent Obligation;

provided, however, that if NICTD shall fail to select such an Independent Expert (or fail to secure Concurrence in connection with the selection of such an Independent Expert) within ten (10) days after any request by RDA or IFA, then either RDA or IFA may select such Independent Expert to serve in such capacity at the sole cost and expense of NICTD.

(b) In the event such proceeds are insufficient to pay the restoration cost, such proceeds shall be applied as directed by RDA and IFA unless NICTD elects to make available and deposit with the Deposit Trustee or the Bond Trustee such shortfall and proceed with restoration in accordance with this Operating Lease.

Section 5. Nature of Operating Lease.

(a) It is expressly understood and agreed that this Operating Lease shall be what is known as an absolute net lease (i.e., that all costs and expenses in connection with the Facilities of any nature whatsoever shall be those of NICTD by reason of it being the tenant hereunder and all rent owing to RDA hereunder shall be net of all such costs and expenses) and that during the Term, NICTD shall be solely obligated to pay at its sole cost and expense, without reimbursement from or contribution by RDA, all costs of taxes and assessments, operations, maintenance and use in connection with or relating to the Facilities, including all costs and

expenses of decoration, maintenance, utility, janitorial and all other services, repair or replacement of all parts of the Facilities or improvement of the Facilities, including in the negotiation and maintenance of agreements with any Ancillary Users, subject to Section 12 hereof, in the manner provided in Section 7 hereof, except as otherwise provided in the Governance Agreement.

(b) NICTD shall cause any taxes due on the Rail Project to be timely paid to the applicable authorities, except to the extent of any good faith contests which have not yet been resolved, and it shall not assert any basis for taxation in respect of the Facilities that would negate or otherwise negatively impact any imposition or collection of taxes other than deductions, credits or other adjustments that would otherwise be applicable in the event the Leases were not in force or effect. The parties acknowledge and agree that this Operating Lease is, and is intended to be, a lease of real property including fixtures and mixed real and personal property (with any such personal property covered by this Operating Lease being incidental), and the Continuing Rent Obligation reflects lease payments which are made solely with respect to the lease of such real property.

(c) Except as otherwise provided in the Governance Agreement, NICTD shall retain all revenues from the operation of the Facilities, and except as otherwise provided in the Governance Agreement, neither IFA nor RDA shall have any responsibility to fund the ongoing costs, expenses and needs for operations, repairs, maintenance and replacements of or related to the Facilities.

Section 6. Nonliability of IFA or RDA. Except as otherwise provided in the Governance Agreement, neither IFA nor RDA shall be liable for damage caused by hidden defects or failure to keep the Facilities in repair and shall not be liable for any damage done or occasioned by or from any improvements, structures or equipment (including any stations, parking facilities, bridges, overpasses, crossings, switches, locomotives, railroad cars, utilities, plumbing, gas, water, boilers, steam or other pipes or sewage or the bursting or leaking of plumbing or heating fixtures or waste or soil pipe) in connection with the Facilities, nor for damage occasioned by natural events (whether occurring by age, wind, water, snow, ice, movements of earth, or otherwise). Neither IFA nor RDA shall be liable for any injury to NICTD, any Ancillary Users or any other person which injury occurs in, upon, about or near the Facilities howsoever arising. Neither IFA nor RDA shall be liable for damage to NICTD's property or to the property of any Ancillary Users or of any other person which may be located in, upon, about or near the Facilities. NICTD shall be responsible for preserving for the benefit of IFA and RDA usual and customary rights, claims and warranties against the persons or entities engaged to acquire, improve and construct any Facilities.

Section 7. Construction; Repairs and Maintenance; Alteration; Operations; Equipment or Furnishings.

(a) NICTD represents and covenants that the Rail Project has been or will be constructed in accordance with the terms and conditions of the Governance Agreement, the Development Agreement and applicable plans and specifications therefor with all reasonable speed and dispatch in accordance with the applicable approved plans and specifications therefor.

(b) NICTD shall keep and maintain the Facilities in good condition and repair in accordance with NICTD management practices in effect as of the date hereof and shall operate the Rail Project in an efficient and economical manner and in accordance with the Governance Agreement. NICTD shall make all necessary repairs, renewals, improvements and replacements to the Facilities and shall keep the Facilities in a clean and neat condition and in good and sound condition and repair, normal wear and tear excepted. The cost of such repairs, replacements and maintenance shall be (whether required because of the negligence, misuse or default of NICTD, any of its Ancillary Users, or otherwise) at NICTD's sole cost and expense, except as otherwise provided in the Governance Agreement.

(c) NICTD shall comply with all valid statutes, rules, regulations, orders and directions of any legislative, administrative or judicial body applicable to NICTD, the Lease Premises and the Facilities. NICTD shall adopt and keep in force reasonable rules and regulations governing the use of the Lease Premises and the Facilities and the operation thereof, and shall enforce such rules and regulations on a uniform basis.

(d) RDA shall comply with all valid statutes, rules, regulations, orders and directions of any legislative, administrative or judicial body applicable to RDA and with respect to RDA's rights and responsibilities for the Lease Premises and the Facilities. To the extent reasonably necessary, the RDA shall adopt and keep in force reasonable rules and regulations governing the use of the Lease Premises and the Facilities and the operation thereof, and shall enforce such rules and regulations on a uniform basis.

(e) NICTD shall have the right, at its sole cost and expense, without Concurrence, to make all alterations, modifications and additions and to do all demolition, remodeling and improvements it deems necessary or desirable to the Facilities, which do not materially reduce the rental value of the Lease Premises or adversely affect (i) the Continuing Rent Obligation and (ii) each referenced obligation that is required to be met by NICTD to be consistent with applicable law (including the Bond Act) and the requirements of the Governance Agreement, the Development Agreement, the Ground Lease, the Underlying Lease, the Master Leases, this Operating Lease and/or any documents related thereto. NICTD shall be liable to repair any damage to the Facilities resulting from such work.

(f) So long as this Operating Lease is in effect, NICTD may at any time and from time to time, at its sole cost and expense, install, modify, remove or replace items of moveable machinery, equipment, furnishings and other personalty in and upon the Facilities. All such personal property shall remain the sole property of NICTD, in which neither IFA nor RDA shall have any interest, and may be installed, modified, removed or replaced by NICTD at any time; *provided* that if such installation, modification, removal or replacement adversely affects (i) the Continuing Rent Obligation or (ii) any referenced obligation that is required to be met by NICTD to be consistent with applicable law (including the Bond Act) and the requirements of the Governance Agreement, the Development Agreement, the Ground Lease, the Underlying Lease, the Master Leases, this Operating Lease and/or any documents related thereto, then NICTD shall either: (y) repair and restore any and all damage to the Facilities resulting from the installation, modification, removal or replacement of any such property; or (z) compensate IFA and RDA for any loss in value to the Lease Premises (including any diminishment in the Master Leases Rental

and Operating Lease Rental) resulting from the installation, modification or removal of any such property.

(g) NICTD shall maintain or cause to be maintained such performance bonds or performance insurance (in a manner consistent with the Governance Agreement) with respect to contracts it may enter into for construction of the Rail Improvements as are usually maintained by those constructing improvements and facilities similar to the Rail Improvements. If performance of any contract for construction of the Rail Improvements is not completed in accordance with its terms and, in the opinion of a registered engineer selected by NICTD and acceptable to IFA and RDA, the cost of completion of such performance shall not exceed the amount of proceeds from any performance bond or performance insurance to be received by reason of such noncompletion of performance and other amounts available therefor, NICTD shall complete or cause to be completed such performance in the manner provided in, and subject to the conditions of, the Governance Agreement. The proceeds of any performance bond paid on account of such noncompletion of performance shall be made available for, and to the extent necessary shall be applied to, the cost of such construction.

Section 8. Insurance.

(a) NICTD, in the manner as provided in the Governance Agreement prior to completion of the Rail Project, and thereafter at its sole cost and expense, shall, during the full term of this Operating Lease, keep the Facilities insured against physical loss or damage, however caused, and otherwise in the manner and on a basis required in the Governance Agreement and the Development Agreement and consistent with commercially reasonable practices and only with such exceptions as are ordinarily required by insurers of rail lines of a similar type (as provided by an industry standard special cause of loss (or its equivalent) property insurance policy, which insurance shall not exclude flood or earthquake, but may provide for sublimits therefor), with good and responsible insurance companies. Such policies shall include terrorism coverage so long as the Terrorism Risk Insurance Program Reauthorization Act of 2015 [15 USC 6701] continues in its present form or an equivalent federal insurance program is available to NICTD. Such insurance shall be in an amount at least equal to the full replacement cost of such Facilities as reasonably determined by NICTD in consultation with an insurance consultant approved by RDA from and after the date the IFA Bonds are issued by IFA; *provided*, any reduction in excess of ten percent (10%) from the amount carried on the date this Operating Lease is entered into (including any reduction from any existing sublimits) shall only be permitted with Concurrence. In no event shall the insurance be in an amount which causes NICTD to be a co-insurer for the Facilities; *provided*, it is agreed that the provision of sublimits for earthquake and flood shall not be deemed to cause NICTD to be a co-insurer; *provided further* that such insurance may cover properties of NICTD other than the Facilities. Such insurance may contain a provision for a deductible in an amount that is customary and commercially reasonable, but not more than \$500,000 or such higher amount as from time to time determined by NICTD with Concurrence. After the occurrence of any insured casualty, NICTD agrees to pay the deductible amount of any loss to the Bond Trustee or such party directed by the Bond Trustee, as applicable, within ten (10) days following any request so made by IFA or RDA. A blanket property insurance form may be used if the insurance payable in respect of loss related to the Facilities is not less than the amount required by this Section and the

insurance proceeds related to damage to or destruction of the Facilities are payable to the Bond Trustee for the IFA Bonds.

(b) During the full term of this Operating Lease, NICTD, in the manner as provided in the Governance Agreement prior to completion of the Rail Project, and thereafter at its sole cost and expense, shall also, maintain business income insurance in an amount at least equal to the Operating Lease Rental on the Lease Premises leased by NICTD under this Operating Lease for a period of (2) years against physical loss or damage of the type insured against pursuant to the preceding requirements of this Section. Such business income insurance policies shall be for the benefit of IFA, RDA, and the Bond Trustee and shall name the Bond Trustee for the IFA Bonds as loss payee, which payment to such Bond Trustee may be limited to circumstances where Master Leases Rental is not made by RDA pursuant to a Master Lease.

(c) After the occurrence of any insured casualty related to the Facilities, NICTD shall give notice to the Bond Trustee, IFA and RDA. Such notice shall be given within five (5) days following such casualty and shall tentatively describe the nature of the casualty together with sufficient additional information to permit IFA and RDA to ascertain NICTD's plans for addressing such loss or damage (and meeting its obligations under this Operating Lease, including the amount NICTD plans to reserve to meet the requirements thereof that result from any deductible applicable under its insurance policies).

(d) In the event that an insurance program is developed by NICTD and approved by RDA and IFA as provided in the Governance Agreement, that insurance program and the requirements thereof shall be substituted herein as the insurance coverage requirements for this Operating Lease to the extent in conflict herewith or in addition hereto.

Section 9. Use of Insurance and Condemnation Proceeds.

(a) If all or any portion of the Facilities shall be damaged or destroyed or taken, NICTD shall, as expeditiously as possible, continuously and diligently prosecute, or cause to be prosecuted, repair, reconstruction or replacement thereof until completion. Within one hundred twenty (120) days after the occurrence of an event of damage or destruction to the Facilities or a taking thereof, NICTD, through any Authorized Officer of the NICTD, shall deliver to RDA and the Bond Trustee the written opinion of engineer selected by NICTD and reasonably acceptable to RDA and IFA stating whether or not the conditions set forth above with respect thereto are satisfied. The proceeds of any insurance paid on account of such damage or destruction or taking (other than any rent loss insurance) shall be made available for, and to the extent necessary shall be applied to, the cost of such repair, reconstruction or replacement, or otherwise in accordance with the terms and conditions of this Operating Lease.

(b) Proceeds of insurance against damage to or destruction of the Facilities which are paid to the Bond Trustee as described herein shall be held by the Bond Trustee pursuant to the applicable Trust Indenture and used by NICTD in accordance with the provisions of this Operating Lease, the Underlying Lease, the Master Leases, this Operating Lease, the Governance Agreement and such Trust Indenture. Proceeds of any condemnation of the Facilities (or portion thereof) shall be paid to the Bond Trustee and held by the Bond Trustee pursuant to the applicable Trust Indenture and used by NICTD in accordance with the provisions of this

Operating Lease, the Ground Lease, the Underlying Lease, the Master Leases, the Governance Agreement and such Trust Indenture.

Section 10. Liability Insurance. NICTD shall, at all times during the full term of this Operating Lease, keep in effect Commercial General Liability Insurance (which insurance shall not exclude blanket contractual liability, broad form property damage, personal injury, or fire damage coverage) covering the Facilities and NICTD's use thereof against claims for bodily injury and property damage, and insuring NICTD, IFA and RDA in amounts and in the manner required by the Governance Agreement and the Development Agreement. Such policies shall include terrorism coverage so long as the Terrorism Risk Insurance Program Reauthorization Act of 2015 [15 USC 6701] continues in its present form or an equivalent federal insurance program is available to NICTD. NICTD shall maintain for each policy year during the term of this Operating Lease aggregate limits for liability coverages of not less than fifty percent (50%) of liability coverage amounts as in effect on the date this Operating Lease is entered into unless otherwise approved by RDA; *provided* that if such policy limits are not reasonably available in the insurance marketplace, then NICTD may reduce such aggregate coverage amounts to the highest such amounts as are reasonably available in the insurance marketplace existing from time to time. NICTD shall make IFA, RDA and the State additional insureds on such policies.

Section 11. General Insurance Provisions. All insurance policies required by Sections 8 and 10 hereof shall be issued in a manner and with coverages consistent with those provided in the Ground Lease and in all instances, in a manner as provided in the Governance Agreement and the Development Agreement, by good and responsible insurance companies, each of which companies, selected by NICTD and reasonably approved by RDA, shall be rated at least "A-VII" (or an equivalent rating if such rating scale is discontinued or changed) by A.M. Best & Company (or by an equivalent rating service if A.M. Best & Company is no longer providing such types of ratings) and shall be countersigned by an agent of the insurer who is a licensed agent in the State. Such policies, or copies thereof, shall be held by NICTD as standing information for review by IFA, RDA and the Bond Trustee; *provided* that such policies shall be available for review by IFA, RDA and the Bond Trustee upon request, and shall be updated as changes are made to such policies. Such policies shall be subject to the requirement that in the event of a material reduction in policy limits or elimination of any coverages, NICTD will notify IFA, RDA and the Bond Trustee in writing by electronic or other means, with such notification including a description of the coverages so reduced or eliminated. If, at any time, NICTD fails to maintain insurance in accordance with Sections 8 and 10 hereof, such insurance may be obtained by IFA or RDA, or may be obtained by the Bond Trustee, and the amount paid for such insurance shall be payable by NICTD under this Operating Lease; *provided, however*, that neither IFA, RDA nor the Bond Trustee shall be under any obligation to obtain such insurance, and any action or non-action of RDA, IFA or the Bond Trustee in this regard shall not relieve NICTD of any consequences of a default in failing to obtain such insurance. The Bond Trustee shall be the loss payee on all casualty insurance required by this Operating Lease that becomes payable in respect of claims related to the Facilities.

Section 12. General Covenants.

(a) NICTD covenants that, except for Permitted Encumbrances and any liens, charges, encumbrances, or security interests created by an act or omission of RDA and/or IFA, it will not mortgage, impose any lien or claim upon, or otherwise encumber the Lease Premises (whether actual, contingent or otherwise), or permit any mortgage, lien, claim or encumbrance to exist thereon, and that it shall use and maintain the Facilities in material compliance with the laws and ordinances of the United States of America, the State, and all other proper governmental authorities.

(b) Each party hereto agrees that it will, at the request of the other party, execute and deliver to or upon the request of the other party such instrument or instruments as may be reasonably required by such party in order to assure or confirm NICTD's interest in the Lease Premises pursuant to the terms hereof and shall also deliver, from time to time, such instrument or instruments as may be reasonably requested by the other party or any tenant or subtenant of NICTD with respect to the covenant of quiet enjoyment herein.

(c) RDA covenants that, except for Permitted Encumbrances and any liens, charges, encumbrances, or security interests created by an act or omission of NICTD and/or IFA, it will not mortgage, impose any lien or claim upon, or otherwise encumber the Lease Premises (whether actual, contingent or otherwise), or permit any mortgage, lien, claim or encumbrance to exist thereon, and that it shall use and maintain the Facilities in material compliance with the laws and ordinances of the United States of America, the State, and all other proper governmental authorities.

Section 13. Covenants Regarding the Bond Act; IFA Bonds. NICTD shall timely comply with all requirements of NICTD created by the Bond Act, the Governance Agreement, the Development Agreement and any agreement or certificate executed by NICTD in connection with the issuance of the IFA Bonds.

Section 14. Utility Service. NICTD agrees to pay or cause to be paid all charges for (a) sewer, gas, water, electricity, light, heat or power utilities and services, (b) telephonic, communication and other information services, (c) other utility and like services, and (d) regulatory, track and freight fees and other fees, costs and expenses associated with the use and operation of the Facilities that are used, rendered or supplied upon or in connection with the Facilities throughout the term of this Operating Lease.

Section 15. Environmental Laws Covenants.

(a) With respect to the Facilities, (i) NICTD shall at all times comply and follow commercially reasonable business practice to cause others to comply, in all material respects, with all Environmental Laws and all licenses, permits, certificates, approvals and similar authorizations issued to NICTD thereunder, and such operations shall not give rise to any liability pursuant to any Environmental Law, (ii) NICTD shall promptly notify RDA and IFA upon becoming aware of any investigation, proceeding, complaint, order, directive, claim, citation or written notice by any governmental authority or any other Person arising under or relating to any violation of any Environmental Law that is pending against NICTD or threatened in writing against NICTD and shall take prompt and appropriate actions to respond thereto and to cure such violation (if any) and (iii) NICTD shall promptly notify RDA and IFA upon becoming

aware of any non-compliance with, or violation of, the requirements of any Environmental Law by NICTD in any material respect, or the release, spill, or discharge, threatened or actual, of any Hazardous Material or the generation, use, storage, treatment, transportation, manufacture, handling, production or disposal of any Hazardous Material or any other environmental, health or safety matter, which affects or gives rise to a material liability upon NICTD or any liability upon IFA or RDA.

(b) NICTD shall not cause or permit the use, generation, release, manufacture, refining, production, processing, storage or disposal of any Hazardous Materials on, under or about the Facilities, or the transportation to or from the Facilities of any Hazardous Materials, except as necessary and appropriate for its Permitted Uses, in which case, the use, storage or disposal of such Hazardous Substances shall be performed in compliance with the Environmental Laws and the standards prevailing in the railroad industry and at comparable facilities. Notwithstanding anything contained herein to the contrary, IFA and RDA shall not have any liability to NICTD resulting from any conditions existing, or events occurring, or any Hazardous Materials existing or generated, at, in, on, under or in connection with this Operating Lease or the Facilities.

Section 16. Indemnity by NICTD. NICTD shall release, protect, defend, indemnify and hold harmless the RDA, IFA, the Bond Trustee, the Deposit Trustee, and their respective agents, employees, representatives and consultants, from and against any and all claims, causes of action, suits, judgments, demands, and/or losses, in each case if asserted or incurred by or awarded to any third party, arising out of or relating to or resulting from (a) NICTD's design, construction or operation of the Rail Projects or the South Shore Line, (b) any act, omission, negligence, or willful misconduct of NICTD, any of its Ancillary Users or anyone acting under its control or for whom it is legally responsible (c) failure of NICTD, or anyone acting under its control or for whom it is legally responsible, to perform or observe any requirement or obligation imposed by this Operating Lease and (d) arising out of any other act or occurrence within the Facilities. NICTD's indemnity obligation shall not extend to: (i) any third party claim to the extent directly caused by the negligence, recklessness, willful misconduct, or breach of any material obligation under this Operating Lease or the Governance Agreement by IFA or RDA, or (ii) any claims, causes of action, suits, judgments, demands, and/or losses resulting from any action of the RDA or IFA during an Operations Step-In Period or resulting from any actions taken by the RDA or IFA after the exercise of any Construction Period Step-In Rights; *provided*, however, that nothing herein shall relieve NICTD of responsibility to pay up to the Maximum NICTD Excess Cost Contribution for Excess Construction Costs irrespective of the exercise of Construction Period Step-In Rights. The RDA and IFA shall have no obligation to indemnify NICTD.

Section 17. No Broker. NICTD hereby represents and warrants that no brokers or third-party involved in the negotiation and execution of this Operating Lease is entitled, as a result of the actions of the respective party, to a commission or other fee resulting from the execution of this Operating Lease.

Section 18. Transfer to NICTD. To the extent provided in the Governance Agreement, upon the later of the termination of the Governance Agreement and the final and full payment of all IFA Bonds, this Operating Lease shall terminate.

Section 19. Title to Real Estate.

(a) NICTD shall cause a final, fully paid, leasehold title insurance policy to be issued for the benefit of RDA by no later than the date the IFA Bonds are to be issued by IFA. In the event NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities, then by no later than the date as of which construction of any such portion commences, NICTD shall cause (i) an endorsement to be issued to, and on substantially the same terms as, the leasehold title insurance policy referenced in the prior sentence (or an additional final, fully paid, leasehold title insurance policy to be issued on substantially the same terms as the leasehold title insurance policy referenced in the prior sentence) to identify and insure thereunder any such necessary increase in the real estate described in Exhibit A and (ii) a Supplemental Operating Lease to be entered into in substantially the form set forth in Exhibit B in respect of such Real Estate; provided that such additional Real Estate is also added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.

(b) NICTD represents and warrants that it has a good and indefeasible estate in fee simple to all of the Real Estate, subject only to Permitted Encumbrances.

Section 20. Defaults; Remedies.

(a) If there is any NICTD uncured Event of Default (including any default in the observance of any other covenant, agreement or condition contained in this Operating Lease) (each an "Event of Default"), RDA may proceed to protect and enforce its rights, either at law or in equity, by suit, action, mandamus or other proceedings, whether for specific performance of any covenant or agreement contained herein or for the enforcement of any other appropriate legal or equitable remedy (as contained in the Governance Agreement as may relate to this Operating Lease and such Event of Default); *provided* that all such rights and remedies taken in respect of this Operating Lease and any such Event of Default shall only be undertaken and pursued by RDA in strict conformity with this Section and the requirements and limitations set forth in the Governance Agreement.

(b) Except for extensions of time resulting from a Force Majeure event that are allowed in the Governance Agreement, time is of the essence of each term and provision of this Operating Lease to be observed by NICTD hereunder.

(c) If RDA shall fail to perform any term, condition, covenant or obligation required to be performed by it under this Operating Lease, NICTD may pursue a claim for specific performance. If RDA shall fail to perform any term, condition, covenant or obligation required to be performed by it under this Operating Lease and if NICTD shall, as a consequence thereof, recover a money judgment against RDA and/or IFA, NICTD agrees that (i) it shall look solely to RDA's and IFA's right, title and interest in and to the Lease Premises (which shall not include any right to set-off related to any payment due to RDA or IFA as required by the Governance

Agreement, the Development Agreement, this Operating Lease, the Underlying Lease, the Master Leases, the Ground Lease and/or any documents related thereto) for the collection of such judgment, (ii) it shall not look to any other assets of RDA and/or IFA in the levy, execution or other process for the satisfaction of NICTD's judgment, and (iii) it shall not enforce any execution or other process for the satisfaction of NICTD's judgment, unless such does not: (A) materially reduce the rental value of the Lease Premises; (B) adversely affect the Continuing Rent Obligation; or (C) materially and adversely affect any obligation that is required to be met by NICTD pursuant to applicable laws (including the Bond Act) and requirements of the Governance Agreement, the Development Agreement, this Operating Lease the Underlying Lease, the Master Leases, the Ground Lease and/or any documents related thereto.

(d) Neither party's failure or delay in exercising any of its rights or remedies or other provisions of this Operating Lease shall constitute a waiver thereof or affect its right thereafter to exercise or enforce such right or remedy or other provision. No waiver of any default shall be deemed to be a waiver of any other default. RDA's receipt of less than the full amount due as herein provided shall not be construed to be other than a payment on account of such amount then due, nor shall any statement on NICTD's check or any letter accompanying NICTD's check be deemed an accord and satisfaction. No act or omission by RDA (or IFA) or their respective employees or agents during the term of this Operating Lease shall be deemed an acceptance of a surrender of the Lease Premises hereunder, and no agreement to accept such a surrender shall be valid unless in writing and signed by RDA and IFA.

(e) Notwithstanding anything herein, IFA may proceed to protect and enforce any rights or interests of RDA or IFA under this Operating Lease in its own name or on behalf of RDA in the name of RDA in its place and stead.

Section 21. Notices.

(a) All notices, certificates, requests or other communications required hereunder shall be sufficient only if given in writing, prior to the matter requiring notice and shall be deemed given (i) one (1) business day after being deposited for next day delivery; (ii) three (3) business days after mailing when mailed by registered or certified mail, return receipt requested, postage prepaid, or (iii) the same day if hand delivered (or if sent by both facsimile and email) during a business day, addressed as follows:

To RDA: Northwest Indiana Regional Development Authority
9800 Connecticut Drive
Crown Point, IN 46307
Attention: President

With a Copy to: Ice Miller LLP
One American Square 2900
Indianapolis, IN 46282

To IFA: Indiana Finance Authority
1 North Capitol, Suite 900
Indianapolis, Indiana 46204

Attention: Public Finance Director of the State of Indiana
and General Counsel
Facsimile (317) 232-6786 / Electronic mail (to
DHuge@ifa.IN.gov; and ASeiwert@ifa.IN.gov)

To NICTD: Northern Indiana Commuter Transportation District
33 East U.S. Highway 12
Chesterton, Indiana 46304
Attention: President and/or Chief Executive Officer

With a Copy to: Northern Indiana Commuter Transportation District
33 E. US Highway 12
Chesterton, IN 46304
Attention: Office of General Counsel

(b) Any party hereunder may, by notice given hereunder, designate any further or different addressees to which subsequent notices, certificates, requests or other communications shall be sent.

Section 22. Construction of Covenants. All provisions contained herein shall be construed in accordance with the provisions of the Bond Act, the Governance Agreement and the Development Agreement and to the extent of any material inconsistencies between the covenants and agreements in this Operating Lease, the Governance Agreement, and the Development Agreement and the provisions of the Bond Act, the provisions of the Bond Act, then the Governance Agreement, then this Operating Lease, and then the Development Agreement, shall be deemed to be controlling and binding upon the parties.

Section 23. Supplemental Operating Leases. RDA and NICTD may, from time to time hereafter, enter into one or more Supplemental Operating Leases, each of which: (a) shall provide that all covenants contained in this Operating Lease shall be unitary and include all parts of the Lease Premises, whether leased pursuant to this original Operating Lease or pursuant to any Supplemental Operating Lease (*provided* that the foregoing shall not limit or restrict the parties from having differing covenants and obligations applicable to any Supplemental Operating Leases related to portions of the Rail Project NICTD proposes to be constructed that are not within the existing boundaries of the Facilities); and (b) may contain such other covenants and agreements as the parties thereto agree upon.

Section 24. No Personal Liability. No recourse shall be had for any payment due under this Operating Lease or for any claim based thereon or upon any obligation, covenant or agreement in this Operating Lease contained against any past, present or future member, officer, employee, agent or official of IFA, RDA or NICTD, or any successor thereof, either directly or through IFA, RDA or NICTD, or any successor thereof, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability for any such person is hereby expressly waived and released as a condition of and consideration for the execution of this Operating Lease and issuance of the IFA Bonds.

Section 25. Successors or Assigns; Use Restrictions.

(a) All covenants of this Operating Lease, whether by RDA or NICTD, shall inure to the benefit of and be binding upon the permitted successors and assigns of the respective parties hereto. This Operating Lease shall not be assigned by NICTD without the prior written consent of RDA and IFA, and in such event the assignor shall not be relieved of its obligations hereunder unless permitted by RDA and IFA. This Operating Lease may be assigned by RDA to IFA without the prior written consent of NICTD as and to the extent permitted by the Bond Act. Any assignment in contravention of this Section shall be null and void *ab initio*.

(b) Notwithstanding any other provision of this Operating Lease to the contrary, NICTD covenants that it: (a) will not use or permit the Facilities or any portion thereof for any private business use within the meaning of Section 141(b)(6) of the Internal Revenue Code of 1986, as amended from time to time, without the prior written consent of an Authorized Officer of IFA, which consent shall not be unreasonably withheld, and (b) will comply with Section 148(f) of the Internal Revenue Code of 1986, as amended from time to time. Any agreement entered into by NICTD in violation of this Section 25 shall be of no force or effect and shall not convey any rights or impose any obligation in respect to it, at law or in equity.

(c) Requests for consent to private business use shall be sent in writing by NICTD to IFA and RDA. Each such request shall include a final draft of the proposed conveyance, lease, sublease, management or incentive payment contract, license or other agreement that may give rise to such private business use, together with a description of the timing and the rationale for entering into such agreement (the "Proposed Private Business Use"). IFA and RDA shall conduct their review and approve or reject, in writing, such request within 30 days of receipt. If no response is made to a request for consent to private business use within 30 days of receipt, then NICTD shall provide additional written notice to IFA and RDA that the Proposed Private Business Use will be deemed to be approved. If no response to this additional written notice is received within three business days of receipt of the additional written notice by IFA and RDA, then the request shall be deemed approved. In the event a request for consent to private business use is deemed approved, NICTD shall have the right to proceed as though consent to the Proposed Private Business Use was expressly provided by IFA and RDA. In any event, upon the execution and delivery by NICTD of any such agreement, NICTD shall provide IFA and RDA a copy of such executed agreement within 10 business days of the execution thereof.

Section 26. Validity. All terms, covenants and conditions contained in this Operating Lease shall include all parts of the Facilities, whether leased pursuant to the original Operating Lease or pursuant to any Supplemental Operating Lease thereto.

Section 27. Severability; Complete Agreement; Counterparts; Survival of Terms; Governing Law; Etc.

(a) All the covenants, agreements, terms and conditions required under the laws of the State, including the Bond Act, to be included in any lease entered into under Indiana Code 5-1.3-5 are incorporated herein by this reference.

(b) In case any section or provision of this Operating Lease, or any covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Operating Lease, or any application thereof, is for any reason held to be illegal or invalid, or is at any time inoperable, that illegality, invalidity or inoperability shall not affect the remainder thereof or any other section or provision of this Operating Lease or any other covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Operating Lease, which shall be construed and enforced as if that illegal, invalid or inoperable portion were not contained herein. Any such illegality, invalidity or inoperability of any application thereof shall not affect any legal, valid and operable application thereof, and each such section, provision, covenant, stipulation, obligation, agreement, act or action, or part thereof, shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent from time to time permitted by law.

(c) This Operating Lease represents the entire agreement between RDA and NICTD covering everything agreed upon or understood in the creation of the estate created by this Operating Lease and related transactional matters; *provided*, however, that the parties contemplate and agree that the provisions of the Governance Agreement, the Development Agreement, the other Leases and/or any documents related thereto contain related undertakings and such shall be given their full meaning and effect. There are no oral promises, conditions, representations, understandings, interpretations or terms of any kind as conditions or inducements to the execution hereof or in effect between the parties. No change or addition shall be made to this Operating Lease except by a written agreement executed by RDA and NICTD.

(d) The parties each acknowledge that the terms and conditions of this Operating Lease have been the subject of active and complete negotiations represented by competent professional counsel and advisors, and that such terms and conditions should not be construed in favor of or against any party by reason of the extent to which any party or its professional counsel and advisors participated in the preparation of this Operating Lease.

(e) This Operating Lease may be executed in duplicate counterparts, each of which shall be deemed an original and both of which together shall constitute one and the same instrument.

(f) The covenants and obligations under Sections 6, 13, 15, 16, 20, and 24 hereof shall survive the expiration or earlier termination of this Operating Lease.

(g) This Operating Lease shall be construed according to, and subject to, the laws of the State.

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IN WITNESS WHEREOF, the parties hereto have caused this Operating Lease to be executed for and on their behalf as of the day and year first hereinabove written.

"RDA"

**NORTHWEST INDIANA REGIONAL
DEVELOPMENT AUTHORITY, AS
LESSOR**

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

[REMAINDER OF PAGE LEFT BLANK]

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, personally known by me to be the _____ and _____, respectively, of the Northwest Indiana Regional Development Authority ("RDA"), and acknowledged the execution of the foregoing Operating Lease Agreement (Double Track Project) for and on behalf of RDA.

WITNESS my hand and Notarial Seal this ____ day of _____ 20__.

(Seal)

(Written Signature)

(Printed Signature)
Notary Public

My Commission expires:

My county of residence is:

"NICTD"

**NORTHERN INDIANA COMMUTER
TRANSPORTATION DISTRICT, AS
LESSEE**

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, personally known by me to be the _____ and _____, respectively, of the Northern Indiana Commuter Transportation District ("NICTD"), and acknowledged the execution of the foregoing Operating Lease Agreement (Double Track Project) for and on behalf of NICTD.

WITNESS my hand and Notarial Seal this _____ day of _____, 20__.

(Seal)

(Written Signature)

(Printed Signature)

Notary Public

My Commission expires:

My county of residence is:

[REMAINDER OF PAGE LEFT BLANK]

This instrument prepared by: Philip C Genetos, Ice Miller LLP, One American Square, Suite 2900, Indianapolis, IN 46282

I affirm under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. Philip C Genetos

EXHIBIT A

LEGAL DESCRIPTION AND MAP OF THE REAL ESTATE

Map of the Real Estate. Real property in _____
_____, as depicted as follows:

[End of Exhibit A]

EXHIBIT B
FORM OF
SUPPLEMENTAL OPERATING LEASE AGREEMENT (DOUBLE TRACK PROJECT)
BETWEEN
NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY
AND
NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT

SUPPLEMENTAL OPERATING LEASE AGREEMENT (DOUBLE TRACK PROJECT)
BETWEEN
NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY
AND
NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT

This SUPPLEMENTAL OPERATING LEASE AGREEMENT (DOUBLE TRACK PROJECT) (this "Supplemental Operating Lease"), entered into as of this ____ day of _____, 20__, between the NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY, a separate body corporate and politic formed pursuant to Indiana Code 36-7, as supplemented and amended from time to time ("RDA"), and the NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT, a commuter transportation district and a municipal corporation formed pursuant to Indiana Code 8-5-15, as supplemented and amended from time to time ("NICTD").

WITNESSETH:

WHEREAS, NICTD entered into an Operating Lease Agreement (Double Track Project) with RDA dated as of _____, 20__ (the "Operating Lease"); and

WHEREAS, all terms not otherwise defined in this Supplemental Operating Lease shall have the meanings ascribed to them in the Operating Lease; and

[WHEREAS, it is provided in the Operating Lease that after the Commencement Date, for any portion of the Lease Premises, in the event such portion shall be damaged or destroyed or taken, so as to render such portion unavailable for use by NICTD, or shall for any other reason become unavailable for use by NICTD, RDA may add additional Lease Premises to the Operating Lease pursuant to a Supplemental Operating Lease so that there is no interruption in the lease rentals payable by NICTD to RDA pursuant to the Operating Lease; provided that such additional Lease Premises are also added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases; and]

[WHEREAS, it is provided in the Operating Lease that in the event NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities, then by no later than the date as of which construction of any such portions commences, NICTD shall cause a Supplemental Operating Lease to be entered into for the purpose of adding to the Real Estate the pertinent real estate on which such portions of the Rail Project shall be located; provided that such additional Real Estate is also added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases; and]

[WHEREAS, it is provided in the Operating Lease that when the Rail Improvements are complete and ready for use as part of the Rail Project, the parties shall revise and increase the real estate described in Exhibit A to the Operating Lease, if necessary to reflect the final site location acquired for the Rail Project and upon which the Rail Improvements as part

of the Rail Project have been constructed; provided that such additional Real Estate is also added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases; and]

[WHEREAS, it is provided in the Operating Lease that RDA and NICTD may enter into one or more Supplemental Operating Leases, each of which: (1) shall provide that all covenants contained in the Operating Lease shall be unitary and include all parts of the Lease Premises, whether leased pursuant to the Operating Lease or pursuant to any Supplemental Operating Lease (*provided* that the foregoing shall not limit or restrict the parties from having differing covenants and obligations applicable to any Supplemental Operating Leases related to portions of the Rail Project NICTD proposes to be constructed that are not within the existing boundaries of the Facilities); and (2) may contain such other covenants and agreements as the parties thereto agree upon.]

NOW, THEREFORE, IT IS HEREBY AGREED, CERTIFIED AND STIPULATED by the undersigned as follows:

[Section 1. Addition to Real Estate After Commencement Date. Certain portions of the Lease Premises have been damaged or destroyed, thereby rendering such portions unavailable for use by NICTD, or have otherwise become unavailable for use by NICTD. NICTD has added additional Lease Premises to the Ground Lease pursuant to a Supplemental Ground Lease. Therefore, the Lease Premises set forth in Exhibit A to the Operating Lease shall be hereafter amended to read as set forth in Appendix I attached hereto, so that RDA may lease such additional Lease Premises to NICTD pursuant to this Supplemental Operating Lease, thereby resulting in no interruption in the lease rentals payable by NICTD to RDA pursuant to the Operating Lease. Such additional Lease Premises are also being added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.]

[Section . Addition to Real Estate Prior to Construction. NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities set forth in Exhibit A to the Operating Lease. Therefore, the boundaries of the Facilities set forth in Exhibit A to the Operating Lease shall be hereafter amended to read as set forth in Appendix I attached hereto, which revised boundaries shall include the pertinent real estate on which such portions of the Rail Project shall be located. Such additional Real Estate is also being added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.]

[Section . Addition to Real Estate After Construction. Certain Rail Improvements are now complete and ready for use as part of the Rail Project, and it is now necessary to revise or increase the real estate described in Exhibit A to the Operating Lease, because such Exhibit A does not reflect the final site location acquired for the Rail Project and upon which the Rail Improvements as part of the Rail Project have been constructed. Therefore, for such purpose, Exhibit A to the Operating Lease shall be hereafter amended to read as set forth in Appendix I

attached hereto. Such additional Real Estate is also being added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.]

Section __. All covenants contained in the Operating Lease, including this Supplemental Operating Lease, shall be unitary and include all parts of the Lease Premises, whether leased pursuant to the Operating Lease or pursuant to any Supplemental Operating Lease.

[REMAINDER OF PAGE LEFT BLANK]

IN WITNESS WHEREOF, the undersigned have caused this Supplemental Operating Lease to be executed for and on their behalf as of the day and year first above written.

"RDA"

NORTHWEST INDIANA REGIONAL
DEVELOPMENT AUTHORITY

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

"NICTD"

NORTHERN INDIANA COMMUTER
TRANSPORTATION DISTRICT

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

This instrument prepared by: _____

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, personally known by me to be the _____ and _____, respectively, of the Northwest Indiana Regional Development Authority ("RDA"), and acknowledged the execution of the foregoing Supplemental Operating Lease Agreement (Double Track Project) for and on behalf of RDA.

WITNESS my hand and Notarial Seal this ____ day of _____, 20__.

(Seal)

(Written Signature)

(Printed Signature)

Notary Public

My Commission expires:

My county of residence is:

[REMAINDER OF PAGE LEFT BLANK]

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, personally known by me to be the _____ and _____, respectively, of the Northern Indiana Commuter Transportation District ("NICTD"), and acknowledged the execution of the foregoing Supplemental Operating Lease Agreement (Double Track Project) for and on behalf of NICTD.

WITNESS my hand and Notarial Seal this _____ day of _____, 20__.

(Seal)

(Written Signature)

(Printed Signature)

Notary Public

My Commission expires:

My county of residence is:

[REMAINDER OF PAGE LEFT BLANK]

[APPENDIX I

LEGAL DESCRIPTION AND MAP OF THE REAL ESTATE]

GROUND LEASE AGREEMENT (DOUBLE TRACK PROJECT)

between

NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT

as Lessor

and

NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY

as Lessee

Dated as of _____ 1, 20__

INDEX

	<u>Page</u>
Section 1.	Definitions; Interpretation3
Section 2.	Ground Lease of Facilities8
Section 3.	Supplements; Nature of Obligations8
Section 4.	Nature of Ground Lease9
Section 5.	Nonliability of IFA or RDA10
Section 6.	Construction; Repairs and Maintenance; Alteration; Operations; Equipment or Furnishings10
Section 7.	Insurance11
Section 8.	Use of Insurance and Condemnation Proceeds13
Section 9.	Liability Insurance13
Section 10.	General Insurance Provisions13
Section 11.	General Covenants14
Section 12.	Covenants Regarding the Bond Act; IFA Bonds14
Section 13.	Utility Service14
Section 14.	Environmental Laws Covenants15
Section 15.	Indemnity by NICTD15
Section 16.	No Broker15
Section 17.	Transfer to NICTD16
Section 18.	Title to Real Estate16
Section 19.	Defaults; Remedies16
Section 20.	Notices17
Section 21.	Construction of Covenants18
Section 22.	Supplemental Ground Leases18
Section 23.	No Personal Liability19
Section 24.	Successors or Assigns; Use Restrictions19
Section 25.	Validity19
Section 26.	Severability; Complete Agreement; Counterparts; Survival of Terms; Governing Law; Etc20
Exhibit A	Legal Description and Map of the Real Estate
Exhibit B	Form of Supplemental Ground Lease Agreement (Double Track Project) between Northern Indiana Commuter Transportation District and Northwest Indiana Regional Development Authority

GROUND LEASE AGREEMENT (DOUBLE TRACK PROJECT)

This Ground Lease Agreement (Double Track Project) (this "Ground Lease") is entered into this ____ day of _____, 20__, between the NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT, a commuter transportation district and a municipal corporation formed pursuant to Indiana Code 8-5-15, as amended ("NICTD"), and the NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY, a separate body corporate and politic formed pursuant to Indiana Code 36-7.5, as supplemented and amended from time to time ("RDA").

RECITALS

1. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the hereinafter defined Governance Agreement;
2. The South Shore Line is a commuter train service between South Bend, Indiana and Millennium Station in Chicago, Illinois;
3. NICTD has owned and operated the South Shore Line for nearly forty years and has experience in developing capital rail projects for the South Shore Line and in requesting, obtaining and managing federal grant funds through the Federal Transit Administration;
4. RDA fosters development in northwest Indiana and has since its inception fostered economic development throughout northwest Indiana and has been vested pursuant to IC 36-7.5-4-18 with certain powers and duties with respect to the Rail Project;
5. IFA oversees State debt issuance and provides effective financing solutions to facilitate State, local and business investment in the State and has participated in numerous important economic development activities throughout the State;
6. RDA and NICTD have developed and advanced plans for improvements to the South Shore Line, specifically the Double Track Project and the West Lake Corridor Project, which will improve the South Shore Line and foster economic development throughout northwest and north central Indiana by shortening commute times, providing new rail service to areas not serviced by rail transportation to Chicago, enhancing the economic and community development of the northwest Indiana region, and increasing the convenience to the areas served;
7. RDA has determined that providing assistance to the Rail Project in the manner herein provided serves a public purpose for which RDA was created;
8. The Rail Project is expected to encourage business investment in and near the station areas, provide faster, less expensive and reliable transportation, relieve existing and anticipated traffic congestion, reduce vehicular emissions, reduce commuting costs and attract and retain families and younger residents in northwest and north central Indiana;
9. The Rail Project is expected to provide faster travel times, accommodate more trains to improve service during rush hour travel and be safer to operate;

10. RDA, IFA and NICTD have identified and obtained committed local and State funding for the Rail Project;

11. NICTD has applied for necessary federal grant funding from FTA on behalf of RDA and the State, and in its capacity as the grantee, and as the signatory party to that certain Full Funding Grant Agreement with FTA, will maintain continuing control of the assets receiving FTA funding, subject to the terms of the Governance Agreement, the Development Agreement, if any, this Ground Lease and the other leases described herein;

12. The Parties desire to jointly complete FTA grant application processes for the Double Track Project, in order to facilitate the further development, design, construction and financing of the Double Track Project as improvements to the South Shore Line commuter rail system;

13. Any obligations of RDA or IFA shall not constitute a debt of the State or any municipality, or a pledge of the full faith and credit thereof, under the Constitution of the State;

14. Providing financial support to the Rail Project and the development and operation thereof are valid public purposes of RDA, IFA and NICTD, will contribute importantly to the economic and community development of northwest Indiana and will benefit the citizens of northwest Indiana;

15. In connection with the IFA Bonds, RDA, NICTD, and IFA are required to enter into one or more leases for the purpose of providing for the issuance and repayment of the IFA Bonds;

16. The funding for the payment of lease rentals by RDA for payment of the IFA Bonds will be provided from State appropriations, FTA Grant Reimbursements, moneys on deposit in the next generation trust fund established under IC 8-14-15.2 and Member Dues;

17. NICTD expects that FTA funding will fund a portion of the costs of the Rail Project, subject to local funding of the remaining share;

18. NICTD, RDA, and IFA intend to enter into the Revenue Trust Fund Agreement with the Deposit Trustee and the Bond Trustee for the purposes of receiving and safeguarding substantially all funds for the Rail Project, including substantially all funding sources to be used to pay lease rentals;

19. RDA and IFA are willing to assist NICTD in providing a mechanism to fund the Rail Project pursuant and subject to the Governance Agreement and the Development Agreement and to comply with and advance the public purposes described herein;

20. In connection therewith and subject to this Ground Lease, certain Real Estate and Rail Improvements will be leased by NICTD to RDA pursuant to this Ground Lease, then leased by RDA to IFA pursuant to the Underlying Lease, then leased by IFA to RDA pursuant to the Master Leases, and then leased by RDA to NICTD pursuant to the Operating Lease, and IFA will issue the IFA Bonds and cause certain proceeds thereof to be made available to NICTD to pay costs incurred in undertaking the Rail Project;

21. Contemporaneous with or subsequent to the commencement of existence of the leasehold estate under this Ground Lease, RDA and IFA shall cause the Underlying Lease, IFA and RDA shall cause the Master Leases, and RDA and NICTD shall cause the Operating Lease, to each be effective; and

22. NICTD acknowledges that IFA's and RDA's right of occupancy and continuous possession of the Real Estate (and the Rail Improvements) and its lawful right to lease the Real Estate (and the Rail Improvements) throughout the stated term of this Ground Lease are essential to the funding mechanism for the Rail Project and the realization of the public purposes described herein.

WITNESSETH:

In consideration of the mutual covenants herein contained, the parties hereto hereby agree as follows:

Section 1. Definitions; Interpretation.

(a) The terms defined in this Section shall for all purposes of this Ground Lease have the meanings herein specified unless the context otherwise requires.

"Ancillary Users" means any party that uses or has any interest in users of the Facilities of any kind whatsoever (including any subtenants, occupants, employees, agents, contractors, customers or invitees of NICTD).

"Authorized Officer of IFA" means the Chair of IFA or the Public Finance Director of the State of Indiana and, with reference to any act or document, also means any other person authorized by a resolution of IFA to perform such act or to sign such document.

"Authorized Officer of NICTD" means the President of NICTD and, with reference to any act or document, also means any other person authorized by a resolution of NICTD to perform such act or to sign such document.

"Authorized Officer of RDA" means the Chair or the Chief Executive Officer of RDA and, with reference to any act or document, also means any other person authorized by a resolution of RDA to perform such act or to sign such document.

"Biennium" means the biennium used for State budgetary and appropriation purposes.

"Bond Act" means Indiana Code 5-1.3, as amended or supplemented, or any successor thereto.

"Bond Trustee" means the trustee serving as such with respect to the IFA Bonds.

"Completion Certificate" for the Facilities or any portion thereof means a certificate (a) executed by an Authorized Officer of NICTD certifying that such Facilities or such portion thereof is available for use by RDA and (b) accepted by an Authorized Officer of RDA acknowledging that such Facilities or such portion thereof is available for use by RDA.

"Concurrence" means the written concurrence of the Authorized Officer of IFA and the Authorized Officer of RDA to the referred approval or other action of NICTD pursuant to the Governance Agreement, the Development Agreement or the Leases; *provided* that:

(a) concurrence may be withheld or delayed if the Authorized Officer of IFA and/or the Authorized Officer of RDA determines a referenced action (i) may adversely affect the Continuing Rent Obligation and (ii) be inconsistent with applicable laws (and the requirements of the Governance Agreement, the Development Agreement, the Leases and/or any documents related thereto);

(b) concurrence when given shall not be deemed to estop or otherwise waive IFA's and/or RDA's right to later assert or enforce any requirement under the Governance Agreement, the Development Agreement, the Leases and/or any documents related thereto, including IFA's and RDA's ability to seek claims, damages, losses and expenses, including attorneys' fees and other IFA and RDA costs arising out of or resulting from the action of NICTD for which concurrence has been given; and

(c) concurrence when given and later found to be contrary to any requirement under the Governance Agreement, the Development Agreement, the Leases and/or any documents related thereto shall not expose NICTD to a claim or assertion that such failure is, in and of itself, a failure to obtain a concurrence in the first instance and, as such, without having received a concurrence, a basis for a NICTD Event of Default. To the extent NICTD receives Concurrence under this Ground Lease it shall be able to rely upon such Concurrence.

"Continuing Rent Obligation" means (a) RDA's obligation under the Master Leases to continue to pay the Master Leases Rental and (b) NICTD's obligation under the Operating Lease to continue to pay the Operating Lease Rental, each without delay or diminution as to amount.

"Deposit Trustee" means the trustee bank acting as the Deposit Trustee under the Revenue Trust Fund Agreement.

"Development Agreement" means any development agreement entered into by NICTD, RDA and IFA for the purpose of governing the completion of the Rail Project in a manner consistent with and as contemplated by the Governance Agreement.

"Double Track Project" means the addition of an east/west rail line for a portion of the South Shore Line from Gary to Michigan City and related improvements, all as more fully described in Exhibit 1 of the Governance Agreement.

"Environmental Laws" means all federal, state and local statutes, common law principles, rules, regulations, ordinances, permits, licenses, written approvals, orders, writs, injunctions, judgments and consent decrees relating to pollution control, protection of environmental quality, or protection of the health or safety of workers or the public from exposure to Hazardous Materials, including laws relating to emissions, discharges, releases or threatened releases of pollutants, contaminants, chemicals, or hazardous, toxic or dangerous substances, materials or wastes in the environment (including ambient air, surface water, ground water, land surface or subsurface strata) or otherwise relating to the generation, manufacture, processing, distribution,

use, treatment, storage, disposal, transport or handling of Hazardous Materials. Without limiting the generality of the foregoing, "Environmental Laws" shall encompass any "Superfund" or "Superlien" Law (including those otherwise referenced in this definition) and each of the following statutes and the regulations promulgated thereunder, in any similar applicable federal, state or local law, rule or regulation, each as amended: (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980; (ii) the Solid Waste Disposal Act; (iii) the Hazardous Materials Transportation Act; (iv) the Toxic Substances Control Act; (v) the Clean Water Act; (vi) the Clean Air Act; (vii) the Safe Drinking Water Act; (viii) the National Environmental Policy Act of 1969; (ix) the Superfund Amendments and Reauthorization Act of 1986; (x) Title III of the Superfund Amendments and Reauthorization Act of 1986; (xi) the Federal Insecticide, Fungicide and Rodenticide Act; (xii) provisions of the Occupational Safety and Health Act of 1970 relating to the handling of and exposure to Hazardous Materials; and (xiii) any state or local analogue to any of the foregoing.

"Facilities" means the Real Estate and the Rail Improvements.

"FFGA" means the grant agreement awarded by FTA for the Rail Project.

"Force Majeure" shall have the meaning ascribed to such term in the Governance Agreement.

"FTA" means the Federal Transit Administration.

"FTA Grant Reimbursements" means funds received from FTA as reimbursement for expenditures by the Parties for moneys spent on one or both of the projects constituting the Rail Project pursuant to the FFGA for the Rail Project.

"Governance Agreement" means the Governance Agreement effective as of August 31, 2018, by and between NICTD, RDA and the IFA, as from time to time amended or supplemented in accordance with its terms.

"Ground Lease" means this Ground Lease Agreement (Double Track Project) as the same may be amended, modified or supplemented by any amendments or modifications hereof and supplements hereto entered into in accordance with the provisions hereof.

"Hazardous Materials" means any hazardous, toxic or dangerous substance, material and waste, including petroleum and hydrocarbon compounds derived from petroleum (including naturally occurring or man-made petroleum and derivative hydrocarbons), flammable explosives, asbestos, urea formaldehyde insulation, radioactive materials, polychlorinated biphenyls, pesticides, herbicides and any other kind and/or type of pollutants or contaminants (including materials which include hazardous constituents), sewage, sludge, solvents and/or any other similar substances, materials or wastes that are or become regulated under any Environmental Law as hazardous or toxic.

"IC" means the Title, Article, Chapter and/or Section of the Indiana Code as referenced, and as such may be supplemented, amended or replaced from time to time.

"IFA" means the Indiana Finance Authority, a body politic and corporate, not a State agency, but an independent instrumentality exercising essential public functions, organized and existing under IC 5-1.2, or if said Indiana Finance Authority shall be abolished, the board, body, commission or agency succeeding to the principal functions thereof.

"IFA Bonds" means one or more series of bonds, notes or other similar obligations issued under IC 5-1.3-1 *et seq.* to finance or refinance all or a portion of the costs for the Rail Project;

"Including" or "including" in this Ground Lease shall be construed as if followed by the phrase "without limitation" or "but not limited to".

"Lease Premises" means the leasehold estate and interests created by and pursuant to this Ground Lease, including, without limitation, the leasing of the Facilities, as the same may be amended and modified from time to time as needed for the Rail Project in the manner as provided for in the Leases.

"Leases" means, collectively, this Ground Lease, the Underlying Lease, the Master Leases and the Operating Lease.

"Master Leases" means the various leases from IFA to RDA in support of the IFA Bonds, including specifically the State Appropriation Master Lease Agreement (Double Track Project), the RDA Member Dues Master Lease Agreement (Double Track Project) and the Federal Grant Anticipation Master Lease Agreement (Double Track Project), each as from time to time amended or supplemented by any amendment or supplement thereto, including any supplemental memorandum of lease recorded in connection therewith.

"Master Leases Rental" means the rental payments payable by RDA as provided in the Master Leases.

"Operating Lease" means the Operating Lease, dated as of _____ 1, 20__, from RDA to NICTD as from time to time amended or supplemented by any amendment or supplement thereto, including any supplemental memorandum of lease recorded in connection therewith.

"Operating Lease Rental" means the rental payments payable by NICTD as provided in the Operating Lease.

"Member Dues" means the portion of the annual payments to RDA from the Cities of Gary, East Chicago and Hammond and the Counties of Lake and Porter due under Indiana Code 6-3.6-6-9, Indiana Code 36-7.5-4-2 and Indiana Code 6-3.6-11-6.

"Parties" means IFA, NICTD and RDA.

"Permitted Encumbrances" means (a) this Ground Lease, the Underlying Lease, the Master Leases and the Operating Lease, (b) utility, access and other easements, licenses and rights of way, covenants, conditions and restrictions, and other exceptions to title, which in each case will not materially and adversely affect the construction, development and operation of the Rail Project as contemplated by this Ground Lease or materially impair the interest of IFA, RDA

or NICTD in, or its use of, the Facilities, (c) any liens to the extent permitted in this Ground Lease, and (d) any other liens which are not prohibited under this Ground Lease, but only if in the opinion of counsel satisfactory to IFA and the Bond Trustee, such liens do not materially impair the interest of IFA, RDA or NICTD in, or its use of, the Facilities.

"Permitted Uses" means any use permitted under the Governance Agreement, subject to Section 24(b) hereof.

"Rail Project" means the Double Track Project, as defined in IC 5-1.3-2-14 and IC 36-7.5-1-13.5.

"Rail Improvements" means the existing improvements located on the Real Estate, together with any new improvements constructed (or placed for use) on the Real Estate, whether as part of the Rail Project or otherwise.

"Real Estate" means the real property described in Exhibit A attached hereto, as the same may be amended or modified in the manner provided herein and the other Leases.

"Revenue Trust Fund" means the development authority revenue fund established under the Revenue Trust Fund Agreement.

"Revenue Trust Fund Agreement" means the Revenue Trust Fund Agreement, dated as of _____, 20____, entered into by and among RDA, IFA, NICTD, the Bond Trustee, and the Deposit Trustee in connection with the Revenue Trust Fund.

"State" means the State of Indiana.

"Supplemental Ground Lease" means any Ground Lease supplemental to this Ground Lease entered into in accordance herewith and substantially in the form set forth in Exhibit B.

"Trust Indenture" means the Trust Indentures to be entered into between IFA and the Bond Trustee relating to the IFA Bonds, and all supplements and amendments thereto.

"West Lake Corridor Project" means an approximately eight (8) mile new north/south passenger rail line connected to the existing South Shore Line located in Lake County, Indiana, with four stations from and including Hammond (Gateway Station) to and including Munster/Dyer (Main Street Station, including all property owned or leased by NICTD for the operation of the South Shore Line over the West Lake Corridor Project), all as more fully described in Exhibit 2 of the Governance Agreement.

(b) The terms "herein", "hereto", "hereunder" and all terms of similar import shall be deemed to refer to this Ground Lease as a whole rather than to any Section or Exhibit to this Ground Lease.

(c) Unless otherwise specified, references in this Ground Lease to (i) "Section ___" shall be deemed to refer to the Section of this Ground Lease bearing the number so specified, (ii) "Exhibit ___" shall be deemed to refer to the Exhibit of this Ground Lease bearing the letter

or number so specified, and (iii) this "Ground Lease" means this Ground Lease and any exhibits and attachments hereto.

(d) Captions used for or in Sections and Exhibits of this Ground Lease are for convenience of reference only and shall not affect the construction of this Ground Lease.

Section 2. Ground Lease of Facilities.

(a) In consideration of certain payments and other terms and conditions herein specified, NICTD does hereby lease, demise and let to RDA the Facilities (such constituting a part of the Lease Premises), to have and to hold the same with all rights, privileges, easements and appurtenances thereunto belonging unto RDA for a term beginning on the date hereof and ending on _____; *provided*, however, the term shall end earlier or later than such date in the event the conditions set forth in Section 17 hereof are met, in which case, the term shall end on such date (the "Term").

(b) The parties agree that the Rail Project will be undertaken on the Real Estate pursuant to the Governance Agreement and the Development Agreement. The parties acknowledge and agree that the Real Estate is available for use from and after the date hereof, and such availability for use (and the value thereof to RDA and NICTD) is not in any way diminished while the Rail Project is being undertaken. By one or more endorsements each recorded as soon as practical and as a Supplemental Ground Lease entered into in substantially the form set forth in Exhibit B, but in any event, when the Rail Improvements are complete and ready for use as part of the Rail Project, the parties shall revise or increase the real estate described in Exhibit A, if necessary to reflect the final site location acquired for the Rail Project and upon which the Rail Improvements as part of the Rail Project are constructed; provided that such additional Real Estate is also added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.

(c) NICTD hereby represents and warrants that, upon compliance with its obligations under Section 18 hereof, RDA will possess a good and indefeasible leasehold estate, subject only to Permitted Encumbrances, to all of the Real Estate, which includes real estate upon which the Rail Improvements that are part of the Rail Project are to be acquired, improved and constructed pursuant to the Governance Agreement and the Development Agreement, and NICTD warrants and will defend the same against all claims whatsoever not suffered or caused by the acts or omissions of RDA.

Section 3. Supplements; Nature of Obligations.

(a) NICTD acknowledges that it has received good, valuable, and sufficient consideration, including payment and reimbursement of certain costs and expenses from the proceeds of the IFA Bonds and other [Rail Project monies], from RDA and through IFA in respect of the rights and interests created by this Ground Lease. During the term of this Ground Lease, NICTD agrees that no additional payments by IFA or RDA to NICTD hereunder shall be made in respect of the rights and interests created by this Ground Lease.

(b) After the Commencement Date (as defined in the Master Leases), for any portion of the Lease Premises, in the event such portion shall be damaged or destroyed or taken, so as to render such portion unavailable for use by RDA, or shall for any other reason become unavailable for use by RDA, NICTD may add additional Lease Premises to this Ground Lease pursuant to a Supplemental Ground Lease so that RDA may lease such additional Lease Premises to NICTD pursuant to a supplement to the Operating Lease; provided that such additional Lease Premises are also added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.

(c) During the term of this Ground Lease, NICTD and RDA may enter into one or more Supplemental Ground Leases in the event NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities in substantially the form set forth in Exhibit B, so that such portions are within the boundaries of the Facilities.

(d) It is expressly understood and agreed by RDA and NICTD that the obligations of RDA and NICTD created by or arising out of this Ground Lease or of any amendments hereto shall not be, represent, or constitute an indebtedness of the State, IFA or RDA within the meaning or application of any constitutional limitation of the State or the laws of the State or a pledge of the faith or credit of the State, IFA or RDA.

Section 4. Nature of Ground Lease. (a) It is expressly understood and agreed that this Ground Lease shall not be what is known as a net lease (i.e., that no expenses in connection with the Facilities of any nature whatsoever shall be those of RDA by reason of it being the tenant hereunder) and that during the Term, NICTD shall be solely obligated to pay at its sole cost and expense, without reimbursement from RDA, all costs of taxes and assessments, operations, maintenance and use in connection with or relating to the Facilities, including all costs and expenses of decoration, maintenance, utility, janitorial and all other services, repair or replacement of all parts of the Facilities or improvement of the Facilities, in the manner provided in Section 7 of the Operating Lease, except as otherwise provided in the Governance Agreement.

(b) NICTD shall cause any taxes due on the Rail Project to be timely paid to the applicable authorities, except to the extent of any good faith contests which have not yet been resolved, and it shall not assert any basis for taxation in respect of the Facilities that would negate or otherwise negatively impact any imposition or collection of taxes other than deductions, credits or other adjustments that would otherwise be applicable in the event the Leases were not in force or effect. The parties acknowledge and agree that this Ground Lease is, and is intended to be, a lease of real property including fixtures and mixed real and personal property (with any such personal property covered by this Ground Lease being incidental), and the Continuing Rent Obligation reflects lease payments which are made solely with respect to the lease of such real property.

(c) Except as otherwise provided in the Governance Agreement, NICTD shall retain all revenues from the operation of the Facilities, and except as otherwise provided in the Governance Agreement, neither IFA nor RDA shall have any responsibility to fund the ongoing costs, expenses and needs for operations, repairs, maintenance and replacements of or related to the Facilities.

Section 5. Nonliability of IFA or RDA. Except as otherwise provided in the Governance Agreement, neither IFA nor RDA shall be liable for damage caused by hidden defects or failure to keep the Facilities in repair and shall not be liable for any damage done or occasioned by or from any improvements, structures or equipment (including any stations, parking facilities, bridges, overpasses, crossings, switches, locomotives, railroad cars, utilities, plumbing, gas, water, boilers, steam or other pipes or sewage or the bursting or leaking of plumbing or heating fixtures or waste or soil pipe) in connection with the Facilities, nor for damage occasioned by natural events (whether occurring by age, wind, water, snow, ice, movements of earth, or otherwise). Neither IFA nor RDA shall be liable for any injury to NICTD, any Ancillary Users or any other person which injury occurs in, upon, about or near the Facilities howsoever arising. Neither IFA nor RDA shall be liable for damage to NICTD's property or to the property of any Ancillary Users or of any other person which may be located in, upon, about or near the Facilities. NICTD shall be responsible for preserving for the benefit of IFA and RDA usual and customary rights, claims and warranties against the persons or entities engaged to acquire, improve and construct any Facilities.

Section 6. Construction; Repairs and Maintenance; Alteration; Operations; Equipment or Furnishings.

(a) NICTD represents and covenants that the Rail Project has been or will be constructed in accordance with the terms and conditions of the Governance Agreement, the Development Agreement and applicable plans and specifications therefor with all reasonable speed and dispatch in accordance with the applicable approved plans and specifications therefor.

(b) NICTD shall keep and maintain the Facilities in good condition and repair in accordance with NICTD management practices in effect as of the date hereof and shall operate the Rail Project in an efficient and economical manner and in accordance with the Governance Agreement. NICTD shall make all necessary repairs, renewals, improvements and replacements to the Facilities and shall keep the Facilities in a clean and neat condition and in good and sound condition and repair, normal wear and tear excepted. The cost of such repairs, replacements and maintenance shall be (whether required because of the negligence, misuse or default of NICTD, any of its Ancillary Users, or otherwise) at NICTD's sole cost and expense, except as otherwise provided in the Governance Agreement.

(c) NICTD shall comply with all valid statutes, rules, regulations, orders and directions of any legislative, administrative or judicial body applicable to NICTD, the Lease Premises and the Facilities. NICTD shall adopt and keep in force reasonable rules and regulations governing the use of the Lease Premises and the Facilities and the operation thereof, and shall enforce such rules and regulations on a uniform basis.

(d) RDA shall comply with all valid statutes, rules, regulations, orders and directions of any legislative, administrative or judicial body applicable to RDA, the Lease Premises and the Facilities. To the extent reasonably necessary, the RDA shall adopt and keep in force reasonable rules and regulations governing the use of the Lease Premises and the Facilities and the operation thereof, and shall enforce such rules and regulations on a uniform basis.

(e) NICTD shall have the right, at its sole cost and expense, without Concurrence, to make all alterations, modifications and additions and to do all demolition, remodeling and

improvements it deems necessary or desirable to the Facilities, which do not materially reduce the rental value of the Lease Premises or adversely affect (i) the Continuing Rent Obligation and (ii) each referenced obligation that is required to be met by NICTD to be consistent with applicable law (including the Bond Act) and the requirements of the Governance Agreement, the Development Agreement, this Ground Lease, the Underlying Lease, the Master Leases, the Operating Lease and/or any documents related thereto. NICTD shall be liable to repair any damage to the Facilities resulting from such work.

(f) So long as this Ground Lease is in effect, NICTD may at any time and from time to time, at its sole cost and expense, install, modify, remove or replace items of moveable machinery, equipment, furnishings and other personalty in and upon the Facilities. All such personal property shall remain the sole property of NICTD, in which neither IFA nor RDA shall have any interest, and may be installed, modified, removed or replaced by NICTD at any time; *provided* that if such installation, modification, removal or replacement adversely affects (i) the Continuing Rent Obligation or (ii) any referenced obligation that is required to be met by NICTD to be consistent with applicable law (including the Bond Act) and the requirements of the Governance Agreement, the Development Agreement, the Underlying Lease, the Master Leases, the Operating Lease and/or any documents related thereto, then NICTD shall either: (y) repair and restore any and all damage to the Facilities resulting from the installation, modification, removal or replacement of any such property; or (z) compensate IFA and RDA for any loss in value to the Lease Premises (including any diminishment in the Master Leases Rental and Operating Lease Rental) resulting from the installation, modification or removal of any such property.

(g) NICTD shall maintain or cause to be maintained such performance bonds or performance insurance (in a manner consistent with the Governance Agreement) with respect to contracts it may enter into for construction of the Rail Improvements as are usually maintained by those constructing improvements and facilities similar to the Rail Improvements. If performance of any contract for construction of the Rail Improvements is not completed in accordance with its terms and, in the opinion of a registered engineer selected by NICTD and acceptable to IFA and RDA, the cost of completion of such performance shall not exceed the amount of proceeds from any performance bond or performance insurance to be received by reason of such noncompletion of performance and other amounts available therefor, NICTD shall complete or cause to be completed such performance in the manner provided in, and subject to the conditions of, the Governance Agreement. The proceeds of any performance bond paid on account of such noncompletion of performance shall be made available for, and to the extent necessary shall be applied to, the cost of such construction.

Section 7. Insurance.

(a) NICTD, in the manner as provided in the Governance Agreement prior to completion of the Rail Project, and thereafter at its sole cost and expense, shall, during the full term of this Ground Lease, keep the Facilities insured against physical loss or damage, however caused, and otherwise in the manner and on a basis required in the Governance Agreement and the Development Agreement and consistent with commercially reasonable practices and only with such exceptions as are ordinarily required by insurers of rail lines of a similar type (as provided by an industry standard special cause of loss (or its equivalent) property insurance

policy, which insurance shall not exclude flood or earthquake, but may provide for sublimits therefor), with good and responsible insurance companies. Such policies shall include terrorism coverage so long as the Terrorism Risk Insurance Program Reauthorization Act of 2015 [15 USC 6701] continues in its present form or an equivalent federal insurance program is available to NICTD. Such insurance shall be in an amount at least equal to the full replacement cost of such Facilities as reasonably determined by NICTD in consultation with an insurance consultant approved by RDA from and after the date the IFA Bonds are issued by IFA; *provided*, any reduction in excess of ten percent (10%) from the amount carried on the date this Ground Lease is entered into (including any reduction from any existing sublimits) shall only be permitted with Concurrence. In no event shall the insurance be in an amount which causes NICTD to be a co-insurer for the Facilities; *provided*, it is agreed that the provision of sublimits for earthquake and flood shall not be deemed to cause NICTD to be a co-insurer; *provided further* that such insurance may cover properties of NICTD other than the Facilities. Such insurance may contain a provision for a deductible in an amount that is customary and commercially reasonable, but not more than \$500,000 or such higher amount as from time to time determined by NICTD with Concurrence. After the occurrence of any insured casualty, NICTD agrees to pay the deductible amount of any loss to the Bond Trustee or such party directed by the Bond Trustee, as applicable, within ten (10) days following any request so made by IFA or RDA. A blanket property insurance form may be used if the insurance payable in respect of loss related to the Facilities is not less than the amount required by this Section and the insurance proceeds related to damage to or destruction of the Facilities are payable to the Bond Trustee for the IFA Bonds.

(b) During the full term of this Ground Lease, NICTD, in the manner as provided in the Governance Agreement prior to completion of the Rail Project, and thereafter at its sole cost and expense, shall also, at its sole cost and expense, maintain business income insurance in an amount at least equal to the Operating Lease Rental on the Lease Premises leased by NICTD under the Operating Lease for a period of (2) years against physical loss or damage of the type insured against pursuant to the preceding requirements of this Section. Such business income insurance policies shall be for the benefit of IFA, RDA, and the Bond Trustee and shall name the Bond Trustee for the IFA Bonds as loss payee, which payment to such Bond Trustee may be limited to circumstances where Master Leases Rental is not made by RDA pursuant to a Master Lease.

(c) After the occurrence of any insured casualty related to the Facilities, NICTD shall give notice to the Bond Trustee, IFA and RDA. Such notice shall be given within five (5) days following such casualty and shall tentatively describe the nature of the casualty together with sufficient additional information to permit IFA and RDA to ascertain NICTD's plans for addressing such loss or damage (and meeting its obligations under this Ground Lease, including the amount NICTD plans to reserve to meet the requirements thereof that result from any deductible applicable under its insurance policies).

(d) In the event that an insurance program is developed by NICTD and approved by RDA and IFA as provided in the Governance Agreement, that insurance program and the requirements thereof shall be substituted herein as the insurance coverage requirements for this Ground Lease to the extent in conflict herewith or in addition hereto.

Section 8. Use of Insurance and Condemnation Proceeds. (a) If all or any portion of the Facilities shall be damaged or destroyed or taken, NICTD shall, as expeditiously as possible, continuously and diligently prosecute, or cause to be prosecuted, repair, reconstruction or replacement thereof until completion. Within one hundred twenty (120) days after the occurrence of an event of damage or destruction to the Facilities or a taking thereof, NICTD, through any Authorized Officer of NICTD, shall deliver to RDA and the Bond Trustee the written opinion of engineer selected by NICTD and reasonably acceptable to RDA and IFA stating whether or not the conditions set forth above with respect thereto are satisfied. The proceeds of any insurance paid on account of such damage or destruction or taking (other than any rent loss insurance) shall be made available for, and to the extent necessary shall be applied to, the cost of such repair, reconstruction or replacement, or otherwise in accordance with the terms and conditions of this Ground Lease.

(b) Proceeds of insurance against damage to or destruction of the Facilities which are paid to the Bond Trustee as described herein shall be held by the Bond Trustee pursuant to the applicable Trust Indenture and used by NICTD in accordance with the provisions of this Ground Lease, the Underlying Lease, the Master Leases, the Operating Lease, the Governance Agreement and such Trust Indenture. Proceeds of any condemnation of the Facilities (or portion thereof) shall be paid to the Bond Trustee and held by the Bond Trustee pursuant to the applicable Trust Indenture and used by NICTD in accordance with the provisions of this Ground Lease, the Underlying Lease, the Master Leases, the Operating Lease, the Governance Agreement and the applicable Trust Indenture.

Section 9. Liability Insurance. NICTD shall, at all times during the full term of this Ground Lease, keep in effect Commercial General Liability Insurance (which insurance shall not exclude blanket contractual liability, broad form property damage, personal injury, or fire damage coverage) covering the Facilities and NICTD's use thereof against claims for bodily injury and property damage, and insuring NICTD, IFA and RDA in amounts and in the manner required by the Governance Agreement and the Development Agreement. Such policies shall include terrorism coverage so long as the Terrorism Risk Insurance Program Reauthorization Act of 2015 [15 USC 6701] continues in its present form or an equivalent federal insurance program is available to NICTD. NICTD shall maintain for each policy year during the term of this Ground Lease aggregate limits for liability coverages of not less than fifty percent (50%) of liability coverage amounts as in effect on the date this Ground Lease is entered into unless otherwise approved by RDA; *provided* that if such policy limits are not reasonably available in the insurance marketplace, then NICTD may reduce such aggregate coverage amounts to the highest such amounts as are reasonably available in the insurance marketplace existing from time to time. NICTD shall make IFA, RDA and the State additional insureds on such policies.

Section 10. General Insurance Provisions. All insurance policies required by Sections 7 and 9 hereof shall be issued in the manner provided in the Governance Agreement and the Development Agreement by good and responsible insurance companies, each of which companies, selected by NICTD and reasonably approved by RDA, shall be rated at least "A-VII" (or an equivalent rating if such rating scale is discontinued or changed) by A.M. Best & Company (or by an equivalent rating service if A.M. Best & Company is no longer providing such types of ratings) and shall be countersigned by an agent of the insurer who is a licensed agent in the State. Such policies, or copies thereof, shall be held by NICTD for review by IFA,

RDA and the Bond Trustee; *provided* that such policies shall be available for review by IFA, RDA and the Bond Trustee upon request, and shall be updated as changes are made to such policies. Such policies shall be subject to the requirement that in the event of a material reduction in policy limits or elimination of any coverages, NICTD will notify IFA, RDA and the Bond Trustee in writing by electronic or other means, with such notification including a description of the coverages so reduced or eliminated. If, at any time, NICTD fails to maintain insurance in accordance with Sections 7 and 9 hereof, such insurance may be obtained by IFA or RDA, or may be obtained by the Bond Trustee, and the amount paid for such insurance shall be payable by NICTD under this Ground Lease; *provided, however*, that neither IFA, RDA nor the Bond Trustee shall be under any obligation to obtain such insurance, and any action or non-action of RDA, IFA or the Bond Trustee in this regard shall not relieve NICTD of any consequences of a default in failing to obtain such insurance. The Bond Trustee shall be the loss payee on all casualty insurance required by this Ground Lease that becomes payable in respect of claims related to the Facilities.

Section 11. General Covenants. (a) NICTD covenants that, except for Permitted Encumbrances and any liens, charges, encumbrances, or security interests created by an act or omission of RDA and/or IFA, it will not mortgage, impose any lien or claim upon, or otherwise encumber the Lease Premises (whether actual, contingent or otherwise), or permit any mortgage, lien, claim or encumbrance to exist thereon, and that it shall use and maintain the Facilities in material compliance with the laws and ordinances of the United States of America, the State, and all other proper governmental authorities. NICTD agrees that it will, at the request of RDA, execute and deliver to or upon the request of RDA such instrument or instruments as may be reasonably required by RDA in order to assure or confirm RDA's interest in the Lease Premises pursuant to the terms hereof and shall also deliver, from time to time, such instrument or instruments as may be reasonably requested by RDA or any tenant or subtenant of RDA with respect to the covenant of quiet enjoyment contained in this Ground Lease, the Underlying Lease, the Master Leases, the Operating Lease, or the Governance Agreement.

(b) RDA covenants that, except for Permitted Encumbrances and any liens, charges, encumbrances, or security interests created by an act or omission of NICTD and/or IFA, it will not mortgage, impose any lien or claim upon, or otherwise encumber the Lease Premises (whether actual, contingent or otherwise), or permit any mortgage, lien, claim or encumbrance to exist thereon, and that it shall use and maintain the Facilities in material compliance with the laws and ordinances of the United States of America, the State, and all other proper governmental authorities.

Section 12. Covenants Regarding the Bond Act; IFA Bonds. NICTD shall timely comply with all requirements of NICTD created by the Bond Act, the Governance Agreement, the Development Agreement and any agreement or certificate executed by NICTD in connection with the issuance of the IFA Bonds.

Section 13. Utility Service. NICTD agrees to pay or cause to be paid all charges for (a) sewer, gas, water, electricity, light, heat or power utilities and services, (b) telephonic, communication and other information services, (c) other utility and like services, and (d) regulatory, track and freight fees and other fees, costs and expenses associated with the use and

operation of the Facilities that are used, rendered or supplied upon or in connection with the Facilities throughout the term of this Ground Lease.

Section 14. Environmental Laws Covenants.

(a) With respect to the Facilities, (i) NICTD shall at all times comply and follow commercially reasonable business practice to cause others to comply, in all material respects, with all Environmental Laws and all licenses, permits, certificates, approvals and similar authorizations issued to NICTD thereunder, and such operations shall not give rise to any liability pursuant to any Environmental Law, (ii) NICTD shall promptly notify RDA and IFA upon becoming aware of any investigation, proceeding, complaint, order, directive, claim, citation or written notice by any governmental authority or any other Person arising under or relating to any violation of any Environmental Law that is pending against NICTD or threatened in writing against NICTD and shall take prompt and appropriate actions to respond thereto and to cure such violation (if any) and (iii) NICTD shall promptly notify RDA and IFA upon becoming aware of any non-compliance with, or violation of, the requirements of any Environmental Law by NICTD in any material respect, or the release, spill, or discharge, threatened or actual, of any Hazardous Material or the generation, use, storage, treatment, transportation, manufacture, handling, production or disposal of any Hazardous Material or any other environmental, health or safety matter, which affects or gives rise to a material liability upon NICTD or any liability upon IFA or RDA.

(b) NICTD shall not cause or permit the use, generation, release, manufacture, refining, production, processing, storage or disposal of any Hazardous Materials on, under or about the Facilities, or the transportation to or from the Facilities of any Hazardous Materials, except as necessary and appropriate for its Permitted Uses, in which case, the use, storage or disposal of such Hazardous Substances shall be performed in compliance with the Environmental Laws and the standards prevailing in the railroad industry and at comparable facilities. Notwithstanding anything contained herein to the contrary, IFA and RDA shall not have any liability to NICTD resulting from any conditions existing, or events occurring, or any Hazardous Materials existing or generated, at, in, on, under or in connection with this Ground Lease or the Facilities, except to the extent caused directly by the sole negligence or willful misconduct of the IFA or RDA or their respective agents, employees, or contractors.

Section 15. Indemnity by NICTD. NICTD shall release, protect, defend, indemnify and hold harmless the RDA, IFA, the Bond Trustee, the Deposit Trustee, and their respective agents, employees, representatives and consultants, from and against any and all claims, causes of action, suits, judgments, demands, and/or losses, in each case if asserted or incurred by or awarded to any third party, arising out of or relating to or resulting from (a) NICTD's design, construction or operation of the Rail Projects or the South Shore Line, (b) any act, omission, negligence, or willful misconduct of NICTD, any of its Ancillary Users or anyone acting under its control or for whom it is legally responsible (c) failure of NICTD, or anyone acting under its control or for whom it is legally responsible, to perform or observe any requirement or obligation imposed by this Ground Lease and (d) arising out of any other act or occurrence within the Facilities. NICTD's indemnity obligation shall not extend to: (i) any third party claim to the extent directly caused by the negligence, recklessness, willful misconduct, or breach of any material obligation under this Ground Lease or the Governance Agreement by IFA or RDA, or

(ii) any claims, causes of action, suits, judgments, demands, and/or losses resulting from any action of the RDA or IFA during an Operations Step-In Period or resulting from any actions taken by the RDA or IFA after the exercise of any Construction Period Step-In Rights; provided, however, that nothing herein shall relieve NICTD of responsibility to pay up to the Maximum NICTD Excess Cost Contribution for Excess Construction Costs irrespective of the exercise of Construction Period Step-In Rights. The RDA and IFA shall have no obligation to indemnify NICTD.

Section 16. No Broker. NICTD hereby represents and warrants that no brokers or third-party involved in the negotiation and execution of this Ground Lease is entitled, as a result of the actions of the respective party, to a commission or other fee resulting from the execution of this Ground Lease.

Section 17. Transfer to NICTD. To the extent provided in the Governance Agreement, upon the later of the termination of the Governance Agreement and the final and full payment of all IFA Bonds, this Ground Lease shall terminate.

Section 18. Title to Real Estate.

(a) NICTD shall cause a final, fully paid, leasehold title insurance policy to be issued for the benefit of RDA by no later than the date the IFA Bonds are to be issued by IFA. In the event NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities, then by no later than the date as of which construction of any such portion commences, NICTD shall cause (i) an endorsement to be issued to, and on substantially the same terms as, the leasehold title insurance policy referenced in the prior sentence (or an additional final, fully paid, leasehold title insurance policy to be issued on substantially the same terms as the leasehold title insurance policy referenced in the prior sentence) to identify and insure thereunder any such necessary increase in the real estate described in Exhibit A and (ii) a Supplemental Ground Lease to be entered into in substantially the form set forth in Exhibit B in respect of such Real Estate; provided that such additional Real Estate is also added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.

(b) NICTD represents and warrants that it has a good and indefeasible estate in fee simple to all of the Real Estate, subject only to Permitted Encumbrances.

Section 19. Defaults; Remedies.

(a) If there is any NICTD Event of Default (including any default in the observance of any other covenant, agreement or condition contained in this Ground Lease) (each, an "Event of Default"), RDA may proceed to protect and enforce its rights, either at law or in equity, by suit, action, mandamus or other proceedings, whether for specific performance of any covenant or agreement contained herein or for the enforcement of any other appropriate legal or equitable remedy (as contained in the Governance Agreement as may relate to this Ground Lease and such Event of Default); *provided* that all such rights and remedies taken in respect of this Ground Lease and any such Event of Default shall only be undertaken and pursued by RDA in strict conformity with this Section and the requirements and limitations set forth in the Governance Agreement.

(b) Except for extensions of time resulting from a Force Majeure event that are allowed in the Governance Agreement, time is of the essence of each term and provision of this Ground Lease to be observed by NICTD hereunder.

(c) If RDA shall fail to perform any term, condition, covenant or obligation required to be performed by it under this Ground Lease, NICTD may pursue a claim for specific performance. If RDA shall fail to perform any term, condition, covenant or obligation required to be performed by it under this Ground Lease and if NICTD shall, as a consequence thereof, recover a money judgment against RDA and/or IFA, NICTD agrees that (i) it shall look solely to RDA's and IFA's right, title and interest in and to the Lease Premises (which shall not include any right to set-off related to any payment due to RDA or IFA as required by the Governance Agreement, the Development Agreement, this Ground Lease, the Underlying Lease, the Master Leases, the Operating Lease and/or any documents related thereto) for the collection of such judgment, (ii) it shall not look to any other assets of RDA and/or IFA in the levy, execution or other process for the satisfaction of NICTD's judgment, and (iii) it shall not enforce any execution or other process for the satisfaction of NICTD's judgment, unless such does not: (A) materially reduce the rental value of the Lease Premises; (B) adversely affect the Continuing Rent Obligation; or (C) materially and adversely affect any obligation that is required to be met by NICTD pursuant to applicable laws (including the Bond Act) and requirements of the Governance Agreement, the Development Agreement, this Ground Lease the Underlying Lease, the Master Leases, the Operating Lease and/or any documents related thereto.

(d) Neither party's failure or delay in exercising any of its rights or remedies or other provisions of this Ground Lease shall constitute a waiver thereof or affect its right thereafter to exercise or enforce such right or remedy or other provision. No waiver of any default shall be deemed to be a waiver of any other default. RDA's receipt of less than the full amount due as herein provided shall not be construed to be other than a payment on account of such amount then due, nor shall any statement on NICTD's check or any letter accompanying NICTD's check be deemed an accord and satisfaction. No act or omission by RDA (or IFA) or their respective employees or agents during the term of this Ground Lease shall be deemed an acceptance of a surrender of the Lease Premises hereunder, and no agreement to accept such a surrender shall be valid unless in writing and signed by RDA and IFA.

(e) Notwithstanding anything herein, IFA may proceed to protect and enforce any rights or interests of RDA and IFA under this Ground Lease in its own name or on behalf of RDA in the name of RDA in its place and stead.

Section 20. Notices.

(a) All notices, certificates, requests or other communications required hereunder shall be sufficient only if given in writing, prior to the matter requiring notice and shall be deemed given (i) one (1) business day after being deposited for next day delivery; (ii) three (3) business days after mailing when mailed by registered or certified mail, return receipt requested, postage prepaid, or (iii) the same day if hand delivered (or if sent by both facsimile and email) during a business day, addressed as follows:

To RDA: Northwest Indiana Regional Development Authority
9800 Connecticut Drive

Crown Point, IN 46307
Attention: President

With a Copy to: Ice Miller LLP
One American Square 2900
Indianapolis, IN 46282

To IFA: Indiana Finance Authority
1 North Capitol, Suite 900
Indianapolis, Indiana 46204
Attention: Public Finance Director of the State of Indiana
and General Counsel
Facsimile (317) 232-6786 / Electronic mail (to
DHuge@ifa.IN.gov; and ASeiwert@ifa.IN.gov)

To NICTD: Northern Indiana Commuter Transportation District
33 East U.S. Highway 12
Chesterton, Indiana 46304
Attention: President and/or Chief Executive Officer

With a Copy to: Northern Indiana Commuter Transportation District
33 E. US Highway 12
Chesterton, IN 46304
Attention: Office of General Counsel

(b) Any party hereunder may, by notice given hereunder, designate any further or different addressees to which subsequent notices, certificates, requests or other communications shall be sent.

Section 21. Construction of Covenants. All provisions contained herein shall be construed in accordance with the provisions of the Bond Act, the Governance Agreement and the Development Agreement and to the extent of any material inconsistencies between the covenants and agreements in this Ground Lease, the Governance Agreement, and the Development Agreement and the provisions of the Bond Act, the provisions of the Bond Act, then the Governance Agreement, then this Ground Lease, and then the Development Agreement, shall be deemed to be controlling and binding upon the parties.

Section 22. Supplemental Ground Leases. RDA and NICTD may, from time to time hereafter, enter into one or more Supplemental Ground Leases, each of which: (a) shall provide that all covenants contained in this Ground Lease shall be unitary and include all parts of the Lease Premises, whether leased pursuant to this original Ground Lease or pursuant to any Supplemental Ground Lease (*provided* that the foregoing shall not limit or restrict the parties from having differing covenants and obligations applicable to any Supplemental Ground Leases related to portions of the Rail Project NICTD proposes to be constructed that are not within the existing boundaries of the Facilities); and (b) may contain such other covenants and agreements as the parties thereto agree upon.

Section 23. No Personal Liability. No recourse shall be had for any payment due under this Ground Lease or for any claim based thereon or upon any obligation, covenant or agreement in this Ground Lease contained against any past, present or future member, officer, employee, agent or official of IFA, RDA or NICTD, or any successor thereof, either directly or through IFA, RDA or NICTD, or any successor thereof, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability for any such person is hereby expressly waived and released as a condition of and consideration for the execution of this Ground Lease and issuance of the IFA Bonds.

Section 24. Successors or Assigns; Use Restrictions.

(a) All covenants of this Ground Lease, whether by RDA or NICTD, shall inure to the benefit of and be binding upon the permitted successors and assigns of the respective parties hereto. This Ground Lease shall not be assigned by NICTD without the prior written consent of RDA and IFA, and in such event the assignor shall not be relieved of its obligations hereunder unless permitted by RDA and IFA. This Ground Lease may be assigned by RDA to IFA without the prior written consent of NICTD, as and to the extent permitted by the Bond Act. Any assignment in contravention of this Section shall be null and void *ab initio*.

(b) Notwithstanding any other provision of this Ground Lease to the contrary, NICTD covenants that it: (a) will not use or permit the Facilities or any portion thereof for any private business use within the meaning of Section 141(b)(6) of the Internal Revenue Code of 1986, as amended from time to time, without the prior written consent of an Authorized Officer of IFA, which consent shall not be unreasonably withheld, and (b) will comply with Section 148(f) of the Internal Revenue Code of 1986, as amended from time to time. Any agreement entered into by NICTD in violation of this Section 24 shall be of no force or effect and shall not convey any rights or impose any obligation in respect to it, at law or in equity.

(c) Requests for consent to private business use shall be sent in writing by NICTD to IFA and RDA. Each such request shall include a final draft of the proposed conveyance, lease, sublease, management or incentive payment contract, license or other agreement that may give rise to such private business use, together with a description of the timing and the rationale for entering into such agreement (the "Proposed Private Business Use"). IFA and RDA shall conduct their review and approve or reject, in writing, such request within 30 days of receipt. If no response is made to a request for consent to private business use within 30 days of receipt, then NICTD shall provide additional written notice to IFA and RDA that the Proposed Private Business Use will be deemed to be approved. If no response to this additional written notice is received within three business days of receipt of the additional written notice by IFA and RDA, then the request shall be deemed approved. In the event a request for consent to private business use is deemed approved, NICTD shall have the right to proceed as though consent to the Proposed Private Business Use was expressly provided by IFA and RDA. In any event, upon the execution and delivery by NICTD of any such agreement, NICTD shall provide IFA and RDA a copy of such executed agreement within 10 business days of the execution thereof.

Section 25. Validity. All terms, covenants and conditions contained in this Ground Lease shall include all parts of the Facilities, whether leased pursuant to the original Ground Lease or pursuant to any Supplemental Ground Lease thereto.

Section 26. Severability; Complete Agreement; Counterparts; Survival of Terms; Governing Law; Etc.

(a) All the covenants, agreements, terms and conditions required under the laws of the State, including the Bond Act, to be included in any lease entered into under Indiana Code 5-1.3-5 are incorporated herein by this reference.

(b) In case any section or provision of this Ground Lease, or any covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Ground Lease, or any application thereof, is for any reason held to be illegal or invalid, or is at any time inoperable, that illegality, invalidity or inoperability shall not affect the remainder thereof or any other section or provision of this Ground Lease or any other covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Ground Lease, which shall be construed and enforced as if that illegal, invalid or inoperable portion were not contained herein. Any such illegality, invalidity or inoperability of any application thereof shall not affect any legal, valid and operable application thereof, and each such section, provision, covenant, stipulation, obligation, agreement, act or action, or part thereof, shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent from time to time permitted by law.

(c) This Ground Lease represents the entire agreement between RDA and NICTD covering everything agreed upon or understood in the creation of the estate created by this Ground Lease and related transactional matters; *provided*, however, that the parties contemplate and agree that the provisions of the Governance Agreement, the Development Agreement, the other Leases and/or any documents related thereto contain related undertakings and such shall be given their full meaning and effect. There are no oral promises, conditions, representations, understandings, interpretations or terms of any kind as conditions or inducements to the execution hereof or in effect between the parties. No change or addition shall be made to this Ground Lease except by a written agreement executed by RDA and NICTD.

(d) The parties each acknowledge that the terms and conditions of this Ground Lease have been the subject of active and complete negotiations represented by competent professional counsel and advisors, and that such terms and conditions should not be construed in favor of or against any party by reason of the extent to which any party or its professional counsel and advisors participated in the preparation of this Ground Lease.

(e) This Ground Lease may be executed in duplicate counterparts, each of which shall be deemed an original and both of which together shall constitute one and the same instrument.

(f) The covenants and obligations under Sections 5, 12, 14, 15, 19, and 23 hereof shall survive the expiration or earlier termination of this Ground Lease.

(g) This Ground Lease shall be construed according to, and subject to, the laws of the State.

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IN WITNESS WHEREOF, the parties hereto have caused this Ground Lease to be executed for and on their behalf as of the day and year first hereinabove written.

"NICTD"

**NORTHERN INDIANA COMMUTER
TRANSPORTATION DISTRICT, AS
LESSOR**

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

[REMAINDER OF PAGE LEFT BLANK]

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____, personally known by me to be the _____ and _____, respectively, of the Northern Indiana Commuter Transportation District ("NICTD"), and acknowledged the execution of the foregoing Ground Lease Agreement (Double Track Project) for and on behalf of NICTD.

WITNESS my hand and Notarial Seal this _____ day of _____, 20__.

(Seal)

(Written Signature)

(Printed Signature)

Notary Public

My Commission expires:

My county of residence is:

[REMAINDER OF PAGE LEFT BLANK]

June 20, 2019 draft

This instrument prepared by: Philip C Genetos, Ice Miller LLP, One American Square, Suite 2900, Indianapolis, IN 46282.

I affirm under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. Philip C Genetos

EXHIBIT A

LEGAL DESCRIPTION AND MAP OF THE REAL ESTATE

Map of the Real Estate. Real property in _____
_____, as depicted as follows:

[End of Exhibit A]

EXHIBIT B
FORM OF
SUPPLEMENTAL GROUND LEASE AGREEMENT (DOUBLE TRACK PROJECT)
BETWEEN
NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT
AND
NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY

SUPPLEMENTAL GROUND LEASE AGREEMENT (DOUBLE TRACK PROJECT)
BETWEEN
NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT
AND
NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY

This SUPPLEMENTAL GROUND LEASE AGREEMENT (DOUBLE TRACK PROJECT) (this "Supplemental Ground Lease"), entered into as of this ____ day of _____, 20__, between the NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT, a commuter transportation district and a municipal corporation formed pursuant to Indiana Code 8-5-15, as supplemented and amended from time to time ("NICTD"), and the NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY, a separate body corporate and politic formed pursuant to Indiana Code 36-7, as supplemented and amended from time to time ("RDA").

WITNESSETH:

WHEREAS, NICTD entered into a Ground Lease Agreement (Double Track Project) with RDA dated as of _____ 1, 20__ (the "Ground Lease"); and

WHEREAS, all terms not otherwise defined in this Supplemental Ground Lease shall have the meanings ascribed to them in the Ground Lease; and

[WHEREAS, it is provided in the Ground Lease that after the Commencement Date, for any portion of the Lease Premises, in the event such portion shall be damaged or destroyed or taken, so as to render such portion unavailable for use by RDA, or shall for any other reason become unavailable for use by RDA, NICTD may add additional Lease Premises to the Ground Lease pursuant to a Supplemental Ground Lease so that RDA may lease such additional Lease Premises to NICTD pursuant to a supplement to the Operating Lease; provided that such additional Lease Premises are also added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases; and]

[WHEREAS, it is provided in the Ground Lease that in the event NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities, then by no later than the date as of which construction of any such portions commences, NICTD shall cause a Supplemental Ground Lease to be entered into for the purpose of adding to the Real Estate the pertinent real estate on which such portions of the Rail Project shall be located; provided that such additional Real Estate is also added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases; and]

[WHEREAS, it is provided in the Ground Lease that when the Rail Improvements are complete and ready for use as part of the Rail Project, the parties shall revise and increase the real estate described in Exhibit A to the Ground Lease, if necessary to reflect the final site location acquired for the Rail Project and upon which the Rail Improvements as part of the Rail Project have been constructed; provided that such additional Real Estate is also added to the

Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases; and]

[WHEREAS, it is provided in the Ground Lease that RDA and NICTD may enter into one or more Supplemental Ground Leases, each of which: (1) shall provide that all covenants contained in the Ground Lease shall be unitary and include all parts of the Lease Premises, whether leased pursuant to the Ground Lease or pursuant to any Supplemental Ground Lease (*provided* that the foregoing shall not limit or restrict the parties from having differing covenants and obligations applicable to any Supplemental Ground Leases related to portions of the Rail Project NICTD proposes to be constructed that are not within the existing boundaries of the Facilities); and (2) may contain such other covenants and agreements as the parties thereto agree upon.]

NOW, THEREFORE, IT IS HEREBY AGREED, CERTIFIED AND STIPULATED by the undersigned as follows:

[Section 1. Addition to Real Estate After Commencement Date. Certain portions of the Lease Premises have been damaged or destroyed, thereby rendering such portions unavailable for use by RDA, or have otherwise become unavailable for use by RDA. NICTD has determined to add additional Lease Premises to the Ground Lease pursuant to this Supplemental Ground Lease. Therefore, the Lease Premises set forth in Exhibit A to the Ground Lease shall be hereafter amended to read as set forth in Appendix I attached hereto, so that RDA may lease such additional Lease Premises to NICTD pursuant to a supplement to the Operating Lease, thereby resulting in no interruption in the lease rentals payable by NICTD to RDA pursuant to the Operating Lease. Such additional Lease Premises are also being added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.]

[Section . Addition to Real Estate Prior to Construction. NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities set forth in Exhibit A to the Ground Lease. Therefore, the boundaries of the Facilities set forth in Exhibit A to the Ground Lease shall be hereafter amended to read as set forth in Appendix I attached hereto, which revised boundaries shall include the pertinent real estate on which such portions of the Rail Project shall be located. Such additional Real Estate is also being added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.]

[Section . Addition to Real Estate After Construction. Certain Rail Improvements are now complete and ready for use as part of the Rail Project, and it is now necessary to revise or increase the real estate described in Exhibit A to the Ground Lease, because such Exhibit A does not reflect the final site location acquired for the Rail Project and upon which the Rail Improvements as part of the Rail Project have been constructed. Therefore, for such purpose, Exhibit A to the Ground Lease shall be hereafter amended to read as set forth in Appendix I attached hereto. Such additional Real Estate is also being added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.]

Section __. All covenants contained in the Ground Lease, including this Supplemental Ground Lease, shall be unitary and include all parts of the Lease Premises, whether leased pursuant to the Ground Lease or pursuant to any Supplemental Ground Lease.

[REMAINDER OF PAGE LEFT BLANK]

IN WITNESS WHEREOF, the undersigned have caused this Supplemental Ground Lease to be executed for and on their behalf as of the day and year first above written.

"NICTD"

NORTHERN INDIANA COMMUTER
TRANSPORTATION DISTRICT

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

"RDA"

NORTHWEST INDIANA REGIONAL
DEVELOPMENT AUTHORITY

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

This instrument prepared by: _____

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, personally known by me to be the _____ and _____, respectively, of the Northern Indiana Commuter Transportation District ("NICTD"), and acknowledged the execution of the foregoing Supplemental Ground Lease Agreement (Double Track Project) for and on behalf of NICTD.

WITNESS my hand and Notarial Seal this _____ day of _____, 20__.

(Seal)

(Written Signature)

(Printed Signature)

Notary Public

My Commission expires:

My county of residence is:

[REMAINDER OF PAGE LEFT BLANK]

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, personally known by me to be the _____ and _____, respectively, of the Northwest Indiana Regional Development Authority ("RDA"), and acknowledged the execution of the foregoing Supplemental Ground Lease Agreement (Double Track Project) for and on behalf of RDA.

WITNESS my hand and Notarial Seal this _____ day of _____, 20__.

(Seal)

(Written Signature)

(Printed Signature)

Notary Public

My Commission expires:

My county of residence is:

[REMAINDER OF PAGE LEFT BLANK]

[APPENDIX I

LEGAL DESCRIPTION AND MAP OF THE REAL ESTATE]

**RDA MEMBER DUES MASTER LEASE AGREEMENT
(DOUBLE TRACK PROJECT)**

by and between

**INDIANA FINANCE AUTHORITY
as Lessor**

and

**NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY
as Lessee**

Dated as of _____ 1, 20__

ARTICLE I DEFINITIONS AND GENERAL PROVISIONS.....1

Section 1.01. Definitions.....1

Section 1.02. Interpretations4

Section 1.03. Not Indebtedness of State.....4

Section 1.04. Not Indebtedness of RDA5

ARTICLE II CONSTRUCTION OF THE RAIL PROJECT5

Section 2.01. Construction of the Rail Project.....5

ARTICLE III LEASE AND MAINTENANCE OF LEASE PREMISES5

Section 3.01. Lease of Lease Premises5

Section 3.02. Term of Lease5

Section 3.03. Operation and Maintenance5

Section 3.04. Alterations or Modifications of the Lease Premises6

Section 3.05. Additional Lease Premises.....6

Section 3.06. Additional Project6

ARTICLE IV RENTS.....6

Section 4.01. Timing for Payment6

Section 4.02. Supplemental Agreements7

Section 4.03. Funding Source7

Section 4.04. Abatement of Rent7

ARTICLE V SUBLETTING.....7

Section 5.01. Subletting7

ARTICLE VI DEFAULT8

Section 6.01. Default.....8

Section 6.02. Remedies.....8

Section 6.03. Remedies Cumulative8

Section 6.04. Limited Waiver8

ARTICLE VII COVENANTS9

Section 7.01. Power to Agree.....9

Section 7.02. Funding Source9

Section 7.03. Use of Lease Premises9

Section 7.04. Maintenance of Insurance and Performance Bonds.....9

Section 7.05. Completion of Performance; Reconstruction; Application of Proceeds9

Section 7.06. Indemnification10

ARTICLE VIII MISCELLANEOUS11

Section 8.01. Effectiveness11

Section 8.02. Notices.....11

Section 8.03. Severability11

Section 8.04. Table of Contents; Captions.....11

Section 8.05. Governing Law.....11

Section 8.06. Successors and Assigns.....11

EXHIBIT A FORM OF SUPPLEMENT TO RDA MEMBER DUES MASTER LEASE AGREEMENT (DOUBLE TRACK PROJECT)

EXHIBIT B LEASE PREMISES

EXHIBIT C FORM OF MEMORANDUM

**RDA MEMBER DUES MASTER LEASE AGREEMENT
(DOUBLE TRACK PROJECT)**

This RDA MEMBER DUES MASTER LEASE AGREEMENT (DOUBLE TRACK PROJECT) made and entered into as of the first day of _____, 20__ (this "Agreement"), by and between the INDIANA FINANCE AUTHORITY, a body politic and corporate, not a state agency but an independent instrumentality, exercising essential public functions, duly organized and validly existing under the laws of the State of Indiana (the "IFA"), pursuant to Indiana Code 5-1.2, and the NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY, duly created and existing under and by virtue of Indiana Code 36-7.5 (the "RDA");

WITNESSETH:

WHEREAS, this Agreement is designed to provide a master leasing structure with respect to various portions of the Rail Project defined herein that relate to bonds issued by IFA for the Rail Project and are payable from the Funding Source set forth herein (the "Related IFA Bonds"); and

WHEREAS, as series of Related IFA Bonds are authorized to provide additional funding for the Rail Project, IFA and RDA shall describe the Additional Project to be funded from that specific series of Related IFA Bonds and the lease rentals payable by RDA with respect thereto in a Supplemental Agreement;

In consideration of the mutual covenants herein set forth, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS AND GENERAL PROVISIONS

Section 1.01. Definitions. The following words and terms as used in this Agreement or in any Supplemental Agreement or other amendment or supplement hereto shall have the following meanings unless provided for in this Agreement or in any Supplemental Agreement or other amendment or supplement hereto, unless the context or use clearly indicates another or different meaning or intent:

"Act" shall mean Indiana Code 5-1.3, as amended or supplemented, or any successor thereto.

"Additional Lease Premises" shall mean any additional real property that is acquired for the Rail Project or an Additional Project with the proceeds of any series of Related IFA Bonds or incorporated therein in connection with any series of Related IFA Bonds, which is added to this Agreement pursuant to the terms set forth in Section 3.05.

"Additional Project" shall mean an additional portion of the Rail Project that becomes part of the Lease Premises in the manner provided in Section 3.06.

"Agreement" shall mean this RDA Member Dues Master Lease Agreement (Double Track Project) as from time to time amended or supplemented by any Supplemental Agreement or other amendment or supplement hereto, including a Supplemental Memorandum of Lease.

"Authorized Officer of IFA" shall mean the Chair of IFA or the Public Finance Director of the State of Indiana and, with reference to any act or document, also means any other person authorized by a resolution of IFA to perform such act or to sign such document.

"Authorized Officer of RDA" shall mean the Chair or the Chief Executive Officer of RDA and, with reference to any act or document, also means any other person authorized by a resolution of RDA to perform such act or to sign such document.

"Available Portion" shall mean, collectively, the portions of the Lease Premises that are available for use.

"Bond Trustee" shall mean the trustee bank serving as Trustee for the Related IFA Bonds.

"Commencement Date" for any Lease Premises or any portion thereof shall mean the date on which a Completion Certificate for such Lease Premises or such portion thereof is accepted by an Authorized Officer of RDA.

"Completion Certificate" for any Lease Premises or any portion thereof shall mean a certificate (a) executed by an Authorized Officer of IFA certifying that such Lease Premises or such portion thereof is available for use by RDA and (b) accepted by an Authorized Officer of RDA acknowledging that such Lease Premises or such portion thereof is available for use by RDA.

"Construction" shall mean constructing, acquiring, renovating, rehabilitating, reconstructing, improving, extending or equipping the Rail Project or the Lease Premises or any portion thereof.

"Deposit Trustee" shall mean the trustee bank acting as the Deposit Trustee under the Revenue Trust Fund Agreement.

"Development Agreement" shall mean any development agreement entered into by NICTD, RDA and IFA for the purpose of governing the completion of the Rail Project in a manner consistent with and as contemplated by the Governance Agreement.

"Effective Date" shall mean the date of execution and delivery of this Agreement, which is _____, 20__.

"Fiscal Year" shall mean the twelve-month period commencing on July 1 of each year and ending on the succeeding June 30, or such other fiscal year of the State as may be mandated by law.

“Funded Interest Date” shall mean the date until which the proceeds of a series of Related IFA Bonds are expected to pay the interest thereon. There is no Funded Interest Date for that portion of the Rail Project being financed with the initial series of the Related IFA Bonds.

"Funding Source" shall mean the portion of the annual payments to RDA from the Cities of Gary, East Chicago and Hammond and the Counties of Lake and Porter due under Indiana Code 6-3.6-6-9, Indiana Code 36-7.5-4-2 and Indiana Code 6-3.6-11-6, which RDA has pledged to the payment of the lease rentals due under this Agreement, as provided herein or in a Supplemental Agreement, prior to the payment of the lease rentals due under the RDA Available Revenue Master Lease Agreement (West Lake Project), dated as of _____ 1, 20__, between IFA, as lessor, and RDA, as lessee.

"Governance Agreement" shall mean the Governance Agreement effective as of August 31, 2018, by and among NICTD, RDA and IFA, as from time to time amended or supplemented in accordance with its terms.

“Ground Lease” shall mean the Ground Lease Agreement, dated as of _____ 1, 20__, between NICTD, as lessor, and RDA, as lessee.

"IFA" shall mean the Indiana Finance Authority, a body politic and corporate, not a state agency but an independent instrumentality, exercising essential public functions, duly organized and validly existing under the laws of the State, pursuant to Indiana Code 5-1.2, as supplemented and amended.

"IFA RDA Member Dues Account" shall mean the account of such name held under Section 5(a)(iii) of the Revenue Trust Fund Agreement.

"Lease Premises" shall mean the property described in Exhibit B hereto from time to time as Supplemental Agreements specify the portion of the Rail Project financed with Related IFA Bonds as provided in Section 3.06 hereof, including without limitation, all Rail Project Property related thereto and any Additional Lease Premises included in the Lease Premises by reason of Section 3.05 hereof.

"Memorandum" shall mean the Memorandum of Lease attached hereto as Exhibit C to be recorded contemporaneously with the execution of this Agreement with respect to identifying the Lease Premises.

"NICTD" shall mean the Northern Indiana Commuter Transportation District established under Indiana Code 8-5-15.

“Operating Lease” shall mean the Operating Lease Agreement, dated as of _____ 1, 20__, between RDA, as lessor, and NICTD, as lessee.

"Projected Commencement Date" for any Additional Project shall mean the projected Commencement Date for such Additional Project, as set forth in the Supplemental Agreement covering such Additional Project.

"Rail Project" shall mean the Double Track Project described in Exhibit A to the Underlying Lease.

"Rail Project Property" shall mean all real and personal property interests, including, but not limited to, the Lease Premises, each Additional Project and such easements, licenses, leases, or property rights, in whatever form reasonably necessary to construct and operate the Rail Project, but not including NICTD rolling stock, except to the extent any costs for rolling stock are included in the applicable Cost Budget (as defined in the Governance Agreement), as the Rail Project is identified and described in Exhibit A to the Underlying Lease.

"RDA" shall mean the Northwest Indiana Regional Development Authority, organized and existing under Indiana Code 36-7.5.

"Related IFA Bonds" shall mean the bonds issued by IFA to finance the Rail Project, including any Additional Project, which are secured by the rental payments due under this Agreement. The initial series of Related IFA Bonds are the Indiana Finance Authority Lease RDA Member Dues Bonds (Double Track Project), Series 20__.

"Revenue Trust Fund Agreement" shall mean the Revenue Trust Fund Agreement, dated as of _____ 1, 20__, entered into by and among RDA, IFA, NICTD, the Bond Trustee, and the Deposit Trustee.

"State" shall mean the State of Indiana.

"Supplemental Agreement" shall mean any agreement supplemental or amendatory of this Agreement entered into in accordance with Article IV, including each Supplemental Agreement that describes an Additional Project to be included in the Lease Premises hereunder as provided in Section 3.06 hereof.

"Supplemental Memorandum of Lease" shall mean each Supplemental Memorandum of Lease recorded in connection with the addition of Additional Lease Premises in the manner provided in Section 3.05 hereof.

"Term" shall mean the period of time commencing on the date hereof and ending on _____.

"Underlying Lease" shall mean the Underlying Lease Agreement dated as of _____ 1, 20__ between RDA and IFA as from time to time amended or supplemented in accordance with its terms.

Section 1.02. Interpretations. Unless the context indicates otherwise, words importing the singular number shall include the plural number and words importing the plural number shall include the singular number. The terms "hereof," "herein," "hereby," "hereto," "hereunder" and similar terms mean this Agreement.

Section 1.03. Not Indebtedness of State. It is expressly understood and agreed by the parties hereto that this Agreement does not constitute an indebtedness of the State within the

meaning or application of any constitutional provision or limitation, or a pledge of the faith or credit of the State.

Section 1.04. Not Indebtedness of RDA. It is expressly understood and agreed by the parties hereto that this Agreement does not constitute an indebtedness of RDA within the meaning or application of any constitutional provision or limitation, or a pledge of the faith or credit of RDA.

ARTICLE II

CONSTRUCTION OF THE RAIL PROJECT

Section 2.01. Construction of the Rail Project. IFA and RDA represent that the Rail Project has been or will be constructed in accordance with the Governance Agreement, any Development Agreement and applicable plans and specifications therefor with all reasonable speed and dispatch in accordance with the applicable plans and specifications therefor.

ARTICLE III

LEASE AND MAINTENANCE OF LEASE PREMISES

Section 3.01. Lease of Lease Premises. In consideration of the rents, covenants and agreements contained herein, IFA does hereby demise and lease to RDA, and RDA does hereby rent and lease from IFA, the Lease Premises from and after the Effective Date for such Lease Premises. IFA and RDA shall file and record a Supplemental Memorandum of Lease covering any Additional Lease Premises as provided in Section 3.05 and any Supplemental Agreement adding any Additional Project as provided in Section 3.06 hereof.

Section 3.02. Term of Lease. The Term shall end on _____; provided the Term shall end earlier or later than such date, upon the occurrence of the first of the following events, in which case, this Agreement shall terminate upon the date of occurrence of such event:

- (a) Upon receipt of notice from IFA to RDA that all Related IFA Bonds have been paid in full and all other obligations and lease rentals due to IFA hereunder or under the Governance Agreement with respect to the Rail Project have been paid in full;
- (b) the termination of this Agreement by IFA pursuant to Section 6.02; or
- (c) the termination of the Underlying Lease.

Section 3.03. Operation and Maintenance. RDA shall cause NICTD at all times, in accordance with its then current practices, to operate and maintain the Lease Premises during the Term of this Agreement in an efficient and economical manner, as required by the Governance Agreement, and in accordance with its then current practices, to maintain the Lease Premises in good repair and sound operating condition and to make all necessary repairs, renewals, replacements and improvements thereto, all at the expense of NICTD, except that IFA shall maintain insurance on the Lease Premises in accordance with Section 7.04 at its expense. RDA shall cause NICTD to comply with all valid statutes, rules, regulations, orders and directions of

any legislative, administrative or judicial body applicable to NICTD and the Lease Premises. RDA shall cause NICTD to adopt and keep in force reasonable rules and regulations governing the use of the Lease Premises and the operation thereof, and shall enforce such rules and regulations. RDA and IFA shall cause NICTD to comply with the foregoing requirements through the operation of the covenants and agreements of NICTD contained in the Governance Agreement, at which time RDA shall also cause NICTD to comply with the foregoing requirements through the operation of the covenants and agreements of NICTD contained in the Ground Lease and the Operating Lease.

Section 3.04. Alterations or Modifications of the Lease Premises. RDA shall not, without the prior written consent of an Authorized Officer of IFA, which consent shall not be unreasonably withheld, make or cause to be made or permit NICTD to make or cause to be made, any alteration, modification, addition or improvement to all or any portion of the Lease Premises, which alteration, modification, addition or improvement materially impairs the value of the Lease Premises, unless such alteration, modification, addition or improvement is, in the opinion of NICTD, as permitted by the Governance Agreement or as is necessary or advisable for the safety of the public.

Section 3.05. Additional Lease Premises. In the event Additional Lease Premises are added to the property leased by RDA to IFA pursuant to the Underlying Lease, such Additional Lease Premises shall immediately without further action become part of the Lease Premises subject to this Agreement upon the recordation of a Supplemental Memorandum of Lease executed by IFA and RDA in the offices of the Recorder of Lake County, Indiana, the Recorder of Porter County, Indiana, and the Recorder of LaPorte County, Indiana.

Section 3.06. Additional Project. IFA and RDA contemplate that the Rail Project may be funded in part by the issuance of an additional series of Related IFA Bonds from time to time to finance an Additional Project that constitutes a part of the Rail Project. In that event, IFA and RDA shall execute and deliver a Supplemental Agreement at such time to describe the Additional Project, provide for the Construction of such Additional Project and specify the rent due from RDA for such Additional Project.

ARTICLE IV

RENTS

Section 4.01. Timing for Payment. Subject to Sections 4.03 and 4.04 hereof, RDA shall pay, in arrears, without relief from valuation or appraisal laws and without a defense of set-off, counterclaim or recoupment, a monthly rental for the Lease Premises or any portions thereof available for use, in an amount equal to the aggregate monthly rental payments set forth in the Supplemental Agreements, to IFA by general transfer of funds from an account of RDA or from the IFA RDA Member Dues Revenue Account to such account as IFA may from time to time specify, so as to assure immediately available funds in such account on or before the first day of each month succeeding those months during which the Lease Premises or such portions thereof were actually used or available for use by RDA pursuant to this Agreement (provided that if the first day of any such month is not a business day then on or before the immediately preceding business day).

Section 4.02. Supplemental Agreements. IFA and RDA may, on the date hereof and from time to time thereafter, enter into one or more Supplemental Agreements, substantially in the form of Exhibit A, which may (a) set forth the Available Portion as of the date of such Supplemental Agreement, (b) add Additional Lease Premises to this Agreement when added under the terms of the Underlying Lease or to finance an Additional Project, (c) remove a portion of the Lease Premises being replaced, (d) state the rent payable for the Lease Premises, (e) provide that all lease covenants, including the obligation to pay rent, shall be unitary, whether covered by this Agreement or a Supplemental Agreement, or (f) contain such other covenants and agreements as the parties thereto agree upon.

Section 4.03. Funding Source. The lease rentals payable hereunder are payable by RDA solely from the Funding Source. RDA and IFA have both determined that the rents due under this Agreement are fair and reasonable for the Lease Premises included herein. RDA can pay lease rentals solely from the Funding Source.

Section 4.04. Abatement of Rent.

(a) The lease rentals payable hereunder during the Term of this Agreement are payable by RDA solely for the actual use or availability for use of the Lease Premises or portions thereof provided by IFA.

(b) After the Commencement Date for any portion of the Lease Premises, in the event such portion shall be damaged or destroyed, so as to render such portion unavailable for use by RDA, or shall for any other reason become unavailable for use by RDA: (i) any rental payments due for such unavailable portion of the Lease Premises shall be abated during such unavailability by an amount equal to the product of the portion of (A) the rental payments otherwise due on such portion of the Lease Premises, times (B) a fraction of such rental payments, the numerator of which fraction equals the then estimated expenses incurred or to be incurred by IFA and allocable to such portion and the denominator of which fraction equals the then estimated expenses incurred or to be incurred by IFA and allocable to the Lease Premises; or (ii) IFA may add Additional Lease Premises to this Agreement pursuant to a Supplemental Agreement so that there is no interruption in the lease rentals payable by RDA as described in clause (i) above.

ARTICLE V

SUBLETTING

Section 5.01. Subletting. Except for the Operating Lease, none of the Lease Premises nor any portions thereof shall be sublet by RDA to, and none of the Lease Premises nor any portions thereof shall be used by, any person (natural or otherwise), unless an Authorized Officer of IFA gives prior written consent. No such subletting shall relieve RDA from its obligations to pay any rental payment payable under this Agreement and to keep and perform all other covenants on its part to be kept and performed under this Agreement. In the event this Agreement is terminated pursuant to Section 3.02 or Section 6.02 following an event of default by RDA, the Operating Lease shall remain in force and effect for the benefit of IFA (who upon

termination of this Agreement shall succeed to the rights, title and interest of RDA, as lessor under the Operating Lease) and NICTD.

ARTICLE VI

DEFAULT

Section 6.01. Default. An "event of default" shall mean, whenever that term is used in this Agreement, any one or more of the following events:

- (a) failure by RDA to pay or cause to be paid any amount payable by RDA under this Agreement, including any Supplemental Agreement, when due; or
- (b) the failure by RDA to observe or perform any covenant, condition or agreement on its part to be observed or performed under Section 7.02; or
- (c) failure by RDA to observe or perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in subsection (a) or (b) of this Section 6.01, which failure continues for a period of thirty days after written notice, specifying such failure and requesting that it be remedied, is given to RDA by an Authorized Officer of IFA.

Section 6.02. Remedies. Whenever any event of default shall have happened and be subsisting and provided that the event of default has not been cured, IFA may terminate this Agreement by written notice to RDA and/or take whatever action at law or in equity may appear necessary or desirable to collect the payments then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of RDA under this Agreement.

Section 6.03. Remedies Cumulative. No remedy in this Agreement conferred upon or reserved to IFA is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. To entitle IFA to exercise any remedy reserved to it in this Agreement, it shall not be necessary to give any notice, other than such notice as may be expressly required by this Agreement.

Section 6.04. Limited Waiver. In the event any agreement contained in this Agreement shall be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach under this Agreement.

ARTICLE VII

COVENANTS

Section 7.01. Power to Agree. IFA and RDA each covenant to the other that the execution and delivery of this Agreement has been duly authorized by all necessary corporate action, and that this Agreement has been duly executed and delivered, and constitutes a legal, valid and binding agreement in accordance with its terms and provisions.

Section 7.02. Funding Source. RDA covenants that it will do all things lawfully within its power to obtain and maintain funds from the Funding Source needed to meet its rental payment and operation and maintenance obligations under this Agreement. RDA will pay rent at times and in amounts sufficient to pay in full the debt service payment under the terms of any Related IFA Bonds outstanding with respect to the Rail Project, including any additions to reserves for the Related IFA Bonds maintained by IFA and additional rent as provided by this Agreement.

Section 7.03. Use of Lease Premises. Notwithstanding any other provision of this Agreement to the contrary, RDA covenants that it: (a) will lease the Lease Premises to NICTD for use as a rail project as defined in Indiana Code 5-1.3-2-14, (b) will not use and will cause NICTD to agree not to use the Lease Premises or any portion thereof for any private business use within the meaning of Section 141(b)(6) of the Internal Revenue Code of 1986, as amended from time to time, without the prior written consent of an Authorized Officer of IFA, which consent shall not be unreasonably withheld, and (c) will comply with Section 148(f) of the Internal Revenue Code of 1986, as amended from time to time. Any agreement entered into by RDA in violation of this Section 7.03 shall be of no force or effect and shall not convey any rights or impose any obligation in respect to it, at law or in equity.

Section 7.04. Maintenance of Insurance and Performance Bonds. IFA shall keep or cause NICTD to keep the Lease Premises insured against loss or damage from causes customarily insured against under a standard extended coverage endorsement in an amount at least equal to one hundred percent of the full replacement cost of the Lease Premises or such lesser amount as IFA and RDA may agree upon, if, in the opinion of an Authorized Officer of IFA, such insurance is reasonably commercially available; provided, however, such insurance coverage may contain a reasonable loss deductible clause. IFA shall at all times use its best efforts to maintain or cause to be maintained insurance or reserves against loss or damage from such hazards and risks to the person and property of others as are usually insured or reserved against by those operating properties similar to the Lease Premises. IFA shall maintain or cause to be maintained or cause NICTD to maintain or cause to be maintained such performance bonds or performance insurance with respect to contracts it may enter into for Construction of the Lease Premises as are usually maintained by those constructing properties similar to the Lease Premises. RDA shall not be responsible for paying the cost of any insurance required to be kept or maintained or caused to be kept or maintained under this Section.

Section 7.05. Completion of Performance; Reconstruction; Application of Proceeds. If performance of any contract for Construction of the Lease Premises is not completed in accordance with its terms and, in the opinion of a registered engineer selected by NICTD and

acceptable to IFA and RDA, the cost of completion of such performance shall not exceed the amount of proceeds from any performance bond or performance insurance to be received by reason of such noncompletion of performance and other amounts available therefor, IFA or RDA, as applicable, shall, as expeditiously as possible, continuously and diligently complete or cause to be completed or cause NICTD to complete or cause to be completed such performance. If all or any portion of the Lease Premises shall be damaged or destroyed and in the opinion of a registered engineer selected by NICTD and acceptable to IFA and RDA (a) the cost of such repair, replacement or reconstruction shall not exceed the amount of any insurance proceeds to be received by reason of such damage or destruction and other amounts available therefor, and (b) such repair, replacement or reconstruction can be completed within the period covered by any rent loss insurance maintained or caused to be maintained by IFA on the Lease Premises or other amounts available therefor, IFA shall, as expeditiously as possible, continuously and diligently prosecute or cause to be prosecuted, the repair, reconstruction or replacement thereof; provided, however, IFA may substitute an Additional Project in lieu of reconstruction to the extent permitted by Section 4.04(b) hereof. In the event IFA does not substitute an Additional Project pursuant to Section 4.04(b) hereof, within one hundred twenty days after the noncompletion of performance of any contract for Construction or the occurrence of an event of damage or destruction to the Lease Premises, IFA, through any Authorized Officer of IFA, shall deliver to RDA and the Trustee the written opinion of the engineer referred to in this Section 7.05 stating whether or not the conditions set forth above with respect thereto are satisfied. The proceeds of any performance bond or performance insurance paid on account of such noncompletion of performance and from any insurance paid on account of such damage or destruction (other than any rent loss insurance) shall be made available for, and to the extent necessary shall be applied to, the cost of such repair, reconstruction or replacement. Such proceeds not applied within thirty-six months after receipt thereof by IFA to such completion of performance or such repair, reconstruction or replacement shall be applied to any lawful purpose of IFA.

Section 7.06. Indemnification. RDA agrees to cause NICTD, to the extent provided in the Ground Lease or the Operating Lease, to release, protect, defend, indemnify and hold harmless RDA, IFA, the Bond Trustee, the Deposit Trustee, and their respective agents, employees, representatives and consultants, from and against any and all claims, causes of action, suits, judgments, demands, and/or losses (including attorney fees), in each case if asserted or incurred by or awarded to any third party, arising out of or relating to or resulting from (a) NICTD's design, construction or operation of the Rail Project, (b) any act, omission, negligence, or willful misconduct of NICTD, any of its Ancillary Users (as defined in the Operating Lease) or anyone acting under its control or for whom it is legally responsible, (c) failure of NICTD, or anyone acting under its control or for whom it is legally responsible, to perform or observe any requirement or obligation imposed by this Agreement and (d) arising out of any other act or occurrence within the Rail Project. NICTD's indemnity obligation shall not extend to: (i) any third party claim to the extent directly caused by the sole negligence, recklessness, willful misconduct, or breach of any material obligation under this Agreement or the Governance Agreement by IFA or RDA; or (ii) any claims, causes of action, suits, judgments, demands, and/or losses resulting from any action of RDA or IFA during an Operations Step-In Period (as defined in the Governance Agreement) or resulting from any actions taken by RDA or IFA after the exercise of any Construction Period Step-In Rights (as defined in the Governance Agreement), provided however that nothing herein shall relieve NICTD of responsibility to pay up to the Maximum NICTD Excess Cost Contribution for Excess Construction Costs (as both

such terms are defined in the Governance Agreement) irrespective of the exercise of Construction Period Step-In Rights. RDA and IFA shall have no obligation to indemnify NICTD.

ARTICLE VIII

MISCELLANEOUS

Section 8.01. Effectiveness. This Agreement shall be effective from and after the Effective Date, through the date on which this Agreement, or any extensions hereof, shall terminate in accordance with Section 3.02.

Section 8.02. Notices. All notices required or authorized to be given pursuant to this Agreement shall be in writing and shall be served personally or sent by certified mail to the main office of the party or parties to be notified, and the effective date thereof shall be the date of delivery, if served personally, or the date it is deposited in the mail, if mailed.

Section 8.03. Severability. In case any section or provision of this Agreement, or any covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Agreement, or any application thereof, is for any reason held to be illegal or invalid, or is at any time inoperable, that illegality, invalidity or inoperability shall not affect the remainder hereof or any other section or provision of this Agreement or any other covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Agreement, which shall be construed and enforced as if that illegal, invalid or inoperable portion were not contained herein. Any such illegality, invalidity or inoperability of any application shall not affect any legal, valid, and operable application, and each such section, provision, covenant, stipulation, obligation, agreement, act or action, or part thereof, shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent from time to time permitted by law.

Section 8.04. Table of Contents; Captions. The Table of Contents included within this Agreement and the captions included throughout this Agreement are for convenience and reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

Section 8.05. Governing Law. This Agreement shall be construed according to, and subject to, the laws of the State.

Section 8.06. Successors and Assigns. The rights and obligations of either party under this Agreement shall not be assignable by such party without the prior written consent of the other party, except that IFA may assign any of its rights under this Agreement to the Trustee. This Agreement shall inure to the benefit and shall be binding upon the respective successors and permitted assigns of the parties. Nothing herein expressed or implied is intended to confer upon any person, other than the parties or their respective successors or permitted assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

June 20, 2019 draft

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers as of the day and year first hereinabove set forth.

INDIANA FINANCE AUTHORITY

By: _____
Cristopher R. Johnston, Chair

Attest:

Dan Huges, Public Finance Director
of the State of Indiana

NORTHWEST INDIANA REGIONAL
DEVELOPMENT AUTHORITY

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

June 20, 2019 draft

Approved as to form and substance:

STATE BUDGET AGENCY

By: _____
_____, State Budget Director

Approved as to form and legality:

ATTORNEY GENERAL

By: _____

Name: _____

Title: _____

EXHIBIT A
FORM OF
SUPPLEMENT TO RDA MEMBER DUES MASTER LEASE AGREEMENT
(DOUBLE TRACK PROJECT)

[AVAILABLE PORTION] [ADDITIONAL PROJECT] [ADDITIONAL LEASE PREMISES]

This SUPPLEMENT TO RDA MEMBER DUES MASTER LEASE AGREEMENT (DOUBLE TRACK PROJECT) made and entered into as of the ____ day of _____, ____ (this "Supplemental Agreement"), by and between the INDIANA FINANCE AUTHORITY, a body politic and corporate, not a state agency but an independent instrumentality, exercising essential public functions, duly organized and validly existing under the laws of the State of Indiana (the "IFA"), pursuant to Indiana Code, 5-1.2, and the NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY, duly created and existing under by virtue of Indiana Code 36-7.5 (the "RDA");

WITNESSETH:

WHEREAS, the parties entered into an RDA Member Dues Master Lease Agreement (Double Track Project) as of the first day of _____, 20__ (the "Agreement"); and

WHEREAS, the Agreement provides that IFA and RDA may, on the date of the Agreement and from time to time thereafter, enter into one or more Supplemental Agreements, each of which may (1) set forth the Available Portion as of the date of such Supplemental Agreement, (2) add Additional Lease Premises to the Agreement when added under the terms of the Underlying Lease or to finance an Additional Project, (3) provide for the Construction of an Additional Project in the event such Additional Project shall be financed by an additional series of IFA Related Bonds, (4) add Additional Lease Premises so that there is no interruption in the lease rentals payable by RDA as described in Section 4.04(b) of the Agreement, (5) remove a portion of the Lease Premises being replaced, (6) state the rent payable for the Lease Premises, (7) provide that all lease covenants, including the obligation to pay rent, shall be unitary, whether covered by the Agreement or a Supplemental Agreement, or (8) contain such other covenants and agreements as the parties thereto agree upon; and

WHEREAS, the parties desire, by this Supplemental Agreement, to enter into such a Supplemental Agreement covering the [Available Portion] [Additional Project] [Additional Lease Premises], described in Schedule 1 attached herto, the total expenses incurred or to be incurred by IFA and allocable to which are currently estimated to be \$ _____ and the Commencement Date for which is currently projected to be _____ (the "Projected Commencement Date");

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants herein set forth, the parties agree as follows:

Section 1. Agreement to Remain in Effect. Subject to the amendments, modifications and agreements contained in this Supplemental Agreement, all the terms and

provisions of the Agreement shall remain in full force and effect, and are hereby incorporated herein by this reference. All capitalized terms used herein and not defined herein shall have the respective meanings set forth in the Agreement.

Section 2. Description of the [Available Portion] [Additional Project] [Additional Lease Premises]. The [Available Portion] [Additional Project] [Additional Lease Premises] covered by this Supplemental Agreement is described in Schedule 1 attached hereto. [IFA and RDA represent that the Additional Project has been or will be constructed in accordance with the Governance Agreement, any Development Agreement and applicable plans and specifications therefor with all reasonable speed and dispatch in accordance with the applicable plans and specifications therefor. The Funded Interest Date for the Additional Project is _____.]

Section 3. Rental Payments. Commencing on the Commencement Date for the [Available Portion] [Additional Project] [Additional Lease Premises] through _____, _____, RDA shall pay on a monthly basis, in arrears, the rental payments set forth in the Addendum attached hereto in accordance with Article IV of the Agreement.

Section 4. Amendments. IFA and RDA shall, on the Commencement Date for the [Available Portion] [Additional Project] [Additional Lease Premises] and from time to time thereafter, enter into one or more amendments to this Supplemental Agreement, each of which amendments shall include an addendum superseding the Addendum to: (a) adjust the rental payments under this Supplemental Agreement to reflect the then estimated expenses incurred or to be incurred by IFA; and (b) make such other changes as the parties may agree upon.

Section 5. Covenants Unitary. All covenants under the Agreement, this Supplemental Agreement or any other Supplemental Agreement, including the obligation to pay rent, shall be unitary and include all Lease Premises, whether covered by the Agreement, this Supplemental Agreement or any other Supplemental Agreement.

IN WITNESS WHEREOF, the parties have caused this Supplemental Agreement to be executed by their duly authorized officers as of the day and year first hereinabove set forth.

INDIANA FINANCE AUTHORITY

By: _____
_____, Chair

Attest:

_____, Public Finance Director
of the State of Indiana

NORTHWEST INDIANA REGIONAL
DEVELOPMENT AUTHORITY

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

June 20, 2019 draft

Approved as to form and substance:

STATE BUDGET AGENCY

By: _____
_____, State Budget Director

Approved as to form and legality:

ATTORNEY GENERAL

By: _____

Name: _____

Title: _____

ADDENDUM

MONTHLY RENTAL PAYMENT SCHEDULE

<u>Month Available For Use</u>	<u>Month Payments Due</u>	<u>Rental Payments</u>
--	-----------------------------------	----------------------------

SCHEDULE 1

[AVAILABLE PORTION] [ADDITIONAL PROJECT] [ADDITIONAL LEASE PREMISES]

EXHIBIT B
LEASE PREMISES

EXHIBIT C
FORM OF MEMORANDUM

STATE APPROPRIATION MASTER LEASE AGREEMENT (WEST LAKE PROJECT)

by and between

**INDIANA FINANCE AUTHORITY,
as Lessor**

and

**NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY,
as Lessee**

Dated as of _____ 1, 20__

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I	DEFINITIONS AND GENERAL PROVISIONS..... 1
Section 1.01.	Definitions..... 1
Section 1.02.	Interpretations 4
Section 1.03.	Not Indebtedness of State..... 4
Section 1.04.	Not Indebtedness of RDA 5
ARTICLE II	CONSTRUCTION OF THE RAIL PROJECT 5
Section 2.01.	Construction of the Rail Project..... 5
ARTICLE III	LEASE AND MAINTENANCE OF LEASE PREMISES 5
Section 3.01.	Lease of Lease Premises 5
Section 3.02.	Term of Lease 5
Section 3.03.	Operation and Maintenance 6
Section 3.04.	Alterations or Modifications of the Lease Premises 6
Section 3.05.	Additional Lease Premises..... 6
Section 3.06.	Additional Project 7
ARTICLE IV	RENTS..... 7
Section 4.01.	Timing for Payment 7
Section 4.02.	Supplemental Agreements 7
Section 4.03.	Appropriations 7
Section 4.04.	Abatement of Rent 7
ARTICLE V	SUBLETTING..... 8
Section 5.01.	Subletting 8
ARTICLE VI	DEFAULT 8
Section 6.01.	Default..... 8
Section 6.02.	Remedies 9
Section 6.03.	Remedies Cumulative 9
Section 6.04.	Limited Waiver 9
ARTICLE VII	COVENANTS 9
Section 7.01.	Power to Agree..... 9
Section 7.02.	Appropriations 9
Section 7.03.	Use of Lease Premises 10
Section 7.04.	Maintenance of Insurance and Performance Bonds..... 10
Section 7.05.	Completion of Performance; Reconstruction; Application of Proceeds 10

TABLE OF CONTENTS
(continued)

	<u>Page</u>
Section 7.06. Indemnification	Error! Bookmark not defined.
ARTICLE VIII MISCELLANEOUS	11
Section 8.01. Effectiveness	11
Section 8.02. Notices.....	11
Section 8.03. Incorporation by Reference.....	12
Section 8.04. Severability	12
Section 8.05. Table of Contents; Captions.....	12
Section 8.06. Governing Law.....	12
Section 8.07. Successors and Assigns.....	12
EXHIBIT A FORM OF SUPPLEMENT TO STATE APPROPRIATION MASTER LEASE AGREEMENT (WEST LAKE PROJECT)	
EXHIBIT B LEASE PREMISES	
EXHIBIT C FORM OF MEMORANDUM	

STATE APPROPRIATION MASTER LEASE AGREEMENT (WEST LAKE PROJECT)

This STATE APPROPRIATION MASTER LEASE AGREEMENT (WEST LAKE PROJECT) made and entered into as of the first day of _____, 20__ (this "Agreement"), by and between the INDIANA FINANCE AUTHORITY, a body politic and corporate, not a state agency but an independent instrumentality, exercising essential public functions, duly organized and validly existing under the laws of the State of Indiana (the "IFA"), pursuant to Indiana Code 5-1.2, and the NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY, duly created and existing under and by virtue of Indiana Code 36-7.5 (the "RDA");

WITNESSETH:

WHEREAS, this Agreement is designed to provide a master leasing structure with respect to various portions of the Rail Project defined herein that relate to bonds issued by IFA for the Rail Project and are payable from the Funding Source set forth herein (the "Related IFA Bonds");

WHEREAS, as additional series of Related IFA Bonds are authorized to provide additional funding for the Rail Project, IFA and RDA shall describe the Additional Project to be funded from that specific series of Related IFA Bonds and the lease rentals payable by RDA with respect thereto in a Supplemental Agreement; and

WHEREAS, it is the parties' intent that the terms within Indiana Code 5-1.3-5-2(a) are all contained herein and fulfilled;

In consideration of the mutual covenants herein set forth, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS AND GENERAL PROVISIONS

Section 1.01. Definitions. The following words and terms as used in this Agreement or in any Supplemental Agreement or other amendment or supplement hereto shall have the following meanings unless provided for in this Agreement or in any Supplemental Agreement or other amendment or supplement hereto, unless the context or use clearly indicates another or different meaning or intent:

"Act" shall mean Indiana Code 5-1.3, as amended or supplemented, or any successor thereto.

"Additional Lease Premises" shall mean any additional real property that is acquired for the Rail Project or an Additional Project with the proceeds of any series of Related IFA Bonds or incorporated therein in connection with any series of Related IFA Bonds, which is added to this Agreement pursuant to the terms set forth in Section 3.05.

"Additional Project" shall mean an additional portion of the Rail Project that becomes part of the Lease Premises in the manner provided in Section 3.06.

"Agreement" shall mean this State Appropriation Master Lease Agreement (West Lake Project) as from time to time amended or supplemented by any Supplemental Agreement or other amendment or supplement hereto, including a Supplemental Memorandum of Lease.

"Authorized Officer of IFA" shall mean the Chair of IFA or the Public Finance Director of the State of Indiana and, with reference to any act or document, also means any other person authorized by a resolution of IFA to perform such act or to sign such document.

"Authorized Officer of RDA" shall mean the Chair or the Chief Executive Officer of RDA and, with reference to any act or document, also means any other person authorized by a resolution of RDA to perform such act or to sign such document.

"Available Portion" shall mean, collectively, the portions of the Lease Premises that are available for use.

"Biennium" shall mean the biennium used for State budgetary and appropriation purposes.

"Bond Trustee" shall mean the trustee bank serving as Trustee for the Related IFA Bonds.

"Commencement Date" for any Lease Premises or any portion thereof shall mean the date on which a Completion Certificate for such Lease Premises or such portion thereof is accepted by an Authorized Officer of RDA.

"Completion Certificate" for any Lease Premises or any portion thereof shall mean a certificate (a) executed by an Authorized Officer of IFA certifying that such Lease Premises or such portion thereof is available for use by RDA and (b) accepted by an Authorized Officer of RDA acknowledging that such Lease Premises or such portion thereof is available for use by RDA.

"Construction" shall mean constructing, acquiring, renovating, rehabilitating, reconstructing, improving, extending or equipping the Rail Project or the Lease Premises or any portion thereof.

"Deposit Trustee" shall mean the trustee bank acting as the Deposit Trustee under the Revenue Trust Fund Agreement.

"Development Agreement" shall mean any development agreement entered into by NICTD, RDA and IFA for the purpose of governing the completion of the Rail Project in a manner consistent with and as contemplated by the Governance Agreement.

"Effective Date" shall mean the date of execution and delivery of this Agreement, which is _____, 20__.

"Fiscal Year" shall mean the twelve-month period commencing on July 1 of each year and ending on the succeeding June 30, or such other fiscal year of the State as may be mandated by law.

"Funded Interest Date" shall mean the date until which the proceeds of a series of Related IFA Bonds are expected to pay the interest thereon. The Funded Interest Date for that portion of the Rail Project being financed with the initial series of the Related IFA Bonds is _____, 20__.

"Funding Source" shall mean the Biennium appropriations contemplated to be made by the Indiana General Assembly to RDA to pay lease rentals on the Related IFA Bonds.

"Governance Agreement" shall mean the Governance Agreement dated as of August 1, 2018, by and among NICTD, RDA and IFA, as from time to time amended or supplemented in accordance with its terms.

"Ground Lease" shall mean the Ground Lease Agreement (West Lake Project), dated as of _____ 1, 20__, between NICTD, as lessor, and RDA, as lessee.

"IFA" shall mean the Indiana Finance Authority, a body politic and corporate, not a state agency but an independent instrumentality, exercising essential public functions, duly organized and validly existing under the laws of the State, pursuant to Indiana Code 5-1.2, as supplemented and amended.

"IFA Appropriations Revenue Account" shall mean the account of such name held under Section 5(a)(i) of the Revenue Trust Fund Agreement.

"Initial Term" shall mean the period of time commencing on the date hereof and ending on June 30, 2021.

"Lease Premises" shall mean the property described in Exhibit B hereto from time to time as Supplemental Agreements specify the portion of the Rail Project financed with Related IFA Bonds as provided in Section 3.06 hereof, including without limitation, all Rail Project Property related thereto and any Additional Lease Premises included in the Lease Premises by reason of Section 3.05 hereof.

"Memorandum" shall mean the Memorandum of Lease attached hereto as Exhibit C to be recorded contemporaneously with the execution of this Agreement with respect to identifying the Lease Premises.

"NICTD" shall mean the Northern Indiana Commuter Transportation District established under Indiana Code 8-5-15.

"Operating Lease" shall mean the Operating Lease Agreement (West Lake Project), dated as of _____ 1, 20__, between RDA, as lessor, and NICTD, as lessee.

"Projected Commencement Date" for any Additional Project shall mean the projected Commencement Date for such Additional Project, as set forth in the Supplemental Agreement covering such Additional Project.

"Rail Project" shall mean the West Lake Corridor Project described in Exhibit A to the Underlying Lease.

"Rail Project Property" shall mean all real and personal property interests, including, but not limited to, the Lease Premises, each Additional Project and such easements, licenses, leases, or property rights, in whatever form reasonably necessary to construct and operate the Rail Project, but not including NICTD rolling stock, except to the extent any costs for rolling stock are included in the applicable Cost Budget (as defined in the Governance Agreement), as the Rail Project is identified and described in Exhibit A to the Underlying Lease.

"RDA" shall mean the Northwest Indiana Regional Development Authority, organized and existing under Indiana Code 36-7.5.

"Related IFA Bonds" shall mean the bonds issued by IFA to finance the Rail Project, including any Additional Project, which are secured by the rental payments due under this Agreement. The initial series of Related IFA Bonds are the Indiana Finance Authority Lease State Appropriation Bonds (West Lake Project), Series 20__.

"Revenue Trust Fund Agreement" shall mean the Revenue Trust Fund Agreement, dated as of _____ 1, 2019, entered into by and among RDA, IFA, NICTD, the Bond Trustee, and the Deposit Trustee.

"State" shall mean the State of Indiana.

"Supplemental Agreement" shall mean any agreement supplemental or amendatory of this Agreement entered into in accordance with Article IV, including each Supplemental Agreement that describes an Additional Project to be included in the Lease Premises hereunder as provided in Section 3.06 hereof.

"Supplemental Memorandum of Lease" shall mean each Supplemental Memorandum of Lease recorded in connection with the addition of Additional Lease Premises in the manner provided in Section 3.05 hereof.

"Underlying Lease" shall mean the Underlying Lease Agreement (West Lake Project), dated as of _____ 1, 20__ between RDA and IFA as from time to time amended or supplemented in accordance with its terms.

Section 1.02. Interpretations. Unless the context indicates otherwise, words importing the singular number shall include the plural number and words importing the plural number shall include the singular number. The terms "hereof," "herein," "hereby," "hereto," "hereunder" and similar terms mean this Agreement.

Section 1.03. Not Indebtedness of State. It is expressly understood and agreed by the parties hereto that this Agreement does not constitute an indebtedness of the State within the

meaning or application of any constitutional provision or limitation, or a pledge of the faith or credit of the State.

Section 1.04. Not Indebtedness of RDA. It is expressly understood and agreed by the parties hereto that this Agreement does not constitute an indebtedness of RDA within the meaning or application of any constitutional provision or limitation, or a pledge of the faith or credit of RDA from the appropriations received. The obligations of RDA are limited solely to the funds from the appropriations.

ARTICLE II

CONSTRUCTION OF THE RAIL PROJECT

Section 2.01. Construction of the Rail Project. IFA and RDA represent that the Rail Project has been or will be constructed in accordance with the Governance Agreement, any Development Agreement and applicable plans and specifications therefor with all reasonable speed and dispatch in accordance with the applicable plans and specifications therefor.

ARTICLE III

LEASE AND MAINTENANCE OF LEASE PREMISES

Section 3.01. Lease of Lease Premises. In consideration of the rents, covenants and agreements contained herein, IFA does hereby demise and lease to RDA, and RDA does hereby rent and lease from IFA, the Lease Premises from and after the Effective Date for such Lease Premises. IFA and RDA shall file and record a Supplemental Memorandum of Lease covering any Additional Lease Premises as provided in Section 3.05 and any Supplemental Agreement adding any Additional Project as provided in Section 3.06 hereof.

Section 3.02. Term of Lease.

(a) The initial term of this Agreement shall be the Initial Term. This Agreement shall terminate upon the occurrence of the first of the following events:

(i) on June 30, 2021, or if this Agreement shall have been extended by IFA and RDA in accordance with this Section 3.02, on the last day of any Biennium in which notice of nonextension is given in accordance with this Section 3.02; or

(ii) on the latter of the first day for which funds have not been appropriated or the first day on which funds are not available to RDA or IFA to pay when due any amount payable by RDA under this Agreement or by IFA under the Act; or

(iii) Upon receipt of notice from IFA to RDA that all Related IFA Bonds have been paid in full and all other obligations and lease rentals due to IFA hereunder or under the Governance Agreement with respect to the Rail Project have been paid in full; or

- (iv) the termination of this Agreement by IFA pursuant to Section 6.02;
- or
- (v) the termination of the Underlying Lease.

(b) During the Initial Term, IFA and RDA shall have the right to extend the term of this Agreement from Biennium to Biennium, with the extensions not to exceed a lease term of 40 years from the Effective Date. IFA and RDA shall be deemed to have exercised such right to extend the term of this Agreement and this Agreement shall be extended for each successive Biennium, unless either IFA or RDA delivers written notice of nonextension to the other party hereto not less than six months prior to the last day of any Biennium, in which event this Agreement shall terminate on the last day of such Biennium.

Section 3.03. Operation and Maintenance. RDA shall cause NICTD at all times, in accordance with its then current practices, to operate and maintain the Lease Premises during the Initial Term of this Agreement and during any extensions thereof in an efficient and economical manner, as required by the Governance Agreement, and in accordance with its then current practices, to maintain the Lease Premises in good repair and sound operating condition and to make all necessary repairs, renewals, replacements and improvements thereto, all at the expense of NICTD, except that IFA shall maintain insurance on the Lease Premises in accordance with Section 7.04 at its expense. RDA shall cause NICTD to comply with all valid statutes, rules, regulations, orders and directions of any legislative, administrative or judicial body applicable to NICTD and the Lease Premises. RDA shall cause NICTD to adopt and keep in force reasonable rules and regulations governing the use of the Lease Premises and the operation thereof, and shall enforce such rules and regulations. RDA and IFA shall cause NICTD to comply with the foregoing requirements through the operation of the covenants and agreements of NICTD contained in the Governance Agreement, at which time RDA shall also cause NICTD to comply with the foregoing requirements through the operation of the covenants and agreements of NICTD contained in the Ground Lease and the Operating Lease.

Section 3.04. Alterations or Modifications of the Lease Premises. RDA shall not, without the prior written consent of an Authorized Officer of IFA, which consent shall not be unreasonably withheld, make or cause to be made or permit NICTD to make or cause to be made, any alteration, modification, addition or improvement to all or any portion of the Lease Premises, which alteration, modification, addition or improvement materially impairs the value of the Lease Premises, unless such alteration, modification, addition or improvement is, in the opinion of NICTD, as permitted by the Governance Agreement or as is necessary or advisable for the safety of the public.

Section 3.05. Additional Lease Premises. In the event Additional Lease Premises are added to the property leased by RDA to IFA pursuant to the Underlying Lease, such Additional Lease Premises shall immediately without further action become part of the Lease Premises subject to this Agreement upon the recordation of a Supplemental Memorandum of Lease executed by IFA and RDA in the offices of the Recorder of Lake County, Indiana.

Section 3.06. Additional Project. IFA and RDA contemplate that the Project may be funded in part by the issuance of an additional series of Related IFA Bonds from time to time to finance an Additional Project that constitutes a part of the Rail Project. In that event, IFA and RDA shall execute and deliver a Supplemental Agreement at such time to describe the Additional Project, provide for the Construction of such Additional Project and specify the rent due from RDA for such Additional Project.

ARTICLE IV

RENTS

Section 4.01. Timing for Payment. Subject to Sections 4.03 and 4.04 hereof, after the Funded Interest Date, RDA shall pay, in arrears, solely from the Funding Source, without relief from valuation or appraisal laws and without a defense of set-off, counterclaim or recoupment, a monthly rental for the Lease Premises or any portions thereof available for use, in an amount equal, in accordance with Indiana Code 5-1.3-5-2(a)(4), to the aggregate monthly rental payments set forth in the Supplemental Agreements, to IFA by general transfer of funds from an account of RDA or from the IFA Appropriations Revenue Account to such account as IFA may from time to time specify, so as to assure immediately available funds in such account on or before the first day of each month succeeding those months during which the Lease Premises or such portions thereof were actually used or available for use by RDA pursuant to this Agreement (provided that if the first day of any such month is not a business day then on or before the immediately preceding business day).

Section 4.02. Supplemental Agreements. IFA and RDA may, on the date hereof and from time to time thereafter, enter into one or more Supplemental Agreements, substantially in the form of Exhibit A, which may (a) set forth the Available Portion as of the date of such Supplemental Agreement, (b) add Additional Lease Premises to this Agreement when added under the terms of the Underlying Lease or to finance an Additional Project, (c) remove a portion of the Lease Premises being replaced, (d) state the rent payable for the Lease Premises, (e) provide that all lease covenants, including the obligation to pay rent, shall be unitary, whether covered by this Agreement or a Supplemental Agreement, or (f) contain such other covenants and agreements as the parties thereto agree upon.

Section 4.03. Appropriations. The lease rentals payable hereunder during the Initial Term or during any extension of this Agreement are payable by RDA solely from Biennial appropriations from the General Assembly of the State to RDA for such period. RDA and IFA have both determined that the rents due under this Agreement are fair and reasonable for the Lease Premises included herein. RDA can pay lease rentals solely from available revenues from the fund established under Indiana Code 36-7.5-4.

Section 4.04. Abatement of Rent.

(a) The lease rentals payable hereunder during the Initial Term or during any extension of this Agreement are payable by RDA solely for the actual use or availability for use of the Lease Premises or portions thereof provided by IFA.

(b) After the Commencement Date for any portion of the Lease Premises, in the event such portion shall be damaged or destroyed, so as to render such portion unavailable for use by RDA, or shall for any other reason become unavailable for use by RDA: (i) any rental payments due for such unavailable portion of the Lease Premises shall be abated during such unavailability by an amount equal to the product of the portion of (A) the rental payments otherwise due on such portion of the Lease Premises, times (B) a fraction of such rental payments, the numerator of which fraction equals the then estimated expenses incurred or to be incurred by IFA and allocable to such portion and the denominator of which fraction equals the then estimated expenses incurred or to be incurred by IFA and allocable to the Lease Premises; or (ii) IFA may add Additional Lease Premises to this Agreement pursuant to a Supplemental Agreement so that there is no interruption in the lease rentals payable by RDA as described in clause (i) above.

ARTICLE V

SUBLETTING

Section 5.01. Subletting. Except for the Operating Lease, none of the Lease Premises nor any portions thereof shall be sublet by RDA to, and none of the Lease Premises nor any portions thereof shall be used by, any person (natural or otherwise), unless an Authorized Officer of IFA gives prior written consent. No such subletting shall relieve RDA from its obligations to pay any rental payment payable under this Agreement and to keep and perform all other covenants on its part to be kept and performed under this Agreement. In the event this Agreement is terminated pursuant to Section 3.02 or Section 6.02 following an event of default by RDA, other than by reason of IFA terminating this Agreement pursuant to Section 6.02 as a result of not having received a rental payment from the Funding Source under Section 6.01(a), the Operating Lease shall remain in force and effect for the benefit of IFA (who upon termination of this Agreement shall succeed to the rights, title and interest of RDA, as lessor under the Operating Lease) and NICTD.

ARTICLE VI

DEFAULT

Section 6.01. Default. An "event of default" shall mean, whenever that term is used in this Agreement, any one or more of the following events:

- (a) failure by RDA to pay or cause to be paid any amount payable by RDA under this Agreement, including any Supplemental Agreement, when due; or
- (b) the failure by RDA to observe or perform any covenant, condition or agreement on its part to be observed or performed under Section 7.02; or
- (c) failure by RDA to observe or perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in subsection (a) or (b) of this Section 6.01, which failure continues for a period of thirty days after

written notice, specifying such failure and requesting that it be remedied, is given to RDA by an Authorized Officer of IFA.

Section 6.02. Remedies. Whenever any event of default shall have happened and be subsisting and provided that the event of default has not been cured, IFA may terminate this Agreement by written notice to RDA and/or take whatever action at law or in equity may appear necessary or desirable to collect the payments then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of RDA under this Agreement.

Section 6.03. Remedies Cumulative. No remedy in this Agreement conferred upon or reserved to IFA is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. To entitle IFA to exercise any remedy reserved to it in this Agreement, it shall not be necessary to give any notice, other than such notice as may be expressly required by this Agreement.

Section 6.04. Limited Waiver. In the event any agreement contained in this Agreement shall be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach under this Agreement.

ARTICLE VII

COVENANTS

Section 7.01. Power to Agree. IFA and RDA each covenant to the other that the execution and delivery of this Agreement has been duly authorized by all necessary corporate action, and that this Agreement has been duly executed and delivered, and constitutes a legal, valid and binding agreement in accordance with its terms and provisions.

Section 7.02. Appropriations. RDA covenants that it will do all things lawfully within its power to obtain and maintain funds from which to meet its rental payment and operation and maintenance obligations under this Agreement, including, but not limited to, requesting an appropriation in an amount sufficient to meet its rental payment and operation and maintenance obligations under this Agreement in writing at a time sufficiently in advance of the date for payment thereof so that an appropriation may be made in the normal State budgetary process, using its *bona fide* best efforts to have such request approved, and exhausting all available reviews and appeals in the event such request is not approved. RDA will pay rent at times and in amounts sufficient to pay in full the debt service payment under the terms of any Related IFA Bonds outstanding with respect to the Rail Project, including any additions to reserves for the Related IFA Bonds maintained by IFA and additional rent as provided by this Agreement.

Section 7.03. Use of Lease Premises. Notwithstanding any other provision of this Agreement to the contrary, RDA covenants that it: (a) will lease the Lease Premises to NICTD for use as a rail project as defined in Indiana Code 5-1.3-2-14, (b) will not use and will cause NICTD to agree not to use the Lease Premises or any portion thereof for any private business use within the meaning of Section 141(b)(6) of the Internal Revenue Code of 1986, as amended from time to time, without the prior written consent of an Authorized Officer of IFA, which consent shall not be unreasonably withheld, and (c) will comply with Section 148(f) of the Internal Revenue Code of 1986, as amended from time to time. Any agreement entered into by RDA in violation of this Section 7.03 shall be of no force or effect and shall not convey any rights or impose any obligation in respect to it, at law or in equity.

Section 7.04. Maintenance of Insurance and Performance Bonds. IFA shall keep or cause NICTD to keep the Lease Premises insured against loss or damage from causes customarily insured against under a standard extended coverage endorsement in an amount at least equal to one hundred percent of the full replacement cost of the Lease Premises or such lesser amount as IFA and RDA may agree upon, if, in the opinion of an Authorized Officer of IFA, such insurance is reasonably commercially available; provided, however, such insurance coverage may contain a reasonable loss deductible clause. IFA shall at all times use its best efforts to maintain or cause to be maintained insurance or reserves against loss or damage from such hazards and risks to the person and property of others as are usually insured or reserved against by those operating properties similar to the Lease Premises. IFA shall maintain or cause to be maintained or cause NICTD to maintain or cause to be maintained such performance bonds or performance insurance with respect to contracts it may enter into for Construction of the Lease Premises as are usually maintained by those constructing properties similar to the Lease Premises.

Section 7.05. Completion of Performance; Reconstruction; Application of Proceeds. If performance of any contract for Construction of the Lease Premises is not completed in accordance with its terms and, in the opinion of a registered engineer selected by NICTD and acceptable to IFA and RDA, the cost of completion of such performance shall not exceed the amount of proceeds from any performance bond or performance insurance to be received by reason of such noncompletion of performance and other amounts available therefor, IFA or RDA, as applicable, shall, as expeditiously as possible, continuously and diligently complete or cause to be completed or cause NICTD to complete or cause to be completed such performance. If all or any portion of the Lease Premises shall be damaged or destroyed and in the opinion of a registered engineer selected by NICTD and acceptable to IFA and RDA (a) the cost of such repair, replacement or reconstruction shall not exceed the amount of any insurance proceeds to be received by reason of such damage or destruction and other amounts available therefor, and (b) such repair, replacement or reconstruction can be completed within the period covered by any rent loss insurance maintained or caused to be maintained by IFA on the Lease Premises or other amounts available therefor, IFA shall, as expeditiously as possible, continuously and diligently prosecute or cause to be prosecuted, the repair, reconstruction or replacement thereof; provided, however, IFA may substitute an Additional Project in lieu of reconstruction to the extent permitted by Section 4.04(b) hereof. In the event IFA does not substitute an Additional Project pursuant to Section 4.04(b) hereof, within one hundred twenty days after the noncompletion of performance of any contract for Construction or the occurrence of an event of damage or destruction to the Lease Premises, IFA, through any Authorized Officer of IFA, shall deliver to

RDA and the Trustee the written opinion of the engineer referred to in this Section 7.05 stating whether or not the conditions set forth above with respect thereto are satisfied. The proceeds of any performance bond or performance insurance paid on account of such noncompletion of performance and from any insurance paid on account of such damage or destruction (other than any rent loss insurance) shall be made available for, and to the extent necessary shall be applied to, the cost of such repair, reconstruction or replacement. Such proceeds not applied within thirty-six months after receipt thereof by IFA to such completion of performance or such repair, reconstruction or replacement shall be applied to any lawful purpose of IFA.

Section 7.06. Indemnification. RDA agrees to cause NICTD, to the extent provided in the Ground Lease or the Operating Lease, to release, protect, defend, indemnify and hold harmless RDA, IFA, the Bond Trustee, the Deposit Trustee, and their respective agents, employees, representatives and consultants, from and against any and all claims, causes of action, suits, judgments, demands, and/or losses (including attorney fees), in each case if asserted or incurred by or awarded to any third party, arising out of or relating to or resulting from (a) NICTD's design, construction or operation of the Rail Project, (b) any act, omission, negligence, or willful misconduct of NICTD, any of its Ancillary Users (as defined in the Operating Lease) or anyone acting under its control or for whom it is legally responsible, (c) failure of NICTD, or anyone acting under its control or for whom it is legally responsible, to perform or observe any requirement or obligation imposed by this Agreement and (d) arising out of any other act or occurrence within the Rail Project. NICTD's indemnity obligation shall not extend to: (i) any third party claim to the extent directly caused by the sole negligence, recklessness, willful misconduct, or breach of any material obligation under this Agreement or the Governance Agreement by IFA or RDA; or (ii) any claims, causes of action, suits, judgments, demands, and/or losses resulting from any action of RDA or IFA during an Operations Step-In Period (as defined in the Governance Agreement) or resulting from any actions taken by RDA or IFA after the exercise of any Construction Period Step-In Rights (as defined in the Governance Agreement), provided however that nothing herein shall relieve NICTD of responsibility to pay up to the Maximum NICTD Excess Cost Contribution for Excess Construction Costs (as both such terms are defined in the Governance Agreement) irrespective of the exercise of Construction Period Step-In Rights. RDA and IFA shall have no obligation to indemnify NICTD.

ARTICLE VIII

MISCELLANEOUS

Section 8.01. Effectiveness. This Agreement shall be effective from and after the Effective Date, through the date on which this Agreement, or any extensions hereof, shall terminate in accordance with Section 3.02.

Section 8.02. Notices. All notices required or authorized to be given pursuant to this Agreement shall be in writing and shall be served personally or sent by certified mail to the main office of the party or parties to be notified, and the effective date thereof shall be the date of delivery, if served personally, or the date it is deposited in the mail, if mailed.

Section 8.03. Incorporation by Reference. All the covenants, agreements, terms and conditions required under the laws of the State, including the Act, to be included in any lease entered into under Indiana Code 5-1.3-5-2(a) are incorporated herein by this reference.

Section 8.04. Severability. In case any section or provision of this Agreement, or any covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Agreement, or any application thereof, is for any reason held to be illegal or invalid, or is at any time inoperable, that illegality, invalidity or inoperability shall not affect the remainder hereof or any other section or provision of this Agreement or any other covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Agreement, which shall be construed and enforced as if that illegal, invalid or inoperable portion were not contained herein. Any such illegality, invalidity or inoperability of any application shall not affect any legal, valid, and operable application, and each such section, provision, covenant, stipulation, obligation, agreement, act or action, or part thereof, shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent from time to time permitted by law.

Section 8.05. Table of Contents; Captions. The Table of Contents included within this Agreement and the captions included throughout this Agreement are for convenience and reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

Section 8.06. Governing Law. This Agreement shall be construed according to, and subject to, the laws of the State.

Section 8.07. Successors and Assigns. The rights and obligations of either party under this Agreement shall not be assignable by such party without the prior written consent of the other party, except that IFA may assign any of its rights under this Agreement to the Trustee. This Agreement shall inure to the benefit and shall be binding upon the respective successors and permitted assigns of the parties. Nothing herein expressed or implied is intended to confer upon any person, other than the parties or their respective successors or permitted assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers as of the day and year first hereinabove set forth.

INDIANA FINANCE AUTHORITY

By: _____
Cristopher R. Johnston, Chair

Attest:

Dan Huges, Public Finance Director
of the State of Indiana

NORTHWEST INDIANA REGIONAL
DEVELOPMENT AUTHORITY

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

June 20, 2019 draft

Approved as to form and substance.

STATE BUDGET AGENCY

By: _____
_____, State Budget Director

Approved as to form and legality:

ATTORNEY GENERAL

By: _____

Name: _____

Title: _____

EXHIBIT A

FORM OF
SUPPLEMENT TO
STATE APPROPRIATION MASTER LEASE AGREEMENT (WEST LAKE PROJECT)

This SUPPLEMENT TO STATE APPROPRIATION MASTER LEASE AGREEMENT (WEST LAKE PROJECT) made and entered into as of the _____ day of _____, _____ (this "Supplemental Agreement"), by and between the INDIANA FINANCE AUTHORITY, a body politic and corporate, not a state agency but an independent instrumentality, exercising essential public functions, duly organized and validly existing under the laws of the State of Indiana (the "IFA"), pursuant to Indiana Code, 5-1.2, and the Northwest Indiana Regional Development Authority, duly created and existing under by virtue of Indiana Code 36-7.5 (the "RDA");

WITNESSETH:

WHEREAS, the parties entered into a State Appropriation Master Lease Agreement (West Lake Project) as of the first day of _____, 20__ (the "Agreement"); and

WHEREAS, the Agreement provides that IFA and RDA may, on the date of the Agreement and from time to time thereafter, enter into one or more Supplemental Agreements, each of which may (1) set forth the Available Portion as of the date of such Supplemental Agreement, (2) add Additional Lease Premises to the Agreement when added under the terms of the Underlying Lease or to finance an Additional Project, (3) provide for the Construction of an Additional Project in the event such Additional Project shall be financed by an additional series of IFA Related Bonds, (4) add Additional Lease Premises so that there is no interruption in the lease rentals payable by RDA as described in Section 4.04(b) of the Agreement, (5) remove a portion of the Lease Premises being replaced, (6) state the rent payable for the Lease Premises, (7) provide that all lease covenants, including the obligation to pay rent, shall be unitary, whether covered by the Agreement or a Supplemental Agreement, or (8) contain such other covenants and agreements as the parties thereto agree upon; and

WHEREAS, the parties desire, by this Supplemental Agreement, to enter into such a Supplemental Agreement covering the [Available Portion] [Additional Project] [Additional Lease Premises], described in Schedule 1 attached hereto, the total expenses incurred or to be incurred by IFA and allocable to which are currently estimated to be \$_____ and the Commencement Date for which is currently projected to be _____ (the "Projected Commencement Date");

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants herein set forth, the parties agree as follows:

Section 1. Agreement to Remain in Effect. Subject to the amendments, modifications and agreements contained in this Supplemental Agreement, all the terms and provisions of the Agreement shall remain in full force and effect, and are hereby incorporated

herein by this reference. All capitalized terms used herein and not defined herein shall have the respective meanings set forth in the Agreement.

Section 2. Description of the [Available Portion] [Additional Project] [Additional Lease Premises]. The [Available Portion] [Additional Project] [Additional Lease Premises] covered by this Supplemental Agreement is described in Schedule 1 attached hereto. [IFA and RDA represent that the Additional Project has been or will be constructed in accordance with the Governance Agreement, any Development Agreement and applicable plans and specifications therefor with all reasonable speed and dispatch in accordance with the applicable plans and specifications therefor. The Funded Interest Date for the Additional Project is _____.]

Section 3. Rental Payments. Commencing on the Commencement Date for the [Available Portion] [Additional Project] [Additional Lease Premises] through _____, _____, RDA shall pay on a monthly basis, in arrears, the rental payments set forth in the Addendum attached hereto in accordance with Article IV of the Agreement.

Section 4. Amendments. IFA and RDA shall, on the Commencement Date for the [Available Portion] [Additional Project] [Additional Lease Premises] and from time to time thereafter, enter into one or more amendments to this Supplemental Agreement, each of which amendments shall include an addendum superseding the Addendum to: (a) adjust the rental payments under this Supplemental Agreement to reflect the then estimated expenses incurred or to be incurred by IFA in accordance with Indiana Code 5-1.3-5-2(a)(4); and (b) make such other changes as the parties may agree upon.

Section 5. Covenants Unitary. All covenants under the Agreement, this Supplemental Agreement or any other Supplemental Agreement, including the obligation to pay rent, shall be unitary and include all Lease Premises, whether covered by the Agreement, this Supplemental Agreement or any other Supplemental Agreement.

IN WITNESS WHEREOF, the parties have caused this Supplemental Agreement to be executed by their duly authorized officers as of the day and year first hereinabove set forth.

INDIANA FINANCE AUTHORITY

By: _____
_____, Chair

Attest:

_____, Public Finance Director
of the State of Indiana

NORTHWEST INDIANA REGIONAL
DEVELOPMENT AUTHORITY

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

Approved as to form and substance:

STATE BUDGET AGENCY

By: _____
_____, State Budget Director

Approved as to form and legality:

ATTORNEY GENERAL

By: _____

Name: _____

Title: _____

ADDENDUM

MONTHLY RENTAL PAYMENT SCHEDULE

<u>Month Available For Use</u>	<u>Month Payments Due</u>	<u>Rental Payments</u>
--	-----------------------------------	----------------------------

SCHEDULE 1

[AVAILABLE PORTION] [ADDITIONAL PROJECT] [ADDITIONAL LEASE PREMISES]

EXHIBIT B
LEASE PREMISES

EXHIBIT C
FORM OF MEMORANDUM

UNDERLYING LEASE AGREEMENT (WEST LAKE PROJECT)

by and between

NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY

and

INDIANA FINANCE AUTHORITY

Dated as of [_____], 20__

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I DEFINITIONS AND GENERAL PROVISIONS	2
Section 1.01. Definitions.....	2
Section 1.02. Incorporation by Reference.....	3
Section 1.03. Interpretations.....	3
ARTICLE II LEASE AND MAINTENANCE OF THE RAIL PROJECT PROPERTY	4
Section 2.01. Lease of the Rail Project Property.....	4
Section 2.02. Term of Lease.....	4
Section 2.03. Operation and Maintenance	4
Section 2.04. Additional Lease Premises	4
ARTICLE III RENTS	4
Section 3.01. Payment.....	4
Section 3.02. Supplemental Agreements.....	4
ARTICLE IV MISCELLANEOUS.....	5
Section 4.01. Power to Agree.....	5
Section 4.02. Effectiveness	5
Section 4.03. Notices.....	5
Section 4.04. Severability.....	5
Section 4.05. Table of Contents; Captions.....	5
Section 4.06. Governing Law.....	5
Section 4.07. Successors and Assigns.....	5
EXHIBIT A WEST LAKE CORRIDOR PROJECT	
EXHIBIT B LEASE PREMISES	
EXHIBIT C FORM OF MEMORANDUM OF LEASE	

UNDERLYING LEASE AGREEMENT (WEST LAKE PROJECT)

by and between

NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY

and

INDIANA FINANCE AUTHORITY

This UNDERLYING LEASE AGREEMENT (WEST LAKE PROJECT) made and entered into as of [_____], 20__ (this "Agreement"), by and between the Northwest Indiana Regional Development Authority ("RDA" or the "Lessor"), a separate body corporate and politic formed pursuant to Indiana Code 36-7.5 (the "RDA Act"), and the Indiana Finance Authority ("IFA" or the "Lessee"), a body politic and corporate duly organized and validly existing under and pursuant to Indiana Code 5-1.2 (the "IFA Act");

WITNESSETH:

WHEREAS, the Northern Indiana Commuter Transportation District ("NICTD"), a commuter transportation district and a municipal corporation formed pursuant to Indiana Code 8-5-15 (the "NICTD Act"), and RDA have entered into a ground lease (the "Ground Lease") pursuant to which NICTD has leased to RDA all right, title and interests of NICTD in and to certain property described in the Ground Lease (the "Lease Premises"), including any property acquired by NICTD from time to time and leased to RDA as provided in the Ground Lease, on such terms and conditions as prescribed therein;

WHEREAS, the purpose of this Agreement is to lease from RDA to IFA all right, title and interests of the RDA in and to the Lease Premises leased to RDA under the Ground Lease;

WHEREAS, as a result of this Agreement, IFA will be authorized to finance through the issuance of bonds, notes or other obligations pursuant to Indiana Code 5-1.3, the development of the Rail Project (as defined herein) through a lease financing structure pursuant to which IFA shall, pursuant to one or more Master Leases (as defined herein), lease to RDA the Rail Project as constructed and when completed;

WHEREAS, as to be required by the Master Leases, RDA shall then lease the Rail Project to NICTD pursuant to the Operating Lease (as defined herein) so that NICTD will be obligated to construct, acquire, develop, operate and maintain the Rail Project in the manner provided in the Governance Agreement [and the Development Agreement]; and

WHEREAS, the Lessor and the Lessee have agreed to record a Memorandum of Lease contemporaneous with the execution of this Agreement;

In consideration of the mutual covenants herein set forth, the parties agree as follows:

ARTICLE I

DEFINITIONS AND GENERAL PROVISIONS

Section 1.01. Definitions. The following words and terms, as used in this Agreement or in any Supplemental Agreement or other amendment or supplement hereto, shall have the following meanings unless otherwise provided for in this Agreement or such Supplemental Agreement or other amendment or supplement, unless the context or use clearly indicates another or different meaning or intent:

"Agreement" shall mean this Underlying Lease Agreement (West Lake Project) as from time to time amended or supplemented by any Supplemental Agreement and Supplemental Memorandum of Lease or other amendment or supplement hereto.

"Fiscal Year" shall mean the twelve-month period commencing on July 1 of each year and ending on the succeeding June 30, or such other fiscal year of IFA as may be mandated by law.

"Governance Agreement" shall mean the Governance Agreement dated as of August 1, 2018, by and between NICTD, the RDA and the IFA, as from time to time amended or supplemented in accordance with its terms.

"Ground Lease" means the Ground Lease Agreement (West Lake Project), dated as of [] from NICTD to RDA of the Lease Premises, which Lease Premises shall then be leased by RDA to IFA pursuant to this Agreement.

"IFA Bond Act" shall mean Indiana Code 5-1.3, as amended or supplemented, or any successor thereto.

"Lease Premises" shall mean all property described in Exhibit B attached hereto, including without limitation, any and all Lease Premises leased to RDA by NICTD under the Ground Lease.

"Lessee" shall mean IFA.

"Lessor" shall mean RDA.

"Master Lease" or "Master Leases" shall mean the one or more Master Leases entered into or to be entered into from IFA to RDA that provides for financing the Rail Project through lease rental payments from RDA to IFA and obligates RDA to cause NICTD, pursuant to the Operating Lease, to acquire, construct, develop, operate and maintain the Rail Project in the manner provided by the Governance Agreement [and Development Agreement].

"Memorandum of Lease" shall mean the Memorandum of Lease, a form of which is set forth in Exhibit C attached hereto, which is to be recorded contemporaneous with the execution of this Agreement for the purpose of identifying the Lease Premises.

"Operating Lease" shall mean the lease, dated as of [_____] from RDA to NICTD of the Rail Project Property, including the Rail Project Property leased to RDA by IFA pursuant to the Master Leases, pursuant to which Operating Lease NICTD shall agree to acquire, construct, develop, operate and maintain the Rail Project in the manner provided by the Governance Agreement [and Development Agreement].

"Rail Project" shall mean the project described in Exhibit A attached hereto (the "West Lake Corridor Project").

"Rail Improvements" shall mean the existing improvements located on the Real Estate, together with any new improvements constructed (or placed for use) on the Real Estate, whether as part of the Rail Project or otherwise.

"Rail Project Property" shall mean all real and personal property interests, including, but not limited to, the Lease Premises, the Rail Improvements, and such easements, licenses, leases, or property rights, in whatever form reasonably necessary to construct and operate the Rail Project, but not including NICTD rolling stock, except to the extent any costs for rolling stock are included in the applicable Cost Budget), as the Rail Project is identified and described in Exhibit A attached hereto.

"Real Estate" means the real property described in Exhibit B attached hereto, as the same may be amended or modified in the manner provided herein.

"State" shall mean the State of Indiana.

"Supplemental Agreement" shall mean any agreement supplemental or amendatory of this Agreement entered into in accordance with Article III.

"Supplemental Memorandum of Lease" shall mean each Supplemental Memorandum of Lease recorded in connection with the addition of Lease Premises in the manner provided in Section 2.04 hereof.

Section 1.02. Incorporation by Reference. The provisions of the Ground Lease, Master Leases, Operating Lease and Governance Agreement [and Development Agreement] are hereby incorporated herein by reference.

Section 1.03. Interpretations. Unless the context indicates otherwise, words importing the singular number shall include the plural number and words importing the plural number shall include the singular number. The terms "hereof," "herein," "hereby," "hereto," "hereunder" and similar terms mean this Agreement.

ARTICLE II

LEASE AND MAINTENANCE OF THE RAIL PROJECT PROPERTY

Section 2.01. Lease of the Rail Project Property. In consideration of the rents, covenants and agreements contained herein, the Lessor does hereby demise and lease to the Lessee, and the Lessee does hereby rent and lease from the Lessor, the Lease Premises.

Section 2.02. Term of Lease. The term of this Agreement shall commence on the date hereof and shall terminate on _____; provided the term shall end earlier or later than such date, in the event the Governance Agreement is terminated and all bonds, notes or other financing provided by IFA for the Rail Project are fully paid or their payment is fully provided for, in which case, the term shall end on such date. Upon the expiration or termination of this Agreement, the ownership of all Lease Premises and Rail Project Property shall revert to NICTD.

Section 2.03. Operation and Maintenance. RDA shall cause NICTD, pursuant to the Ground Lease and the Operating Lease, to operate and maintain the Rail Project Property during the term of this Agreement in an efficient and economical manner and to maintain the same in good repair and sound operating condition and make all necessary repairs, renewals, replacements and improvements thereto. RDA shall cause NICTD, pursuant to the Ground Lease and the Operating Lease, to comply with all valid statutes, rules, regulations, orders and directions of any legislative, administrative or judicial body applicable to NICTD, RDA and the Rail Project Property. RDA shall cause NICTD, pursuant to the Governance Agreement, the Ground Lease and the Operating Lease, to adopt and keep in force reasonable rules and regulations governing the use of the Rail Project Property and the operation thereof, and enforce such rules and regulations.

Section 2.04. Additional Lease Premises. Whenever, pursuant to the Ground Lease, NICTD leases to RDA additional Lease Premises by execution of a supplemental agreement or memorandum to the Ground Lease, the Lease Premises shall become, by the recording of a Supplemental Memorandum of Lease, the same Lease Premises that are leased to RDA by NICTD under the Ground Lease.

ARTICLE III

RENTS

Section 3.01. Payment. The IFA shall pay, in arrears, without relief from valuation or appraisal laws and without a defense of set-off, counterclaim or recoupment, an annual rental for the Lease Premises, in an amount equal to One Dollar, payable to the Lessor during the term hereof on the first day of each Fiscal Year after the date hereof.

Section 3.02. Supplemental Agreements. The Lessor and the Lessee may, on the date hereof and from time to time thereafter, enter into one or more Supplemental Agreements which shall contain such covenants and agreements as the parties agree upon.

ARTICLE IV

MISCELLANEOUS

Section 4.01. Power to Agree. The Lessor and the Lessee each covenant to the other that the execution and delivery of this Agreement has been duly authorized by all necessary action, and that this Agreement has been duly executed and delivered, and constitutes a legal, valid and binding agreement in accordance with its terms and provisions.

Section 4.02. Effectiveness. This Agreement shall be effective from and after the date hereof, through the date on which this Agreement shall terminate in accordance with Section 2.02.

Section 4.03. Notices. All notices required or authorized to be given pursuant to this Agreement shall be in writing and shall be served personally or sent by certified mail to the main office of the party or parties to be notified, and the effective date thereof shall be the date of delivery, if served personally, or the date it is deposited in the mail, if mailed.

Section 4.04. Severability. In case any section or provision of this Agreement, or any covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Agreement, or any application thereof, is for any reason held to be illegal or invalid, or is at any time inoperable, that illegality, invalidity or inoperability shall not affect the remainder hereof or any other section or provision of this Agreement or any other covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Agreement, which shall be construed and enforced as if that illegal, invalid or inoperable portion were not contained herein. Any such illegality, invalidity or inoperability of any application shall not affect any legal, valid and operable application, and each such section, provision, covenant, stipulation, obligation, agreement, act or action, or part thereof, shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent from time to time permitted by law.

Section 4.05. Table of Contents; Captions. The Table of Contents included in this Agreement and the captions included throughout this Agreement are for convenience and reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

Section 4.06. Governing Law. This Agreement shall be construed according to, and subject to, the laws of the State.

Section 4.07. Successors and Assigns. The rights and obligations of either party under this Agreement shall not be assignable by such party without the prior written consent of the other party. This Agreement shall inure to the benefit and shall be binding upon the respective successors and permitted assigns of the parties. Nothing herein expressed or implied is intended to confer upon any person, other than the parties or their respective successors or permitted assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers as of the day and year first hereinabove set forth.

NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

INDIANA FINANCE AUTHORITY

By: _____
Christopher R. Johnston, Chair

Attest:

Dan Huges, Public Finance Director of the
State of Indiana

Approved as to form and substance:

STATE BUDGET AGENCY

By: _____
_____, State Budget Director

Approved as to form and legality:

ATTORNEY GENERAL

By: _____

Name: _____

Title: _____

EXHIBIT A

WEST LAKE CORRIDOR PROJECT

The West Lake Corridor Project is an approximately eight-mile southern extension of the existing NICTD South Shore Line (SSL) between Dyer and Hammond, Indiana. Traveling north from the southern terminus near Main Street at the Munster/Dyer municipal boundary, the West Lake Project would include new track operating at-grade on a separate right-of-way (to be acquired) adjacent to the CSX Transportation (CSX) Monon Subdivision freight line in Dyer and Munster. The West Lake Project alignment would be elevated from 45th Street to the Canadian National Railway (CN) Elsdon Subdivision freight line at the Maynard Junction. North of the CN, the West Lake Project alignment would return to grade and join with the publicly owned former Monon Railroad corridor in Munster and Hammond, Indiana, and continue north. The West Lake Project would relocate the existing Monon Trail pedestrian bridge crossing over the Little Calumet River and build a new rail bridge at the location of the former Monon Railroad Bridge. The West Lake Project alignment would cross under US 80/94 and continue north on the former Monon Railroad corridor until Sibley Street. From Douglas Street north, the West Lake Project would be elevated over all streets and railroads, using a combination of retaining walls, elevated structures, and bridges.

The West Lake Project would end just east of the Indiana Harbor Belt at the state line, where it would connect with the SSL. Trains would operate on the existing Metra Electric District (MED) line for the final 14 miles, terminating at Millennium Station in downtown Chicago. Station locations for the West Lake Project are Munster/Dyer Main Street, Munster Ridge Road, South Hammond, and Hammond Gateway. The four new stations along the alignment—two in Munster and two in Hammond—would have high-level station platforms proposed to be 720 feet long and approximately 10 feet wide. They would typically have three ramps: one at both ends and a third in the middle, depending on access needs based on the surrounding area. Each station stop would have warming shelters, a depot (except at the Munster Ridge Road Station), parking facilities, benches, trash receptacles, bicycle racks, and other site amenities.

Additional project elements include a maintenance facility with a layover yard just south of the Hammond Gateway Station and west of Sheffield Avenue, and three traction power substations (TPSSs) powering the overhead catenary system at the following locations: the vehicle maintenance and storage facility site, the South Hammond Station parking lot, and the Munster/Dyer Main Street Station. The TPSSs would be enclosed to secure installations housing electrical equipment and controls. The TPSSs would feed an overhead catenary system that powers the vehicles. The Monon Trail, an existing pedestrian/bicycle route, would be preserved as part of the West Lake Corridor Project.

EXHIBIT B

LEASE PREMISES

(See attached)

EXHIBIT C

FORM OF MEMORANDUM OF LEASE

OPERATING LEASE AGREEMENT (WEST LAKE PROJECT)

between

NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY

as Lessor

and

NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT

as Lessee

Dated as of _____, _____

INDEX

	<u>Page</u>
Section 1.	Definitions; Interpretation.....3
Section 2.	Lease of Facilities8
Section 3.	Rental Payments; Supplements; Nature of Obligations.....9
Section 4.	Damage or Destruction of Facilities; Failure to Construct10
Section 5.	Nature of Operating Lease10
Section 6.	Nonliability of IFA or RDA.....11
Section 7.	Construction; Repairs and Maintenance; Alteration; Operations; Equipment or Furnishings.....11
Section 8.	Insurance13
Section 9.	Use of Insurance and Condemnation Proceeds.....14
Section 10.	Liability Insurance15
Section 11.	General Insurance Provisions15
Section 12.	General Covenants.....15
Section 13.	Covenants Regarding the Bond Act; IFA Bonds.....16
Section 14.	Utility Service16
Section 15.	Environmental Laws Covenants16
Section 16.	Indemnity by NICTD.....17
Section 17.	No Broker.....17
Section 18.	Transfer to NICTD.....17
Section 19.	Title to Real Estate.....17
Section 20.	Defaults; Remedies18
Section 21.	Notices19
Section 22.	Construction of Covenants.....20
Section 23.	Supplemental Operating Leases.....20
Section 24.	No Personal Liability20
Section 25.	Successors or Assigns; Use Restrictions.....20
Section 26.	Validity21
Section 27.	Severability; Complete Agreement; Counterparts; Survival of Terms; Governing Law; Etc.....21
Exhibit A	Legal Description and Map of the Real Estate
Exhibit B	Form of Supplemental Operating Lease Agreement (West Lake Project) between Northwest Indiana Regional Development Authority and Northern Indiana Commuter Transportation District

OPERATING LEASE AGREEMENT (WEST LAKE PROJECT)

This Operating Lease Agreement (West Lake Project) (this "Operating Lease") is entered into this ____ day of _____, 20____, between the NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY, a separate body corporate and politic formed pursuant to Indiana Code 36-7.5, as supplemented and amended from time to time ("RDA"), and the NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT, a commuter transportation district and a municipal corporation formed pursuant to Indiana Code 8-5-15, as amended ("NICTD").

RECITALS

1. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the hereinafter defined Governance Agreement;
2. The South Shore Line is a commuter train service between South Bend, Indiana and Millennium Station in Chicago, Illinois;
3. NICTD has owned and operated the South Shore Line for nearly forty years and has experience in developing capital rail projects for the South Shore Line and in requesting, obtaining and managing federal grant funds through the Federal Transit Administration;
4. RDA fosters development in northwest Indiana and has since its inception fostered economic development throughout northwest Indiana and has been vested pursuant to IC 36-7.5-4-18 with certain powers and duties with respect to the Rail Project;
5. IFA oversees State debt issuance and provides effective financing solutions to facilitate State, local and business investment in the State and has participated in numerous important economic development activities throughout the State;
6. RDA and NICTD have developed and advanced plans for improvements to the South Shore Line, specifically the Double Track Project (as defined below) and the West Lake Corridor Project (as defined below and also defined as the "Rail Project"), which will improve the South Shore Line and foster economic development throughout northwest and north central Indiana by shortening commute times, providing new rail service to areas not serviced by rail transportation to Chicago, enhancing the economic and community development of the northwest Indiana region, and increasing the convenience to the areas served;
7. RDA has determined that providing assistance to the Rail Project in the manner herein provided serves a public purpose for which RDA was created;
8. The Rail Project is expected to encourage business investment in and near the station areas, provide faster, less expensive and reliable transportation, relieve existing and anticipated traffic congestion, reduce vehicular emissions, reduce commuting costs and attract and retain families and younger residents in northwest and north central Indiana;
9. The Rail Project is expected to provide faster travel times, accommodate more trains to improve service during rush hour travel and be safer to operate;

10. RDA, IFA and NICTD have identified and obtained committed local and State funding for the Rail Project;

11. NICTD has applied for necessary federal grant funding from FTA on behalf of RDA and the State, and in its capacity as the grantee, and as the signatory party to that certain Full Funding Grant Agreement with FTA, will maintain continuing control of the assets receiving FTA funding, subject to the terms of the Governance Agreement, the Development Agreement, if any, this Operating Lease and the other leases described herein;

12. The Parties desire to jointly complete FTA grant application processes for the West Lake Corridor Project, in order to facilitate the further development, design, construction and financing of the West Lake Corridor Project as improvements to the South Shore Line commuter rail system;

13. Any obligations of RDA or IFA shall not constitute a debt of the State or any municipality, or a pledge of the full faith and credit thereof, under the Constitution of the State;

14. Providing financial support to the Rail Project and the development and operation thereof are valid public purposes of RDA, IFA and NICTD, will contribute importantly to the economic and community development of northwest Indiana and will benefit the citizens of northwest Indiana;

15. In connection with the IFA Bonds, RDA, NICTD, and IFA are required to enter into one or more leases for the purpose of providing for the issuance and repayment of the IFA Bonds;

16. The funding for the payment of lease rentals by RDA for payment of the IFA Bonds will be provided from State appropriations, FTA Grant Reimbursements, moneys on deposit in the next generation trust fund established under IC 8-14-15.2 and Available Revenues;

17. NICTD expects that FTA funding will fund a portion of the costs of the Rail Project, subject to local funding of the remaining share;

18. NICTD, RDA, and IFA intend to enter into the Revenue Trust Fund Agreement with the Deposit Trustee and the Bond Trustee for the purposes of receiving and safeguarding substantially all funds for the Rail Project, including substantially all funding sources to be used to pay lease rentals;

19. RDA and IFA are willing to assist NICTD in providing a mechanism to fund the Rail Project pursuant and subject to the Governance Agreement and the Development Agreement and to comply with and advance the public purposes described herein;

20. In connection therewith and subject to this Operating Lease, certain Real Estate and Rail Improvements will be leased by NICTD to RDA pursuant to the Ground Lease, then leased by RDA to IFA pursuant to the Underlying Lease, then leased by IFA to RDA pursuant to the Master Leases, and then leased by RDA to NICTD pursuant to this Operating Lease, and IFA will issue the IFA Bonds and cause certain proceeds thereof to be made available to NICTD to pay costs incurred in undertaking the Rail Project;

21. Contemporaneous with or subsequent to the commencement of existence of the leasehold estate under this Operating Lease, RDA and IFA shall cause the Underlying Lease, IFA and RDA shall cause the Master Leases, and RDA and NICTD shall cause the Ground Lease, to each be effective; and

22. NICTD acknowledges that IFA's and RDA's right of occupancy and continuous possession of the Real Estate (and the Rail Improvements) and its lawful right to lease the Real Estate (and the Rail Improvements) throughout the stated term of this Operating Lease are essential to the funding mechanism for the Rail Project and the realization of the public purposes described herein.

WITNESSETH:

In consideration of the mutual covenants herein contained, the parties hereto hereby agree as follows:

Section 1. Definitions; Interpretation.

(a) The terms defined in this Section shall for all purposes of this Operating Lease have the meanings herein specified unless the context otherwise requires.

"Ancillary Users" means any party that uses or has any interest in users of the Facilities of any kind whatsoever (including any subtenants, occupants, employees, agents, contractors, customers or invitees of NICTD).

"Authorized Officer of IFA" means the Chair of IFA or the Public Finance Director of the State of Indiana and, with reference to any act or document, also means any other person authorized by a resolution of IFA to perform such act or to sign such document.

"Authorized Officer of NICTD" means the President of NICTD and, with reference to any act or document, also means any other person authorized by a resolution of NICTD to perform such act or to sign such document.

"Authorized Officer of RDA" means the Chair or the Chief Executive Officer of RDA and, with reference to any act or document, also means any other person authorized by a resolution of RDA to perform such act or to sign such document.

"Available Revenues" means any available revenues of RDA, including, without limitation: (a) the portion of the annual payments to RDA from the Cities of Gary, East Chicago and Hammond and the Counties of Lake and Porter due under Indiana Code 6-3.6-6-9, Indiana Code 36-7.5-4-2 and Indiana Code 6-3.6-11-6(b); (b) amounts withheld by the auditor of State from certain municipalities within Lake County, as determined by the Indiana Department of Local Government Finance, and paid to the Secretary-Treasurer of RDA pursuant to Indiana Code 6-3.6-11-5.5; and (c) revenues derived from the Interlocal Agreements or from other actions taken by certain municipalities within Lake County offering to provide revenue to support and finance the Rail Project pursuant to Indiana Code 6-3.6-11-7. Notwithstanding the above definition, with respect to the initial series of IFA Bonds purchased by the State Treasurer as provided in IC 5-13-10.5-20, which are secured by rental payments to be made pursuant to the

RDA Available Revenues Master Lease Agreement (West Lake Project), to the extent provided in IC 36-7.5-4-21, it is understood that available revenues of RDA only include those sources described in clause (a) above.

"Biennium" means the biennium used for State budgetary and appropriation purposes.

"Bond Act" means Indiana Code 5-1.3, as amended or supplemented, or any successor thereto.

"Bond Trustee" means the trustee serving as such with respect to the IFA Bonds.

"Completion Certificate" for the Facilities or any portion thereof means a certificate (a) executed by an Authorized Officer of NICTD certifying that such Facilities or such portion thereof is available for use by RDA and (b) accepted by an Authorized Officer of RDA acknowledging that such Facilities or such portion thereof is available for use by RDA.

"Concurrence" means the written concurrence of the Authorized Officer of IFA and the Authorized Officer of RDA to the referred approval or other action of NICTD pursuant to the Governance Agreement, the Development Agreement or the Leases; *provided that*:

(a) concurrence may be withheld or delayed if the Authorized Officer of IFA and/or the Authorized Officer of RDA determines a referenced action (i) may adversely affect the Continuing Rent Obligation and (ii) be inconsistent with applicable laws (and the requirements of the Governance Agreement, the Development Agreement, the Leases and/or any documents related thereto);

(b) concurrence when given shall not be deemed to estop or otherwise waive IFA's and/or RDA's right to later assert or enforce any requirement under the Governance Agreement, the Development Agreement, the Leases and/or any documents related thereto, including IFA's and RDA's ability to seek claims, damages, losses and expenses, including attorneys' fees and other IFA and RDA costs arising out of or resulting from the action of NICTD for which concurrence has been given; and

(c) concurrence when given and later found to be contrary to any requirement under the Governance Agreement, the Development Agreement, the Leases and/or any documents related thereto shall not expose NICTD to a claim or assertion that such failure is, in and of itself, a failure to obtain a concurrence in the first instance and, as such, without having received a concurrence, a basis for a NICTD Event of Default. To the extent NICTD receives Concurrence under this Operating Lease it shall be able to rely upon such Concurrence.

"Continuing Rent Obligation" means (a) RDA's obligation under the Master Leases to continue to pay the Master Leases Rental and (b) NICTD's obligation under this Operating Lease to continue to pay the Operating Lease Rental, each without delay or diminution as to amount.

"Deposit Trustee" means the trustee bank acting as the Deposit Trustee under the Revenue Trust Fund Agreement.

"Development Agreement" means any development agreement entered into by NICTD, RDA and IFA for the purpose of governing the completion of the Rail Project in a manner consistent with and as contemplated by the Governance Agreement.

"Double Track Project" means the addition of an east/west rail line for a portion of the South Shore Line from Gary to Michigan City and related improvements, all as more fully described in Exhibit 1 of the Governance Agreement.

"Environmental Laws" means all federal, state and local statutes, common law principles, rules, regulations, ordinances, permits, licenses, written approvals, orders, writs, injunctions, judgments and consent decrees relating to pollution control, protection of environmental quality, or protection of the health or safety of workers or the public from exposure to Hazardous Materials, including laws relating to emissions, discharges, releases or threatened releases of pollutants, contaminants, chemicals, or hazardous, toxic or dangerous substances, materials or wastes in the environment (including ambient air, surface water, ground water, land surface or subsurface strata) or otherwise relating to the generation, manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials. Without limiting the generality of the foregoing, "Environmental Laws" shall encompass any "Superfund" or "Superlien" Law (including those otherwise referenced in this definition) and each of the following statutes and the regulations promulgated thereunder, in any similar applicable federal, state or local law, rule or regulation, each as amended: (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980; (ii) the Solid Waste Disposal Act; (iii) the Hazardous Materials Transportation Act; (iv) the Toxic Substances Control Act; (v) the Clean Water Act; (vi) the Clean Air Act; (vii) the Safe Drinking Water Act; (viii) the National Environmental Policy Act of 1969; (ix) the Superfund Amendments and Reauthorization Act of 1986; (x) Title III of the Superfund Amendments and Reauthorization Act of 1986; (xi) the Federal Insecticide, Fungicide and Rodenticide Act; (xii) provisions of the Occupational Safety and Health Act of 1970 relating to the handling of and exposure to Hazardous Materials; and (xiii) any state or local analogue to any of the foregoing.

"Facilities" means the Real Estate and the Rail Improvements.

"FFGA" means the grant agreement awarded by FTA for the Rail Project.

"Force Majeure" shall have the meaning ascribed to such term in the Governance Agreement.

"FTA" means the Federal Transit Administration.

"FTA Grant Reimbursements" means funds received from FTA as reimbursement for expenditures by the Parties for moneys spent on one or both of the projects constituting the Rail Project pursuant to the FFGA for the Rail Project.

"Governance Agreement" means the Governance Agreement effective as of [_____], 2018, by and between NICTD, RDA and the IFA, as from time to time amended or supplemented in accordance with its terms.

"Ground Lease" means the Ground Lease Agreement (West Lake Project) as the same may be amended, modified or supplemented by any amendments or modifications thereof and supplements thereto entered into in accordance with the provisions hereof.

"Hazardous Materials" means any hazardous, toxic or dangerous substance, material and waste, including petroleum and hydrocarbon compounds derived from petroleum (including naturally occurring or man-made petroleum and derivative hydrocarbons), flammable explosives, asbestos, urea formaldehyde insulation, radioactive materials, polychlorinated biphenyls, pesticides, herbicides and any other kind and/or type of pollutants or contaminants (including materials which include hazardous constituents), sewage, sludge, solvents and/or any other similar substances, materials or wastes that are or become regulated under any Environmental Law as hazardous or toxic.

"IC" means the Title, Article, Chapter and/or Section of the Indiana Code as referenced, and as such may be supplemented, amended or replaced from time to time.

"IFA" means the Indiana Finance Authority, a body politic and corporate, not a State agency, but an independent instrumentality exercising essential public functions, organized and existing under IC 5-1.2, or if said Indiana Finance Authority shall be abolished, the board, body, commission or agency succeeding to the principal functions thereof.

"IFA Bonds" means one or more series of bonds, notes or other similar obligations issued under IC 5-1.3-1 *et seq.* to finance or refinance all or a portion of the costs for the Rail Project;

"Including" or "including" in this Operating Lease shall be construed as if followed by the phrase "without limitation" or "but not limited to".

"Independent Expert" means an independent registered architect, registered engineer, construction manager or contractor selected by NICTD with Concurrence.

"Lease Premises" means the leasehold estate and interests created by and pursuant to this Operating Lease, including, without limitation, the leasing of the Facilities, as the same may be amended and modified from time to time as needed for the Rail Project in the manner as provided for in the Leases.

"Leases" means, collectively, the Ground Lease, the Underlying Lease, the Master Leases and this Operating Lease.

"Master Leases" means the various leases from IFA to RDA in support of the IFA Bonds, including specifically the State Appropriation Master Lease Agreement (West Lake Project), the RDA Available Revenues Master Lease Agreement (West Lake Project) and the Federal Grant Anticipation Master Lease Agreement (West Lake Project), each as from time to time amended or supplemented by any amendment or supplement thereto, including any supplemental memorandum of lease recorded in connection therewith.

"Master Leases Rental" means the rental payments payable by RDA as provided in the Master Leases.

"Operating Lease" means this Operating Lease, as from time to time amended or supplemented by any amendment or supplement hereto, including any supplemental memorandum of lease recorded in connection therewith.

"Operating Lease Rental" means the rental payments payable by NICTD as provided in this Operating Lease.

"Parties" means IFA, NICTD and RDA.

"Permitted Encumbrances" means (a) this Operating Lease, the Ground Lease, the Underlying Lease, and the Master Leases, (b) utility, access and other easements, licenses and rights of way, covenants, conditions and restrictions, and other exceptions to title, which in each case will not materially and adversely affect the construction, development and operation of the Rail Project as contemplated by this Operating Lease or materially impair the interest of IFA, RDA or NICTD in, or its use of, the Facilities, (c) any liens to the extent permitted in this Operating Lease, and (d) any other liens which are not prohibited under this Operating Lease, but only if in the opinion of counsel satisfactory to IFA and the Bond Trustee, such liens do not materially impair the interest of IFA, RDA or NICTD in, or its use of, the Facilities.

"Permitted Uses" means any use permitted under the Governance Agreement, subject to Section 25(c) hereof.

"Rail Project" means the West Lake Corridor Project, as defined in IC 5-1.3-2-14 and IC 36-7.5-1-13.5.

"Rail Improvements" means the existing improvements located on the Real Estate, together with any new improvements constructed (or placed for use) on the Real Estate, whether as part of the Rail Project or otherwise.

"Real Estate" means the real property described on Exhibit A of this Operating Lease, as the same may be amended or modified in the manner provided herein and the other Leases.

"Revenue Trust Fund" means the development authority revenue fund established under the Revenue Trust Fund Agreement.

"Revenue Trust Fund Agreement" means the Revenue Trust Fund Agreement, dated as of August 1, 2018, entered into by and among RDA, IFA, NICTD, the Bond Trustee, and the Deposit Trustee in connection with the Revenue Trust Fund.

"State" means the State of Indiana.

"Supplemental Operating Lease" means any Operating Lease supplemental to this Operating Lease entered into in accordance herewith and substantially in the form set forth in Exhibit B.

"Trust Indenture" means the Trust Indentures to be entered into between IFA and the Bond Trustee relating to the IFA Bonds, and all supplements and amendments thereto.

"West Lake Corridor Project" means an approximately eight (8) mile new north/south passenger rail line connected to the existing South Shore Line located in Lake County, Indiana, with four stations from and including Hammond (Gateway Station) to and including Munster/Dyer (Main Street Station, including all property owned or leased by NICTD for the operation of the South Shore Line over the West Lake Corridor Project), all as more fully described in Exhibit 2 of the Governance Agreement.

(b) The terms "herein", "hereto", "hereunder" and all terms of similar import shall be deemed to refer to this Operating Lease as a whole rather than to any Section or Exhibit to this Operating Lease.

(c) Unless otherwise specified, references in this Operating Lease to (i) "Section ___" shall be deemed to refer to the Section of this Operating Lease bearing the number so specified, (ii) "Exhibit ___" shall be deemed to refer to the Exhibit of this Operating Lease bearing the letter or number so specified, and (iii) this "Operating Lease" means this Operating Lease and any exhibits and attachments hereto.

(d) Captions used for or in Sections and Exhibits of this Operating Lease are for convenience of reference only and shall not affect the construction of this Operating Lease.

Section 2. Lease of Facilities.

(a) In consideration of certain payments and other terms and conditions herein specified, RDA does hereby lease, demise and let to NICTD the Facilities (such constituting a part of the Lease Premises), to have and to hold the same with all rights, privileges, easements and appurtenances thereunto belonging unto NICTD for a term beginning on the date hereof and ending on _____; provided, however, the term shall end earlier or later than such date in the event the conditions set forth in Section 18 hereof are met, in which case, the term shall end on such date (the "Term").

(b) The parties agree that the Rail Project will be undertaken on the Real Estate pursuant to the Governance Agreement and the Development Agreement. The parties acknowledge and agree that the Real Estate is available for use from and after the date hereof, and such availability for use (and the value thereof to RDA and NICTD) is not in any way diminished while the Rail Project is being undertaken. By one or more endorsements each recorded as soon as practical and as a Supplemental Operating Lease entered into in substantially the form set forth in Exhibit B, but in any event, when the Rail Improvements are complete and ready for use as part of the Rail Project, the parties shall revise or increase the real estate described in Exhibit A, if necessary to reflect the final site location acquired for the Rail Project and upon which the Rail Improvements as part of the Rail Project are constructed; provided that such additional Real Estate is also added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases. When complete, the parties shall set forth and make known the date or dates the Rail Improvements, as part of the Rail Project (or portions thereof), are complete and ready for use, which shall also be made available as the Lease Premises pursuant to this Operating Lease.

(c) NICTD hereby represents and warrants that, upon compliance with its obligations under Section 19 hereof, RDA will possess a good and indefeasible leasehold estate, subject only to Permitted Encumbrances, to all of the Real Estate, which includes real estate upon which the Rail Improvements that are part of the Rail Project are to be acquired, improved and constructed pursuant to the Governance Agreement and the Development Agreement, and NICTD warrants and will defend the same against all claims whatsoever not suffered or caused by the acts or omissions of RDA.

(d) Each of the Master Leases shall provide that in the event the Master Lease is terminated pursuant to the terms and conditions of such Master Lease following an event of default (as defined in such Master Lease) by RDA, this Operating Lease shall remain in full force and effect for the benefit of IFA (who upon termination of such Master Lease shall succeed to the rights, title and interest of RDA, as sublessor under this Operating Lease) and NICTD.

(e) NICTD shall not use the Facilities and shall use commercially reasonable efforts to not allow the Facilities to be used (including by any Ancillary Users) for any purpose or in any manner that would invalidate any policy of insurance now or hereafter carried in respect of the Facilities.

Section 3. Rental Payments; Supplements; Nature of Obligations.

(a) During the term of this Operating Lease, NICTD agrees to pay rentals to RDA without relief from valuation or appraisal laws and without a defense or set-off, counterclaim or recoupment, for the use of the Real Estate and all existing Rail Improvements (and if and when complete, and for the use of any Rail Improvements that are part of the Rail Project), in arrears in the monthly amount of One Dollar (\$1), together with such additional amounts as may be set forth in any Supplement Operating Lease, on or before the first (1st) business day of each calendar month (collectively, the "Operating Lease Rental").

(b) After the Commencement Date (as defined in the Master Leases), for any portion of the Lease Premises, in the event such portion shall be damaged or destroyed or taken, so as to render such portion unavailable for use by NICTD, or shall for any other reason become unavailable for use by NICTD: (i) any rental payments due for such unavailable portion of the Lease Premises shall be abated during such unavailability by an amount equal to the product of the portion of (A) the rental payments otherwise due on such portion of the Lease Premises, times (B) a fraction of such rental payments, the numerator of which fraction equals the then estimated expenses incurred or to be incurred by RDA and allocable to such portion and the denominator of which fraction equals the then estimated expenses incurred or to be incurred by RDA and allocable to the Lease Premises; or (ii) RDA may add additional Lease Premises to this Operating Lease pursuant to a Supplemental Operating Lease so that there is no interruption in the lease rentals payable by NICTD as described in clause (a) above; provided that such additional Lease Premises are also added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.

(c) All rental obligations under this Operating Lease shall be deposited solely and exclusively into the Revenue Trust Fund.

(d) During the term of this Operating Lease, NICTD and RDA may enter into one or more Supplemental Operating Leases in the event NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities in substantially the form set forth in Exhibit B, so that such portions are within the boundaries of the Facilities.

(e) It is expressly understood and agreed by RDA and NICTD that the obligations of RDA and NICTD created by or arising out of this Operating Lease or of any amendments hereto shall not be, represent, or constitute an indebtedness of the State, IFA or RDA within the meaning or application of any constitutional limitation of the State or the laws of the State or a pledge of the faith or credit of the State, IFA or RDA.

Section 4. Damage or Destruction of Facilities; Failure to Construct.

(a) In the event the Facilities or any portion thereof shall be damaged or destroyed so as to render the same unfit for its intended use in the opinion of an Independent Expert, it shall then be the obligation of NICTD to cause the Facilities (or such portion thereof) to be restored and rebuilt as promptly as may be done, unavoidable strikes and other causes beyond the control of NICTD excepted, if in the opinion of an Independent Expert:

(i) the cost of such restoration or rebuilding does not exceed the amount of the proceeds received by the Trustee from the insurance provided for in Section 8 hereof, together with other moneys (I) IFA, at its discretion, may cause to be made available therefor pursuant to the terms of the Trust Indenture or the Revenue Trust Fund Agreement, as applicable, or (II) NICTD, at its discretion, may make available and deposit with the Trustee, and

(ii) such restoration or rebuilding can be sufficiently completed within the period of time covered by business income insurance provided for in Section 8 hereof in order to not adversely affect the Continuing Rent Obligation;

provided, however, that if NICTD shall fail to select such an Independent Expert (or fail to secure Concurrence in connection with the selection of such an Independent Expert) within ten (10) days after any request by RDA or IFA, then either RDA or IFA may select such Independent Expert to serve in such capacity at the sole cost and expense of NICTD.

(b) In the event such proceeds are insufficient to pay the restoration cost, such proceeds shall be applied as directed by RDA and IFA unless NICTD elects to make available and deposit with the Deposit Trustee or the Bond Trustee such shortfall and proceed with restoration in accordance with this Operating Lease.

Section 5. Nature of Operating Lease.

(a) It is expressly understood and agreed that this Operating Lease shall be what is known as an absolute net lease (i.e., that all costs and expenses in connection with the Facilities of any nature whatsoever shall be those of NICTD by reason of it being the tenant hereunder and all rent owing to RDA hereunder shall be net of all such costs and expenses) and that during the Term, NICTD shall be solely obligated to pay at its sole cost and expense, without reimbursement from or contribution by RDA, all costs of taxes and assessments, operations,

maintenance and use in connection with or relating to the Facilities, including all costs and expenses of decoration, maintenance, utility, janitorial and all other services, repair or replacement of all parts of the Facilities or improvement of the Facilities, including in the negotiation and maintenance of agreements with any Ancillary Users, subject to Section 12 hereof, in the manner provided in Section 7 hereof, except as otherwise provided in the Governance Agreement.

(b) NICTD shall cause any taxes due on the Rail Project to be timely paid to the applicable authorities, except to the extent of any good faith contests which have not yet been resolved, and it shall not assert any basis for taxation in respect of the Facilities that would negate or otherwise negatively impact any imposition or collection of taxes other than deductions, credits or other adjustments that would otherwise be applicable in the event the Leases were not in force or effect. The parties acknowledge and agree that this Operating Lease is, and is intended to be, a lease of real property including fixtures and mixed real and personal property (with any such personal property covered by this Operating Lease being incidental), and the Continuing Rent Obligation reflects lease payments which are made solely with respect to the lease of such real property.

(c) Except as otherwise provided in the Governance Agreement, NICTD shall retain all revenues from the operation of the Facilities, and except as otherwise provided in the Governance Agreement, neither IFA nor RDA shall have any responsibility to fund the ongoing costs, expenses and needs for operations, repairs, maintenance and replacements of or related to the Facilities.

Section 6. Nonliability of IFA or RDA. Except as otherwise provided in the Governance Agreement, neither IFA nor RDA shall be liable for damage caused by hidden defects or failure to keep the Facilities in repair and shall not be liable for any damage done or occasioned by or from any improvements, structures or equipment (including any stations, parking facilities, bridges, overpasses, crossings, switches, locomotives, railroad cars, utilities, plumbing, gas, water, boilers, steam or other pipes or sewage or the bursting or leaking of plumbing or heating fixtures or waste or soil pipe) in connection with the Facilities, nor for damage occasioned by natural events (whether occurring by age, wind, water, snow, ice, movements of earth, or otherwise). Neither IFA nor RDA shall be liable for any injury to NICTD, any Ancillary Users or any other person which injury occurs in, upon, about or near the Facilities howsoever arising. Neither IFA nor RDA shall be liable for damage to NICTD's property or to the property of any Ancillary Users or of any other person which may be located in, upon, about or near the Facilities. NICTD shall be responsible for preserving for the benefit of IFA and RDA usual and customary rights, claims and warranties against the persons or entities engaged to acquire, improve and construct any Facilities.

Section 7. Construction; Repairs and Maintenance; Alteration; Operations; Equipment or Furnishings.

(a) NICTD represents and covenants that the Rail Project has been or will be constructed in accordance with the terms and conditions of the Governance Agreement, the Development Agreement and applicable plans and specifications therefor with all reasonable speed and dispatch in accordance with the applicable approved plans and specifications therefor.

(b) NICTD shall keep and maintain the Facilities in good condition and repair in accordance with NICTD management practices in effect as of the date hereof and shall operate the Rail Project in an efficient and economical manner and in accordance with the Governance Agreement. NICTD shall make all necessary repairs, renewals, improvements and replacements to the Facilities and shall keep the Facilities in a clean and neat condition and in good and sound condition and repair, normal wear and tear excepted. The cost of such repairs, replacements and maintenance shall be (whether required because of the negligence, misuse or default of NICTD, any of its Ancillary Users, or otherwise) at NICTD's sole cost and expense, except as otherwise provided in the Governance Agreement.

(c) NICTD shall comply with all valid statutes, rules, regulations, orders and directions of any legislative, administrative or judicial body applicable to NICTD, the Lease Premises and the Facilities. NICTD shall adopt and keep in force reasonable rules and regulations governing the use of the Lease Premises and the Facilities and the operation thereof, and shall enforce such rules and regulations on a uniform basis.

(d) RDA shall comply with all valid statutes, rules, regulations, orders and directions of any legislative, administrative or judicial body applicable to RDA and with respect to RDA's rights and responsibilities for the Lease Premises and the Facilities. To the extent reasonably necessary, the RDA shall adopt and keep in force reasonable rules and regulations governing the use of the Lease Premises and the Facilities and the operation thereof, and shall enforce such rules and regulations on a uniform basis.

(e) NICTD shall have the right, at its sole cost and expense, without Concurrence, to make all alterations, modifications and additions and to do all demolition, remodeling and improvements it deems necessary or desirable to the Facilities, which do not materially reduce the rental value of the Lease Premises or adversely affect (i) the Continuing Rent Obligation and (ii) each referenced obligation that is required to be met by NICTD to be consistent with applicable law (including the Bond Act) and the requirements of the Governance Agreement, the Development Agreement, the Ground Lease, the Underlying Lease, the Master Leases, this Operating Lease and/or any documents related thereto. NICTD shall be liable to repair any damage to the Facilities resulting from such work.

(f) So long as this Operating Lease is in effect, NICTD may at any time and from time to time, at its sole cost and expense, install, modify, remove or replace items of moveable machinery, equipment, furnishings and other personalty in and upon the Facilities. All such personal property shall remain the sole property of NICTD, in which neither IFA nor RDA shall have any interest, and may be installed, modified, removed or replaced by NICTD at any time; *provided* that if such installation, modification, removal or replacement adversely affects (i) the Continuing Rent Obligation or (ii) any referenced obligation that is required to be met by NICTD to be consistent with applicable law (including the Bond Act) and the requirements of the Governance Agreement, the Development Agreement, the Ground Lease, the Underlying Lease, the Master Leases, this Operating Lease and/or any documents related thereto, then NICTD shall either: (y) repair and restore any and all damage to the Facilities resulting from the installation, modification, removal or replacement of any such property; or (z) compensate IFA and RDA for any loss in value to the Lease Premises (including any diminishment in the Master Leases Rental

and Operating Lease Rental) resulting from the installation, modification or removal of any such property.

(g) NICTD shall maintain or cause to be maintained such performance bonds or performance insurance (in a manner consistent with the Governance Agreement) with respect to contracts it may enter into for construction of the Rail Improvements as are usually maintained by those constructing improvements and facilities similar to the Rail Improvements. If performance of any contract for construction of the Rail Improvements is not completed in accordance with its terms and, in the opinion of a registered engineer selected by NICTD and acceptable to IFA and RDA, the cost of completion of such performance shall not exceed the amount of proceeds from any performance bond or performance insurance to be received by reason of such noncompletion of performance and other amounts available therefor, NICTD shall complete or cause to be completed such performance in the manner provided in, and subject to the conditions of, the Governance Agreement. The proceeds of any performance bond paid on account of such noncompletion of performance shall be made available for, and to the extent necessary shall be applied to, the cost of such construction.

Section 8. Insurance.

(a) NICTD, in the manner as provided in the Governance Agreement prior to completion of the Rail Project, and thereafter at its sole cost and expense, shall, during the full term of this Operating Lease, keep the Facilities insured against physical loss or damage, however caused, and otherwise in the manner and on a basis required in the Governance Agreement and the Development Agreement and consistent with commercially reasonable practices and only with such exceptions as are ordinarily required by insurers of rail lines of a similar type (as provided by an industry standard special cause of loss (or its equivalent) property insurance policy, which insurance shall not exclude flood or earthquake, but may provide for sublimits therefor), with good and responsible insurance companies. Such policies shall include terrorism coverage so long as the Terrorism Risk Insurance Program Reauthorization Act of 2015 [15 USC 6701] continues in its present form or an equivalent federal insurance program is available to NICTD. Such insurance shall be in an amount at least equal to the full replacement cost of such Facilities as reasonably determined by NICTD in consultation with an insurance consultant approved by RDA from and after the date the IFA Bonds are issued by IFA; *provided*, any reduction in excess of ten percent (10%) from the amount carried on the date this Operating Lease is entered into (including any reduction from any existing sublimits) shall only be permitted with Concurrence. In no event shall the insurance be in an amount which causes NICTD to be a co-insurer for the Facilities; *provided*, it is agreed that the provision of sublimits for earthquake and flood shall not be deemed to cause NICTD to be a co-insurer; *provided further* that such insurance may cover properties of NICTD other than the Facilities. Such insurance may contain a provision for a deductible in an amount that is customary and commercially reasonable, but not more than \$500,000 or such higher amount as from time to time determined by NICTD with Concurrence. After the occurrence of any insured casualty, NICTD agrees to pay the deductible amount of any loss to the Bond Trustee or such party directed by the Bond Trustee, as applicable, within ten (10) days following any request so made by IFA or RDA. A blanket property insurance form may be used if the insurance payable in respect of loss related to the Facilities is not less than the amount required by this Section and the

insurance proceeds related to damage to or destruction of the Facilities are payable to the Bond Trustee for the IFA Bonds.

(b) During the full term of this Operating Lease, NICTD, in the manner as provided in the Governance Agreement prior to completion of the Rail Project, and thereafter at its sole cost and expense, shall also, maintain business income insurance in an amount at least equal to the Operating Lease Rental on the Lease Premises leased by NICTD under this Operating Lease for a period of (2) years against physical loss or damage of the type insured against pursuant to the preceding requirements of this Section. Such business income insurance policies shall be for the benefit of IFA, RDA, and the Bond Trustee and shall name the Bond Trustee for the IFA Bonds as loss payee, which payment to such Bond Trustee may be limited to circumstances where Master Leases Rental is not made by RDA pursuant to a Master Lease.

(c) After the occurrence of any insured casualty related to the Facilities, NICTD shall give notice to the Bond Trustee, IFA and RDA. Such notice shall be given within five (5) days following such casualty and shall tentatively describe the nature of the casualty together with sufficient additional information to permit IFA and RDA to ascertain NICTD's plans for addressing such loss or damage (and meeting its obligations under this Operating Lease, including the amount NICTD plans to reserve to meet the requirements thereof that result from any deductible applicable under its insurance policies).

(d) In the event that an insurance program is developed by NICTD and approved by RDA and IFA as provided in the Governance Agreement, that insurance program and the requirements thereof shall be substituted herein as the insurance coverage requirements for this Operating Lease to the extent in conflict herewith or in addition hereto.

Section 9. Use of Insurance and Condemnation Proceeds.

(a) If all or any portion of the Facilities shall be damaged or destroyed or taken, NICTD shall, as expeditiously as possible, continuously and diligently prosecute, or cause to be prosecuted, repair, reconstruction or replacement thereof until completion. Within one hundred twenty (120) days after the occurrence of an event of damage or destruction to the Facilities or a taking thereof, NICTD, through any Authorized Officer of the NICTD, shall deliver to RDA and the Bond Trustee the written opinion of engineer selected by NICTD and reasonably acceptable to RDA and IFA stating whether or not the conditions set forth above with respect thereto are satisfied. The proceeds of any insurance paid on account of such damage or destruction or taking (other than any rent loss insurance) shall be made available for, and to the extent necessary shall be applied to, the cost of such repair, reconstruction or replacement, or otherwise in accordance with the terms and conditions of this Operating Lease.

(b) Proceeds of insurance against damage to or destruction of the Facilities which are paid to the Bond Trustee as described herein shall be held by the Bond Trustee pursuant to the applicable Trust Indenture and used by NICTD in accordance with the provisions of this Operating Lease, the Underlying Lease, the Master Leases, this Operating Lease, the Governance Agreement and such Trust Indenture. Proceeds of any condemnation of the Facilities (or portion thereof) shall be paid to the Bond Trustee and held by the Bond Trustee pursuant to the applicable Trust Indenture and used by NICTD in accordance with the provisions of this

Operating Lease, the Ground Lease, the Underlying Lease, the Master Leases, the Governance Agreement and such Trust Indenture.

Section 10. Liability Insurance. NICTD shall, at all times during the full term of this Operating Lease, keep in effect Commercial General Liability Insurance (which insurance shall not exclude blanket contractual liability, broad form property damage, personal injury, or fire damage coverage) covering the Facilities and NICTD's use thereof against claims for bodily injury and property damage, and insuring NICTD, IFA and RDA in amounts and in the manner required by the Governance Agreement and the Development Agreement. Such policies shall include terrorism coverage so long as the Terrorism Risk Insurance Program Reauthorization Act of 2015 [15 USC 6701] continues in its present form or an equivalent federal insurance program is available to NICTD. NICTD shall maintain for each policy year during the term of this Operating Lease aggregate limits for liability coverages of not less than fifty percent (50%) of liability coverage amounts as in effect on the date this Operating Lease is entered into unless otherwise approved by RDA; *provided* that if such policy limits are not reasonably available in the insurance marketplace, then NICTD may reduce such aggregate coverage amounts to the highest such amounts as are reasonably available in the insurance marketplace existing from time to time. NICTD shall make IFA, RDA and the State additional insureds on such policies.

Section 11. General Insurance Provisions. All insurance policies required by Sections 8 and 10 hereof shall be issued in a manner and with coverages consistent with those provided in the Ground Lease and in all instances, in a manner as provided in the Governance Agreement and the Development Agreement, by good and responsible insurance companies, each of which companies, selected by NICTD and reasonably approved by RDA, shall be rated at least "A-VII" (or an equivalent rating if such rating scale is discontinued or changed) by A.M. Best & Company (or by an equivalent rating service if A.M. Best & Company is no longer providing such types of ratings) and shall be countersigned by an agent of the insurer who is a licensed agent in the State. Such policies, or copies thereof, shall be held by NICTD as standing information for review by IFA, RDA and the Bond Trustee; *provided* that such policies shall be available for review by IFA, RDA and the Bond Trustee upon request, and shall be updated as changes are made to such policies. Such policies shall be subject to the requirement that in the event of a material reduction in policy limits or elimination of any coverages, NICTD will notify IFA, RDA and the Bond Trustee in writing by electronic or other means, with such notification including a description of the coverages so reduced or eliminated. If, at any time, NICTD fails to maintain insurance in accordance with Sections 8 and 10 hereof, such insurance may be obtained by IFA or RDA, or may be obtained by the Bond Trustee, and the amount paid for such insurance shall be payable by NICTD under this Operating Lease; *provided, however*, that neither IFA, RDA nor the Bond Trustee shall be under any obligation to obtain such insurance, and any action or non-action of RDA, IFA or the Bond Trustee in this regard shall not relieve NICTD of any consequences of a default in failing to obtain such insurance. The Bond Trustee shall be the loss payee on all casualty insurance required by this Operating Lease that becomes payable in respect of claims related to the Facilities.

Section 12. General Covenants.

(a) NICTD covenants that, except for Permitted Encumbrances and any liens, charges, encumbrances, or security interests created by an act or omission of RDA and/or IFA, it

will not mortgage, impose any lien or claim upon, or otherwise encumber the Lease Premises (whether actual, contingent or otherwise), or permit any mortgage, lien, claim or encumbrance to exist thereon, and that it shall use and maintain the Facilities in material compliance with the laws and ordinances of the United States of America, the State, and all other proper governmental authorities.

(b) Each party hereto agrees that it will, at the request of the other party, execute and deliver to or upon the request of the other party such instrument or instruments as may be reasonably required by such party in order to assure or confirm NICTD's interest in the Lease Premises pursuant to the terms hereof and shall also deliver, from time to time, such instrument or instruments as may be reasonably requested by the other party or any tenant or subtenant of NICTD with respect to the covenant of quiet enjoyment herein.

(c) RDA covenants that, except for Permitted Encumbrances and any liens, charges, encumbrances, or security interests created by an act or omission of NICTD and/or IFA, it will not mortgage, impose any lien or claim upon, or otherwise encumber the Lease Premises (whether actual, contingent or otherwise), or permit any mortgage, lien, claim or encumbrance to exist thereon, and that it shall use and maintain the Facilities in material compliance with the laws and ordinances of the United States of America, the State, and all other proper governmental authorities.

Section 13. Covenants Regarding the Bond Act; IFA Bonds. NICTD shall timely comply with all requirements of NICTD created by the Bond Act, the Governance Agreement, the Development Agreement and any agreement or certificate executed by NICTD in connection with the issuance of the IFA Bonds.

Section 14. Utility Service. NICTD agrees to pay or cause to be paid all charges for (a) sewer, gas, water, electricity, light, heat or power utilities and services, (b) telephonic, communication and other information services, (c) other utility and like services, and (d) regulatory, track and freight fees and other fees, costs and expenses associated with the use and operation of the Facilities that are used, rendered or supplied upon or in connection with the Facilities throughout the term of this Operating Lease.

Section 15. Environmental Laws Covenants.

(a) With respect to the Facilities, (i) NICTD shall at all times comply and follow commercially reasonable business practice to cause others to comply, in all material respects, with all Environmental Laws and all licenses, permits, certificates, approvals and similar authorizations issued to NICTD thereunder, and such operations shall not give rise to any liability pursuant to any Environmental Law, (ii) NICTD shall promptly notify RDA and IFA upon becoming aware of any investigation, proceeding, complaint, order, directive, claim, citation or written notice by any governmental authority or any other Person arising under or relating to any violation of any Environmental Law that is pending against NICTD or threatened in writing against NICTD and shall take prompt and appropriate actions to respond thereto and to cure such violation (if any) and (iii) NICTD shall promptly notify RDA and IFA upon becoming aware of any non-compliance with, or violation of, the requirements of any Environmental Law by NICTD in any material respect, or the release, spill, or discharge, threatened or actual, of any

Hazardous Material or the generation, use, storage, treatment, transportation, manufacture, handling, production or disposal of any Hazardous Material or any other environmental, health or safety matter, which affects or gives rise to a material liability upon NICTD or any liability upon IFA or RDA.

(b) NICTD shall not cause or permit the use, generation, release, manufacture, refining, production, processing, storage or disposal of any Hazardous Materials on, under or about the Facilities, or the transportation to or from the Facilities of any Hazardous Materials, except as necessary and appropriate for its Permitted Uses, in which case, the use, storage or disposal of such Hazardous Substances shall be performed in compliance with the Environmental Laws and the standards prevailing in the railroad industry and at comparable facilities. Notwithstanding anything contained herein to the contrary, IFA and RDA shall not have any liability to NICTD resulting from any conditions existing, or events occurring, or any Hazardous Materials existing or generated, at, in, on, under or in connection with this Operating Lease or the Facilities.

Section 16. Indemnity by NICTD. NICTD shall release, protect, defend, indemnify and hold harmless the RDA, IFA, the Bond Trustee, the Deposit Trustee, and their respective agents, employees, representatives and consultants, from and against any and all claims, causes of action, suits, judgments, demands, and/or losses, in each case if asserted or incurred by or awarded to any third party, arising out of or relating to or resulting from (a) NICTD's design, construction or operation of the Rail Projects or the South Shore Line, (b) any act, omission, negligence, or willful misconduct of NICTD, any of its Ancillary Users or anyone acting under its control or for whom it is legally responsible (c) failure of NICTD, or anyone acting under its control or for whom it is legally responsible, to perform or observe any requirement or obligation imposed by this Operating Lease and (d) arising out of any other act or occurrence within the Facilities. NICTD's indemnity obligation shall not extend to: (i) any third party claim to the extent directly caused by the negligence, recklessness, willful misconduct, or breach of any material obligation under this Operating Lease or the Governance Agreement by IFA or RDA, or (ii) any claims, causes of action, suits, judgments, demands, and/or losses resulting from any action of the RDA or IFA during an Operations Step-In Period or resulting from any actions taken by the RDA or IFA after the exercise of any Construction Period Step-In Rights; *provided*, however, that nothing herein shall relieve NICTD of responsibility to pay up to the Maximum NICTD Excess Cost Contribution for Excess Construction Costs irrespective of the exercise of Construction Period Step-In Rights. The RDA and IFA shall have no obligation to indemnify NICTD.

Section 17. No Broker. NICTD hereby represents and warrants that no brokers or third-party involved in the negotiation and execution of this Operating Lease is entitled, as a result of the actions of the respective party, to a commission or other fee resulting from the execution of this Operating Lease.

Section 18. Transfer to NICTD. To the extent provided in the Governance Agreement, upon the later of the termination of the Governance Agreement and the final and full payment of all IFA Bonds, this Operating Lease shall terminate.

Section 19. Title to Real Estate.

(a) NICTD shall cause a final, fully paid, leasehold title insurance policy to be issued for the benefit of RDA by no later than the date the IFA Bonds are to be issued by IFA. In the event NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities, then by no later than the date as of which construction of any such portion commences, NICTD shall cause (i) an endorsement to be issued to, and on substantially the same terms as, the leasehold title insurance policy referenced in the prior sentence (or an additional final, fully paid, leasehold title insurance policy to be issued on substantially the same terms as the leasehold title insurance policy referenced in the prior sentence) to identify and insure thereunder any such necessary increase in the real estate described in Exhibit A and (ii) a Supplemental Operating Lease to be entered into in substantially the form set forth in Exhibit B in respect of such Real Estate; provided that such additional Real Estate is also added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.

(b) NICTD represents and warrants that it has a good and indefeasible estate in fee simple to all of the Real Estate, subject only to Permitted Encumbrances.

Section 20. Defaults; Remedies.

(a) If there is any NICTD uncured Event of Default (including any default in the observance of any other covenant, agreement or condition contained in this Operating Lease) (each an "Event of Default"), RDA may proceed to protect and enforce its rights, either at law or in equity, by suit, action, mandamus or other proceedings, whether for specific performance of any covenant or agreement contained herein or for the enforcement of any other appropriate legal or equitable remedy (as contained in the Governance Agreement as may relate to this Operating Lease and such Event of Default); *provided* that all such rights and remedies taken in respect of this Operating Lease and any such Event of Default shall only be undertaken and pursued by RDA in strict conformity with this Section and the requirements and limitations set forth in the Governance Agreement.

(b) Except for extensions of time resulting from a Force Majeure event that are allowed in the Governance Agreement, time is of the essence of each term and provision of this Operating Lease to be observed by NICTD hereunder.

(c) If RDA shall fail to perform any term, condition, covenant or obligation required to be performed by it under this Operating Lease, NICTD may pursue a claim for specific performance. If RDA shall fail to perform any term, condition, covenant or obligation required to be performed by it under this Operating Lease and if NICTD shall, as a consequence thereof, recover a money judgment against RDA and/or IFA, NICTD agrees that (i) it shall look solely to RDA's and IFA's right, title and interest in and to the Lease Premises (which shall not include any right to set-off related to any payment due to RDA or IFA as required by the Governance Agreement, the Development Agreement, this Operating Lease, the Underlying Lease, the Master Leases, the Ground Lease and/or any documents related thereto) for the collection of such judgment, (ii) it shall not look to any other assets of RDA and/or IFA in the levy, execution or other process for the satisfaction of NICTD's judgment, and (iii) it shall not enforce any execution or other process for the satisfaction of NICTD's judgment, unless such does not: (A) materially reduce the rental value of the Lease Premises; (B) adversely affect the Continuing

Rent Obligation; or (C) materially and adversely affect any obligation that is required to be met by NICTD pursuant to applicable laws (including the Bond Act) and requirements of the Governance Agreement, the Development Agreement, this Operating Lease the Underlying Lease, the Master Leases, the Ground Lease and/or any documents related thereto.

(d) Neither party's failure or delay in exercising any of its rights or remedies or other provisions of this Operating Lease shall constitute a waiver thereof or affect its right thereafter to exercise or enforce such right or remedy or other provision. No waiver of any default shall be deemed to be a waiver of any other default. RDA's receipt of less than the full amount due as herein provided shall not be construed to be other than a payment on account of such amount then due, nor shall any statement on NICTD's check or any letter accompanying NICTD's check be deemed an accord and satisfaction. No act or omission by RDA (or IFA) or their respective employees or agents during the term of this Operating Lease shall be deemed an acceptance of a surrender of the Lease Premises hereunder, and no agreement to accept such a surrender shall be valid unless in writing and signed by RDA and IFA.

(e) Notwithstanding anything herein, IFA may proceed to protect and enforce any rights or interests of RDA or IFA under this Operating Lease in its own name or on behalf of RDA in the name of RDA in its place and stead.

Section 21. Notices.

(a) All notices, certificates, requests or other communications required hereunder shall be sufficient only if given in writing, prior to the matter requiring notice and shall be deemed given (i) one (1) business day after being deposited for next day delivery; (ii) three (3) business days after mailing when mailed by registered or certified mail, return receipt requested, postage prepaid, or (iii) the same day if hand delivered (or if sent by both facsimile and email) during a business day, addressed as follows:

To RDA: Northwest Indiana Regional Development Authority
9800 Connecticut Drive
Crown Point, IN 46307
Attention: President

With a Copy to: Ice Miller LLP
One American Square 2900
Indianapolis, IN 46282

To IFA: Indiana Finance Authority
1 North Capitol, Suite 900
Indianapolis, Indiana 46204
Attention: Public Finance Director of the State of Indiana
and General Counsel
Facsimile (317) 232-6786 / Electronic mail (to
DHuge@ifa.IN.gov; and ASeiwert@ifa.IN.gov)

To NICTD: Northern Indiana Commuter Transportation District

33 East U.S. Highway 12
Chesterton, Indiana 46304
Attention: President and/or Chief Executive Officer

With a Copy to: Northern Indiana Commuter Transportation District
33 E. US Highway 12
Chesterton, IN 46304
Attention: Office of General Counsel

(b) Any party hereunder may, by notice given hereunder, designate any further or different addressees to which subsequent notices, certificates, requests or other communications shall be sent.

Section 22. Construction of Covenants. All provisions contained herein shall be construed in accordance with the provisions of the Bond Act, the Governance Agreement and the Development Agreement and to the extent of any material inconsistencies between the covenants and agreements in this Operating Lease, the Governance Agreement, and the Development Agreement and the provisions of the Bond Act, the provisions of the Bond Act, then the Governance Agreement, then this Operating Lease, and then the Development Agreement, shall be deemed to be controlling and binding upon the parties.

Section 23. Supplemental Operating Leases. RDA and NICTD may, from time to time hereafter, enter into one or more Supplemental Operating Leases, each of which: (a) shall provide that all covenants contained in this Operating Lease shall be unitary and include all parts of the Lease Premises, whether leased pursuant to this original Operating Lease or pursuant to any Supplemental Operating Lease (*provided* that the foregoing shall not limit or restrict the parties from having differing covenants and obligations applicable to any Supplemental Operating Leases related to portions of the Rail Project NICTD proposes to be constructed that are not within the existing boundaries of the Facilities); and (b) may contain such other covenants and agreements as the parties thereto agree upon.

Section 24. No Personal Liability. No recourse shall be had for any payment due under this Operating Lease or for any claim based thereon or upon any obligation, covenant or agreement in this Operating Lease contained against any past, present or future member, officer, employee, agent or official of IFA, RDA or NICTD, or any successor thereof, either directly or through IFA, RDA or NICTD, or any successor thereof, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability for any such person is hereby expressly waived and released as a condition of and consideration for the execution of this Operating Lease and issuance of the IFA Bonds.

Section 25. Successors or Assigns; Use Restrictions.

(a) All covenants of this Operating Lease, whether by RDA or NICTD, shall inure to the benefit of and be binding upon the permitted successors and assigns of the respective parties hereto. This Operating Lease shall not be assigned by NICTD without the prior written consent of RDA and IFA, and in such event the assignor shall not be relieved of its obligations hereunder unless permitted by RDA and IFA. This Operating Lease may be assigned by RDA to IFA

without the prior written consent of NICTD as and to the extent permitted by the Bond Act. Any assignment in contravention of this Section shall be null and void *ab initio*.

(b) Notwithstanding any other provision of this Operating Lease to the contrary, NICTD covenants that it: (a) will not use or permit the Facilities or any portion thereof for any private business use within the meaning of Section 141(b)(6) of the Internal Revenue Code of 1986, as amended from time to time, without the prior written consent of an Authorized Officer of IFA, which consent shall not be unreasonably withheld, and (b) will comply with Section 148(f) of the Internal Revenue Code of 1986, as amended from time to time. Any agreement entered into by NICTD in violation of this Section 25 shall be of no force or effect and shall not convey any rights or impose any obligation in respect to it, at law or in equity.

(c) Requests for consent to private business use shall be sent in writing by NICTD to IFA and RDA. Each such request shall include a final draft of the proposed conveyance, lease, sublease, management or incentive payment contract, license or other agreement that may give rise to such private business use, together with a description of the timing and the rationale for entering into such agreement (the "Proposed Private Business Use"). IFA and RDA shall conduct their review and approve or reject, in writing, such request within 30 days of receipt. If no response is made to a request for consent to private business use within 30 days of receipt, then NICTD shall provide additional written notice to IFA and RDA that the Proposed Private Business Use will be deemed to be approved. If no response to this additional written notice is received within three business days of receipt of the additional written notice by IFA and RDA, then the request shall be deemed approved. In the event a request for consent to private business use is deemed approved, NICTD shall have the right to proceed as though consent to the Proposed Private Business Use was expressly provided by IFA and RDA. In any event, upon the execution and delivery by NICTD of any such agreement, NICTD shall provide IFA and RDA a copy of such executed agreement within 10 business days of the execution thereof.

Section 26. Validity. All terms, covenants and conditions contained in this Operating Lease shall include all parts of the Facilities, whether leased pursuant to the original Operating Lease or pursuant to any Supplemental Operating Lease thereto.

Section 27. Severability; Complete Agreement; Counterparts; Survival of Terms; Governing Law; Etc.

(a) All the covenants, agreements, terms and conditions required under the laws of the State, including the Bond Act, to be included in any lease entered into under Indiana Code 5-1.3-5 are incorporated herein by this reference.

(b) In case any section or provision of this Operating Lease, or any covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Operating Lease, or any application thereof, is for any reason held to be illegal or invalid, or is at any time inoperable, that illegality, invalidity or inoperability shall not affect the remainder thereof or any other section or provision of this Operating Lease or any other covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Operating Lease, which shall be construed and enforced as if that illegal, invalid or inoperable portion were not contained herein. Any such illegality, invalidity or

inoperability of any application thereof shall not affect any legal, valid and operable application thereof, and each such section, provision, covenant, stipulation, obligation, agreement, act or action, or part thereof, shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent from time to time permitted by law.

(c) This Operating Lease represents the entire agreement between RDA and NICTD covering everything agreed upon or understood in the creation of the estate created by this Operating Lease and related transactional matters; *provided*, however, that the parties contemplate and agree that the provisions of the Governance Agreement, the Development Agreement, the other Leases and/or any documents related thereto contain related undertakings and such shall be given their full meaning and effect. There are no oral promises, conditions, representations, understandings, interpretations or terms of any kind as conditions or inducements to the execution hereof or in effect between the parties. No change or addition shall be made to this Operating Lease except by a written agreement executed by RDA and NICTD.

(d) The parties each acknowledge that the terms and conditions of this Operating Lease have been the subject of active and complete negotiations represented by competent professional counsel and advisors, and that such terms and conditions should not be construed in favor of or against any party by reason of the extent to which any party or its professional counsel and advisors participated in the preparation of this Operating Lease.

(e) This Operating Lease may be executed in duplicate counterparts, each of which shall be deemed an original and both of which together shall constitute one and the same instrument.

(f) The covenants and obligations under Sections 6, 13, 15, 16, 20, and 24 hereof shall survive the expiration or earlier termination of this Operating Lease.

(g) This Operating Lease shall be construed according to, and subject to, the laws of the State.

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IN WITNESS WHEREOF, the parties hereto have caused this Operating Lease to be executed for and on their behalf as of the day and year first hereinabove written.

"RDA"

**NORTHWEST INDIANA REGIONAL
DEVELOPMENT AUTHORITY, AS
LESSOR**

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

[REMAINDER OF PAGE LEFT BLANK]

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, personally known by me to be the _____ and _____, respectively, of the Northwest Indiana Regional Development Authority ("RDA"), and acknowledged the execution of the foregoing Operating Lease Agreement (West Lake Project) for and on behalf of RDA.

WITNESS my hand and Notarial Seal this ____ day of _____ 20__.

(Seal)

(Written Signature)

(Printed Signature)
Notary Public

My Commission expires:

My county of residence is:

"NICTD"

**NORTHERN INDIANA COMMUTER
TRANSPORTATION DISTRICT, AS
LESSEE**

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, personally known by me to be the _____ and _____, respectively, of the Northern Indiana Commuter Transportation District ("NICTD"), and acknowledged the execution of the foregoing Operating Lease Agreement (West Lake Project) for and on behalf of NICTD.

WITNESS my hand and Notarial Seal this _____ day of _____, 20__.

(Seal)

(Written Signature)

(Printed Signature)

Notary Public

My Commission expires:

My county of residence is:

[REMAINDER OF PAGE LEFT BLANK]

This instrument prepared by: Philip C Genetos, Ice Miller LLP, One American Square, Suite 2900, Indianapolis, IN 46282

I affirm under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. Philip C Genetos

EXHIBIT A

LEGAL DESCRIPTION AND MAP OF THE REAL ESTATE

Map of the Real Estate. Real property in _____
_____, as depicted as follows:

[End of Exhibit A]

EXHIBIT B
FORM OF
SUPPLEMENTAL OPERATING LEASE AGREEMENT (WEST LAKE PROJECT)
BETWEEN
NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY
AND
NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT

SUPPLEMENTAL OPERATING LEASE AGREEMENT (WEST LAKE PROJECT)
BETWEEN
NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY
AND
NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT

This SUPPLEMENTAL OPERATING LEASE AGREEMENT (WEST LAKE PROJECT) (this "Supplemental Operating Lease"), entered into as of this ____ day of _____, 20__, between the NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY, a separate body corporate and politic formed pursuant to Indiana Code 36-7, as supplemented and amended from time to time ("RDA"), and the NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT, a commuter transportation district and a municipal corporation formed pursuant to Indiana Code 8-5-15, as supplemented and amended from time to time ("NICTD").

WITNESSETH:

WHEREAS, NICTD entered into an Operating Lease Agreement (West Lake Project) with RDA dated as of _____, 20__ (the "Operating Lease"); and

WHEREAS, all terms not otherwise defined in this Supplemental Operating Lease shall have the meanings ascribed to them in the Operating Lease; and

[WHEREAS, it is provided in the Operating Lease that after the Commencement Date, for any portion of the Lease Premises, in the event such portion shall be damaged or destroyed or taken, so as to render such portion unavailable for use by NICTD, or shall for any other reason become unavailable for use by NICTD, RDA may add additional Lease Premises to the Operating Lease pursuant to a Supplemental Operating Lease so that there is no interruption in the lease rentals payable by NICTD to RDA pursuant to the Operating Lease; provided that such additional Lease Premises are also added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases; and]

[WHEREAS, it is provided in the Operating Lease that in the event NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities, then by no later than the date as of which construction of any such portions commences, NICTD shall cause a Supplemental Operating Lease to be entered into for the purpose of adding to the Real Estate the pertinent real estate on which such portions of the Rail Project shall be located; provided that such additional Real Estate is also added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases; and]

[WHEREAS, it is provided in the Operating Lease that when the Rail Improvements are complete and ready for use as part of the Rail Project, the parties shall revise and increase the real estate described in Exhibit A to the Operating Lease, if necessary to reflect the final site location acquired for the Rail Project and upon which the Rail Improvements as part of the Rail Project have been constructed; provided that such additional Real Estate is also added

to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases; and]

[WHEREAS, it is provided in the Operating Lease that RDA and NICTD may enter into one or more Supplemental Operating Leases, each of which: (1) shall provide that all covenants contained in the Operating Lease shall be unitary and include all parts of the Lease Premises, whether leased pursuant to the Operating Lease or pursuant to any Supplemental Operating Lease (*provided* that the foregoing shall not limit or restrict the parties from having differing covenants and obligations applicable to any Supplemental Operating Leases related to portions of the Rail Project NICTD proposes to be constructed that are not within the existing boundaries of the Facilities); and (2) may contain such other covenants and agreements as the parties thereto agree upon.]

NOW, THEREFORE, IT IS HEREBY AGREED, CERTIFIED AND STIPULATED by the undersigned as follows:

[Section 1. Addition to Real Estate After Commencement Date. Certain portions of the Lease Premises have been damaged or destroyed, thereby rendering such portions unavailable for use by NICTD, or have otherwise become unavailable for use by NICTD. NICTD has added additional Lease Premises to the Ground Lease pursuant to a Supplemental Ground Lease. Therefore, the Lease Premises set forth in Exhibit A to the Operating Lease shall be hereafter amended to read as set forth in Appendix I attached hereto, so that RDA may lease such additional Lease Premises to NICTD pursuant to this Supplemental Operating Lease, thereby resulting in no interruption in the lease rentals payable by NICTD to RDA pursuant to the Operating Lease. Such additional Lease Premises are also being added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.

[Section . Addition to Real Estate Prior to Construction. NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities set forth in Exhibit A to the Operating Lease. Therefore, the boundaries of the Facilities set forth in Exhibit A to the Operating Lease shall be hereafter amended to read as set forth in Appendix I attached hereto, which revised boundaries shall include the pertinent real estate on which such portions of the Rail Project shall be located. Such additional Real Estate is also being added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.]

[Section . Addition to Real Estate After Construction. Certain Rail Improvements are now complete and ready for use as part of the Rail Project, and it is now necessary to revise or increase the real estate described in Exhibit A to the Operating Lease, because such Exhibit A does not reflect the final site location acquired for the Rail Project and upon which the Rail Improvements as part of the Rail Project have been constructed. Therefore, for such purpose, Exhibit A to the Operating Lease shall be hereafter amended to read as set forth in Appendix I attached hereto. Such additional Real Estate is also being added to the Underlying Lease, one or

more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.]

Section __. All covenants contained in the Operating Lease, including this Supplemental Operating Lease, shall be unitary and include all parts of the Lease Premises, whether leased pursuant to the Operating Lease or pursuant to any Supplemental Operating Lease.

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IN WITNESS WHEREOF, the undersigned have caused this Supplemental Operating Lease to be executed for and on their behalf as of the day and year first above written.

"RDA"

NORTHWEST INDIANA REGIONAL
DEVELOPMENT AUTHORITY

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

"NICTD"

NORTHERN INDIANA COMMUTER
TRANSPORTATION DISTRICT

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

This instrument prepared by: _____

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, personally known by me to be the _____ and _____, respectively, of the Northwest Indiana Regional Development Authority ("RDA"), and acknowledged the execution of the foregoing Supplemental Operating Lease Agreement (West Lake Project) for and on behalf of RDA.

WITNESS my hand and Notarial Seal this ____ day of _____, 20__.

(Seal)

(Written Signature)

(Printed Signature)

Notary Public

My Commission expires:

My county of residence is:

[REMAINDER OF PAGE LEFT BLANK]

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, personally known by me to be the _____ and _____, respectively, of the Northern Indiana Commuter Transportation District ("NICTD"), and acknowledged the execution of the foregoing Supplemental Operating Lease Agreement (West Lake Project) for and on behalf of NICTD.

WITNESS my hand and Notarial Seal this ____ day of _____, 20__.

(Seal)

(Written Signature)

(Printed Signature)

Notary Public

My Commission expires:

My county of residence is:

[REMAINDER OF PAGE LEFT BLANK]

[APPENDIX I

LEGAL DESCRIPTION AND MAP OF THE REAL ESTATE]

GROUND LEASE AGREEMENT (WEST LAKE PROJECT)

between

NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT

as Lessor

and

NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY

as Lessee

Dated as of _____ 1, 20__

INDEX

	<u>Page</u>
Section 1.	Definitions; Interpretation3
Section 2.	Ground Lease of Facilities8
Section 3.	Supplements; Nature of Obligations9
Section 4.	Nature of Ground Lease9
Section 5.	Nonliability of IFA or RDA.....10
Section 6.	Construction; Repairs and Maintenance; Alteration; Operations; Equipment or Furnishings10
Section 7.	Insurance12
Section 8.	Use of Insurance and Condemnation Proceeds13
Section 9.	Liability Insurance13
Section 10.	General Insurance Provisions.....14
Section 11.	General Covenants14
Section 12.	Covenants Regarding the Bond Act; IFA Bonds15
Section 13.	Utility Service15
Section 14.	Environmental Laws Covenants15
Section 15.	Indemnity by NICTD15
Section 16.	No Broker15
Section 17.	Transfer to NICTD.....16
Section 18.	Title to Real Estate16
Section 19.	Defaults; Remedies16
Section 20.	Notices.....18
Section 21.	Construction of Covenants.....18
Section 22.	Supplemental Ground Leases.....19
Section 23.	No Personal Liability19
Section 24.	Successors or Assigns; Use Restrictions.....19
Section 25.	Validity.....20
Section 26.	Severability; Complete Agreement; Counterparts; Survival of Terms; Governing Law; Etc20
Exhibit A	Legal Description and Map of the Real Estate
Exhibit B	Form of Supplemental Ground Lease Agreement (West Lake Project) between Northern Indiana Commuter Transportation District and Northwest Indiana Regional Development Authority

GROUND LEASE AGREEMENT (WEST LAKE PROJECT)

This Ground Lease Agreement (West Lake Project) (this "Ground Lease") is entered into this ____ day of _____, 20__, between the NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT, a commuter transportation district and a municipal corporation formed pursuant to Indiana Code 8-5-15, as amended ("NICTD"), and the NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY, a separate body corporate and politic formed pursuant to Indiana Code 36-7.5, as supplemented and amended from time to time ("RDA").

RECITALS

1. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the hereinafter defined Governance Agreement;
2. The South Shore Line is a commuter train service between South Bend, Indiana and Millennium Station in Chicago, Illinois;
3. NICTD has owned and operated the South Shore Line for nearly forty years and has experience in developing capital rail projects for the South Shore Line and in requesting, obtaining and managing federal grant funds through the Federal Transit Administration;
4. RDA fosters development in northwest Indiana and has since its inception fostered economic development throughout northwest Indiana and has been vested pursuant to IC 36-7.5-4-18 with certain powers and duties with respect to the Rail Project;
5. IFA oversees State debt issuance and provides effective financing solutions to facilitate State, local and business investment in the State and has participated in numerous important economic development activities throughout the State;
6. RDA and NICTD have developed and advanced plans for improvements to the South Shore Line, specifically the Double Track Project and the West Lake Corridor Project, which will improve the South Shore Line and foster economic development throughout northwest and north central Indiana by shortening commute times, providing new rail service to areas not serviced by rail transportation to Chicago, enhancing the economic and community development of the northwest Indiana region, and increasing the convenience to the areas served;
7. RDA has determined that providing assistance to the Rail Project in the manner herein provided serves a public purpose for which RDA was created;
8. The Rail Project is expected to encourage business investment in and near the station areas, provide faster, less expensive and reliable transportation, relieve existing and anticipated traffic congestion, reduce vehicular emissions, reduce commuting costs and attract and retain families and younger residents in northwest and north central Indiana;
9. The Rail Project is expected to provide faster travel times, accommodate more trains to improve service during rush hour travel and be safer to operate;

10. RDA, IFA and NICTD have identified and obtained committed local and State funding for the Rail Project;

11. NICTD has applied for necessary federal grant funding from FTA on behalf of RDA and the State, and in its capacity as the grantee, and as the signatory party to that certain Full Funding Grant Agreement with FTA, will maintain continuing control of the assets receiving FTA funding, subject to the terms of the Governance Agreement, the Development Agreement, if any, this Ground Lease and the other leases described herein;

12. The Parties desire to jointly complete FTA grant application processes for the West Lake Corridor Project, in order to facilitate the further development, design, construction and financing of the West Lake Corridor Project as improvements to the South Shore Line commuter rail system;

13. Any obligations of RDA or IFA shall not constitute a debt of the State or any municipality, or a pledge of the full faith and credit thereof, under the Constitution of the State;

14. Providing financial support to the Rail Project and the development and operation thereof are valid public purposes of RDA, IFA and NICTD, will contribute importantly to the economic and community development of northwest Indiana and will benefit the citizens of northwest Indiana;

15. In connection with the IFA Bonds, RDA, NICTD, and IFA are required to enter into one or more leases for the purpose of providing for the issuance and repayment of the IFA Bonds;

16. The funding for the payment of lease rentals by RDA for payment of the IFA Bonds will be provided from State appropriations, FTA Grant Reimbursements, moneys on deposit in the next generation trust fund established under IC 8-14-15.2 and Available Revenues;

17. NICTD expects that FTA funding will fund a portion of the costs of the Rail Project, subject to local funding of the remaining share;

18. NICTD, RDA, and IFA intend to enter into the Revenue Trust Fund Agreement with the Deposit Trustee and the Bond Trustee for the purposes of receiving and safeguarding substantially all funds for the Rail Project, including substantially all funding sources to be used to pay lease rentals;

19. RDA and IFA are willing to assist NICTD in providing a mechanism to fund the Rail Project pursuant and subject to the Governance Agreement and the Development Agreement and to comply with and advance the public purposes described herein;

20. In connection therewith and subject to this Ground Lease, certain Real Estate and Rail Improvements will be leased by NICTD to RDA pursuant to this Ground Lease, then leased by RDA to IFA pursuant to the Underlying Lease, then leased by IFA to RDA pursuant to the Master Leases, and then leased by RDA to NICTD pursuant to the Operating Lease, and IFA will issue the IFA Bonds and cause certain proceeds thereof to be made available to NICTD to pay costs incurred in undertaking the Rail Project;

21. Contemporaneous with or subsequent to the commencement of existence of the leasehold estate under this Ground Lease, RDA and IFA shall cause the Underlying Lease, IFA and RDA shall cause the Master Leases, and RDA and NICTD shall cause the Operating Lease, to each be effective; and

22. NICTD acknowledges that IFA's and RDA's right of occupancy and continuous possession of the Real Estate (and the Rail Improvements) and its lawful right to lease the Real Estate (and the Rail Improvements) throughout the stated term of this Ground Lease are essential to the funding mechanism for the Rail Project and the realization of the public purposes described herein.

WITNESSETH:

In consideration of the mutual covenants herein contained, the parties hereto hereby agree as follows:

Section 1. Definitions; Interpretation.

(a) The terms defined in this Section shall for all purposes of this Ground Lease have the meanings herein specified unless the context otherwise requires.

"Ancillary Users" means any party that uses or has any interest in users of the Facilities of any kind whatsoever (including any subtenants, occupants, employees, agents, contractors, customers or invitees of NICTD).

"Authorized Officer of IFA" means the Chair of IFA or the Public Finance Director of the State of Indiana and, with reference to any act or document, also means any other person authorized by a resolution of IFA to perform such act or to sign such document.

"Authorized Officer of NICTD" means President of NICTD and, with reference to any act or document, also means any other person authorized by a resolution of NICTD to perform such act or to sign such document.

"Authorized Officer of RDA" means the Chair or the Chief Executive Officer of RDA and, with reference to any act or document, also means any other person authorized by a resolution of RDA to perform such act or to sign such document.

"Available Revenues" means any available revenues of RDA, including, without limitation: (a) the portion of the annual payments to RDA from the Cities of Gary, East Chicago and Hammond and the Counties of Lake and Porter due under Indiana Code 6-3.6-6-9, Indiana Code 36-7.5-4-2 and Indiana Code 6-3.6-11-6(b); (b) amounts withheld by the auditor of State from certain municipalities within Lake County, as determined by the Indiana Department of Local Government Finance, and paid to the Secretary-Treasurer of RDA pursuant to Indiana Code 6-3.6-11-5.5; and (c) revenues derived from the Interlocal Agreements or from other actions taken by certain municipalities within Lake County offering to provide revenue to support and finance the Rail Project pursuant to Indiana Code 6-3.6-11-7. Notwithstanding the above definition, with respect to the initial series of IFA Bonds purchased by the State Treasurer as provided in IC 5-13-10.5-20, which are secured by rental payments to be made pursuant to the

RDA Available Revenues Master Lease Agreement (West Lake Project), to the extent provided in IC 36-7.5-4-21, it is understood that available revenues of RDA only include those sources described in clause (a) above.

"Biennium" means the biennium used for State budgetary and appropriation purposes.

"Bond Act" means Indiana Code 5-1.3, as amended or supplemented, or any successor thereto.

"Bond Trustee" means the trustee serving as such with respect to the IFA Bonds.

"Completion Certificate" for the Facilities or any portion thereof means a certificate (a) executed by an Authorized Officer of NICTD certifying that such Facilities or such portion thereof is available for use by RDA and (b) accepted by an Authorized Officer of RDA acknowledging that such Facilities or such portion thereof is available for use by RDA.

"Concurrence" means the written concurrence of the Authorized Officer of IFA and the Authorized Officer of RDA to the referred approval or other action of NICTD pursuant to the Governance Agreement, the Development Agreement or the Leases; *provided* that:

(a) concurrence may be withheld or delayed if the Authorized Officer of IFA and/or the Authorized Officer of RDA determines a referenced action (i) may adversely affect the Continuing Rent Obligation and (ii) be inconsistent with applicable laws (and the requirements of the Governance Agreement, the Development Agreement, the Leases and/or any documents related thereto);

(b) concurrence when given shall not be deemed to estop or otherwise waive IFA's and/or RDA's right to later assert or enforce any requirement under the Governance Agreement, the Development Agreement, the Leases, and/or any documents related thereto, including IFA's and RDA's ability to seek claims, damages, losses and expenses, including attorneys' fees and other IFA and RDA costs arising out of or resulting from the action of NICTD for which concurrence has been given; and

(c) concurrence when given and later found to be contrary to any requirement under the Governance Agreement, the Development Agreement, the Leases and/or any documents related thereto shall not expose NICTD to a claim or assertion that such failure is, in and of itself, a failure to obtain a concurrence in the first instance and, as such, without having received a concurrence, a basis for a NICTD Event of Default. To the extent NICTD receives Concurrence under this Ground Lease it shall be able to rely upon such Concurrence.

"Continuing Rent Obligation" means (a) RDA's obligation under the Master Leases to continue to pay the Master Leases Rental and (b) NICTD's obligation under the Operating Lease to continue to pay the Operating Lease Rental, each without delay or diminution as to amount.

"Deposit Trustee" means the trustee bank acting as the Deposit Trustee under the Revenue Trust Fund Agreement.

"Development Agreement" means any development agreement entered into by NICTD, RDA and IFA for the purpose of governing the completion of the Rail Project in a manner consistent with and as contemplated by the Governance Agreement.

"Double Track Project" means the addition of an east/west rail line for a portion of the South Shore Line from Gary to Michigan City and related improvements, all as more fully described in Exhibit 1 of the Governance Agreement.

"Environmental Laws" means all federal, state and local statutes, common law principles, rules, regulations, ordinances, permits, licenses, written approvals, orders, writs, injunctions, judgments and consent decrees relating to pollution control, protection of environmental quality, or protection of the health or safety of workers or the public from exposure to Hazardous Materials, including laws relating to emissions, discharges, releases or threatened releases of pollutants, contaminants, chemicals, or hazardous, toxic or dangerous substances, materials or wastes in the environment (including ambient air, surface water, ground water, land surface or subsurface strata) or otherwise relating to the generation, manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials. Without limiting the generality of the foregoing, "Environmental Laws" shall encompass any "Superfund" or "Superlien" Law (including those otherwise referenced in this definition) and each of the following statutes and the regulations promulgated thereunder, in any similar applicable federal, state or local law, rule or regulation, each as amended: (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980; (ii) the Solid Waste Disposal Act; (iii) the Hazardous Materials Transportation Act; (iv) the Toxic Substances Control Act; (v) the Clean Water Act; (vi) the Clean Air Act; (vii) the Safe Drinking Water Act; (viii) the National Environmental Policy Act of 1969; (ix) the Superfund Amendments and Reauthorization Act of 1986; (x) Title III of the Superfund Amendments and Reauthorization Act of 1986; (xi) the Federal Insecticide, Fungicide and Rodenticide Act; (xii) provisions of the Occupational Safety and Health Act of 1970 relating to the handling of and exposure to Hazardous Materials; and (xiii) any state or local analogue to any of the foregoing.

"Facilities" means the Real Estate and the Rail Improvements.

"FFGA" means the grant agreement awarded by FTA for the Rail Project.

"Force Majeure" shall have the meaning ascribed to such term in the Governance Agreement.

"FTA" means the Federal Transit Administration.

"FTA Grant Reimbursements" means funds received from FTA as reimbursement for expenditures by the Parties for moneys spent on one or both of the projects constituting the Rail Project pursuant to the FFGA for the Rail Project.

"Governance Agreement" means the Governance Agreement effective as of [_____, 2018], 2018, by and between NICTD, RDA and the IFA, as from time to time amended or supplemented in accordance with its terms.

"Ground Lease" means this Ground Lease Agreement (West Lake Project) as the same may be amended, modified or supplemented by any amendments or modifications hereof and supplements hereto entered into in accordance with the provisions hereof.

"Hazardous Materials" means any hazardous, toxic or dangerous substance, material and waste, including petroleum and hydrocarbon compounds derived from petroleum (including naturally occurring or man-made petroleum and derivative hydrocarbons), flammable explosives, asbestos, urea formaldehyde insulation, radioactive materials, polychlorinated biphenyls, pesticides, herbicides and any other kind and/or type of pollutants or contaminants (including materials which include hazardous constituents), sewage, sludge, solvents and/or any other similar substances, materials or wastes that are or become regulated under any Environmental Law as hazardous or toxic.

"IC" means the Title, Article, Chapter and/or Section of the Indiana Code as referenced, and as such may be supplemented, amended or replaced from time to time.

"IFA" means the Indiana Finance Authority, a body politic and corporate, not a State agency, but an independent instrumentality exercising essential public functions, organized and existing under IC 5-1.2, or if said Indiana Finance Authority shall be abolished, the board, body, commission or agency succeeding to the principal functions thereof.

"IFA Bonds" means one or more series of bonds, notes or other similar obligations issued under IC 5-1.3-1 *et seq.* to finance or refinance all or a portion of the costs for the Rail Project;

"Including" or "including" in this Ground Lease shall be construed as if followed by the phrase "without limitation" or "but not limited to".

"Lease Premises" means the leasehold estate and interests created by and pursuant to this Ground Lease, including, without limitation, the leasing of the Facilities, as the same may be amended and modified from time to time as needed for the Rail Project in the manner as provided for in the Leases.

"Leases" means, collectively, this Ground Lease, the Underlying Lease, the Master Leases and the Operating Lease.

"Master Leases" means the various leases from IFA to RDA in support of the IFA Bonds, including specifically the State Appropriation Master Lease Agreement (West Lake Project), the RDA Available Revenues Master Lease Agreement (West Lake Project) and the Federal Grant Anticipation Master Lease Agreement (West Lake Project), each as from time to time amended or supplemented by any amendment or supplement thereto, including any supplemental memorandum of lease recorded in connection therewith.

"Master Leases Rental" means the rental payments payable by RDA as provided in the Master Leases.

"Operating Lease" means the Operating Lease, dated as of _____ 1, 20__, from RDA to NICTD as from time to time amended or supplemented by any amendment or

supplement thereto, including any supplemental memorandum of lease recorded in connection therewith.

"Operating Lease Rental" means the rental payments payable by NICTD as provided in the Operating Lease.

"Parties" means IFA, NICTD and RDA.

"Permitted Encumbrances" means (a) this Ground Lease, the Underlying Lease, the Master Leases and the Operating Lease, (b) utility, access and other easements, licenses and rights of way, covenants, conditions and restrictions, and other exceptions to title, which in each case will not materially and adversely affect the construction, development and operation of the Rail Project as contemplated by this Ground Lease or materially impair the interest of IFA, RDA or NICTD in, or its use of, the Facilities, (c) any liens to the extent permitted in this Ground Lease, and (d) any other liens which are not prohibited under this Ground Lease, but only if in the opinion of counsel satisfactory to IFA and the Bond Trustee, such liens do not materially impair the interest of IFA, RDA or NICTD in, or its use of, the Facilities.

"Permitted Uses" means any use permitted under the Governance Agreement, subject to Section 24(b) hereof.

"Rail Project" means the West Lake Corridor Project, as defined in IC 5-1.3-2-14 and IC 36-7.5-1-13.5.

"Rail Improvements" means the existing improvements located on the Real Estate, together with any new improvements constructed (or placed for use) on the Real Estate, whether as part of the Rail Project or otherwise.

"Real Estate" means the real property described in Exhibit A attached hereto, as the same may be amended or modified in the manner provided herein and the other Leases.

"Revenue Trust Fund" means the development authority revenue fund established under the Revenue Trust Fund Agreement.

"Revenue Trust Fund Agreement" means the Revenue Trust Fund Agreement, dated as of August 1, 2018, entered into by and among RDA, IFA, NICTD, the Bond Trustee, and the Deposit Trustee in connection with the Revenue Trust Fund.

"State" means the State of Indiana.

"Supplemental Ground Lease" means any Ground Lease supplemental to this Ground Lease entered into in accordance herewith and substantially in the form set forth in Exhibit B.

"Trust Indenture" means the Trust Indentures to be entered into between IFA and the Bond Trustee relating to the IFA Bonds, and all supplements and amendments thereto.

"West Lake Corridor Project" means an approximately eight (8) mile new north/south passenger rail line connected to the existing South Shore Line located in Lake County, Indiana,

with four stations from and including Hammond (Gateway Station) to and including Munster/Dyer (Main Street Station, including all property owned or leased by NICTD for the operation of the South Shore Line over the West Lake Corridor Project), all as more fully described in Exhibit 2 of the Governance Agreement.

(b) The terms "herein", "hereto", "hereunder" and all terms of similar import shall be deemed to refer to this Ground Lease as a whole rather than to any Section or Exhibit to this Ground Lease.

(c) Unless otherwise specified, references in this Ground Lease to (i) "Section ___" shall be deemed to refer to the Section of this Ground Lease bearing the number so specified, (ii) "Exhibit ___" shall be deemed to refer to the Exhibit of this Ground Lease bearing the letter or number so specified, and (iii) this "Ground Lease" means this Ground Lease and any exhibits and attachments hereto.

(d) Captions used for or in Sections and Exhibits of this Ground Lease are for convenience of reference only and shall not affect the construction of this Ground Lease.

Section 2. Ground Lease of Facilities.

(a) In consideration of certain payments and other terms and conditions herein specified, NICTD does hereby lease, demise and let to RDA the Facilities (such constituting a part of the Lease Premises), to have and to hold the same with all rights, privileges, easements and appurtenances thereunto belonging unto RDA for a term beginning on the date hereof and ending on _____; *provided*, however, the term shall end earlier or later than such date in the event the conditions set forth in Section 17 hereof are met, in which case, the term shall end on such date (the "Term").

(b) The parties agree that the Rail Project will be undertaken on the Real Estate pursuant to the Governance Agreement and the Development Agreement. The parties acknowledge and agree that the Real Estate is available for use from and after the date hereof, and such availability for use (and the value thereof to RDA and NICTD) is not in any way diminished while the Rail Project is being undertaken. By one or more endorsements each recorded as soon as practical and as a Supplemental Ground Lease entered into in substantially the form set forth in Exhibit B, but in any event, when the Rail Improvements are complete and ready for use as part of the Rail Project, the parties shall revise or increase the real estate described in Exhibit A, if necessary to reflect the final site location acquired for the Rail Project and upon which the Rail Improvements as part of the Rail Project are constructed; provided that such additional Real Estate is also added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.

(c) NICTD hereby represents and warrants that, upon compliance with its obligations under Section 18 hereof, RDA will possess a good and indefeasible leasehold estate, subject only to Permitted Encumbrances, to all of the Real Estate, which includes real estate upon which the Rail Improvements that are part of the Rail Project are to be acquired, improved and constructed pursuant to the Governance Agreement and the Development Agreement, and NICTD warrants

and will defend the same against all claims whatsoever not suffered or caused by the acts or omissions of RDA.

Section 3. Supplements; Nature of Obligations.

(a) NICTD acknowledges that it has received good, valuable, and sufficient consideration, including payment and reimbursement of certain costs and expenses from the proceeds of the IFA Bonds and other [Rail Project monies], from RDA and through IFA in respect of the rights and interests created by this Ground Lease. During the term of this Ground Lease, NICTD agrees that no additional payments by IFA or RDA to NICTD hereunder shall be made in respect of the rights and interests created by this Ground Lease.

(b) After the Commencement Date (as defined in the Master Leases), for any portion of the Lease Premises, in the event such portion shall be damaged or destroyed or taken, so as to render such portion unavailable for use by RDA, or shall for any other reason become unavailable for use by RDA, NICTD may add additional Lease Premises to this Ground Lease pursuant to a Supplemental Ground Lease so that RDA may lease such additional Lease Premises to NICTD pursuant to a supplement to the Operating Lease; provided that such additional Lease Premises are also added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.

(c) During the term of this Ground Lease, NICTD and RDA may enter into one or more Supplemental Ground Leases in the event NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities in substantially the form set forth in Exhibit B, so that such portions are within the boundaries of the Facilities.

(d) It is expressly understood and agreed by RDA and NICTD that the obligations of RDA and NICTD created by or arising out of this Ground Lease or of any amendments hereto shall not be, represent, or constitute an indebtedness of the State, IFA or RDA within the meaning or application of any constitutional limitation of the State or the laws of the State or a pledge of the faith or credit of the State, IFA or RDA.

Section 4. Nature of Ground Lease. (a) It is expressly understood and agreed that this Ground Lease shall not be what is known as a net lease (i.e., that no expenses in connection with the Facilities of any nature whatsoever shall be those of RDA by reason of it being the tenant hereunder) and that during the Term, NICTD shall be solely obligated to pay at its sole cost and expense, without reimbursement from RDA, all costs of taxes and assessments, operations, maintenance and use in connection with or relating to the Facilities, including all costs and expenses of decoration, maintenance, utility, janitorial and all other services, repair or replacement of all parts of the Facilities or improvement of the Facilities, in the manner provided in Section 7 of the Operating Lease, except as otherwise provided in the Governance Agreement.

(b) NICTD shall cause any taxes due on the Rail Project to be timely paid to the applicable authorities, except to the extent of any good faith contests which have not yet been resolved, and it shall not assert any basis for taxation in respect of the Facilities that would negate or otherwise negatively impact any imposition or collection of taxes other than deductions, credits or other adjustments that would otherwise be applicable in the event the

Leases were not in force or effect. The parties acknowledge and agree that this Ground Lease is, and is intended to be, a lease of real property including fixtures and mixed real and personal property (with any such personal property covered by this Ground Lease being incidental), and the Continuing Rent Obligation reflects lease payments which are made solely with respect to the lease of such real property.

(c) Except as otherwise provided in the Governance Agreement, NICTD shall retain all revenues from the operation of the Facilities, and except as otherwise provided in the Governance Agreement, neither IFA nor RDA shall have any responsibility to fund the ongoing costs, expenses and needs for operations, repairs, maintenance and replacements of or related to the Facilities.

Section 5. Nonliability of IFA or RDA. Except as otherwise provided in the Governance Agreement, neither IFA nor RDA shall be liable for damage caused by hidden defects or failure to keep the Facilities in repair and shall not be liable for any damage done or occasioned by or from any improvements, structures or equipment (including any stations, parking facilities, bridges, overpasses, crossings, switches, locomotives, railroad cars, utilities, plumbing, gas, water, boilers, steam or other pipes or sewage or the bursting or leaking of plumbing or heating fixtures or waste or soil pipe) in connection with the Facilities, nor for damage occasioned by natural events (whether occurring by age, wind, water, snow, ice, movements of earth, or otherwise). Neither IFA nor RDA shall be liable for any injury to NICTD, any Ancillary Users or any other person which injury occurs in, upon, about or near the Facilities howsoever arising. Neither IFA nor RDA shall be liable for damage to NICTD's property or to the property of any Ancillary Users or of any other person which may be located in, upon, about or near the Facilities. NICTD shall be responsible for preserving for the benefit of IFA and RDA usual and customary rights, claims and warranties against the persons or entities engaged to acquire, improve and construct any Facilities.

Section 6. Construction; Repairs and Maintenance; Alteration; Operations; Equipment or Furnishings.

(a) NICTD represents and covenants that the Rail Project has been or will be constructed in accordance with the terms and conditions of the Governance Agreement, the Development Agreement and applicable plans and specifications therefor with all reasonable speed and dispatch in accordance with the applicable approved plans and specifications therefor.

(b) NICTD shall keep and maintain the Facilities in good condition and repair in accordance with NICTD management practices in effect as of the date hereof and shall operate the Rail Project in an efficient and economical manner and in accordance with the Governance Agreement. NICTD shall make all necessary repairs, renewals, improvements and replacements to the Facilities and shall keep the Facilities in a clean and neat condition and in good and sound condition and repair, normal wear and tear excepted. The cost of such repairs, replacements and maintenance shall be (whether required because of the negligence, misuse or default of NICTD, any of its Ancillary Users, or otherwise) at NICTD's sole cost and expense, except as otherwise provided in the Governance Agreement.

(c) NICTD shall comply with all valid statutes, rules, regulations, orders and directions of any legislative, administrative or judicial body applicable to NICTD, the Lease

Premises and the Facilities. NICTD shall adopt and keep in force reasonable rules and regulations governing the use of the Lease Premises and the Facilities and the operation thereof, and shall enforce such rules and regulations on a uniform basis.

(d) RDA shall comply with all valid statutes, rules, regulations, orders and directions of any legislative, administrative or judicial body applicable to RDA, the Lease Premises and the Facilities. To the extent reasonably necessary, the RDA shall adopt and keep in force reasonable rules and regulations governing the use of the Lease Premises and the Facilities and the operation thereof, and shall enforce such rules and regulations on a uniform basis.

(e) NICTD shall have the right, at its sole cost and expense, without Concurrence, to make all alterations, modifications and additions and to do all demolition, remodeling and improvements it deems necessary or desirable to the Facilities, which do not materially reduce the rental value of the Lease Premises or adversely affect (i) the Continuing Rent Obligation and (ii) each referenced obligation that is required to be met by NICTD to be consistent with applicable law (including the Bond Act) and the requirements of the Governance Agreement, the Development Agreement, this Ground Lease, the Underlying Lease, the Master Leases, the Operating Lease and/or any documents related thereto. NICTD shall be liable to repair any damage to the Facilities resulting from such work.

(f) So long as this Ground Lease is in effect, NICTD may at any time and from time to time, at its sole cost and expense, install, modify, remove or replace items of moveable machinery, equipment, furnishings and other personalty in and upon the Facilities. All such personal property shall remain the sole property of NICTD, in which neither IFA nor RDA shall have any interest, and may be installed, modified, removed or replaced by NICTD at any time; *provided* that if such installation, modification, removal or replacement adversely affects (i) the Continuing Rent Obligation or (ii) any referenced obligation that is required to be met by NICTD to be consistent with applicable law (including the Bond Act) and the requirements of the Governance Agreement, the Development Agreement, the Underlying Lease, the Master Leases, the Operating Lease and/or any documents related thereto, then NICTD shall either: (y) repair and restore any and all damage to the Facilities resulting from the installation, modification, removal or replacement of any such property; or (z) compensate IFA and RDA for any loss in value to the Lease Premises (including any diminishment in the Master Leases Rental and Operating Lease Rental) resulting from the installation, modification or removal of any such property.

(g) NICTD shall maintain or cause to be maintained such performance bonds or performance insurance (in a manner consistent with the Governance Agreement) with respect to contracts it may enter into for construction of the Rail Improvements as are usually maintained by those constructing improvements and facilities similar to the Rail Improvements. If performance of any contract for construction of the Rail Improvements is not completed in accordance with its terms and, in the opinion of a registered engineer selected by NICTD and acceptable to IFA and RDA, the cost of completion of such performance shall not exceed the amount of proceeds from any performance bond or performance insurance to be received by reason of such noncompletion of performance and other amounts available therefor, NICTD shall complete or cause to be completed such performance in the manner provided in, and subject to the conditions of, the Governance Agreement. The proceeds of any performance bond paid on

account of such noncompletion of performance shall be made available for, and to the extent necessary shall be applied to, the cost of such construction.

Section 7. Insurance.

(a) NICTD, in the manner as provided in the Governance Agreement prior to completion of the Rail Project, and thereafter at its sole cost and expense, shall, during the full term of this Ground Lease, keep the Facilities insured against physical loss or damage, however caused, and otherwise in the manner and on a basis required in the Governance Agreement and the Development Agreement and consistent with commercially reasonable practices and only with such exceptions as are ordinarily required by insurers of rail lines of a similar type (as provided by an industry standard special cause of loss (or its equivalent) property insurance policy, which insurance shall not exclude flood or earthquake, but may provide for sublimits therefor), with good and responsible insurance companies. Such policies shall include terrorism coverage so long as the Terrorism Risk Insurance Program Reauthorization Act of 2015 [15 USC 6701] continues in its present form or an equivalent federal insurance program is available to NICTD. Such insurance shall be in an amount at least equal to the full replacement cost of such Facilities as reasonably determined by NICTD in consultation with an insurance consultant approved by RDA from and after the date the IFA Bonds are issued by IFA; *provided*, any reduction in excess of ten percent (10%) from the amount carried on the date this Ground Lease is entered into (including any reduction from any existing sublimits) shall only be permitted with Concurrence. In no event shall the insurance be in an amount which causes NICTD to be a co-insurer for the Facilities; *provided*, it is agreed that the provision of sublimits for earthquake and flood shall not be deemed to cause NICTD to be a co-insurer; *provided further* that such insurance may cover properties of NICTD other than the Facilities. Such insurance may contain a provision for a deductible in an amount that is customary and commercially reasonable, but not more than \$500,000 or such higher amount as from time to time determined by NICTD with Concurrence. After the occurrence of any insured casualty, NICTD agrees to pay the deductible amount of any loss to the Bond Trustee or such party directed by the Bond Trustee, as applicable, within ten (10) days following any request so made by IFA or RDA. A blanket property insurance form may be used if the insurance payable in respect of loss related to the Facilities is not less than the amount required by this Section and the insurance proceeds related to damage to or destruction of the Facilities are payable to the Bond Trustee for the IFA Bonds.

(b) During the full term of this Ground Lease, NICTD, in the manner as provided in the Governance Agreement prior to completion of the Rail Project, and thereafter at its sole cost and expense, shall also, at its sole cost and expense, maintain business income insurance in an amount at least equal to the Operating Lease Rental on the Lease Premises leased by NICTD under the Operating Lease for a period of (2) years against physical loss or damage of the type insured against pursuant to the preceding requirements of this Section. Such business income insurance policies shall be for the benefit of IFA, RDA, and the Bond Trustee and shall name the Bond Trustee for the IFA Bonds as loss payee, which payment to such Bond Trustee may be limited to circumstances where Master Leases Rental is not made by RDA pursuant to a Master Lease.

(c) After the occurrence of any insured casualty related to the Facilities, NICTD shall give notice to the Bond Trustee, IFA and RDA. Such notice shall be given within five (5) days

following such casualty and shall tentatively describe the nature of the casualty together with sufficient additional information to permit IFA and RDA to ascertain NICTD's plans for addressing such loss or damage (and meeting its obligations under this Ground Lease, including the amount NICTD plans to reserve to meet the requirements thereof that result from any deductible applicable under its insurance policies).

(d) In the event that an insurance program is developed by NICTD and approved by RDA and IFA as provided in the Governance Agreement, that insurance program and the requirements thereof shall be substituted herein as the insurance coverage requirements for this Ground Lease to the extent in conflict herewith or in addition hereto.

Section 8. Use of Insurance and Condemnation Proceeds. (a) If all or any portion of the Facilities shall be damaged or destroyed or taken, NICTD shall, as expeditiously as possible, continuously and diligently prosecute, or cause to be prosecuted, repair, reconstruction or replacement thereof until completion. Within one hundred twenty (120) days after the occurrence of an event of damage or destruction to the Facilities or a taking thereof, NICTD, through any Authorized Officer of NICTD, shall deliver to RDA and the Bond Trustee the written opinion of engineer selected by NICTD and reasonably acceptable to RDA and IFA stating whether or not the conditions set forth above with respect thereto are satisfied. The proceeds of any insurance paid on account of such damage or destruction or taking (other than any rent loss insurance) shall be made available for, and to the extent necessary shall be applied to, the cost of such repair, reconstruction or replacement, or otherwise in accordance with the terms and conditions of this Ground Lease.

(b) Proceeds of insurance against damage to or destruction of the Facilities which are paid to the Bond Trustee as described herein shall be held by the Bond Trustee pursuant to the applicable Trust Indenture and used by NICTD in accordance with the provisions of this Ground Lease, the Underlying Lease, the Master Leases, the Operating Lease, the Governance Agreement and such Trust Indenture. Proceeds of any condemnation of the Facilities (or portion thereof) shall be paid to the Bond Trustee and held by the Bond Trustee pursuant to the applicable Trust Indenture and used by NICTD in accordance with the provisions of this Ground Lease, the Underlying Lease, the Master Leases, the Operating Lease, the Governance Agreement and the applicable Trust Indenture.

Section 9. Liability Insurance. NICTD shall, at all times during the full term of this Ground Lease, keep in effect Commercial General Liability Insurance (which insurance shall not exclude blanket contractual liability, broad form property damage, personal injury, or fire damage coverage) covering the Facilities and NICTD's use thereof against claims for bodily injury and property damage, and insuring NICTD, IFA and RDA in amounts and in the manner required by the Governance Agreement and the Development Agreement. Such policies shall include terrorism coverage so long as the Terrorism Risk Insurance Program Reauthorization Act of 2015 [15 USC 6701] continues in its present form or an equivalent federal insurance program is available to NICTD. NICTD shall maintain for each policy year during the term of this Ground Lease aggregate limits for liability coverages of not less than fifty percent (50%) of liability coverage amounts as in effect on the date this Ground Lease is entered into unless otherwise approved by RDA; *provided* that if such policy limits are not reasonably available in the insurance marketplace, then NICTD may reduce such aggregate coverage amounts to the

highest such amounts as are reasonably available in the insurance marketplace existing from time to time. NICTD shall make IFA, RDA and the State additional insureds on such policies.

Section 10. General Insurance Provisions. All insurance policies required by Sections 7 and 9 hereof shall be issued in the manner provided in the Governance Agreement and the Development Agreement by good and responsible insurance companies, each of which companies, selected by NICTD and reasonably approved by RDA, shall be rated at least "A-VII" (or an equivalent rating if such rating scale is discontinued or changed) by A.M. Best & Company (or by an equivalent rating service if A.M. Best & Company is no longer providing such types of ratings) and shall be countersigned by an agent of the insurer who is a licensed agent in the State. Such policies, or copies thereof, shall be held by NICTD for review by IFA, RDA and the Bond Trustee; *provided* that such policies shall be available for review by IFA, RDA and the Bond Trustee upon request, and shall be updated as changes are made to such policies. Such policies shall be subject to the requirement that in the event of a material reduction in policy limits or elimination of any coverages, NICTD will notify IFA, RDA and the Bond Trustee in writing by electronic or other means, with such notification including a description of the coverages so reduced or eliminated. If, at any time, NICTD fails to maintain insurance in accordance with Sections 7 and 9 hereof, such insurance may be obtained by IFA or RDA, or may be obtained by the Bond Trustee, and the amount paid for such insurance shall be payable by NICTD under this Ground Lease; *provided, however*, that neither IFA, RDA nor the Bond Trustee shall be under any obligation to obtain such insurance, and any action or non-action of RDA, IFA or the Bond Trustee in this regard shall not relieve NICTD of any consequences of a default in failing to obtain such insurance. The Bond Trustee shall be the loss payee on all casualty insurance required by this Ground Lease that becomes payable in respect of claims related to the Facilities.

Section 11. General Covenants. (a) NICTD covenants that, except for Permitted Encumbrances and any liens, charges, encumbrances, or security interests created by an act or omission of RDA and/or IFA, it will not mortgage, impose any lien or claim upon, or otherwise encumber the Lease Premises (whether actual, contingent or otherwise), or permit any mortgage, lien, claim or encumbrance to exist thereon, and that it shall use and maintain the Facilities in material compliance with the laws and ordinances of the United States of America, the State, and all other proper governmental authorities. NICTD agrees that it will, at the request of RDA, execute and deliver to or upon the request of RDA such instrument or instruments as may be reasonably required by RDA in order to assure or confirm RDA's interest in the Lease Premises pursuant to the terms hereof and shall also deliver, from time to time, such instrument or instruments as may be reasonably requested by RDA or any tenant or subtenant of RDA with respect to the covenant of quiet enjoyment contained in this Ground Lease, the Underlying Lease, the Master Leases, the Operating Lease, or the Governance Agreement.

(b) RDA covenants that, except for Permitted Encumbrances and any liens, charges, encumbrances, or security interests created by an act or omission of NICTD and/or IFA, it will not mortgage, impose any lien or claim upon, or otherwise encumber the Lease Premises (whether actual, contingent or otherwise), or permit any mortgage, lien, claim or encumbrance to exist thereon, and that it shall use and maintain the Facilities in material compliance with the laws and ordinances of the United States of America, the State, and all other proper governmental authorities.

Section 12. Covenants Regarding the Bond Act; IFA Bonds. NICTD shall timely comply with all requirements of NICTD created by the Bond Act, the Governance Agreement, the Development Agreement and any agreement or certificate executed by NICTD in connection with the issuance of the IFA Bonds.

Section 13. Utility Service. NICTD agrees to pay or cause to be paid all charges for (a) sewer, gas, water, electricity, light, heat or power utilities and services, (b) telephonic, communication and other information services, (c) other utility and like services, and (d) regulatory, track and freight fees and other fees, costs and expenses associated with the use and operation of the Facilities that are used, rendered or supplied upon or in connection with the Facilities throughout the term of this Ground Lease.

Section 14. Environmental Laws Covenants.

(a) With respect to the Facilities, (i) NICTD shall at all times comply and follow commercially reasonable business practice to cause others to comply, in all material respects, with all Environmental Laws and all licenses, permits, certificates, approvals and similar authorizations issued to NICTD thereunder, and such operations shall not give rise to any liability pursuant to any Environmental Law, (ii) NICTD shall promptly notify RDA and IFA upon becoming aware of any investigation, proceeding, complaint, order, directive, claim, citation or written notice by any governmental authority or any other Person arising under or relating to any violation of any Environmental Law that is pending against NICTD or threatened in writing against NICTD and shall take prompt and appropriate actions to respond thereto and to cure such violation (if any) and (iii) NICTD shall promptly notify RDA and IFA upon becoming aware of any non-compliance with, or violation of, the requirements of any Environmental Law by NICTD in any material respect, or the release, spill, or discharge, threatened or actual, of any Hazardous Material or the generation, use, storage, treatment, transportation, manufacture, handling, production or disposal of any Hazardous Material or any other environmental, health or safety matter, which affects or gives rise to a material liability upon NICTD or any liability upon IFA or RDA.

(b) NICTD shall not cause or permit the use, generation, release, manufacture, refining, production, processing, storage or disposal of any Hazardous Materials on, under or about the Facilities, or the transportation to or from the Facilities of any Hazardous Materials, except as necessary and appropriate for its Permitted Uses, in which case, the use, storage or disposal of such Hazardous Substances shall be performed in compliance with the Environmental Laws and the standards prevailing in the railroad industry and at comparable facilities. Notwithstanding anything contained herein to the contrary, IFA and RDA shall not have any liability to NICTD resulting from any conditions existing, or events occurring, or any Hazardous Materials existing or generated, at, in, on, under or in connection with this Ground Lease or the Facilities, except to the extent caused directly by the sole negligence or willful misconduct of the IFA or RDA or their respective agents, employees, or contractors.

Section 15. Indemnity by NICTD. NICTD shall release, protect, defend, indemnify and hold harmless the RDA, IFA, the Bond Trustee, the Deposit Trustee, and their respective agents, employees, representatives and consultants, from and against any and all claims, causes of action, suits, judgments, demands, and/or losses, in each case if asserted or incurred by or

awarded to any third party, arising out of or relating to or resulting from (a) NICTD's design, construction or operation of the Rail Projects or the South Shore Line, (b) any act, omission, negligence, or willful misconduct of NICTD, any of its Ancillary Users or anyone acting under its control or for whom it is legally responsible (c) failure of NICTD, or anyone acting under its control or for whom it is legally responsible, to perform or observe any requirement or obligation imposed by this Ground Lease and (d) arising out of any other act or occurrence within the Facilities. NICTD's indemnity obligation shall not extend to: (i) any third party claim to the extent directly caused by the negligence, recklessness, willful misconduct, or breach of any material obligation under this Ground Lease or the Governance Agreement by IFA or RDA, or (ii) any claims, causes of action, suits, judgments, demands, and/or losses resulting from any action of the RDA or IFA during an Operations Step-In Period or resulting from any actions taken by the RDA or IFA after the exercise of any Construction Period Step-In Rights; provided, however, that nothing herein shall relieve NICTD of responsibility to pay up to the Maximum NICTD Excess Cost Contribution for Excess Construction Costs irrespective of the exercise of Construction Period Step-In Rights. The RDA and IFA shall have no obligation to indemnify NICTD.

Section 16. No Broker. NICTD hereby represents and warrants that no brokers or third-party involved in the negotiation and execution of this Ground Lease is entitled, as a result of the actions of the respective party, to a commission or other fee resulting from the execution of this Ground Lease.

Section 17. Transfer to NICTD. To the extent provided in the Governance Agreement, upon the later of the termination of the Governance Agreement and the final and full payment of all IFA Bonds, this Ground Lease shall terminate.

Section 18. Title to Real Estate.

(a) NICTD shall cause a final, fully paid, leasehold title insurance policy to be issued for the benefit of RDA by no later than the date the IFA Bonds are to be issued by IFA. In the event NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities, then by no later than the date as of which construction of any such portion commences, NICTD shall cause (i) an endorsement to be issued to, and on substantially the same terms as, the leasehold title insurance policy referenced in the prior sentence (or an additional final, fully paid, leasehold title insurance policy to be issued on substantially the same terms as the leasehold title insurance policy referenced in the prior sentence) to identify and insure thereunder any such necessary increase in the real estate described in Exhibit A and (ii) a Supplemental Ground Lease to be entered into in substantially the form set forth in Exhibit B in respect of such Real Estate; provided that such additional Real Estate is also added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.

(b) NICTD represents and warrants that it has a good and indefeasible estate in fee simple to all of the Real Estate, subject only to Permitted Encumbrances.

Section 19. Defaults; Remedies.

(a) If there is any NICTD Event of Default (including any default in the observance of any other covenant, agreement or condition contained in this Ground Lease) (each, an "Event of Default"), RDA may proceed to protect and enforce its rights, either at law or in equity, by suit, action, mandamus or other proceedings, whether for specific performance of any covenant or agreement contained herein or for the enforcement of any other appropriate legal or equitable remedy (as contained in the Governance Agreement as may relate to this Ground Lease and such Event of Default); *provided* that all such rights and remedies taken in respect of this Ground Lease and any such Event of Default shall only be undertaken and pursued by RDA in strict conformity with this Section and the requirements and limitations set forth in the Governance Agreement.

(b) Except for extensions of time resulting from a Force Majeure event that are allowed in the Governance Agreement, time is of the essence of each term and provision of this Ground Lease to be observed by NICTD hereunder.

(c) If RDA shall fail to perform any term, condition, covenant or obligation required to be performed by it under this Ground Lease, NICTD may pursue a claim for specific performance. If RDA shall fail to perform any term, condition, covenant or obligation required to be performed by it under this Ground Lease and if NICTD shall, as a consequence thereof, recover a money judgment against RDA and/or IFA, NICTD agrees that (i) it shall look solely to RDA's and IFA's right, title and interest in and to the Lease Premises (which shall not include any right to set-off related to any payment due to RDA or IFA as required by the Governance Agreement, the Development Agreement, this Ground Lease, the Underlying Lease, the Master Leases, the Operating Lease and/or any documents related thereto) for the collection of such judgment, (ii) it shall not look to any other assets of RDA and/or IFA in the levy, execution or other process for the satisfaction of NICTD's judgment, and (iii) it shall not enforce any execution or other process for the satisfaction of NICTD's judgment, unless such does not: (A) materially reduce the rental value of the Lease Premises; (B) adversely affect the Continuing Rent Obligation; or (C) materially and adversely affect any obligation that is required to be met by NICTD pursuant to applicable laws (including the Bond Act) and requirements of the Governance Agreement, the Development Agreement, this Ground Lease the Underlying Lease, the Master Leases, the Operating Lease and/or any documents related thereto.

(d) Neither party's failure or delay in exercising any of its rights or remedies or other provisions of this Ground Lease shall constitute a waiver thereof or affect its right thereafter to exercise or enforce such right or remedy or other provision. No waiver of any default shall be deemed to be a waiver of any other default. RDA's receipt of less than the full amount due as herein provided shall not be construed to be other than a payment on account of such amount then due, nor shall any statement on NICTD's check or any letter accompanying NICTD's check be deemed an accord and satisfaction. No act or omission by RDA (or IFA) or their respective employees or agents during the term of this Ground Lease shall be deemed an acceptance of a surrender of the Lease Premises hereunder, and no agreement to accept such a surrender shall be valid unless in writing and signed by RDA and IFA.

(e) Notwithstanding anything herein, IFA may proceed to protect and enforce any rights or interests of RDA and IFA under this Ground Lease in its own name or on behalf of RDA in the name of RDA in its place and stead.

Section 20. Notices.

(a) All notices, certificates, requests or other communications required hereunder shall be sufficient only if given in writing, prior to the matter requiring notice and shall be deemed given (i) one (1) business day after being deposited for next day delivery; (ii) three (3) business days after mailing when mailed by registered or certified mail, return receipt requested, postage prepaid, or (iii) the same day if hand delivered (or if sent by both facsimile and email) during a business day, addressed as follows:

To RDA: Northwest Indiana Regional Development Authority
9800 Connecticut Drive
Crown Point, IN 46307
Attention: President

With a Copy to: Ice Miller LLP
One American Square 2900
Indianapolis, IN 46282

To IFA: Indiana Finance Authority
1 North Capitol, Suite 900
Indianapolis, Indiana 46204
Attention: Public Finance Director of the State of Indiana
and General Counsel
Facsimile (317) 232-6786 / Electronic mail (to
DHuge@ifa.IN.gov; and ASeiwert@ifa.IN.gov)

To NICTD: Northern Indiana Commuter Transportation District
33 East U.S. Highway 12
Chesterton, Indiana 46304
Attention: President and/or Chief Executive Officer

With a Copy to: Northern Indiana Commuter Transportation District
33 E. US Highway 12
Chesterton, IN 46304
Attention: Office of General Counsel

(b) Any party hereunder may, by notice given hereunder, designate any further or different addressees to which subsequent notices, certificates, requests or other communications shall be sent.

Section 21. Construction of Covenants. All provisions contained herein shall be construed in accordance with the provisions of the Bond Act, the Governance Agreement and the Development Agreement and to the extent of any material inconsistencies between the covenants and agreements in this Ground Lease, the Governance Agreement, and the Development Agreement and the provisions of the Bond Act, the provisions of the Bond Act, then the Governance Agreement, then this Ground Lease, and then the Development Agreement, shall be deemed to be controlling and binding upon the parties.

Section 22. Supplemental Ground Leases. RDA and NICTD may, from time to time hereafter, enter into one or more Supplemental Ground Leases, each of which: (a) shall provide that all covenants contained in this Ground Lease shall be unitary and include all parts of the Lease Premises, whether leased pursuant to this original Ground Lease or pursuant to any Supplemental Ground Lease (*provided* that the foregoing shall not limit or restrict the parties from having differing covenants and obligations applicable to any Supplemental Ground Leases related to portions of the Rail Project NICTD proposes to be constructed that are not within the existing boundaries of the Facilities); and (b) may contain such other covenants and agreements as the parties thereto agree upon.

Section 23. No Personal Liability. No recourse shall be had for any payment due under this Ground Lease or for any claim based thereon or upon any obligation, covenant or agreement in this Ground Lease contained against any past, present or future member, officer, employee, agent or official of IFA, RDA or NICTD, or any successor thereof, either directly or through IFA, RDA or NICTD, or any successor thereof, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability for any such person is hereby expressly waived and released as a condition of and consideration for the execution of this Ground Lease and issuance of the IFA Bonds.

Section 24. Successors or Assigns; Use Restrictions.

(a) All covenants of this Ground Lease, whether by RDA or NICTD, shall inure to the benefit of and be binding upon the permitted successors and assigns of the respective parties hereto. This Ground Lease shall not be assigned by NICTD without the prior written consent of RDA and IFA, and in such event the assignor shall not be relieved of its obligations hereunder unless permitted by RDA and IFA. This Ground Lease may be assigned by RDA to IFA without the prior written consent of NICTD, as and to the extent permitted by the Bond Act. Any assignment in contravention of this Section shall be null and void *ab initio*.

(b) Notwithstanding any other provision of this Ground Lease to the contrary, NICTD covenants that it: (a) will not use or permit the Facilities or any portion thereof for any private business use within the meaning of Section 141(b)(6) of the Internal Revenue Code of 1986, as amended from time to time, without the prior written consent of an Authorized Officer of IFA, which consent shall not be unreasonably withheld, and (b) will comply with Section 148(f) of the Internal Revenue Code of 1986, as amended from time to time. Any agreement entered into by NICTD in violation of this Section 24 shall be of no force or effect and shall not convey any rights or impose any obligation in respect to it, at law or in equity.

(c) Requests for consent to private business use shall be sent in writing by NICTD to IFA and RDA. Each such request shall include a final draft of the proposed conveyance, lease, sublease, management or incentive payment contract, license or other agreement that may give rise to such private business use, together with a description of the timing and the rationale for entering into such agreement (the "Proposed Private Business Use"). IFA and RDA shall conduct their review and approve or reject, in writing, such request within 30 days of receipt. If no response is made to a request for consent to private business use within 30 days of receipt, then NICTD shall provide additional written notice to IFA and RDA that the Proposed Private Business Use will be deemed to be approved. If no response to this additional written notice is

received within three business days of receipt of the additional written notice by IFA and RDA, then the request shall be deemed approved. In the event a request for consent to private business use is deemed approved, NICTD shall have the right to proceed as though consent to the Proposed Private Business Use was expressly provided by IFA and RDA. In any event, upon the execution and delivery by NICTD of any such agreement, NICTD shall provide IFA and RDA a copy of such executed agreement within 10 business days of the execution thereof.

Section 25. Validity. All terms, covenants and conditions contained in this Ground Lease shall include all parts of the Facilities, whether leased pursuant to the original Ground Lease or pursuant to any Supplemental Ground Lease thereto.

Section 26. Severability; Complete Agreement; Counterparts; Survival of Terms; Governing Law; Etc.

(a) All the covenants, agreements, terms and conditions required under the laws of the State, including the Bond Act, to be included in any lease entered into under Indiana Code 5-1.3-5 are incorporated herein by this reference.

(b) In case any section or provision of this Ground Lease, or any covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Ground Lease, or any application thereof, is for any reason held to be illegal or invalid, or is at any time inoperable, that illegality, invalidity or inoperability shall not affect the remainder thereof or any other section or provision of this Ground Lease or any other covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Ground Lease, which shall be construed and enforced as if that illegal, invalid or inoperable portion were not contained herein. Any such illegality, invalidity or inoperability of any application thereof shall not affect any legal, valid and operable application thereof, and each such section, provision, covenant, stipulation, obligation, agreement, act or action, or part thereof, shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent from time to time permitted by law.

(c) This Ground Lease represents the entire agreement between RDA and NICTD covering everything agreed upon or understood in the creation of the estate created by this Ground Lease and related transactional matters; *provided*, however, that the parties contemplate and agree that the provisions of the Governance Agreement, the Development Agreement, the other Leases and/or any documents related thereto contain related undertakings and such shall be given their full meaning and effect. There are no oral promises, conditions, representations, understandings, interpretations or terms of any kind as conditions or inducements to the execution hereof or in effect between the parties. No change or addition shall be made to this Ground Lease except by a written agreement executed by RDA and NICTD.

(d) The parties each acknowledge that the terms and conditions of this Ground Lease have been the subject of active and complete negotiations represented by competent professional counsel and advisors, and that such terms and conditions should not be construed in favor of or against any party by reason of the extent to which any party or its professional counsel and advisors participated in the preparation of this Ground Lease.

(e) This Ground Lease may be executed in duplicate counterparts, each of which shall be deemed an original and both of which together shall constitute one and the same instrument.

(f) The covenants and obligations under Sections 5, 12, 14, 15, 19, and 23 hereof shall survive the expiration or earlier termination of this Ground Lease.

(g) This Ground Lease shall be construed according to, and subject to, the laws of the State.

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IN WITNESS WHEREOF, the parties hereto have caused this Ground Lease to be executed for and on their behalf as of the day and year first hereinabove written.

"NICTD"

**NORTHERN INDIANA COMMUTER
TRANSPORTATION DISTRICT, AS
LESSOR**

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

[REMAINDER OF PAGE LEFT BLANK]

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____, personally known by me to be the _____ and _____, respectively, of the Northern Indiana Commuter Transportation District ("NICTD"), and acknowledged the execution of the foregoing Ground Lease Agreement (West Lake Project) for and on behalf of NICTD.

WITNESS my hand and Notarial Seal this _____ day of _____, 20__.

(Seal)

(Written Signature)

(Printed Signature)

Notary Public

My Commission expires:

My county of residence is:

[REMAINDER OF PAGE LEFT BLANK]

June 20, 2019 draft

This instrument prepared by: Philip C Genetos, Ice Miller LLP, One American Square, Suite 2900, Indianapolis, IN 46282.

I affirm under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. Philip C Genetos

EXHIBIT A

LEGAL DESCRIPTION AND MAP OF THE REAL ESTATE

Map of the Real Estate. Real property in _____
_____, as depicted as follows:

[End of Exhibit A]

EXHIBIT B
FORM OF
SUPPLEMENTAL GROUND LEASE AGREEMENT (WEST LAKE PROJECT)
BETWEEN
NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT
AND
NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY

SUPPLEMENTAL GROUND LEASE AGREEMENT (WEST LAKE PROJECT)
BETWEEN
NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT
AND
NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY

This SUPPLEMENTAL GROUND LEASE AGREEMENT (WEST LAKE PROJECT) (this "Supplemental Ground Lease"), entered into as of this ____ day of _____, 20____, between the NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT, a commuter transportation district and a municipal corporation formed pursuant to Indiana Code 8-5-15, as supplemented and amended from time to time ("NICTD"), and the NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY, a separate body corporate and politic formed pursuant to Indiana Code 36-7, as supplemented and amended from time to time ("RDA").

WITNESSETH:

WHEREAS, NICTD entered into a Ground Lease Agreement (West Lake Project) with RDA dated as of _____ 1, 20__ (the "Ground Lease"); and

WHEREAS, all terms not otherwise defined in this Supplemental Ground Lease shall have the meanings ascribed to them in the Ground Lease; and

[WHEREAS, it is provided in the Ground Lease that after the Commencement Date, for any portion of the Lease Premises, in the event such portion shall be damaged or destroyed or taken, so as to render such portion unavailable for use by RDA, or shall for any other reason become unavailable for use by RDA, NICTD may add additional Lease Premises to the Ground Lease pursuant to a Supplemental Ground Lease so that RDA may lease such additional Lease Premises to NICTD pursuant to a supplement to the Operating Lease; provided that such additional Lease Premises are also added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases; and]

[WHEREAS, it is provided in the Ground Lease that in the event NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities, then by no later than the date as of which construction of any such portions commences, NICTD shall cause a Supplemental Ground Lease to be entered into for the purpose of adding to the Real Estate the pertinent real estate on which such portions of the Rail Project shall be located; provided that such additional Real Estate is also added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases; and]

[WHEREAS, it is provided in the Ground Lease that when the Rail Improvements are complete and ready for use as part of the Rail Project, the parties shall revise and increase the real estate described in Exhibit A to the Ground Lease, if necessary to reflect the final site location acquired for the Rail Project and upon which the Rail Improvements as part of the Rail Project have been constructed; provided that such additional Real Estate is also added to the

Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases; and]

[WHEREAS, it is provided in the Ground Lease that RDA and NICTD may enter into one or more Supplemental Ground Leases, each of which: (1) shall provide that all covenants contained in the Ground Lease shall be unitary and include all parts of the Lease Premises, whether leased pursuant to the Ground Lease or pursuant to any Supplemental Ground Lease (*provided* that the foregoing shall not limit or restrict the parties from having differing covenants and obligations applicable to any Supplemental Ground Leases related to portions of the Rail Project NICTD proposes to be constructed that are not within the existing boundaries of the Facilities); and (2) may contain such other covenants and agreements as the parties thereto agree upon.]

NOW, THEREFORE, IT IS HEREBY AGREED, CERTIFIED AND STIPULATED by the undersigned as follows:

[Section 1. Addition to Real Estate After Commencement Date. Certain portions of the Lease Premises have been damaged or destroyed, thereby rendering such portions unavailable for use by RDA, or have otherwise become unavailable for use by RDA. NICTD has determined to add additional Lease Premises to the Ground Lease pursuant to this Supplemental Ground Lease. Therefore, the Lease Premises set forth in Exhibit A to the Ground Lease shall be hereafter amended to read as set forth in Appendix I attached hereto, so that RDA may lease such additional Lease Premises to NICTD pursuant to a supplement to the Operating Lease, thereby resulting in no interruption in the lease rentals payable by NICTD to RDA pursuant to the Operating Lease. Such additional Lease Premises are also being added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.]

[Section . Addition to Real Estate Prior to Construction. NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities set forth in Exhibit A to the Ground Lease. Therefore, the boundaries of the Facilities set forth in Exhibit A to the Ground Lease shall be hereafter amended to read as set forth in Appendix I attached hereto, which revised boundaries shall include the pertinent real estate on which such portions of the Rail Project shall be located. Such additional Real Estate is also being added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.]

[Section . Addition to Real Estate After Construction. Certain Rail Improvements are now complete and ready for use as part of the Rail Project, and it is now necessary to revise or increase the real estate described in Exhibit A to the Ground Lease, because such Exhibit A does not reflect the final site location acquired for the Rail Project and upon which the Rail Improvements as part of the Rail Project have been constructed. Therefore, for such purpose, Exhibit A to the Ground Lease shall be hereafter amended to read as set forth in Appendix I attached hereto. Such additional Real Estate is also being added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.]

Section __. All covenants contained in the Ground Lease, including this Supplemental Ground Lease, shall be unitary and include all parts of the Lease Premises, whether leased pursuant to the Ground Lease or pursuant to any Supplemental Ground Lease.

[REMAINDER OF PAGE LEFT BLANK]

IN WITNESS WHEREOF, the undersigned have caused this Supplemental Ground Lease to be executed for and on their behalf as of the day and year first above written.

"NICTD"

NORTHERN INDIANA COMMUTER
TRANSPORTATION DISTRICT

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

"RDA"

NORTHWEST INDIANA REGIONAL
DEVELOPMENT AUTHORITY

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

This instrument prepared by: _____

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, personally known by me to be the _____ and _____, respectively, of the Northern Indiana Commuter Transportation District ("NICTD"), and acknowledged the execution of the foregoing Supplemental Ground Lease Agreement (West Lake Project) for and on behalf of NICTD.

WITNESS my hand and Notarial Seal this _____ day of _____, 20__.

(Seal)

(Written Signature)

(Printed Signature)

Notary Public

My Commission expires:

My county of residence is:

[REMAINDER OF PAGE LEFT BLANK]

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, personally known by me to be the _____ and _____, respectively, of the Northwest Indiana Regional Development Authority ("RDA"), and acknowledged the execution of the foregoing Supplemental Ground Lease Agreement (West Lake Project) for and on behalf of RDA.

WITNESS my hand and Notarial Seal this _____ day of _____, 20__.

(Seal)

(Written Signature)

(Printed Signature)

Notary Public

My Commission expires:

My county of residence is:

[REMAINDER OF PAGE LEFT BLANK]

[APPENDIX I

LEGAL DESCRIPTION AND MAP OF THE REAL ESTATE]

**RDA AVAILABLE REVENUE MASTER LEASE AGREEMENT
(WEST LAKE PROJECT)**

by and between

**INDIANA FINANCE AUTHORITY,
as Lessor**

and

**NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY
as Lessee**

Dated as of _____ 1, 20__

ARTICLE I DEFINITIONS AND GENERAL PROVISIONS.....1

Section 1.01. Definitions.....1

Section 1.02. Interpretations5

Section 1.03. Not Indebtedness of State.....5

Section 1.04. Not Indebtedness of RDA5

ARTICLE II CONSTRUCTION OF THE RAIL PROJECT5

Section 2.01. Construction of the Rail Project.....5

ARTICLE III LEASE AND MAINTENANCE OF LEASE PREMISES5

Section 3.01. Lease of Lease Premises5

Section 3.02. Term of Lease5

Section 3.03. Operation and Maintenance6

Section 3.04. Alterations or Modifications of the Lease Premises6

Section 3.05. Additional Lease Premises.....6

Section 3.06. Additional Project6

ARTICLE IV RENTS.....6

Section 4.01. Timing for Payment6

Section 4.02. Supplemental Agreements7

Section 4.03. Funding Source7

Section 4.04. Abatement of Rent7

ARTICLE V SUBLETTING.....8

Section 5.01. Subletting8

ARTICLE VI DEFAULT8

Section 6.01. Default.....8

Section 6.02. Remedies.....8

Section 6.03. Remedies Cumulative8

Section 6.04. Limited Waiver9

ARTICLE VII COVENANTS9

Section 7.01. Power to Agree.....9

Section 7.02. Funding Source9

Section 7.03. Use of Lease Premises9

Section 7.04. Maintenance of Insurance and Performance Bonds.....9

Section 7.05. Completion of Performance; Reconstruction; Application of Proceeds10

Section 7.06. Indemnification10

ARTICLE VIII MISCELLANEOUS11

Section 8.01. Effectiveness11

Section 8.02. Notices.....11

Section 8.03. Severability11

Section 8.04. Table of Contents; Captions.....11

Section 8.05. Governing Law.....11

Section 8.06. Successors and Assigns.....12

EXHIBIT A FORM OF SUPPLEMENT TO RDA AVAILABLE REVENUE MASTER
LEASE AGREEMENT (WEST LAKE PROJECT)

EXHIBIT B LEASE PREMISES

EXHIBIT C FORM OF MEMORANDUM

**RDA AVAILABLE REVENUE MASTER LEASE AGREEMENT
(WEST LAKE PROJECT)**

This RDA AVAILABLE REVENUE MASTER LEASE AGREEMENT (WEST LAKE PROJECT) made and entered into as of the first day of _____, 20__ (this "Agreement"), by and between the INDIANA FINANCE AUTHORITY, a body politic and corporate, not a state agency but an independent instrumentality, exercising essential public functions, duly organized and validly existing under the laws of the State of Indiana (the "IFA"), pursuant to Indiana Code 5-1.2, and the NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY, duly created and existing under and by virtue of Indiana Code 36-7.5 (the "RDA");

WITNESSETH:

WHEREAS, this Agreement is designed to provide a master leasing structure with respect to various portions of the Rail Project defined herein that relate to bonds issued by IFA for the Rail Project and are payable from the Funding Source set forth herein (the "Related IFA Bonds"); and

WHEREAS, as series of Related IFA Bonds are authorized to provide additional funding for the Rail Project, IFA and RDA shall describe the Additional Project to be funded from that specific series of Related IFA Bonds and the lease rentals payable by RDA with respect thereto in a Supplemental Agreement;

In consideration of the mutual covenants herein set forth, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS AND GENERAL PROVISIONS

Section 1.01. Definitions. The following words and terms as used in this Agreement or in any Supplemental Agreement or other amendment or supplement hereto shall have the following meanings unless provided for in this Agreement or in any Supplemental Agreement or other amendment or supplement hereto, unless the context or use clearly indicates another or different meaning or intent:

"Act" shall mean Indiana Code 5-1.3, as amended or supplemented, or any successor thereto.

"Additional Lease Premises" shall mean any additional real property that is acquired for the Rail Project or an Additional Project with the proceeds of any series of Related IFA Bonds or incorporated therein in connection with any series of Related IFA Bonds, which is added to this Agreement pursuant to the terms set forth in Section 3.05.

"Additional Project" shall mean an additional portion of the Rail Project that becomes part of the Lease Premises in the manner provided in Section 3.06.

"Agreement" shall mean this RDA Available Revenue Master Lease Agreement (West Lake Project) as from time to time amended or supplemented by any Supplemental Agreement or other amendment or supplement hereto, including a Supplemental Memorandum of Lease.

"Authorized Officer of IFA" shall mean the Chair of IFA or the Public Finance Director of the State of Indiana and, with reference to any act or document, also means any other person authorized by a resolution of IFA to perform such act or to sign such document.

"Authorized Officer of RDA" shall mean the Chair or the Chief Executive Officer of RDA and, with reference to any act or document, also means any other person authorized by a resolution of RDA to perform such act or to sign such document.

"Available Portion" shall mean, collectively, the portions of the Lease Premises that are available for use.

"Bond Trustee" shall mean the trustee bank serving as Trustee for the Related IFA Bonds.

"Commencement Date" for any Lease Premises or any portion thereof shall mean the date on which a Completion Certificate for such Lease Premises or such portion thereof is accepted by an Authorized Officer of RDA.

"Completion Certificate" for any Lease Premises or any portion thereof shall mean a certificate (a) executed by an Authorized Officer of IFA certifying that such Lease Premises or such portion thereof is available for use by RDA and (b) accepted by an Authorized Officer of RDA acknowledging that such Lease Premises or such portion thereof is available for use by RDA.

"Construction" shall mean constructing, acquiring, renovating, rehabilitating, reconstructing, improving, extending or equipping the Rail Project or the Lease Premises or any portion thereof.

"Deposit Trustee" shall mean the trustee bank acting as the Deposit Trustee under the Revenue Trust Fund Agreement.

"Development Agreement" shall mean any development agreement entered into by NICTD, RDA and IFA for the purpose of governing the completion of the Rail Project in a manner consistent with and as contemplated by the Governance Agreement.

"Effective Date" shall mean the date of execution and delivery of this Agreement, which is _____, 20__.

"Fiscal Year" shall mean the twelve-month period commencing on July 1 of each year and ending on the succeeding June 30, or such other fiscal year of the State as may be mandated by law.

“Funded Interest Date” shall mean the date until which the proceeds of a series of Related IFA Bonds are expected to pay the interest thereon. There is no Funded Interest Date for that portion of the Rail Project being financed with the initial series of the Related IFA Bonds.

"Funding Source" shall mean any available revenues of RDA, including, without limitation: (a) the portion of the annual payments to RDA from the Cities of Gary, East Chicago and Hammond and the Counties of Lake and Porter due under Indiana Code 6-3.6-6-9, Indiana Code 36-7.5-4-2 and Indiana Code 6-3.6-11-6(b); (b) amounts withheld by the auditor of State from certain municipalities within Lake County, as determined by the Indiana Department of Local Government Finance, and paid to the Secretary-Treasurer of RDA pursuant to Indiana Code 6-3.6-11-5.5; and (c) revenues derived from the Interlocal Agreements or from other actions taken by certain municipalities within Lake County offering to provide revenue to support and finance the Rail Project pursuant to Indiana Code 6-3.6-11-7; which available revenues RDA has pledged to the payment of the lease rentals due under this Agreement, as provided herein or in a Supplemental Agreement. Notwithstanding the above definition: (i) with respect to the initial series of Related IFA Bonds purchased by the State Treasurer as provided in IC 5-13-10.5-20, to the extent provided in IC 36-7.5-4-21, it is understood that available revenues of RDA only include those sources described in clause (a) above; and (ii) IFA agrees that, so long as RDA pays the rentals due under this Lease Agreement, RDA is permitted to determine what amount of the available revenues from each of the clauses (a)-(c) above shall be applied to payment of such rentals.

"Governance Agreement" shall mean the Governance Agreement dated as of August 1, 2018, by and among NICTD, RDA and IFA, as from time to time amended or supplemented in accordance with its terms.

“Ground Lease” shall mean the Ground Lease Agreement, dated as of _____ 1, 20___, between NICTD, as lessor, and RDA, as lessee.

"IFA" shall mean the Indiana Finance Authority, a body politic and corporate, not a state agency but an independent instrumentality, exercising essential public functions, duly organized and validly existing under the laws of the State, pursuant to Indiana Code 5-1.2, as supplemented and amended.

"IFA RDA Available Revenue Account" shall mean the account of such name held under Section 5(a)(iii) of the Revenue Trust Fund Agreement.

"Lease Premises" shall mean the property described in Exhibit B hereto from time to time as Supplemental Agreements specify the portion of the Rail Project financed with Related IFA Bonds as provided in Section 3.06 hereof, including without limitation, all Rail Project Property related thereto and any Additional Lease Premises included in the Lease Premises by reason of Section 3.05 hereof.

"Memorandum" shall mean the Memorandum of Lease attached hereto as Exhibit C to be recorded contemporaneously with the execution of this Agreement with respect to identifying the Lease Premises.

"NICTD" shall mean the Northern Indiana Commuter Transportation District established under Indiana Code 8-5-15.

"Operating Lease" shall mean the Operating Lease Agreement, dated as of _____ 1, 20__ , between RDA, as lessor, and NICTD, as lessee.

"Projected Commencement Date" for any Additional Project shall mean the projected Commencement Date for such Additional Project, as set forth in the Supplemental Agreement covering such Additional Project.

"Rail Project" shall mean the West Lake Corridor Project described in Exhibit A to the Underlying Lease.

"Rail Project Property" shall mean all real and personal property interests, including, but not limited to, the Lease Premises, each Additional Project and such easements, licenses, leases, or property rights, in whatever form reasonably necessary to construct and operate the Rail Project, but not including NICTD rolling stock, except to the extent any costs for rolling stock are included in the applicable Cost Budget (as defined in the Governance Agreement), as the Rail Project is identified and described in Exhibit A to the Underlying Lease.

"RDA" shall mean the Northwest Indiana Regional Development Authority, organized and existing under Indiana Code 36-7.5.

"Related IFA Bonds" shall mean the bonds issued by IFA to finance the Rail Project, including any Additional Project, which are secured by the rental payments due under this Agreement. The initial series of Related IFA Bonds are the Indiana Finance Authority Lease RDA Available Revenue Bonds (West Lake Project), Series 20__ _.

"Revenue Trust Fund Agreement" shall mean the Revenue Trust Fund Agreement, dated as of _____ 1, 2019, entered into by and among RDA, IFA, NICTD, the Bond Trustee, and the Deposit Trustee.

"State" shall mean the State of Indiana.

"Supplemental Agreement" shall mean any agreement supplemental or amendatory of this Agreement entered into in accordance with Article IV, including each Supplemental Agreement that describes an Additional Project to be included in the Lease Premises hereunder as provided in Section 3.06 hereof.

"Supplemental Memorandum of Lease" shall mean each Supplemental Memorandum of Lease recorded in connection with the addition of Additional Lease Premises in the manner provided in Section 3.05 hereof.

"Term" shall mean the period of time commencing on the date hereof and ending on _____.

"Underlying Lease" shall mean the Underlying Lease Agreement dated as of _____ 1, 20__ between RDA and IFA as from time to time amended or supplemented in accordance with its terms.

Section 1.02. Interpretations. Unless the context indicates otherwise, words importing the singular number shall include the plural number and words importing the plural number shall include the singular number. The terms "hereof," "herein," "hereby," "hereto," "hereunder" and similar terms mean this Agreement.

Section 1.03. Not Indebtedness of State. It is expressly understood and agreed by the parties hereto that this Agreement does not constitute an indebtedness of the State within the meaning or application of any constitutional provision or limitation, or a pledge of the faith or credit of the State.

Section 1.04. Not Indebtedness of RDA. It is expressly understood and agreed by the parties hereto that this Agreement does not constitute an indebtedness of RDA within the meaning or application of any constitutional provision or limitation, or a pledge of the faith or credit of RDA.

ARTICLE II

CONSTRUCTION OF THE RAIL PROJECT

Section 2.01. Construction of the Rail Project. IFA and RDA represent that the Rail Project has been or will be constructed in accordance with the Governance Agreement, any Development Agreement and applicable plans and specifications therefor with all reasonable speed and dispatch in accordance with the applicable plans and specifications therefor.

ARTICLE III

LEASE AND MAINTENANCE OF LEASE PREMISES

Section 3.01. Lease of Lease Premises. In consideration of the rents, covenants and agreements contained herein, IFA does hereby demise and lease to RDA, and RDA does hereby rent and lease from IFA, the Lease Premises from and after the Effective Date for such Lease Premises. IFA and RDA shall file and record a Supplemental Memorandum of Lease covering any Additional Lease Premises as provided in Section 3.05 and any Supplemental Agreement adding any Additional Project as provided in Section 3.06 hereof.

Section 3.02. Term of Lease. The Term shall end on _____; provided the Term shall end earlier or later than such date, upon the occurrence of the first of the following events, in which case, this Agreement shall terminate upon the date of occurrence of such event:

- (a) Upon receipt of notice from IFA to RDA that all Related IFA Bonds have been paid in full and all other obligations and lease rentals due to IFA hereunder or under the Governance Agreement with respect to the Rail Project have been paid in full;
- (b) the termination of this Agreement by IFA pursuant to Section 6.02; or

- (c) the termination of the Underlying Lease.

Section 3.03. Operation and Maintenance. RDA shall cause NICTD at all times, in accordance with its then current practices, to operate and maintain the Lease Premises during the Term of this Agreement in an efficient and economical manner, as required by the Governance Agreement, and in accordance with its then current practices, to maintain the Lease Premises in good repair and sound operating condition and to make all necessary repairs, renewals, replacements and improvements thereto, all at the expense of NICTD, except that IFA shall maintain insurance on the Lease Premises in accordance with Section 7.04 at its expense. RDA shall cause NICTD to comply with all valid statutes, rules, regulations, orders and directions of any legislative, administrative or judicial body applicable to NICTD and the Lease Premises. RDA shall cause NICTD to adopt and keep in force reasonable rules and regulations governing the use of the Lease Premises and the operation thereof, and shall enforce such rules and regulations. RDA and IFA shall cause NICTD to comply with the foregoing requirements through the operation of the covenants and agreements of NICTD contained in the Governance Agreement, at which time RDA shall also cause NICTD to comply with the foregoing requirements through the operation of the covenants and agreements of NICTD contained in the Ground Lease and the Operating Lease.

Section 3.04. Alterations or Modifications of the Lease Premises. RDA shall not, without the prior written consent of an Authorized Officer of IFA, which consent shall not be unreasonably withheld, make or cause to be made or permit NICTD to make or cause to be made, any alteration, modification, addition or improvement to all or any portion of the Lease Premises, which alteration, modification, addition or improvement materially impairs the value of the Lease Premises, unless such alteration, modification, addition or improvement is, in the opinion of NICTD, as permitted by the Governance Agreement or as is necessary or advisable for the safety of the public.

Section 3.05. Additional Lease Premises. In the event Additional Lease Premises are added to the property leased by RDA to IFA pursuant to the Underlying Lease, such Additional Lease Premises shall immediately without further action become part of the Lease Premises subject to this Agreement upon the recordation of a Supplemental Memorandum of Lease executed by IFA and RDA in the offices of the Recorder of Lake County, Indiana.

Section 3.06. Additional Project. IFA and RDA contemplate that the Rail Project may be funded in part by the issuance of an additional series of Related IFA Bonds from time to time to finance an Additional Project that constitutes a part of the Rail Project. In that event, IFA and RDA shall execute and deliver a Supplemental Agreement at such time to describe the Additional Project, provide for the Construction of such Additional Project and specify the rent due from RDA for such Additional Project.

ARTICLE IV

RENTS

Section 4.01. Timing for Payment. Subject to Sections 4.03 and 4.04 hereof, RDA shall pay, in arrears, without relief from valuation or appraisal laws and without a defense of set-

off, counterclaim or recoupment, a monthly rental for the Lease Premises or any portions thereof available for use, in an amount equal to the aggregate monthly rental payments set forth in the Supplemental Agreements, to IFA by general transfer of funds from an account of RDA or from the IFA RDA Available Revenue Revenue Account to such account as IFA may from time to time specify, so as to assure immediately available funds in such account on or before the first day of each month succeeding those months during which the Lease Premises or such portions thereof were actually used or available for use by RDA pursuant to this Agreement (provided that if the first day of any such month is not a business day then on or before the immediately preceding business day).

Section 4.02. Supplemental Agreements. IFA and RDA may, on the date hereof and from time to time thereafter, enter into one or more Supplemental Agreements, substantially in the form of Exhibit A, which may (a) set forth the Available Portion as of the date of such Supplemental Agreement, (b) add Additional Lease Premises to this Agreement when added under the terms of the Underlying Lease or to finance an Additional Project, (c) remove a portion of the Lease Premises being replaced, (d) state the rent payable for the Lease Premises, (e) provide that all lease covenants, including the obligation to pay rent, shall be unitary, whether covered by this Agreement or a Supplemental Agreement, or (f) contain such other covenants and agreements as the parties thereto agree upon.

Section 4.03. Funding Source. The lease rentals payable hereunder are payable by RDA solely from the Funding Source. RDA and IFA have both determined that the rents due under this Agreement are fair and reasonable for the Lease Premises included herein. RDA can pay lease rentals solely from the Funding Source.

Section 4.04. Abatement of Rent.

(a) The lease rentals payable hereunder during the Term of this Agreement are payable by RDA solely for the actual use or availability for use of the Lease Premises or portions thereof provided by IFA.

(b) After the Commencement Date for any portion of the Lease Premises, in the event such portion shall be damaged or destroyed, so as to render such portion unavailable for use by RDA, or shall for any other reason become unavailable for use by RDA: (i) any rental payments due for such unavailable portion of the Lease Premises shall be abated during such unavailability by an amount equal to the product of the portion of (A) the rental payments otherwise due on such portion of the Lease Premises, times (B) a fraction of such rental payments, the numerator of which fraction equals the then estimated expenses incurred or to be incurred by IFA and allocable to such portion and the denominator of which fraction equals the then estimated expenses incurred or to be incurred by IFA and allocable to the Lease Premises; or (ii) IFA may add Additional Lease Premises to this Agreement pursuant to a Supplemental Agreement so that there is no interruption in the lease rentals payable by RDA as described in clause (i) above.

ARTICLE V

SUBLETTING

Section 5.01. Subletting. Except for the Operating Lease, none of the Lease Premises nor any portions thereof shall be sublet by RDA to, and none of the Lease Premises nor any portions thereof shall be used by, any person (natural or otherwise), unless an Authorized Officer of IFA gives prior written consent. No such subletting shall relieve RDA from its obligations to pay any rental payment payable under this Agreement and to keep and perform all other covenants on its part to be kept and performed under this Agreement. In the event this Agreement is terminated pursuant to Section 3.02 or Section 6.02 following an event of default by RDA, the Operating Lease shall remain in force and effect for the benefit of IFA (who upon termination of this Agreement shall succeed to the rights, title and interest of RDA, as lessor under the Operating Lease) and NICTD.

ARTICLE VI

DEFAULT

Section 6.01. Default. An "event of default" shall mean, whenever that term is used in this Agreement, any one or more of the following events:

- (a) failure by RDA to pay or cause to be paid any amount payable by RDA under this Agreement, including any Supplemental Agreement, when due; or
- (b) the failure by RDA to observe or perform any covenant, condition or agreement on its part to be observed or performed under Section 7.02; or
- (c) failure by RDA to observe or perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in subsection (a) or (b) of this Section 6.01, which failure continues for a period of thirty days after written notice, specifying such failure and requesting that it be remedied, is given to RDA by an Authorized Officer of IFA.

Section 6.02. Remedies. Whenever any event of default shall have happened and be subsisting and provided that the event of default has not been cured, IFA may terminate this Agreement by written notice to RDA and/or take whatever action at law or in equity may appear necessary or desirable to collect the payments then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of RDA under this Agreement.

Section 6.03. Remedies Cumulative. No remedy in this Agreement conferred upon or reserved to IFA is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. To entitle IFA to exercise

any remedy reserved to it in this Agreement, it shall not be necessary to give any notice, other than such notice as may be expressly required by this Agreement.

Section 6.04. Limited Waiver. In the event any agreement contained in this Agreement shall be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach under this Agreement.

ARTICLE VII

COVENANTS

Section 7.01. Power to Agree. IFA and RDA each covenant to the other that the execution and delivery of this Agreement has been duly authorized by all necessary corporate action, and that this Agreement has been duly executed and delivered, and constitutes a legal, valid and binding agreement in accordance with its terms and provisions.

Section 7.02. Funding Source. RDA covenants that it will do all things lawfully within its power to obtain and maintain funds from the Funding Source needed to meet its rental payment and operation and maintenance obligations under this Agreement. RDA will pay rent at times and in amounts sufficient to pay in full the debt service payment under the terms of any Related IFA Bonds outstanding with respect to the Rail Project, including any additions to reserves for the Related IFA Bonds maintained by IFA and additional rent as provided by this Agreement.

Section 7.03. Use of Lease Premises. Notwithstanding any other provision of this Agreement to the contrary, RDA covenants that it: (a) will lease the Lease Premises to NICTD for use as a rail project as defined in Indiana Code 5-1.3-2-14, (b) will not use and will cause NICTD to agree not to use the Lease Premises or any portion thereof for any private business use within the meaning of Section 141(b)(6) of the Internal Revenue Code of 1986, as amended from time to time, without the prior written consent of an Authorized Officer of IFA, which consent shall not be unreasonably withheld, and (c) will comply with Section 148(f) of the Internal Revenue Code of 1986, as amended from time to time. Any agreement entered into by RDA in violation of this Section 7.03 shall be of no force or effect and shall not convey any rights or impose any obligation in respect to it, at law or in equity.

Section 7.04. Maintenance of Insurance and Performance Bonds. IFA shall keep or cause NICTD to keep the Lease Premises insured against loss or damage from causes customarily insured against under a standard extended coverage endorsement in an amount at least equal to one hundred percent of the full replacement cost of the Lease Premises or such lesser amount as IFA and RDA may agree upon, if, in the opinion of an Authorized Officer of IFA, such insurance is reasonably commercially available; provided, however, such insurance coverage may contain a reasonable loss deductible clause. IFA shall at all times use its best efforts to maintain or cause to be maintained insurance or reserves against loss or damage from such hazards and risks to the person and property of others as are usually insured or reserved against by those operating properties similar to the Lease Premises. IFA shall maintain or cause to be maintained or cause NICTD to maintain or cause to be maintained such performance bonds

or performance insurance with respect to contracts it may enter into for Construction of the Lease Premises as are usually maintained by those constructing properties similar to the Lease Premises. RDA shall not be responsible for paying the cost of any insurance required to be kept or maintained or caused to be kept or maintained under this Section.

Section 7.05. Completion of Performance; Reconstruction; Application of Proceeds. If performance of any contract for Construction of the Lease Premises is not completed in accordance with its terms and, in the opinion of a registered engineer selected by NICTD and acceptable to IFA and RDA, the cost of completion of such performance shall not exceed the amount of proceeds from any performance bond or performance insurance to be received by reason of such noncompletion of performance and other amounts available therefor, IFA or RDA, as applicable, shall, as expeditiously as possible, continuously and diligently complete or cause to be completed or cause NICTD to complete or cause to be completed such performance. If all or any portion of the Lease Premises shall be damaged or destroyed and in the opinion of a registered engineer selected by NICTD and acceptable to IFA and RDA (a) the cost of such repair, replacement or reconstruction shall not exceed the amount of any insurance proceeds to be received by reason of such damage or destruction and other amounts available therefor, and (b) such repair, replacement or reconstruction can be completed within the period covered by any rent loss insurance maintained or caused to be maintained by IFA on the Lease Premises or other amounts available therefor, IFA shall, as expeditiously as possible, continuously and diligently prosecute or cause to be prosecuted, the repair, reconstruction or replacement thereof; provided, however, IFA may substitute an Additional Project in lieu of reconstruction to the extent permitted by Section 4.04(b) hereof. In the event IFA does not substitute an Additional Project pursuant to Section 4.04(b) hereof, within one hundred twenty days after the noncompletion of performance of any contract for Construction or the occurrence of an event of damage or destruction to the Lease Premises, IFA, through any Authorized Officer of IFA, shall deliver to RDA and the Trustee the written opinion of the engineer referred to in this Section 7.05 stating whether or not the conditions set forth above with respect thereto are satisfied. The proceeds of any performance bond or performance insurance paid on account of such noncompletion of performance and from any insurance paid on account of such damage or destruction (other than any rent loss insurance) shall be made available for, and to the extent necessary shall be applied to, the cost of such repair, reconstruction or replacement. Such proceeds not applied within thirty-six months after receipt thereof by IFA to such completion of performance or such repair, reconstruction or replacement shall be applied to any lawful purpose of IFA.

Section 7.06. Indemnification. RDA agrees to cause NICTD, to the extent provided in the Ground Lease or the Operating Lease, to release, protect, defend, indemnify and hold harmless RDA, IFA, the Bond Trustee, the Deposit Trustee, and their respective agents, employees, representatives and consultants, from and against any and all claims, causes of action, suits, judgments, demands, and/or losses (including attorney fees), in each case if asserted or incurred by or awarded to any third party, arising out of or relating to or resulting from (a) NICTD's design, construction or operation of the Rail Project, (b) any act, omission, negligence, or willful misconduct of NICTD, any of its Ancillary Users (as defined in the Operating Lease) or anyone acting under its control or for whom it is legally responsible, (c) failure of NICTD, or anyone acting under its control or for whom it is legally responsible, to perform or observe any requirement or obligation imposed by this Agreement and (d) arising out of any other act or occurrence within the Rail Project. NICTD's indemnity obligation shall not extend to: (i) any

third party claim to the extent directly caused by the sole negligence, recklessness, willful misconduct, or breach of any material obligation under this Agreement or the Governance Agreement by IFA or RDA; or (ii) any claims, causes of action, suits, judgments, demands, and/or losses resulting from any action of RDA or IFA during an Operations Step-In Period (as defined in the Governance Agreement) or resulting from any actions taken by RDA or IFA after the exercise of any Construction Period Step-In Rights (as defined in the Governance Agreement), provided however that nothing herein shall relieve NICTD of responsibility to pay up to the Maximum NICTD Excess Cost Contribution for Excess Construction Costs (as both such terms are defined in the Governance Agreement) irrespective of the exercise of Construction Period Step-In Rights. RDA and IFA shall have no obligation to indemnify NICTD.

ARTICLE VIII

MISCELLANEOUS

Section 8.01. Effectiveness. This Agreement shall be effective from and after the Effective Date, through the date on which this Agreement, or any extensions hereof, shall terminate in accordance with Section 3.02.

Section 8.02. Notices. All notices required or authorized to be given pursuant to this Agreement shall be in writing and shall be served personally or sent by certified mail to the main office of the party or parties to be notified, and the effective date thereof shall be the date of delivery, if served personally, or the date it is deposited in the mail, if mailed.

Section 8.03. Severability. In case any section or provision of this Agreement, or any covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Agreement, or any application thereof, is for any reason held to be illegal or invalid, or is at any time inoperable, that illegality, invalidity or inoperability shall not affect the remainder hereof or any other section or provision of this Agreement or any other covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Agreement, which shall be construed and enforced as if that illegal, invalid or inoperable portion were not contained herein. Any such illegality, invalidity or inoperability of any application shall not affect any legal, valid, and operable application, and each such section, provision, covenant, stipulation, obligation, agreement, act or action, or part thereof, shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent from time to time permitted by law.

Section 8.04. Table of Contents; Captions. The Table of Contents included within this Agreement and the captions included throughout this Agreement are for convenience and reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

Section 8.05. Governing Law. This Agreement shall be construed according to, and subject to, the laws of the State.

Section 8.06. Successors and Assigns. The rights and obligations of either party under this Agreement shall not be assignable by such party without the prior written consent of the other party, except that IFA may assign any of its rights under this Agreement to the Trustee. This Agreement shall inure to the benefit and shall be binding upon the respective successors and permitted assigns of the parties. Nothing herein expressed or implied is intended to confer upon any person, other than the parties or their respective successors or permitted assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

June 20, 2019 draft

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers as of the day and year first hereinabove set forth.

INDIANA FINANCE AUTHORITY

By: _____
Cristopher R. Johnston, Chair

Attest:

Dan Huges, Public Finance Director
of the State of Indiana

NORTHWEST INDIANA REGIONAL
DEVELOPMENT AUTHORITY

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

June 20, 2019 draft

Approved as to form and substance:

STATE BUDGET AGENCY

By: _____
_____, State Budget Director

Approved as to form and legality:

ATTORNEY GENERAL

By: _____

Name: _____

Title: _____

EXHIBIT A
FORM OF
SUPPLEMENT TO RDA AVAILABLE REVENUE MASTER LEASE AGREEMENT
(WEST LAKE PROJECT)

[AVAILABLE PORTION] [ADDITIONAL PROJECT] [ADDITIONAL LEASE PREMISES]

This SUPPLEMENT TO RDA AVAILABLE REVENUE MASTER LEASE AGREEMENT (WEST LAKE PROJECT) made and entered into as of the _____ day of _____, _____ (this "Supplemental Agreement"), by and between the INDIANA FINANCE AUTHORITY, a body politic and corporate, not a state agency but an independent instrumentality, exercising essential public functions, duly organized and validly existing under the laws of the State of Indiana (the "IFA"), pursuant to Indiana Code, 5-1.2, and the Northwest Indiana Regional Development Authority, duly created and existing under by virtue of Indiana Code 36-7.5 (the "RDA");

WITNESSETH:

WHEREAS, the parties entered into an RDA Available Revenue Master Lease Agreement (West Lake Project) as of the first day of _____, 20__ (the "Agreement"); and

WHEREAS, the Agreement provides that IFA and RDA may, on the date of the Agreement and from time to time thereafter, enter into one or more Supplemental Agreements, each of which may (1) set forth the Available Portion as of the date of such Supplemental Agreement, (2) add Additional Lease Premises to the Agreement when added under the terms of the Underlying Lease or to finance an Additional Project, (3) provide for the Construction of an Additional Project in the event such Additional Project shall be financed by an additional series of IFA Related Bonds, (4) add Additional Lease Premises so that there is no interruption in the lease rentals payable by RDA as described in Section 4.04(b) of the Agreement, (5) remove a portion of the Lease Premises being replaced, (6) state the rent payable for the Lease Premises, (7) provide that all lease covenants, including the obligation to pay rent, shall be unitary, whether covered by the Agreement or a Supplemental Agreement, or (8) contain such other covenants and agreements as the parties thereto agree upon; and

WHEREAS, the parties desire, by this Supplemental Agreement, to enter into such a Supplemental Agreement covering the [Available Portion] [Additional Project] [Additional Lease Premises], described in Schedule 1 attached herto, the total expenses incurred or to be incurred by IFA and allocable to which are currently estimated to be \$ _____ and the Commencement Date for which is currently projected to be _____ (the "Projected Commencement Date");

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants herein set forth, the parties agree as follows:

Section 1. Agreement to Remain in Effect. Subject to the amendments, modifications and agreements contained in this Supplemental Agreement, all the terms and

provisions of the Agreement shall remain in full force and effect, and are hereby incorporated herein by this reference. All capitalized terms used herein and not defined herein shall have the respective meanings set forth in the Agreement.

Section 2. Description of the [Available Portion] [Additional Project] [Additional Lease Premises]. The [Available Portion] [Additional Project] [Additional Lease Premises] covered by this Supplemental Agreement is described in Schedule 1 attached hereto. [IFA and RDA represent that the Additional Project has been or will be constructed in accordance with the Governance Agreement, any Development Agreement and applicable plans and specifications therefor with all reasonable speed and dispatch in accordance with the applicable plans and specifications therefor. The Funded Interest Date for the Additional Project is _____.]

Section 3. Rental Payments. Commencing on the Commencement Date for the [Available Portion] [Additional Project] [Additional Lease Premises] through _____, _____, RDA shall pay on a monthly basis, in arrears, the rental payments set forth in the Addendum attached hereto in accordance with Article IV of the Agreement.

Section 4. Amendments. IFA and RDA shall, on the Commencement Date for the [Available Portion] [Additional Project] [Additional Lease Premises] and from time to time thereafter, enter into one or more amendments to this Supplemental Agreement, each of which amendments shall include an addendum superseding the Addendum to: (a) adjust the rental payments under this Supplemental Agreement to reflect the then estimated expenses incurred or to be incurred by IFA; and (b) make such other changes as the parties may agree upon.

Section 5. Covenants Unitary. All covenants under the Agreement, this Supplemental Agreement or any other Supplemental Agreement, including the obligation to pay rent, shall be unitary and include all Lease Premises, whether covered by the Agreement, this Supplemental Agreement or any other Supplemental Agreement.

IN WITNESS WHEREOF, the parties have caused this Supplemental Agreement to be executed by their duly authorized officers as of the day and year first hereinabove set forth.

INDIANA FINANCE AUTHORITY

By: _____
_____, Chair

Attest:

_____, Public Finance Director
of the State of Indiana

NORTHWEST INDIANA REGIONAL
DEVELOPMENT AUTHORITY

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

June 20, 2019 draft

Approved as to form and substance:

STATE BUDGET AGENCY

By: _____
_____, State Budget Director

Approved as to form and legality:

ATTORNEY GENERAL

By: _____

Name: _____

Title: _____

ADDENDUM

MONTHLY RENTAL PAYMENT SCHEDULE

Month
Available
For Use

Month
Payments
Due

Rental
Payments

SCHEDULE 1

[AVAILABLE PORTION] [ADDITIONAL PROJECT] [ADDITIONAL LEASE PREMISES]

EXHIBIT B
LEASE PREMISES

EXHIBIT C
FORM OF MEMORANDUM

EXHIBIT 10

SSI

NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT
Sensitive Security Information Policy & Procedures

[ADOPTED BY NICTD BOARD OF TRUSTEES – January 26, 2018]

1. Purpose

The purpose of this document is to establish a policy and operating procedures for the maintenance, safeguarding and disclosure of records and information relating to the systems, operations, or facilities of the Northern Indiana Commuter Transportation District (“NICTD”) determined to contain Sensitive Security Information as defined by federal regulations and law, as well as to control and govern the disclosure of plans, procedures, and other documents whose dissemination must be controlled and protected for security reasons (“Policy”).

This Policy shall not alleviate responsibility of a covered person as defined herein from otherwise complying with 49 CFR 15 and 1520 and any other controlling federal law or regulation.

2. Applicability to “Covered Persons”

A list of who is a “covered person” as defined by federal law is included in 49 CFR 15.7 and 1520.7 and is incorporated into the Policy. The following list, although not comprehensive, identifies “covered persons” for purposes of applicability of this policy:

Covered Persons:

- All NICTD employees and former employees
- Each person employed by an architect, engineer, project or construction manager or consultant engaged by NICTD or acting for and on behalf of NICTD
- Each person employed by a contractor, subcontractor, or design-builder engaged by NICTD or acting for and on behalf of NICTD
- Any individual who receives NICTD sensitive security information (“SSI”) in accordance with this policy
- Any other federal employee defined as a “covered person” under 49 CFR Parts 1520 or 15

3. Sensitive Security Information (“SSI”)

SSI is defined in 49 CFR Parts 15 and 1520¹ and is information obtained or developed in the conduct of security activities, including research and development, the disclosure of which DOT and/or TSA has determined would (1) constitute an unwarranted invocation of privacy (including, but not limited to, information contained in any personnel, medical, or similar file); (2) reveal trade secrets or privileged or confidential information obtained from any person; or (3) be detrimental to the security of transportation and transportation safety. For NICTD, this includes any information or records that, if disclosed, may compromise the safety or security of its customers,

¹ 49 CFR Part 1520 and 49 CFR Part 15 were published simultaneously by the Department of Homeland Security, Transportation Security Administration, and the Department of Transportation, Office of the Secretary of Transportation, respectively, on May 18, 2004. These rules were broadened by a technical amendment, issued January 7, 2005, to provide the protection of SSI “regardless of mode of transportation.”

its employees, or its assets; or those records that, if disclosed, may be detrimental to transportation safety and security.

SSI is also intended to include “security critical” and other similar designations for security-related information. SSI is not intended to imply a Department of Defense or Department of Energy classification. The “SSI” designation is separate and distinct from other designations such as “For Official Use Only” or “Law Enforcement Sensitive”. However, these documents may include SSI material. Some information provided to NICTD by the Department of Homeland Security (“DHS”)/ Transportation Safety Administration (“TSA”) or the Department of Transportation (“DOT”)/Federal Transit Administration (“FTA”) may already be determined to be SSI and marked as such.

Documents or other information which are generally made available to the public may not constitute SSI.

4. SSI Designation

This Policy will provide specific guidance on NICTD documents that have been designated as SSI material.² Moreover, it will establish the procedure by which a document, not already so designated, might be classified as SSI and marked accordingly. A list of SSI as recognized by federal law is included in 49 CFR 15.5 and 1520.5 and is incorporated into this Policy by reference. The following list, although not comprehensive, includes documents and information that are considered SSI under this Policy:

- Any NICTD Security Plan
- Any national, regional, district or area security plan
- Any operator security program or security contingency plan
- Any security incident response plan
- Any security directive
- NICTD’s Emergency Preparedness Program Plan (EPPP)
- Threat & Vulnerability Assessments of NICTD assets including, but not limited to, those “... directed, created, held, funded, or approved by the DOT, DHS, or that will be provided to DOT or DHS...”³
- Documents in NICTD’s possession that have been designated as SSI by DHS, TSA, DOT or FTA.
- Information concerning the specific locations and design, or the operational details, of internal security measures such as sensor, detectors, alarms, cameras and barriers

Under this Policy, all such documents listed above are SSI even if they have not yet been properly marked and so designated.

The following types of information may be, in part or in whole, considered SSI under this policy:⁴

² Designation of SSI material is based in part on regulations in 49 CFR Part 15.5 and 1520.5

³ 49 CFR Parts 1520.5 (5) & 15.5 (5)

⁴ It is NICTD’s intent, upon the approval & release of this policy, to add SSI markings to documents at each new release of the document.

- NICTD's Security Procedures
- Communications from or to TSA, DHS, or other federal, state or local law enforcement agencies
- Results of NICTD security inspections
- Results of NICTD security investigations
- System Security Information that has been determined to be critical to transportation safety & security
- Security training materials, including records created or obtained for the purpose of training persons employed by, contracted with, or acting on behalf of NICTD, or any outside security contractor engaged by NICTD
- Engineering and design specifications for NICTD facilities, systems or equipment if disclosure of that information could aid in planning an attack on a specific target by identifying the features vulnerable to attack

The NICTD Director of Safety and Rules will make initial designations of SSI, subject to review and approval by General Counsel and the Chief Operating Officer of NICTD.

5. Identification (Marking) of SSI

Information that has been designated as SSI will contain formal markings as follows:

The front & back cover (including a notebook or binder cover) and title page, if applicable, of the document should contain the designation mark "Sensitive Security Information" at the top and a statement limiting its distribution at the bottom. The appropriate markings for covers are shown in EXHIBIT A. Similar markings for the title page, with additional optional information for a title page, are shown in EXHIBIT B. Each page of the document should contain the slanted watermark "Security Sensitive Information", shown in EXHIBIT C, and may also be marked as "SSI" in the header or footer of the document.

Other types of media, such as CDs, DRDs, DVDs, and video documentation, should be clearly and conspicuously marked with the protective marking and the distribution limitation statement such that any viewer or listener would be reasonably likely to see or hear the SSI designation at the outset when accessing the information.⁵ Electronic documents that are SSI should be password protected, and the password should not be directly associated with that file. It is never a good idea to send SSI by email, but if it is absolutely necessary to do so, the sender should communicate the password in a separate email or communication.

6. Control of SSI

NICTD employees, design professionals, program and construction managers, contractors, and other "covered persons" are required to take reasonable steps to safeguard and protect SSI in that person's possession or control from unauthorized disclosure. If the SSI document is not in your physical possession, it must be stored in a secure container, such as a locked desk or file cabinet or in a locked room. Persons shall ensure the marking and disposal of SSI in accordance with this

⁵ An excellent example would be the FBI Warning that everyone sees at the beginning of a commercially purchased or rented DVD.

Policy and 49 CFR 15 and 1520. **You should never disclose SSI to other employees or covered persons that do not have a need to know that information.** Refer requests by other persons for SSI to the TSA or the other applicable component or agency within the DOT or DHS.

If a covered person receives a record containing SSI that is not marked as specified and required by 49 CFR 15 and 1520, the person must notify the NICTD Director of Safety and Rules and mark the record as specified in such regulations and inform the sender of the record that the record must be marked as specified in such regulations. In the meantime, you should treat those documents as if they were SSI until advised otherwise.

If a covered person becomes aware that SSI has been released to an unauthorized person, the covered person must promptly inform the TSA or applicable DOT or DHS component or agency as well as the NICTD Director of Safety and Rules.

SSI may be reproduced to the minimum extent necessary consistent with the need to carry out official duties or any transit agency policy. The reproduced information should be marked and protected in the same manner as the original information (including recording the number and location of the reproduced materials).

In the case of information that is both SSI and has been designated as critical infrastructure information under Section 214 of the Homeland Security Act, any covered person who is a Federal employee in possession of such information must comply with the disclosure restrictions and other requirements applicable to such information under Section 214 and any implementing regulations.

The TSA Circular on Best Practices Guide, developed by the TSA SSI Branch, also offers a list of best practices as examples of reasonable steps, and can be located at www.tsa.gov.

7. Access to SSI; Need to Know

Generally, access to SSI is limited to NICTD employees and other covered persons *who have a need to know that information*. The following provides a guide and some examples of those who may need to know:

- The employee or covered person needs information to carry out transportation security activities approved, accepted, funded, recommended, or directed by NICTD, DHS or DOT.
- The person is in training to carry out transportation security activities approved, accepted, funded, recommended, or directed by NICTD, DHS or DOT.
- The information is necessary for the employee or covered person to supervise or otherwise manage the individuals carrying out transportation security activities approved, accepted, funded, recommended, or directed by NICTD, DHS or DOT.
- The employee or covered person needs the information to advise security persons regarding any official security-related requirements.
- The employee or covered person needs the information in connection with any judicial or administrative proceeding regarding those requirements.
- The person needs the information to provide legal or technical advice to NICTD or to a covered person regarding transportation security requirements of Federal law

A person's "need to know" may be further restricted by DHS, TSA, DOT, FTA, or other federal, state, or local regulation. Persons outside of NICTD, other than those designated as covered persons with a need to know, should not be given access to SSI. All requests for information, whether formal or informal⁶, about NICTD assets or security plans and procedures must be forwarded to the NICTD Director of Safety and Rules. NICTD may decide to permit limited access after review by the appropriate staff.

Anyone not currently an NICTD employee or a covered person who has a need to know and who is to be given limited access to SSI becomes a covered person subject to the obligations of a covered person under this Policy. In that case, a copy of NICTD's Policy on SSI must be attached to the SSI. Design professionals, program and construction managers contractors, vendors, and suppliers who may be expected to need access to SSI material as part of their activities may also have to attend some form of training as a requirement of their doing business with the transit agency.

8. Destruction of SSI

Subject to the requirements of the Federal Records Act (5 USC 105), including the duty to preserve records containing documentation of a Federal agency's policies, decisions, and essential transactions, all SSI must be destroyed completely to preclude recognition or reconstruction of the information when it is no longer needed to carry out transportation security measures. If you have SSI in your possession or department that is no longer needed, you must take appropriate steps to destroy it. Document owners are responsible for the retention of SSI documents according to NICTD's Records Retention Procedure. All SSI must be destroyed completely to preclude recognition or reconstruction of the information when the covered person no longer needs the SSI to carry out transportation security measures as well as for the subsequent destruction of those SSI documents.

9. Consequences of Unauthorized Disclosure

Violation of 49 CFR 15 and 1520 is grounds for a civil penalty and other enforcement or corrective action by the DOT and/or DHS, and appropriate personnel actions for federal employees. Corrective action may include issuance of an order requiring retrieval of SSI to remedy unauthorized disclosure or an order to cease future unauthorized disclosure.

The disclosure or use of SSI in violation of this Policy shall also give rise to irreparable injury to NICTD, inadequately compensable in monetary damages. Accordingly, in addition to any other legal or equitable remedies that may be available, NICTD shall be entitled to equitable relief, including an injunction and specific performance, in the event of any breach or threatened breach of this Policy by any violator.

END OF DOCUMENT

⁶ Formal requests may include subpoenas, U. S. or IN Freedom of Information Act (FOIA) requests

EXHIBIT A – SSI Marking for Document Covers (Front & Back)

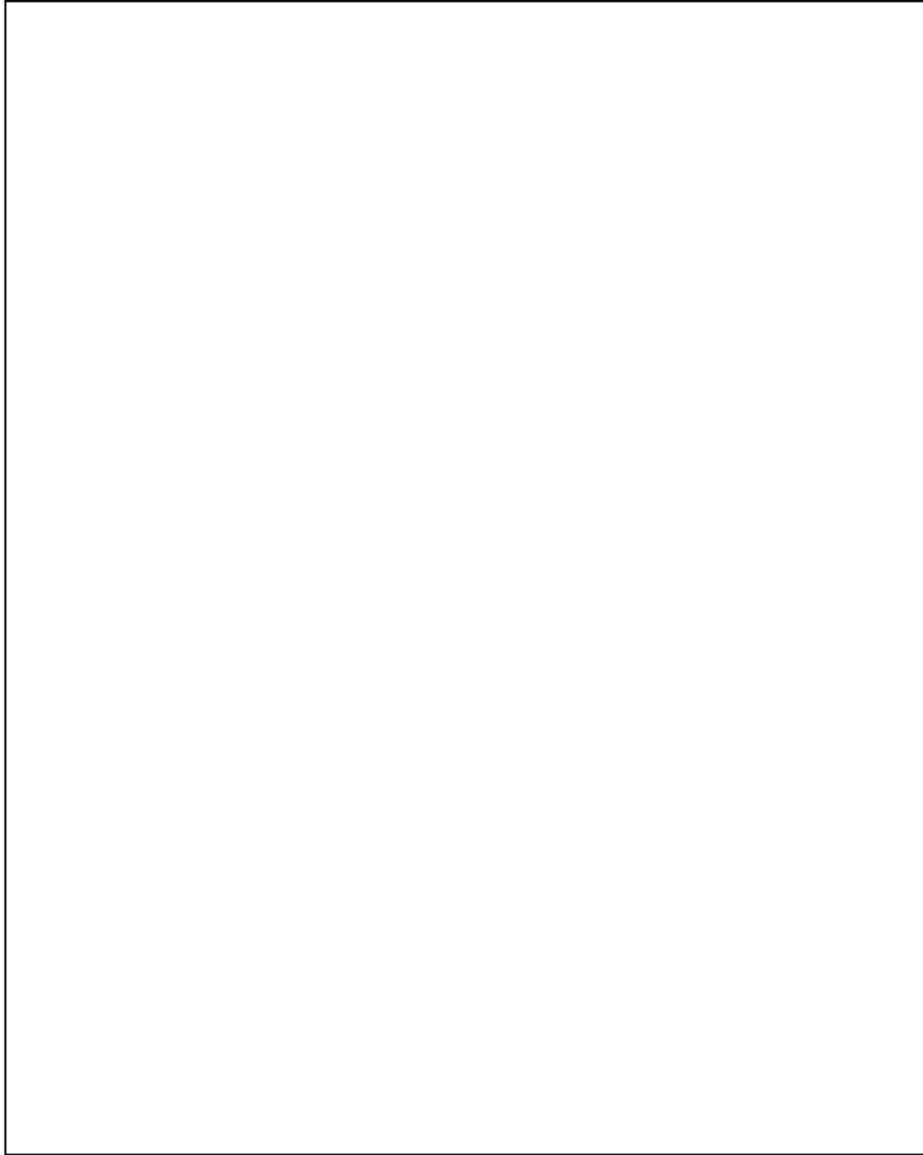
Sensitive Security Information

WARNING: This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1520. No part of this record may be disclosed to persons without a "need to know" as defined in 49 CFR parts 15 and 1520, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, public disclosure is governed by 5 U.S.C. 552 and 49 CFR parts 15 and 1520.

EXHIBIT B – Sample (Optional) Title Page

Sensitive Security Information
<p><i>(If this document is found, please deliver it to NICTD Security or to a manager immediately)</i></p> <p>NICTD System Security Plan</p> <p>January 2018</p> <p>CONTROL NUMBER: _____</p> <p>ORIGINATOR: _____</p> <p>Department: _____</p>
<p>WARNING: This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1520. No part of this record may be disclosed to persons without a "need to know" as defined in 49 CFR parts 15 and 1520, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, public disclosure is governed by 5 U.S.C. 552 and 49 CFR parts 15 and 1520.</p>

EXHIBIT C – Sensitive Security Watermark



RESOLUTION 19-07 EXHIBIT B-1

Form of District Ground Lease – West Lake Project

GROUND LEASE AGREEMENT (WEST LAKE PROJECT)

between

NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT

as Lessor

and

NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY

as Lessee

Dated as of _____ 1, 20__

INDEX

	<u>Page</u>
Section 1.	Definitions; Interpretation3
Section 2.	Ground Lease of Facilities8
Section 3.	Supplements; Nature of Obligations9
Section 4.	Nature of Ground Lease9
Section 5.	Nonliability of IFA or RDA.....10
Section 6.	Construction; Repairs and Maintenance; Alteration; Operations; Equipment or Furnishings10
Section 7.	Insurance12
Section 8.	Use of Insurance and Condemnation Proceeds13
Section 9.	Liability Insurance13
Section 10.	General Insurance Provisions.....14
Section 11.	General Covenants14
Section 12.	Covenants Regarding the Bond Act; IFA Bonds15
Section 13.	Utility Service15
Section 14.	Environmental Laws Covenants15
Section 15.	Indemnity by NICTD15
Section 16.	No Broker15
Section 17.	Transfer to NICTD.....16
Section 18.	Title to Real Estate16
Section 19.	Defaults; Remedies16
Section 20.	Notices.....18
Section 21.	Construction of Covenants.....18
Section 22.	Supplemental Ground Leases.....19
Section 23.	No Personal Liability19
Section 24.	Successors or Assigns; Use Restrictions.....19
Section 25.	Validity.....20
Section 26.	Severability; Complete Agreement; Counterparts; Survival of Terms; Governing Law; Etc20
Exhibit A	Legal Description and Map of the Real Estate
Exhibit B	Form of Supplemental Ground Lease Agreement (West Lake Project) between Northern Indiana Commuter Transportation District and Northwest Indiana Regional Development Authority

GROUND LEASE AGREEMENT (WEST LAKE PROJECT)

This Ground Lease Agreement (West Lake Project) (this "Ground Lease") is entered into this ____ day of _____, 20__, between the NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT, a commuter transportation district and a municipal corporation formed pursuant to Indiana Code 8-5-15, as amended ("NICTD"), and the NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY, a separate body corporate and politic formed pursuant to Indiana Code 36-7.5, as supplemented and amended from time to time ("RDA").

RECITALS

1. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the hereinafter defined Governance Agreement;
2. The South Shore Line is a commuter train service between South Bend, Indiana and Millennium Station in Chicago, Illinois;
3. NICTD has owned and operated the South Shore Line for nearly forty years and has experience in developing capital rail projects for the South Shore Line and in requesting, obtaining and managing federal grant funds through the Federal Transit Administration;
4. RDA fosters development in northwest Indiana and has since its inception fostered economic development throughout northwest Indiana and has been vested pursuant to IC 36-7.5-4-18 with certain powers and duties with respect to the Rail Project;
5. IFA oversees State debt issuance and provides effective financing solutions to facilitate State, local and business investment in the State and has participated in numerous important economic development activities throughout the State;
6. RDA and NICTD have developed and advanced plans for improvements to the South Shore Line, specifically the Double Track Project and the West Lake Corridor Project, which will improve the South Shore Line and foster economic development throughout northwest and north central Indiana by shortening commute times, providing new rail service to areas not serviced by rail transportation to Chicago, enhancing the economic and community development of the northwest Indiana region, and increasing the convenience to the areas served;
7. RDA has determined that providing assistance to the Rail Project in the manner herein provided serves a public purpose for which RDA was created;
8. The Rail Project is expected to encourage business investment in and near the station areas, provide faster, less expensive and reliable transportation, relieve existing and anticipated traffic congestion, reduce vehicular emissions, reduce commuting costs and attract and retain families and younger residents in northwest and north central Indiana;
9. The Rail Project is expected to provide faster travel times, accommodate more trains to improve service during rush hour travel and be safer to operate;

10. RDA, IFA and NICTD have identified and obtained committed local and State funding for the Rail Project;

11. NICTD has applied for necessary federal grant funding from FTA on behalf of RDA and the State, and in its capacity as the grantee, and as the signatory party to that certain Full Funding Grant Agreement with FTA, will maintain continuing control of the assets receiving FTA funding, subject to the terms of the Governance Agreement, the Development Agreement, if any, this Ground Lease and the other leases described herein;

12. The Parties desire to jointly complete FTA grant application processes for the West Lake Corridor Project, in order to facilitate the further development, design, construction and financing of the West Lake Corridor Project as improvements to the South Shore Line commuter rail system;

13. Any obligations of RDA or IFA shall not constitute a debt of the State or any municipality, or a pledge of the full faith and credit thereof, under the Constitution of the State;

14. Providing financial support to the Rail Project and the development and operation thereof are valid public purposes of RDA, IFA and NICTD, will contribute importantly to the economic and community development of northwest Indiana and will benefit the citizens of northwest Indiana;

15. In connection with the IFA Bonds, RDA, NICTD, and IFA are required to enter into one or more leases for the purpose of providing for the issuance and repayment of the IFA Bonds;

16. The funding for the payment of lease rentals by RDA for payment of the IFA Bonds will be provided from State appropriations, FTA Grant Reimbursements, moneys on deposit in the next generation trust fund established under IC 8-14-15.2 and Available Revenues;

17. NICTD expects that FTA funding will fund a portion of the costs of the Rail Project, subject to local funding of the remaining share;

18. NICTD, RDA, and IFA intend to enter into the Revenue Trust Fund Agreement with the Deposit Trustee and the Bond Trustee for the purposes of receiving and safeguarding substantially all funds for the Rail Project, including substantially all funding sources to be used to pay lease rentals;

19. RDA and IFA are willing to assist NICTD in providing a mechanism to fund the Rail Project pursuant and subject to the Governance Agreement and the Development Agreement and to comply with and advance the public purposes described herein;

20. In connection therewith and subject to this Ground Lease, certain Real Estate and Rail Improvements will be leased by NICTD to RDA pursuant to this Ground Lease, then leased by RDA to IFA pursuant to the Underlying Lease, then leased by IFA to RDA pursuant to the Master Leases, and then leased by RDA to NICTD pursuant to the Operating Lease, and IFA will issue the IFA Bonds and cause certain proceeds thereof to be made available to NICTD to pay costs incurred in undertaking the Rail Project;

21. Contemporaneous with or subsequent to the commencement of existence of the leasehold estate under this Ground Lease, RDA and IFA shall cause the Underlying Lease, IFA and RDA shall cause the Master Leases, and RDA and NICTD shall cause the Operating Lease, to each be effective; and

22. NICTD acknowledges that IFA's and RDA's right of occupancy and continuous possession of the Real Estate (and the Rail Improvements) and its lawful right to lease the Real Estate (and the Rail Improvements) throughout the stated term of this Ground Lease are essential to the funding mechanism for the Rail Project and the realization of the public purposes described herein.

WITNESSETH:

In consideration of the mutual covenants herein contained, the parties hereto hereby agree as follows:

Section 1. Definitions; Interpretation.

(a) The terms defined in this Section shall for all purposes of this Ground Lease have the meanings herein specified unless the context otherwise requires.

"Ancillary Users" means any party that uses or has any interest in users of the Facilities of any kind whatsoever (including any subtenants, occupants, employees, agents, contractors, customers or invitees of NICTD).

"Authorized Officer of IFA" means the Chair of IFA or the Public Finance Director of the State of Indiana and, with reference to any act or document, also means any other person authorized by a resolution of IFA to perform such act or to sign such document.

"Authorized Officer of NICTD" means President of NICTD and, with reference to any act or document, also means any other person authorized by a resolution of NICTD to perform such act or to sign such document.

"Authorized Officer of RDA" means the Chair or the Chief Executive Officer of RDA and, with reference to any act or document, also means any other person authorized by a resolution of RDA to perform such act or to sign such document.

"Available Revenues" means any available revenues of RDA, including, without limitation: (a) the portion of the annual payments to RDA from the Cities of Gary, East Chicago and Hammond and the Counties of Lake and Porter due under Indiana Code 6-3.6-6-9, Indiana Code 36-7.5-4-2 and Indiana Code 6-3.6-11-6(b); (b) amounts withheld by the auditor of State from certain municipalities within Lake County, as determined by the Indiana Department of Local Government Finance, and paid to the Secretary-Treasurer of RDA pursuant to Indiana Code 6-3.6-11-5.5; and (c) revenues derived from the Interlocal Agreements or from other actions taken by certain municipalities within Lake County offering to provide revenue to support and finance the Rail Project pursuant to Indiana Code 6-3.6-11-7. Notwithstanding the above definition, with respect to the initial series of IFA Bonds purchased by the State Treasurer as provided in IC 5-13-10.5-20, which are secured by rental payments to be made pursuant to the

RDA Available Revenues Master Lease Agreement (West Lake Project), to the extent provided in IC 36-7.5-4-21, it is understood that available revenues of RDA only include those sources described in clause (a) above.

"Biennium" means the biennium used for State budgetary and appropriation purposes.

"Bond Act" means Indiana Code 5-1.3, as amended or supplemented, or any successor thereto.

"Bond Trustee" means the trustee serving as such with respect to the IFA Bonds.

"Completion Certificate" for the Facilities or any portion thereof means a certificate (a) executed by an Authorized Officer of NICTD certifying that such Facilities or such portion thereof is available for use by RDA and (b) accepted by an Authorized Officer of RDA acknowledging that such Facilities or such portion thereof is available for use by RDA.

"Concurrence" means the written concurrence of the Authorized Officer of IFA and the Authorized Officer of RDA to the referred approval or other action of NICTD pursuant to the Governance Agreement, the Development Agreement or the Leases; *provided* that:

(a) concurrence may be withheld or delayed if the Authorized Officer of IFA and/or the Authorized Officer of RDA determines a referenced action (i) may adversely affect the Continuing Rent Obligation and (ii) be inconsistent with applicable laws (and the requirements of the Governance Agreement, the Development Agreement, the Leases and/or any documents related thereto);

(b) concurrence when given shall not be deemed to estop or otherwise waive IFA's and/or RDA's right to later assert or enforce any requirement under the Governance Agreement, the Development Agreement, the Leases, and/or any documents related thereto, including IFA's and RDA's ability to seek claims, damages, losses and expenses, including attorneys' fees and other IFA and RDA costs arising out of or resulting from the action of NICTD for which concurrence has been given; and

(c) concurrence when given and later found to be contrary to any requirement under the Governance Agreement, the Development Agreement, the Leases and/or any documents related thereto shall not expose NICTD to a claim or assertion that such failure is, in and of itself, a failure to obtain a concurrence in the first instance and, as such, without having received a concurrence, a basis for a NICTD Event of Default. To the extent NICTD receives Concurrence under this Ground Lease it shall be able to rely upon such Concurrence.

"Continuing Rent Obligation" means (a) RDA's obligation under the Master Leases to continue to pay the Master Leases Rental and (b) NICTD's obligation under the Operating Lease to continue to pay the Operating Lease Rental, each without delay or diminution as to amount.

"Deposit Trustee" means the trustee bank acting as the Deposit Trustee under the Revenue Trust Fund Agreement.

"Development Agreement" means any development agreement entered into by NICTD, RDA and IFA for the purpose of governing the completion of the Rail Project in a manner consistent with and as contemplated by the Governance Agreement.

"Double Track Project" means the addition of an east/west rail line for a portion of the South Shore Line from Gary to Michigan City and related improvements, all as more fully described in Exhibit 1 of the Governance Agreement.

"Environmental Laws" means all federal, state and local statutes, common law principles, rules, regulations, ordinances, permits, licenses, written approvals, orders, writs, injunctions, judgments and consent decrees relating to pollution control, protection of environmental quality, or protection of the health or safety of workers or the public from exposure to Hazardous Materials, including laws relating to emissions, discharges, releases or threatened releases of pollutants, contaminants, chemicals, or hazardous, toxic or dangerous substances, materials or wastes in the environment (including ambient air, surface water, ground water, land surface or subsurface strata) or otherwise relating to the generation, manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials. Without limiting the generality of the foregoing, "Environmental Laws" shall encompass any "Superfund" or "Superlien" Law (including those otherwise referenced in this definition) and each of the following statutes and the regulations promulgated thereunder, in any similar applicable federal, state or local law, rule or regulation, each as amended: (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980; (ii) the Solid Waste Disposal Act; (iii) the Hazardous Materials Transportation Act; (iv) the Toxic Substances Control Act; (v) the Clean Water Act; (vi) the Clean Air Act; (vii) the Safe Drinking Water Act; (viii) the National Environmental Policy Act of 1969; (ix) the Superfund Amendments and Reauthorization Act of 1986; (x) Title III of the Superfund Amendments and Reauthorization Act of 1986; (xi) the Federal Insecticide, Fungicide and Rodenticide Act; (xii) provisions of the Occupational Safety and Health Act of 1970 relating to the handling of and exposure to Hazardous Materials; and (xiii) any state or local analogue to any of the foregoing.

"Facilities" means the Real Estate and the Rail Improvements.

"FFGA" means the grant agreement awarded by FTA for the Rail Project.

"Force Majeure" shall have the meaning ascribed to such term in the Governance Agreement.

"FTA" means the Federal Transit Administration.

"FTA Grant Reimbursements" means funds received from FTA as reimbursement for expenditures by the Parties for moneys spent on one or both of the projects constituting the Rail Project pursuant to the FFGA for the Rail Project.

"Governance Agreement" means the Governance Agreement effective as of [_____, 2018], 2018, by and between NICTD, RDA and the IFA, as from time to time amended or supplemented in accordance with its terms.

"Ground Lease" means this Ground Lease Agreement (West Lake Project) as the same may be amended, modified or supplemented by any amendments or modifications hereof and supplements hereto entered into in accordance with the provisions hereof.

"Hazardous Materials" means any hazardous, toxic or dangerous substance, material and waste, including petroleum and hydrocarbon compounds derived from petroleum (including naturally occurring or man-made petroleum and derivative hydrocarbons), flammable explosives, asbestos, urea formaldehyde insulation, radioactive materials, polychlorinated biphenyls, pesticides, herbicides and any other kind and/or type of pollutants or contaminants (including materials which include hazardous constituents), sewage, sludge, solvents and/or any other similar substances, materials or wastes that are or become regulated under any Environmental Law as hazardous or toxic.

"IC" means the Title, Article, Chapter and/or Section of the Indiana Code as referenced, and as such may be supplemented, amended or replaced from time to time.

"IFA" means the Indiana Finance Authority, a body politic and corporate, not a State agency, but an independent instrumentality exercising essential public functions, organized and existing under IC 5-1.2, or if said Indiana Finance Authority shall be abolished, the board, body, commission or agency succeeding to the principal functions thereof.

"IFA Bonds" means one or more series of bonds, notes or other similar obligations issued under IC 5-1.3-1 *et seq.* to finance or refinance all or a portion of the costs for the Rail Project;

"Including" or "including" in this Ground Lease shall be construed as if followed by the phrase "without limitation" or "but not limited to".

"Lease Premises" means the leasehold estate and interests created by and pursuant to this Ground Lease, including, without limitation, the leasing of the Facilities, as the same may be amended and modified from time to time as needed for the Rail Project in the manner as provided for in the Leases.

"Leases" means, collectively, this Ground Lease, the Underlying Lease, the Master Leases and the Operating Lease.

"Master Leases" means the various leases from IFA to RDA in support of the IFA Bonds, including specifically the State Appropriation Master Lease Agreement (West Lake Project), the RDA Available Revenues Master Lease Agreement (West Lake Project) and the Federal Grant Anticipation Master Lease Agreement (West Lake Project), each as from time to time amended or supplemented by any amendment or supplement thereto, including any supplemental memorandum of lease recorded in connection therewith.

"Master Leases Rental" means the rental payments payable by RDA as provided in the Master Leases.

"Operating Lease" means the Operating Lease, dated as of _____ 1, 20__, from RDA to NICTD as from time to time amended or supplemented by any amendment or

supplement thereto, including any supplemental memorandum of lease recorded in connection therewith.

"Operating Lease Rental" means the rental payments payable by NICTD as provided in the Operating Lease.

"Parties" means IFA, NICTD and RDA.

"Permitted Encumbrances" means (a) this Ground Lease, the Underlying Lease, the Master Leases and the Operating Lease, (b) utility, access and other easements, licenses and rights of way, covenants, conditions and restrictions, and other exceptions to title, which in each case will not materially and adversely affect the construction, development and operation of the Rail Project as contemplated by this Ground Lease or materially impair the interest of IFA, RDA or NICTD in, or its use of, the Facilities, (c) any liens to the extent permitted in this Ground Lease, and (d) any other liens which are not prohibited under this Ground Lease, but only if in the opinion of counsel satisfactory to IFA and the Bond Trustee, such liens do not materially impair the interest of IFA, RDA or NICTD in, or its use of, the Facilities.

"Permitted Uses" means any use permitted under the Governance Agreement, subject to Section 24(b) hereof.

"Rail Project" means the West Lake Corridor Project, as defined in IC 5-1.3-2-14 and IC 36-7.5-1-13.5.

"Rail Improvements" means the existing improvements located on the Real Estate, together with any new improvements constructed (or placed for use) on the Real Estate, whether as part of the Rail Project or otherwise.

"Real Estate" means the real property described in Exhibit A attached hereto, as the same may be amended or modified in the manner provided herein and the other Leases.

"Revenue Trust Fund" means the development authority revenue fund established under the Revenue Trust Fund Agreement.

"Revenue Trust Fund Agreement" means the Revenue Trust Fund Agreement, dated as of August 1, 2018, entered into by and among RDA, IFA, NICTD, the Bond Trustee, and the Deposit Trustee in connection with the Revenue Trust Fund.

"State" means the State of Indiana.

"Supplemental Ground Lease" means any Ground Lease supplemental to this Ground Lease entered into in accordance herewith and substantially in the form set forth in Exhibit B.

"Trust Indenture" means the Trust Indentures to be entered into between IFA and the Bond Trustee relating to the IFA Bonds, and all supplements and amendments thereto.

"West Lake Corridor Project" means an approximately eight (8) mile new north/south passenger rail line connected to the existing South Shore Line located in Lake County, Indiana,

with four stations from and including Hammond (Gateway Station) to and including Munster/Dyer (Main Street Station, including all property owned or leased by NICTD for the operation of the South Shore Line over the West Lake Corridor Project), all as more fully described in Exhibit 2 of the Governance Agreement.

(b) The terms "herein", "hereto", "hereunder" and all terms of similar import shall be deemed to refer to this Ground Lease as a whole rather than to any Section or Exhibit to this Ground Lease.

(c) Unless otherwise specified, references in this Ground Lease to (i) "Section ___" shall be deemed to refer to the Section of this Ground Lease bearing the number so specified, (ii) "Exhibit ___" shall be deemed to refer to the Exhibit of this Ground Lease bearing the letter or number so specified, and (iii) this "Ground Lease" means this Ground Lease and any exhibits and attachments hereto.

(d) Captions used for or in Sections and Exhibits of this Ground Lease are for convenience of reference only and shall not affect the construction of this Ground Lease.

Section 2. Ground Lease of Facilities.

(a) In consideration of certain payments and other terms and conditions herein specified, NICTD does hereby lease, demise and let to RDA the Facilities (such constituting a part of the Lease Premises), to have and to hold the same with all rights, privileges, easements and appurtenances thereunto belonging unto RDA for a term beginning on the date hereof and ending on _____; *provided*, however, the term shall end earlier or later than such date in the event the conditions set forth in Section 17 hereof are met, in which case, the term shall end on such date (the "Term").

(b) The parties agree that the Rail Project will be undertaken on the Real Estate pursuant to the Governance Agreement and the Development Agreement. The parties acknowledge and agree that the Real Estate is available for use from and after the date hereof, and such availability for use (and the value thereof to RDA and NICTD) is not in any way diminished while the Rail Project is being undertaken. By one or more endorsements each recorded as soon as practical and as a Supplemental Ground Lease entered into in substantially the form set forth in Exhibit B, but in any event, when the Rail Improvements are complete and ready for use as part of the Rail Project, the parties shall revise or increase the real estate described in Exhibit A, if necessary to reflect the final site location acquired for the Rail Project and upon which the Rail Improvements as part of the Rail Project are constructed; provided that such additional Real Estate is also added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.

(c) NICTD hereby represents and warrants that, upon compliance with its obligations under Section 18 hereof, RDA will possess a good and indefeasible leasehold estate, subject only to Permitted Encumbrances, to all of the Real Estate, which includes real estate upon which the Rail Improvements that are part of the Rail Project are to be acquired, improved and constructed pursuant to the Governance Agreement and the Development Agreement, and NICTD warrants

and will defend the same against all claims whatsoever not suffered or caused by the acts or omissions of RDA.

Section 3. Supplements; Nature of Obligations.

(a) NICTD acknowledges that it has received good, valuable, and sufficient consideration, including payment and reimbursement of certain costs and expenses from the proceeds of the IFA Bonds and other [Rail Project monies], from RDA and through IFA in respect of the rights and interests created by this Ground Lease. During the term of this Ground Lease, NICTD agrees that no additional payments by IFA or RDA to NICTD hereunder shall be made in respect of the rights and interests created by this Ground Lease.

(b) After the Commencement Date (as defined in the Master Leases), for any portion of the Lease Premises, in the event such portion shall be damaged or destroyed or taken, so as to render such portion unavailable for use by RDA, or shall for any other reason become unavailable for use by RDA, NICTD may add additional Lease Premises to this Ground Lease pursuant to a Supplemental Ground Lease so that RDA may lease such additional Lease Premises to NICTD pursuant to a supplement to the Operating Lease; provided that such additional Lease Premises are also added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.

(c) During the term of this Ground Lease, NICTD and RDA may enter into one or more Supplemental Ground Leases in the event NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities in substantially the form set forth in Exhibit B, so that such portions are within the boundaries of the Facilities.

(d) It is expressly understood and agreed by RDA and NICTD that the obligations of RDA and NICTD created by or arising out of this Ground Lease or of any amendments hereto shall not be, represent, or constitute an indebtedness of the State, IFA or RDA within the meaning or application of any constitutional limitation of the State or the laws of the State or a pledge of the faith or credit of the State, IFA or RDA.

Section 4. Nature of Ground Lease. (a) It is expressly understood and agreed that this Ground Lease shall not be what is known as a net lease (i.e., that no expenses in connection with the Facilities of any nature whatsoever shall be those of RDA by reason of it being the tenant hereunder) and that during the Term, NICTD shall be solely obligated to pay at its sole cost and expense, without reimbursement from RDA, all costs of taxes and assessments, operations, maintenance and use in connection with or relating to the Facilities, including all costs and expenses of decoration, maintenance, utility, janitorial and all other services, repair or replacement of all parts of the Facilities or improvement of the Facilities, in the manner provided in Section 7 of the Operating Lease, except as otherwise provided in the Governance Agreement.

(b) NICTD shall cause any taxes due on the Rail Project to be timely paid to the applicable authorities, except to the extent of any good faith contests which have not yet been resolved, and it shall not assert any basis for taxation in respect of the Facilities that would negate or otherwise negatively impact any imposition or collection of taxes other than deductions, credits or other adjustments that would otherwise be applicable in the event the

Leases were not in force or effect. The parties acknowledge and agree that this Ground Lease is, and is intended to be, a lease of real property including fixtures and mixed real and personal property (with any such personal property covered by this Ground Lease being incidental), and the Continuing Rent Obligation reflects lease payments which are made solely with respect to the lease of such real property.

(c) Except as otherwise provided in the Governance Agreement, NICTD shall retain all revenues from the operation of the Facilities, and except as otherwise provided in the Governance Agreement, neither IFA nor RDA shall have any responsibility to fund the ongoing costs, expenses and needs for operations, repairs, maintenance and replacements of or related to the Facilities.

Section 5. Nonliability of IFA or RDA. Except as otherwise provided in the Governance Agreement, neither IFA nor RDA shall be liable for damage caused by hidden defects or failure to keep the Facilities in repair and shall not be liable for any damage done or occasioned by or from any improvements, structures or equipment (including any stations, parking facilities, bridges, overpasses, crossings, switches, locomotives, railroad cars, utilities, plumbing, gas, water, boilers, steam or other pipes or sewage or the bursting or leaking of plumbing or heating fixtures or waste or soil pipe) in connection with the Facilities, nor for damage occasioned by natural events (whether occurring by age, wind, water, snow, ice, movements of earth, or otherwise). Neither IFA nor RDA shall be liable for any injury to NICTD, any Ancillary Users or any other person which injury occurs in, upon, about or near the Facilities howsoever arising. Neither IFA nor RDA shall be liable for damage to NICTD's property or to the property of any Ancillary Users or of any other person which may be located in, upon, about or near the Facilities. NICTD shall be responsible for preserving for the benefit of IFA and RDA usual and customary rights, claims and warranties against the persons or entities engaged to acquire, improve and construct any Facilities.

Section 6. Construction; Repairs and Maintenance; Alteration; Operations; Equipment or Furnishings.

(a) NICTD represents and covenants that the Rail Project has been or will be constructed in accordance with the terms and conditions of the Governance Agreement, the Development Agreement and applicable plans and specifications therefor with all reasonable speed and dispatch in accordance with the applicable approved plans and specifications therefor.

(b) NICTD shall keep and maintain the Facilities in good condition and repair in accordance with NICTD management practices in effect as of the date hereof and shall operate the Rail Project in an efficient and economical manner and in accordance with the Governance Agreement. NICTD shall make all necessary repairs, renewals, improvements and replacements to the Facilities and shall keep the Facilities in a clean and neat condition and in good and sound condition and repair, normal wear and tear excepted. The cost of such repairs, replacements and maintenance shall be (whether required because of the negligence, misuse or default of NICTD, any of its Ancillary Users, or otherwise) at NICTD's sole cost and expense, except as otherwise provided in the Governance Agreement.

(c) NICTD shall comply with all valid statutes, rules, regulations, orders and directions of any legislative, administrative or judicial body applicable to NICTD, the Lease

Premises and the Facilities. NICTD shall adopt and keep in force reasonable rules and regulations governing the use of the Lease Premises and the Facilities and the operation thereof, and shall enforce such rules and regulations on a uniform basis.

(d) RDA shall comply with all valid statutes, rules, regulations, orders and directions of any legislative, administrative or judicial body applicable to RDA, the Lease Premises and the Facilities. To the extent reasonably necessary, the RDA shall adopt and keep in force reasonable rules and regulations governing the use of the Lease Premises and the Facilities and the operation thereof, and shall enforce such rules and regulations on a uniform basis.

(e) NICTD shall have the right, at its sole cost and expense, without Concurrence, to make all alterations, modifications and additions and to do all demolition, remodeling and improvements it deems necessary or desirable to the Facilities, which do not materially reduce the rental value of the Lease Premises or adversely affect (i) the Continuing Rent Obligation and (ii) each referenced obligation that is required to be met by NICTD to be consistent with applicable law (including the Bond Act) and the requirements of the Governance Agreement, the Development Agreement, this Ground Lease, the Underlying Lease, the Master Leases, the Operating Lease and/or any documents related thereto. NICTD shall be liable to repair any damage to the Facilities resulting from such work.

(f) So long as this Ground Lease is in effect, NICTD may at any time and from time to time, at its sole cost and expense, install, modify, remove or replace items of moveable machinery, equipment, furnishings and other personalty in and upon the Facilities. All such personal property shall remain the sole property of NICTD, in which neither IFA nor RDA shall have any interest, and may be installed, modified, removed or replaced by NICTD at any time; *provided* that if such installation, modification, removal or replacement adversely affects (i) the Continuing Rent Obligation or (ii) any referenced obligation that is required to be met by NICTD to be consistent with applicable law (including the Bond Act) and the requirements of the Governance Agreement, the Development Agreement, the Underlying Lease, the Master Leases, the Operating Lease and/or any documents related thereto, then NICTD shall either: (y) repair and restore any and all damage to the Facilities resulting from the installation, modification, removal or replacement of any such property; or (z) compensate IFA and RDA for any loss in value to the Lease Premises (including any diminishment in the Master Leases Rental and Operating Lease Rental) resulting from the installation, modification or removal of any such property.

(g) NICTD shall maintain or cause to be maintained such performance bonds or performance insurance (in a manner consistent with the Governance Agreement) with respect to contracts it may enter into for construction of the Rail Improvements as are usually maintained by those constructing improvements and facilities similar to the Rail Improvements. If performance of any contract for construction of the Rail Improvements is not completed in accordance with its terms and, in the opinion of a registered engineer selected by NICTD and acceptable to IFA and RDA, the cost of completion of such performance shall not exceed the amount of proceeds from any performance bond or performance insurance to be received by reason of such noncompletion of performance and other amounts available therefor, NICTD shall complete or cause to be completed such performance in the manner provided in, and subject to the conditions of, the Governance Agreement. The proceeds of any performance bond paid on

account of such noncompletion of performance shall be made available for, and to the extent necessary shall be applied to, the cost of such construction.

Section 7. Insurance.

(a) NICTD, in the manner as provided in the Governance Agreement prior to completion of the Rail Project, and thereafter at its sole cost and expense, shall, during the full term of this Ground Lease, keep the Facilities insured against physical loss or damage, however caused, and otherwise in the manner and on a basis required in the Governance Agreement and the Development Agreement and consistent with commercially reasonable practices and only with such exceptions as are ordinarily required by insurers of rail lines of a similar type (as provided by an industry standard special cause of loss (or its equivalent) property insurance policy, which insurance shall not exclude flood or earthquake, but may provide for sublimits therefor), with good and responsible insurance companies. Such policies shall include terrorism coverage so long as the Terrorism Risk Insurance Program Reauthorization Act of 2015 [15 USC 6701] continues in its present form or an equivalent federal insurance program is available to NICTD. Such insurance shall be in an amount at least equal to the full replacement cost of such Facilities as reasonably determined by NICTD in consultation with an insurance consultant approved by RDA from and after the date the IFA Bonds are issued by IFA; *provided*, any reduction in excess of ten percent (10%) from the amount carried on the date this Ground Lease is entered into (including any reduction from any existing sublimits) shall only be permitted with Concurrence. In no event shall the insurance be in an amount which causes NICTD to be a co-insurer for the Facilities; *provided*, it is agreed that the provision of sublimits for earthquake and flood shall not be deemed to cause NICTD to be a co-insurer; *provided further* that such insurance may cover properties of NICTD other than the Facilities. Such insurance may contain a provision for a deductible in an amount that is customary and commercially reasonable, but not more than \$500,000 or such higher amount as from time to time determined by NICTD with Concurrence. After the occurrence of any insured casualty, NICTD agrees to pay the deductible amount of any loss to the Bond Trustee or such party directed by the Bond Trustee, as applicable, within ten (10) days following any request so made by IFA or RDA. A blanket property insurance form may be used if the insurance payable in respect of loss related to the Facilities is not less than the amount required by this Section and the insurance proceeds related to damage to or destruction of the Facilities are payable to the Bond Trustee for the IFA Bonds.

(b) During the full term of this Ground Lease, NICTD, in the manner as provided in the Governance Agreement prior to completion of the Rail Project, and thereafter at its sole cost and expense, shall also, at its sole cost and expense, maintain business income insurance in an amount at least equal to the Operating Lease Rental on the Lease Premises leased by NICTD under the Operating Lease for a period of (2) years against physical loss or damage of the type insured against pursuant to the preceding requirements of this Section. Such business income insurance policies shall be for the benefit of IFA, RDA, and the Bond Trustee and shall name the Bond Trustee for the IFA Bonds as loss payee, which payment to such Bond Trustee may be limited to circumstances where Master Leases Rental is not made by RDA pursuant to a Master Lease.

(c) After the occurrence of any insured casualty related to the Facilities, NICTD shall give notice to the Bond Trustee, IFA and RDA. Such notice shall be given within five (5) days

following such casualty and shall tentatively describe the nature of the casualty together with sufficient additional information to permit IFA and RDA to ascertain NICTD's plans for addressing such loss or damage (and meeting its obligations under this Ground Lease, including the amount NICTD plans to reserve to meet the requirements thereof that result from any deductible applicable under its insurance policies).

(d) In the event that an insurance program is developed by NICTD and approved by RDA and IFA as provided in the Governance Agreement, that insurance program and the requirements thereof shall be substituted herein as the insurance coverage requirements for this Ground Lease to the extent in conflict herewith or in addition hereto.

Section 8. Use of Insurance and Condemnation Proceeds. (a) If all or any portion of the Facilities shall be damaged or destroyed or taken, NICTD shall, as expeditiously as possible, continuously and diligently prosecute, or cause to be prosecuted, repair, reconstruction or replacement thereof until completion. Within one hundred twenty (120) days after the occurrence of an event of damage or destruction to the Facilities or a taking thereof, NICTD, through any Authorized Officer of NICTD, shall deliver to RDA and the Bond Trustee the written opinion of engineer selected by NICTD and reasonably acceptable to RDA and IFA stating whether or not the conditions set forth above with respect thereto are satisfied. The proceeds of any insurance paid on account of such damage or destruction or taking (other than any rent loss insurance) shall be made available for, and to the extent necessary shall be applied to, the cost of such repair, reconstruction or replacement, or otherwise in accordance with the terms and conditions of this Ground Lease.

(b) Proceeds of insurance against damage to or destruction of the Facilities which are paid to the Bond Trustee as described herein shall be held by the Bond Trustee pursuant to the applicable Trust Indenture and used by NICTD in accordance with the provisions of this Ground Lease, the Underlying Lease, the Master Leases, the Operating Lease, the Governance Agreement and such Trust Indenture. Proceeds of any condemnation of the Facilities (or portion thereof) shall be paid to the Bond Trustee and held by the Bond Trustee pursuant to the applicable Trust Indenture and used by NICTD in accordance with the provisions of this Ground Lease, the Underlying Lease, the Master Leases, the Operating Lease, the Governance Agreement and the applicable Trust Indenture.

Section 9. Liability Insurance. NICTD shall, at all times during the full term of this Ground Lease, keep in effect Commercial General Liability Insurance (which insurance shall not exclude blanket contractual liability, broad form property damage, personal injury, or fire damage coverage) covering the Facilities and NICTD's use thereof against claims for bodily injury and property damage, and insuring NICTD, IFA and RDA in amounts and in the manner required by the Governance Agreement and the Development Agreement. Such policies shall include terrorism coverage so long as the Terrorism Risk Insurance Program Reauthorization Act of 2015 [15 USC 6701] continues in its present form or an equivalent federal insurance program is available to NICTD. NICTD shall maintain for each policy year during the term of this Ground Lease aggregate limits for liability coverages of not less than fifty percent (50%) of liability coverage amounts as in effect on the date this Ground Lease is entered into unless otherwise approved by RDA; *provided* that if such policy limits are not reasonably available in the insurance marketplace, then NICTD may reduce such aggregate coverage amounts to the

highest such amounts as are reasonably available in the insurance marketplace existing from time to time. NICTD shall make IFA, RDA and the State additional insureds on such policies.

Section 10. General Insurance Provisions. All insurance policies required by Sections 7 and 9 hereof shall be issued in the manner provided in the Governance Agreement and the Development Agreement by good and responsible insurance companies, each of which companies, selected by NICTD and reasonably approved by RDA, shall be rated at least "A-VII" (or an equivalent rating if such rating scale is discontinued or changed) by A.M. Best & Company (or by an equivalent rating service if A.M. Best & Company is no longer providing such types of ratings) and shall be countersigned by an agent of the insurer who is a licensed agent in the State. Such policies, or copies thereof, shall be held by NICTD for review by IFA, RDA and the Bond Trustee; *provided* that such policies shall be available for review by IFA, RDA and the Bond Trustee upon request, and shall be updated as changes are made to such policies. Such policies shall be subject to the requirement that in the event of a material reduction in policy limits or elimination of any coverages, NICTD will notify IFA, RDA and the Bond Trustee in writing by electronic or other means, with such notification including a description of the coverages so reduced or eliminated. If, at any time, NICTD fails to maintain insurance in accordance with Sections 7 and 9 hereof, such insurance may be obtained by IFA or RDA, or may be obtained by the Bond Trustee, and the amount paid for such insurance shall be payable by NICTD under this Ground Lease; *provided, however*, that neither IFA, RDA nor the Bond Trustee shall be under any obligation to obtain such insurance, and any action or non-action of RDA, IFA or the Bond Trustee in this regard shall not relieve NICTD of any consequences of a default in failing to obtain such insurance. The Bond Trustee shall be the loss payee on all casualty insurance required by this Ground Lease that becomes payable in respect of claims related to the Facilities.

Section 11. General Covenants. (a) NICTD covenants that, except for Permitted Encumbrances and any liens, charges, encumbrances, or security interests created by an act or omission of RDA and/or IFA, it will not mortgage, impose any lien or claim upon, or otherwise encumber the Lease Premises (whether actual, contingent or otherwise), or permit any mortgage, lien, claim or encumbrance to exist thereon, and that it shall use and maintain the Facilities in material compliance with the laws and ordinances of the United States of America, the State, and all other proper governmental authorities. NICTD agrees that it will, at the request of RDA, execute and deliver to or upon the request of RDA such instrument or instruments as may be reasonably required by RDA in order to assure or confirm RDA's interest in the Lease Premises pursuant to the terms hereof and shall also deliver, from time to time, such instrument or instruments as may be reasonably requested by RDA or any tenant or subtenant of RDA with respect to the covenant of quiet enjoyment contained in this Ground Lease, the Underlying Lease, the Master Leases, the Operating Lease, or the Governance Agreement.

(b) RDA covenants that, except for Permitted Encumbrances and any liens, charges, encumbrances, or security interests created by an act or omission of NICTD and/or IFA, it will not mortgage, impose any lien or claim upon, or otherwise encumber the Lease Premises (whether actual, contingent or otherwise), or permit any mortgage, lien, claim or encumbrance to exist thereon, and that it shall use and maintain the Facilities in material compliance with the laws and ordinances of the United States of America, the State, and all other proper governmental authorities.

Section 12. Covenants Regarding the Bond Act; IFA Bonds. NICTD shall timely comply with all requirements of NICTD created by the Bond Act, the Governance Agreement, the Development Agreement and any agreement or certificate executed by NICTD in connection with the issuance of the IFA Bonds.

Section 13. Utility Service. NICTD agrees to pay or cause to be paid all charges for (a) sewer, gas, water, electricity, light, heat or power utilities and services, (b) telephonic, communication and other information services, (c) other utility and like services, and (d) regulatory, track and freight fees and other fees, costs and expenses associated with the use and operation of the Facilities that are used, rendered or supplied upon or in connection with the Facilities throughout the term of this Ground Lease.

Section 14. Environmental Laws Covenants.

(a) With respect to the Facilities, (i) NICTD shall at all times comply and follow commercially reasonable business practice to cause others to comply, in all material respects, with all Environmental Laws and all licenses, permits, certificates, approvals and similar authorizations issued to NICTD thereunder, and such operations shall not give rise to any liability pursuant to any Environmental Law, (ii) NICTD shall promptly notify RDA and IFA upon becoming aware of any investigation, proceeding, complaint, order, directive, claim, citation or written notice by any governmental authority or any other Person arising under or relating to any violation of any Environmental Law that is pending against NICTD or threatened in writing against NICTD and shall take prompt and appropriate actions to respond thereto and to cure such violation (if any) and (iii) NICTD shall promptly notify RDA and IFA upon becoming aware of any non-compliance with, or violation of, the requirements of any Environmental Law by NICTD in any material respect, or the release, spill, or discharge, threatened or actual, of any Hazardous Material or the generation, use, storage, treatment, transportation, manufacture, handling, production or disposal of any Hazardous Material or any other environmental, health or safety matter, which affects or gives rise to a material liability upon NICTD or any liability upon IFA or RDA.

(b) NICTD shall not cause or permit the use, generation, release, manufacture, refining, production, processing, storage or disposal of any Hazardous Materials on, under or about the Facilities, or the transportation to or from the Facilities of any Hazardous Materials, except as necessary and appropriate for its Permitted Uses, in which case, the use, storage or disposal of such Hazardous Substances shall be performed in compliance with the Environmental Laws and the standards prevailing in the railroad industry and at comparable facilities. Notwithstanding anything contained herein to the contrary, IFA and RDA shall not have any liability to NICTD resulting from any conditions existing, or events occurring, or any Hazardous Materials existing or generated, at, in, on, under or in connection with this Ground Lease or the Facilities, except to the extent caused directly by the sole negligence or willful misconduct of the IFA or RDA or their respective agents, employees, or contractors.

Section 15. Indemnity by NICTD. NICTD shall release, protect, defend, indemnify and hold harmless the RDA, IFA, the Bond Trustee, the Deposit Trustee, and their respective agents, employees, representatives and consultants, from and against any and all claims, causes of action, suits, judgments, demands, and/or losses, in each case if asserted or incurred by or

awarded to any third party, arising out of or relating to or resulting from (a) NICTD's design, construction or operation of the Rail Projects or the South Shore Line, (b) any act, omission, negligence, or willful misconduct of NICTD, any of its Ancillary Users or anyone acting under its control or for whom it is legally responsible (c) failure of NICTD, or anyone acting under its control or for whom it is legally responsible, to perform or observe any requirement or obligation imposed by this Ground Lease and (d) arising out of any other act or occurrence within the Facilities. NICTD's indemnity obligation shall not extend to: (i) any third party claim to the extent directly caused by the negligence, recklessness, willful misconduct, or breach of any material obligation under this Ground Lease or the Governance Agreement by IFA or RDA, or (ii) any claims, causes of action, suits, judgments, demands, and/or losses resulting from any action of the RDA or IFA during an Operations Step-In Period or resulting from any actions taken by the RDA or IFA after the exercise of any Construction Period Step-In Rights; provided, however, that nothing herein shall relieve NICTD of responsibility to pay up to the Maximum NICTD Excess Cost Contribution for Excess Construction Costs irrespective of the exercise of Construction Period Step-In Rights. The RDA and IFA shall have no obligation to indemnify NICTD.

Section 16. No Broker. NICTD hereby represents and warrants that no brokers or third-party involved in the negotiation and execution of this Ground Lease is entitled, as a result of the actions of the respective party, to a commission or other fee resulting from the execution of this Ground Lease.

Section 17. Transfer to NICTD. To the extent provided in the Governance Agreement, upon the later of the termination of the Governance Agreement and the final and full payment of all IFA Bonds, this Ground Lease shall terminate.

Section 18. Title to Real Estate.

(a) NICTD shall cause a final, fully paid, leasehold title insurance policy to be issued for the benefit of RDA by no later than the date the IFA Bonds are to be issued by IFA. In the event NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities, then by no later than the date as of which construction of any such portion commences, NICTD shall cause (i) an endorsement to be issued to, and on substantially the same terms as, the leasehold title insurance policy referenced in the prior sentence (or an additional final, fully paid, leasehold title insurance policy to be issued on substantially the same terms as the leasehold title insurance policy referenced in the prior sentence) to identify and insure thereunder any such necessary increase in the real estate described in Exhibit A and (ii) a Supplemental Ground Lease to be entered into in substantially the form set forth in Exhibit B in respect of such Real Estate; provided that such additional Real Estate is also added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.

(b) NICTD represents and warrants that it has a good and indefeasible estate in fee simple to all of the Real Estate, subject only to Permitted Encumbrances.

Section 19. Defaults; Remedies.

(a) If there is any NICTD Event of Default (including any default in the observance of any other covenant, agreement or condition contained in this Ground Lease) (each, an "Event of Default"), RDA may proceed to protect and enforce its rights, either at law or in equity, by suit, action, mandamus or other proceedings, whether for specific performance of any covenant or agreement contained herein or for the enforcement of any other appropriate legal or equitable remedy (as contained in the Governance Agreement as may relate to this Ground Lease and such Event of Default); *provided* that all such rights and remedies taken in respect of this Ground Lease and any such Event of Default shall only be undertaken and pursued by RDA in strict conformity with this Section and the requirements and limitations set forth in the Governance Agreement.

(b) Except for extensions of time resulting from a Force Majeure event that are allowed in the Governance Agreement, time is of the essence of each term and provision of this Ground Lease to be observed by NICTD hereunder.

(c) If RDA shall fail to perform any term, condition, covenant or obligation required to be performed by it under this Ground Lease, NICTD may pursue a claim for specific performance. If RDA shall fail to perform any term, condition, covenant or obligation required to be performed by it under this Ground Lease and if NICTD shall, as a consequence thereof, recover a money judgment against RDA and/or IFA, NICTD agrees that (i) it shall look solely to RDA's and IFA's right, title and interest in and to the Lease Premises (which shall not include any right to set-off related to any payment due to RDA or IFA as required by the Governance Agreement, the Development Agreement, this Ground Lease, the Underlying Lease, the Master Leases, the Operating Lease and/or any documents related thereto) for the collection of such judgment, (ii) it shall not look to any other assets of RDA and/or IFA in the levy, execution or other process for the satisfaction of NICTD's judgment, and (iii) it shall not enforce any execution or other process for the satisfaction of NICTD's judgment, unless such does not: (A) materially reduce the rental value of the Lease Premises; (B) adversely affect the Continuing Rent Obligation; or (C) materially and adversely affect any obligation that is required to be met by NICTD pursuant to applicable laws (including the Bond Act) and requirements of the Governance Agreement, the Development Agreement, this Ground Lease the Underlying Lease, the Master Leases, the Operating Lease and/or any documents related thereto.

(d) Neither party's failure or delay in exercising any of its rights or remedies or other provisions of this Ground Lease shall constitute a waiver thereof or affect its right thereafter to exercise or enforce such right or remedy or other provision. No waiver of any default shall be deemed to be a waiver of any other default. RDA's receipt of less than the full amount due as herein provided shall not be construed to be other than a payment on account of such amount then due, nor shall any statement on NICTD's check or any letter accompanying NICTD's check be deemed an accord and satisfaction. No act or omission by RDA (or IFA) or their respective employees or agents during the term of this Ground Lease shall be deemed an acceptance of a surrender of the Lease Premises hereunder, and no agreement to accept such a surrender shall be valid unless in writing and signed by RDA and IFA.

(e) Notwithstanding anything herein, IFA may proceed to protect and enforce any rights or interests of RDA and IFA under this Ground Lease in its own name or on behalf of RDA in the name of RDA in its place and stead.

Section 20. Notices.

(a) All notices, certificates, requests or other communications required hereunder shall be sufficient only if given in writing, prior to the matter requiring notice and shall be deemed given (i) one (1) business day after being deposited for next day delivery; (ii) three (3) business days after mailing when mailed by registered or certified mail, return receipt requested, postage prepaid, or (iii) the same day if hand delivered (or if sent by both facsimile and email) during a business day, addressed as follows:

To RDA: Northwest Indiana Regional Development Authority
9800 Connecticut Drive
Crown Point, IN 46307
Attention: President

With a Copy to: Ice Miller LLP
One American Square 2900
Indianapolis, IN 46282

To IFA: Indiana Finance Authority
1 North Capitol, Suite 900
Indianapolis, Indiana 46204
Attention: Public Finance Director of the State of Indiana
and General Counsel
Facsimile (317) 232-6786 / Electronic mail (to
DHuge@ifa.IN.gov; and ASeiwert@ifa.IN.gov)

To NICTD: Northern Indiana Commuter Transportation District
33 East U.S. Highway 12
Chesterton, Indiana 46304
Attention: President and/or Chief Executive Officer

With a Copy to: Northern Indiana Commuter Transportation District
33 E. US Highway 12
Chesterton, IN 46304
Attention: Office of General Counsel

(b) Any party hereunder may, by notice given hereunder, designate any further or different addressees to which subsequent notices, certificates, requests or other communications shall be sent.

Section 21. Construction of Covenants. All provisions contained herein shall be construed in accordance with the provisions of the Bond Act, the Governance Agreement and the Development Agreement and to the extent of any material inconsistencies between the covenants and agreements in this Ground Lease, the Governance Agreement, and the Development Agreement and the provisions of the Bond Act, the provisions of the Bond Act, then the Governance Agreement, then this Ground Lease, and then the Development Agreement, shall be deemed to be controlling and binding upon the parties.

Section 22. Supplemental Ground Leases. RDA and NICTD may, from time to time hereafter, enter into one or more Supplemental Ground Leases, each of which: (a) shall provide that all covenants contained in this Ground Lease shall be unitary and include all parts of the Lease Premises, whether leased pursuant to this original Ground Lease or pursuant to any Supplemental Ground Lease (*provided* that the foregoing shall not limit or restrict the parties from having differing covenants and obligations applicable to any Supplemental Ground Leases related to portions of the Rail Project NICTD proposes to be constructed that are not within the existing boundaries of the Facilities); and (b) may contain such other covenants and agreements as the parties thereto agree upon.

Section 23. No Personal Liability. No recourse shall be had for any payment due under this Ground Lease or for any claim based thereon or upon any obligation, covenant or agreement in this Ground Lease contained against any past, present or future member, officer, employee, agent or official of IFA, RDA or NICTD, or any successor thereof, either directly or through IFA, RDA or NICTD, or any successor thereof, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability for any such person is hereby expressly waived and released as a condition of and consideration for the execution of this Ground Lease and issuance of the IFA Bonds.

Section 24. Successors or Assigns; Use Restrictions.

(a) All covenants of this Ground Lease, whether by RDA or NICTD, shall inure to the benefit of and be binding upon the permitted successors and assigns of the respective parties hereto. This Ground Lease shall not be assigned by NICTD without the prior written consent of RDA and IFA, and in such event the assignor shall not be relieved of its obligations hereunder unless permitted by RDA and IFA. This Ground Lease may be assigned by RDA to IFA without the prior written consent of NICTD, as and to the extent permitted by the Bond Act. Any assignment in contravention of this Section shall be null and void *ab initio*.

(b) Notwithstanding any other provision of this Ground Lease to the contrary, NICTD covenants that it: (a) will not use or permit the Facilities or any portion thereof for any private business use within the meaning of Section 141(b)(6) of the Internal Revenue Code of 1986, as amended from time to time, without the prior written consent of an Authorized Officer of IFA, which consent shall not be unreasonably withheld, and (b) will comply with Section 148(f) of the Internal Revenue Code of 1986, as amended from time to time. Any agreement entered into by NICTD in violation of this Section 24 shall be of no force or effect and shall not convey any rights or impose any obligation in respect to it, at law or in equity.

(c) Requests for consent to private business use shall be sent in writing by NICTD to IFA and RDA. Each such request shall include a final draft of the proposed conveyance, lease, sublease, management or incentive payment contract, license or other agreement that may give rise to such private business use, together with a description of the timing and the rationale for entering into such agreement (the "Proposed Private Business Use"). IFA and RDA shall conduct their review and approve or reject, in writing, such request within 30 days of receipt. If no response is made to a request for consent to private business use within 30 days of receipt, then NICTD shall provide additional written notice to IFA and RDA that the Proposed Private Business Use will be deemed to be approved. If no response to this additional written notice is

received within three business days of receipt of the additional written notice by IFA and RDA, then the request shall be deemed approved. In the event a request for consent to private business use is deemed approved, NICTD shall have the right to proceed as though consent to the Proposed Private Business Use was expressly provided by IFA and RDA. In any event, upon the execution and delivery by NICTD of any such agreement, NICTD shall provide IFA and RDA a copy of such executed agreement within 10 business days of the execution thereof.

Section 25. Validity. All terms, covenants and conditions contained in this Ground Lease shall include all parts of the Facilities, whether leased pursuant to the original Ground Lease or pursuant to any Supplemental Ground Lease thereto.

Section 26. Severability; Complete Agreement; Counterparts; Survival of Terms; Governing Law; Etc.

(a) All the covenants, agreements, terms and conditions required under the laws of the State, including the Bond Act, to be included in any lease entered into under Indiana Code 5-1.3-5 are incorporated herein by this reference.

(b) In case any section or provision of this Ground Lease, or any covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Ground Lease, or any application thereof, is for any reason held to be illegal or invalid, or is at any time inoperable, that illegality, invalidity or inoperability shall not affect the remainder thereof or any other section or provision of this Ground Lease or any other covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Ground Lease, which shall be construed and enforced as if that illegal, invalid or inoperable portion were not contained herein. Any such illegality, invalidity or inoperability of any application thereof shall not affect any legal, valid and operable application thereof, and each such section, provision, covenant, stipulation, obligation, agreement, act or action, or part thereof, shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent from time to time permitted by law.

(c) This Ground Lease represents the entire agreement between RDA and NICTD covering everything agreed upon or understood in the creation of the estate created by this Ground Lease and related transactional matters; *provided*, however, that the parties contemplate and agree that the provisions of the Governance Agreement, the Development Agreement, the other Leases and/or any documents related thereto contain related undertakings and such shall be given their full meaning and effect. There are no oral promises, conditions, representations, understandings, interpretations or terms of any kind as conditions or inducements to the execution hereof or in effect between the parties. No change or addition shall be made to this Ground Lease except by a written agreement executed by RDA and NICTD.

(d) The parties each acknowledge that the terms and conditions of this Ground Lease have been the subject of active and complete negotiations represented by competent professional counsel and advisors, and that such terms and conditions should not be construed in favor of or against any party by reason of the extent to which any party or its professional counsel and advisors participated in the preparation of this Ground Lease.

(e) This Ground Lease may be executed in duplicate counterparts, each of which shall be deemed an original and both of which together shall constitute one and the same instrument.

(f) The covenants and obligations under Sections 5, 12, 14, 15, 19, and 23 hereof shall survive the expiration or earlier termination of this Ground Lease.

(g) This Ground Lease shall be construed according to, and subject to, the laws of the State.

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IN WITNESS WHEREOF, the parties hereto have caused this Ground Lease to be executed for and on their behalf as of the day and year first hereinabove written.

"NICTD"

**NORTHERN INDIANA COMMUTER
TRANSPORTATION DISTRICT, AS
LESSOR**

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

[REMAINDER OF PAGE LEFT BLANK]

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____, personally known by me to be the _____ and _____, respectively, of the Northern Indiana Commuter Transportation District ("NICTD"), and acknowledged the execution of the foregoing Ground Lease Agreement (West Lake Project) for and on behalf of NICTD.

WITNESS my hand and Notarial Seal this _____ day of _____, 20__.

(Seal)

(Written Signature)

(Printed Signature)
Notary Public

My Commission expires:

My county of residence is:

[REMAINDER OF PAGE LEFT BLANK]

June 20, 2019 draft

This instrument prepared by: Philip C Genetos, Ice Miller LLP, One American Square, Suite 2900, Indianapolis, IN 46282.

I affirm under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. Philip C Genetos

EXHIBIT A

LEGAL DESCRIPTION AND MAP OF THE REAL ESTATE

Map of the Real Estate. Real property in _____
_____, as depicted as follows:

[End of Exhibit A]

EXHIBIT B
FORM OF
SUPPLEMENTAL GROUND LEASE AGREEMENT (WEST LAKE PROJECT)
BETWEEN
NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT
AND
NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY

SUPPLEMENTAL GROUND LEASE AGREEMENT (WEST LAKE PROJECT)
BETWEEN
NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT
AND
NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY

This SUPPLEMENTAL GROUND LEASE AGREEMENT (WEST LAKE PROJECT) (this "Supplemental Ground Lease"), entered into as of this ____ day of _____, 20____, between the NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT, a commuter transportation district and a municipal corporation formed pursuant to Indiana Code 8-5-15, as supplemented and amended from time to time ("NICTD"), and the NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY, a separate body corporate and politic formed pursuant to Indiana Code 36-7, as supplemented and amended from time to time ("RDA").

WITNESSETH:

WHEREAS, NICTD entered into a Ground Lease Agreement (West Lake Project) with RDA dated as of _____ 1, 20__ (the "Ground Lease"); and

WHEREAS, all terms not otherwise defined in this Supplemental Ground Lease shall have the meanings ascribed to them in the Ground Lease; and

[WHEREAS, it is provided in the Ground Lease that after the Commencement Date, for any portion of the Lease Premises, in the event such portion shall be damaged or destroyed or taken, so as to render such portion unavailable for use by RDA, or shall for any other reason become unavailable for use by RDA, NICTD may add additional Lease Premises to the Ground Lease pursuant to a Supplemental Ground Lease so that RDA may lease such additional Lease Premises to NICTD pursuant to a supplement to the Operating Lease; provided that such additional Lease Premises are also added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases; and]

[WHEREAS, it is provided in the Ground Lease that in the event NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities, then by no later than the date as of which construction of any such portions commences, NICTD shall cause a Supplemental Ground Lease to be entered into for the purpose of adding to the Real Estate the pertinent real estate on which such portions of the Rail Project shall be located; provided that such additional Real Estate is also added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases; and]

[WHEREAS, it is provided in the Ground Lease that when the Rail Improvements are complete and ready for use as part of the Rail Project, the parties shall revise and increase the real estate described in Exhibit A to the Ground Lease, if necessary to reflect the final site location acquired for the Rail Project and upon which the Rail Improvements as part of the Rail Project have been constructed; provided that such additional Real Estate is also added to the

Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases; and]

[WHEREAS, it is provided in the Ground Lease that RDA and NICTD may enter into one or more Supplemental Ground Leases, each of which: (1) shall provide that all covenants contained in the Ground Lease shall be unitary and include all parts of the Lease Premises, whether leased pursuant to the Ground Lease or pursuant to any Supplemental Ground Lease (*provided* that the foregoing shall not limit or restrict the parties from having differing covenants and obligations applicable to any Supplemental Ground Leases related to portions of the Rail Project NICTD proposes to be constructed that are not within the existing boundaries of the Facilities); and (2) may contain such other covenants and agreements as the parties thereto agree upon.]

NOW, THEREFORE, IT IS HEREBY AGREED, CERTIFIED AND STIPULATED by the undersigned as follows:

[Section 1. Addition to Real Estate After Commencement Date. Certain portions of the Lease Premises have been damaged or destroyed, thereby rendering such portions unavailable for use by RDA, or have otherwise become unavailable for use by RDA. NICTD has determined to add additional Lease Premises to the Ground Lease pursuant to this Supplemental Ground Lease. Therefore, the Lease Premises set forth in Exhibit A to the Ground Lease shall be hereafter amended to read as set forth in Appendix I attached hereto, so that RDA may lease such additional Lease Premises to NICTD pursuant to a supplement to the Operating Lease, thereby resulting in no interruption in the lease rentals payable by NICTD to RDA pursuant to the Operating Lease. Such additional Lease Premises are also being added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.]

[Section . Addition to Real Estate Prior to Construction. NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities set forth in Exhibit A to the Ground Lease. Therefore, the boundaries of the Facilities set forth in Exhibit A to the Ground Lease shall be hereafter amended to read as set forth in Appendix I attached hereto, which revised boundaries shall include the pertinent real estate on which such portions of the Rail Project shall be located. Such additional Real Estate is also being added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.]

[Section . Addition to Real Estate After Construction. Certain Rail Improvements are now complete and ready for use as part of the Rail Project, and it is now necessary to revise or increase the real estate described in Exhibit A to the Ground Lease, because such Exhibit A does not reflect the final site location acquired for the Rail Project and upon which the Rail Improvements as part of the Rail Project have been constructed. Therefore, for such purpose, Exhibit A to the Ground Lease shall be hereafter amended to read as set forth in Appendix I attached hereto. Such additional Real Estate is also being added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.]

Section __. All covenants contained in the Ground Lease, including this Supplemental Ground Lease, shall be unitary and include all parts of the Lease Premises, whether leased pursuant to the Ground Lease or pursuant to any Supplemental Ground Lease.

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IN WITNESS WHEREOF, the undersigned have caused this Supplemental Ground Lease to be executed for and on their behalf as of the day and year first above written.

"NICTD"

NORTHERN INDIANA COMMUTER
TRANSPORTATION DISTRICT

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

"RDA"

NORTHWEST INDIANA REGIONAL
DEVELOPMENT AUTHORITY

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

This instrument prepared by: _____

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, personally known by me to be the _____ and _____, respectively, of the Northern Indiana Commuter Transportation District ("NICTD"), and acknowledged the execution of the foregoing Supplemental Ground Lease Agreement (West Lake Project) for and on behalf of NICTD.

WITNESS my hand and Notarial Seal this _____ day of _____, 20__.

(Seal)

(Written Signature)

(Printed Signature)

Notary Public

My Commission expires:

My county of residence is:

[REMAINDER OF PAGE LEFT BLANK]

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, personally known by me to be the _____ and _____, respectively, of the Northwest Indiana Regional Development Authority ("RDA"), and acknowledged the execution of the foregoing Supplemental Ground Lease Agreement (West Lake Project) for and on behalf of RDA.

WITNESS my hand and Notarial Seal this _____ day of _____, 20__.

(Seal)

(Written Signature)

(Printed Signature)

Notary Public

My Commission expires:

My county of residence is:

[REMAINDER OF PAGE LEFT BLANK]

[APPENDIX I

LEGAL DESCRIPTION AND MAP OF THE REAL ESTATE]

RESOLUTION 19-07 EXHIBIT B-2

Form of District Ground Lease – Double Track Project

GROUND LEASE AGREEMENT (DOUBLE TRACK PROJECT)

between

NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT

as Lessor

and

NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY

as Lessee

Dated as of _____ 1, 20__

INDEX

	<u>Page</u>
Section 1.	Definitions; Interpretation3
Section 2.	Ground Lease of Facilities8
Section 3.	Supplements; Nature of Obligations8
Section 4.	Nature of Ground Lease9
Section 5.	Nonliability of IFA or RDA10
Section 6.	Construction; Repairs and Maintenance; Alteration; Operations; Equipment or Furnishings10
Section 7.	Insurance11
Section 8.	Use of Insurance and Condemnation Proceeds13
Section 9.	Liability Insurance13
Section 10.	General Insurance Provisions13
Section 11.	General Covenants14
Section 12.	Covenants Regarding the Bond Act; IFA Bonds14
Section 13.	Utility Service14
Section 14.	Environmental Laws Covenants15
Section 15.	Indemnity by NICTD15
Section 16.	No Broker15
Section 17.	Transfer to NICTD16
Section 18.	Title to Real Estate16
Section 19.	Defaults; Remedies16
Section 20.	Notices17
Section 21.	Construction of Covenants18
Section 22.	Supplemental Ground Leases18
Section 23.	No Personal Liability19
Section 24.	Successors or Assigns; Use Restrictions19
Section 25.	Validity19
Section 26.	Severability; Complete Agreement; Counterparts; Survival of Terms; Governing Law; Etc20
Exhibit A	Legal Description and Map of the Real Estate
Exhibit B	Form of Supplemental Ground Lease Agreement (Double Track Project) between Northern Indiana Commuter Transportation District and Northwest Indiana Regional Development Authority

GROUND LEASE AGREEMENT (DOUBLE TRACK PROJECT)

This Ground Lease Agreement (Double Track Project) (this "Ground Lease") is entered into this ____ day of _____, 20__, between the NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT, a commuter transportation district and a municipal corporation formed pursuant to Indiana Code 8-5-15, as amended ("NICTD"), and the NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY, a separate body corporate and politic formed pursuant to Indiana Code 36-7.5, as supplemented and amended from time to time ("RDA").

RECITALS

1. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the hereinafter defined Governance Agreement;
2. The South Shore Line is a commuter train service between South Bend, Indiana and Millennium Station in Chicago, Illinois;
3. NICTD has owned and operated the South Shore Line for nearly forty years and has experience in developing capital rail projects for the South Shore Line and in requesting, obtaining and managing federal grant funds through the Federal Transit Administration;
4. RDA fosters development in northwest Indiana and has since its inception fostered economic development throughout northwest Indiana and has been vested pursuant to IC 36-7.5-4-18 with certain powers and duties with respect to the Rail Project;
5. IFA oversees State debt issuance and provides effective financing solutions to facilitate State, local and business investment in the State and has participated in numerous important economic development activities throughout the State;
6. RDA and NICTD have developed and advanced plans for improvements to the South Shore Line, specifically the Double Track Project and the West Lake Corridor Project, which will improve the South Shore Line and foster economic development throughout northwest and north central Indiana by shortening commute times, providing new rail service to areas not serviced by rail transportation to Chicago, enhancing the economic and community development of the northwest Indiana region, and increasing the convenience to the areas served;
7. RDA has determined that providing assistance to the Rail Project in the manner herein provided serves a public purpose for which RDA was created;
8. The Rail Project is expected to encourage business investment in and near the station areas, provide faster, less expensive and reliable transportation, relieve existing and anticipated traffic congestion, reduce vehicular emissions, reduce commuting costs and attract and retain families and younger residents in northwest and north central Indiana;
9. The Rail Project is expected to provide faster travel times, accommodate more trains to improve service during rush hour travel and be safer to operate;

10. RDA, IFA and NICTD have identified and obtained committed local and State funding for the Rail Project;

11. NICTD has applied for necessary federal grant funding from FTA on behalf of RDA and the State, and in its capacity as the grantee, and as the signatory party to that certain Full Funding Grant Agreement with FTA, will maintain continuing control of the assets receiving FTA funding, subject to the terms of the Governance Agreement, the Development Agreement, if any, this Ground Lease and the other leases described herein;

12. The Parties desire to jointly complete FTA grant application processes for the Double Track Project, in order to facilitate the further development, design, construction and financing of the Double Track Project as improvements to the South Shore Line commuter rail system;

13. Any obligations of RDA or IFA shall not constitute a debt of the State or any municipality, or a pledge of the full faith and credit thereof, under the Constitution of the State;

14. Providing financial support to the Rail Project and the development and operation thereof are valid public purposes of RDA, IFA and NICTD, will contribute importantly to the economic and community development of northwest Indiana and will benefit the citizens of northwest Indiana;

15. In connection with the IFA Bonds, RDA, NICTD, and IFA are required to enter into one or more leases for the purpose of providing for the issuance and repayment of the IFA Bonds;

16. The funding for the payment of lease rentals by RDA for payment of the IFA Bonds will be provided from State appropriations, FTA Grant Reimbursements, moneys on deposit in the next generation trust fund established under IC 8-14-15.2 and Member Dues;

17. NICTD expects that FTA funding will fund a portion of the costs of the Rail Project, subject to local funding of the remaining share;

18. NICTD, RDA, and IFA intend to enter into the Revenue Trust Fund Agreement with the Deposit Trustee and the Bond Trustee for the purposes of receiving and safeguarding substantially all funds for the Rail Project, including substantially all funding sources to be used to pay lease rentals;

19. RDA and IFA are willing to assist NICTD in providing a mechanism to fund the Rail Project pursuant and subject to the Governance Agreement and the Development Agreement and to comply with and advance the public purposes described herein;

20. In connection therewith and subject to this Ground Lease, certain Real Estate and Rail Improvements will be leased by NICTD to RDA pursuant to this Ground Lease, then leased by RDA to IFA pursuant to the Underlying Lease, then leased by IFA to RDA pursuant to the Master Leases, and then leased by RDA to NICTD pursuant to the Operating Lease, and IFA will issue the IFA Bonds and cause certain proceeds thereof to be made available to NICTD to pay costs incurred in undertaking the Rail Project;

21. Contemporaneous with or subsequent to the commencement of existence of the leasehold estate under this Ground Lease, RDA and IFA shall cause the Underlying Lease, IFA and RDA shall cause the Master Leases, and RDA and NICTD shall cause the Operating Lease, to each be effective; and

22. NICTD acknowledges that IFA's and RDA's right of occupancy and continuous possession of the Real Estate (and the Rail Improvements) and its lawful right to lease the Real Estate (and the Rail Improvements) throughout the stated term of this Ground Lease are essential to the funding mechanism for the Rail Project and the realization of the public purposes described herein.

WITNESSETH:

In consideration of the mutual covenants herein contained, the parties hereto hereby agree as follows:

Section 1. Definitions; Interpretation.

(a) The terms defined in this Section shall for all purposes of this Ground Lease have the meanings herein specified unless the context otherwise requires.

"Ancillary Users" means any party that uses or has any interest in users of the Facilities of any kind whatsoever (including any subtenants, occupants, employees, agents, contractors, customers or invitees of NICTD).

"Authorized Officer of IFA" means the Chair of IFA or the Public Finance Director of the State of Indiana and, with reference to any act or document, also means any other person authorized by a resolution of IFA to perform such act or to sign such document.

"Authorized Officer of NICTD" means the President of NICTD and, with reference to any act or document, also means any other person authorized by a resolution of NICTD to perform such act or to sign such document.

"Authorized Officer of RDA" means the Chair or the Chief Executive Officer of RDA and, with reference to any act or document, also means any other person authorized by a resolution of RDA to perform such act or to sign such document.

"Biennium" means the biennium used for State budgetary and appropriation purposes.

"Bond Act" means Indiana Code 5-1.3, as amended or supplemented, or any successor thereto.

"Bond Trustee" means the trustee serving as such with respect to the IFA Bonds.

"Completion Certificate" for the Facilities or any portion thereof means a certificate (a) executed by an Authorized Officer of NICTD certifying that such Facilities or such portion thereof is available for use by RDA and (b) accepted by an Authorized Officer of RDA acknowledging that such Facilities or such portion thereof is available for use by RDA.

"Concurrence" means the written concurrence of the Authorized Officer of IFA and the Authorized Officer of RDA to the referred approval or other action of NICTD pursuant to the Governance Agreement, the Development Agreement or the Leases; *provided that*:

(a) concurrence may be withheld or delayed if the Authorized Officer of IFA and/or the Authorized Officer of RDA determines a referenced action (i) may adversely affect the Continuing Rent Obligation and (ii) be inconsistent with applicable laws (and the requirements of the Governance Agreement, the Development Agreement, the Leases and/or any documents related thereto);

(b) concurrence when given shall not be deemed to estop or otherwise waive IFA's and/or RDA's right to later assert or enforce any requirement under the Governance Agreement, the Development Agreement, the Leases and/or any documents related thereto, including IFA's and RDA's ability to seek claims, damages, losses and expenses, including attorneys' fees and other IFA and RDA costs arising out of or resulting from the action of NICTD for which concurrence has been given; and

(c) concurrence when given and later found to be contrary to any requirement under the Governance Agreement, the Development Agreement, the Leases and/or any documents related thereto shall not expose NICTD to a claim or assertion that such failure is, in and of itself, a failure to obtain a concurrence in the first instance and, as such, without having received a concurrence, a basis for a NICTD Event of Default. To the extent NICTD receives Concurrence under this Ground Lease it shall be able to rely upon such Concurrence.

"Continuing Rent Obligation" means (a) RDA's obligation under the Master Leases to continue to pay the Master Leases Rental and (b) NICTD's obligation under the Operating Lease to continue to pay the Operating Lease Rental, each without delay or diminution as to amount.

"Deposit Trustee" means the trustee bank acting as the Deposit Trustee under the Revenue Trust Fund Agreement.

"Development Agreement" means any development agreement entered into by NICTD, RDA and IFA for the purpose of governing the completion of the Rail Project in a manner consistent with and as contemplated by the Governance Agreement.

"Double Track Project" means the addition of an east/west rail line for a portion of the South Shore Line from Gary to Michigan City and related improvements, all as more fully described in Exhibit 1 of the Governance Agreement.

"Environmental Laws" means all federal, state and local statutes, common law principles, rules, regulations, ordinances, permits, licenses, written approvals, orders, writs, injunctions, judgments and consent decrees relating to pollution control, protection of environmental quality, or protection of the health or safety of workers or the public from exposure to Hazardous Materials, including laws relating to emissions, discharges, releases or threatened releases of pollutants, contaminants, chemicals, or hazardous, toxic or dangerous substances, materials or wastes in the environment (including ambient air, surface water, ground water, land surface or subsurface strata) or otherwise relating to the generation, manufacture, processing, distribution,

use, treatment, storage, disposal, transport or handling of Hazardous Materials. Without limiting the generality of the foregoing, "Environmental Laws" shall encompass any "Superfund" or "Superlien" Law (including those otherwise referenced in this definition) and each of the following statutes and the regulations promulgated thereunder, in any similar applicable federal, state or local law, rule or regulation, each as amended: (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980; (ii) the Solid Waste Disposal Act; (iii) the Hazardous Materials Transportation Act; (iv) the Toxic Substances Control Act; (v) the Clean Water Act; (vi) the Clean Air Act; (vii) the Safe Drinking Water Act; (viii) the National Environmental Policy Act of 1969; (ix) the Superfund Amendments and Reauthorization Act of 1986; (x) Title III of the Superfund Amendments and Reauthorization Act of 1986; (xi) the Federal Insecticide, Fungicide and Rodenticide Act; (xii) provisions of the Occupational Safety and Health Act of 1970 relating to the handling of and exposure to Hazardous Materials; and (xiii) any state or local analogue to any of the foregoing.

"Facilities" means the Real Estate and the Rail Improvements.

"FFGA" means the grant agreement awarded by FTA for the Rail Project.

"Force Majeure" shall have the meaning ascribed to such term in the Governance Agreement.

"FTA" means the Federal Transit Administration.

"FTA Grant Reimbursements" means funds received from FTA as reimbursement for expenditures by the Parties for moneys spent on one or both of the projects constituting the Rail Project pursuant to the FFGA for the Rail Project.

"Governance Agreement" means the Governance Agreement effective as of August 31, 2018, by and between NICTD, RDA and the IFA, as from time to time amended or supplemented in accordance with its terms.

"Ground Lease" means this Ground Lease Agreement (Double Track Project) as the same may be amended, modified or supplemented by any amendments or modifications hereof and supplements hereto entered into in accordance with the provisions hereof.

"Hazardous Materials" means any hazardous, toxic or dangerous substance, material and waste, including petroleum and hydrocarbon compounds derived from petroleum (including naturally occurring or man-made petroleum and derivative hydrocarbons), flammable explosives, asbestos, urea formaldehyde insulation, radioactive materials, polychlorinated biphenyls, pesticides, herbicides and any other kind and/or type of pollutants or contaminants (including materials which include hazardous constituents), sewage, sludge, solvents and/or any other similar substances, materials or wastes that are or become regulated under any Environmental Law as hazardous or toxic.

"IC" means the Title, Article, Chapter and/or Section of the Indiana Code as referenced, and as such may be supplemented, amended or replaced from time to time.

"IFA" means the Indiana Finance Authority, a body politic and corporate, not a State agency, but an independent instrumentality exercising essential public functions, organized and existing under IC 5-1.2, or if said Indiana Finance Authority shall be abolished, the board, body, commission or agency succeeding to the principal functions thereof.

"IFA Bonds" means one or more series of bonds, notes or other similar obligations issued under IC 5-1.3-1 *et seq.* to finance or refinance all or a portion of the costs for the Rail Project;

"Including" or "including" in this Ground Lease shall be construed as if followed by the phrase "without limitation" or "but not limited to".

"Lease Premises" means the leasehold estate and interests created by and pursuant to this Ground Lease, including, without limitation, the leasing of the Facilities, as the same may be amended and modified from time to time as needed for the Rail Project in the manner as provided for in the Leases.

"Leases" means, collectively, this Ground Lease, the Underlying Lease, the Master Leases and the Operating Lease.

"Master Leases" means the various leases from IFA to RDA in support of the IFA Bonds, including specifically the State Appropriation Master Lease Agreement (Double Track Project), the RDA Member Dues Master Lease Agreement (Double Track Project) and the Federal Grant Anticipation Master Lease Agreement (Double Track Project), each as from time to time amended or supplemented by any amendment or supplement thereto, including any supplemental memorandum of lease recorded in connection therewith.

"Master Leases Rental" means the rental payments payable by RDA as provided in the Master Leases.

"Operating Lease" means the Operating Lease, dated as of _____ 1, 20__, from RDA to NICTD as from time to time amended or supplemented by any amendment or supplement thereto, including any supplemental memorandum of lease recorded in connection therewith.

"Operating Lease Rental" means the rental payments payable by NICTD as provided in the Operating Lease.

"Member Dues" means the portion of the annual payments to RDA from the Cities of Gary, East Chicago and Hammond and the Counties of Lake and Porter due under Indiana Code 6-3.6-6-9, Indiana Code 36-7.5-4-2 and Indiana Code 6-3.6-11-6.

"Parties" means IFA, NICTD and RDA.

"Permitted Encumbrances" means (a) this Ground Lease, the Underlying Lease, the Master Leases and the Operating Lease, (b) utility, access and other easements, licenses and rights of way, covenants, conditions and restrictions, and other exceptions to title, which in each case will not materially and adversely affect the construction, development and operation of the Rail Project as contemplated by this Ground Lease or materially impair the interest of IFA, RDA

or NICTD in, or its use of, the Facilities, (c) any liens to the extent permitted in this Ground Lease, and (d) any other liens which are not prohibited under this Ground Lease, but only if in the opinion of counsel satisfactory to IFA and the Bond Trustee, such liens do not materially impair the interest of IFA, RDA or NICTD in, or its use of, the Facilities.

"Permitted Uses" means any use permitted under the Governance Agreement, subject to Section 24(b) hereof.

"Rail Project" means the Double Track Project, as defined in IC 5-1.3-2-14 and IC 36-7.5-1-13.5.

"Rail Improvements" means the existing improvements located on the Real Estate, together with any new improvements constructed (or placed for use) on the Real Estate, whether as part of the Rail Project or otherwise.

"Real Estate" means the real property described in Exhibit A attached hereto, as the same may be amended or modified in the manner provided herein and the other Leases.

"Revenue Trust Fund" means the development authority revenue fund established under the Revenue Trust Fund Agreement.

"Revenue Trust Fund Agreement" means the Revenue Trust Fund Agreement, dated as of _____, 20____, entered into by and among RDA, IFA, NICTD, the Bond Trustee, and the Deposit Trustee in connection with the Revenue Trust Fund.

"State" means the State of Indiana.

"Supplemental Ground Lease" means any Ground Lease supplemental to this Ground Lease entered into in accordance herewith and substantially in the form set forth in Exhibit B.

"Trust Indenture" means the Trust Indentures to be entered into between IFA and the Bond Trustee relating to the IFA Bonds, and all supplements and amendments thereto.

"West Lake Corridor Project" means an approximately eight (8) mile new north/south passenger rail line connected to the existing South Shore Line located in Lake County, Indiana, with four stations from and including Hammond (Gateway Station) to and including Munster/Dyer (Main Street Station, including all property owned or leased by NICTD for the operation of the South Shore Line over the West Lake Corridor Project), all as more fully described in Exhibit 2 of the Governance Agreement.

(b) The terms "herein", "hereto", "hereunder" and all terms of similar import shall be deemed to refer to this Ground Lease as a whole rather than to any Section or Exhibit to this Ground Lease.

(c) Unless otherwise specified, references in this Ground Lease to (i) "Section ___" shall be deemed to refer to the Section of this Ground Lease bearing the number so specified, (ii) "Exhibit ___" shall be deemed to refer to the Exhibit of this Ground Lease bearing the letter

or number so specified, and (iii) this "Ground Lease" means this Ground Lease and any exhibits and attachments hereto.

(d) Captions used for or in Sections and Exhibits of this Ground Lease are for convenience of reference only and shall not affect the construction of this Ground Lease.

Section 2. Ground Lease of Facilities.

(a) In consideration of certain payments and other terms and conditions herein specified, NICTD does hereby lease, demise and let to RDA the Facilities (such constituting a part of the Lease Premises), to have and to hold the same with all rights, privileges, easements and appurtenances thereunto belonging unto RDA for a term beginning on the date hereof and ending on _____; *provided*, however, the term shall end earlier or later than such date in the event the conditions set forth in Section 17 hereof are met, in which case, the term shall end on such date (the "Term").

(b) The parties agree that the Rail Project will be undertaken on the Real Estate pursuant to the Governance Agreement and the Development Agreement. The parties acknowledge and agree that the Real Estate is available for use from and after the date hereof, and such availability for use (and the value thereof to RDA and NICTD) is not in any way diminished while the Rail Project is being undertaken. By one or more endorsements each recorded as soon as practical and as a Supplemental Ground Lease entered into in substantially the form set forth in Exhibit B, but in any event, when the Rail Improvements are complete and ready for use as part of the Rail Project, the parties shall revise or increase the real estate described in Exhibit A, if necessary to reflect the final site location acquired for the Rail Project and upon which the Rail Improvements as part of the Rail Project are constructed; provided that such additional Real Estate is also added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.

(c) NICTD hereby represents and warrants that, upon compliance with its obligations under Section 18 hereof, RDA will possess a good and indefeasible leasehold estate, subject only to Permitted Encumbrances, to all of the Real Estate, which includes real estate upon which the Rail Improvements that are part of the Rail Project are to be acquired, improved and constructed pursuant to the Governance Agreement and the Development Agreement, and NICTD warrants and will defend the same against all claims whatsoever not suffered or caused by the acts or omissions of RDA.

Section 3. Supplements; Nature of Obligations.

(a) NICTD acknowledges that it has received good, valuable, and sufficient consideration, including payment and reimbursement of certain costs and expenses from the proceeds of the IFA Bonds and other [Rail Project monies], from RDA and through IFA in respect of the rights and interests created by this Ground Lease. During the term of this Ground Lease, NICTD agrees that no additional payments by IFA or RDA to NICTD hereunder shall be made in respect of the rights and interests created by this Ground Lease.

(b) After the Commencement Date (as defined in the Master Leases), for any portion of the Lease Premises, in the event such portion shall be damaged or destroyed or taken, so as to render such portion unavailable for use by RDA, or shall for any other reason become unavailable for use by RDA, NICTD may add additional Lease Premises to this Ground Lease pursuant to a Supplemental Ground Lease so that RDA may lease such additional Lease Premises to NICTD pursuant to a supplement to the Operating Lease; provided that such additional Lease Premises are also added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.

(c) During the term of this Ground Lease, NICTD and RDA may enter into one or more Supplemental Ground Leases in the event NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities in substantially the form set forth in Exhibit B, so that such portions are within the boundaries of the Facilities.

(d) It is expressly understood and agreed by RDA and NICTD that the obligations of RDA and NICTD created by or arising out of this Ground Lease or of any amendments hereto shall not be, represent, or constitute an indebtedness of the State, IFA or RDA within the meaning or application of any constitutional limitation of the State or the laws of the State or a pledge of the faith or credit of the State, IFA or RDA.

Section 4. Nature of Ground Lease. (a) It is expressly understood and agreed that this Ground Lease shall not be what is known as a net lease (i.e., that no expenses in connection with the Facilities of any nature whatsoever shall be those of RDA by reason of it being the tenant hereunder) and that during the Term, NICTD shall be solely obligated to pay at its sole cost and expense, without reimbursement from RDA, all costs of taxes and assessments, operations, maintenance and use in connection with or relating to the Facilities, including all costs and expenses of decoration, maintenance, utility, janitorial and all other services, repair or replacement of all parts of the Facilities or improvement of the Facilities, in the manner provided in Section 7 of the Operating Lease, except as otherwise provided in the Governance Agreement.

(b) NICTD shall cause any taxes due on the Rail Project to be timely paid to the applicable authorities, except to the extent of any good faith contests which have not yet been resolved, and it shall not assert any basis for taxation in respect of the Facilities that would negate or otherwise negatively impact any imposition or collection of taxes other than deductions, credits or other adjustments that would otherwise be applicable in the event the Leases were not in force or effect. The parties acknowledge and agree that this Ground Lease is, and is intended to be, a lease of real property including fixtures and mixed real and personal property (with any such personal property covered by this Ground Lease being incidental), and the Continuing Rent Obligation reflects lease payments which are made solely with respect to the lease of such real property.

(c) Except as otherwise provided in the Governance Agreement, NICTD shall retain all revenues from the operation of the Facilities, and except as otherwise provided in the Governance Agreement, neither IFA nor RDA shall have any responsibility to fund the ongoing costs, expenses and needs for operations, repairs, maintenance and replacements of or related to the Facilities.

Section 5. Nonliability of IFA or RDA. Except as otherwise provided in the Governance Agreement, neither IFA nor RDA shall be liable for damage caused by hidden defects or failure to keep the Facilities in repair and shall not be liable for any damage done or occasioned by or from any improvements, structures or equipment (including any stations, parking facilities, bridges, overpasses, crossings, switches, locomotives, railroad cars, utilities, plumbing, gas, water, boilers, steam or other pipes or sewage or the bursting or leaking of plumbing or heating fixtures or waste or soil pipe) in connection with the Facilities, nor for damage occasioned by natural events (whether occurring by age, wind, water, snow, ice, movements of earth, or otherwise). Neither IFA nor RDA shall be liable for any injury to NICTD, any Ancillary Users or any other person which injury occurs in, upon, about or near the Facilities howsoever arising. Neither IFA nor RDA shall be liable for damage to NICTD's property or to the property of any Ancillary Users or of any other person which may be located in, upon, about or near the Facilities. NICTD shall be responsible for preserving for the benefit of IFA and RDA usual and customary rights, claims and warranties against the persons or entities engaged to acquire, improve and construct any Facilities.

Section 6. Construction; Repairs and Maintenance; Alteration; Operations; Equipment or Furnishings.

(a) NICTD represents and covenants that the Rail Project has been or will be constructed in accordance with the terms and conditions of the Governance Agreement, the Development Agreement and applicable plans and specifications therefor with all reasonable speed and dispatch in accordance with the applicable approved plans and specifications therefor.

(b) NICTD shall keep and maintain the Facilities in good condition and repair in accordance with NICTD management practices in effect as of the date hereof and shall operate the Rail Project in an efficient and economical manner and in accordance with the Governance Agreement. NICTD shall make all necessary repairs, renewals, improvements and replacements to the Facilities and shall keep the Facilities in a clean and neat condition and in good and sound condition and repair, normal wear and tear excepted. The cost of such repairs, replacements and maintenance shall be (whether required because of the negligence, misuse or default of NICTD, any of its Ancillary Users, or otherwise) at NICTD's sole cost and expense, except as otherwise provided in the Governance Agreement.

(c) NICTD shall comply with all valid statutes, rules, regulations, orders and directions of any legislative, administrative or judicial body applicable to NICTD, the Lease Premises and the Facilities. NICTD shall adopt and keep in force reasonable rules and regulations governing the use of the Lease Premises and the Facilities and the operation thereof, and shall enforce such rules and regulations on a uniform basis.

(d) RDA shall comply with all valid statutes, rules, regulations, orders and directions of any legislative, administrative or judicial body applicable to RDA, the Lease Premises and the Facilities. To the extent reasonably necessary, the RDA shall adopt and keep in force reasonable rules and regulations governing the use of the Lease Premises and the Facilities and the operation thereof, and shall enforce such rules and regulations on a uniform basis.

(e) NICTD shall have the right, at its sole cost and expense, without Concurrence, to make all alterations, modifications and additions and to do all demolition, remodeling and

improvements it deems necessary or desirable to the Facilities, which do not materially reduce the rental value of the Lease Premises or adversely affect (i) the Continuing Rent Obligation and (ii) each referenced obligation that is required to be met by NICTD to be consistent with applicable law (including the Bond Act) and the requirements of the Governance Agreement, the Development Agreement, this Ground Lease, the Underlying Lease, the Master Leases, the Operating Lease and/or any documents related thereto. NICTD shall be liable to repair any damage to the Facilities resulting from such work.

(f) So long as this Ground Lease is in effect, NICTD may at any time and from time to time, at its sole cost and expense, install, modify, remove or replace items of moveable machinery, equipment, furnishings and other personalty in and upon the Facilities. All such personal property shall remain the sole property of NICTD, in which neither IFA nor RDA shall have any interest, and may be installed, modified, removed or replaced by NICTD at any time; *provided* that if such installation, modification, removal or replacement adversely affects (i) the Continuing Rent Obligation or (ii) any referenced obligation that is required to be met by NICTD to be consistent with applicable law (including the Bond Act) and the requirements of the Governance Agreement, the Development Agreement, the Underlying Lease, the Master Leases, the Operating Lease and/or any documents related thereto, then NICTD shall either: (y) repair and restore any and all damage to the Facilities resulting from the installation, modification, removal or replacement of any such property; or (z) compensate IFA and RDA for any loss in value to the Lease Premises (including any diminishment in the Master Leases Rental and Operating Lease Rental) resulting from the installation, modification or removal of any such property.

(g) NICTD shall maintain or cause to be maintained such performance bonds or performance insurance (in a manner consistent with the Governance Agreement) with respect to contracts it may enter into for construction of the Rail Improvements as are usually maintained by those constructing improvements and facilities similar to the Rail Improvements. If performance of any contract for construction of the Rail Improvements is not completed in accordance with its terms and, in the opinion of a registered engineer selected by NICTD and acceptable to IFA and RDA, the cost of completion of such performance shall not exceed the amount of proceeds from any performance bond or performance insurance to be received by reason of such noncompletion of performance and other amounts available therefor, NICTD shall complete or cause to be completed such performance in the manner provided in, and subject to the conditions of, the Governance Agreement. The proceeds of any performance bond paid on account of such noncompletion of performance shall be made available for, and to the extent necessary shall be applied to, the cost of such construction.

Section 7. Insurance.

(a) NICTD, in the manner as provided in the Governance Agreement prior to completion of the Rail Project, and thereafter at its sole cost and expense, shall, during the full term of this Ground Lease, keep the Facilities insured against physical loss or damage, however caused, and otherwise in the manner and on a basis required in the Governance Agreement and the Development Agreement and consistent with commercially reasonable practices and only with such exceptions as are ordinarily required by insurers of rail lines of a similar type (as provided by an industry standard special cause of loss (or its equivalent) property insurance

policy, which insurance shall not exclude flood or earthquake, but may provide for sublimits therefor), with good and responsible insurance companies. Such policies shall include terrorism coverage so long as the Terrorism Risk Insurance Program Reauthorization Act of 2015 [15 USC 6701] continues in its present form or an equivalent federal insurance program is available to NICTD. Such insurance shall be in an amount at least equal to the full replacement cost of such Facilities as reasonably determined by NICTD in consultation with an insurance consultant approved by RDA from and after the date the IFA Bonds are issued by IFA; *provided*, any reduction in excess of ten percent (10%) from the amount carried on the date this Ground Lease is entered into (including any reduction from any existing sublimits) shall only be permitted with Concurrence. In no event shall the insurance be in an amount which causes NICTD to be a co-insurer for the Facilities; *provided*, it is agreed that the provision of sublimits for earthquake and flood shall not be deemed to cause NICTD to be a co-insurer; *provided further* that such insurance may cover properties of NICTD other than the Facilities. Such insurance may contain a provision for a deductible in an amount that is customary and commercially reasonable, but not more than \$500,000 or such higher amount as from time to time determined by NICTD with Concurrence. After the occurrence of any insured casualty, NICTD agrees to pay the deductible amount of any loss to the Bond Trustee or such party directed by the Bond Trustee, as applicable, within ten (10) days following any request so made by IFA or RDA. A blanket property insurance form may be used if the insurance payable in respect of loss related to the Facilities is not less than the amount required by this Section and the insurance proceeds related to damage to or destruction of the Facilities are payable to the Bond Trustee for the IFA Bonds.

(b) During the full term of this Ground Lease, NICTD, in the manner as provided in the Governance Agreement prior to completion of the Rail Project, and thereafter at its sole cost and expense, shall also, at its sole cost and expense, maintain business income insurance in an amount at least equal to the Operating Lease Rental on the Lease Premises leased by NICTD under the Operating Lease for a period of (2) years against physical loss or damage of the type insured against pursuant to the preceding requirements of this Section. Such business income insurance policies shall be for the benefit of IFA, RDA, and the Bond Trustee and shall name the Bond Trustee for the IFA Bonds as loss payee, which payment to such Bond Trustee may be limited to circumstances where Master Leases Rental is not made by RDA pursuant to a Master Lease.

(c) After the occurrence of any insured casualty related to the Facilities, NICTD shall give notice to the Bond Trustee, IFA and RDA. Such notice shall be given within five (5) days following such casualty and shall tentatively describe the nature of the casualty together with sufficient additional information to permit IFA and RDA to ascertain NICTD's plans for addressing such loss or damage (and meeting its obligations under this Ground Lease, including the amount NICTD plans to reserve to meet the requirements thereof that result from any deductible applicable under its insurance policies).

(d) In the event that an insurance program is developed by NICTD and approved by RDA and IFA as provided in the Governance Agreement, that insurance program and the requirements thereof shall be substituted herein as the insurance coverage requirements for this Ground Lease to the extent in conflict herewith or in addition hereto.

Section 8. Use of Insurance and Condemnation Proceeds. (a) If all or any portion of the Facilities shall be damaged or destroyed or taken, NICTD shall, as expeditiously as possible, continuously and diligently prosecute, or cause to be prosecuted, repair, reconstruction or replacement thereof until completion. Within one hundred twenty (120) days after the occurrence of an event of damage or destruction to the Facilities or a taking thereof, NICTD, through any Authorized Officer of NICTD, shall deliver to RDA and the Bond Trustee the written opinion of engineer selected by NICTD and reasonably acceptable to RDA and IFA stating whether or not the conditions set forth above with respect thereto are satisfied. The proceeds of any insurance paid on account of such damage or destruction or taking (other than any rent loss insurance) shall be made available for, and to the extent necessary shall be applied to, the cost of such repair, reconstruction or replacement, or otherwise in accordance with the terms and conditions of this Ground Lease.

(b) Proceeds of insurance against damage to or destruction of the Facilities which are paid to the Bond Trustee as described herein shall be held by the Bond Trustee pursuant to the applicable Trust Indenture and used by NICTD in accordance with the provisions of this Ground Lease, the Underlying Lease, the Master Leases, the Operating Lease, the Governance Agreement and such Trust Indenture. Proceeds of any condemnation of the Facilities (or portion thereof) shall be paid to the Bond Trustee and held by the Bond Trustee pursuant to the applicable Trust Indenture and used by NICTD in accordance with the provisions of this Ground Lease, the Underlying Lease, the Master Leases, the Operating Lease, the Governance Agreement and the applicable Trust Indenture.

Section 9. Liability Insurance. NICTD shall, at all times during the full term of this Ground Lease, keep in effect Commercial General Liability Insurance (which insurance shall not exclude blanket contractual liability, broad form property damage, personal injury, or fire damage coverage) covering the Facilities and NICTD's use thereof against claims for bodily injury and property damage, and insuring NICTD, IFA and RDA in amounts and in the manner required by the Governance Agreement and the Development Agreement. Such policies shall include terrorism coverage so long as the Terrorism Risk Insurance Program Reauthorization Act of 2015 [15 USC 6701] continues in its present form or an equivalent federal insurance program is available to NICTD. NICTD shall maintain for each policy year during the term of this Ground Lease aggregate limits for liability coverages of not less than fifty percent (50%) of liability coverage amounts as in effect on the date this Ground Lease is entered into unless otherwise approved by RDA; *provided* that if such policy limits are not reasonably available in the insurance marketplace, then NICTD may reduce such aggregate coverage amounts to the highest such amounts as are reasonably available in the insurance marketplace existing from time to time. NICTD shall make IFA, RDA and the State additional insureds on such policies.

Section 10. General Insurance Provisions. All insurance policies required by Sections 7 and 9 hereof shall be issued in the manner provided in the Governance Agreement and the Development Agreement by good and responsible insurance companies, each of which companies, selected by NICTD and reasonably approved by RDA, shall be rated at least "A-VII" (or an equivalent rating if such rating scale is discontinued or changed) by A.M. Best & Company (or by an equivalent rating service if A.M. Best & Company is no longer providing such types of ratings) and shall be countersigned by an agent of the insurer who is a licensed agent in the State. Such policies, or copies thereof, shall be held by NICTD for review by IFA,

RDA and the Bond Trustee; *provided* that such policies shall be available for review by IFA, RDA and the Bond Trustee upon request, and shall be updated as changes are made to such policies. Such policies shall be subject to the requirement that in the event of a material reduction in policy limits or elimination of any coverages, NICTD will notify IFA, RDA and the Bond Trustee in writing by electronic or other means, with such notification including a description of the coverages so reduced or eliminated. If, at any time, NICTD fails to maintain insurance in accordance with Sections 7 and 9 hereof, such insurance may be obtained by IFA or RDA, or may be obtained by the Bond Trustee, and the amount paid for such insurance shall be payable by NICTD under this Ground Lease; *provided, however*, that neither IFA, RDA nor the Bond Trustee shall be under any obligation to obtain such insurance, and any action or non-action of RDA, IFA or the Bond Trustee in this regard shall not relieve NICTD of any consequences of a default in failing to obtain such insurance. The Bond Trustee shall be the loss payee on all casualty insurance required by this Ground Lease that becomes payable in respect of claims related to the Facilities.

Section 11. General Covenants. (a) NICTD covenants that, except for Permitted Encumbrances and any liens, charges, encumbrances, or security interests created by an act or omission of RDA and/or IFA, it will not mortgage, impose any lien or claim upon, or otherwise encumber the Lease Premises (whether actual, contingent or otherwise), or permit any mortgage, lien, claim or encumbrance to exist thereon, and that it shall use and maintain the Facilities in material compliance with the laws and ordinances of the United States of America, the State, and all other proper governmental authorities. NICTD agrees that it will, at the request of RDA, execute and deliver to or upon the request of RDA such instrument or instruments as may be reasonably required by RDA in order to assure or confirm RDA's interest in the Lease Premises pursuant to the terms hereof and shall also deliver, from time to time, such instrument or instruments as may be reasonably requested by RDA or any tenant or subtenant of RDA with respect to the covenant of quiet enjoyment contained in this Ground Lease, the Underlying Lease, the Master Leases, the Operating Lease, or the Governance Agreement.

(b) RDA covenants that, except for Permitted Encumbrances and any liens, charges, encumbrances, or security interests created by an act or omission of NICTD and/or IFA, it will not mortgage, impose any lien or claim upon, or otherwise encumber the Lease Premises (whether actual, contingent or otherwise), or permit any mortgage, lien, claim or encumbrance to exist thereon, and that it shall use and maintain the Facilities in material compliance with the laws and ordinances of the United States of America, the State, and all other proper governmental authorities.

Section 12. Covenants Regarding the Bond Act; IFA Bonds. NICTD shall timely comply with all requirements of NICTD created by the Bond Act, the Governance Agreement, the Development Agreement and any agreement or certificate executed by NICTD in connection with the issuance of the IFA Bonds.

Section 13. Utility Service. NICTD agrees to pay or cause to be paid all charges for (a) sewer, gas, water, electricity, light, heat or power utilities and services, (b) telephonic, communication and other information services, (c) other utility and like services, and (d) regulatory, track and freight fees and other fees, costs and expenses associated with the use and

operation of the Facilities that are used, rendered or supplied upon or in connection with the Facilities throughout the term of this Ground Lease.

Section 14. Environmental Laws Covenants.

(a) With respect to the Facilities, (i) NICTD shall at all times comply and follow commercially reasonable business practice to cause others to comply, in all material respects, with all Environmental Laws and all licenses, permits, certificates, approvals and similar authorizations issued to NICTD thereunder, and such operations shall not give rise to any liability pursuant to any Environmental Law, (ii) NICTD shall promptly notify RDA and IFA upon becoming aware of any investigation, proceeding, complaint, order, directive, claim, citation or written notice by any governmental authority or any other Person arising under or relating to any violation of any Environmental Law that is pending against NICTD or threatened in writing against NICTD and shall take prompt and appropriate actions to respond thereto and to cure such violation (if any) and (iii) NICTD shall promptly notify RDA and IFA upon becoming aware of any non-compliance with, or violation of, the requirements of any Environmental Law by NICTD in any material respect, or the release, spill, or discharge, threatened or actual, of any Hazardous Material or the generation, use, storage, treatment, transportation, manufacture, handling, production or disposal of any Hazardous Material or any other environmental, health or safety matter, which affects or gives rise to a material liability upon NICTD or any liability upon IFA or RDA.

(b) NICTD shall not cause or permit the use, generation, release, manufacture, refining, production, processing, storage or disposal of any Hazardous Materials on, under or about the Facilities, or the transportation to or from the Facilities of any Hazardous Materials, except as necessary and appropriate for its Permitted Uses, in which case, the use, storage or disposal of such Hazardous Substances shall be performed in compliance with the Environmental Laws and the standards prevailing in the railroad industry and at comparable facilities. Notwithstanding anything contained herein to the contrary, IFA and RDA shall not have any liability to NICTD resulting from any conditions existing, or events occurring, or any Hazardous Materials existing or generated, at, in, on, under or in connection with this Ground Lease or the Facilities, except to the extent caused directly by the sole negligence or willful misconduct of the IFA or RDA or their respective agents, employees, or contractors.

Section 15. Indemnity by NICTD. NICTD shall release, protect, defend, indemnify and hold harmless the RDA, IFA, the Bond Trustee, the Deposit Trustee, and their respective agents, employees, representatives and consultants, from and against any and all claims, causes of action, suits, judgments, demands, and/or losses, in each case if asserted or incurred by or awarded to any third party, arising out of or relating to or resulting from (a) NICTD's design, construction or operation of the Rail Projects or the South Shore Line, (b) any act, omission, negligence, or willful misconduct of NICTD, any of its Ancillary Users or anyone acting under its control or for whom it is legally responsible (c) failure of NICTD, or anyone acting under its control or for whom it is legally responsible, to perform or observe any requirement or obligation imposed by this Ground Lease and (d) arising out of any other act or occurrence within the Facilities. NICTD's indemnity obligation shall not extend to: (i) any third party claim to the extent directly caused by the negligence, recklessness, willful misconduct, or breach of any material obligation under this Ground Lease or the Governance Agreement by IFA or RDA, or

(ii) any claims, causes of action, suits, judgments, demands, and/or losses resulting from any action of the RDA or IFA during an Operations Step-In Period or resulting from any actions taken by the RDA or IFA after the exercise of any Construction Period Step-In Rights; provided, however, that nothing herein shall relieve NICTD of responsibility to pay up to the Maximum NICTD Excess Cost Contribution for Excess Construction Costs irrespective of the exercise of Construction Period Step-In Rights. The RDA and IFA shall have no obligation to indemnify NICTD.

Section 16. No Broker. NICTD hereby represents and warrants that no brokers or third-party involved in the negotiation and execution of this Ground Lease is entitled, as a result of the actions of the respective party, to a commission or other fee resulting from the execution of this Ground Lease.

Section 17. Transfer to NICTD. To the extent provided in the Governance Agreement, upon the later of the termination of the Governance Agreement and the final and full payment of all IFA Bonds, this Ground Lease shall terminate.

Section 18. Title to Real Estate.

(a) NICTD shall cause a final, fully paid, leasehold title insurance policy to be issued for the benefit of RDA by no later than the date the IFA Bonds are to be issued by IFA. In the event NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities, then by no later than the date as of which construction of any such portion commences, NICTD shall cause (i) an endorsement to be issued to, and on substantially the same terms as, the leasehold title insurance policy referenced in the prior sentence (or an additional final, fully paid, leasehold title insurance policy to be issued on substantially the same terms as the leasehold title insurance policy referenced in the prior sentence) to identify and insure thereunder any such necessary increase in the real estate described in Exhibit A and (ii) a Supplemental Ground Lease to be entered into in substantially the form set forth in Exhibit B in respect of such Real Estate; provided that such additional Real Estate is also added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.

(b) NICTD represents and warrants that it has a good and indefeasible estate in fee simple to all of the Real Estate, subject only to Permitted Encumbrances.

Section 19. Defaults; Remedies.

(a) If there is any NICTD Event of Default (including any default in the observance of any other covenant, agreement or condition contained in this Ground Lease) (each, an "Event of Default"), RDA may proceed to protect and enforce its rights, either at law or in equity, by suit, action, mandamus or other proceedings, whether for specific performance of any covenant or agreement contained herein or for the enforcement of any other appropriate legal or equitable remedy (as contained in the Governance Agreement as may relate to this Ground Lease and such Event of Default); *provided* that all such rights and remedies taken in respect of this Ground Lease and any such Event of Default shall only be undertaken and pursued by RDA in strict conformity with this Section and the requirements and limitations set forth in the Governance Agreement.

(b) Except for extensions of time resulting from a Force Majeure event that are allowed in the Governance Agreement, time is of the essence of each term and provision of this Ground Lease to be observed by NICTD hereunder.

(c) If RDA shall fail to perform any term, condition, covenant or obligation required to be performed by it under this Ground Lease, NICTD may pursue a claim for specific performance. If RDA shall fail to perform any term, condition, covenant or obligation required to be performed by it under this Ground Lease and if NICTD shall, as a consequence thereof, recover a money judgment against RDA and/or IFA, NICTD agrees that (i) it shall look solely to RDA's and IFA's right, title and interest in and to the Lease Premises (which shall not include any right to set-off related to any payment due to RDA or IFA as required by the Governance Agreement, the Development Agreement, this Ground Lease, the Underlying Lease, the Master Leases, the Operating Lease and/or any documents related thereto) for the collection of such judgment, (ii) it shall not look to any other assets of RDA and/or IFA in the levy, execution or other process for the satisfaction of NICTD's judgment, and (iii) it shall not enforce any execution or other process for the satisfaction of NICTD's judgment, unless such does not: (A) materially reduce the rental value of the Lease Premises; (B) adversely affect the Continuing Rent Obligation; or (C) materially and adversely affect any obligation that is required to be met by NICTD pursuant to applicable laws (including the Bond Act) and requirements of the Governance Agreement, the Development Agreement, this Ground Lease the Underlying Lease, the Master Leases, the Operating Lease and/or any documents related thereto.

(d) Neither party's failure or delay in exercising any of its rights or remedies or other provisions of this Ground Lease shall constitute a waiver thereof or affect its right thereafter to exercise or enforce such right or remedy or other provision. No waiver of any default shall be deemed to be a waiver of any other default. RDA's receipt of less than the full amount due as herein provided shall not be construed to be other than a payment on account of such amount then due, nor shall any statement on NICTD's check or any letter accompanying NICTD's check be deemed an accord and satisfaction. No act or omission by RDA (or IFA) or their respective employees or agents during the term of this Ground Lease shall be deemed an acceptance of a surrender of the Lease Premises hereunder, and no agreement to accept such a surrender shall be valid unless in writing and signed by RDA and IFA.

(e) Notwithstanding anything herein, IFA may proceed to protect and enforce any rights or interests of RDA and IFA under this Ground Lease in its own name or on behalf of RDA in the name of RDA in its place and stead.

Section 20. Notices.

(a) All notices, certificates, requests or other communications required hereunder shall be sufficient only if given in writing, prior to the matter requiring notice and shall be deemed given (i) one (1) business day after being deposited for next day delivery; (ii) three (3) business days after mailing when mailed by registered or certified mail, return receipt requested, postage prepaid, or (iii) the same day if hand delivered (or if sent by both facsimile and email) during a business day, addressed as follows:

To RDA: Northwest Indiana Regional Development Authority
9800 Connecticut Drive

Crown Point, IN 46307
Attention: President

With a Copy to: Ice Miller LLP
One American Square 2900
Indianapolis, IN 46282

To IFA: Indiana Finance Authority
1 North Capitol, Suite 900
Indianapolis, Indiana 46204
Attention: Public Finance Director of the State of Indiana
and General Counsel
Facsimile (317) 232-6786 / Electronic mail (to
DHuge@ifa.IN.gov; and ASeiwert@ifa.IN.gov)

To NICTD: Northern Indiana Commuter Transportation District
33 East U.S. Highway 12
Chesterton, Indiana 46304
Attention: President and/or Chief Executive Officer

With a Copy to: Northern Indiana Commuter Transportation District
33 E. US Highway 12
Chesterton, IN 46304
Attention: Office of General Counsel

(b) Any party hereunder may, by notice given hereunder, designate any further or different addressees to which subsequent notices, certificates, requests or other communications shall be sent.

Section 21. Construction of Covenants. All provisions contained herein shall be construed in accordance with the provisions of the Bond Act, the Governance Agreement and the Development Agreement and to the extent of any material inconsistencies between the covenants and agreements in this Ground Lease, the Governance Agreement, and the Development Agreement and the provisions of the Bond Act, the provisions of the Bond Act, then the Governance Agreement, then this Ground Lease, and then the Development Agreement, shall be deemed to be controlling and binding upon the parties.

Section 22. Supplemental Ground Leases. RDA and NICTD may, from time to time hereafter, enter into one or more Supplemental Ground Leases, each of which: (a) shall provide that all covenants contained in this Ground Lease shall be unitary and include all parts of the Lease Premises, whether leased pursuant to this original Ground Lease or pursuant to any Supplemental Ground Lease (*provided* that the foregoing shall not limit or restrict the parties from having differing covenants and obligations applicable to any Supplemental Ground Leases related to portions of the Rail Project NICTD proposes to be constructed that are not within the existing boundaries of the Facilities); and (b) may contain such other covenants and agreements as the parties thereto agree upon.

Section 23. No Personal Liability. No recourse shall be had for any payment due under this Ground Lease or for any claim based thereon or upon any obligation, covenant or agreement in this Ground Lease contained against any past, present or future member, officer, employee, agent or official of IFA, RDA or NICTD, or any successor thereof, either directly or through IFA, RDA or NICTD, or any successor thereof, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability for any such person is hereby expressly waived and released as a condition of and consideration for the execution of this Ground Lease and issuance of the IFA Bonds.

Section 24. Successors or Assigns; Use Restrictions.

(a) All covenants of this Ground Lease, whether by RDA or NICTD, shall inure to the benefit of and be binding upon the permitted successors and assigns of the respective parties hereto. This Ground Lease shall not be assigned by NICTD without the prior written consent of RDA and IFA, and in such event the assignor shall not be relieved of its obligations hereunder unless permitted by RDA and IFA. This Ground Lease may be assigned by RDA to IFA without the prior written consent of NICTD, as and to the extent permitted by the Bond Act. Any assignment in contravention of this Section shall be null and void *ab initio*.

(b) Notwithstanding any other provision of this Ground Lease to the contrary, NICTD covenants that it: (a) will not use or permit the Facilities or any portion thereof for any private business use within the meaning of Section 141(b)(6) of the Internal Revenue Code of 1986, as amended from time to time, without the prior written consent of an Authorized Officer of IFA, which consent shall not be unreasonably withheld, and (b) will comply with Section 148(f) of the Internal Revenue Code of 1986, as amended from time to time. Any agreement entered into by NICTD in violation of this Section 24 shall be of no force or effect and shall not convey any rights or impose any obligation in respect to it, at law or in equity.

(c) Requests for consent to private business use shall be sent in writing by NICTD to IFA and RDA. Each such request shall include a final draft of the proposed conveyance, lease, sublease, management or incentive payment contract, license or other agreement that may give rise to such private business use, together with a description of the timing and the rationale for entering into such agreement (the "Proposed Private Business Use"). IFA and RDA shall conduct their review and approve or reject, in writing, such request within 30 days of receipt. If no response is made to a request for consent to private business use within 30 days of receipt, then NICTD shall provide additional written notice to IFA and RDA that the Proposed Private Business Use will be deemed to be approved. If no response to this additional written notice is received within three business days of receipt of the additional written notice by IFA and RDA, then the request shall be deemed approved. In the event a request for consent to private business use is deemed approved, NICTD shall have the right to proceed as though consent to the Proposed Private Business Use was expressly provided by IFA and RDA. In any event, upon the execution and delivery by NICTD of any such agreement, NICTD shall provide IFA and RDA a copy of such executed agreement within 10 business days of the execution thereof.

Section 25. Validity. All terms, covenants and conditions contained in this Ground Lease shall include all parts of the Facilities, whether leased pursuant to the original Ground Lease or pursuant to any Supplemental Ground Lease thereto.

Section 26. Severability; Complete Agreement; Counterparts; Survival of Terms; Governing Law; Etc.

(a) All the covenants, agreements, terms and conditions required under the laws of the State, including the Bond Act, to be included in any lease entered into under Indiana Code 5-1.3-5 are incorporated herein by this reference.

(b) In case any section or provision of this Ground Lease, or any covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Ground Lease, or any application thereof, is for any reason held to be illegal or invalid, or is at any time inoperable, that illegality, invalidity or inoperability shall not affect the remainder thereof or any other section or provision of this Ground Lease or any other covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Ground Lease, which shall be construed and enforced as if that illegal, invalid or inoperable portion were not contained herein. Any such illegality, invalidity or inoperability of any application thereof shall not affect any legal, valid and operable application thereof, and each such section, provision, covenant, stipulation, obligation, agreement, act or action, or part thereof, shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent from time to time permitted by law.

(c) This Ground Lease represents the entire agreement between RDA and NICTD covering everything agreed upon or understood in the creation of the estate created by this Ground Lease and related transactional matters; *provided*, however, that the parties contemplate and agree that the provisions of the Governance Agreement, the Development Agreement, the other Leases and/or any documents related thereto contain related undertakings and such shall be given their full meaning and effect. There are no oral promises, conditions, representations, understandings, interpretations or terms of any kind as conditions or inducements to the execution hereof or in effect between the parties. No change or addition shall be made to this Ground Lease except by a written agreement executed by RDA and NICTD.

(d) The parties each acknowledge that the terms and conditions of this Ground Lease have been the subject of active and complete negotiations represented by competent professional counsel and advisors, and that such terms and conditions should not be construed in favor of or against any party by reason of the extent to which any party or its professional counsel and advisors participated in the preparation of this Ground Lease.

(e) This Ground Lease may be executed in duplicate counterparts, each of which shall be deemed an original and both of which together shall constitute one and the same instrument.

(f) The covenants and obligations under Sections 5, 12, 14, 15, 19, and 23 hereof shall survive the expiration or earlier termination of this Ground Lease.

(g) This Ground Lease shall be construed according to, and subject to, the laws of the State.

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IN WITNESS WHEREOF, the parties hereto have caused this Ground Lease to be executed for and on their behalf as of the day and year first hereinabove written.

"NICTD"

**NORTHERN INDIANA COMMUTER
TRANSPORTATION DISTRICT, AS
LESSOR**

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

[REMAINDER OF PAGE LEFT BLANK]

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____, personally known by me to be the _____ and _____, respectively, of the Northern Indiana Commuter Transportation District ("NICTD"), and acknowledged the execution of the foregoing Ground Lease Agreement (Double Track Project) for and on behalf of NICTD.

WITNESS my hand and Notarial Seal this _____ day of _____, 20__.

(Seal)

(Written Signature)

(Printed Signature)

Notary Public

My Commission expires:

My county of residence is:

[REMAINDER OF PAGE LEFT BLANK]

June 20, 2019 draft

This instrument prepared by: Philip C Genetos, Ice Miller LLP, One American Square, Suite 2900, Indianapolis, IN 46282.

I affirm under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. Philip C Genetos

EXHIBIT A

LEGAL DESCRIPTION AND MAP OF THE REAL ESTATE

Map of the Real Estate. Real property in _____
_____, as depicted as follows:

[End of Exhibit A]

EXHIBIT B
FORM OF
SUPPLEMENTAL GROUND LEASE AGREEMENT (DOUBLE TRACK PROJECT)
BETWEEN
NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT
AND
NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY

SUPPLEMENTAL GROUND LEASE AGREEMENT (DOUBLE TRACK PROJECT)
BETWEEN
NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT
AND
NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY

This SUPPLEMENTAL GROUND LEASE AGREEMENT (DOUBLE TRACK PROJECT) (this "Supplemental Ground Lease"), entered into as of this ____ day of _____, 20__, between the NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT, a commuter transportation district and a municipal corporation formed pursuant to Indiana Code 8-5-15, as supplemented and amended from time to time ("NICTD"), and the NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY, a separate body corporate and politic formed pursuant to Indiana Code 36-7, as supplemented and amended from time to time ("RDA").

WITNESSETH:

WHEREAS, NICTD entered into a Ground Lease Agreement (Double Track Project) with RDA dated as of _____ 1, 20__ (the "Ground Lease"); and

WHEREAS, all terms not otherwise defined in this Supplemental Ground Lease shall have the meanings ascribed to them in the Ground Lease; and

[WHEREAS, it is provided in the Ground Lease that after the Commencement Date, for any portion of the Lease Premises, in the event such portion shall be damaged or destroyed or taken, so as to render such portion unavailable for use by RDA, or shall for any other reason become unavailable for use by RDA, NICTD may add additional Lease Premises to the Ground Lease pursuant to a Supplemental Ground Lease so that RDA may lease such additional Lease Premises to NICTD pursuant to a supplement to the Operating Lease; provided that such additional Lease Premises are also added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases; and]

[WHEREAS, it is provided in the Ground Lease that in the event NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities, then by no later than the date as of which construction of any such portions commences, NICTD shall cause a Supplemental Ground Lease to be entered into for the purpose of adding to the Real Estate the pertinent real estate on which such portions of the Rail Project shall be located; provided that such additional Real Estate is also added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases; and]

[WHEREAS, it is provided in the Ground Lease that when the Rail Improvements are complete and ready for use as part of the Rail Project, the parties shall revise and increase the real estate described in Exhibit A to the Ground Lease, if necessary to reflect the final site location acquired for the Rail Project and upon which the Rail Improvements as part of the Rail Project have been constructed; provided that such additional Real Estate is also added to the

Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases; and]

[WHEREAS, it is provided in the Ground Lease that RDA and NICTD may enter into one or more Supplemental Ground Leases, each of which: (1) shall provide that all covenants contained in the Ground Lease shall be unitary and include all parts of the Lease Premises, whether leased pursuant to the Ground Lease or pursuant to any Supplemental Ground Lease (*provided* that the foregoing shall not limit or restrict the parties from having differing covenants and obligations applicable to any Supplemental Ground Leases related to portions of the Rail Project NICTD proposes to be constructed that are not within the existing boundaries of the Facilities); and (2) may contain such other covenants and agreements as the parties thereto agree upon.]

NOW, THEREFORE, IT IS HEREBY AGREED, CERTIFIED AND STIPULATED by the undersigned as follows:

[Section 1. Addition to Real Estate After Commencement Date. Certain portions of the Lease Premises have been damaged or destroyed, thereby rendering such portions unavailable for use by RDA, or have otherwise become unavailable for use by RDA. NICTD has determined to add additional Lease Premises to the Ground Lease pursuant to this Supplemental Ground Lease. Therefore, the Lease Premises set forth in Exhibit A to the Ground Lease shall be hereafter amended to read as set forth in Appendix I attached hereto, so that RDA may lease such additional Lease Premises to NICTD pursuant to a supplement to the Operating Lease, thereby resulting in no interruption in the lease rentals payable by NICTD to RDA pursuant to the Operating Lease. Such additional Lease Premises are also being added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.]

[Section . Addition to Real Estate Prior to Construction. NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities set forth in Exhibit A to the Ground Lease. Therefore, the boundaries of the Facilities set forth in Exhibit A to the Ground Lease shall be hereafter amended to read as set forth in Appendix I attached hereto, which revised boundaries shall include the pertinent real estate on which such portions of the Rail Project shall be located. Such additional Real Estate is also being added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.]

[Section . Addition to Real Estate After Construction. Certain Rail Improvements are now complete and ready for use as part of the Rail Project, and it is now necessary to revise or increase the real estate described in Exhibit A to the Ground Lease, because such Exhibit A does not reflect the final site location acquired for the Rail Project and upon which the Rail Improvements as part of the Rail Project have been constructed. Therefore, for such purpose, Exhibit A to the Ground Lease shall be hereafter amended to read as set forth in Appendix I attached hereto. Such additional Real Estate is also being added to the Underlying Lease, one or more of the Master Leases, and the Operating Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.]

Section __. All covenants contained in the Ground Lease, including this Supplemental Ground Lease, shall be unitary and include all parts of the Lease Premises, whether leased pursuant to the Ground Lease or pursuant to any Supplemental Ground Lease.

[REMAINDER OF PAGE LEFT BLANK]

IN WITNESS WHEREOF, the undersigned have caused this Supplemental Ground Lease to be executed for and on their behalf as of the day and year first above written.

"NICTD"

NORTHERN INDIANA COMMUTER
TRANSPORTATION DISTRICT

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

"RDA"

NORTHWEST INDIANA REGIONAL
DEVELOPMENT AUTHORITY

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

This instrument prepared by: _____

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, personally known by me to be the _____ and _____, respectively, of the Northern Indiana Commuter Transportation District ("NICTD"), and acknowledged the execution of the foregoing Supplemental Ground Lease Agreement (Double Track Project) for and on behalf of NICTD.

WITNESS my hand and Notarial Seal this _____ day of _____, 20__.

(Seal)

(Written Signature)

(Printed Signature)

Notary Public

My Commission expires:

My county of residence is:

[REMAINDER OF PAGE LEFT BLANK]

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, personally known by me to be the _____ and _____, respectively, of the Northwest Indiana Regional Development Authority ("RDA"), and acknowledged the execution of the foregoing Supplemental Ground Lease Agreement (Double Track Project) for and on behalf of RDA.

WITNESS my hand and Notarial Seal this _____ day of _____, 20__.

(Seal)

(Written Signature)

(Printed Signature)

Notary Public

My Commission expires:

My county of residence is:

[REMAINDER OF PAGE LEFT BLANK]

[APPENDIX I

LEGAL DESCRIPTION AND MAP OF THE REAL ESTATE]

RESOLUTION 19-07 EXHIBIT C-1

Form of District Operating Lease – West Lake Project

OPERATING LEASE AGREEMENT (WEST LAKE PROJECT)

between

NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY

as Lessor

and

NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT

as Lessee

Dated as of _____, _____

INDEX

	<u>Page</u>
Section 1.	Definitions; Interpretation.....3
Section 2.	Lease of Facilities8
Section 3.	Rental Payments; Supplements; Nature of Obligations.....9
Section 4.	Damage or Destruction of Facilities; Failure to Construct10
Section 5.	Nature of Operating Lease10
Section 6.	Nonliability of IFA or RDA.....11
Section 7.	Construction; Repairs and Maintenance; Alteration; Operations; Equipment or Furnishings.....11
Section 8.	Insurance13
Section 9.	Use of Insurance and Condemnation Proceeds.....14
Section 10.	Liability Insurance15
Section 11.	General Insurance Provisions15
Section 12.	General Covenants.....15
Section 13.	Covenants Regarding the Bond Act; IFA Bonds.....16
Section 14.	Utility Service16
Section 15.	Environmental Laws Covenants16
Section 16.	Indemnity by NICTD.....17
Section 17.	No Broker.....17
Section 18.	Transfer to NICTD.....17
Section 19.	Title to Real Estate.....17
Section 20.	Defaults; Remedies18
Section 21.	Notices19
Section 22.	Construction of Covenants.....20
Section 23.	Supplemental Operating Leases.....20
Section 24.	No Personal Liability20
Section 25.	Successors or Assigns; Use Restrictions.....20
Section 26.	Validity21
Section 27.	Severability; Complete Agreement; Counterparts; Survival of Terms; Governing Law; Etc.....21
Exhibit A	Legal Description and Map of the Real Estate
Exhibit B	Form of Supplemental Operating Lease Agreement (West Lake Project) between Northwest Indiana Regional Development Authority and Northern Indiana Commuter Transportation District

OPERATING LEASE AGREEMENT (WEST LAKE PROJECT)

This Operating Lease Agreement (West Lake Project) (this "Operating Lease") is entered into this ____ day of _____, 20____, between the NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY, a separate body corporate and politic formed pursuant to Indiana Code 36-7.5, as supplemented and amended from time to time ("RDA"), and the NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT, a commuter transportation district and a municipal corporation formed pursuant to Indiana Code 8-5-15, as amended ("NICTD").

RECITALS

1. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the hereinafter defined Governance Agreement;
2. The South Shore Line is a commuter train service between South Bend, Indiana and Millennium Station in Chicago, Illinois;
3. NICTD has owned and operated the South Shore Line for nearly forty years and has experience in developing capital rail projects for the South Shore Line and in requesting, obtaining and managing federal grant funds through the Federal Transit Administration;
4. RDA fosters development in northwest Indiana and has since its inception fostered economic development throughout northwest Indiana and has been vested pursuant to IC 36-7.5-4-18 with certain powers and duties with respect to the Rail Project;
5. IFA oversees State debt issuance and provides effective financing solutions to facilitate State, local and business investment in the State and has participated in numerous important economic development activities throughout the State;
6. RDA and NICTD have developed and advanced plans for improvements to the South Shore Line, specifically the Double Track Project (as defined below) and the West Lake Corridor Project (as defined below and also defined as the "Rail Project"), which will improve the South Shore Line and foster economic development throughout northwest and north central Indiana by shortening commute times, providing new rail service to areas not serviced by rail transportation to Chicago, enhancing the economic and community development of the northwest Indiana region, and increasing the convenience to the areas served;
7. RDA has determined that providing assistance to the Rail Project in the manner herein provided serves a public purpose for which RDA was created;
8. The Rail Project is expected to encourage business investment in and near the station areas, provide faster, less expensive and reliable transportation, relieve existing and anticipated traffic congestion, reduce vehicular emissions, reduce commuting costs and attract and retain families and younger residents in northwest and north central Indiana;
9. The Rail Project is expected to provide faster travel times, accommodate more trains to improve service during rush hour travel and be safer to operate;

10. RDA, IFA and NICTD have identified and obtained committed local and State funding for the Rail Project;

11. NICTD has applied for necessary federal grant funding from FTA on behalf of RDA and the State, and in its capacity as the grantee, and as the signatory party to that certain Full Funding Grant Agreement with FTA, will maintain continuing control of the assets receiving FTA funding, subject to the terms of the Governance Agreement, the Development Agreement, if any, this Operating Lease and the other leases described herein;

12. The Parties desire to jointly complete FTA grant application processes for the West Lake Corridor Project, in order to facilitate the further development, design, construction and financing of the West Lake Corridor Project as improvements to the South Shore Line commuter rail system;

13. Any obligations of RDA or IFA shall not constitute a debt of the State or any municipality, or a pledge of the full faith and credit thereof, under the Constitution of the State;

14. Providing financial support to the Rail Project and the development and operation thereof are valid public purposes of RDA, IFA and NICTD, will contribute importantly to the economic and community development of northwest Indiana and will benefit the citizens of northwest Indiana;

15. In connection with the IFA Bonds, RDA, NICTD, and IFA are required to enter into one or more leases for the purpose of providing for the issuance and repayment of the IFA Bonds;

16. The funding for the payment of lease rentals by RDA for payment of the IFA Bonds will be provided from State appropriations, FTA Grant Reimbursements, moneys on deposit in the next generation trust fund established under IC 8-14-15.2 and Available Revenues;

17. NICTD expects that FTA funding will fund a portion of the costs of the Rail Project, subject to local funding of the remaining share;

18. NICTD, RDA, and IFA intend to enter into the Revenue Trust Fund Agreement with the Deposit Trustee and the Bond Trustee for the purposes of receiving and safeguarding substantially all funds for the Rail Project, including substantially all funding sources to be used to pay lease rentals;

19. RDA and IFA are willing to assist NICTD in providing a mechanism to fund the Rail Project pursuant and subject to the Governance Agreement and the Development Agreement and to comply with and advance the public purposes described herein;

20. In connection therewith and subject to this Operating Lease, certain Real Estate and Rail Improvements will be leased by NICTD to RDA pursuant to the Ground Lease, then leased by RDA to IFA pursuant to the Underlying Lease, then leased by IFA to RDA pursuant to the Master Leases, and then leased by RDA to NICTD pursuant to this Operating Lease, and IFA will issue the IFA Bonds and cause certain proceeds thereof to be made available to NICTD to pay costs incurred in undertaking the Rail Project;

21. Contemporaneous with or subsequent to the commencement of existence of the leasehold estate under this Operating Lease, RDA and IFA shall cause the Underlying Lease, IFA and RDA shall cause the Master Leases, and RDA and NICTD shall cause the Ground Lease, to each be effective; and

22. NICTD acknowledges that IFA's and RDA's right of occupancy and continuous possession of the Real Estate (and the Rail Improvements) and its lawful right to lease the Real Estate (and the Rail Improvements) throughout the stated term of this Operating Lease are essential to the funding mechanism for the Rail Project and the realization of the public purposes described herein.

WITNESSETH:

In consideration of the mutual covenants herein contained, the parties hereto hereby agree as follows:

Section 1. Definitions; Interpretation.

(a) The terms defined in this Section shall for all purposes of this Operating Lease have the meanings herein specified unless the context otherwise requires.

"Ancillary Users" means any party that uses or has any interest in users of the Facilities of any kind whatsoever (including any subtenants, occupants, employees, agents, contractors, customers or invitees of NICTD).

"Authorized Officer of IFA" means the Chair of IFA or the Public Finance Director of the State of Indiana and, with reference to any act or document, also means any other person authorized by a resolution of IFA to perform such act or to sign such document.

"Authorized Officer of NICTD" means the President of NICTD and, with reference to any act or document, also means any other person authorized by a resolution of NICTD to perform such act or to sign such document.

"Authorized Officer of RDA" means the Chair or the Chief Executive Officer of RDA and, with reference to any act or document, also means any other person authorized by a resolution of RDA to perform such act or to sign such document.

"Available Revenues" means any available revenues of RDA, including, without limitation: (a) the portion of the annual payments to RDA from the Cities of Gary, East Chicago and Hammond and the Counties of Lake and Porter due under Indiana Code 6-3.6-6-9, Indiana Code 36-7.5-4-2 and Indiana Code 6-3.6-11-6(b); (b) amounts withheld by the auditor of State from certain municipalities within Lake County, as determined by the Indiana Department of Local Government Finance, and paid to the Secretary-Treasurer of RDA pursuant to Indiana Code 6-3.6-11-5.5; and (c) revenues derived from the Interlocal Agreements or from other actions taken by certain municipalities within Lake County offering to provide revenue to support and finance the Rail Project pursuant to Indiana Code 6-3.6-11-7. Notwithstanding the above definition, with respect to the initial series of IFA Bonds purchased by the State Treasurer as provided in IC 5-13-10.5-20, which are secured by rental payments to be made pursuant to the

RDA Available Revenues Master Lease Agreement (West Lake Project), to the extent provided in IC 36-7.5-4-21, it is understood that available revenues of RDA only include those sources described in clause (a) above.

"Biennium" means the biennium used for State budgetary and appropriation purposes.

"Bond Act" means Indiana Code 5-1.3, as amended or supplemented, or any successor thereto.

"Bond Trustee" means the trustee serving as such with respect to the IFA Bonds.

"Completion Certificate" for the Facilities or any portion thereof means a certificate (a) executed by an Authorized Officer of NICTD certifying that such Facilities or such portion thereof is available for use by RDA and (b) accepted by an Authorized Officer of RDA acknowledging that such Facilities or such portion thereof is available for use by RDA.

"Concurrence" means the written concurrence of the Authorized Officer of IFA and the Authorized Officer of RDA to the referred approval or other action of NICTD pursuant to the Governance Agreement, the Development Agreement or the Leases; *provided that*:

(a) concurrence may be withheld or delayed if the Authorized Officer of IFA and/or the Authorized Officer of RDA determines a referenced action (i) may adversely affect the Continuing Rent Obligation and (ii) be inconsistent with applicable laws (and the requirements of the Governance Agreement, the Development Agreement, the Leases and/or any documents related thereto);

(b) concurrence when given shall not be deemed to estop or otherwise waive IFA's and/or RDA's right to later assert or enforce any requirement under the Governance Agreement, the Development Agreement, the Leases and/or any documents related thereto, including IFA's and RDA's ability to seek claims, damages, losses and expenses, including attorneys' fees and other IFA and RDA costs arising out of or resulting from the action of NICTD for which concurrence has been given; and

(c) concurrence when given and later found to be contrary to any requirement under the Governance Agreement, the Development Agreement, the Leases and/or any documents related thereto shall not expose NICTD to a claim or assertion that such failure is, in and of itself, a failure to obtain a concurrence in the first instance and, as such, without having received a concurrence, a basis for a NICTD Event of Default. To the extent NICTD receives Concurrence under this Operating Lease it shall be able to rely upon such Concurrence.

"Continuing Rent Obligation" means (a) RDA's obligation under the Master Leases to continue to pay the Master Leases Rental and (b) NICTD's obligation under this Operating Lease to continue to pay the Operating Lease Rental, each without delay or diminution as to amount.

"Deposit Trustee" means the trustee bank acting as the Deposit Trustee under the Revenue Trust Fund Agreement.

"Development Agreement" means any development agreement entered into by NICTD, RDA and IFA for the purpose of governing the completion of the Rail Project in a manner consistent with and as contemplated by the Governance Agreement.

"Double Track Project" means the addition of an east/west rail line for a portion of the South Shore Line from Gary to Michigan City and related improvements, all as more fully described in Exhibit 1 of the Governance Agreement.

"Environmental Laws" means all federal, state and local statutes, common law principles, rules, regulations, ordinances, permits, licenses, written approvals, orders, writs, injunctions, judgments and consent decrees relating to pollution control, protection of environmental quality, or protection of the health or safety of workers or the public from exposure to Hazardous Materials, including laws relating to emissions, discharges, releases or threatened releases of pollutants, contaminants, chemicals, or hazardous, toxic or dangerous substances, materials or wastes in the environment (including ambient air, surface water, ground water, land surface or subsurface strata) or otherwise relating to the generation, manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials. Without limiting the generality of the foregoing, "Environmental Laws" shall encompass any "Superfund" or "Superlien" Law (including those otherwise referenced in this definition) and each of the following statutes and the regulations promulgated thereunder, in any similar applicable federal, state or local law, rule or regulation, each as amended: (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980; (ii) the Solid Waste Disposal Act; (iii) the Hazardous Materials Transportation Act; (iv) the Toxic Substances Control Act; (v) the Clean Water Act; (vi) the Clean Air Act; (vii) the Safe Drinking Water Act; (viii) the National Environmental Policy Act of 1969; (ix) the Superfund Amendments and Reauthorization Act of 1986; (x) Title III of the Superfund Amendments and Reauthorization Act of 1986; (xi) the Federal Insecticide, Fungicide and Rodenticide Act; (xii) provisions of the Occupational Safety and Health Act of 1970 relating to the handling of and exposure to Hazardous Materials; and (xiii) any state or local analogue to any of the foregoing.

"Facilities" means the Real Estate and the Rail Improvements.

"FFGA" means the grant agreement awarded by FTA for the Rail Project.

"Force Majeure" shall have the meaning ascribed to such term in the Governance Agreement.

"FTA" means the Federal Transit Administration.

"FTA Grant Reimbursements" means funds received from FTA as reimbursement for expenditures by the Parties for moneys spent on one or both of the projects constituting the Rail Project pursuant to the FFGA for the Rail Project.

"Governance Agreement" means the Governance Agreement effective as of [_____], 2018, by and between NICTD, RDA and the IFA, as from time to time amended or supplemented in accordance with its terms.

"Ground Lease" means the Ground Lease Agreement (West Lake Project) as the same may be amended, modified or supplemented by any amendments or modifications thereof and supplements thereto entered into in accordance with the provisions hereof.

"Hazardous Materials" means any hazardous, toxic or dangerous substance, material and waste, including petroleum and hydrocarbon compounds derived from petroleum (including naturally occurring or man-made petroleum and derivative hydrocarbons), flammable explosives, asbestos, urea formaldehyde insulation, radioactive materials, polychlorinated biphenyls, pesticides, herbicides and any other kind and/or type of pollutants or contaminants (including materials which include hazardous constituents), sewage, sludge, solvents and/or any other similar substances, materials or wastes that are or become regulated under any Environmental Law as hazardous or toxic.

"IC" means the Title, Article, Chapter and/or Section of the Indiana Code as referenced, and as such may be supplemented, amended or replaced from time to time.

"IFA" means the Indiana Finance Authority, a body politic and corporate, not a State agency, but an independent instrumentality exercising essential public functions, organized and existing under IC 5-1.2, or if said Indiana Finance Authority shall be abolished, the board, body, commission or agency succeeding to the principal functions thereof.

"IFA Bonds" means one or more series of bonds, notes or other similar obligations issued under IC 5-1.3-1 *et seq.* to finance or refinance all or a portion of the costs for the Rail Project;

"Including" or "including" in this Operating Lease shall be construed as if followed by the phrase "without limitation" or "but not limited to".

"Independent Expert" means an independent registered architect, registered engineer, construction manager or contractor selected by NICTD with Concurrence.

"Lease Premises" means the leasehold estate and interests created by and pursuant to this Operating Lease, including, without limitation, the leasing of the Facilities, as the same may be amended and modified from time to time as needed for the Rail Project in the manner as provided for in the Leases.

"Leases" means, collectively, the Ground Lease, the Underlying Lease, the Master Leases and this Operating Lease.

"Master Leases" means the various leases from IFA to RDA in support of the IFA Bonds, including specifically the State Appropriation Master Lease Agreement (West Lake Project), the RDA Available Revenues Master Lease Agreement (West Lake Project) and the Federal Grant Anticipation Master Lease Agreement (West Lake Project), each as from time to time amended or supplemented by any amendment or supplement thereto, including any supplemental memorandum of lease recorded in connection therewith.

"Master Leases Rental" means the rental payments payable by RDA as provided in the Master Leases.

"Operating Lease" means this Operating Lease, as from time to time amended or supplemented by any amendment or supplement hereto, including any supplemental memorandum of lease recorded in connection therewith.

"Operating Lease Rental" means the rental payments payable by NICTD as provided in this Operating Lease.

"Parties" means IFA, NICTD and RDA.

"Permitted Encumbrances" means (a) this Operating Lease, the Ground Lease, the Underlying Lease, and the Master Leases, (b) utility, access and other easements, licenses and rights of way, covenants, conditions and restrictions, and other exceptions to title, which in each case will not materially and adversely affect the construction, development and operation of the Rail Project as contemplated by this Operating Lease or materially impair the interest of IFA, RDA or NICTD in, or its use of, the Facilities, (c) any liens to the extent permitted in this Operating Lease, and (d) any other liens which are not prohibited under this Operating Lease, but only if in the opinion of counsel satisfactory to IFA and the Bond Trustee, such liens do not materially impair the interest of IFA, RDA or NICTD in, or its use of, the Facilities.

"Permitted Uses" means any use permitted under the Governance Agreement, subject to Section 25(c) hereof.

"Rail Project" means the West Lake Corridor Project, as defined in IC 5-1.3-2-14 and IC 36-7.5-1-13.5.

"Rail Improvements" means the existing improvements located on the Real Estate, together with any new improvements constructed (or placed for use) on the Real Estate, whether as part of the Rail Project or otherwise.

"Real Estate" means the real property described on Exhibit A of this Operating Lease, as the same may be amended or modified in the manner provided herein and the other Leases.

"Revenue Trust Fund" means the development authority revenue fund established under the Revenue Trust Fund Agreement.

"Revenue Trust Fund Agreement" means the Revenue Trust Fund Agreement, dated as of August 1, 2018, entered into by and among RDA, IFA, NICTD, the Bond Trustee, and the Deposit Trustee in connection with the Revenue Trust Fund.

"State" means the State of Indiana.

"Supplemental Operating Lease" means any Operating Lease supplemental to this Operating Lease entered into in accordance herewith and substantially in the form set forth in Exhibit B.

"Trust Indenture" means the Trust Indentures to be entered into between IFA and the Bond Trustee relating to the IFA Bonds, and all supplements and amendments thereto.

"West Lake Corridor Project" means an approximately eight (8) mile new north/south passenger rail line connected to the existing South Shore Line located in Lake County, Indiana, with four stations from and including Hammond (Gateway Station) to and including Munster/Dyer (Main Street Station, including all property owned or leased by NICTD for the operation of the South Shore Line over the West Lake Corridor Project), all as more fully described in Exhibit 2 of the Governance Agreement.

(b) The terms "herein", "hereto", "hereunder" and all terms of similar import shall be deemed to refer to this Operating Lease as a whole rather than to any Section or Exhibit to this Operating Lease.

(c) Unless otherwise specified, references in this Operating Lease to (i) "Section ___" shall be deemed to refer to the Section of this Operating Lease bearing the number so specified, (ii) "Exhibit ___" shall be deemed to refer to the Exhibit of this Operating Lease bearing the letter or number so specified, and (iii) this "Operating Lease" means this Operating Lease and any exhibits and attachments hereto.

(d) Captions used for or in Sections and Exhibits of this Operating Lease are for convenience of reference only and shall not affect the construction of this Operating Lease.

Section 2. Lease of Facilities.

(a) In consideration of certain payments and other terms and conditions herein specified, RDA does hereby lease, demise and let to NICTD the Facilities (such constituting a part of the Lease Premises), to have and to hold the same with all rights, privileges, easements and appurtenances thereunto belonging unto NICTD for a term beginning on the date hereof and ending on _____; provided, however, the term shall end earlier or later than such date in the event the conditions set forth in Section 18 hereof are met, in which case, the term shall end on such date (the "Term").

(b) The parties agree that the Rail Project will be undertaken on the Real Estate pursuant to the Governance Agreement and the Development Agreement. The parties acknowledge and agree that the Real Estate is available for use from and after the date hereof, and such availability for use (and the value thereof to RDA and NICTD) is not in any way diminished while the Rail Project is being undertaken. By one or more endorsements each recorded as soon as practical and as a Supplemental Operating Lease entered into in substantially the form set forth in Exhibit B, but in any event, when the Rail Improvements are complete and ready for use as part of the Rail Project, the parties shall revise or increase the real estate described in Exhibit A, if necessary to reflect the final site location acquired for the Rail Project and upon which the Rail Improvements as part of the Rail Project are constructed; provided that such additional Real Estate is also added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases. When complete, the parties shall set forth and make known the date or dates the Rail Improvements, as part of the Rail Project (or portions thereof), are complete and ready for use, which shall also be made available as the Lease Premises pursuant to this Operating Lease.

(c) NICTD hereby represents and warrants that, upon compliance with its obligations under Section 19 hereof, RDA will possess a good and indefeasible leasehold estate, subject only to Permitted Encumbrances, to all of the Real Estate, which includes real estate upon which the Rail Improvements that are part of the Rail Project are to be acquired, improved and constructed pursuant to the Governance Agreement and the Development Agreement, and NICTD warrants and will defend the same against all claims whatsoever not suffered or caused by the acts or omissions of RDA.

(d) Each of the Master Leases shall provide that in the event the Master Lease is terminated pursuant to the terms and conditions of such Master Lease following an event of default (as defined in such Master Lease) by RDA, this Operating Lease shall remain in full force and effect for the benefit of IFA (who upon termination of such Master Lease shall succeed to the rights, title and interest of RDA, as sublessor under this Operating Lease) and NICTD.

(e) NICTD shall not use the Facilities and shall use commercially reasonable efforts to not allow the Facilities to be used (including by any Ancillary Users) for any purpose or in any manner that would invalidate any policy of insurance now or hereafter carried in respect of the Facilities.

Section 3. Rental Payments; Supplements; Nature of Obligations.

(a) During the term of this Operating Lease, NICTD agrees to pay rentals to RDA without relief from valuation or appraisal laws and without a defense or set-off, counterclaim or recoupment, for the use of the Real Estate and all existing Rail Improvements (and if and when complete, and for the use of any Rail Improvements that are part of the Rail Project), in arrears in the monthly amount of One Dollar (\$1), together with such additional amounts as may be set forth in any Supplement Operating Lease, on or before the first (1st) business day of each calendar month (collectively, the "Operating Lease Rental").

(b) After the Commencement Date (as defined in the Master Leases), for any portion of the Lease Premises, in the event such portion shall be damaged or destroyed or taken, so as to render such portion unavailable for use by NICTD, or shall for any other reason become unavailable for use by NICTD: (i) any rental payments due for such unavailable portion of the Lease Premises shall be abated during such unavailability by an amount equal to the product of the portion of (A) the rental payments otherwise due on such portion of the Lease Premises, times (B) a fraction of such rental payments, the numerator of which fraction equals the then estimated expenses incurred or to be incurred by RDA and allocable to such portion and the denominator of which fraction equals the then estimated expenses incurred or to be incurred by RDA and allocable to the Lease Premises; or (ii) RDA may add additional Lease Premises to this Operating Lease pursuant to a Supplemental Operating Lease so that there is no interruption in the lease rentals payable by NICTD as described in clause (a) above; provided that such additional Lease Premises are also added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.

(c) All rental obligations under this Operating Lease shall be deposited solely and exclusively into the Revenue Trust Fund.

(d) During the term of this Operating Lease, NICTD and RDA may enter into one or more Supplemental Operating Leases in the event NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities in substantially the form set forth in Exhibit B, so that such portions are within the boundaries of the Facilities.

(e) It is expressly understood and agreed by RDA and NICTD that the obligations of RDA and NICTD created by or arising out of this Operating Lease or of any amendments hereto shall not be, represent, or constitute an indebtedness of the State, IFA or RDA within the meaning or application of any constitutional limitation of the State or the laws of the State or a pledge of the faith or credit of the State, IFA or RDA.

Section 4. Damage or Destruction of Facilities; Failure to Construct.

(a) In the event the Facilities or any portion thereof shall be damaged or destroyed so as to render the same unfit for its intended use in the opinion of an Independent Expert, it shall then be the obligation of NICTD to cause the Facilities (or such portion thereof) to be restored and rebuilt as promptly as may be done, unavoidable strikes and other causes beyond the control of NICTD excepted, if in the opinion of an Independent Expert:

(i) the cost of such restoration or rebuilding does not exceed the amount of the proceeds received by the Trustee from the insurance provided for in Section 8 hereof, together with other moneys (I) IFA, at its discretion, may cause to be made available therefor pursuant to the terms of the Trust Indenture or the Revenue Trust Fund Agreement, as applicable, or (II) NICTD, at its discretion, may make available and deposit with the Trustee, and

(ii) such restoration or rebuilding can be sufficiently completed within the period of time covered by business income insurance provided for in Section 8 hereof in order to not adversely affect the Continuing Rent Obligation;

provided, however, that if NICTD shall fail to select such an Independent Expert (or fail to secure Concurrence in connection with the selection of such an Independent Expert) within ten (10) days after any request by RDA or IFA, then either RDA or IFA may select such Independent Expert to serve in such capacity at the sole cost and expense of NICTD.

(b) In the event such proceeds are insufficient to pay the restoration cost, such proceeds shall be applied as directed by RDA and IFA unless NICTD elects to make available and deposit with the Deposit Trustee or the Bond Trustee such shortfall and proceed with restoration in accordance with this Operating Lease.

Section 5. Nature of Operating Lease.

(a) It is expressly understood and agreed that this Operating Lease shall be what is known as an absolute net lease (i.e., that all costs and expenses in connection with the Facilities of any nature whatsoever shall be those of NICTD by reason of it being the tenant hereunder and all rent owing to RDA hereunder shall be net of all such costs and expenses) and that during the Term, NICTD shall be solely obligated to pay at its sole cost and expense, without reimbursement from or contribution by RDA, all costs of taxes and assessments, operations,

maintenance and use in connection with or relating to the Facilities, including all costs and expenses of decoration, maintenance, utility, janitorial and all other services, repair or replacement of all parts of the Facilities or improvement of the Facilities, including in the negotiation and maintenance of agreements with any Ancillary Users, subject to Section 12 hereof, in the manner provided in Section 7 hereof, except as otherwise provided in the Governance Agreement.

(b) NICTD shall cause any taxes due on the Rail Project to be timely paid to the applicable authorities, except to the extent of any good faith contests which have not yet been resolved, and it shall not assert any basis for taxation in respect of the Facilities that would negate or otherwise negatively impact any imposition or collection of taxes other than deductions, credits or other adjustments that would otherwise be applicable in the event the Leases were not in force or effect. The parties acknowledge and agree that this Operating Lease is, and is intended to be, a lease of real property including fixtures and mixed real and personal property (with any such personal property covered by this Operating Lease being incidental), and the Continuing Rent Obligation reflects lease payments which are made solely with respect to the lease of such real property.

(c) Except as otherwise provided in the Governance Agreement, NICTD shall retain all revenues from the operation of the Facilities, and except as otherwise provided in the Governance Agreement, neither IFA nor RDA shall have any responsibility to fund the ongoing costs, expenses and needs for operations, repairs, maintenance and replacements of or related to the Facilities.

Section 6. Nonliability of IFA or RDA. Except as otherwise provided in the Governance Agreement, neither IFA nor RDA shall be liable for damage caused by hidden defects or failure to keep the Facilities in repair and shall not be liable for any damage done or occasioned by or from any improvements, structures or equipment (including any stations, parking facilities, bridges, overpasses, crossings, switches, locomotives, railroad cars, utilities, plumbing, gas, water, boilers, steam or other pipes or sewage or the bursting or leaking of plumbing or heating fixtures or waste or soil pipe) in connection with the Facilities, nor for damage occasioned by natural events (whether occurring by age, wind, water, snow, ice, movements of earth, or otherwise). Neither IFA nor RDA shall be liable for any injury to NICTD, any Ancillary Users or any other person which injury occurs in, upon, about or near the Facilities howsoever arising. Neither IFA nor RDA shall be liable for damage to NICTD's property or to the property of any Ancillary Users or of any other person which may be located in, upon, about or near the Facilities. NICTD shall be responsible for preserving for the benefit of IFA and RDA usual and customary rights, claims and warranties against the persons or entities engaged to acquire, improve and construct any Facilities.

Section 7. Construction; Repairs and Maintenance; Alteration; Operations; Equipment or Furnishings.

(a) NICTD represents and covenants that the Rail Project has been or will be constructed in accordance with the terms and conditions of the Governance Agreement, the Development Agreement and applicable plans and specifications therefor with all reasonable speed and dispatch in accordance with the applicable approved plans and specifications therefor.

(b) NICTD shall keep and maintain the Facilities in good condition and repair in accordance with NICTD management practices in effect as of the date hereof and shall operate the Rail Project in an efficient and economical manner and in accordance with the Governance Agreement. NICTD shall make all necessary repairs, renewals, improvements and replacements to the Facilities and shall keep the Facilities in a clean and neat condition and in good and sound condition and repair, normal wear and tear excepted. The cost of such repairs, replacements and maintenance shall be (whether required because of the negligence, misuse or default of NICTD, any of its Ancillary Users, or otherwise) at NICTD's sole cost and expense, except as otherwise provided in the Governance Agreement.

(c) NICTD shall comply with all valid statutes, rules, regulations, orders and directions of any legislative, administrative or judicial body applicable to NICTD, the Lease Premises and the Facilities. NICTD shall adopt and keep in force reasonable rules and regulations governing the use of the Lease Premises and the Facilities and the operation thereof, and shall enforce such rules and regulations on a uniform basis.

(d) RDA shall comply with all valid statutes, rules, regulations, orders and directions of any legislative, administrative or judicial body applicable to RDA and with respect to RDA's rights and responsibilities for the Lease Premises and the Facilities. To the extent reasonably necessary, the RDA shall adopt and keep in force reasonable rules and regulations governing the use of the Lease Premises and the Facilities and the operation thereof, and shall enforce such rules and regulations on a uniform basis.

(e) NICTD shall have the right, at its sole cost and expense, without Concurrence, to make all alterations, modifications and additions and to do all demolition, remodeling and improvements it deems necessary or desirable to the Facilities, which do not materially reduce the rental value of the Lease Premises or adversely affect (i) the Continuing Rent Obligation and (ii) each referenced obligation that is required to be met by NICTD to be consistent with applicable law (including the Bond Act) and the requirements of the Governance Agreement, the Development Agreement, the Ground Lease, the Underlying Lease, the Master Leases, this Operating Lease and/or any documents related thereto. NICTD shall be liable to repair any damage to the Facilities resulting from such work.

(f) So long as this Operating Lease is in effect, NICTD may at any time and from time to time, at its sole cost and expense, install, modify, remove or replace items of moveable machinery, equipment, furnishings and other personalty in and upon the Facilities. All such personal property shall remain the sole property of NICTD, in which neither IFA nor RDA shall have any interest, and may be installed, modified, removed or replaced by NICTD at any time; *provided* that if such installation, modification, removal or replacement adversely affects (i) the Continuing Rent Obligation or (ii) any referenced obligation that is required to be met by NICTD to be consistent with applicable law (including the Bond Act) and the requirements of the Governance Agreement, the Development Agreement, the Ground Lease, the Underlying Lease, the Master Leases, this Operating Lease and/or any documents related thereto, then NICTD shall either: (y) repair and restore any and all damage to the Facilities resulting from the installation, modification, removal or replacement of any such property; or (z) compensate IFA and RDA for any loss in value to the Lease Premises (including any diminishment in the Master Leases Rental

and Operating Lease Rental) resulting from the installation, modification or removal of any such property.

(g) NICTD shall maintain or cause to be maintained such performance bonds or performance insurance (in a manner consistent with the Governance Agreement) with respect to contracts it may enter into for construction of the Rail Improvements as are usually maintained by those constructing improvements and facilities similar to the Rail Improvements. If performance of any contract for construction of the Rail Improvements is not completed in accordance with its terms and, in the opinion of a registered engineer selected by NICTD and acceptable to IFA and RDA, the cost of completion of such performance shall not exceed the amount of proceeds from any performance bond or performance insurance to be received by reason of such noncompletion of performance and other amounts available therefor, NICTD shall complete or cause to be completed such performance in the manner provided in, and subject to the conditions of, the Governance Agreement. The proceeds of any performance bond paid on account of such noncompletion of performance shall be made available for, and to the extent necessary shall be applied to, the cost of such construction.

Section 8. Insurance.

(a) NICTD, in the manner as provided in the Governance Agreement prior to completion of the Rail Project, and thereafter at its sole cost and expense, shall, during the full term of this Operating Lease, keep the Facilities insured against physical loss or damage, however caused, and otherwise in the manner and on a basis required in the Governance Agreement and the Development Agreement and consistent with commercially reasonable practices and only with such exceptions as are ordinarily required by insurers of rail lines of a similar type (as provided by an industry standard special cause of loss (or its equivalent) property insurance policy, which insurance shall not exclude flood or earthquake, but may provide for sublimits therefor), with good and responsible insurance companies. Such policies shall include terrorism coverage so long as the Terrorism Risk Insurance Program Reauthorization Act of 2015 [15 USC 6701] continues in its present form or an equivalent federal insurance program is available to NICTD. Such insurance shall be in an amount at least equal to the full replacement cost of such Facilities as reasonably determined by NICTD in consultation with an insurance consultant approved by RDA from and after the date the IFA Bonds are issued by IFA; *provided*, any reduction in excess of ten percent (10%) from the amount carried on the date this Operating Lease is entered into (including any reduction from any existing sublimits) shall only be permitted with Concurrence. In no event shall the insurance be in an amount which causes NICTD to be a co-insurer for the Facilities; *provided*, it is agreed that the provision of sublimits for earthquake and flood shall not be deemed to cause NICTD to be a co-insurer; *provided further* that such insurance may cover properties of NICTD other than the Facilities. Such insurance may contain a provision for a deductible in an amount that is customary and commercially reasonable, but not more than \$500,000 or such higher amount as from time to time determined by NICTD with Concurrence. After the occurrence of any insured casualty, NICTD agrees to pay the deductible amount of any loss to the Bond Trustee or such party directed by the Bond Trustee, as applicable, within ten (10) days following any request so made by IFA or RDA. A blanket property insurance form may be used if the insurance payable in respect of loss related to the Facilities is not less than the amount required by this Section and the

insurance proceeds related to damage to or destruction of the Facilities are payable to the Bond Trustee for the IFA Bonds.

(b) During the full term of this Operating Lease, NICTD, in the manner as provided in the Governance Agreement prior to completion of the Rail Project, and thereafter at its sole cost and expense, shall also, maintain business income insurance in an amount at least equal to the Operating Lease Rental on the Lease Premises leased by NICTD under this Operating Lease for a period of (2) years against physical loss or damage of the type insured against pursuant to the preceding requirements of this Section. Such business income insurance policies shall be for the benefit of IFA, RDA, and the Bond Trustee and shall name the Bond Trustee for the IFA Bonds as loss payee, which payment to such Bond Trustee may be limited to circumstances where Master Leases Rental is not made by RDA pursuant to a Master Lease.

(c) After the occurrence of any insured casualty related to the Facilities, NICTD shall give notice to the Bond Trustee, IFA and RDA. Such notice shall be given within five (5) days following such casualty and shall tentatively describe the nature of the casualty together with sufficient additional information to permit IFA and RDA to ascertain NICTD's plans for addressing such loss or damage (and meeting its obligations under this Operating Lease, including the amount NICTD plans to reserve to meet the requirements thereof that result from any deductible applicable under its insurance policies).

(d) In the event that an insurance program is developed by NICTD and approved by RDA and IFA as provided in the Governance Agreement, that insurance program and the requirements thereof shall be substituted herein as the insurance coverage requirements for this Operating Lease to the extent in conflict herewith or in addition hereto.

Section 9. Use of Insurance and Condemnation Proceeds.

(a) If all or any portion of the Facilities shall be damaged or destroyed or taken, NICTD shall, as expeditiously as possible, continuously and diligently prosecute, or cause to be prosecuted, repair, reconstruction or replacement thereof until completion. Within one hundred twenty (120) days after the occurrence of an event of damage or destruction to the Facilities or a taking thereof, NICTD, through any Authorized Officer of the NICTD, shall deliver to RDA and the Bond Trustee the written opinion of engineer selected by NICTD and reasonably acceptable to RDA and IFA stating whether or not the conditions set forth above with respect thereto are satisfied. The proceeds of any insurance paid on account of such damage or destruction or taking (other than any rent loss insurance) shall be made available for, and to the extent necessary shall be applied to, the cost of such repair, reconstruction or replacement, or otherwise in accordance with the terms and conditions of this Operating Lease.

(b) Proceeds of insurance against damage to or destruction of the Facilities which are paid to the Bond Trustee as described herein shall be held by the Bond Trustee pursuant to the applicable Trust Indenture and used by NICTD in accordance with the provisions of this Operating Lease, the Underlying Lease, the Master Leases, this Operating Lease, the Governance Agreement and such Trust Indenture. Proceeds of any condemnation of the Facilities (or portion thereof) shall be paid to the Bond Trustee and held by the Bond Trustee pursuant to the applicable Trust Indenture and used by NICTD in accordance with the provisions of this

Operating Lease, the Ground Lease, the Underlying Lease, the Master Leases, the Governance Agreement and such Trust Indenture.

Section 10. Liability Insurance. NICTD shall, at all times during the full term of this Operating Lease, keep in effect Commercial General Liability Insurance (which insurance shall not exclude blanket contractual liability, broad form property damage, personal injury, or fire damage coverage) covering the Facilities and NICTD's use thereof against claims for bodily injury and property damage, and insuring NICTD, IFA and RDA in amounts and in the manner required by the Governance Agreement and the Development Agreement. Such policies shall include terrorism coverage so long as the Terrorism Risk Insurance Program Reauthorization Act of 2015 [15 USC 6701] continues in its present form or an equivalent federal insurance program is available to NICTD. NICTD shall maintain for each policy year during the term of this Operating Lease aggregate limits for liability coverages of not less than fifty percent (50%) of liability coverage amounts as in effect on the date this Operating Lease is entered into unless otherwise approved by RDA; *provided* that if such policy limits are not reasonably available in the insurance marketplace, then NICTD may reduce such aggregate coverage amounts to the highest such amounts as are reasonably available in the insurance marketplace existing from time to time. NICTD shall make IFA, RDA and the State additional insureds on such policies.

Section 11. General Insurance Provisions. All insurance policies required by Sections 8 and 10 hereof shall be issued in a manner and with coverages consistent with those provided in the Ground Lease and in all instances, in a manner as provided in the Governance Agreement and the Development Agreement, by good and responsible insurance companies, each of which companies, selected by NICTD and reasonably approved by RDA, shall be rated at least "A-VII" (or an equivalent rating if such rating scale is discontinued or changed) by A.M. Best & Company (or by an equivalent rating service if A.M. Best & Company is no longer providing such types of ratings) and shall be countersigned by an agent of the insurer who is a licensed agent in the State. Such policies, or copies thereof, shall be held by NICTD as standing information for review by IFA, RDA and the Bond Trustee; *provided* that such policies shall be available for review by IFA, RDA and the Bond Trustee upon request, and shall be updated as changes are made to such policies. Such policies shall be subject to the requirement that in the event of a material reduction in policy limits or elimination of any coverages, NICTD will notify IFA, RDA and the Bond Trustee in writing by electronic or other means, with such notification including a description of the coverages so reduced or eliminated. If, at any time, NICTD fails to maintain insurance in accordance with Sections 8 and 10 hereof, such insurance may be obtained by IFA or RDA, or may be obtained by the Bond Trustee, and the amount paid for such insurance shall be payable by NICTD under this Operating Lease; *provided, however*, that neither IFA, RDA nor the Bond Trustee shall be under any obligation to obtain such insurance, and any action or non-action of RDA, IFA or the Bond Trustee in this regard shall not relieve NICTD of any consequences of a default in failing to obtain such insurance. The Bond Trustee shall be the loss payee on all casualty insurance required by this Operating Lease that becomes payable in respect of claims related to the Facilities.

Section 12. General Covenants.

(a) NICTD covenants that, except for Permitted Encumbrances and any liens, charges, encumbrances, or security interests created by an act or omission of RDA and/or IFA, it

will not mortgage, impose any lien or claim upon, or otherwise encumber the Lease Premises (whether actual, contingent or otherwise), or permit any mortgage, lien, claim or encumbrance to exist thereon, and that it shall use and maintain the Facilities in material compliance with the laws and ordinances of the United States of America, the State, and all other proper governmental authorities.

(b) Each party hereto agrees that it will, at the request of the other party, execute and deliver to or upon the request of the other party such instrument or instruments as may be reasonably required by such party in order to assure or confirm NICTD's interest in the Lease Premises pursuant to the terms hereof and shall also deliver, from time to time, such instrument or instruments as may be reasonably requested by the other party or any tenant or subtenant of NICTD with respect to the covenant of quiet enjoyment herein.

(c) RDA covenants that, except for Permitted Encumbrances and any liens, charges, encumbrances, or security interests created by an act or omission of NICTD and/or IFA, it will not mortgage, impose any lien or claim upon, or otherwise encumber the Lease Premises (whether actual, contingent or otherwise), or permit any mortgage, lien, claim or encumbrance to exist thereon, and that it shall use and maintain the Facilities in material compliance with the laws and ordinances of the United States of America, the State, and all other proper governmental authorities.

Section 13. Covenants Regarding the Bond Act; IFA Bonds. NICTD shall timely comply with all requirements of NICTD created by the Bond Act, the Governance Agreement, the Development Agreement and any agreement or certificate executed by NICTD in connection with the issuance of the IFA Bonds.

Section 14. Utility Service. NICTD agrees to pay or cause to be paid all charges for (a) sewer, gas, water, electricity, light, heat or power utilities and services, (b) telephonic, communication and other information services, (c) other utility and like services, and (d) regulatory, track and freight fees and other fees, costs and expenses associated with the use and operation of the Facilities that are used, rendered or supplied upon or in connection with the Facilities throughout the term of this Operating Lease.

Section 15. Environmental Laws Covenants.

(a) With respect to the Facilities, (i) NICTD shall at all times comply and follow commercially reasonable business practice to cause others to comply, in all material respects, with all Environmental Laws and all licenses, permits, certificates, approvals and similar authorizations issued to NICTD thereunder, and such operations shall not give rise to any liability pursuant to any Environmental Law, (ii) NICTD shall promptly notify RDA and IFA upon becoming aware of any investigation, proceeding, complaint, order, directive, claim, citation or written notice by any governmental authority or any other Person arising under or relating to any violation of any Environmental Law that is pending against NICTD or threatened in writing against NICTD and shall take prompt and appropriate actions to respond thereto and to cure such violation (if any) and (iii) NICTD shall promptly notify RDA and IFA upon becoming aware of any non-compliance with, or violation of, the requirements of any Environmental Law by NICTD in any material respect, or the release, spill, or discharge, threatened or actual, of any

Hazardous Material or the generation, use, storage, treatment, transportation, manufacture, handling, production or disposal of any Hazardous Material or any other environmental, health or safety matter, which affects or gives rise to a material liability upon NICTD or any liability upon IFA or RDA.

(b) NICTD shall not cause or permit the use, generation, release, manufacture, refining, production, processing, storage or disposal of any Hazardous Materials on, under or about the Facilities, or the transportation to or from the Facilities of any Hazardous Materials, except as necessary and appropriate for its Permitted Uses, in which case, the use, storage or disposal of such Hazardous Substances shall be performed in compliance with the Environmental Laws and the standards prevailing in the railroad industry and at comparable facilities. Notwithstanding anything contained herein to the contrary, IFA and RDA shall not have any liability to NICTD resulting from any conditions existing, or events occurring, or any Hazardous Materials existing or generated, at, in, on, under or in connection with this Operating Lease or the Facilities.

Section 16. Indemnity by NICTD. NICTD shall release, protect, defend, indemnify and hold harmless the RDA, IFA, the Bond Trustee, the Deposit Trustee, and their respective agents, employees, representatives and consultants, from and against any and all claims, causes of action, suits, judgments, demands, and/or losses, in each case if asserted or incurred by or awarded to any third party, arising out of or relating to or resulting from (a) NICTD's design, construction or operation of the Rail Projects or the South Shore Line, (b) any act, omission, negligence, or willful misconduct of NICTD, any of its Ancillary Users or anyone acting under its control or for whom it is legally responsible (c) failure of NICTD, or anyone acting under its control or for whom it is legally responsible, to perform or observe any requirement or obligation imposed by this Operating Lease and (d) arising out of any other act or occurrence within the Facilities. NICTD's indemnity obligation shall not extend to: (i) any third party claim to the extent directly caused by the negligence, recklessness, willful misconduct, or breach of any material obligation under this Operating Lease or the Governance Agreement by IFA or RDA, or (ii) any claims, causes of action, suits, judgments, demands, and/or losses resulting from any action of the RDA or IFA during an Operations Step-In Period or resulting from any actions taken by the RDA or IFA after the exercise of any Construction Period Step-In Rights; *provided*, however, that nothing herein shall relieve NICTD of responsibility to pay up to the Maximum NICTD Excess Cost Contribution for Excess Construction Costs irrespective of the exercise of Construction Period Step-In Rights. The RDA and IFA shall have no obligation to indemnify NICTD.

Section 17. No Broker. NICTD hereby represents and warrants that no brokers or third-party involved in the negotiation and execution of this Operating Lease is entitled, as a result of the actions of the respective party, to a commission or other fee resulting from the execution of this Operating Lease.

Section 18. Transfer to NICTD. To the extent provided in the Governance Agreement, upon the later of the termination of the Governance Agreement and the final and full payment of all IFA Bonds, this Operating Lease shall terminate.

Section 19. Title to Real Estate.

(a) NICTD shall cause a final, fully paid, leasehold title insurance policy to be issued for the benefit of RDA by no later than the date the IFA Bonds are to be issued by IFA. In the event NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities, then by no later than the date as of which construction of any such portion commences, NICTD shall cause (i) an endorsement to be issued to, and on substantially the same terms as, the leasehold title insurance policy referenced in the prior sentence (or an additional final, fully paid, leasehold title insurance policy to be issued on substantially the same terms as the leasehold title insurance policy referenced in the prior sentence) to identify and insure thereunder any such necessary increase in the real estate described in Exhibit A and (ii) a Supplemental Operating Lease to be entered into in substantially the form set forth in Exhibit B in respect of such Real Estate; provided that such additional Real Estate is also added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.

(b) NICTD represents and warrants that it has a good and indefeasible estate in fee simple to all of the Real Estate, subject only to Permitted Encumbrances.

Section 20. Defaults; Remedies.

(a) If there is any NICTD uncured Event of Default (including any default in the observance of any other covenant, agreement or condition contained in this Operating Lease) (each an "Event of Default"), RDA may proceed to protect and enforce its rights, either at law or in equity, by suit, action, mandamus or other proceedings, whether for specific performance of any covenant or agreement contained herein or for the enforcement of any other appropriate legal or equitable remedy (as contained in the Governance Agreement as may relate to this Operating Lease and such Event of Default); *provided* that all such rights and remedies taken in respect of this Operating Lease and any such Event of Default shall only be undertaken and pursued by RDA in strict conformity with this Section and the requirements and limitations set forth in the Governance Agreement.

(b) Except for extensions of time resulting from a Force Majeure event that are allowed in the Governance Agreement, time is of the essence of each term and provision of this Operating Lease to be observed by NICTD hereunder.

(c) If RDA shall fail to perform any term, condition, covenant or obligation required to be performed by it under this Operating Lease, NICTD may pursue a claim for specific performance. If RDA shall fail to perform any term, condition, covenant or obligation required to be performed by it under this Operating Lease and if NICTD shall, as a consequence thereof, recover a money judgment against RDA and/or IFA, NICTD agrees that (i) it shall look solely to RDA's and IFA's right, title and interest in and to the Lease Premises (which shall not include any right to set-off related to any payment due to RDA or IFA as required by the Governance Agreement, the Development Agreement, this Operating Lease, the Underlying Lease, the Master Leases, the Ground Lease and/or any documents related thereto) for the collection of such judgment, (ii) it shall not look to any other assets of RDA and/or IFA in the levy, execution or other process for the satisfaction of NICTD's judgment, and (iii) it shall not enforce any execution or other process for the satisfaction of NICTD's judgment, unless such does not: (A) materially reduce the rental value of the Lease Premises; (B) adversely affect the Continuing

Rent Obligation; or (C) materially and adversely affect any obligation that is required to be met by NICTD pursuant to applicable laws (including the Bond Act) and requirements of the Governance Agreement, the Development Agreement, this Operating Lease the Underlying Lease, the Master Leases, the Ground Lease and/or any documents related thereto.

(d) Neither party's failure or delay in exercising any of its rights or remedies or other provisions of this Operating Lease shall constitute a waiver thereof or affect its right thereafter to exercise or enforce such right or remedy or other provision. No waiver of any default shall be deemed to be a waiver of any other default. RDA's receipt of less than the full amount due as herein provided shall not be construed to be other than a payment on account of such amount then due, nor shall any statement on NICTD's check or any letter accompanying NICTD's check be deemed an accord and satisfaction. No act or omission by RDA (or IFA) or their respective employees or agents during the term of this Operating Lease shall be deemed an acceptance of a surrender of the Lease Premises hereunder, and no agreement to accept such a surrender shall be valid unless in writing and signed by RDA and IFA.

(e) Notwithstanding anything herein, IFA may proceed to protect and enforce any rights or interests of RDA or IFA under this Operating Lease in its own name or on behalf of RDA in the name of RDA in its place and stead.

Section 21. Notices.

(a) All notices, certificates, requests or other communications required hereunder shall be sufficient only if given in writing, prior to the matter requiring notice and shall be deemed given (i) one (1) business day after being deposited for next day delivery; (ii) three (3) business days after mailing when mailed by registered or certified mail, return receipt requested, postage prepaid, or (iii) the same day if hand delivered (or if sent by both facsimile and email) during a business day, addressed as follows:

To RDA: Northwest Indiana Regional Development Authority
9800 Connecticut Drive
Crown Point, IN 46307
Attention: President

With a Copy to: Ice Miller LLP
One American Square 2900
Indianapolis, IN 46282

To IFA: Indiana Finance Authority
1 North Capitol, Suite 900
Indianapolis, Indiana 46204
Attention: Public Finance Director of the State of Indiana
and General Counsel
Facsimile (317) 232-6786 / Electronic mail (to
DHuge@ifa.IN.gov; and ASeiwert@ifa.IN.gov)

To NICTD: Northern Indiana Commuter Transportation District

33 East U.S. Highway 12
Chesterton, Indiana 46304
Attention: President and/or Chief Executive Officer

With a Copy to: Northern Indiana Commuter Transportation District
33 E. US Highway 12
Chesterton, IN 46304
Attention: Office of General Counsel

(b) Any party hereunder may, by notice given hereunder, designate any further or different addressees to which subsequent notices, certificates, requests or other communications shall be sent.

Section 22. Construction of Covenants. All provisions contained herein shall be construed in accordance with the provisions of the Bond Act, the Governance Agreement and the Development Agreement and to the extent of any material inconsistencies between the covenants and agreements in this Operating Lease, the Governance Agreement, and the Development Agreement and the provisions of the Bond Act, the provisions of the Bond Act, then the Governance Agreement, then this Operating Lease, and then the Development Agreement, shall be deemed to be controlling and binding upon the parties.

Section 23. Supplemental Operating Leases. RDA and NICTD may, from time to time hereafter, enter into one or more Supplemental Operating Leases, each of which: (a) shall provide that all covenants contained in this Operating Lease shall be unitary and include all parts of the Lease Premises, whether leased pursuant to this original Operating Lease or pursuant to any Supplemental Operating Lease (*provided* that the foregoing shall not limit or restrict the parties from having differing covenants and obligations applicable to any Supplemental Operating Leases related to portions of the Rail Project NICTD proposes to be constructed that are not within the existing boundaries of the Facilities); and (b) may contain such other covenants and agreements as the parties thereto agree upon.

Section 24. No Personal Liability. No recourse shall be had for any payment due under this Operating Lease or for any claim based thereon or upon any obligation, covenant or agreement in this Operating Lease contained against any past, present or future member, officer, employee, agent or official of IFA, RDA or NICTD, or any successor thereof, either directly or through IFA, RDA or NICTD, or any successor thereof, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability for any such person is hereby expressly waived and released as a condition of and consideration for the execution of this Operating Lease and issuance of the IFA Bonds.

Section 25. Successors or Assigns; Use Restrictions.

(a) All covenants of this Operating Lease, whether by RDA or NICTD, shall inure to the benefit of and be binding upon the permitted successors and assigns of the respective parties hereto. This Operating Lease shall not be assigned by NICTD without the prior written consent of RDA and IFA, and in such event the assignor shall not be relieved of its obligations hereunder unless permitted by RDA and IFA. This Operating Lease may be assigned by RDA to IFA

without the prior written consent of NICTD as and to the extent permitted by the Bond Act. Any assignment in contravention of this Section shall be null and void *ab initio*.

(b) Notwithstanding any other provision of this Operating Lease to the contrary, NICTD covenants that it: (a) will not use or permit the Facilities or any portion thereof for any private business use within the meaning of Section 141(b)(6) of the Internal Revenue Code of 1986, as amended from time to time, without the prior written consent of an Authorized Officer of IFA, which consent shall not be unreasonably withheld, and (b) will comply with Section 148(f) of the Internal Revenue Code of 1986, as amended from time to time. Any agreement entered into by NICTD in violation of this Section 25 shall be of no force or effect and shall not convey any rights or impose any obligation in respect to it, at law or in equity.

(c) Requests for consent to private business use shall be sent in writing by NICTD to IFA and RDA. Each such request shall include a final draft of the proposed conveyance, lease, sublease, management or incentive payment contract, license or other agreement that may give rise to such private business use, together with a description of the timing and the rationale for entering into such agreement (the "Proposed Private Business Use"). IFA and RDA shall conduct their review and approve or reject, in writing, such request within 30 days of receipt. If no response is made to a request for consent to private business use within 30 days of receipt, then NICTD shall provide additional written notice to IFA and RDA that the Proposed Private Business Use will be deemed to be approved. If no response to this additional written notice is received within three business days of receipt of the additional written notice by IFA and RDA, then the request shall be deemed approved. In the event a request for consent to private business use is deemed approved, NICTD shall have the right to proceed as though consent to the Proposed Private Business Use was expressly provided by IFA and RDA. In any event, upon the execution and delivery by NICTD of any such agreement, NICTD shall provide IFA and RDA a copy of such executed agreement within 10 business days of the execution thereof.

Section 26. Validity. All terms, covenants and conditions contained in this Operating Lease shall include all parts of the Facilities, whether leased pursuant to the original Operating Lease or pursuant to any Supplemental Operating Lease thereto.

Section 27. Severability; Complete Agreement; Counterparts; Survival of Terms; Governing Law; Etc.

(a) All the covenants, agreements, terms and conditions required under the laws of the State, including the Bond Act, to be included in any lease entered into under Indiana Code 5-1.3-5 are incorporated herein by this reference.

(b) In case any section or provision of this Operating Lease, or any covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Operating Lease, or any application thereof, is for any reason held to be illegal or invalid, or is at any time inoperable, that illegality, invalidity or inoperability shall not affect the remainder thereof or any other section or provision of this Operating Lease or any other covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Operating Lease, which shall be construed and enforced as if that illegal, invalid or inoperable portion were not contained herein. Any such illegality, invalidity or

inoperability of any application thereof shall not affect any legal, valid and operable application thereof, and each such section, provision, covenant, stipulation, obligation, agreement, act or action, or part thereof, shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent from time to time permitted by law.

(c) This Operating Lease represents the entire agreement between RDA and NICTD covering everything agreed upon or understood in the creation of the estate created by this Operating Lease and related transactional matters; *provided*, however, that the parties contemplate and agree that the provisions of the Governance Agreement, the Development Agreement, the other Leases and/or any documents related thereto contain related undertakings and such shall be given their full meaning and effect. There are no oral promises, conditions, representations, understandings, interpretations or terms of any kind as conditions or inducements to the execution hereof or in effect between the parties. No change or addition shall be made to this Operating Lease except by a written agreement executed by RDA and NICTD.

(d) The parties each acknowledge that the terms and conditions of this Operating Lease have been the subject of active and complete negotiations represented by competent professional counsel and advisors, and that such terms and conditions should not be construed in favor of or against any party by reason of the extent to which any party or its professional counsel and advisors participated in the preparation of this Operating Lease.

(e) This Operating Lease may be executed in duplicate counterparts, each of which shall be deemed an original and both of which together shall constitute one and the same instrument.

(f) The covenants and obligations under Sections 6, 13, 15, 16, 20, and 24 hereof shall survive the expiration or earlier termination of this Operating Lease.

(g) This Operating Lease shall be construed according to, and subject to, the laws of the State.

[REMAINDER OF PAGE LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Operating Lease to be executed for and on their behalf as of the day and year first hereinabove written.

"RDA"

**NORTHWEST INDIANA REGIONAL
DEVELOPMENT AUTHORITY, AS
LESSOR**

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

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STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, personally known by me to be the _____ and _____, respectively, of the Northwest Indiana Regional Development Authority ("RDA"), and acknowledged the execution of the foregoing Operating Lease Agreement (West Lake Project) for and on behalf of RDA.

WITNESS my hand and Notarial Seal this ____ day of _____ 20__.

(Seal)

(Written Signature)

(Printed Signature)
Notary Public

My Commission expires:

My county of residence is:

"NICTD"

**NORTHERN INDIANA COMMUTER
TRANSPORTATION DISTRICT, AS
LESSEE**

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, personally known by me to be the _____ and _____, respectively, of the Northern Indiana Commuter Transportation District ("NICTD"), and acknowledged the execution of the foregoing Operating Lease Agreement (West Lake Project) for and on behalf of NICTD.

WITNESS my hand and Notarial Seal this _____ day of _____, 20__.

(Seal)

(Written Signature)

(Printed Signature)

Notary Public

My Commission expires:

My county of residence is:

[REMAINDER OF PAGE LEFT BLANK]

This instrument prepared by: Philip C Genetos, Ice Miller LLP, One American Square, Suite 2900, Indianapolis, IN 46282

I affirm under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. Philip C Genetos

EXHIBIT A

LEGAL DESCRIPTION AND MAP OF THE REAL ESTATE

Map of the Real Estate. Real property in _____
_____, as depicted as follows:

[End of Exhibit A]

EXHIBIT B
FORM OF
SUPPLEMENTAL OPERATING LEASE AGREEMENT (WEST LAKE PROJECT)
BETWEEN
NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY
AND
NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT

SUPPLEMENTAL OPERATING LEASE AGREEMENT (WEST LAKE PROJECT)
BETWEEN
NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY
AND
NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT

This SUPPLEMENTAL OPERATING LEASE AGREEMENT (WEST LAKE PROJECT) (this "Supplemental Operating Lease"), entered into as of this ____ day of _____, 20__, between the NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY, a separate body corporate and politic formed pursuant to Indiana Code 36-7, as supplemented and amended from time to time ("RDA"), and the NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT, a commuter transportation district and a municipal corporation formed pursuant to Indiana Code 8-5-15, as supplemented and amended from time to time ("NICTD").

WITNESSETH:

WHEREAS, NICTD entered into an Operating Lease Agreement (West Lake Project) with RDA dated as of _____, 20__ (the "Operating Lease"); and

WHEREAS, all terms not otherwise defined in this Supplemental Operating Lease shall have the meanings ascribed to them in the Operating Lease; and

[WHEREAS, it is provided in the Operating Lease that after the Commencement Date, for any portion of the Lease Premises, in the event such portion shall be damaged or destroyed or taken, so as to render such portion unavailable for use by NICTD, or shall for any other reason become unavailable for use by NICTD, RDA may add additional Lease Premises to the Operating Lease pursuant to a Supplemental Operating Lease so that there is no interruption in the lease rentals payable by NICTD to RDA pursuant to the Operating Lease; provided that such additional Lease Premises are also added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases; and]

[WHEREAS, it is provided in the Operating Lease that in the event NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities, then by no later than the date as of which construction of any such portions commences, NICTD shall cause a Supplemental Operating Lease to be entered into for the purpose of adding to the Real Estate the pertinent real estate on which such portions of the Rail Project shall be located; provided that such additional Real Estate is also added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases; and]

[WHEREAS, it is provided in the Operating Lease that when the Rail Improvements are complete and ready for use as part of the Rail Project, the parties shall revise and increase the real estate described in Exhibit A to the Operating Lease, if necessary to reflect the final site location acquired for the Rail Project and upon which the Rail Improvements as part of the Rail Project have been constructed; provided that such additional Real Estate is also added

to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases; and]

[WHEREAS, it is provided in the Operating Lease that RDA and NICTD may enter into one or more Supplemental Operating Leases, each of which: (1) shall provide that all covenants contained in the Operating Lease shall be unitary and include all parts of the Lease Premises, whether leased pursuant to the Operating Lease or pursuant to any Supplemental Operating Lease (*provided* that the foregoing shall not limit or restrict the parties from having differing covenants and obligations applicable to any Supplemental Operating Leases related to portions of the Rail Project NICTD proposes to be constructed that are not within the existing boundaries of the Facilities); and (2) may contain such other covenants and agreements as the parties thereto agree upon.]

NOW, THEREFORE, IT IS HEREBY AGREED, CERTIFIED AND STIPULATED by the undersigned as follows:

[Section 1. Addition to Real Estate After Commencement Date. Certain portions of the Lease Premises have been damaged or destroyed, thereby rendering such portions unavailable for use by NICTD, or have otherwise become unavailable for use by NICTD. NICTD has added additional Lease Premises to the Ground Lease pursuant to a Supplemental Ground Lease. Therefore, the Lease Premises set forth in Exhibit A to the Operating Lease shall be hereafter amended to read as set forth in Appendix I attached hereto, so that RDA may lease such additional Lease Premises to NICTD pursuant to this Supplemental Operating Lease, thereby resulting in no interruption in the lease rentals payable by NICTD to RDA pursuant to the Operating Lease. Such additional Lease Premises are also being added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.

[Section . Addition to Real Estate Prior to Construction. NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities set forth in Exhibit A to the Operating Lease. Therefore, the boundaries of the Facilities set forth in Exhibit A to the Operating Lease shall be hereafter amended to read as set forth in Appendix I attached hereto, which revised boundaries shall include the pertinent real estate on which such portions of the Rail Project shall be located. Such additional Real Estate is also being added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.]

[Section . Addition to Real Estate After Construction. Certain Rail Improvements are now complete and ready for use as part of the Rail Project, and it is now necessary to revise or increase the real estate described in Exhibit A to the Operating Lease, because such Exhibit A does not reflect the final site location acquired for the Rail Project and upon which the Rail Improvements as part of the Rail Project have been constructed. Therefore, for such purpose, Exhibit A to the Operating Lease shall be hereafter amended to read as set forth in Appendix I attached hereto. Such additional Real Estate is also being added to the Underlying Lease, one or

more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.]

Section __. All covenants contained in the Operating Lease, including this Supplemental Operating Lease, shall be unitary and include all parts of the Lease Premises, whether leased pursuant to the Operating Lease or pursuant to any Supplemental Operating Lease.

[REMAINDER OF PAGE LEFT BLANK]

IN WITNESS WHEREOF, the undersigned have caused this Supplemental Operating Lease to be executed for and on their behalf as of the day and year first above written.

"RDA"

NORTHWEST INDIANA REGIONAL
DEVELOPMENT AUTHORITY

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

"NICTD"

NORTHERN INDIANA COMMUTER
TRANSPORTATION DISTRICT

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

This instrument prepared by: _____

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, personally known by me to be the _____ and _____, respectively, of the Northwest Indiana Regional Development Authority ("RDA"), and acknowledged the execution of the foregoing Supplemental Operating Lease Agreement (West Lake Project) for and on behalf of RDA.

WITNESS my hand and Notarial Seal this ____ day of _____, 20__.

(Seal)

(Written Signature)

(Printed Signature)

Notary Public

My Commission expires:

My county of residence is:

[REMAINDER OF PAGE LEFT BLANK]

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, personally known by me to be the _____ and _____, respectively, of the Northern Indiana Commuter Transportation District ("NICTD"), and acknowledged the execution of the foregoing Supplemental Operating Lease Agreement (West Lake Project) for and on behalf of NICTD.

WITNESS my hand and Notarial Seal this ____ day of _____, 20__.

(Seal)

(Written Signature)

(Printed Signature)

Notary Public

My Commission expires:

My county of residence is:

[REMAINDER OF PAGE LEFT BLANK]

[APPENDIX I

LEGAL DESCRIPTION AND MAP OF THE REAL ESTATE]

RESOLUTION 19-07 EXHIBIT C-2

Form of District Operating Lease – Double Track Project

OPERATING LEASE AGREEMENT (DOUBLE TRACK PROJECT)

between

NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY

as Lessor

and

NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT

as Lessee

Dated as of _____, _____

INDEX

	<u>Page</u>
Section 1.	<u>Definitions; Interpretation</u>3
Section 2.	<u>Lease of Facilities</u>8
Section 3.	<u>Rental Payments; Supplements; Nature of Obligations</u>9
Section 4.	<u>Damage or Destruction of Facilities; Failure to Construct</u>10
Section 5.	<u>Nature of Operating Lease</u>10
Section 6.	<u>Nonliability of IFA or RDA</u>11
Section 7.	<u>Construction; Repairs and Maintenance; Alteration; Operations; Equipment or Furnishings</u>11
Section 8.	<u>Insurance</u>13
Section 9.	<u>Use of Insurance and Condemnation Proceeds</u>14
Section 10.	<u>Liability Insurance</u>15
Section 11.	<u>General Insurance Provisions</u>15
Section 12.	<u>General Covenants</u>15
Section 13.	<u>Covenants Regarding the Bond Act; IFA Bonds</u>16
Section 14.	<u>Utility Service</u>16
Section 15.	<u>Environmental Laws Covenants</u>16
Section 16.	<u>Indemnity by NICTD</u>17
Section 17.	<u>No Broker</u>17
Section 18.	<u>Transfer to NICTD</u>18
Section 19.	<u>Title to Real Estate</u>18
Section 20.	<u>Defaults; Remedies</u>18
Section 21.	<u>Notices</u>19
Section 22.	<u>Construction of Covenants</u>20
Section 23.	<u>Supplemental Operating Leases</u>20
Section 24.	<u>No Personal Liability</u>20
Section 25.	<u>Successors or Assigns; Use Restrictions</u>21
Section 26.	<u>Validity</u>21
Section 27.	<u>Severability; Complete Agreement; Counterparts; Survival of Terms; Governing Law; Etc.</u>21
Exhibit A	Legal Description and Map of the Real Estate
Exhibit B	Form of Supplemental Operating Lease Agreement (Double Track Project) between Northwest Indiana Regional Development Authority and Northern Indiana Commuter Transportation District

OPERATING LEASE AGREEMENT (DOUBLE TRACK PROJECT)

This Operating Lease Agreement (Double Track Project) (this "Operating Lease") is entered into this ____ day of _____, 20____, between the NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY, a separate body corporate and politic formed pursuant to Indiana Code 36-7.5, as supplemented and amended from time to time ("RDA"), and the NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT, a commuter transportation district and a municipal corporation formed pursuant to Indiana Code 8-5-15, as amended ("NICTD").

RECITALS

1. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the hereinafter defined Governance Agreement;
2. The South Shore Line is a commuter train service between South Bend, Indiana and Millennium Station in Chicago, Illinois;
3. NICTD has owned and operated the South Shore Line for nearly forty years and has experience in developing capital rail projects for the South Shore Line and in requesting, obtaining and managing federal grant funds through the Federal Transit Administration;
4. RDA fosters development in northwest Indiana and has since its inception fostered economic development throughout northwest Indiana and has been vested pursuant to IC 36-7.5-4-18 with certain powers and duties with respect to the Rail Project;
5. IFA oversees State debt issuance and provides effective financing solutions to facilitate State, local and business investment in the State and has participated in numerous important economic development activities throughout the State;
6. RDA and NICTD have developed and advanced plans for improvements to the South Shore Line, specifically the Double Track Project (as defined below and also defined as the "Rail Project") and the West Lake Corridor Project (as defined below), which will improve the South Shore Line and foster economic development throughout northwest and north central Indiana by shortening commute times, providing new rail service to areas not serviced by rail transportation to Chicago, enhancing the economic and community development of the northwest Indiana region, and increasing the convenience to the areas served;
7. RDA has determined that providing assistance to the Rail Project in the manner herein provided serves a public purpose for which RDA was created;
8. The Rail Project is expected to encourage business investment in and near the station areas, provide faster, less expensive and reliable transportation, relieve existing and anticipated traffic congestion, reduce vehicular emissions, reduce commuting costs and attract and retain families and younger residents in northwest and north central Indiana;
9. The Rail Project is expected to provide faster travel times, accommodate more trains to improve service during rush hour travel and be safer to operate;

10. RDA, IFA and NICTD have identified and obtained committed local and State funding for the Rail Project;

11. NICTD has applied for necessary federal grant funding from FTA on behalf of RDA and the State, and in its capacity as the grantee, and as the signatory party to that certain Full Funding Grant Agreement with FTA, will maintain continuing control of the assets receiving FTA funding, subject to the terms of the Governance Agreement, the Development Agreement, if any, this Operating Lease and the other leases described herein;

12. The Parties desire to jointly complete FTA grant application processes for the Double Track Project, in order to facilitate the further development, design, construction and financing of the Double Track Project as improvements to the South Shore Line commuter rail system;

13. Any obligations of RDA or IFA shall not constitute a debt of the State or any municipality, or a pledge of the full faith and credit thereof, under the Constitution of the State;

14. Providing financial support to the Rail Project and the development and operation thereof are valid public purposes of RDA, IFA and NICTD, will contribute importantly to the economic and community development of northwest Indiana and will benefit the citizens of northwest Indiana;

15. In connection with the IFA Bonds, RDA, NICTD, and IFA are required to enter into one or more leases for the purpose of providing for the issuance and repayment of the IFA Bonds;

16. The funding for the payment of lease rentals by RDA for payment of the IFA Bonds will be provided from State appropriations, FTA Grant Reimbursements, moneys on deposit in the next generation trust fund established under IC 8-14-15.2 and Member Dues;

17. NICTD expects that FTA funding will fund a portion of the costs of the Rail Project, subject to local funding of the remaining share;

18. NICTD, RDA, and IFA intend to enter into the Revenue Trust Fund Agreement with the Deposit Trustee and the Bond Trustee for the purposes of receiving and safeguarding substantially all funds for the Rail Project, including substantially all funding sources to be used to pay lease rentals;

19. RDA and IFA are willing to assist NICTD in providing a mechanism to fund the Rail Project pursuant and subject to the Governance Agreement and the Development Agreement and to comply with and advance the public purposes described herein;

20. In connection therewith and subject to this Operating Lease, certain Real Estate and Rail Improvements will be leased by NICTD to RDA pursuant to the Ground Lease, then leased by RDA to IFA pursuant to the Underlying Lease, then leased by IFA to RDA pursuant to the Master Leases, and then leased by RDA to NICTD pursuant to this Operating Lease, and IFA

will issue the IFA Bonds and cause certain proceeds thereof to be made available to NICTD to pay costs incurred in undertaking the Rail Project;

21. Contemporaneous with or subsequent to the commencement of existence of the leasehold estate under this Operating Lease, RDA and IFA shall cause the Underlying Lease, IFA and RDA shall cause the Master Leases, and RDA and NICTD shall cause the Ground Lease, to each be effective; and

22. NICTD acknowledges that IFA's and RDA's right of occupancy and continuous possession of the Real Estate (and the Rail Improvements) and its lawful right to lease the Real Estate (and the Rail Improvements) throughout the stated term of this Operating Lease are essential to the funding mechanism for the Rail Project and the realization of the public purposes described herein.

WITNESSETH:

In consideration of the mutual covenants herein contained, the parties hereto hereby agree as follows:

Section 1. Definitions; Interpretation.

(a) The terms defined in this Section shall for all purposes of this Operating Lease have the meanings herein specified unless the context otherwise requires.

"Ancillary Users" means any party that uses or has any interest in users of the Facilities of any kind whatsoever (including any subtenants, occupants, employees, agents, contractors, customers or invitees of NICTD).

"Authorized Officer of IFA" means the Chair of IFA or the Public Finance Director of the State of Indiana and, with reference to any act or document, also means any other person authorized by a resolution of IFA to perform such act or to sign such document.

"Authorized Officer of NICTD" means the President of NICTD and, with reference to any act or document, also means any other person authorized by a resolution of NICTD to perform such act or to sign such document.

"Authorized Officer of RDA" means the Chair or the Chief Executive Officer of RDA and, with reference to any act or document, also means any other person authorized by a resolution of RDA to perform such act or to sign such document.

"Biennium" means the biennium used for State budgetary and appropriation purposes.

"Bond Act" means Indiana Code 5-1.3, as amended or supplemented, or any successor thereto.

"Bond Trustee" means the trustee serving as such with respect to the IFA Bonds.

"Completion Certificate" for the Facilities or any portion thereof means a certificate (a) executed by an Authorized Officer of NICTD certifying that such Facilities or such portion thereof is available for use by RDA and (b) accepted by an Authorized Officer of RDA acknowledging that such Facilities or such portion thereof is available for use by RDA.

"Concurrence" means the written concurrence of the Authorized Officer of IFA and the Authorized Officer of RDA to the referred approval or other action of NICTD pursuant to the Governance Agreement, the Development Agreement or the Leases; *provided* that:

(a) concurrence may be withheld or delayed if the Authorized Officer of IFA and/or the Authorized Officer of RDA determines a referenced action (i) may adversely affect the Continuing Rent Obligation and (ii) be inconsistent with applicable laws (and the requirements of the Governance Agreement, the Development Agreement, the Leases and/or any documents related thereto);

(b) concurrence when given shall not be deemed to estop or otherwise waive IFA's and/or RDA's right to later assert or enforce any requirement under the Governance Agreement, the Development Agreement, the Leases and/or any documents related thereto, including IFA's and RDA's ability to seek claims, damages, losses and expenses, including attorneys' fees and other IFA and RDA costs arising out of or resulting from the action of NICTD for which concurrence has been given; and

(c) concurrence when given and later found to be contrary to any requirement under the Governance Agreement, the Development Agreement, the Leases and/or any documents related thereto shall not expose NICTD to a claim or assertion that such failure is, in and of itself, a failure to obtain a concurrence in the first instance and, as such, without having received a concurrence, a basis for a NICTD Event of Default. To the extent NICTD receives Concurrence under this Operating Lease it shall be able to rely upon such Concurrence.

"Continuing Rent Obligation" means (a) RDA's obligation under the Master Leases to continue to pay the Master Leases Rental and (b) NICTD's obligation under this Operating Lease to continue to pay the Operating Lease Rental, each without delay or diminution as to amount.

"Deposit Trustee" means the trustee bank acting as the Deposit Trustee under the Revenue Trust Fund Agreement.

"Development Agreement" means any development agreement entered into by NICTD, RDA and IFA for the purpose of governing the completion of the Rail Project in a manner consistent with and as contemplated by the Governance Agreement.

"Double Track Project" means the addition of an east/west rail line for a portion of the South Shore Line from Gary to Michigan City and related improvements, all as more fully described in Exhibit 1 of the Governance Agreement.

"Environmental Laws" means all federal, state and local statutes, common law principles, rules, regulations, ordinances, permits, licenses, written approvals, orders, writs, injunctions,

judgments and consent decrees relating to pollution control, protection of environmental quality, or protection of the health or safety of workers or the public from exposure to Hazardous Materials, including laws relating to emissions, discharges, releases or threatened releases of pollutants, contaminants, chemicals, or hazardous, toxic or dangerous substances, materials or wastes in the environment (including ambient air, surface water, ground water, land surface or subsurface strata) or otherwise relating to the generation, manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials. Without limiting the generality of the foregoing, "Environmental Laws" shall encompass any "Superfund" or "Superlien" Law (including those otherwise referenced in this definition) and each of the following statutes and the regulations promulgated thereunder, in any similar applicable federal, state or local law, rule or regulation, each as amended: (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980; (ii) the Solid Waste Disposal Act; (iii) the Hazardous Materials Transportation Act; (iv) the Toxic Substances Control Act; (v) the Clean Water Act; (vi) the Clean Air Act; (vii) the Safe Drinking Water Act; (viii) the National Environmental Policy Act of 1969; (ix) the Superfund Amendments and Reauthorization Act of 1986; (x) Title III of the Superfund Amendments and Reauthorization Act of 1986; (xi) the Federal Insecticide, Fungicide and Rodenticide Act; (xii) provisions of the Occupational Safety and Health Act of 1970 relating to the handling of and exposure to Hazardous Materials; and (xiii) any state or local analogue to any of the foregoing.

"Facilities" means the Real Estate and the Rail Improvements.

"FFGA" means the grant agreement awarded by FTA for the Rail Project.

"Force Majeure" shall have the meaning ascribed to such term in the Governance Agreement.

"FTA" means the Federal Transit Administration.

"FTA Grant Reimbursements" means funds received from FTA as reimbursement for expenditures by the Parties for moneys spent on one or both of the projects constituting the Rail Project pursuant to the FFGA for the Rail Project.

"Governance Agreement" means the Governance Agreement effective as of August 31, 2018, by and between NICTD, RDA and the IFA, as from time to time amended or supplemented in accordance with its terms.

"Ground Lease" means the Ground Lease Agreement (Double Track Project) as the same may be amended, modified or supplemented by any amendments or modifications thereof and supplements thereto entered into in accordance with the provisions hereof.

"Hazardous Materials" means any hazardous, toxic or dangerous substance, material and waste, including petroleum and hydrocarbon compounds derived from petroleum (including naturally occurring or man-made petroleum and derivative hydrocarbons), flammable explosives, asbestos, urea formaldehyde insulation, radioactive materials, polychlorinated biphenyls, pesticides, herbicides and any other kind and/or type of pollutants or contaminants (including materials which include hazardous constituents), sewage, sludge, solvents and/or any other

similar substances, materials or wastes that are or become regulated under any Environmental Law as hazardous or toxic.

"IC" means the Title, Article, Chapter and/or Section of the Indiana Code as referenced, and as such may be supplemented, amended or replaced from time to time.

"IFA" means the Indiana Finance Authority, a body politic and corporate, not a State agency, but an independent instrumentality exercising essential public functions, organized and existing under IC 5-1.2, or if said Indiana Finance Authority shall be abolished, the board, body, commission or agency succeeding to the principal functions thereof.

"IFA Bonds" means one or more series of bonds, notes or other similar obligations issued under IC 5-1.3-1 *et seq.* to finance or refinance all or a portion of the costs for the Rail Project;

"Including" or "including" in this Operating Lease shall be construed as if followed by the phrase "without limitation" or "but not limited to".

"Independent Expert" means an independent registered architect, registered engineer, construction manager or contractor selected by NICTD with Concurrence.

"Lease Premises" means the leasehold estate and interests created by and pursuant to this Operating Lease, including, without limitation, the leasing of the Facilities, as the same may be amended and modified from time to time as needed for the Rail Project in the manner as provided for in the Leases.

"Leases" means, collectively, the Ground Lease, the Underlying Lease, the Master Leases and this Operating Lease.

"Master Leases" means the various leases from IFA to RDA in support of the IFA Bonds, including specifically the State Appropriation Master Lease Agreement (Double Track Project), the RDA Member Dues Master Lease Agreement (Double Track Project) and the Federal Grant Anticipation Master Lease Agreement (Double Track Project), each as from time to time amended or supplemented by any amendment or supplement thereto, including any supplemental memorandum of lease recorded in connection therewith.

"Master Leases Rental" means the rental payments payable by RDA as provided in the Master Leases.

"Member Dues" means the portion of the annual payments to RDA from the Cities of Gary, East Chicago and Hammond and the Counties of Lake and Porter due under Indiana Code 6-3.6-6-9, Indiana Code 36-7.5-4-2 and Indiana Code 6-3.6-11-6.

"Operating Lease" means this Operating Lease, as from time to time amended or supplemented by any amendment or supplement hereto, including any supplemental memorandum of lease recorded in connection therewith.

"Operating Lease Rental" means the rental payments payable by NICTD as provided in this Operating Lease.

"Parties" means IFA, NICTD and RDA.

"Permitted Encumbrances" means (a) this Operating Lease, the Ground Lease, the Underlying Lease, and the Master Leases, (b) utility, access and other easements, licenses and rights of way, covenants, conditions and restrictions, and other exceptions to title, which in each case will not materially and adversely affect the construction, development and operation of the Rail Project as contemplated by this Operating Lease or materially impair the interest of IFA, RDA or NICTD in, or its use of, the Facilities, (c) any liens to the extent permitted in this Operating Lease, and (d) any other liens which are not prohibited under this Operating Lease, but only if in the opinion of counsel satisfactory to IFA and the Bond Trustee, such liens do not materially impair the interest of IFA, RDA or NICTD in, or its use of, the Facilities.

"Permitted Uses" means any use permitted under the Governance Agreement, subject to Section 25(c) hereof.

"Rail Project" means the Double Track Project, as defined in IC 5-1.3-2-14 and IC 36-7.5-1-13.5.

"Rail Improvements" means the existing improvements located on the Real Estate, together with any new improvements constructed (or placed for use) on the Real Estate, whether as part of the Rail Project or otherwise.

"Real Estate" means the real property described on Exhibit A of this Operating Lease, as the same may be amended or modified in the manner provided herein and the other Leases.

"Revenue Trust Fund" means the development authority revenue fund established under the Revenue Trust Fund Agreement.

"Revenue Trust Fund Agreement" means the Revenue Trust Fund Agreement, dated as of _____, 20____, entered into by and among RDA, IFA, NICTD, the Bond Trustee, and the Deposit Trustee in connection with the Revenue Trust Fund.

"State" means the State of Indiana.

"Supplemental Operating Lease" means any Operating Lease supplemental to this Operating Lease entered into in accordance herewith and substantially in the form set forth in Exhibit B.

"Trust Indenture" means the Trust Indentures to be entered into between IFA and the Bond Trustee relating to the IFA Bonds, and all supplements and amendments thereto.

"West Lake Corridor Project" means an approximately eight (8) mile new north/south passenger rail line connected to the existing South Shore Line located in Lake County, Indiana, with four stations from and including Hammond (Gateway Station) to and including

Munster/Dyer (Main Street Station, including all property owned or leased by NICTD for the operation of the South Shore Line over the West Lake Corridor Project), all as more fully described in Exhibit 2 of the Governance Agreement.

(b) The terms "herein", "hereto", "hereunder" and all terms of similar import shall be deemed to refer to this Operating Lease as a whole rather than to any Section or Exhibit to this Operating Lease.

(c) Unless otherwise specified, references in this Operating Lease to (i) "Section ___" shall be deemed to refer to the Section of this Operating Lease bearing the number so specified, (ii) "Exhibit ___" shall be deemed to refer to the Exhibit of this Operating Lease bearing the letter or number so specified, and (iii) this "Operating Lease" means this Operating Lease and any exhibits and attachments hereto.

(d) Captions used for or in Sections and Exhibits of this Operating Lease are for convenience of reference only and shall not affect the construction of this Operating Lease.

Section 2. Lease of Facilities.

(a) In consideration of certain payments and other terms and conditions herein specified, RDA does hereby lease, demise and let to NICTD the Facilities (such constituting a part of the Lease Premises), to have and to hold the same with all rights, privileges, easements and appurtenances thereunto belonging unto NICTD for a term beginning on the date hereof and ending on _____; provided, however, the term shall end earlier or later than such date in the event the conditions set forth in Section 18 hereof are met, in which case, the term shall end on such date (the "Term").

(b) The parties agree that the Rail Project will be undertaken on the Real Estate pursuant to the Governance Agreement and the Development Agreement. The parties acknowledge and agree that the Real Estate is available for use from and after the date hereof, and such availability for use (and the value thereof to RDA and NICTD) is not in any way diminished while the Rail Project is being undertaken. By one or more endorsements each recorded as soon as practical and as a Supplemental Operating Lease entered into in substantially the form set forth in Exhibit B, but in any event, when the Rail Improvements are complete and ready for use as part of the Rail Project, the parties shall revise or increase the real estate described in Exhibit A, if necessary to reflect the final site location acquired for the Rail Project and upon which the Rail Improvements as part of the Rail Project are constructed; provided that such additional Real Estate is also added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases. When complete, the parties shall set forth and make known the date or dates the Rail Improvements, as part of the Rail Project (or portions thereof), are complete and ready for use, which shall also be made available as the Lease Premises pursuant to this Operating Lease.

(c) NICTD hereby represents and warrants that, upon compliance with its obligations under Section 19 hereof, RDA will possess a good and indefeasible leasehold estate, subject only to Permitted Encumbrances, to all of the Real Estate, which includes real estate upon which the

Rail Improvements that are part of the Rail Project are to be acquired, improved and constructed pursuant to the Governance Agreement and the Development Agreement, and NICTD warrants and will defend the same against all claims whatsoever not suffered or caused by the acts or omissions of RDA.

(d) Each of the Master Leases shall provide that in the event the Master Lease is terminated pursuant to the terms and conditions of such Master Lease following an event of default (as defined in such Master Lease) by RDA, this Operating Lease shall remain in full force and effect for the benefit of IFA (who upon termination of such Master Lease shall succeed to the rights, title and interest of RDA, as sublessor under this Operating Lease) and NICTD.

(e) NICTD shall not use the Facilities and shall use commercially reasonable efforts to not allow the Facilities to be used (including by any Ancillary Users) for any purpose or in any manner that would invalidate any policy of insurance now or hereafter carried in respect of the Facilities.

Section 3. Rental Payments; Supplements; Nature of Obligations.

(a) During the term of this Operating Lease, NICTD agrees to pay rentals to RDA without relief from valuation or appraisal laws and without a defense or set-off, counterclaim or recoupment, for the use of the Real Estate and all existing Rail Improvements (and if and when complete, and for the use of any Rail Improvements that are part of the Rail Project), in arrears in the monthly amount of One Dollar (\$1), together with such additional amounts as may be set forth in any Supplement Operating Lease, on or before the first (1st) business day of each calendar month (collectively, the "Operating Lease Rental").

(b) After the Commencement Date (as defined in the Master Leases), for any portion of the Lease Premises, in the event such portion shall be damaged or destroyed or taken, so as to render such portion unavailable for use by NICTD, or shall for any other reason become unavailable for use by NICTD: (i) any rental payments due for such unavailable portion of the Lease Premises shall be abated during such unavailability by an amount equal to the product of the portion of (A) the rental payments otherwise due on such portion of the Lease Premises, times (B) a fraction of such rental payments, the numerator of which fraction equals the then estimated expenses incurred or to be incurred by RDA and allocable to such portion and the denominator of which fraction equals the then estimated expenses incurred or to be incurred by RDA and allocable to the Lease Premises; or (ii) RDA may add additional Lease Premises to this Operating Lease pursuant to a Supplemental Operating Lease so that there is no interruption in the lease rentals payable by NICTD as described in clause (a) above; provided that such additional Lease Premises are also added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.

(c) All rental obligations under this Operating Lease shall be deposited solely and exclusively into the Revenue Trust Fund.

(d) During the term of this Operating Lease, NICTD and RDA may enter into one or more Supplemental Operating Leases in the event NICTD proposes to construct portions of the

Rail Project that are not within the boundaries of the Facilities in substantially the form set forth in Exhibit B, so that such portions are within the boundaries of the Facilities.

(e) It is expressly understood and agreed by RDA and NICTD that the obligations of RDA and NICTD created by or arising out of this Operating Lease or of any amendments hereto shall not be, represent, or constitute an indebtedness of the State, IFA or RDA within the meaning or application of any constitutional limitation of the State or the laws of the State or a pledge of the faith or credit of the State, IFA or RDA.

Section 4. Damage or Destruction of Facilities; Failure to Construct.

(a) In the event the Facilities or any portion thereof shall be damaged or destroyed so as to render the same unfit for its intended use in the opinion of an Independent Expert, it shall then be the obligation of NICTD to cause the Facilities (or such portion thereof) to be restored and rebuilt as promptly as may be done, unavoidable strikes and other causes beyond the control of NICTD excepted, if in the opinion of an Independent Expert:

(i) the cost of such restoration or rebuilding does not exceed the amount of the proceeds received by the Trustee from the insurance provided for in Section 8 hereof, together with other moneys (I) IFA, at its discretion, may cause to be made available therefor pursuant to the terms of the Trust Indenture or the Revenue Trust Fund Agreement, as applicable, or (II) NICTD, at its discretion, may make available and deposit with the Trustee, and

(ii) such restoration or rebuilding can be sufficiently completed within the period of time covered by business income insurance provided for in Section 8 hereof in order to not adversely affect the Continuing Rent Obligation;

provided, however, that if NICTD shall fail to select such an Independent Expert (or fail to secure Concurrence in connection with the selection of such an Independent Expert) within ten (10) days after any request by RDA or IFA, then either RDA or IFA may select such Independent Expert to serve in such capacity at the sole cost and expense of NICTD.

(b) In the event such proceeds are insufficient to pay the restoration cost, such proceeds shall be applied as directed by RDA and IFA unless NICTD elects to make available and deposit with the Deposit Trustee or the Bond Trustee such shortfall and proceed with restoration in accordance with this Operating Lease.

Section 5. Nature of Operating Lease.

(a) It is expressly understood and agreed that this Operating Lease shall be what is known as an absolute net lease (i.e., that all costs and expenses in connection with the Facilities of any nature whatsoever shall be those of NICTD by reason of it being the tenant hereunder and all rent owing to RDA hereunder shall be net of all such costs and expenses) and that during the Term, NICTD shall be solely obligated to pay at its sole cost and expense, without reimbursement from or contribution by RDA, all costs of taxes and assessments, operations, maintenance and use in connection with or relating to the Facilities, including all costs and

expenses of decoration, maintenance, utility, janitorial and all other services, repair or replacement of all parts of the Facilities or improvement of the Facilities, including in the negotiation and maintenance of agreements with any Ancillary Users, subject to Section 12 hereof, in the manner provided in Section 7 hereof, except as otherwise provided in the Governance Agreement.

(b) NICTD shall cause any taxes due on the Rail Project to be timely paid to the applicable authorities, except to the extent of any good faith contests which have not yet been resolved, and it shall not assert any basis for taxation in respect of the Facilities that would negate or otherwise negatively impact any imposition or collection of taxes other than deductions, credits or other adjustments that would otherwise be applicable in the event the Leases were not in force or effect. The parties acknowledge and agree that this Operating Lease is, and is intended to be, a lease of real property including fixtures and mixed real and personal property (with any such personal property covered by this Operating Lease being incidental), and the Continuing Rent Obligation reflects lease payments which are made solely with respect to the lease of such real property.

(c) Except as otherwise provided in the Governance Agreement, NICTD shall retain all revenues from the operation of the Facilities, and except as otherwise provided in the Governance Agreement, neither IFA nor RDA shall have any responsibility to fund the ongoing costs, expenses and needs for operations, repairs, maintenance and replacements of or related to the Facilities.

Section 6. Nonliability of IFA or RDA. Except as otherwise provided in the Governance Agreement, neither IFA nor RDA shall be liable for damage caused by hidden defects or failure to keep the Facilities in repair and shall not be liable for any damage done or occasioned by or from any improvements, structures or equipment (including any stations, parking facilities, bridges, overpasses, crossings, switches, locomotives, railroad cars, utilities, plumbing, gas, water, boilers, steam or other pipes or sewage or the bursting or leaking of plumbing or heating fixtures or waste or soil pipe) in connection with the Facilities, nor for damage occasioned by natural events (whether occurring by age, wind, water, snow, ice, movements of earth, or otherwise). Neither IFA nor RDA shall be liable for any injury to NICTD, any Ancillary Users or any other person which injury occurs in, upon, about or near the Facilities howsoever arising. Neither IFA nor RDA shall be liable for damage to NICTD's property or to the property of any Ancillary Users or of any other person which may be located in, upon, about or near the Facilities. NICTD shall be responsible for preserving for the benefit of IFA and RDA usual and customary rights, claims and warranties against the persons or entities engaged to acquire, improve and construct any Facilities.

Section 7. Construction; Repairs and Maintenance; Alteration; Operations; Equipment or Furnishings.

(a) NICTD represents and covenants that the Rail Project has been or will be constructed in accordance with the terms and conditions of the Governance Agreement, the Development Agreement and applicable plans and specifications therefor with all reasonable speed and dispatch in accordance with the applicable approved plans and specifications therefor.

(b) NICTD shall keep and maintain the Facilities in good condition and repair in accordance with NICTD management practices in effect as of the date hereof and shall operate the Rail Project in an efficient and economical manner and in accordance with the Governance Agreement. NICTD shall make all necessary repairs, renewals, improvements and replacements to the Facilities and shall keep the Facilities in a clean and neat condition and in good and sound condition and repair, normal wear and tear excepted. The cost of such repairs, replacements and maintenance shall be (whether required because of the negligence, misuse or default of NICTD, any of its Ancillary Users, or otherwise) at NICTD's sole cost and expense, except as otherwise provided in the Governance Agreement.

(c) NICTD shall comply with all valid statutes, rules, regulations, orders and directions of any legislative, administrative or judicial body applicable to NICTD, the Lease Premises and the Facilities. NICTD shall adopt and keep in force reasonable rules and regulations governing the use of the Lease Premises and the Facilities and the operation thereof, and shall enforce such rules and regulations on a uniform basis.

(d) RDA shall comply with all valid statutes, rules, regulations, orders and directions of any legislative, administrative or judicial body applicable to RDA and with respect to RDA's rights and responsibilities for the Lease Premises and the Facilities. To the extent reasonably necessary, the RDA shall adopt and keep in force reasonable rules and regulations governing the use of the Lease Premises and the Facilities and the operation thereof, and shall enforce such rules and regulations on a uniform basis.

(e) NICTD shall have the right, at its sole cost and expense, without Concurrence, to make all alterations, modifications and additions and to do all demolition, remodeling and improvements it deems necessary or desirable to the Facilities, which do not materially reduce the rental value of the Lease Premises or adversely affect (i) the Continuing Rent Obligation and (ii) each referenced obligation that is required to be met by NICTD to be consistent with applicable law (including the Bond Act) and the requirements of the Governance Agreement, the Development Agreement, the Ground Lease, the Underlying Lease, the Master Leases, this Operating Lease and/or any documents related thereto. NICTD shall be liable to repair any damage to the Facilities resulting from such work.

(f) So long as this Operating Lease is in effect, NICTD may at any time and from time to time, at its sole cost and expense, install, modify, remove or replace items of moveable machinery, equipment, furnishings and other personalty in and upon the Facilities. All such personal property shall remain the sole property of NICTD, in which neither IFA nor RDA shall have any interest, and may be installed, modified, removed or replaced by NICTD at any time; *provided* that if such installation, modification, removal or replacement adversely affects (i) the Continuing Rent Obligation or (ii) any referenced obligation that is required to be met by NICTD to be consistent with applicable law (including the Bond Act) and the requirements of the Governance Agreement, the Development Agreement, the Ground Lease, the Underlying Lease, the Master Leases, this Operating Lease and/or any documents related thereto, then NICTD shall either: (y) repair and restore any and all damage to the Facilities resulting from the installation, modification, removal or replacement of any such property; or (z) compensate IFA and RDA for any loss in value to the Lease Premises (including any diminishment in the Master Leases Rental

and Operating Lease Rental) resulting from the installation, modification or removal of any such property.

(g) NICTD shall maintain or cause to be maintained such performance bonds or performance insurance (in a manner consistent with the Governance Agreement) with respect to contracts it may enter into for construction of the Rail Improvements as are usually maintained by those constructing improvements and facilities similar to the Rail Improvements. If performance of any contract for construction of the Rail Improvements is not completed in accordance with its terms and, in the opinion of a registered engineer selected by NICTD and acceptable to IFA and RDA, the cost of completion of such performance shall not exceed the amount of proceeds from any performance bond or performance insurance to be received by reason of such noncompletion of performance and other amounts available therefor, NICTD shall complete or cause to be completed such performance in the manner provided in, and subject to the conditions of, the Governance Agreement. The proceeds of any performance bond paid on account of such noncompletion of performance shall be made available for, and to the extent necessary shall be applied to, the cost of such construction.

Section 8. Insurance.

(a) NICTD, in the manner as provided in the Governance Agreement prior to completion of the Rail Project, and thereafter at its sole cost and expense, shall, during the full term of this Operating Lease, keep the Facilities insured against physical loss or damage, however caused, and otherwise in the manner and on a basis required in the Governance Agreement and the Development Agreement and consistent with commercially reasonable practices and only with such exceptions as are ordinarily required by insurers of rail lines of a similar type (as provided by an industry standard special cause of loss (or its equivalent) property insurance policy, which insurance shall not exclude flood or earthquake, but may provide for sublimits therefor), with good and responsible insurance companies. Such policies shall include terrorism coverage so long as the Terrorism Risk Insurance Program Reauthorization Act of 2015 [15 USC 6701] continues in its present form or an equivalent federal insurance program is available to NICTD. Such insurance shall be in an amount at least equal to the full replacement cost of such Facilities as reasonably determined by NICTD in consultation with an insurance consultant approved by RDA from and after the date the IFA Bonds are issued by IFA; *provided*, any reduction in excess of ten percent (10%) from the amount carried on the date this Operating Lease is entered into (including any reduction from any existing sublimits) shall only be permitted with Concurrence. In no event shall the insurance be in an amount which causes NICTD to be a co-insurer for the Facilities; *provided*, it is agreed that the provision of sublimits for earthquake and flood shall not be deemed to cause NICTD to be a co-insurer; *provided further* that such insurance may cover properties of NICTD other than the Facilities. Such insurance may contain a provision for a deductible in an amount that is customary and commercially reasonable, but not more than \$500,000 or such higher amount as from time to time determined by NICTD with Concurrence. After the occurrence of any insured casualty, NICTD agrees to pay the deductible amount of any loss to the Bond Trustee or such party directed by the Bond Trustee, as applicable, within ten (10) days following any request so made by IFA or RDA. A blanket property insurance form may be used if the insurance payable in respect of loss related to the Facilities is not less than the amount required by this Section and the

insurance proceeds related to damage to or destruction of the Facilities are payable to the Bond Trustee for the IFA Bonds.

(b) During the full term of this Operating Lease, NICTD, in the manner as provided in the Governance Agreement prior to completion of the Rail Project, and thereafter at its sole cost and expense, shall also, maintain business income insurance in an amount at least equal to the Operating Lease Rental on the Lease Premises leased by NICTD under this Operating Lease for a period of (2) years against physical loss or damage of the type insured against pursuant to the preceding requirements of this Section. Such business income insurance policies shall be for the benefit of IFA, RDA, and the Bond Trustee and shall name the Bond Trustee for the IFA Bonds as loss payee, which payment to such Bond Trustee may be limited to circumstances where Master Leases Rental is not made by RDA pursuant to a Master Lease.

(c) After the occurrence of any insured casualty related to the Facilities, NICTD shall give notice to the Bond Trustee, IFA and RDA. Such notice shall be given within five (5) days following such casualty and shall tentatively describe the nature of the casualty together with sufficient additional information to permit IFA and RDA to ascertain NICTD's plans for addressing such loss or damage (and meeting its obligations under this Operating Lease, including the amount NICTD plans to reserve to meet the requirements thereof that result from any deductible applicable under its insurance policies).

(d) In the event that an insurance program is developed by NICTD and approved by RDA and IFA as provided in the Governance Agreement, that insurance program and the requirements thereof shall be substituted herein as the insurance coverage requirements for this Operating Lease to the extent in conflict herewith or in addition hereto.

Section 9. Use of Insurance and Condemnation Proceeds.

(a) If all or any portion of the Facilities shall be damaged or destroyed or taken, NICTD shall, as expeditiously as possible, continuously and diligently prosecute, or cause to be prosecuted, repair, reconstruction or replacement thereof until completion. Within one hundred twenty (120) days after the occurrence of an event of damage or destruction to the Facilities or a taking thereof, NICTD, through any Authorized Officer of the NICTD, shall deliver to RDA and the Bond Trustee the written opinion of engineer selected by NICTD and reasonably acceptable to RDA and IFA stating whether or not the conditions set forth above with respect thereto are satisfied. The proceeds of any insurance paid on account of such damage or destruction or taking (other than any rent loss insurance) shall be made available for, and to the extent necessary shall be applied to, the cost of such repair, reconstruction or replacement, or otherwise in accordance with the terms and conditions of this Operating Lease.

(b) Proceeds of insurance against damage to or destruction of the Facilities which are paid to the Bond Trustee as described herein shall be held by the Bond Trustee pursuant to the applicable Trust Indenture and used by NICTD in accordance with the provisions of this Operating Lease, the Underlying Lease, the Master Leases, this Operating Lease, the Governance Agreement and such Trust Indenture. Proceeds of any condemnation of the Facilities (or portion thereof) shall be paid to the Bond Trustee and held by the Bond Trustee pursuant to the applicable Trust Indenture and used by NICTD in accordance with the provisions of this

Operating Lease, the Ground Lease, the Underlying Lease, the Master Leases, the Governance Agreement and such Trust Indenture.

Section 10. Liability Insurance. NICTD shall, at all times during the full term of this Operating Lease, keep in effect Commercial General Liability Insurance (which insurance shall not exclude blanket contractual liability, broad form property damage, personal injury, or fire damage coverage) covering the Facilities and NICTD's use thereof against claims for bodily injury and property damage, and insuring NICTD, IFA and RDA in amounts and in the manner required by the Governance Agreement and the Development Agreement. Such policies shall include terrorism coverage so long as the Terrorism Risk Insurance Program Reauthorization Act of 2015 [15 USC 6701] continues in its present form or an equivalent federal insurance program is available to NICTD. NICTD shall maintain for each policy year during the term of this Operating Lease aggregate limits for liability coverages of not less than fifty percent (50%) of liability coverage amounts as in effect on the date this Operating Lease is entered into unless otherwise approved by RDA; *provided* that if such policy limits are not reasonably available in the insurance marketplace, then NICTD may reduce such aggregate coverage amounts to the highest such amounts as are reasonably available in the insurance marketplace existing from time to time. NICTD shall make IFA, RDA and the State additional insureds on such policies.

Section 11. General Insurance Provisions. All insurance policies required by Sections 8 and 10 hereof shall be issued in a manner and with coverages consistent with those provided in the Ground Lease and in all instances, in a manner as provided in the Governance Agreement and the Development Agreement, by good and responsible insurance companies, each of which companies, selected by NICTD and reasonably approved by RDA, shall be rated at least "A-VII" (or an equivalent rating if such rating scale is discontinued or changed) by A.M. Best & Company (or by an equivalent rating service if A.M. Best & Company is no longer providing such types of ratings) and shall be countersigned by an agent of the insurer who is a licensed agent in the State. Such policies, or copies thereof, shall be held by NICTD as standing information for review by IFA, RDA and the Bond Trustee; *provided* that such policies shall be available for review by IFA, RDA and the Bond Trustee upon request, and shall be updated as changes are made to such policies. Such policies shall be subject to the requirement that in the event of a material reduction in policy limits or elimination of any coverages, NICTD will notify IFA, RDA and the Bond Trustee in writing by electronic or other means, with such notification including a description of the coverages so reduced or eliminated. If, at any time, NICTD fails to maintain insurance in accordance with Sections 8 and 10 hereof, such insurance may be obtained by IFA or RDA, or may be obtained by the Bond Trustee, and the amount paid for such insurance shall be payable by NICTD under this Operating Lease; *provided, however*, that neither IFA, RDA nor the Bond Trustee shall be under any obligation to obtain such insurance, and any action or non-action of RDA, IFA or the Bond Trustee in this regard shall not relieve NICTD of any consequences of a default in failing to obtain such insurance. The Bond Trustee shall be the loss payee on all casualty insurance required by this Operating Lease that becomes payable in respect of claims related to the Facilities.

Section 12. General Covenants.

(a) NICTD covenants that, except for Permitted Encumbrances and any liens, charges, encumbrances, or security interests created by an act or omission of RDA and/or IFA, it will not mortgage, impose any lien or claim upon, or otherwise encumber the Lease Premises (whether actual, contingent or otherwise), or permit any mortgage, lien, claim or encumbrance to exist thereon, and that it shall use and maintain the Facilities in material compliance with the laws and ordinances of the United States of America, the State, and all other proper governmental authorities.

(b) Each party hereto agrees that it will, at the request of the other party, execute and deliver to or upon the request of the other party such instrument or instruments as may be reasonably required by such party in order to assure or confirm NICTD's interest in the Lease Premises pursuant to the terms hereof and shall also deliver, from time to time, such instrument or instruments as may be reasonably requested by the other party or any tenant or subtenant of NICTD with respect to the covenant of quiet enjoyment herein.

(c) RDA covenants that, except for Permitted Encumbrances and any liens, charges, encumbrances, or security interests created by an act or omission of NICTD and/or IFA, it will not mortgage, impose any lien or claim upon, or otherwise encumber the Lease Premises (whether actual, contingent or otherwise), or permit any mortgage, lien, claim or encumbrance to exist thereon, and that it shall use and maintain the Facilities in material compliance with the laws and ordinances of the United States of America, the State, and all other proper governmental authorities.

Section 13. Covenants Regarding the Bond Act; IFA Bonds. NICTD shall timely comply with all requirements of NICTD created by the Bond Act, the Governance Agreement, the Development Agreement and any agreement or certificate executed by NICTD in connection with the issuance of the IFA Bonds.

Section 14. Utility Service. NICTD agrees to pay or cause to be paid all charges for (a) sewer, gas, water, electricity, light, heat or power utilities and services, (b) telephonic, communication and other information services, (c) other utility and like services, and (d) regulatory, track and freight fees and other fees, costs and expenses associated with the use and operation of the Facilities that are used, rendered or supplied upon or in connection with the Facilities throughout the term of this Operating Lease.

Section 15. Environmental Laws Covenants.

(a) With respect to the Facilities, (i) NICTD shall at all times comply and follow commercially reasonable business practice to cause others to comply, in all material respects, with all Environmental Laws and all licenses, permits, certificates, approvals and similar authorizations issued to NICTD thereunder, and such operations shall not give rise to any liability pursuant to any Environmental Law, (ii) NICTD shall promptly notify RDA and IFA upon becoming aware of any investigation, proceeding, complaint, order, directive, claim, citation or written notice by any governmental authority or any other Person arising under or relating to any violation of any Environmental Law that is pending against NICTD or threatened in writing against NICTD and shall take prompt and appropriate actions to respond thereto and to cure such violation (if any) and (iii) NICTD shall promptly notify RDA and IFA upon becoming

aware of any non-compliance with, or violation of, the requirements of any Environmental Law by NICTD in any material respect, or the release, spill, or discharge, threatened or actual, of any Hazardous Material or the generation, use, storage, treatment, transportation, manufacture, handling, production or disposal of any Hazardous Material or any other environmental, health or safety matter, which affects or gives rise to a material liability upon NICTD or any liability upon IFA or RDA.

(b) NICTD shall not cause or permit the use, generation, release, manufacture, refining, production, processing, storage or disposal of any Hazardous Materials on, under or about the Facilities, or the transportation to or from the Facilities of any Hazardous Materials, except as necessary and appropriate for its Permitted Uses, in which case, the use, storage or disposal of such Hazardous Substances shall be performed in compliance with the Environmental Laws and the standards prevailing in the railroad industry and at comparable facilities. Notwithstanding anything contained herein to the contrary, IFA and RDA shall not have any liability to NICTD resulting from any conditions existing, or events occurring, or any Hazardous Materials existing or generated, at, in, on, under or in connection with this Operating Lease or the Facilities.

Section 16. Indemnity by NICTD. NICTD shall release, protect, defend, indemnify and hold harmless the RDA, IFA, the Bond Trustee, the Deposit Trustee, and their respective agents, employees, representatives and consultants, from and against any and all claims, causes of action, suits, judgments, demands, and/or losses, in each case if asserted or incurred by or awarded to any third party, arising out of or relating to or resulting from (a) NICTD's design, construction or operation of the Rail Projects or the South Shore Line, (b) any act, omission, negligence, or willful misconduct of NICTD, any of its Ancillary Users or anyone acting under its control or for whom it is legally responsible (c) failure of NICTD, or anyone acting under its control or for whom it is legally responsible, to perform or observe any requirement or obligation imposed by this Operating Lease and (d) arising out of any other act or occurrence within the Facilities. NICTD's indemnity obligation shall not extend to: (i) any third party claim to the extent directly caused by the negligence, recklessness, willful misconduct, or breach of any material obligation under this Operating Lease or the Governance Agreement by IFA or RDA, or (ii) any claims, causes of action, suits, judgments, demands, and/or losses resulting from any action of the RDA or IFA during an Operations Step-In Period or resulting from any actions taken by the RDA or IFA after the exercise of any Construction Period Step-In Rights; *provided*, however, that nothing herein shall relieve NICTD of responsibility to pay up to the Maximum NICTD Excess Cost Contribution for Excess Construction Costs irrespective of the exercise of Construction Period Step-In Rights. The RDA and IFA shall have no obligation to indemnify NICTD.

Section 17. No Broker. NICTD hereby represents and warrants that no brokers or third-party involved in the negotiation and execution of this Operating Lease is entitled, as a result of the actions of the respective party, to a commission or other fee resulting from the execution of this Operating Lease.

Section 18. Transfer to NICTD. To the extent provided in the Governance Agreement, upon the later of the termination of the Governance Agreement and the final and full payment of all IFA Bonds, this Operating Lease shall terminate.

Section 19. Title to Real Estate.

(a) NICTD shall cause a final, fully paid, leasehold title insurance policy to be issued for the benefit of RDA by no later than the date the IFA Bonds are to be issued by IFA. In the event NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities, then by no later than the date as of which construction of any such portion commences, NICTD shall cause (i) an endorsement to be issued to, and on substantially the same terms as, the leasehold title insurance policy referenced in the prior sentence (or an additional final, fully paid, leasehold title insurance policy to be issued on substantially the same terms as the leasehold title insurance policy referenced in the prior sentence) to identify and insure thereunder any such necessary increase in the real estate described in Exhibit A and (ii) a Supplemental Operating Lease to be entered into in substantially the form set forth in Exhibit B in respect of such Real Estate; provided that such additional Real Estate is also added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.

(b) NICTD represents and warrants that it has a good and indefeasible estate in fee simple to all of the Real Estate, subject only to Permitted Encumbrances.

Section 20. Defaults; Remedies.

(a) If there is any NICTD uncured Event of Default (including any default in the observance of any other covenant, agreement or condition contained in this Operating Lease) (each an "Event of Default"), RDA may proceed to protect and enforce its rights, either at law or in equity, by suit, action, mandamus or other proceedings, whether for specific performance of any covenant or agreement contained herein or for the enforcement of any other appropriate legal or equitable remedy (as contained in the Governance Agreement as may relate to this Operating Lease and such Event of Default); *provided* that all such rights and remedies taken in respect of this Operating Lease and any such Event of Default shall only be undertaken and pursued by RDA in strict conformity with this Section and the requirements and limitations set forth in the Governance Agreement.

(b) Except for extensions of time resulting from a Force Majeure event that are allowed in the Governance Agreement, time is of the essence of each term and provision of this Operating Lease to be observed by NICTD hereunder.

(c) If RDA shall fail to perform any term, condition, covenant or obligation required to be performed by it under this Operating Lease, NICTD may pursue a claim for specific performance. If RDA shall fail to perform any term, condition, covenant or obligation required to be performed by it under this Operating Lease and if NICTD shall, as a consequence thereof, recover a money judgment against RDA and/or IFA, NICTD agrees that (i) it shall look solely to RDA's and IFA's right, title and interest in and to the Lease Premises (which shall not include any right to set-off related to any payment due to RDA or IFA as required by the Governance

Agreement, the Development Agreement, this Operating Lease, the Underlying Lease, the Master Leases, the Ground Lease and/or any documents related thereto) for the collection of such judgment, (ii) it shall not look to any other assets of RDA and/or IFA in the levy, execution or other process for the satisfaction of NICTD's judgment, and (iii) it shall not enforce any execution or other process for the satisfaction of NICTD's judgment, unless such does not: (A) materially reduce the rental value of the Lease Premises; (B) adversely affect the Continuing Rent Obligation; or (C) materially and adversely affect any obligation that is required to be met by NICTD pursuant to applicable laws (including the Bond Act) and requirements of the Governance Agreement, the Development Agreement, this Operating Lease the Underlying Lease, the Master Leases, the Ground Lease and/or any documents related thereto.

(d) Neither party's failure or delay in exercising any of its rights or remedies or other provisions of this Operating Lease shall constitute a waiver thereof or affect its right thereafter to exercise or enforce such right or remedy or other provision. No waiver of any default shall be deemed to be a waiver of any other default. RDA's receipt of less than the full amount due as herein provided shall not be construed to be other than a payment on account of such amount then due, nor shall any statement on NICTD's check or any letter accompanying NICTD's check be deemed an accord and satisfaction. No act or omission by RDA (or IFA) or their respective employees or agents during the term of this Operating Lease shall be deemed an acceptance of a surrender of the Lease Premises hereunder, and no agreement to accept such a surrender shall be valid unless in writing and signed by RDA and IFA.

(e) Notwithstanding anything herein, IFA may proceed to protect and enforce any rights or interests of RDA or IFA under this Operating Lease in its own name or on behalf of RDA in the name of RDA in its place and stead.

Section 21. Notices.

(a) All notices, certificates, requests or other communications required hereunder shall be sufficient only if given in writing, prior to the matter requiring notice and shall be deemed given (i) one (1) business day after being deposited for next day delivery; (ii) three (3) business days after mailing when mailed by registered or certified mail, return receipt requested, postage prepaid, or (iii) the same day if hand delivered (or if sent by both facsimile and email) during a business day, addressed as follows:

To RDA: Northwest Indiana Regional Development Authority
9800 Connecticut Drive
Crown Point, IN 46307
Attention: President

With a Copy to: Ice Miller LLP
One American Square 2900
Indianapolis, IN 46282

To IFA: Indiana Finance Authority
1 North Capitol, Suite 900
Indianapolis, Indiana 46204

Attention: Public Finance Director of the State of Indiana
and General Counsel
Facsimile (317) 232-6786 / Electronic mail (to
DHuge@ifa.IN.gov; and ASeiwert@ifa.IN.gov)

To NICTD: Northern Indiana Commuter Transportation District
33 East U.S. Highway 12
Chesterton, Indiana 46304
Attention: President and/or Chief Executive Officer

With a Copy to: Northern Indiana Commuter Transportation District
33 E. US Highway 12
Chesterton, IN 46304
Attention: Office of General Counsel

(b) Any party hereunder may, by notice given hereunder, designate any further or different addressees to which subsequent notices, certificates, requests or other communications shall be sent.

Section 22. Construction of Covenants. All provisions contained herein shall be construed in accordance with the provisions of the Bond Act, the Governance Agreement and the Development Agreement and to the extent of any material inconsistencies between the covenants and agreements in this Operating Lease, the Governance Agreement, and the Development Agreement and the provisions of the Bond Act, the provisions of the Bond Act, then the Governance Agreement, then this Operating Lease, and then the Development Agreement, shall be deemed to be controlling and binding upon the parties.

Section 23. Supplemental Operating Leases. RDA and NICTD may, from time to time hereafter, enter into one or more Supplemental Operating Leases, each of which: (a) shall provide that all covenants contained in this Operating Lease shall be unitary and include all parts of the Lease Premises, whether leased pursuant to this original Operating Lease or pursuant to any Supplemental Operating Lease (*provided* that the foregoing shall not limit or restrict the parties from having differing covenants and obligations applicable to any Supplemental Operating Leases related to portions of the Rail Project NICTD proposes to be constructed that are not within the existing boundaries of the Facilities); and (b) may contain such other covenants and agreements as the parties thereto agree upon.

Section 24. No Personal Liability. No recourse shall be had for any payment due under this Operating Lease or for any claim based thereon or upon any obligation, covenant or agreement in this Operating Lease contained against any past, present or future member, officer, employee, agent or official of IFA, RDA or NICTD, or any successor thereof, either directly or through IFA, RDA or NICTD, or any successor thereof, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability for any such person is hereby expressly waived and released as a condition of and consideration for the execution of this Operating Lease and issuance of the IFA Bonds.

Section 25. Successors or Assigns; Use Restrictions.

(a) All covenants of this Operating Lease, whether by RDA or NICTD, shall inure to the benefit of and be binding upon the permitted successors and assigns of the respective parties hereto. This Operating Lease shall not be assigned by NICTD without the prior written consent of RDA and IFA, and in such event the assignor shall not be relieved of its obligations hereunder unless permitted by RDA and IFA. This Operating Lease may be assigned by RDA to IFA without the prior written consent of NICTD as and to the extent permitted by the Bond Act. Any assignment in contravention of this Section shall be null and void *ab initio*.

(b) Notwithstanding any other provision of this Operating Lease to the contrary, NICTD covenants that it: (a) will not use or permit the Facilities or any portion thereof for any private business use within the meaning of Section 141(b)(6) of the Internal Revenue Code of 1986, as amended from time to time, without the prior written consent of an Authorized Officer of IFA, which consent shall not be unreasonably withheld, and (b) will comply with Section 148(f) of the Internal Revenue Code of 1986, as amended from time to time. Any agreement entered into by NICTD in violation of this Section 25 shall be of no force or effect and shall not convey any rights or impose any obligation in respect to it, at law or in equity.

(c) Requests for consent to private business use shall be sent in writing by NICTD to IFA and RDA. Each such request shall include a final draft of the proposed conveyance, lease, sublease, management or incentive payment contract, license or other agreement that may give rise to such private business use, together with a description of the timing and the rationale for entering into such agreement (the "Proposed Private Business Use"). IFA and RDA shall conduct their review and approve or reject, in writing, such request within 30 days of receipt. If no response is made to a request for consent to private business use within 30 days of receipt, then NICTD shall provide additional written notice to IFA and RDA that the Proposed Private Business Use will be deemed to be approved. If no response to this additional written notice is received within three business days of receipt of the additional written notice by IFA and RDA, then the request shall be deemed approved. In the event a request for consent to private business use is deemed approved, NICTD shall have the right to proceed as though consent to the Proposed Private Business Use was expressly provided by IFA and RDA. In any event, upon the execution and delivery by NICTD of any such agreement, NICTD shall provide IFA and RDA a copy of such executed agreement within 10 business days of the execution thereof.

Section 26. Validity. All terms, covenants and conditions contained in this Operating Lease shall include all parts of the Facilities, whether leased pursuant to the original Operating Lease or pursuant to any Supplemental Operating Lease thereto.

Section 27. Severability; Complete Agreement; Counterparts; Survival of Terms; Governing Law; Etc.

(a) All the covenants, agreements, terms and conditions required under the laws of the State, including the Bond Act, to be included in any lease entered into under Indiana Code 5-1.3-5 are incorporated herein by this reference.

(b) In case any section or provision of this Operating Lease, or any covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Operating Lease, or any application thereof, is for any reason held to be illegal or invalid, or is at any time inoperable, that illegality, invalidity or inoperability shall not affect the remainder thereof or any other section or provision of this Operating Lease or any other covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Operating Lease, which shall be construed and enforced as if that illegal, invalid or inoperable portion were not contained herein. Any such illegality, invalidity or inoperability of any application thereof shall not affect any legal, valid and operable application thereof, and each such section, provision, covenant, stipulation, obligation, agreement, act or action, or part thereof, shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent from time to time permitted by law.

(c) This Operating Lease represents the entire agreement between RDA and NICTD covering everything agreed upon or understood in the creation of the estate created by this Operating Lease and related transactional matters; *provided*, however, that the parties contemplate and agree that the provisions of the Governance Agreement, the Development Agreement, the other Leases and/or any documents related thereto contain related undertakings and such shall be given their full meaning and effect. There are no oral promises, conditions, representations, understandings, interpretations or terms of any kind as conditions or inducements to the execution hereof or in effect between the parties. No change or addition shall be made to this Operating Lease except by a written agreement executed by RDA and NICTD.

(d) The parties each acknowledge that the terms and conditions of this Operating Lease have been the subject of active and complete negotiations represented by competent professional counsel and advisors, and that such terms and conditions should not be construed in favor of or against any party by reason of the extent to which any party or its professional counsel and advisors participated in the preparation of this Operating Lease.

(e) This Operating Lease may be executed in duplicate counterparts, each of which shall be deemed an original and both of which together shall constitute one and the same instrument.

(f) The covenants and obligations under Sections 6, 13, 15, 16, 20, and 24 hereof shall survive the expiration or earlier termination of this Operating Lease.

(g) This Operating Lease shall be construed according to, and subject to, the laws of the State.

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IN WITNESS WHEREOF, the parties hereto have caused this Operating Lease to be executed for and on their behalf as of the day and year first hereinabove written.

"RDA"

**NORTHWEST INDIANA REGIONAL
DEVELOPMENT AUTHORITY, AS
LESSOR**

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

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STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, personally known by me to be the _____ and _____, respectively, of the Northwest Indiana Regional Development Authority ("RDA"), and acknowledged the execution of the foregoing Operating Lease Agreement (Double Track Project) for and on behalf of RDA.

WITNESS my hand and Notarial Seal this ____ day of _____ 20__.

(Seal)

(Written Signature)

(Printed Signature)
Notary Public

My Commission expires:

My county of residence is:

"NICTD"

**NORTHERN INDIANA COMMUTER
TRANSPORTATION DISTRICT, AS
LESSEE**

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, personally known by me to be the _____ and _____, respectively, of the Northern Indiana Commuter Transportation District ("NICTD"), and acknowledged the execution of the foregoing Operating Lease Agreement (Double Track Project) for and on behalf of NICTD.

WITNESS my hand and Notarial Seal this _____ day of _____, 20__.

(Seal)

(Written Signature)

(Printed Signature)

Notary Public

My Commission expires:

My county of residence is:

[REMAINDER OF PAGE LEFT BLANK]

This instrument prepared by: Philip C Genetos, Ice Miller LLP, One American Square, Suite 2900, Indianapolis, IN 46282

I affirm under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. Philip C Genetos

EXHIBIT A

LEGAL DESCRIPTION AND MAP OF THE REAL ESTATE

Map of the Real Estate. Real property in _____
_____, as depicted as follows:

[End of Exhibit A]

EXHIBIT B
FORM OF
SUPPLEMENTAL OPERATING LEASE AGREEMENT (DOUBLE TRACK PROJECT)
BETWEEN
NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY
AND
NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT

SUPPLEMENTAL OPERATING LEASE AGREEMENT (DOUBLE TRACK PROJECT)
BETWEEN
NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY
AND
NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT

This SUPPLEMENTAL OPERATING LEASE AGREEMENT (DOUBLE TRACK PROJECT) (this "Supplemental Operating Lease"), entered into as of this ____ day of _____, 20__, between the NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY, a separate body corporate and politic formed pursuant to Indiana Code 36-7, as supplemented and amended from time to time ("RDA"), and the NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT, a commuter transportation district and a municipal corporation formed pursuant to Indiana Code 8-5-15, as supplemented and amended from time to time ("NICTD").

WITNESSETH:

WHEREAS, NICTD entered into an Operating Lease Agreement (Double Track Project) with RDA dated as of _____, 20__ (the "Operating Lease"); and

WHEREAS, all terms not otherwise defined in this Supplemental Operating Lease shall have the meanings ascribed to them in the Operating Lease; and

[WHEREAS, it is provided in the Operating Lease that after the Commencement Date, for any portion of the Lease Premises, in the event such portion shall be damaged or destroyed or taken, so as to render such portion unavailable for use by NICTD, or shall for any other reason become unavailable for use by NICTD, RDA may add additional Lease Premises to the Operating Lease pursuant to a Supplemental Operating Lease so that there is no interruption in the lease rentals payable by NICTD to RDA pursuant to the Operating Lease; provided that such additional Lease Premises are also added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases; and]

[WHEREAS, it is provided in the Operating Lease that in the event NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities, then by no later than the date as of which construction of any such portions commences, NICTD shall cause a Supplemental Operating Lease to be entered into for the purpose of adding to the Real Estate the pertinent real estate on which such portions of the Rail Project shall be located; provided that such additional Real Estate is also added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases; and]

[WHEREAS, it is provided in the Operating Lease that when the Rail Improvements are complete and ready for use as part of the Rail Project, the parties shall revise and increase the real estate described in Exhibit A to the Operating Lease, if necessary to reflect the final site location acquired for the Rail Project and upon which the Rail Improvements as part

of the Rail Project have been constructed; provided that such additional Real Estate is also added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases; and]

[WHEREAS, it is provided in the Operating Lease that RDA and NICTD may enter into one or more Supplemental Operating Leases, each of which: (1) shall provide that all covenants contained in the Operating Lease shall be unitary and include all parts of the Lease Premises, whether leased pursuant to the Operating Lease or pursuant to any Supplemental Operating Lease (*provided* that the foregoing shall not limit or restrict the parties from having differing covenants and obligations applicable to any Supplemental Operating Leases related to portions of the Rail Project NICTD proposes to be constructed that are not within the existing boundaries of the Facilities); and (2) may contain such other covenants and agreements as the parties thereto agree upon.]

NOW, THEREFORE, IT IS HEREBY AGREED, CERTIFIED AND STIPULATED by the undersigned as follows:

[Section 1. Addition to Real Estate After Commencement Date. Certain portions of the Lease Premises have been damaged or destroyed, thereby rendering such portions unavailable for use by NICTD, or have otherwise become unavailable for use by NICTD. NICTD has added additional Lease Premises to the Ground Lease pursuant to a Supplemental Ground Lease. Therefore, the Lease Premises set forth in Exhibit A to the Operating Lease shall be hereafter amended to read as set forth in Appendix I attached hereto, so that RDA may lease such additional Lease Premises to NICTD pursuant to this Supplemental Operating Lease, thereby resulting in no interruption in the lease rentals payable by NICTD to RDA pursuant to the Operating Lease. Such additional Lease Premises are also being added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.]

[Section . Addition to Real Estate Prior to Construction. NICTD proposes to construct portions of the Rail Project that are not within the boundaries of the Facilities set forth in Exhibit A to the Operating Lease. Therefore, the boundaries of the Facilities set forth in Exhibit A to the Operating Lease shall be hereafter amended to read as set forth in Appendix I attached hereto, which revised boundaries shall include the pertinent real estate on which such portions of the Rail Project shall be located. Such additional Real Estate is also being added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.]

[Section . Addition to Real Estate After Construction. Certain Rail Improvements are now complete and ready for use as part of the Rail Project, and it is now necessary to revise or increase the real estate described in Exhibit A to the Operating Lease, because such Exhibit A does not reflect the final site location acquired for the Rail Project and upon which the Rail Improvements as part of the Rail Project have been constructed. Therefore, for such purpose, Exhibit A to the Operating Lease shall be hereafter amended to read as set forth in Appendix I

attached hereto. Such additional Real Estate is also being added to the Underlying Lease, one or more of the Master Leases, and the Ground Lease, thereby resulting in no interruption in the lease rentals payable by RDA to IFA pursuant to the Master Leases.]

Section __. All covenants contained in the Operating Lease, including this Supplemental Operating Lease, shall be unitary and include all parts of the Lease Premises, whether leased pursuant to the Operating Lease or pursuant to any Supplemental Operating Lease.

[REMAINDER OF PAGE LEFT BLANK]

IN WITNESS WHEREOF, the undersigned have caused this Supplemental Operating Lease to be executed for and on their behalf as of the day and year first above written.

"RDA"

NORTHWEST INDIANA REGIONAL
DEVELOPMENT AUTHORITY

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

"NICTD"

NORTHERN INDIANA COMMUTER
TRANSPORTATION DISTRICT

By: _____

Name: _____

Title: _____

Attest:

Name: _____

Title: _____

This instrument prepared by: _____

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, personally known by me to be the _____ and _____, respectively, of the Northwest Indiana Regional Development Authority ("RDA"), and acknowledged the execution of the foregoing Supplemental Operating Lease Agreement (Double Track Project) for and on behalf of RDA.

WITNESS my hand and Notarial Seal this _____ day of _____, 20__.

(Seal)

(Written Signature)

(Printed Signature)

Notary Public

My Commission expires:

My county of residence is:

[REMAINDER OF PAGE LEFT BLANK]

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, personally known by me to be the _____ and _____, respectively, of the Northern Indiana Commuter Transportation District ("NICTD"), and acknowledged the execution of the foregoing Supplemental Operating Lease Agreement (Double Track Project) for and on behalf of NICTD.

WITNESS my hand and Notarial Seal this _____ day of _____, 20__.

(Seal)

(Written Signature)

(Printed Signature)

Notary Public

My Commission expires:

My county of residence is:

[REMAINDER OF PAGE LEFT BLANK]

[APPENDIX I

LEGAL DESCRIPTION AND MAP OF THE REAL ESTATE]

RESOLUTION 19-07 EXHIBIT D

Form of Revenue Trust Fund Agreement

REVENUE TRUST FUND AGREEMENT

Among

INDIANA FINANCE AUTHORITY,

NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY,

NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT,

[BOND TRUSTEE], as Bond Trustee

and

[TRUSTEE], as Deposit Trustee

Dated as of _____, 2019

TABLE OF CONTENTS

	Page
Section 1. Definitions.....	1
Section 2. Creation of Funds.....	6
Section 3. Granting Clause.....	7
Section 4. Project Fund	7
Section 5. Revenue Fund	10
Section 6. Notice to Trustee	11
Section 7. Debt Service Fund.....	11
Section 8. Amount of Required Deposits.....	12
Section 9. Investment of Funds in the Accounts.....	12
Section 10. Notice of Insufficiency of Funds to Make Rental Payments	13
Section 12. Deposit Trustee	14
Section 13. Fees, Charges and Expenses of Deposit Trustee.....	15
Section 14. Successor Deposit Trustee	15
Section 15. Resignation by Deposit Trustee	16
Section 16. Removal of Deposit Trustee	16
Section 17. Appointment of Successor Deposit Trustee.....	16
Section 18. Supplemental Agreements without Consent	17
Section 19. Supplemental Agreements with Consent	18
Section 20. IFA Bonds No Longer Outstanding and Deemed Paid.....	18
Section 21. Defeasance; Early Termination.....	18
Section 22. Addresses for Notice and Demands	19
Section 23. Delivery of Leases; Incorporation into Leases.....	20
Exhibit A- Form of NICTD-RDA Ground Lease	A-1
Exhibit B- Form of RDA-IFA Underlying Lease	B-1
Exhibit C- Form of IFA-RDA Master Lease	C-1
Exhibit D- Form of RDA-NICTD Operating Lease	D-1
Exhibit E- Form of Disbursement Request.....	E-1

REVENUE TRUST FUND AGREEMENT

This REVENUE TRUST FUND AGREEMENT, dated as of June 1, 2019 (this "Trust Fund Agreement"), by and among the INDIANA FINANCE AUTHORITY (the "Finance Authority"), the NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY ("RDA"), the NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT ("NICTD"), [BOND TRUSTEE], N.A., as trustee (the "Bond Trustee"), and [DEPOSIT TRUSTEE], N.A., as trustee (the "Deposit Trustee").

WITNESSETH

In consideration of the mutual covenants herein contained, IFA, RDA, NICTD, the Bond Trustee and the Deposit Trustee hereby agree as follows:

Section 1. Definitions. (a) The terms defined in this Section 1 shall for all purposes of this Trust Fund Agreement have the meanings herein specified unless the context otherwise requires.

"Account" means any of the accounts created under Section 2.

"Appropriations" means funding provided by the State to RDA from the biennial budget of appropriations from the General Assembly for the purpose of paying the IFA Appropriation Bonds and to fund an IFA contribution.

"Authorized Officer" means the Chairman, the Vice Chairman or chief executive or administration officer of a Party, as applicable, or such other person or persons duly authorized to act on behalf of a Party.

"Available Revenues" means any available revenues of the RDA, including the Participant Unit Revenues but only with respect to the West Lake Corridor Project, which may be dedicated to the payment of specific IFA Bonds.

"Bond Trustee" means the corporate trustee serving as trustee with respect to each series of IFA Bonds.

"Budget Director" means the director of the State Budget Agency appointed by the Governor of the State pursuant to IC 4-12-1-3, or if said position shall be abolished or eliminated the person, board, body, commission or agency succeeding to the principal functions thereof.

"Construction Adverse Condition" means the occurrence of one or more of the conditions in Sections 11.1.1 – 11.1.8 of the Governance Agreement.

"Construction Adverse Condition Notice" means a notice per Section 11.2 of the Governance Agreement.

"Cost Budget" means the Cost Budget attached as Exhibit 3 to the Governance Agreement.

"Debt Service" means the principal, interest and redemption premium due on one or more series of IFA Bonds.

"Debt Service Fund" means the fund created under Section 2(c), including each of the Accounts and Subaccounts created thereunder.

"Defaulting Party" has the meaning ascribed to it in Section 11 hereof.

"Deposit Trustee" means _____ or its successor in trust as trustee under this Trust Fund Agreement.

"Development Agreement" means an agreement that may be negotiated and executed by the Parties prior to the issuance of any bonds or other financing for the Rail Projects which may set forth additional terms and conditions for the Rail Projects, responsibilities of the Parties, means of addressing changed circumstances and the details of the financing plans.

"Double Track Project" means the addition of an east/west rail line for a portion of the South Shore Line from Gary to Michigan City and related improvements, all as more fully described in Exhibit 1 to the Governance Agreement.

"Draw Down Loan" means the loan provided by the State of Indiana pursuant to the provisions of IC 5-13-10.5-20 for each Rail Project.

"Draw Down Loan Account" means the account of the Project Fund for each Rail Project in which the proceeds of the Draw Down Loan for such Rail Project is deposited.

"Event of Default" means any of the events specified in Section 11 hereof to be an Event of Default.

"Expenses" means all reasonable expenses incurred by IFA or RDA in connection with the Rail Projects or the IFA Bonds, as applicable, including, without limitation, the fees and expenses of the Deposit Trustee hereunder and the Bond Trustee under the corresponding Trust Indenture.

"FTA" means the Federal Transit Administration.

"FTA Grant Reimbursements" means funds received from the FTA as reimbursement for expenditures by the Parties for moneys spent on one or both Rail Projects pursuant to the FTA grant agreement for such Rail Project.

"Fund" means any of the funds created in Section 2.

"GANS" means one or more series of Grant Anticipation Notes issued by IFA, pursuant to the IFA Bond Act, to fund any Rail Project prior to the availability of FTA Grant Reimbursements, which are payable from lease rentals paid by RDA from FTA Grant Reimbursements and moneys on deposit in the Next Generation Trust Fund established under IC 8-14-15.2.

"Governance Agreement" means the Governance Agreement, by and among the IFA, RDA and NICTD, dated as of August 1, 2018, as amended or supplemented.

"IFA" means the Indiana Finance Authority or any successor thereto or assign thereof.

"IFA Appropriations Bonds" means one or more series of bonds issued by IFA pursuant to the IFA Bond Act to finance one or both Rail Projects which are payable from lease rentals paid by RDA from Appropriations.

"IFA Available Revenues Bonds" means one or more series of bonds issued by IFA pursuant to the IFA Bond Act to finance the West Lake Corridor Project which are payable from lease rentals paid by RDA from Available Revenues.

"IFA Bond Act" means IC 5-1.3, as the same from time to time may be amended or supplemented.

"IFA Bonds" means one or more of the series of IFA Appropriation Bonds, IFA RDA Member Bonds, the IFA Available Revenues Bonds, and GANS and any such bonds issued to refund IFA Bonds.

"IFA RDA Member Bonds" means one or more series of bonds issued by IFA pursuant to the IFA Bond Act to finance the Double Track Project which are payable from lease rentals paid by RDA from Member Dues.

"IFA-RDA Master Lease" means one or more financing lease agreements entered into by IFA as lessor and RDA as lessee in the manner provided in IC 5-1.3-5, as amended, in connection with one or both Rail Projects, including any supplements thereto, with respect to each respective series of IFA Bonds and Draw Down Loans, substantially in the form attached to this Agreement as Exhibit C and in which RDA agrees to cause NICTD under the RDA-NICTD Operating Lease to acquire, construct, complete and develop such Rail Project in the manner provided in the Governance Agreement and any Development Agreement, including all Rail Projects Property with respect to such Rail Project, as the same may be expanded and improved as such Rail Project is developed or completed.

"INDOT Funding" means funding from the Indiana Department of Transportation deposited with IFA for transfer to the INDOT Funding Account of the Project Fund as provided in IC 8-14-14.3(5).

"Interlocal Agreement" means one or more agreements entered into by approximately 16 governmental entities in Lake County in which each governmental entity agrees to make payments to support the costs of the West Lake Corridor Project, the form(s) of which agreement have been or will be delivered to the Deposit Trustee, some or all of which payments shall be directed to RDA as provided in IC 6-3.6-9-5, IC 6-3.6-11-5.5, IC 6-3.6-11-7, IC 36-7.5-4-2.5, and IC 36-7.5-4-20.

"Investment Securities" means Investment Securities as defined in the applicable IFA Trust Indenture.

"Leased Premises" means the improvements constructed in connection with the Rail Projects and the real property upon which they shall be constructed, together with the existing rail lines owned by NICTD upon which the Rail Projects will be constructed and any real and personal property acquired by a Party after the execution of Leases for the purpose of developing the Rail Projects, all as more fully described in the Leases, and shall not include any existing stations, existing parking facilities, existing buildings, or NICTD rolling stock, except to the extent costs related thereto are included in the Cost Budget.

"Lease Rentals" means all payments due as lease rental payments payable by RDA under the applicable Master Lease, including without limitation, all payments due as Debt Service on the respective series of IFA Bonds and the Draw Down Loans plus Expenses of IFA or RDA and the amounts necessary to fund or replenish the Debt Service Reserve Fund pursuant to each Trust Indenture, if applicable.

"Lease Year" means the twelve-month period beginning on July 1 of any year and ending on the following June 30.

"Leases" means, collectively, the NICTD-RDA Ground Leases, the RDA-IFA Underlying Leases, the IFA-RDA Master Leases and the RDA-NICTD Operating Leases.

"Member Dues" means the portion of the dues paid to RDA by member institutions described in IC 36-7.5-4-2, as directed to be paid to RDA as provided in IC 36-7.5-3-1.7 and pledged by RDA for Lease Rentals on IFA RDA Member Bonds.

"Next Level Connections Fund Northern Indiana Commuter Rail Account" means an Account established under IC 8-14-14.3 and administered by the Indiana Department of Transportation.

"NICTD" means the Northern Indiana Commuter Transportation District or any successor thereto or assignee thereof.

"NICTD Excess Cost Contribution" means NICTD's agreed contribution for Project Costs pursuant to Section 7.8.1 of the Governance Agreement.

"NICTD-RDA Ground Lease" means one or more lease agreements from NICTD as lessor to RDA as lessee of the Lease Premises with respect to a Rail Project substantially in the form attached to this Agreement as Exhibit A pursuant to which RDA leases the Lease Premises.

"Outstanding" shall have the meaning ascribed to such term in the applicable Trust Indenture.

"Owner" means an owner of an IFA Bond.

"Participant Unit Revenue" means revenues derived from the Interlocal Agreement or from other actions taken by certain local governmental entities within Lake County, Indiana offering to provide revenue to support and finance the West Lake Corridor Project as defined under IC 6-3.6-9-5, IC 6-3.6-11-5.5, IC 6-3.6-11-7, IC 36-7.5-4-2.5, and IC 36-7.5-4-20 and is part of Available Revenues.

"Party" means any of IFA, RDA or NICTD and "Parties" means all of IFA, RDA and NICTD.

"Project Fund" means the fund created under Section 2(a), including each of the Accounts and Subaccounts created thereunder.

"Project Costs" means all direct and indirect costs of the Rail Projects that are included in the Cost Budget, including costs incurred by IFA and RDA for the Rail Projects or for the cost of issuing, carrying and servicing the IFA Bonds, including capitalized interest on the IFA Bonds or any other expenditure approved by IFA and RDA, including the RDA/IFA Project Costs.

"Public Finance Director" means the public finance director of the State appointed by the Governor of the State pursuant to IC 5-1.2-3-6, or if said public finance director shall be abolished the person, board, body, commission, or agency succeeding to the principal functions thereof.

"Rail Projects" means the Double Track Project and the West Lake Corridor Project.

"Rail Project" means either the Double Track Project or the West Lake Corridor Project as defined within IC 5-1.3-2-14 and IC 36-7.5-1-13.5.

"Rail Projects Improvements" means the improvements to be constructed in connection with the Rail Projects, whether financed with the proceeds of the IFA Bonds or otherwise.

"Rail Projects Property" means all real and personal property interests, including but not limited to Leased Premises, Rail Projects Improvements, and such easements, licenses, leases, or property rights, in whatever form reasonably necessary to construct the Rail Projects and operate the South Shore Line, whether now owned or hereinafter acquired by any Party; but not including existing stations, existing parking facilities, or existing buildings, or NICTD rolling stock except to the extent any costs are included in the Cost Budget.

"RDA" means the Northwest Indiana Regional Development Authority or any successor thereto or assignee thereof.

"RDA Act" means IC 36-7.5.

"RDA-IFA Underlying Lease" means one or more lease agreements from RDA as lessor to IFA as lessee of the Lease Premises with respect to a Rail Project substantially in the form attached to this Agreement as Exhibit B pursuant to which IFA leases the Lease Premises.

"RDA-NICTD Operating Lease" means one or more lease agreements, substantially in the form attached to this Agreement as Exhibit D, from RDA as lessor and NICTD as lessee of each Rail Project entered into pursuant to IC 5-1.3-5, pursuant to which NICTD agrees on behalf of RDA under the IFA-RDA Master Lease to acquire, construct, complete and develop such Rail Project in the manner provided in the Governance Agreement, including all Rail Projects Property with respect to such Rail Project, as the same may be expanded and improved as such Rail Project is developed or completed.

"RDA/IFA Project Costs" means RDA's and IFA's internal costs, consultant costs and financing costs for the Rail Projects.

"Revenue Fund" means the fund created under Section 2(a), including each of the Accounts and Subaccounts created thereunder.

"Revenue Trust Fund" means collectively the Accounts and Subaccounts established in Section 2 and maintained to receive, hold and disburse Rail Projects funds, including, without limitation, FTA grant funds, proceeds of IFA Bonds, proceeds of the Draw Down Loans, Member Dues, Appropriations, Participant Unit Revenue, affiliate contributions, IFA cash, RDA cash, INDOT Funding, and NICTD cash, according to the terms of the Governance Agreement.

"South Shore Line" means the existing South Shore Line Passenger Railroad, a commuter train service between South Bend, Indiana and Millennium Station in Chicago, Illinois, including those portions of the Double Track Project when complete and those portions of the West Lake Corridor Project when complete, including those assets being funded under the FTA CIG Program and including all other assets, whether now owned or hereafter acquired or leased by NICTD for operation of the South Shore Line.

"Subaccount" means a subaccount of an Account for each Rail Project.

"State" means the State of Indiana.

"Termination" means the termination or expiration of the Governance Agreement as provided in Article 13 of the Governance Agreement.

"Trust Fund Agreement" means this Revenue Trust Fund Agreement, dated as of August 1, 2018, among the Parties, the Bond Trustee and the Deposit Trustee.

"Trust Indenture" means, as applicable, the Trust Indentures pursuant to which the IFA Appropriation Bonds, the IFA RDA Member Bonds, the IFA Available Revenues Bonds, or the GANS are issued.

"West Lake Corridor Project" means an approximately 9-mile new north/south passenger rail line connected to the existing South Shore Line, with four stations, between Hammond (Gateway Station) and Munster/Dyer (Main Street Station, including all property owned or leased by NICTD for the operation of the South Shore Line over the West Lake Corridor Project), all as more fully described in Exhibit 2 of the Governance Agreement.

(b) Any term not defined herein which is defined in the Leases shall have the meaning as defined in such Leases.

Section 2. Creation of Funds.

The Parties hereby create the following Funds:

(i) Project Fund, consisting of the following Accounts: (1) IFA Appropriation Project Account; (2) IFA RDA Member Project Account; (3) IFA Available Revenue Project Account;

(4) IFA GANS Project Account; (5) NICTD Contributions Project Account; (6) FTA Grant Reimbursement Project Account; (7) Affiliate Contributions Project Account; (8) RDA Funding Project Account; (9) IFA Project Funding Account and (10) INDOT Funding Account.

(ii) Revenue Fund, consisting of the following Accounts: (1) IFA Appropriations Revenue Account; (2) IFA RDA Member Dues Revenue Account; (3) IFA Available Revenue Account; and (4) FTA Grant Reimbursement Revenue Account;

(iii) Debt Service Fund, consisting of the following Accounts: (1) IFA Appropriation Debt Service Account; (2) IFA RDA Member Debt Service Account; (3) IFA Available Revenue Debt Service Account; (4) GANS Debt Service Account.

The Deposit Trustee and the Parties shall create Subaccounts for any or all Accounts to segregate funds for one Rail Project from the other Rail Project funds and in any separate Accounts for any purpose, including the segregation of funds by Project or by bond issues.

Section 3. Granting Clause. (a) The Parties hereby pledge and assign unto the Deposit Trustee as security for all IFA Bonds:

(i) all Appropriations pledged by the IFA only to the extent needed for payment of the IFA Appropriation Bonds;

(ii) all the Member Dues pledged by the RDA only to the extent needed for payment of the IFA RDA Member Dues Bonds for the Double Track Project;

(iii) all the Available Revenue pledged by the RDA only to the extent needed for payment of the IFA Available Revenues Bonds for the West Lake Corridor Rail Project and the Draw Down Loans for either Rail Project; and;

(iv) all the FTA Grant Reimbursements and the moneys on deposit in the Next Generation Trust Fund established under IC 8-14-15.2 pledged by the Parties and the IFA, respectively, only for payment of the GANS.

If IFA shall pay or cause to be paid all IFA Bonds and Draw Down Loans issued or to be issued for the Rail Projects or provide for the payment of all such IFA Bonds and Draw Down Loans as permitted for such IFA Bonds and Draw Down Loans and shall keep, perform and observe all of the covenants and promises in this Trust Fund Agreement, and shall pay or cause to be paid to the Deposit Trustee all sums of money due to it in accordance with the terms and provisions hereof, then this Trust Fund Agreement shall be terminated and no longer in effect and any and all liens set forth herein shall be released.

Section 4. Project Fund. (a) The Deposit Trustee shall receive proceeds or funding for the Rail Projects and deposit and administer the same in the following Accounts:

(i) The Deposit Trustee shall deposit into the IFA Appropriations Project Account the proceeds of any IFA Appropriations Bonds transferred by IFA or RDA to the Deposit Trustee, other than those proceeds held for payment of costs of issuance, Expenses and interest on such IFA Appropriations Bonds. Unless a Construction Adverse Condition has occurred or

the Deposit Trustee shall have received a Construction Adverse Condition Notice, the Deposit Trustee shall, upon receipt of a disbursement request in the form of Exhibit E, disburse funds in the IFA Appropriations Project Account for Project Costs or RDA/IFA Project Costs requested from one or more Parties in the manner provided in the applicable Trust Indenture, the Governance Agreement or any Development Agreement; provided, however, that during the pendency of any Construction Adverse Condition only the IFA or RDA may request any disbursement for Project Costs or RDA/IFA Project Costs.

(ii) The Deposit Trustee shall deposit into the IFA RDA Member Project Account the proceeds of any IFA RDA Member Bonds transferred by IFA or RDA, other than those proceeds held for payment of costs of issuance, Expenses and interest on such IFA RDA Member Bonds. Unless a Construction Adverse Condition has occurred or the Deposit Trustee shall have received a Construction Adverse Condition Notice, the Deposit Trustee shall, upon receipt of a disbursement request in the form of Exhibit E, disburse funds in the IFA RDA Member Project Account for Project Costs for the Double Track Rail Project or RDA/IFA Project Costs for the Double Track Rail Project requested from one or more Parties in the manner provided in the applicable Trust Indenture, the Governance Agreement or any Development Agreement; provided, however, that during the pendency of any Construction Adverse Condition only the IFA or RDA may request any disbursement for Project Costs for the Double Track Rail Project or RDA/IFA Project Costs for the Double Track Rail Project.

(iii) The Deposit Trustee shall deposit into the IFA Available Revenue Project Account the proceeds of any IFA Available Revenues Bonds transferred by IFA or RDA, other than those proceeds held for payment of costs of issuance, Expenses and interest on such IFA Available Revenues Bonds. Unless a Construction Adverse Condition has occurred or the Deposit Trustee shall have received a Construction Adverse Condition Notice, the Deposit Trustee shall, upon receipt of a disbursement request in the form of Exhibit E, disburse funds in the IFA Available Revenue Project Account for Project Costs for the West Lake Corridor Rail Project or RDA/IFA Project Costs for the West Lake Corridor Rail Project requested from one or more Parties in the manner provided in the applicable Trust Indenture, the Governance Agreement or any Development Agreement; provided, however, that during the pendency of any Construction Adverse Condition only the IFA or RDA may request any disbursement for Project Costs for the West Lake Corridor Rail Project or RDA/IFA Project Costs for the West Lake Corridor Rail Project.

(iv) The Deposit Trustee shall deposit into the IFA GANS Project Account the proceeds of any GANS transferred by IFA or RDA, other than those proceeds held for payment of costs of issuance, Expenses and interest on such GANS. Unless a Construction Adverse Condition has occurred or the Deposit Trustee shall have received a Construction Adverse Condition Notice, the Deposit Trustee shall, upon receipt of a disbursement request in the form of Exhibit E, disburse funds in the IFA GANS Project Account for Project Costs or RDA/IFA Project Costs requested from one or more Parties in the manner provided in the applicable Trust Indenture, the Governance Agreement or any Development Agreement; provided, however, that during the pendency of any Construction Adverse Condition only the IFA or RDA may request any disbursement for Project Costs or RDA/IFA Project Costs.

(v) The Deposit Trustee shall deposit into the NICTD Contributions Project Account the funding required from NICTD for any Rail Project pursuant to Section 7.8 of the Governance Agreement. Unless a Construction Adverse Condition has occurred or the Deposit Trustee shall have received a Construction Adverse Condition Notice, the Deposit Trustee shall, upon receipt of a disbursement request in the form of Exhibit E, disburse funds in the NICTD Project Contributions Account for Project Costs or RDA/IFA Project Costs requested from one or more Parties in the manner provided in the Governance Agreement or any Development Agreement; provided, however, that during the pendency of any Construction Adverse Condition only the IFA or RDA may request any disbursement for Project Costs or RDA/IFA Project Costs.

(vi) The Deposit Trustee shall deposit into the FTA Grant Reimbursement Project Account any FTA Grant Reimbursements received from NICTD, as directed by Section 5.5 of the Governance Agreement, to the extent that there are no payments then required on any GANS. Unless a Construction Adverse Condition has occurred or the Deposit Trustee shall have received a Construction Adverse Condition Notice, the Deposit Trustee shall, upon receipt of a disbursement request in the form of Exhibit E, disburse funds in the FTA Grant Reimbursement Project Account for Project Costs or RDA/IFA Project Costs requested from one or more Parties in the manner provided in the Governance Agreement or any Development Agreement; provided, however, that during the pendency of any Construction Adverse Condition only the IFA or RDA may request any disbursement for Project Costs or RDA/IFA Project Costs.

(vii) The Deposit Trustee shall deposit into the Affiliate Contributions Project Account any funding to be received from La Porte County, St. Joseph County and Michigan City as provided in the Governance Agreement. Unless a Construction Adverse Condition has occurred or the Deposit Trustee shall have received a Construction Adverse Condition Notice, the Deposit Trustee shall, upon receipt of a disbursement request in the form of Exhibit E, disburse funds in the Affiliate Contributions Project Account for Project Costs or RDA/IFA Project Costs requested from one or more Parties in the manner provided in the Governance Agreement or any Development Agreement; provided, however, that during the pendency of any Construction Adverse Condition only the IFA or RDA may request any disbursement for Project Costs or RDA/IFA Project Costs.

(viii) The Deposit Trustee shall deposit into the RDA Funding Project Account any additional cash funding provided by RDA for any Rail Project. Unless a Construction Adverse Condition has occurred or the Deposit Trustee shall have received a Construction Adverse Condition Notice, the Deposit Trustee shall, upon receipt of a disbursement request in the form of Exhibit E, disburse funds in the RDA Funding Project Account for Project Costs or RDA/IFA Project Costs requested from one or more Parties in the manner provided in the Governance Agreement or any Development Agreement; provided, however, that during the pendency of any Construction Adverse Condition only the IFA or RDA may request any disbursement for Project Costs or RDA/IFA Project Costs.

(ix) The Deposit Trustee shall deposit into the IFA Project Funding Account any additional cash funding provided by IFA for any Rail Project. Unless a Construction Adverse Condition has occurred or the Deposit Trustee shall have received a Construction Adverse Condition Notice, the Deposit Trustee shall, upon receipt of a disbursement request in the form of Exhibit E, disburse funds in the IFA Project Funding Account for Project Costs or RDA/IFA

Project Costs requested from one or more Parties in the manner provided in the Governance Agreement or any Development Agreement; provided, however, that during the pendency of any Construction Adverse Condition only the IFA or RDA may request any disbursement for Project Costs or RDA/IFA Project Costs.

(x) The Deposit Trustee shall deposit into the Draw Down Loan Account any additional cash funding provided by a Draw Down Loan for any Rail Project. Unless a Construction Adverse Condition has occurred or the Deposit Trustee shall have received a Construction Adverse Condition Notice, the Deposit Trustee shall, upon receipt of a disbursement request in the form of Exhibit E, disburse funds in the Draw Down Loan Account for Project Costs for such Rail Project or RDA/IFA Project Costs for such Rail Project requested from one or more Parties in the manner provided in the Governance Agreement or any Development Agreement; provided, however, that during the pendency of any Construction Adverse Condition only the IFA or RDA may request any disbursement for Project Costs for such Rail Project or RDA/IFA Project Costs for such Rail Project.

Unless IFA and RDA direct the Deposit Trustee to the contrary or unless NICTD shall notify in writing, with copies to IFA and RDA, the Deposit Trustee that FTA regulations require otherwise, the Deposit Trustee will disburse funds available to any specific Rail Project on a pro rata basis from each of the Accounts set forth in subsection (a) above, for each request for disbursement approved by IFA and RDA.

Section 5. Revenue Fund. (a) The Deposit Trustee shall receive proceeds or funding for the Rail Projects and deposit and administer the same in the following Accounts:

(i) The Deposit Trustee shall deposit into the IFA Appropriations Revenue Account the Appropriations made to RDA to the extent necessary for the purpose of paying Lease Rentals due on any IFA-RDA Master Lease in respect of IFA Appropriations Bonds. The Deposit Trustee shall disburse funds in the IFA Appropriations Revenue Account equal to the Lease Rentals then due on the IFA Appropriations Bonds to the IFA Appropriation Debt Service Account on the day before any Debt Service is due on the IFA Appropriation Bonds. Any remaining funds held in the IFA Appropriations Revenue Account shall, after payment of the IFA Appropriations Bonds, be transferred to IFA.

(ii) The Deposit Trustee shall deposit into the IFA RDA Member Dues Revenue Account the Member Dues pledged by RDA to the extent necessary for the purpose of paying Lease Rentals due on any IFA-RDA Master Lease in respect of the IFA RDA Member Bonds for the Double Track Rail Project. The Deposit Trustee shall disburse funds in the IFA RDA Member Dues Revenue Account equal to the Lease Rentals then due on such IFA RDA Member Bonds to the IFA RDA Member Debt Service Account on the day before any Debt Service is due on such IFA RDA Member Bonds. Any remaining funds held in the IFA Member Dues Revenue Account shall, after payment of the IFA RDA Member Bonds, be transferred to RDA.

(iii) The Deposit Trustee shall deposit into the IFA Available Revenue Account the Available Revenue pledged by RDA to the extent necessary for the purpose of paying Lease Rentals due on any IFA-RDA Master Lease in respect of the IFA Available Revenues Bonds for the West Lake Corridor Project or for payment of the Draw Down Loan as provided in IC ____.

The Deposit Trustee shall disburse funds in the IFA Available Revenue Account equal to the Lease Rentals then due on the IFA Available Revenues Bonds or Draw Down Loan to the IFA Available Revenue Debt Service Account on the day before any Debt Service is due on the IFA Available Revenues Bonds or Draw Down Loan. Any remaining funds held in the Available Revenue Account shall, after payment of the IFA Available Revenues Bonds or Draw Down Loan be transferred to RDA.

(iv) The Deposit Trustee shall deposit into the FTA Grant Reimbursement Revenue Account the FTA Grant Reimbursements and the moneys on deposit in the Next Generation Trust Fund established under IC 8-14-15.2, pledged by one or more Parties and the IFA, respectively, for the purpose of paying the Lease Rentals due on any IFA-RDA Master Lease in respect of the GANS. The Deposit Trustee shall disburse funds in the FTA Grant Reimbursement Revenue Account equal to the Lease Rentals then due on the GANS to the GANS Debt Service Account on the day before any Debt Service is due on the GANS. In the event the amount on deposit in the FTA Grant Reimbursement Revenue Account is in excess of the amount necessary to pay Debt Service on the GANS in the following year, all or any portion of such thereof shall, at the request of the IFA to the Deposit Trustee, be transferred to the IFA to the extent necessary to reimburse it for the amounts withdrawn from the Next Generation Trust Fund established under IC 8-14-15.2 to pay the Lease Rentals due on any IFA-RDA Master Lease in respect of the GANS, but only to the extent it has not been previously reimbursed for such withdrawals. Any remaining funds held in the FTA Grant Reimbursement Revenue Account shall, after payment of the GANS, be transferred first to the IFA to the extent necessary to reimburse it for the amounts withdrawn from the Next Generation Trust Fund established under IC 8-14-15.2 to pay the Lease Rentals due on any IFA-RDA Master Lease in respect of the GANS, but only to the extent it has not been previously reimbursed for such withdrawals, second to the IFA and the RDA for the purpose of paying any obligations then owed by NICTD to the IFA and the RDA pursuant to the Governance Agreement and then to NICTD.

Section 6. Notice to Trustee. The IFA, the RDA, and the NICTD agree to send any Construction Adverse Condition Notice to the Deposit Trustee (and Bond Trustee, if applicable) as such Notice is given under the Governance Agreement.

Section 7. Debt Service Fund. (a) The Deposit Trustee shall receive funding for payment of the IFA Bonds and deposit and administer the same in the following Accounts:

(i) The Deposit Trustee shall deposit into the IFA Appropriation Debt Service Account the funding disbursed from the IFA Appropriations Revenue Account for the purpose of paying Lease Rentals due on any IFA-RDA Master Lease in respect of the IFA Appropriation Bonds only for payment of the IFA Appropriation Bonds. The Deposit Trustee shall disburse funds to the Bond Trustee, in the IFA Appropriation Debt Service Account on the day before any Debt Service is due on the IFA Appropriation Bonds for the payment of the Debt Service due thereon.

(ii) The Deposit Trustee shall deposit into the IFA RDA Member Debt Service Account the funding disbursed from the IFA RDA Member Dues Revenue Account for the purpose of paying Lease Rentals due on any IFA-RDA Master Lease in respect of the IFA RDA Member Dues Bonds only for payment of the IFA RDA Member Dues Bonds for the Double

Track Rail Project. The Deposit Trustee shall disburse funds to the Bond Trustee, in the IFA RDA Member Debt Service Account on the day before any Debt Service is due on such IFA RDA Member Dues Bonds for the payment of the Debt Service due thereon.

(iii) The Deposit Trustee shall deposit into the IFA Available Revenue Debt Service Account the funding disbursed from the IFA Available Revenue Account for the purpose of paying Lease Rentals due on any IFA-RDA Master Lease in respect of the IFA Available Revenue Bonds only for payment of the IFA Available Revenues Bonds for the West Lake Corridor Project and for payment of the Draw Down Loans as provided in IC 5-13-10.5-20. The Deposit Trustee shall disburse funds to the Bond Trustee in the IFA Available Revenue Debt Service Account on the day before any Debt Service is due on such IFA Available Revenues Bonds and Draw Down Loans for the payment of the Debt Service due thereon.

(iv) The Deposit Trustee shall deposit into the GANS Debt Service Account the funding disbursed from the FTA Grant Reimbursement Revenue Account for the purpose of paying Lease Rentals due on any IFA RDA Master Lease in respect of the GANS only for payment of the GANS. The Deposit Trustee shall disburse funds to the Bond Trustee in the GANS Debt Service Account on the day before any Debt Service is due on the GANS for the payment of the Debt Service due thereon.

The Bond Trustee shall, in writing, provide notice to the Deposit Trustee, the IFA and the RDA, of the specific amount of Debt Service that is due with respect to each series of IFA Bonds or Draw Down Loans no later than thirty (30) days prior to each such due date.

The Bond Trustee shall, in writing, provide notice to the Deposit Trustee, the IFA and the RDA, of the specific amount of Debt Service that is due with respect to each series of IFA Bonds no later than thirty (30) days prior to each such due date.

Section 8. Amount of Required Deposits. In determining the requirement for each of the Accounts, there shall be taken into account (1) the dates and amounts of required payments from such Account provided to the Deposit Trustee under Section 7(c); (2) amounts then on deposit in such Account; and (3) known and determinable amounts of investment income to be deposited in such Account prior to the next ensuing date or dates on which payments are required to be made therefrom, as the case may be; provided, the Deposit Trustee is not required to take into Account the amounts described in this clause (3) unless directed in writing to do so by an Authorized Officer of IFA. Each month, the Deposit Trustee and IFA shall agree on the amounts to be deposited in each Account in the Revenue Fund and the amounts which shall be transferred to each account of the Debt Service Fund.

Section 9. Investment of Funds in the Accounts. (a) At the written direction of the IFA, the Deposit Trustee shall invest money in the Accounts held by it in Investment Securities. The Deposit Trustee may conclusively rely upon such instructions as to both the suitability and legality of the directed investments. If IFA fails to give the Deposit Trustee written directions, the Deposit Trustee shall invest cash in such Accounts in obligations of or guaranteed by the United States of America. Investments in each Account shall mature or be redeemable at the option of IFA prior to the time such amounts will be needed to make payments due hereunder.

The Deposit Trustee may make any and all such investments through its own investment department or that of its affiliates or subsidiaries.

(b) Any income from investments of an Account shall, if that Account has a deficit from its requirement, be retained in such Account to meet the requirement of such Account. If the amounts on deposit in an Account meet its requirement, earnings on investments may be applied in the same manner as excess funds available in such Account.

(c) Although IFA recognizes that it may obtain a broker confirmation or written statement containing comparable information at no additional cost, IFA hereby agrees that confirmations of permitted investments are not required to be issued by the Deposit Trustee for each month in which a monthly statement is rendered. No statement need be rendered for any Fund or Account if no activity occurred in such Fund or Account during such month.

(d) To the extent that the provisions in this Section are in conflict with the provisions of a Trust Indenture regarding the investment of moneys in any Account or subaccount that is pledged to the holders of the IFA Bonds pursuant to such Trust Indenture, those provisions of the Trust Indenture shall govern.

Section 10. Notice of Insufficiency of Funds to Make Rental Payments. If the Deposit Trustee does not timely receive the amounts required to be deposited in the Debt Service Fund in accordance with Section 6 hereof, the Deposit Trustee agrees to immediately notify the Bond Trustee, the IFA and the RDA.

Section 11. Events of Default. (a) Each of the following is an Event of Default:

(i) failure of any Party to deposit moneys into any Fund or Account as provided in this Trust Fund Agreement; or

(ii) failure of any Party to duly and punctually perform or observe any other of the covenants, agreements or conditions contained in this Trust Fund Agreement which continues for sixty (60) days after written notice thereof by the Deposit Trustee to such non-performing Party; provided that, if such failure shall be such that it can be corrected but it cannot be corrected within such sixty (60) day period, it shall not constitute an Event of Default if corrective action is instituted within such period and corrective action is diligently pursued until the failure is corrected.

(b) The Deposit Trustee shall promptly give notice setting forth the nature of the Event of Default including the Party in default (the "Defaulting Party") to all Parties, together with a copy of the same to each Bond Trustee.

(c) The Deposit Trustee may, or upon the request of any Party shall, file suit against the Defaulting Party for specific performance, mandatory injunction, appointment of a receiver or for the enforcement of any other legal or equitable right as the Deposit Trustee, being advised by counsel, shall determine.

Section 12. Deposit Trustee. (a) The Deposit Trustee hereby accepts the trusts imposed upon it by this Trust Fund Agreement and agrees to perform said trusts, upon and subject to the following express terms and conditions:

(i) The Deposit Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Trust Fund Agreement and shall exercise such of the rights and powers vested in it by this Trust Fund Agreement and use the same degree of care and skill in their exercise as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs; provided, however, the Deposit Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Trust Fund Agreement.

(ii) The Deposit Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys or agents but shall not be answerable for the misconduct, gross negligence, or negligence of the same if such attorneys or agents have been appointed by the Deposit Trustee with due care, and shall be entitled to act upon the opinion or advice of its counsel concerning all matters of trust hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such attorneys, agents and employees as may reasonably be employed in connection with the trust hereof. The Deposit Trustee may act upon the opinion or advice of any attorney (who may be the attorney or attorneys for IFA) and shall not be responsible for any loss or damage resulting from any action or non-action by it taken or omitted to be taken in good faith in reliance upon such opinion or advice.

(iii) The Deposit Trustee shall not be bound to ascertain or inquire as to the performance or observance of any covenants, conditions or agreements on the part of the Parties, except as hereinafter set forth. The Deposit Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with this Trust Fund Agreement.

(iv) The Deposit Trustee shall be protected in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document believed by it to be genuine and correct and to have been signed or sent by the proper person or persons.

(v) As to the existence or non-existence of any fact or as to the sufficiency or validity of any instrument, paper or proceedings, the Deposit Trustee shall be entitled to rely upon a certificate signed on behalf of any Party, or by an officer of any Party or such other person as may be designated for such purpose by resolution of any Party as sufficient evidence of the facts therein contained, and prior to the occurrence of a default of which the Deposit Trustee has been notified as provided in subsection (g), or of which by said subsection it is deemed to have notice, shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same. The Deposit Trustee may accept a certificate of an officer of any Party to the effect that a resolution in the form therein set forth has been adopted by such Party as conclusive evidence that such resolution has been duly adopted, and is in full force and effect.

(vi) The permissive right of the Deposit Trustee to do things enumerated in this Trust Fund Agreement shall not be construed as a duty and the Deposit Trustee shall not be answerable for other than its negligence or willful default.

(vii) The Deposit Trustee shall not be presumed to have knowledge of any default or Event of Default unless the Deposit Trustee shall be specifically notified in writing of such default by any Party.

(viii) At any and all reasonable times the Deposit Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, shall have the right, but shall not be required, to inspect all books, papers and records of the Parties, and to take such memoranda from and in regard thereto as may be desired.

(ix) The Deposit Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

(x) Notwithstanding anything elsewhere in this Trust Fund Agreement contained, the Deposit Trustee shall have the right, but shall not be required, to demand, in respect of the release of any property or any action whatsoever within the purview of this Trust Fund Agreement, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required as a condition of such action, deemed desirable by the Deposit Trustee for the purpose of establishing the right to the taking of any such action by the Bond Trustee for any IFA Bonds, as applicable.

(xi) Before taking any action hereunder, the Deposit Trustee may require that satisfactory indemnity be furnished to it for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from the Deposit Trustee's negligence or willful default, by reason of any action so taken.

(xii) All moneys received by the Deposit Trustee shall, until used or applied as herein provided, be held in trust in the manner and for the purposes for which they were received but need not be segregated from other funds except to the extent required by this Trust Fund Agreement or law.

(b) The Deposit Trustee hereby covenants that it will comply with the obligations of the Deposit Trustee set forth in each Trust Indenture that pledges the moneys on deposit in any Account or subaccount to the holders of the IFA Bonds.

Section 13. Fees, Charges and Expenses of Deposit Trustee. The Deposit Trustee shall be entitled to payment and/or reimbursement out of the Lease Rental payments for reasonable fees for its services rendered hereunder and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by the Deposit Trustee in connection with such services.

Section 14. Successor Deposit Trustee. Any corporation or association into which the Deposit Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger,

consolidation or transfer to which it is a party, ipso facto, shall be and become successor Deposit Trustee hereunder and vested with all of the title to the whole property or trust estate and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

Section 15. Resignation by Deposit Trustee. The Deposit Trustee and any successor Deposit Trustee may at any time resign from the trusts hereby created by giving written notice delivered or mailed to the Parties, and such resignation shall take effect at the appointment of a successor Deposit Trustee pursuant to Section 17 hereof and acceptance by the successor Deposit Trustee. Such written notice to the Parties may be served personally or sent by registered or certified mail.

Section 16. Removal of Deposit Trustee. The Deposit Trustee may be removed at any time, by an instrument or concurrent instruments in writing delivered to the Deposit Trustee and to the other Parties, and signed by an Authorized Officer of IFA, and such removal shall take effect at the appointment of a successor Deposit Trustee pursuant to Section 17 hereof and acceptance by the successor Deposit Trustee.

Section 17. Appointment of Successor Deposit Trustee. (a) In case the Deposit Trustee hereunder shall resign or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor may be appointed by the Public Finance Director on behalf of IFA. Every such Deposit Trustee appointed pursuant to the provisions of this Section shall be a trust company or bank authorized to act as Deposit Trustee within the State having a reported capital, surplus and undivided profits of not less than Fifty Million Dollars (\$50,000,000) if there be such an institution willing, qualified and able to accept the trust upon reasonable or customary terms. If no successor Deposit Trustee shall be so appointed and have accepted appointment within sixty (60) days after the giving of written notice by the resigning Deposit Trustee as aforesaid, the resigning Deposit Trustee may petition any court of competent jurisdiction for the appointment of a successor.

(b) Every successor Deposit Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also the Parties an instrument in writing accepting such appointment hereunder, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all of the properties, rights, powers, trusts, duties and obligations of its predecessor; but such predecessor shall nevertheless, on the written request of IFA, or of its successor, execute and deliver an instrument transferring to such successor Deposit Trustee all the properties, rights, powers, and trusts of such predecessor hereunder; and every predecessor Deposit Trustee shall deliver all securities and moneys held by it as Deposit Trustee hereunder to its successor. Should any instrument in writing from IFA be required by any successor Deposit Trustee for more fully and certainly vesting in such successor the properties, rights, powers and duties hereby vested or intended to be vested in the predecessor, any and all such instrument in writing shall, on request, be executed, acknowledged and delivered on behalf of IFA.

Section 18. Supplemental Agreements without Consent. (a) The Parties, the Bond Trustee, and the Deposit Trustee may without the consent of, or notice to, any of the owners of the IFA Bonds, enter into an agreement or agreements supplemental to this Trust Fund Agreement for any one or more of the following purposes:

(i) to make any changes or corrections in this Trust Fund Agreement as to which the IFA shall have been advised by counsel that the same are verbal corrections or changes or are required for the purpose of curing or correcting any ambiguity, defective or inconsistent provision or omission, mistake or manifest error contained in this Trust Fund Agreement, as are necessary or desirable;

(ii) to add covenants and agreements of the Parties for the purpose of further securing the payment of the IFA Bonds;

(iii) to surrender any right, power or privilege reserved to or conferred upon any Party by the terms of this Trust Fund Agreement;

(iv) any other amendment that does not cause the rating on any IFA Bond to be adversely affected;

(v) to confirm as further assurance any lien, pledge or charge, or the subjection to any lien, pledge or charge, created or to be created by the provisions of this Trust Fund Agreement;

(vi) to grant or to confer upon the Owners of the IFA Bonds any additional rights, remedies, powers, authority or security that lawfully may be granted to or conferred upon them, or to grant to or confer upon the Deposit Trustee or the Bond Trustee for the benefit of the Owners of the IFA Bonds any additional rights, duties, remedies, power or authority;

(vii) to make any changes or modifications hereof or amendments, additions or deletions hereto, which may be required to permit this Trust Fund Agreement to be qualified under the Trust Indenture Act of 1939 of the United States of America or laws analogous thereto applicable to bonds issued by governmental bodies;

(viii) to pledge additional moneys, properties or revenues to the lien of this Trust Fund Agreement;

(ix) to affect the provisions with respect to the Draw Down Loans; and

(ix) to make any other change in this Trust Fund Agreement, which, in the judgment of the IFA, does not have a material adverse effect on the Owners of the IFA Bonds and in the judgment of the Bond Trustee, and the Deposit Trustee, does not have a material adverse effect on the Deposit Trustee or the Bond Trustee, respectively.

(b) The Parties shall not enter into any supplemental agreement authorized by the foregoing provisions of this Section, unless, in the opinion of counsel, the execution of such supplemental agreement is permitted by the foregoing provisions of this Section.

Section 19. Supplemental Agreements with Consent.

[(a) With the consent of the Owners of a majority of aggregate principal amount of each of the Outstanding IFA Appropriation Bonds, the Outstanding IFA RDA Member Bonds, the Outstanding IFA Available Revenues Bonds and the Outstanding GANs, the Parties, the Bond Trustee, and the Deposit Trustee, from time to time and at any time may enter into an agreement or agreements supplemental to this Trust Fund Agreement for the purpose of adding any provisions to, or changing in any manner or eliminating any of the provisions of, this Trust Fund Agreement, or modifying or amending the rights and obligations of any Party, the Bond Trustee, or the Deposit Trustee hereunder, or modifying or amending in any manner the rights of the Owners of the IFA Bonds; provided that the consent of the Owners of a majority of aggregate principal amount of the Outstanding IFA Appropriation Bonds, the Outstanding IFA RDA Member Bonds, the Outstanding IFA Available Revenues Bonds or the Outstanding GANs need not be obtained to the extent that any such amendment does not affect such type of IFA Bonds; and provided further, that without the specific consent of the Owner of each IFA Bonds, which would be affected thereby, no such supplemental agreement or agreements shall:

(i) reduce the percentage of the aggregate principal amount of the Outstanding IFA Appropriation Bonds, the Outstanding IFA RDA Member Bonds, the Outstanding IFA Available Revenues Bonds or the Outstanding GANs, which are required to consent to any supplemental agreement amending or supplementing the provisions of this Trust Fund Agreement; or

(ii) give to any IFA Bond any preference over any other IFA Bond secured hereby, except as provided herein; or

(iii) deprive the Owner of an IFA Bond of the security afforded by this Trust Fund Agreement.

(b) It shall not be necessary that the consents approve the particular form of wording of the proposed supplemental agreement, but it shall be sufficient if such consents approve the substance of the proposed supplemental agreement. After the Owners of the required percentage of the principal amount of the Outstanding IFA Appropriation Bonds, the Outstanding IFA RDA Member Bonds, the Outstanding IFA Available Revenues Bonds and the Outstanding GANs, to the extent applicable, shall have filed their consents to the execution of a supplemental agreement pursuant to this Section, the Bond Trustee shall mail a notice of the proposed execution of such supplemental agreement, postage prepaid, to each Owner of the IFA Bonds. No action or proceeding to set aside or invalidate such supplemental agreement or any of the proceedings for its approval shall be instituted or maintained unless such action or proceeding is commenced within sixty (60) days after the mailing of the last notice required by this subsection.]

Section 20. IFA Bonds and Draw Down Loans No Longer Outstanding and Deemed Paid. (a) As to any particular IFA Bonds or Draw Down Loans, when sufficient funds are held by the Deposit Trustee in the applicable Account of the Debt Service Fund to provide for the payment of the remaining lease rentals on all IFA Bonds and Draw Down Loans, the funds in

such Accounts shall be held exclusively for the Owners of the IFA Bonds or Draw Down Loans and the IFA Bonds or Draw Down Loans shall not be deemed outstanding hereunder.

(b) As to any particular issue of IFA Bonds or Draw Down Loans, if such issue of IFA Bonds or any particular IFA Bonds of such issue or Draw Down Loans are not considered to be outstanding pursuant to the Trust Indenture pursuant to which such IFA Bonds or Draw Down Loans were issued, such particular IFA Bond issue or particular IFA Bonds thereof or Draw Down Loans shall not be considered outstanding pursuant to this Trust Fund Agreement.

Section 21. Defeasance; Early Termination. (a) If (i) the IFA shall pay, or cause to be paid, or make provision for payment, or there shall otherwise be paid, to the Owners of all Outstanding IFA Bonds and Draw Down Loans all amounts due under the provisions of such IFA Bonds, the Draw Down Loans and this Trust Fund Agreement, and (ii) the Parties shall pay all expenses and fees of the Deposit Trustee, then the pledge made by the Parties in Section 3, the other moneys and securities pledged under this Trust Fund Agreement and all covenants, agreements and other obligations of the Parties shall thereupon cease, terminate and become void and be discharged and satisfied.

(b) In the event this Trust Fund Agreement is terminated pursuant to subsection (a) above, the Deposit Trustee shall cause an accounting for such period or periods as shall be requested by any Party to be prepared and delivered to such Party, and upon request of the IFA, shall execute and deliver all such instruments as may be desirable to evidence such discharge and satisfaction, and the Deposit Trustee shall pay over or deliver to the Parties all moneys or securities held by the Deposit Trustee pursuant to and in accordance with this Trust Fund Agreement, which are not required for the payment of Debt Service and the applicable redemption premiums, if any, on all the IFA Bonds and Draw Down Loans.

Section 22. Addresses for Notice and Demands. All notices, demands, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by registered or certified mail, postage prepaid, with proper address as indicated below. The Parties, the Bond Trustee, and the Deposit Trustee may, by written notice given by each to the others, designate any address or addresses to which notices, demands, certificates or other communications to them shall be sent when required as contemplated by this Trust Fund Agreement. Until otherwise provided by the respective Parties, the Bond Trustee, and the Deposit Trustee, all notices, demands, certificates and communications to each of them shall be addressed as follows:

To IFA: Indiana Finance Authority
One North Capitol, Suite 900
Indianapolis, IN 46204
Attention: Public Finance Director

To RDA: Northwest Indiana Regional Development
Authority
9800 Connecticut Drive
Crown Point, IN 46307
Attention: Chief Executive Officer

To NICTD: Northern Indiana Commuter Transportation District
33 East U.S. Highway 12
Chesterton, IN 46304
Attention: President

To the Budget Director: State Budget Director
212 State House
Indianapolis, IN 46204

To the Bond Trustee: _____

Attention: Corporate Trust Department

To the Deposit Trustee: _____

Attention: Corporate Trust Department

Section 23. Delivery of Leases; Incorporation into Leases.

At the time of the execution of each IFA-RDA Lease and the issuance of any IFA Bonds, IFA shall deliver copies of those documents to the Deposit Trustee and a schedule of the Lease Rentals to be due under such Lease.

The provisions of this Trust Fund Agreement relating to the rights, duties and obligations of the Parties are incorporated into the Leases by reference and shall be deemed a part of the Leases.

IN WITNESS WHEREOF, the undersigned have caused this Trust Fund Agreement for and on their behalf, all as of the date and year first written above.

NORTHERN INDIANA COMMUTER
TRANSPORTATION DISTRICT

By: _____

NORTHWEST INDIANA REGIONAL
DEVELOPMENT AUTHORITY

By: _____

INDIANA FINANCE AUTHORITY

By: _____
Cristopher R. Johnston, Chair

Attest:

Dan Huges, Public Finance Director
of the State of Indiana

_____, as Deposit Trustee

By: _____

Attest:

_____, as Bond Trustee

By: _____

Attest:

EXHIBIT A
FORM OF NICTD-RDA GROUND LEASE

EXHIBIT B
FORM OF RDA-IFA UNDERLYING LEASE

EXHIBIT C
FORM OF IFA-RDA MASTER LEASE

FORM D
FORM OF RDA-NICTD OPERATING LEASE

EXHIBIT E
FORM OF DISBURSEMENT REQUEST