

UNITED STATES DEPARTMENT OF TRANSPORTATION

RRIF LOAN AGREEMENT

For a RRIF Loan Up to \$851,150,000

With

MASSACHUSETTS BAY TRANSPORTATION AUTHORITY

For the

COMMUTER RAIL SAFETY AND RESILIENCY PROGRAMS

(RRIF – 2020-0044)

Dated as of July 1, 2020

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RRIF LOAN AGREEMENT

THIS RRIF LOAN AGREEMENT (this “**Agreement**”), dated as of the Effective Date, is by and between the **MASSACHUSETTS BAY TRANSPORTATION AUTHORITY**, a body politic and corporate and political subdivision of The Commonwealth of Massachusetts (the “**Commonwealth**”) duly created by Chapter 161A of the Massachusetts General Laws (the “**Enabling Act**”), with an address of 10 Park Plaza, Boston, MA 02116 (the “**Borrower**”), and the **UNITED STATES DEPARTMENT OF TRANSPORTATION**, an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau (the “**Executive Director**”), with an address of 1200 New Jersey Avenue, S.E., Washington, D.C. 20590 (the “**USDOT Lender**”).

RECITALS:

WHEREAS, the Congress of the United States of America (the “**Congress**”) has found that a well-developed system of transportation infrastructure is critical to the economic well-being, health and welfare of the people of the United States of America and, in furtherance thereof, has created the Railroad Rehabilitation and Improvement Financing program (“**RRIF**”) pursuant to § 7203 of Public Law 105-178 (as amended by Public Law 110-432 and Public Law 114-94), codified at 45 U.S.C. §§ 821 - 823 (the “**RRIF Act**”); and

WHEREAS, § 822 of the RRIF Act authorizes the USDOT Lender to provide direct loans and loan guarantees to eligible project sponsors; and

WHEREAS, the Borrower has requested that the USDOT Lender make the RRIF Loan (as defined herein) in a principal amount not to exceed \$851,150,000, to be used to pay a portion of the Eligible Project Costs (as defined herein) related to the Project (as defined herein) pursuant to the application for RRIF credit assistance dated April 28, 2020 (the “**RRIF Application**”); and

WHEREAS, the Borrower and the USDOT Lender previously entered into that certain TIFIA/RRIF Loan Agreement, dated as of December 8, 2017 (the “**2017 Loan Agreement**”); and

WHEREAS, the Borrower now wishes to cancel the loans made available under the 2017 Loan Agreement, which have not yet been drawn upon, and the Borrower and the USDOT Lender hereby agree to terminate the 2017 Loan Agreement and the 2017 USDOT Bonds issued with respect thereto; and

WHEREAS, on June 24, 2020, the Secretary (as defined herein) approved RRIF credit assistance for the Project in the form of the RRIF Loan; and

WHEREAS, the USDOT Lender is prepared to extend credit upon the terms and conditions hereof;

WHEREAS, the Borrower agrees to repay any amount due pursuant to this Agreement and the RRIF Bonds (as defined herein) in accordance with the terms and provisions hereof and thereof; and

WHEREAS, the USDOT Lender has entered into this Agreement in reliance upon, among other things, the Enabling Act, Section 35T (as defined herein) and the Base Case Projections (as defined herein) delivered by the Borrower.

NOW, THEREFORE, the premises being as stated above, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged to be adequate, and intending to be legally bound hereby, it is hereby mutually agreed by and between the Borrower and the USDOT Lender as follows:

Section 1. Definitions. Unless the context otherwise requires, capitalized terms used in this Agreement shall have the meanings set forth below in this Section 1 (*Definitions*) or as otherwise defined in this Agreement. Any term used in this Agreement that is defined by reference to any other agreement shall continue to have the meaning specified in such agreement, whether or not such agreement remains in effect.

“2017 Loan Agreement” has the meaning provided in the recitals hereto.

“2017 USDOT Bonds” means the RRIF Bond and the TIFIA Bond, as each such term is defined in the 2017 Loan Agreement.

“Acceptable Credit Rating” means, with respect to any Person, the rating of its unsecured, senior long-term indebtedness (or, if such Person has no such rating, then its issuer rating or corporate credit rating) is no lower than (a) at the time such Person executes, delivers or issues a Qualified Hedge or a Credit Facility, ‘A+’, ‘A1’ or the equivalent rating from at least one (1) Nationally Recognized Rating Agency that provides a rating on such Person’s unsecured, senior long-term indebtedness or that provides an issuer rating or corporate credit rating for such Person, as applicable; and (b) at any time thereafter, ‘A’, ‘A2’ or the equivalent rating from each Nationally Recognized Rating Agency that provides a rating on such Person’s unsecured, senior long-term indebtedness or that provides an issuer rating or corporate credit rating for such Person, as applicable.

“Accreted Value” means, with respect to any Capital Appreciation Bonds, (a) as of any Valuation Date, the amount set forth for such date as determined in accordance with the Supplemental Sales Tax Trust Agreement authorizing such Capital Appreciation Bonds and (b) as of any date other than a Valuation Date, the sum of (i) the Accreted Value on the preceding Valuation Date and (ii) the product of (A) a fraction, the numerator of which is the number of days having elapsed from the preceding Valuation Date and the denominator of which is the number of days from such preceding Valuation Date to the next succeeding Valuation Date and (B) the difference between the Accreted Values for such Valuation Dates. For purposes of this definition, the number of days having elapsed from the preceding Valuation Date and the number of days from the preceding Valuation Date to the next succeeding Valuation Date shall be calculated on the basis of a three hundred sixty (360) day year of twelve (12) thirty (30)-day months.

“Additional Project Contracts” means any contract, agreement, letter of intent, understanding or instrument (excluding Principal Project Contracts) entered into by (or on behalf of) the Borrower after the Effective Date and on or prior to the Substantial Completion Date, providing for the design, construction, testing, start-up, safety, financial services, operation or

maintenance of the Project, or otherwise relating to the Project, including any master contract providing goods or services for multiple projects or assets including the Project; provided, however, that a contract or agreement shall not constitute an Additional Project Contract if it (a) is entered into in the ordinary course of business in connection with the furnishing of goods or the performance of services, (b) commits the Borrower to spend, or is reasonably expected to involve expenditures by the Borrower in one contract or a series of related contracts of \$2,500,000 or less in any Borrower Fiscal Year and (c) is for a term not exceeding two (2) years.

“**Additional Rights**” means those additional rights provided to the USDOT Lender by the Borrower pursuant to Section 17(n) (*Additional Rights*).

“**Additional Sales Tax Obligations**” means any borrowings or indebtedness permitted under Section 17(a) (*Indebtedness*) and under the Sales Tax Trust Agreement, which Additional Sales Tax Obligations are issued or incurred (a) after the Effective Date, (b) in accordance with the requirements set forth in the Sales Tax Trust Agreement and (c) when no Event of Default under this Agreement has occurred and is continuing.

“**Agreement**” has the meaning provided in the preamble hereto.

“**Anticipated RRIF Loan Disbursement Schedule**” means, collectively, the schedules set forth in **Exhibit B**, reflecting the anticipated disbursement of proceeds of each Tranche, as such schedule may be amended from time to time pursuant to Section 4(c) (*Disbursement Conditions*).

“**Anti-Corruption Laws**” means all laws, rules and regulations of any jurisdiction from time to time concerning or relating to bribery or corruption.

“**Anti-Money Laundering Laws**” means all U.S. and other applicable laws, rules and regulations of any jurisdiction from time to time concerning or related to anti-money laundering, including but not limited to those contained in the Bank Secrecy Act and the Patriot Act.

“**Appreciated Value**” means, with respect to any Deferred Income Bond (a) as of any Valuation Date, the amount set forth for such date or period as determined in accordance with the Supplemental Sales Tax Trust Agreement authorizing such Deferred Income Bond, (b) as of any date prior to the Interest Commencement Date, other than a Valuation Date, the sum of (i) the Appreciated Value on the preceding Valuation Date and (ii) the product of (A) a fraction, the numerator of which is the number of days having elapsed from the preceding Valuation Date and the denominator of which is the number of days from such preceding Valuation Date to the next succeeding Valuation Date and (B) the difference between the Appreciated Values for such Valuation Dates, and (c) as of any date on and after the Interest Commencement Date, the Appreciated Value on the Interest Commencement Date. For purposes of this definition, the number of days having elapsed from the preceding Valuation Date and the number of days from the preceding Valuation Date to the next succeeding Valuation Date shall be calculated on the basis of a three hundred sixty (360) day year of twelve (12) thirty (30)-day months.

“**Assessment**” means any assessment received by the Borrower pursuant to Section 9 of the Enabling Act.

“Assessment Floor Amount” shall mean the amount below which the amount assessed on cities and towns pursuant to Section 9 of the Enabling Act shall not be reduced in accordance with Section 35T.

“Assessment Floor Coverage Ratio” means, for any Borrower Fiscal Year, (a) the sum of (i) the Assessment Floor Amount plus (ii) the Residual Sales Tax divided by (b) “Net Debt Service” on outstanding “Assessment Bonds” (as such terms are defined in the Assessment Trust Agreement). In the event that any Bond Anticipation Notes are Outstanding with respect to any such Borrower Fiscal Year, such calculation shall be prepared based upon an assumption that there are Sales Tax Bonds Outstanding in a principal amount equal to such Outstanding Bond Anticipation Notes, which Sales Tax Bonds mature in forty (40) years, bear interest at the Estimated Average Interest Rate, the “Principal Installments” (as defined in the Sales Tax Trust Agreement) and interest due on such Sales Tax Bonds come due in substantially equal annual payments, and are Senior Sales Tax Bonds or Subordinated Sales Tax Bonds, depending on which of the foregoing such Bond Anticipation Notes were designated pursuant to the authorizing resolution therefor in accordance with Section 205 of the Sales Tax Trust Agreement.

“Assessment Trust Agreement” means that certain Assessment Trust Agreement, dated as of July 1, 2000, between the Borrower and the Assessment Trustee.

“Assessment Trust Documents” means the Assessment Trust Agreement, each “Supplemental Trust Agreement,” each “Hedging Agreement,” each “Credit Facility,” each “Liquidity Facility,” and each other agreement, instrument and document executed and delivered pursuant to or in connection with any of the foregoing (as each such term is defined in the Assessment Trust Agreement).

“Assessment Trustee” means the “Trustee” as defined under the Assessment Trust Agreement.

“ATC” means automatic train control.

“ATC Tranche” means the secured loan made by the USDOT Lender to the Borrower on the terms and conditions set forth herein, pursuant to the RRIF Act, in a principal amount not to exceed \$369,064,667, to be used in respect of Eligible Project Costs for Phase II paid or incurred by or on behalf of the Borrower.

“Bank Secrecy Act” means the Bank Secrecy Act of 1970 (Titles I and II of Pub. L. No. 91-508, codified as amended in various sections of 12 U.S.C. and 31 U.S.C.), as amended, and the regulations promulgated thereunder.

“Bankruptcy Related Event” means, with respect to any Person,

(a) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of such Person or any of its debts, or of a substantial part of the assets thereof, under any Insolvency Laws, or (ii) the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official for such Person or for a substantial part of the assets thereof and, in any case referred to in the foregoing subclauses (i) and (ii), such proceeding or petition shall continue undismissed

for sixty (60) days or an order or decree approving or ordering any of the foregoing shall be entered;

(b) such Person shall (i) apply for or consent to the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official therefor or for a substantial part of the assets thereof, (ii) generally not be paying its debts as they become due unless such debts are the subject of a bona fide dispute, or become unable to pay its debts generally as they become due, (iii) solely with respect to the Borrower, fail to make two (2) consecutive payments of RRIF Debt Service in accordance with the provisions of Section 9 (*Payment of Principal and Interest*), (iv) make a general assignment for the benefit of creditors, (v) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition with respect to it described in clause (a) of this definition, (vi) commence a voluntary proceeding under any Insolvency Law, or file a voluntary petition seeking liquidation, reorganization, an arrangement with creditors or an order for relief under any Insolvency Law, (vii) file an answer admitting the material allegations of a petition filed against it in any proceeding referred to in the foregoing subclauses (i) through (vi), inclusive, of this clause (b), or (viii) take any action for the purpose of effecting any of the foregoing, including seeking approval or legislative enactment by any Governmental Authority to authorize commencement of a voluntary proceeding under any Insolvency Law; or

(c) solely with respect to the Borrower, the Sales Tax Trustee shall transfer, pursuant to directions issued by the Sales Tax Bondholders, funds on deposit in any of the Pledged Sales Tax Accounts upon the occurrence and during the continuation of an “Event of Default” (as defined in the Sales Tax Trust Agreement) under the Sales Tax Trust Documents for application to the prepayment or repayment of any principal amount of the Sales Tax Bonds other than in accordance with the provisions of the Sales Tax Trust Agreement.

“**Base Case Financial Model**” means a financial model prepared by the Borrower forecasting (a) Dedicated Sales Tax revenue, (b) Assessment revenue, (c) Senior Net Debt Service and (d) Subordinated Net Debt Service (and specifically identifying the portions of Subordinated Net Debt Service attributable to RRIF Debt Service in respect of each Tranche, in each case, for time periods through the Final Maturity Date and based upon assumptions and methodology provided by the Borrower and acceptable to the USDOT Lender as of the Effective Date, which model shall be provided to the USDOT Lender as a fully functional Microsoft Excel-based financial model or such other format requested by the USDOT Lender.

“**Base Case Projections**” means the initial forecast for (a) Dedicated Sales Tax revenue, (b) Assessment revenue, (c) Senior Net Debt Service and (d) Subordinated Net Debt Service, in each case, prepared as of the Effective Date using the Base Case Financial Model.

“**Base Revenue Floor Amount**” means the base revenue amount (as defined in Section 35T), as most recently certified by the Comptroller of the Commonwealth in accordance with Section 35T.

“**Base Revenue Floor Coverage Ratio**” means, for any Borrower Fiscal Year, (a) the Base Revenue Floor Amount for such Borrower Fiscal Year divided by (b) the sum of (i) the Combined Net Debt Service for all Series of Sales Tax Bonds Outstanding, plus (ii) the aggregate estimated

payments due and payable on the Prior Obligations, in each case, for such Borrower Fiscal Year. In the event that any Bond Anticipation Notes are Outstanding with respect to any such Borrower Fiscal Year, such calculation shall be prepared based upon an assumption that there are Sales Tax Bonds Outstanding in a principal amount equal to such Outstanding Bond Anticipation Notes, which Sales Tax Bonds mature in forty (40) years, bear interest at the Estimated Average Interest Rate, the “Principal Installments” (as defined in the Sales Tax Trust Agreement) and interest due on such Sales Tax Bonds come due in substantially equal annual payments, and are Senior Sales Tax Bonds or Subordinated Sales Tax Bonds, depending on which of the foregoing such Bond Anticipation Notes were designated pursuant to the authorizing resolution therefor in accordance with Section 205 of the Sales Tax Trust Agreement.

“**Bond**” means any bonds (including the RRIF Bonds) or any other evidences of indebtedness for borrowed money issued by the Borrower from time to time pursuant to Section 202 of the Sales Tax Trust Agreement and the terms of the applicable Supplemental Sales Tax Trust Agreement.

“**Bond Anticipation Note**” means a note issued pursuant to Section 205 of the Sales Tax Trust Agreement.

“**Bond Counsel**” means a firm of nationally-recognized attorneys-at-law experienced in legal work relating to the issuance of municipal bonds selected by the Borrower.

“**Borrower**” has the meaning provided in the preamble hereto.

“**Borrower Authorized Officer**” means the Chief Administrator, the General Manager, the Chief Financial Officer, the Treasurer or the General Counsel of the Borrower, and when used with reference to an act or document of the Borrower also means any other person authorized by resolution of the Borrower to perform the act or sign the document in question.

“**Borrower Fiscal Year**” means (a) as of the Effective Date, a fiscal year of the Borrower commencing on the first day of July of any calendar year and ending on the last day of June of the immediately succeeding calendar year or (b) such other fiscal year as the Borrower may hereafter adopt after giving thirty (30) days’ prior written notice to the USDOT Lender, as provided in Section 17(g) (*Organizational Documents; Fiscal Year*).

“**Borrower’s Authorized Representative**” means any Person who shall be designated as such pursuant to Section 26 (*Borrower’s Authorized Representative*).

“**Business Day**” means any day other than a Saturday, a Sunday or a day on which offices of the Government or the Commonwealth are authorized to be closed or on which commercial banks are authorized or required by law, regulation or executive order to be closed in New York, New York or Boston, Massachusetts.

“**Capital Appreciation Bonds**” means any Sales Tax Bond as to which interest is payable only at the maturity or prior redemption of such Sales Tax Bond. For the purposes of (a) receiving payment of the Redemption Price if a Sales Tax Capital Appreciation Bond is redeemed prior to maturity or (b) computing the principal amount of Sales Tax Bonds held by the registered owner of a Sales Tax Capital Appreciation Bond in giving to the Borrower or the Sales Tax Trustee any

notice, consent, request, or demand pursuant to the Sales Tax Trust Agreement for any purpose whatsoever, unless otherwise provided in the Supplemental Sales Tax Trust Agreement authorizing Sales Tax Bonds which are Capital Appreciation Bonds, the principal amount of a Sales Tax Capital Appreciation Bond shall be deemed to be its Accreted Value.

“**Code**” means the Internal Revenue Code of 1986, as amended from time to time.

“**Combined Net Debt Service**” means Senior Net Debt Service plus Subordinated Net Debt Service.

“**Commonwealth**” has the meaning provided in the preamble hereto.

“**Congress**” has the meaning provided in the recitals hereto.

“**Contractual Obligation**” means, as to any Person, any contractual provision or any pledge issued or entered into by such Person under any indenture, resolution, contract, agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property or assets is bound.

“**Control**” means, when used with respect to any particular Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or partnership or other ownership interests, by contract or otherwise, and the terms “**Controlling**” and “**Controlled by**” have meanings correlative to the foregoing.

“**CPI**” means the Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City Average for All Items, 1982-84=100 (not seasonally adjusted), or its successor, published by the Bureau of Labor Statistics, with, unless otherwise specified herein, January 2020 as the base period.

“**Credit Facility**” means an irrevocable letter of credit, surety bond, loan agreement, Standby Purchase Agreement or other agreement, facility or insurance or guaranty arrangement issued or extended by a “**Qualified Institution**” (as defined in the Sales Tax Trust Agreement), pursuant to which the Borrower is entitled to obtain moneys to pay the principal, purchase price or Redemption Price of Sales Tax Bonds due in accordance with their terms or tendered for purchase or redemption, plus accrued interest thereon to the date of payment, purchase or redemption thereof, in accordance with the Sales Tax Trust Agreement whether or not the Borrower is in default under the Sales Tax Trust Agreement.

“**Credit Risk Premium**” means a nonrefundable fee in the amount of (a) 0% of each disbursement of the PTC Tranche, (b) 0% of each disbursement of the ATC Tranche and (c) 0% of each disbursement of the Resiliency Tranche.

“**Debt Service**” means, for any Borrower Fiscal Year, as of any date of calculation and with respect to any Outstanding Sales Tax Bonds, an amount equal to the sum of (a) interest accruing during such period on such Outstanding Sales Tax Bonds and (b) that portion of each “**Principal Installment**” (as defined in the Sales Tax Trust Agreement) for such Outstanding Sales Tax Bonds which would accrue during such period if such “**Principal Installment**” were deemed

to accrue daily in equal amounts from the next preceding “Principal Installment” due date for such Outstanding Sales Tax Bonds or, if (i) there shall be no such preceding “Principal Installment” due date or (ii) such preceding “Principal Installment” due date is more than one year prior to the due date of such “Principal Installment,” then, from a date one year preceding the due date of such “Principal Installment” or from the date of issuance of such Sales Tax Bonds, whichever date is later. Such interest and “Principal Installments” for such Outstanding Sales Tax Bonds shall be calculated on the assumption that (A) no Sales Tax Bonds (except for Put Bonds actually tendered for payment and not purchased in lieu of redemption prior to the redemption date thereof) Outstanding at the date of calculation will cease to be Outstanding except by reason of the payment of each “Principal Installment” on the due date thereof and (B) the principal amount of Put Bonds tendered for payment and not purchased in lieu of redemption prior to the redemption date thereof shall be deemed to accrue on the date required to be paid pursuant to such tender. For purposes of this definition, the principal and interest portions of the Accreted Value of a Sales Tax Capital Appreciation Bond and the Appreciated Value of a Deferred Income Bond becoming due at maturity or by virtue of a “Sinking Fund Installment” (as defined in the Sales Tax Trust Agreement) shall be included in the calculations of accrued and unpaid and accruing interest or “Principal Installments” only during the year such amounts become due for payment unless otherwise provided in the applicable Supplemental Sales Tax Trust Agreement. Debt Service on Senior Sales Tax Bonds and Subordinated Sales Tax Bonds with respect to which there is a Qualified Hedge shall be calculated consistent with Section 104 of the Sales Tax Trust Agreement. Debt Service shall include costs of Credit Facilities and Liquidity Facilities and reimbursement to providers of “Credit Enhancement” (as defined in the Sales Tax Trust Agreement), in each case if and to the extent payable from the applicable Debt Service Fund. Debt Service on Bond Anticipation Notes shall not include any “Principal Installments” thereon. With respect to any Variable Interest Rate Bonds, for purposes of calculating Debt Service hereunder, such Variable Interest Rate Bonds shall be deemed to bear interest at the Estimated Average Interest Rate.

“**Debt Service Payment Commencement Date**” means, with respect to each Tranche, the first Semi-Annual Payment Date to occur following the initial disbursement under such Tranche.

“**Dedicated Sales Tax**” means the greater of (a) the Base Revenue Floor Amount and (b) the “dedicated sales tax revenue amount” (as defined in Section 35T), in either case, received by the Borrower.

“**Default Rate**” means an interest rate equal to the sum of (a) the applicable RRIF Interest Rate, plus (b) 200 basis points.

“**Deferred Income Bond**” means any Sales Tax Bond (a) as to which interest accruing thereon prior to the applicable Interest Commencement Date of such Sales Tax Bond is (i) compounded on each Valuation Date for such Deferred Income Bond and (ii) payable only at the maturity or prior redemption of such Sales Tax Bond and (b) as to which interest accruing after the applicable Interest Commencement Date is payable on the first interest payment date immediately succeeding the Interest Commencement Date and thereafter on the dates specified in or determined pursuant to the Supplemental Sales Tax Trust Agreement authorizing the Sales Tax Bond. For the purposes of (i) receiving payment of the Redemption Price if a Deferred Income Bond is redeemed prior to maturity or (ii) computing the principal amount of Sales Tax Bonds held by the registered owner of a Deferred Income Bond in giving to the Borrower or the Sales

Tax Trustee any notice, consent, request, or demand pursuant to this Trust Agreement for any purposes whatsoever, unless otherwise provided in the Supplemental Sales Tax Trust Agreement authorizing such Deferred Income Bond, the principal amount of a Deferred Income Bond shall be deemed to be its Appreciated Value.

“Design, Furnish and Install Contract” means the Agreement Contract No. 42-14, dated December 18, 2015, between the Borrower and Ansaldo STS USA, Inc. (n/k/a Hitachi Rail) for System Integrator Services for the Design, Furnishing, Testing and Placing into Service Positive Train Control; as amended from time to time, including by that certain change order No. 21, effective as of November 5, 2019, in connection with the performance of Phase II.

“Development Default” means (a) the Borrower fails to diligently prosecute the work related to the Project or (b) the Borrower fails to complete each Phase by the Projected Substantial Completion Date for such Phase.

“Director of Credit” has the meaning set forth in Section 27(b) (*USDOT Lender’s Authorized Representative*).

“Disbursement Date” has the meaning set forth in Section 4(b) (*Disbursement Conditions*).

“Effective Date” means the date of this Agreement, as set forth on the cover page hereof.

“Electronic Signature” means any electronic sound, symbol, or process attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record, including facsimile or email electronic signatures, pursuant to the Massachusetts Uniform Electronic Transactions Act (M.G.L. c. 110G, § 1 et seq.) as amended from time to time.

“Eligible Project Costs” means amounts in the Project Budget, substantially all of which are paid by or for the account of the Borrower in connection with the Project, including prior Project expenditures for the six (6) year period preceding the date of the RRIF Application, all of which shall arise from the following:

- (a) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work and other pre-implementation activities;
- (b) implementation, re-implementation, rehabilitation, replacement and acquisition of real property (including land related to the Project and improvements to land), environmental mitigation, implementation contingencies and acquisition of equipment; or
- (c) capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses and other carrying costs during implementation;

provided, however, that Eligible Project Costs must be consistent with 23 U.S.C. § 601 *et seq.*, 49 U.S.C. § 5302(3) and all other applicable federal law.

“**Eligible Project Costs Documentation**” has the meaning set forth in Section 4(d) (*Disbursement Conditions*).

“**Enabling Act**” has the meaning provided in the preamble hereto.

“**Environmental Laws**” has the meaning provided in Section 14(s) (*Environmental Matters*).

“**ERISA**” means the Employee Retirement Income Security Act of 1974, as amended, and any successor statute of similar import, and the regulations thereunder, in each case as in effect from time to time.

“**ERISA Affiliate**” means any trade or business (whether or not incorporated) that, together with the Borrower, is treated as a single employer under Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

“**Estimated Average Interest Rate**” means, as to any Variable Interest Rate Bond and as of any date of calculation, the “25-year revenue bond index” most recently published in *The Bond Buyer* or, if such index is no longer published, such other substantially comparable index as determined by the Borrower; provided that, to the extent the then-current public rating of the Senior Sales Tax Bonds from a Nationally Recognized Rating Agency is lower than the third highest Rating Category conferred by such Nationally Recognized Rating Agency, for all purposes hereunder, the Estimated Average Interest Rate will be deemed to equal the maximum rate of interest permitted to apply to indebtedness incurred by the Borrower under applicable law.

“**Event of Default**” has the meaning provided in Section 20(a) (*Events of Default and Remedies*).

“**Executive Director**” has the meaning provided in the preamble hereto.

“**Existing Indebtedness**” means indebtedness of the Borrower payable from or secured by a lien on the Sales Tax Trust Estate, that has been issued or incurred prior to the Effective Date, as listed and described in **Schedule III**.

“**Federal Fiscal Year**” or “**FFY**” means the fiscal year of the Government, which is the twelve (12) month period that ends on September 30 of the specified calendar year and begins on October 1 of the preceding calendar year.

“**Final Maturity Date**” means, with regard to (a) the PTC Tranche, the earlier of (i) the Semi-Annual Payment Date occurring on or immediately prior to the twentieth (20th) anniversary of the Substantial Completion Date for Phase I and (ii) January 1, 2039, (b) the ATC Tranche, the earlier of (i) the Semi-Annual Payment Date occurring on or immediately prior to the twentieth (20th) anniversary of the Substantial Completion Date for Phase II and (ii) July 1, 2042, and (c) the Resiliency Tranche, the earlier of (i) the Semi-Annual Payment Date occurring on or immediately prior to the thirtieth (30th) anniversary of the Substantial Completion Date for Phase III and (ii) July 1, 2054.

“**Financial Plan**” means (a) the financial plan to be delivered within sixty (60) days after the Effective Date in accordance with Section 22(a) (*Financial Plan*) and (b) any updates thereto required pursuant to Section 22(a) (*Financial Plan*).

“**Financial Statements**” has the meaning provided in Section 14(z) (*Financial Statements*).

“**Fixed Level Payment**” has the meaning provided in Section 9(d) (*Fixed Level Payment*).

“**FRA**” means the Federal Railroad Administration, an agency of the USDOT.

“**FTA**” means the Federal Transit Administration, an agency of the USDOT.

“**FTA Master Agreement**” means the FTA Master Grant Agreement, FTA MA (26), dated October 1, 2019.

“**FTA Project Management Oversight Requirements**” means the requirements and conditions for project management oversight procedures set forth in 49 U.S.C. § 5327 and in 49 C.F.R. Part 633.

“**FTA Regional Office**” means the United States Department of Transportation, Federal Transit Administration, Region I Office.

“**GASB**” means generally accepted accounting principles for state and local governments, which are the uniform minimum standards of and guidelines for financial accounting and reporting prescribed by the Governmental Accounting Standards Board.

“**Government**” means the United States of America and its departments and agencies.

“**Governmental Approvals**” means all authorizations, consents, approvals, waivers, exceptions, variances, filings, permits, orders, licenses, exemptions and declarations of or with any Governmental Authority.

“**Governmental Authority**” means any federal, state, provincial, county, city, town, village, municipal or other government or governmental department, commission, council, court, board, bureau, agency, authority or instrumentality (whether executive, legislative, judicial, administrative or regulatory), of or within the United States of America or its territories or possessions, including the Commonwealth and its counties and municipalities, and their respective courts, agencies, instrumentalities and regulatory bodies, or any entity that acts “on behalf of” any of the foregoing, whether as an agency or authority of such body.

“**Government Obligations**” means (a) direct obligations of, or obligations on which the timely payment of principal and interest are fully and unconditionally guaranteed by, the Government, (b) bonds, debentures or notes issued by any of the following federal agencies: Banks for Cooperatives, Federal Intermediate Credit Banks, Federal Home Loan Banks, Export-Import Bank of the United States, Government National Mortgage Association or Federal Land Banks, (c) obligations issued or guaranteed by a Person Controlled or supervised by and acting as an instrumentality of the Government pursuant to authority granted by the Congress, and (d)

evidences of ownership of proportionate interests in future interest or principal payments on obligations specified in clauses (a), (b) and (c) of this definition held by a bank or trust company as custodian and which underlying obligations are not available to satisfy any claim of the custodian or any Person claiming through the custodian or to whom the custodian may be obligated, in each case.

“Hedging Agreement” means a payment exchange agreement, swap agreement, forward purchase agreement or any other hedge agreement entered into by the Borrower providing for payments between the parties based on levels of, or changes in interest rates, stock or other indices or contracts to exchange cash flows or a series of payments or contracts, including without limitation, interest rate floors, or caps, options, puts or calls, which allows the Borrower to manage or hedge payment, rate, spread or similar risk with respect to any Series of Sales Tax Bonds, respectively.

“Hedging Threshold” has the meaning provided in Section 16(o) (*Hedging*).

“Historic Dedicated Sales Tax Senior Coverage Ratio” means, for any Borrower Fiscal Year, (a)(i) the Historic Dedicated Sales Tax Revenue Amount less (ii) the aggregate estimated payments due and payable on the Prior Obligations, divided by (b) Senior Net Debt Service, in each case, for such Borrower Fiscal Year. In the event that any Bond Anticipation Notes designated as Senior Sales Tax Bonds pursuant to the authorizing resolution therefor in accordance with Section 205 of the Sales Tax Trust Agreement are Outstanding with respect to any such Borrower Fiscal Year, such calculation shall be prepared based upon an assumption that there are Sales Tax Bonds Outstanding in a principal amount equal to such Outstanding Bond Anticipation Notes, which Sales Tax Bonds mature in forty (40) years, bear interest at the Estimated Average Interest Rate, the “Principal Installments” (as defined in the Sales Tax Trust Agreement) and interest due on such Sales Tax Bonds come due in substantially equal annual payments.

“Historic Dedicated Sales Tax Total Coverage Ratio” means, for any Borrower Fiscal Year, (a)(i) the Historic Dedicated Sales Tax Revenue Amount less (ii) the aggregate estimated payments due and payable on the Prior Obligations, divided by (b) the Combined Net Debt Service on all Outstanding Sales Tax Bonds (including, for the avoidance of doubt, any RRIF Debt Service), in each case, for such Borrower Fiscal Year. In the event that any Bond Anticipation Notes are Outstanding with respect to any such Borrower Fiscal Year, such calculation shall be prepared based upon an assumption that there are Sales Tax Bonds Outstanding in a principal amount equal to such Outstanding Bond Anticipation Notes, which Sales Tax Bonds mature in forty (40) years, bear interest at the Estimated Average Interest Rate, the “Principal Installments” (as defined in the Sales Tax Trust Agreement) and interest due on such Sales Tax Bonds come due in substantially equal annual payments, and are Senior Sales Tax Bonds or Subordinated Sales Tax Bonds, depending on which of the foregoing such Bond Anticipation Notes were designated pursuant to the authorizing resolution therefor in accordance with Section 205 of the Sales Tax Trust Agreement.

“Historic Dedicated Sales Tax Revenue Amount” means, for any Borrower Fiscal Year, the “dedicated sales tax revenue amount” (as defined in Section 35T), for any consecutive twelve (12) of the last twenty-four (24) months, as determined by a Borrower Authorized Officer.

“Implementation Agreements” means (a) the Design, Furnish and Install Contract, (b) the O&M Contract (provided that the O&M Contract shall constitute an Implementation Agreement solely (i) during the Implementation Period and (ii) as to those terms and conditions therein related to the Project), and (c) each other contract to be entered into by the Borrower and one or more Implementation Contractors in connection with the design, procurement, engineering and construction of the Project, including the contracts for the design, engineering, procurement and installation of Phase III.

“Implementation Contractors” means (a) with respect to the Design, Furnish and Install Contract, Ansaldo STS USA, Inc., (b) with respect to the O&M Contract (solely to the extent the O&M Contract shall constitute an Implementation Agreement), Keolis Commuter Services, LLC, and (c) with respect to any other Implementation Agreement that may be entered into, the contractor or contractors party thereto.

“Implementation Period” means the period from the Effective Date through the Substantial Completion Date for Phase III.

“Implementation Schedule” means (a) the initial schedule or schedules on which the construction timetables for the Project are set forth, attached as **Schedule II**, and (b) any updates thereto included in the Financial Plan most recently approved by the USDOT Lender pursuant to Section 22(a)(iii)(B) (*Financial Plan*).

“Indemnitee” has the meaning provided in Section 18 (*Indemnification*).

“Insolvency Laws” means the United States Bankruptcy Code, 11 U.S.C. § 101 *et seq.*, as from time to time amended and in effect, and any state bankruptcy, insolvency, receivership, conservatorship or similar law now or hereafter in effect.

“Interest Commencement Date” means, with respect to any particular Deferred Income Bond, the date prior to the maturity date thereof specified in the Supplemental Sales Tax Trust Agreement authorizing such Deferred Income Bond after which interest accruing on such Deferred Income Bond shall be payable on the first interest payment date immediately succeeding such Interest Commencement Date and periodically thereafter on the dates specified in the Supplemental Sales Tax Trust Agreement authorizing such Deferred Income Bond.

“Level Payment Commencement Date” means, (a) for the PTC Tranche, the applicable Debt Service Payment Commencement Date and (b) for both the ATC Tranche and the Resiliency Tranche, July 1, 2024.

“Level Payment Period” means, with regard to each Tranche, the period commencing on the applicable Level Payment Commencement Date and ending on the Final Maturity Date for such Tranche (or on such earlier date as all amounts due or to become due to the USDOT Lender hereunder have been irrevocably paid in full in cash).

“Lien” means any mortgage, pledge, hypothecation, assignment, mandatory deposit arrangement, encumbrance, attachment, lien (statutory or other), charge or other security interest, or preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever, including any sale-leaseback arrangement, any conditional sale or other title retention

agreement, any financing lease having substantially the same effect as any of the foregoing, and the filing of any financing statement or similar instrument under the UCC or any other applicable law.

“Liquidity Facility” means an irrevocable letter of credit, surety bond, loan agreement, Standby Purchase Agreement, line of credit or other agreement or arrangement issued or extended by a “Qualified Institution” (as defined in the Sales Tax Trust Agreement), pursuant to which the Borrower is entitled to obtain moneys upon the terms and conditions contained therein for the purchase or redemption of Sales Tax Bonds, respectively, tendered for purchase or redemption in accordance with the terms of the Sales Tax Trust Agreement.

“Loan Amortization Schedule” means the Loan Amortization Schedule reflected in the applicable column of **Exhibit G**, as amended from time to time in accordance with Section 7 (*Outstanding RRIF Loan Balance; Revisions to Exhibit G and Loan Amortization Schedule*).

“Material Adverse Effect” means a material adverse effect on (a) the Project as a whole or any Phase individually, or the Pledged Revenues, (b) the business, operations, properties, condition (financial or otherwise) or prospects of the Borrower, (c) the legality, validity or enforceability of any material provision of any RRIF Loan Document or Principal Project Contract, (d) the ability of the Borrower or any other Principal Project Party to enter into, perform or comply with any of its material obligations under any RRIF Loan Document or Principal Project Contract to which it is a party, (e) the validity, enforceability or priority of the Liens provided under the Sales Tax Trust Documents on the Sales Tax Trust Estate in favor of the Secured Parties or (f) the USDOT Lender’s rights or remedies available under any RRIF Loan Document.

“Nationally Recognized Rating Agency” means any nationally recognized statistical rating organization identified as such by the Securities and Exchange Commission.

“NEPA” means the National Environmental Policy Act of 1969, as amended, and any successor statute of similar import, and regulations thereunder, in each case as in effect from time to time.

“NEPA Determination” means the Categorical Exclusion for the Project issued by the FTA Regional Office on February 29, 2016, and supplemented by the letters dated December 14, 2016 and February 15, 2019, issued by FTA, in each case in accordance with NEPA.

“North Side Lines” means those lines on the Borrower’s commuter rail system encompassing Worcester, Eastern Route, Gloucester, Western Route, Fitchburg, Wildcat and the Wachussett Extension.

“O&M Contract” means that certain Commuter Rail Operating Agreement, dated as of February 5, 2014, between Borrower and Keolis Commuter Services, LLC, a Delaware limited liability company.

“OFAC” means the Office of Foreign Assets Control of the United States Department of the Treasury.

“Organizational Documents” means: (a) with respect to any Person that is a Governmental Authority, (i) the constitutional and statutory provisions that are the basis for the existence and authority of such Governmental Authority, including any enabling statutes, ordinances or public charters and any other organic laws establishing such Governmental Authority and (ii) the bylaws, code of regulations, operating procedures or other organizational documents of or adopted by such Governmental Authority by which such Governmental Authority, its powers, operations or procedures or its securities, bonds, notes or other obligations are governed or from which such powers are derived; and (b) with respect to a Person that is not a Governmental Authority, (i) to the extent such Person is a corporation, the certificate or articles of incorporation and the by-laws of such Person, (ii) to the extent such Person is a limited liability company, the certificate of formation or articles of formation or organization and operating or limited liability company agreement of such Person and (iii) to the extent such Person is a partnership, joint venture, trust or other form of business, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization or formation of such Person.

“Other Loan Documents” has the meaning provided in Section 20(a)(vi) (*Cross Default*).

“Outstanding” has the meaning provided in the Sales Tax Trust Agreement.

“Outstanding RRIF Loan Balance” means, collectively, the aggregate principal amount drawn by the Borrower and then outstanding with respect to (a) the PTC Tranche, (b) the ATC Tranche, (c) the Resiliency Tranche and (d) any other loan that may be provided by the USDOT Lender to the Borrower from time to time after the Effective Date, in each case as determined in accordance with Section 7 (*Outstanding RRIF Loan Balance; Revisions to Exhibit G and Loan Amortization Schedule*).

“Patriot Act” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, as amended, and all regulations promulgated thereunder.

“Payment Default” has the meaning provided in Section 20(a)(i) (*Payment Default*).

“Payment Period” means any period of six (6) months from (and including) a Semi-Annual Payment Date to (but excluding) the immediately succeeding Semi-Annual Payment Date, commencing with the six (6) month period ending on the date immediately prior to the Debt Service Payment Commencement Date.

“Permitted Debt” means:

- (a) Existing Indebtedness;
- (b) the RRIF Loan;
- (c) Additional Sales Tax Obligations that satisfy each of the requirements referenced in the definition thereof; and

- (d) indebtedness incurred in respect of Qualified Hedges.

“Permitted Investments” means, with respect to the investment of the proceeds of the RRIF Loan or any account established and maintained pursuant to the USDOT Supplemental Sales Tax Trust Agreement:

- (a) Government Obligations;
- (b) certificates of deposit where the certificates are collaterally secured by securities of the type described in clause (a) of this definition and held by a third party as escrow agent or custodian, of a market value not less than the amount of the certificates of deposit so secured, including interest, but this collateral is not required to the extent the certificates of deposit are insured by the Government;
- (c) repurchase agreements with counterparties that have an Acceptable Credit Rating, when collateralized by securities of the type described in clause (a) of this definition and held by a third party as escrow agent or custodian, of a market value not less than the amount of the repurchase agreement so collateralized, including interest;
- (d) investment agreements or guaranteed investment contracts rated, or with any financial institution whose senior long-term debt obligations are rated, or guaranteed by a financial institution whose senior long-term debt obligations are rated in one of the two (2) highest Rating Categories for comparable types of obligations by any Nationally Recognized Rating Agency; and
- (e) money market funds that invest solely in obligations of the United States of America, its agencies and instrumentalities, and having a rating by a Nationally Recognized Rating Agency equal to the then applicable rating of the United States of America by such Nationally Recognized Rating Agency.

“Permitted Liens” means:

- (a) Liens imposed pursuant to the RRIF Loan Documents;
- (b) Liens imposed by law for taxes that are not yet due or are being contested in compliance with Section 16(n) (*Material Obligations; Liens*);
- (c) judgment Liens in respect of judgments that do not constitute an Event of Default under Section 20(a)(vii) (*Judgments*); and
- (d) Liens permitted to be imposed pursuant to the RRIF Loan Documents on Pledged Revenues that the Borrower is not required under any RRIF Loan Document to deposit or hold in any Pledged Sales Tax Account.

“Person” means and includes an individual, a general or limited partnership, a joint venture, a corporation, a limited liability company, a trust, an unincorporated organization and any Governmental Authority.

“**Phase**” means Phase I, Phase II or Phase III, as applicable.

“**Phase I**” means the implementation of PTC technology and associated infrastructure on the entirety of the Borrower’s commuter rail system, in compliance with the Rail Safety Improvement Act of 2008 and the federally-mandated requirements for positive train control systems set forth at §49 C.F.R. Part 236 Subpart I.

“**Phase II**” means the implementation of ATC technology and associated supporting infrastructure on the North Side Lines, in connection with the Borrower’s compliance with the Rail Safety Improvement Act of 2008 and the federally-mandated requirements for positive train control systems set forth at §49 C.F.R. Part 236 Subpart I.

“**Phase III**” means the design, engineering, procurement and installation (including burial) of a fiber optic cable network supporting the commuter rail system of the Borrower (excluding areas where fiber optic cable has already been installed and buried as of the Effective Date and which is unrelated to the commuter rail system of the Borrower).

“**Pledged Revenue Fund**” has the meaning provided in the Sales Tax Trust Agreement.

“**Pledged Revenues**” means (a) Dedicated Sales Tax, (b) payments received by the Borrower from a provider of any Hedging Agreement that is not a Qualified Hedge and (c) “Alternate Revenues” (as defined in the Sales Tax Trust Agreement), if any.

“**Pledged Sales Tax Accounts**” means the Pledged Revenue Fund, the Senior Debt Service Fund, the Senior Debt Service Reserve Fund, the Subordinated Debt Service Fund (including, for the avoidance of doubt, the USDOT Loan Account therein) and the Subordinated Debt Service Reserve Fund.

“**Principal Project Contracts**” means each Implementation Agreement.

“**Principal Project Party**” means any Person (other than the Borrower) party to a Principal Project Contract.

“**Prior Obligations**” means debt service and other payment obligations of the Borrower due and payable under financing obligations for which the Commonwealth has pledged its credit or “contract assistance” or is otherwise liable or as to which the Borrower has covenanted to maintain “net cost of service” or “contract assistance” (both as defined in the Enabling Act as in effect prior to July 1, 2000), including without limitation the Borrower’s General Transportation System Bonds issued pursuant to the General Bond Resolution adopted February 15, 1967, as amended and supplemented, but excluding the Borrower’s \$160,000,000 of 1999 Series B Notes due September 1, 2000.

“**Project**” means (a) the implementation of PTC technology and associated infrastructure on the entirety of the Borrower’s commuter rail system, in compliance with the Rail Safety Improvement Act of 2008 and the federally-mandated requirements for positive train control systems set forth at §49 C.F.R. Part 236 Subpart I, (b) the implementation of ATC technology and associated supporting infrastructure on the North Side Lines, in connection with the Borrower’s compliance with the Rail Safety Improvement Act of 2008 and the federally-mandated

requirements for positive train control systems set forth at §49 C.F.R. Part 236 Subpart I and (c) the design, engineering, procurement and installation (including burial) of a fiber optic cable network supporting the commuter rail system of the Borrower (excluding areas where fiber optic cable has already been installed and buried as of the Effective Date and which is unrelated to the commuter rail system of the Borrower).

“**Project BANs**” means (a) with respect to Phase I, the 2017 Series bond anticipation notes in the amount of \$271,095,000, and (b) with respect to Phase II and Phase III, any commercial paper bond anticipation notes issued from time to time during or prior to the Implementation Period, in an outstanding par amount not to exceed, in the aggregate, the sum of the ATC Tranche and the Resiliency Tranche, the proceeds of which are to be applied to the payment of Eligible Project Costs.

“**Project Budget**” means the budget for the Project in the aggregate amount of \$992,348,831 attached to this Agreement as **Schedule I** (*Project Budget*) showing a summary of Total Project Costs with a breakdown of all Eligible Project Costs and the estimated sources and uses of funds for the Project, as amended from time to time with the approval of the USDOT Lender.

“**Projected Substantial Completion Date**” means, with regard to (a) Phase I, December 31, 2020, (b) Phase II, March 31, 2022, and (c) Phase III, July 14, 2024, as applicable, in each case as such date may be adjusted in accordance with Section 22(a)(iii)(B) (*Financial Plan*) or upon approval by the USDOT Lender pursuant to a Recovery Plan delivered in accordance with Section 23(b)(ii) (*Recovery Plan*).

“**Prospective Event of Default**” has the meaning set forth in Section 4(e) (*Disbursement Conditions*).

“**PTC**” means positive train control.

“**PTC Tranche**” means the secured loan made by the USDOT Lender to the Borrower on the terms and conditions set forth herein, pursuant to the RRIF Act, in a principal amount not to exceed \$382,000,000, to be used in respect of Eligible Project Costs for Phase I paid or incurred by or on behalf of the Borrower.

“**Put Bonds**” means any Sales Tax Bond which by its terms may be tendered by and at the option of the holder thereof for payment prior to the stated maturity or redemption date thereof.

“**Qualified Hedge**” means, to the extent from time to time permitted by law, with respect to any Sales Tax Bond, any Hedging Agreement entered into with a Qualified Institution and meeting the requirements of Section 16(o) (*Hedging*) and subsection 1 of Section 104 of the Sales Tax Trust Agreement and any “Qualified Hedge Agreement” (as defined in the Sales Tax Trust Agreement) in effect as of the Effective Date.

“**Qualified Institution**” means any bank or trust company authorized to engage in the banking business that is organized under or licensed as a branch or agency under the laws of the United States of America or any state thereof that has an Acceptable Credit Rating.

“**Rating Category**” means one of the generic rating categories of a Nationally Recognized Rating Agency without regard to any refinement or gradation of such rating by a numerical modifier or otherwise.

“**Recovery Plan**” means a recovery plan with respect to the implementation of the Project that has been prepared by the Borrower and delivered to the USDOT Lender and FTA Regional Office, which recovery plan includes a certificate from the Borrower’s Authorized Representative concluding that Substantial Completion is likely to occur by the date specified in such recovery plan.

“**Redemption Price**” means with respect to any Sales Tax Bond, the principal amount thereof plus the applicable premium, if any, payable upon redemption thereof pursuant to the Sales Tax Trust Agreement, but excluding accrued interest.

“**Related Documents**” means the RRIF Loan Documents, the Assessment Trust Documents and the Principal Project Contracts.

“**Requisition**” has the meaning provided in Section 4(a) (*Disbursement Conditions*).

“**Residual Sales Tax**” means, for any Borrower Fiscal Year, (a) the greater of (i) the Base Revenue Floor Amount and (ii) the Historic Dedicated Sales Tax Revenue Amount less (b) the sum of (i) the estimated debt service on Prior Obligations, (ii) Senior Net Debt Service, (iii) Subordinated Net Debt Service (including, for the avoidance of doubt, any RRIF Debt Service) and (iv) debt service on any other indebtedness issued under the Sale Tax Trust Agreement and secured by a pledge of or a security interest in and payable from the Dedicated Sales Tax, in each case, in respect of such Borrower Fiscal Year.

“**Resiliency Tranche**” means the secured loan made by the USDOT Lender to the Borrower on the terms and conditions set forth herein, pursuant to the RRIF Act, in a principal amount not to exceed \$100,085,333, to be used in respect of Eligible Project Costs for Phase III paid or incurred by or on behalf of the Borrower.

“**Revised Financial Model**” means the Base Case Financial Model, as it may be updated from time to time pursuant to Section 22(a)(ii)(C) (*Financial Plan*).

“**RRIF**” has the meaning provided in the recitals hereto.

“**RRIF Act**” has the meaning provided in the recitals hereto.

“**RRIF Application**” has the meaning provided in the recitals hereto.

“**RRIF Bonds**” means, collectively, the three (3) Bonds delivered by the Borrower in substantially the form of **Exhibit A**.

“**RRIF Debt Service**” means with respect to any Semi-Annual Payment Date occurring on or after the earliest Debt Service Payment Commencement Date, the principal portion of the Outstanding RRIF Loan Balance and any interest payable thereon (including interest accruing after the date of any filing by the Borrower of any petition in bankruptcy or the commencement of any

bankruptcy, insolvency or similar proceeding with respect to the Borrower), in each case (a) as set forth on **Exhibit G**, and (b) due and payable on such Semi-Annual Payment Date in accordance with the provisions of Section 9(c) (*Payment of RRIF Debt Service*) and 9(d) (*Fixed Level Payments*).

“**RRIF Interest Rate**” has the meaning provided in Section 6 (*Interest Rate*).

“**RRIF Loan**” means, collectively, the PTC Tranche, the ATC Tranche and the Resiliency Tranche.

“**RRIF Loan Documents**” means this Agreement, the RRIF Bonds, the USDOT Supplemental Sales Tax Trust Agreement, the Sales Tax Trust Agreement and the other Sales Tax Trust Documents.

“**Sales Tax Bond**” means any Bond or Bonds and any Bond Anticipation Notes authenticated and delivered under the Sales Tax Trust Agreement.

“**Sales Tax Bondholder**” means, when used with respect to the RRIF Bonds, the USDOT Lender and, when used with respect to any other Bond, the registered owner of such Bond.

“**Sales Tax Trust Agreement**” means that certain Sales Tax Trust Agreement, dated as of July 1, 2000, between the Borrower and the Sales Tax Trustee.

“**Sales Tax Trust Documents**” means the Sales Tax Trust Agreement, each Supplemental Sales Tax Trust Agreement (including, for the avoidance of doubt, the USDOT Supplemental Sales Tax Trust Agreement), each Hedging Agreement, each Credit Facility, each Liquidity Facility and each other agreement, instrument and document executed and delivered pursuant to or in connection with any of the foregoing (including, for the avoidance of doubt, the RRIF Bonds).

“**Sales Tax Trust Estate**” means all (i) Pledged Revenues, (ii) “Dedicated Payments” (as defined in the Sales Tax Trust Agreement), (iii) amounts received from the trustee under the Assessment Trust Agreement in accordance with Sections 504, 506 and 508 of the Sales Tax Trust Agreement, (iv) the “Deficiency Fund” and the “Capital Maintenance Fund” (as defined in the Sales Tax Trust Agreement) including the investment, if any, thereof, and (v) the Pledged Sales Tax Accounts and all other “Funds” and “Accounts” (as defined in the Sales Tax Trust Agreement) established by the Sales Tax Trust Agreement.

“**Sales Tax Trustee**” means U.S. Bank National Association, a national association established under the laws of the United States of America, in its capacity as “Trustee” under the Sales Tax Trust Agreement or any permitted successor thereto under the Sales Tax Trust Agreement.

“**Sanctioned Country**” means, at any time, a country or territory which is itself the subject or target of any Sanctions.

“**Sanctioned Person**” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by OFAC or the U.S. Department of State, (b) any Person

operating, organized or resident in a Sanctioned Country or (c) any Person owned or controlled by any such Person or Persons.

“**Sanctions**” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the Government, including those administered by OFAC or the U.S. Department of State.

“**Secretary**” means the United States Secretary of Transportation.

“**Section 35T**” means Section 35T of Chapter 10 of the Massachusetts General Laws.

“**Secured Parties**” means the Sales Tax Trustee, the USDOT Lender, any other Sales Tax Bondholders, and any Qualified Institution or “Qualified Institution” (as defined in the Sales Tax Trust Agreement) providing a Credit Facility, Liquidity Facility or Qualified Hedge Agreement.

“**Semi-Annual Payment Date**” means each January 1 and July 1.

“**Senior Debt Service Fund**” has the meaning provided in the Sales Tax Trust Agreement.

“**Senior Debt Service Reserve Fund**” has the meaning provided in the Sales Tax Trust Agreement.

“**Senior Net Debt Service**” means (a) Debt Service payable on Senior Sales Tax Bonds less (b) the sum of (i) interest accrued or to accrue on such Sales Tax Bonds which is to be paid from deposits in the Senior Debt Service Fund made from the proceeds of Sales Tax Bonds in accordance with a certificate of a Borrower Authorized Officer to the Sales Tax Trustee, (ii) additional amounts transferred to the Senior Debt Service Fund at the Borrower’s direction, (iii) “Investment Income” (as defined in the Sales Tax Trust Agreement) from the Senior Debt Service Fund, the “Pledged Revenue Fund” (as defined in the Sales Tax Trust Agreement), the Senior Debt Service Reserve Fund and any account of the Bond Proceeds Fund established by a Supplemental Sales Tax Trust Agreement and held by the Sales Tax Trustee transferred or to be transferred in the current Borrower Fiscal Year to or retained in the Senior Debt Service Fund and (iv) “Dedicated Payments” (as defined in the Sales Tax Trust Agreement) deposited in the Senior Debt Service Fund pursuant to Section 605 of the Sales Tax Trust Agreement plus (c) Debt Service payable on Bond Anticipation Notes issued in anticipation of Senior Sales Tax Bonds net of any amounts deposited from the proceeds of such notes available in the Senior Debt Service Fund or in another account established in connection with the issuance of such notes for the payment of such Debt Service.

“**Senior Sales Tax Bonds**” has the meaning given to such term in the Sales Tax Trust Agreement.

“**Senior Sales Tax Obligations**” means all Senior Sales Tax Bonds and Subordinated Sales Tax Bonds (excluding the RRIF Bonds), and all Credit Facilities, Liquidity Facilities and Sales Tax Qualified Hedge Agreements entered into in connection with the Senior Sales Tax Bonds and Subordinated Sales Tax Bonds (other than the RRIF Bonds).

“**Series**” shall mean all of the Sales Tax Bonds authenticated and delivered and designated as such by the Borrower pursuant to Article II of the Sales Tax Trust Agreement.

“**Servicer**” means such entity or entities as the USDOT Lender shall designate from time to time to perform, or assist the USDOT Lender in performing, certain duties hereunder.

“**South Side Lines**” means those lines on the Borrower’s commuter rail system encompassing Greenbush, Middleborough, Plymouth/Kingston, Needham, Franklin, Dorchester and Stoughton.

“**Standby Purchase Agreement**” means an agreement by and between the Borrower and another entity pursuant to which such entity is obligated to purchase Put Bonds respectively, tendered for purchase or redeemed in lieu of purchase upon such tender.

“**Subordinated Debt Service Fund**” has the meaning provided in the Sales Tax Trust Agreement.

“**Subordinated Debt Service Reserve Account**” has the meaning provided in the Sales Tax Trust Agreement (which for the avoidance of doubt is not required to be funded pursuant to this Agreement or the USDOT Supplemental Sales Tax Trust Agreement).

“**Subordinated Net Debt Service**” means (a) Debt Service payable on Subordinated Sales Tax Bonds (including, for the avoidance of doubt, the RRIF Bonds) less (b) the sum of (i) interest accrued or to accrue on such Sales Tax Bonds which is to be paid from deposits in the Subordinated Debt Service Fund made from the proceeds of Sales Tax Bonds in accordance with a certificate of a Borrower Authorized Officer to the Sales Tax Trustee and the USDOT Lender, (ii) additional amounts transferred to the Subordinated Debt Service Fund at the Borrower’s direction, (iii) “Investment Income” (as defined in the Sales Tax Trust Agreement) from the Subordinated Debt Service Reserve Fund, the Subordinated Debt Service Fund and any account of the Bond Proceeds Fund established by Supplemental Sales Tax Trust Agreement and held by the Sales Tax Trustee transferred or to be transferred in the current Borrower Fiscal Year to or retained in the Subordinated Debt Service Fund and (iv) “Dedicated Payments” (as defined in the Sales Tax Trust Agreement) deposited in the Subordinated Debt Service Fund pursuant to Section 605 of the Sales Tax Trust Agreement plus (c) Debt Service payable on Bond Anticipation Notes issued in anticipation of Subordinated Sales Tax Bonds net of any amounts deposited from the proceeds of such notes available in the Subordinated Debt Service Fund or in another account established in connection with the issuance of such notes for the payment of such Debt Service.

“**Subordinated Sales Tax Bonds**” has the meaning given to such term in the Sales Tax Trust Agreement (and shall include, for the avoidance of doubt, the RRIF Bonds).

“**Substantial Completion**” means, with regard to (a) Phase I, the Borrower has commenced utilizing PTC during revenue service operations on the entirety of the Borrower’s commuter rail system, (b) Phase II, the Borrower has commenced utilizing ATC during revenue service operations on the entirety of the North Side Lines, and (c) Phase III, the Borrower has completed the burial of the fiber cable in accordance with the applicable Implementation Agreement.

“Substantial Completion Date” means, with respect to each Phase, the date on which such Phase achieves Substantial Completion.

“Supplemental Sales Tax Trust Agreement” means a trust agreement supplementing or modifying the provisions of the Sales Tax Trust Agreement, in each case, entered into by the Borrower and the Sales Tax Trustee in accordance with Article VIII of the Sales Tax Trust Agreement.

“Total Project Costs” means (a) the costs paid or incurred or to be paid or incurred by the Borrower in connection with or incidental to the acquisition, design, implementation and equipping of the Project, including legal, administrative, engineering, planning, design, insurance, and costs of issuance; (b) amounts, if any, required by the Sales Tax Trust Documents or the RRIF Loan Documents to be paid into any fund or account upon the incurrence of the RRIF Loan or the Project BANs; (c) payments when due (whether at the maturity of principal, the due date of interest, or upon optional prepayment) during the Implementation Period in respect of any indebtedness of the Borrower in connection with the Project (other than the RRIF Loan); and (d) costs of equipment and supplies and initial working capital and reserves required by the Borrower for the commencement of operation of the Project, including general administrative expenses and overhead of the Borrower.

“Tranche” means each of the ATC Tranche, the PTC Tranche and/or the Resiliency Tranche, as applicable.

“Uncontrollable Force” means any cause beyond the control of the Borrower, including: (a) a hurricane, tornado, flood or similar occurrence, landslide, earthquake, fire or other casualty, strike or labor disturbance, freight embargo, act of a public enemy, explosion, war, blockade, terrorist act, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, sabotage, or act of God (provided that the Borrower shall not be required to settle any strike or labor disturbance in which it may be involved) or (b) the order or judgment of any federal, state or local court, administrative agency or governmental officer or body, if it is not also the result of willful or negligent action or a lack of reasonable diligence of the Borrower and the Borrower does not control the administrative agency or governmental officer or body; provided that the diligent contest in good faith of any such order or judgment shall not constitute or be construed as a willful or negligent action or a lack of reasonable diligence of the Borrower.

“Uniform Commercial Code” or **“UCC”** means the Uniform Commercial Code, as in effect from time to time in the State.

“USDOT” means the United States Department of Transportation.

“USDOT Loan Account” has the meaning provided in the USDOT Supplemental Sales and Trust Agreement.

“USDOT Capital Account” has the meaning provided in the USDOT Supplemental Sales Tax Trust Agreement.

“USDOT Lender” has the meaning provided in the preamble hereto.

“USDOT Lender’s Authorized Representative” means the Executive Director and any other Person who shall be designated as such pursuant to Section 27 (*USDOT Lender’s Authorized Representative*).

“USDOT Supplemental Sales Tax Trust Agreement” means that certain Forty-First Supplemental Trust Agreement, dated as of the date hereof, between the Borrower and the Trustee in connection with the issuance of the RRIF Bonds.

“Valuation Date” means (a) with respect to any Sales Tax Capital Appreciation Bond the date or dates set forth in the applicable Supplemental Sales Tax Trust Agreement on which specific Accreted Values are assigned to the Sales Tax Capital Appreciation Bond and (b) with respect to any Deferred Income Bond, the date or dates on or prior to the Interest Commencement Date set forth in the Supplemental Sales Tax Trust Agreement authorizing such Deferred Income Bond on which specific Appreciated Values are assigned to the Deferred Income Bond.

“Variable Interest Rate” means a variable interest rate to be borne by any Sales Tax Bond. The method of computing such variable interest rate shall be specified in the Supplemental Sales Tax Trust Agreement authorizing such Sales Tax Bond. Such Supplemental Sales Tax Trust Agreement shall also specify either (a) the particular period or periods of time for which each value of such variable interest rate shall remain in effect, or (b) the time or times upon which any change in such variable interest rate shall become effective.

“Variable Interest Rate Bonds” means a Sales Tax Bond which bears interest at a Variable Interest Rate but does not include any Sales Tax Bond for which the interest rate has been fixed during the remainder of the term thereof to maturity; provided, however, that Sales Tax Bonds bearing a Variable Interest Rate shall not be deemed Variable Interest Rate Bonds if the Borrower has entered into a Qualified Hedge with respect to such Sales Tax Bonds during the period for which such Qualified Hedge is in effect. For purposes of any calculation hereunder, any Variable Interest Rate Bond shall be deemed to bear interest, at all times (for which the interest rate is not yet determined) to the maturity thereof, at the Estimated Average Interest Rate applicable thereto.

Section 2. Interpretation. Unless the context shall otherwise require, the words “hereto”, “herein”, “hereof”, and other words of similar import refer to this Agreement as a whole. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders and vice versa. Words importing the singular number shall include the plural number and vice versa unless the context shall otherwise require. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” Whenever the Borrower’s knowledge is implicated in this Agreement or the phrase “to the Borrower’s knowledge” or a similar phrase is used in this Agreement, the Borrower’s knowledge or such phrase(s) shall be interpreted to mean to the best of the Borrower’s knowledge after reasonable and diligent inquiry and investigation. Unless the context shall otherwise require, references to any Person shall be deemed to include such Person’s successors and permitted assigns. Unless the context shall otherwise require, references to preambles, recitals, sections, subsections, clauses, schedules, exhibits, appendices and provisions are to the applicable preambles, recitals, sections, subsections, clauses, schedules, exhibits, appendices and provisions of this Agreement. The schedules and exhibits to this Agreement, and the appendices and

schedules to such exhibits, are hereby incorporated by reference and made an integral part of this Agreement. The headings or titles of this Agreement and its sections, schedules or exhibits, as well as any table of contents, are for convenience of reference only and shall not define or limit its provisions. Unless the context shall otherwise require, all references to any resolution, contract, agreement, lease or other document shall be deemed to include any amendments or supplements to, or modifications or restatements or replacements of, such documents that are approved from time to time in accordance with the terms thereof and hereof. Every request, order, demand, application, appointment, notice, statement, certificate, consent or similar communication or action hereunder by any party shall, unless otherwise specifically provided, be delivered in writing in accordance with Section 37 (*Notices; Payment Instructions*) and signed by a duly authorized representative of such party.

Section 3. Loan Amounts. The principal amount of the RRIF Loan shall not exceed \$851,150,000 in the aggregate; provided, that (a) the PTC Tranche shall not exceed \$382,000,000, (b) the ATC Tranche shall not exceed \$369,064,667, and (c) the Resiliency Tranche shall not exceed \$100,085,333. RRIF Loan proceeds shall be disbursed from time to time in accordance with Section 4 (*Disbursement Conditions*) and Section 13(b) (*Conditions Precedent to the Disbursements*).

Section 4. Disbursement Conditions.

(a) Proceeds of the RRIF Loan shall be disbursed solely in respect of Eligible Project Costs paid or incurred by or on behalf of the Borrower in connection with the Project and may be used to pay or redeem Project BANs to the extent the proceeds thereof have been previously applied to the payment of Eligible Project Costs incurred by or on behalf of the Borrower from time to time in connection with the Project. In the event Project BANs are issued and used to cover Eligible Project Costs for Phase II or Phase III, the initial disbursement of the ATC Tranche and/or the Resiliency Tranche, as applicable, shall be used to fully repay or redeem the Outstanding principal amount of the applicable Project BANs. Each disbursement under the RRIF Loan shall be made pursuant to a requisition and certification (a “**Requisition**”) in the form set forth in **Appendix One to Exhibit D**, along with all documentation and other information required thereby, submitted by the Borrower to, and approved by, the USDOT Lender, all in accordance with the procedures of **Exhibit D** and subject to the requirements of this Section 4 (*Disbursement Conditions*) and the conditions set forth in Section 13(b) (*Conditions Precedent to the Disbursements*); provided, however, that no disbursements of any proceeds of the RRIF Loan shall be made on or after the date that is one (1) year after the Substantial Completion Date.

(b) The Borrower shall deliver copies of the Requisition to the USDOT Lender, the Servicer (if any) and the FTA Regional Office on or before the first (1st) Business Day of the calendar month immediately prior to the month for which a disbursement is requested. If the USDOT Lender shall expressly approve the Requisition or shall not expressly deny the Requisition, disbursements of funds shall be made on the first (1st) day of the month for which the disbursement has been requested, or on the next succeeding Business Day if such first (1st) day is not a Business Day (the “**Disbursement Date**”). Express USDOT Lender approval or denial shall be substantially in the form annexed hereto as **Appendix Two to Exhibit D**.

(c) [Reserved].

(d) The Borrower shall deliver concurrently to the USDOT Lender, the FTA Regional Office, and the Servicer (if any) invoices and records evidencing Eligible Project Costs (the “**Eligible Project Costs Documentation**”), irrespective of whether such costs were paid with the proceeds of the Project BANs; provided that the Borrower must deliver all Eligible Project Costs Documentation associated with any Eligible Project Costs included in the Requisition delivered to the USDOT Lender, the FTA Regional Office, and the Servicer (if any) by the applicable following date: (i) with respect to Eligible Project Costs incurred by or on behalf of the Borrower prior to, and up to one (1) month after, the Effective Date, by the last Business Day of the second (2nd) month immediately following the Effective Date and (ii) with respect to Eligible Project Costs incurred by or on behalf of the Borrower after the one-month period referred to in clause (i) above, by the last Business Day of each month immediately following such second (2nd) month referred to in clause (i) above.

(e) Each time the Borrower delivers Eligible Project Costs Documentation to the USDOT Lender, the FTA Regional Office, and the Servicer (if any), the Borrower shall also deliver to such entities a certificate, duly executed by the Borrower’s Authorized Representative, certifying as to the following:

(i) the amount of Eligible Project Costs financed from the proceeds of Project BANs for the period of time for which such Eligible Project Costs Documentation is being provided;

(ii) that such proceeds of any Project BANs were expended solely in connection with the payment or reimbursement of Eligible Project Costs;

(iii) the amount of Eligible Project Costs paid by or on behalf of the Borrower from sources other than Project BANs and identifying such sources; and

(iv) that there does not currently exist any Event of Default or an event or condition that, with the lapse of time or giving of notice, would constitute an Event of Default (a “**Prospective Event of Default**”) or, if there does currently exist an Event of Default or Prospective Event of Default, the certificate shall specify all the actions that the Borrower is taking to remedy such Event of Default or Prospective Event of Default.

(f) The Eligible Project Costs Documentation submitted pursuant to Section 4(d) (*Disbursement Conditions*) and the certificate delivered pursuant to Section 4(e) (*Disbursement Conditions*) must be satisfactory to the USDOT Lender. The Eligible Project Costs Documentation must provide sufficient detail to enable the USDOT Lender to verify that such costs are Eligible Project Costs paid by or on behalf of the Borrower. The Eligible Project Costs Documentation and the certificate must provide sufficient detail to enable the USDOT Lender to verify that proceeds of the Project BANs were expended for Eligible Project Costs for the Project, to identify the Phase with respect to which such costs were expended and to audit such other Eligible Project Costs paid by or on behalf of the Borrower. The certificate and the Eligible Project Costs Documentation are intended to document Eligible Project Costs in connection with the reimbursement of such Eligible Project Costs or for the purpose of paying

or redeeming, in whole or part, only those Project BANs in respect of which the proceeds were used to pay such documented Eligible Project Costs. The USDOT Lender shall review each such certificate for compliance with RRIF disbursement requirements. Within thirty (30) days following the receipt of the Eligible Project Costs Documentation and the accompanying certificate, the USDOT Lender shall deliver a notice to the Borrower confirming the Eligible Project Costs set forth in the certificate that have been approved, or notifying the Borrower as to which Eligible Project Costs have not been approved, and confirming the cumulative amount of Eligible Project Costs approved as of the notice date. Such approved amounts of Eligible Project Costs will be disbursed at such time as the Borrower submits the Requisition in respect of such approved amounts in accordance with clauses (a) and (b) above. The Borrower shall not submit the Requisition to the extent that it seeks reimbursement of any Eligible Project Costs for which the related Eligible Project Costs Documentation was not delivered to the USDOT Lender and the Servicer (if any) at least one (1) month prior to the date the Requisition is submitted.

(g) Notwithstanding anything to the contrary set forth in this Agreement (including this Section 4, Section 13 (*Conditions Precedent*) or Exhibit D (*Requisition Procedures*)), in no event shall the USDOT Lender have any obligation to make any disbursement of proceeds of the RRIF Loan to the Borrower if the USDOT Lender's ability to make such disbursement is impaired as a result of a partial or total shutdown of the operations of any federal department or agency (including the USDOT or any of its agencies), or any contractor of any such department or agency, due to a lapse in appropriations by Congress.

Section 5. Term. The term of each Tranche shall extend from the Effective Date to the Final Maturity Date applicable to such Tranche or, in each case, to such earlier date as all amounts due or to become due to the USDOT Lender hereunder in respect of the RRIF Loan have been irrevocably paid in full in cash.

Section 6. Interest Rate. The interest rate with respect to the Outstanding RRIF Loan Balance (the "**RRIF Interest Rate**") shall be (a) one and fifteen hundredths percent (1.15%) per annum for the PTC Tranche, (b) one and twenty-nine hundredths percent (1.29%) per annum for the ATC Tranche, and (c) one and forty-five hundredths percent (1.45%) per annum for the Resiliency Tranche. Interest will be computed on the Outstanding RRIF Loan Balance (as well as, in each case, on any past due interest) from time to time on the basis of a 365-day or 366-day year, as appropriate, for the actual number of days elapsed; provided, however, that in the event of a Payment Default, the Borrower shall pay interest on the Outstanding RRIF Loan Balance, and on any accrued but unpaid interest thereon (including interest accruing after the date of any filing by the Borrower of any petition in bankruptcy or the commencement of any bankruptcy, insolvency or similar proceeding with respect to the Borrower), at the applicable Default Rate from (and including) its due date to (but excluding) the date of actual payment. Upon the occurrence of any other Event of Default, the Borrower shall pay interest on the Outstanding RRIF Loan Balance and on any accrued but unpaid interest thereon (including interest accruing after the date of any filing by the Borrower of any petition in bankruptcy or the commencement of any bankruptcy, insolvency or similar proceeding with respect to the Borrower) at the applicable Default Rate from (and including) the date such Event of Default first occurred, to (but excluding) the earlier to occur of (a) the date such Event of Default has been waived in writing by the USDOT Lender and (b) the date the Outstanding RRIF Loan Balance, together with all accrued but unpaid interest thereon (including all interest owed at the Default Rate) has been irrevocably paid in full in cash.

Section 7. Outstanding RRIF Loan Balance; Revisions to Exhibit G and Loan Amortization Schedule.

(a) The Outstanding RRIF Loan Balance will either be (i) increased on each occasion on which the USDOT Lender disburses loan proceeds hereunder in respect of any Tranche by the amount of such disbursement of loan proceeds; or (ii) decreased upon each payment or prepayment of the Outstanding RRIF Loan Balance by the amount of principal so paid. The USDOT Lender may in its discretion at any time and from time to time, or when so requested by the Borrower, advise the Borrower by written notice of the amount of the Outstanding RRIF Loan Balance, as of the date of such notice, and its determination of such amount in any such notice shall be deemed conclusive absent manifest error.

(b) The USDOT Lender is hereby authorized to modify the Loan Amortization Schedule included in **Exhibit G** from time to time, in accordance with the principles set forth below in this clause (b), to reflect (i) any change to the Outstanding RRIF Loan Balance, (ii) any change to the date and amount of any principal or interest due and payable or to become due and payable by the Borrower under this Agreement, and (iii) such other information as the USDOT Lender may determine is necessary for administering the RRIF Loan and this Agreement. Any calculations described above shall be rounded up to the nearest whole cent. Any partial prepayments of the Outstanding RRIF Loan Balance pursuant to Section 10 (*Prepayment*) shall be applied in accordance with Section 10(c) (*General Prepayment Instructions*) and Section 10(d) (*Application of Prepayments*). Any adjustments or revisions to the Loan Amortization Schedule as a result of changes in the Outstanding RRIF Loan Balance other than prepayments shall be applied to reduce future payments due on the applicable RRIF Bond in inverse order of maturity. Absent manifest error, the USDOT Lender's determination of such matters as set forth on **Exhibit G** shall be conclusive evidence thereof; provided, however, that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Borrower's obligations hereunder or under any other RRIF Loan Document. The USDOT Lender shall provide the Borrower with a copy of **Exhibit G** as revised, but no failure to provide or delay in providing the Borrower with such copy shall affect any of the obligations of the Borrower under this Agreement or the other RRIF Loan Documents.

Section 8. Security and Priority; Flow of Funds.

(a) As security for the RRIF Loan, the Borrower shall pledge, assign and grant, or shall cause to be pledged, assigned and granted, to the Sales Tax Trustee for the benefit of the USDOT Lender, Liens on the Sales Tax Trust Estate in accordance with the provisions of the Sales Tax Trust Documents. The RRIF Loan shall be secured by the Liens on the Sales Tax Trust Estate and shall be subordinate, during any period when a Bankruptcy Related Event with respect to the Borrower has not occurred, only (except as otherwise required by law) to the Lien on the Sales Tax Trust Estate of the Senior Sales Tax Obligations. Upon the occurrence of a Bankruptcy Related Event with respect to the Borrower, the RRIF Loan shall be secured by a first priority security interest in the Sales Tax Trust Estate on parity with the Senior Sales Tax Bonds.

(b) Except (i) for Permitted Liens, or (ii) to the extent otherwise provided in clause (a) of this Section 8 (*Security and Priority; Flow of Funds*), the Sales Tax Trust Estate

will be free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto prior to, or of equal rank with, the pledge of the Borrower created under the Sales Tax Trust Documents, and all organizational, regulatory or other necessary action on the part of the Borrower with respect to the foregoing has been duly and validly taken.

(c) The Borrower shall not use Pledged Revenues to make any payments or satisfy any obligations other than in accordance with the provisions of this Section 8 (*Security and Priority; Flow of Funds*) and the Sales Tax Trust Documents and shall not apply any portion of the Pledged Revenues in contravention of this Agreement or the Sales Tax Trust Documents.

(d) The Sales Tax Trust Agreement provides that all Pledged Revenues shall be deposited in the Pledged Revenue Fund and applied in accordance with the requirements specified in Section 504 of the Sales Tax Trust Agreement (the “**Cash Flow Waterfall**”), a copy of which Section 504 as of the Effective Date, is attached as **Schedule IV** (all capitalized terms used in **Schedule IV** and not otherwise defined in this Agreement shall have the meanings ascribed to such terms in the Sales Tax Trust Agreement).

Section 9. Payment of Principal and Interest.

(a) Payment Dates. The Borrower agrees to pay the principal of and interest on the RRIF Loan by making payments in accordance with the provisions of this Agreement and the Sales Tax Trust Documents on each Semi-Annual Payment Date, beginning on the earliest Debt Service Payment Commencement Date, and on each other date on which payment thereof is required to be made hereunder (including the Final Maturity Date for each Tranche and any date on which payment is due by reason of the acceleration of the maturity of the RRIF Loan or otherwise); provided that if any such date is not a Business Day, payment shall be made on the next Business Day following such date. Any payment of a RRIF Bond shall be treated as a payment of the corresponding Tranche, and any prepayment of principal of the RRIF Loan must specify to which Tranche such prepayment should be applied, and shall be treated as redemption of the corresponding RRIF Bond.

(b) [Reserved].

(c) Payment of RRIF Debt Service. On each Semi-Annual Payment Date occurring on or after the Level Payment Commencement Date for each Tranche, the Borrower shall pay RRIF Debt Service in the amount of one hundred percent (100%) of the Fixed Level Payment in respect of such Tranche, which payment shall be made in accordance with Section 9(d) (*Fixed Level Payments*) and Section 9(f) (*Manner of Payment*).

(d) Fixed Level Payments. On each Semi-Annual Payment Date occurring during any Level Payment Period, the Borrower shall make level payments of principal and interest in respect of each Tranche for which the Level Payment Commencement Date has occurred (each, a “**Fixed Level Payment**”). Each Fixed Level Payment shall be approximately equal in amount to each other Fixed Level Payment for the same Tranche (e.g. each Fixed Level Payment in respect of the PTC Tranche shall be approximately equal in amount to each other Fixed Level Payment for the PTC Tranche). The amount of the Fixed Level Payment shall be calculated in such manner that the Outstanding RRIF Loan Balance (with respect to the

applicable Tranche) as of the applicable Level Payment Commencement Date shall be reduced to \$0 on the Final Maturity Date for such Tranche (assuming that interest accrues during such period on the Outstanding RRIF Loan Balance at the applicable rates per annum set forth in Section 6 (*Interest Rate*) in the absence of an Event of Default, that all Fixed Level Payments are made in a timely manner during such period, and that no additional payments of principal of or interest on such Tranche are made during such period). Within thirty (30) days prior to the beginning of each Level Payment Period, the USDOT Lender may (or, at the written request of the Borrower, shall) give written notice to the Borrower of the amount of such Fixed Level Payment, which amount shall be deemed conclusive absent manifest error, but no failure to provide or delay in providing the Borrower with such notice shall affect any of the obligations of the Borrower under this Agreement or the other RRIF Loan Documents.

(e) [Reserved].

(f) Manner of Payment. Payments under this Agreement and the RRIF Bonds shall be made by wire transfer on or before each Semi-Annual Payment Date in immediately available funds in accordance with payment instructions provided by the USDOT Lender pursuant to Section 37 (*Notices; Payment Instructions*), as modified in writing from time to time by the USDOT Lender. The Borrower may make any such payment or portion thereof (or direct the Trustee to make such payment) with funds then on deposit in the USDOT Loan Account.

(g) Final Maturity Date. Notwithstanding anything herein to the contrary, the Outstanding RRIF Loan Balance with respect to each Tranche and any accrued interest thereon shall be due and payable in full on the Final Maturity Date for such Tranche (or on any earlier date on which the maturity of the RRIF Loan shall be accelerated pursuant to the provisions of Section 20 (*Events of Default and Remedies*)).

(h) RRIF Bonds. As evidence of the Borrower's obligation to repay the RRIF Loan, the Borrower shall issue and deliver to the USDOT Lender, on or prior to the Effective Date, each of the RRIF Bonds substantially in the form of **Exhibit A**, which shall have a maximum principal amount of (i) \$382,000,000 for the PTC Tranche, (ii) \$369,064,667 for the ATC Tranche, and (iii) \$100,085,333 for the Resiliency Tranche, and in each case shall bear interest at the applicable rates set forth in Section 6 (*Interest Rate*).

Section 10. Prepayment.

(a) [Reserved].

(b) Optional Prepayments. The Borrower may prepay the RRIF Loan in whole or in part (and, if in part, the amounts thereof to be prepaid shall be determined by the Borrower; provided, however, that such prepayments shall be in minimum principal amounts of \$1,000,000, at any time or from time to time, without penalty or premium, by paying to the USDOT Lender such principal amount of such Tranche(s) to be prepaid, together with the unpaid interest accrued on the amount of principal so prepaid to the date of such prepayment. Each prepayment of the RRIF Loan shall be made on such date and in such principal amount as shall be specified by the Borrower in a written notice delivered to the USDOT Lender, which notice

shall also specify the amount of unpaid interest accrued to the date of such prepayment on the amount of principal to be prepaid that the Borrower intends to pay concurrently with such prepayment, if any. In the case of any optional prepayment, such written notice shall be delivered to the USDOT Lender not less than ten (10) days or more than thirty (30) days prior to the date set for prepayment, unless otherwise agreed by the USDOT Lender. At any time between delivery of such written notice and the applicable optional prepayment, the Borrower may, without penalty or premium, rescind its announced optional prepayment by further written notice to the USDOT Lender. Anything in this Section 10(b) (*Optional Prepayments*) to the contrary notwithstanding, the failure by the Borrower to make any optional prepayment shall not constitute a breach or default under this Agreement.

(c) General Prepayment Instructions. Upon the USDOT Lender's receipt of confirmation that payment in full of the entire Outstanding RRIF Loan Balance of any Tranche and any unpaid interest with respect thereto (and, with respect to any prepayment of the remaining Outstanding RRIF Loan Balance, any fees that are due and payable) has occurred as a result of an optional prepayment, the USDOT Lender shall surrender the RRIF Bond applicable to such Tranche to the Borrower or its representative at the principal office of the USDOT Lender. If the Borrower prepays only part of the unpaid balance of principal of each RRIF Bond, the USDOT Lender may make a notation on **Exhibit G** indicating the amount of principal of and interest on each RRIF Bond. Absent manifest error, the USDOT Lender's determination of such matters as set forth on **Exhibit G** shall be conclusive evidence thereof; provided, however, that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Borrower's obligations hereunder or under any other RRIF Loan Document. All such partial prepayments of principal shall be applied to reduce future payments due on each RRIF Bond, in inverse order of maturity. If said monies shall not have been so paid on the prepayment date, such principal amount of each RRIF Bond shall continue to bear interest until payment thereof at the applicable rate provided for in Section 6 (*Interest Rate*).

Section 11. [Reserved].

Section 12. Compliance with Laws. The Borrower shall, and shall require its contractors and subcontractors at all tiers for the Project to, comply in all material respects with all applicable federal and state laws. The list of federal laws attached as **Exhibit E** is illustrative of the type of requirements generally applicable to transportation projects and is not intended to be exhaustive. The Borrower shall additionally comply with applicable terms of the FTA Master Agreement. The Borrower acknowledges and agrees that any costs incurred in connection with the Project prior to receipt of all necessary authorizations from the USDOT in respect of such costs (which may include approvals of prior-incurred costs) are incurred solely at the Borrower's risk and expense, will not constitute Eligible Project Costs, and no RRIF Loan proceeds will be disbursed in respect thereof.

Section 13. Conditions Precedent.

(a) Conditions Precedent to Effectiveness. Notwithstanding anything in this Agreement to the contrary, this Agreement shall not become effective until each of the following conditions precedent shall have been satisfied or waived in writing by the USDOT Lender:

(i) The Borrower shall have duly executed and delivered to the USDOT Lender this Agreement and each RRIF Bond, each in form and substance satisfactory to the USDOT Lender.

(ii) The Borrower shall have delivered to the USDOT Lender certified, complete, and fully executed copies of each Sales Tax Trust Document, together with any amendments, waivers or modifications thereto, in each case that has been entered into on or prior to the Effective Date, and each such agreement shall be in full force and effect and in form and substance satisfactory to the USDOT Lender, and all conditions contained in such documents to the closing of the transactions contemplated thereby shall have been fulfilled or effectively waived (provided that for purposes of this Section 13(a)(ii) (*Conditions Precedent to Effectiveness*), any such waiver shall be subject to the USDOT Lender's consent in its sole discretion).

(iii) Counsel to the Borrower shall have rendered to the USDOT Lender legal opinions satisfactory to the USDOT Lender in its sole discretion (including those opinions set forth on **Exhibit H-1**) and Bond Counsel to the Borrower shall have rendered to the USDOT Lender legal opinions satisfactory to the USDOT Lender in its sole discretion (including those opinions set forth on **Exhibit H-2**).

(iv) The Borrower shall have provided a certificate executed by the Borrower's Authorized Representative certifying as to the absence of debarment, suspension or voluntary exclusion from participation in Government contracts, procurement and non-procurement matters substantially in the form attached hereto as **Exhibit C** with respect to the Borrower and its principals (as defined in 2 C.F.R. § 180.995).

(v) [Reserved.]

(vi) [Reserved.]

(vii) The Borrower shall have delivered to the USDOT Lender a certificate from the Borrower's Authorized Representative in the form attached hereto as **Exhibit K** (A) as to the satisfaction of certain conditions precedent set forth in this Section 13(a) (*Conditions Precedent to Effectiveness*) as required by the USDOT Lender, (B) designating the Borrower's Authorized Representative, and (C) confirming such person's position and incumbency.

(viii) The Borrower shall have demonstrated to the USDOT Lender's satisfaction that as of the Effective Date the aggregate of all funds shown in the Base Case Financial Model and in the Project Budget that are committed or forecasted to be available to pay Total Project Costs shall be sufficient to pay all Total Project Costs necessary to achieve Substantial Completion for each Phase.

(ix) The Borrower shall have provided to the USDOT Lender certified, complete, and fully executed copies of each Principal Project Contract, together with any amendments, waivers or modifications thereto, in each case that has been entered into on or prior to the Effective Date, and not previously delivered to the USDOT Lender, each

such Principal Project Contract shall be in full force and effect and in form and substance satisfactory to the USDOT Lender.

(x) The Borrower shall have demonstrated to the USDOT Lender's satisfaction that it has obtained all Governmental Approvals necessary to commence implementation of the Project and that all such Governmental Approvals are final, non-appealable, and in full force and effect (and are not subject to any notice of violation, breach, or revocation).

(xi) The Borrower shall have delivered to the USDOT Lender a certified Base Case Financial Model on or prior to the Effective Date, which Base Case Financial Model shall (A) demonstrate that projected Pledged Revenues are sufficient to meet the RRIF Loan Amortization Schedule and otherwise pay all Senior Sales Tax Obligations and Prior Obligations, (B) demonstrate for each Borrower Fiscal Year through the Final Maturity Date (1) an Assessment Floor Coverage Ratio that is not less than 9.6, (2) a Base Revenue Floor Coverage Ratio that is not less than 2.0, (3) an Historic Dedicated Sales Tax Senior Coverage Ratio that is not less than 2.2, and (4) an Historic Dedicated Sales Tax Total Coverage Ratio that is not less than 2.0, and (C) otherwise be in form and substance acceptable to the USDOT Lender.

(xii) The Borrower shall have provided evidence satisfactory to the USDOT Lender that the Borrower is authorized, pursuant to Section 3 of the Enabling Act to pledge, assign, and grant the Liens on the Sales Tax Trust Estate purported to be pledged, assigned, and granted pursuant to the Sales Tax Trust Documents, without the need for notice to any Person, physical delivery, recordation, filing or further act.

(xiii) Except as otherwise provided in Section 13(b)(xvii), the Borrower shall have paid in full all invoices delivered by the USDOT Lender (or by advisors to the USDOT Lender that have direct billing arrangements with the Borrower) to the Borrower prior to the Effective Date for the reasonable fees and expenses of the USDOT Lender's counsel and financial advisors and any auditors or other consultants employed by the USDOT Lender for the purposes hereof (such reasonableness to be determined in accordance with Part 31 of the Federal Acquisition Regulation).

(xiv) The Borrower shall have (A) provided evidence satisfactory to the USDOT Lender of compliance with NEPA, and (B) complied with all applicable requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 *et seq.*) and Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*) and shall have provided evidence satisfactory to the USDOT Lender of such compliance upon request by the USDOT Lender.

(xv) The USDOT Lender shall have delivered its initial USDOT Lender's Authorized Representative certificate.

(xvi) The Borrower shall have (A) obtained a Federal Employer Identification Number, (B) obtained a Data Universal Numbering System number, and (C)

registered with, and obtained confirmation of active registration status from, the federal System for Award Management (www.SAM.gov).

(xvii) The Borrower shall have delivered to the USDOT Lender (A) a certificate of insurance evidencing (1) that the Borrower has obtained the excess liability insurance policy described in **Schedule 14(u)** and (2) that such excess liability insurance policy reflects the USDOT Lender as an additional insured, (B) a certificate of insurance evidencing that (1) Ansaldo STS USA, Inc. (n/k/a Hitachi Rail) has obtained and maintains liability insurance policies with respect to the Project that meet the requirements of the Design, Furnish and Install Contract and (2) each general liability and excess liability insurance policy maintained by Ansaldo STS USA, Inc. (n/k/a Hitachi Rail) with respect to the Project reflects the USDOT Lender as an additional insured, and (C) at the USDOT Lender's request, copies of such insurance policies.

(xviii) The Borrower shall have provided to the USDOT Lender evidence that the Borrower is duly organized and validly existing under the laws of its jurisdiction of formation, with full power, authority and legal right to own its properties and carry on its business and governmental functions as now conducted, including the following documents, each certified by the Borrower's Authorized Representative: (A) a copy of its Organizational Documents, as in effect on the Effective Date (and certified by the Secretary of State of the State or the state of its formation, to the extent applicable), which Organizational Documents shall be in full force and effect and shall not have been amended since the date of the last amendment thereto shown on the certificate; (B) a copy of all resolutions authorizing the Borrower to execute and deliver, and to perform its respective obligations under, the RRIF Loan Documents to which it is a party, and such resolutions have not been subsequently modified, rescinded or amended, are in full force and effect in the form adopted, and are the only resolutions adopted by the Borrower relating to the matters described therein; and (C) a copy of such further instruments and documents as are necessary, appropriate or advisable to effectuate the foregoing resolutions and to consummate and implement the transactions contemplated by such resolutions and the RRIF Loan Documents.

(xix) The Borrower shall have provided the USDOT Lender records of the Eligible Project Costs incurred prior to the Effective Date, in form and substance satisfactory to the USDOT Lender and in sufficient time prior to the Effective Date to permit the USDOT Lender and the FTA Regional Office to review such costs.

(xx) The Borrower shall have provided to the USDOT Lender certified, complete and fully executed copies of each performance security instrument delivered to or by the Borrower pursuant to any Principal Project Contract as of the Effective Date, each of which shall be (A) in compliance with the requirements for such performance security pursuant to the applicable Principal Project Contract, and (B) in full force and effect.

(xxi) The representations and warranties of the Borrower set forth in this Agreement (including Section 14 (*Representations and Warranties of Borrower*)) and in each other Related Document shall be true and correct, as of the Effective Date, except to

the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).

(xxii) The Borrower shall have provided the USDOT Lender with evidence satisfactory to the USDOT Lender that, as of the Effective Date, the maximum principal amount of the RRIF Loan, together with the amount of any other credit assistance provided under the RRIF Act to the Borrower, does not exceed one hundred percent (100%) of reasonably anticipated Eligible Project Costs.

(xxiii) The Borrower shall have delivered to the USDOT Lender a duly executed certificate from the Sales Tax Trustee in the form attached hereto as **Exhibit J**.

(xxiv) The Borrower shall have provided a certificate from the Borrower's Authorized Representative as to the prohibition on the use of appropriated funds for lobbying substantially in the form attached hereto as **Exhibit O** in accordance with 49 C.F.R. § 20.100(b).

(xxv) [Reserved.]

(xxvi) The Borrower shall have provided to the USDOT Lender evidence satisfactory to the USDOT Lender and the FTA Regional Office that the Borrower has established the Project Budget for the Project that is acceptable to the FTA Regional Office.

(xxvii) No Material Adverse Effect, or any event or condition that could reasonably be expected to result in a Material Adverse Effect, shall have occurred and be continuing since the date the Borrower submitted the RRIF Application to the USDOT Lender.

(xxviii) The Borrower shall have delivered such other agreements, documents, instruments, opinions and other items required by the USDOT Lender, all in form and substance satisfactory to the USDOT Lender, including evidence that all other Project funding requirements have been met (including evidence of other funding sources or funding commitments).

(b) Conditions Precedent to the Disbursements. Notwithstanding anything in this Agreement to the contrary, the USDOT Lender shall have no obligation to make any disbursement of RRIF Loan proceeds to the Borrower (including the initial disbursement hereunder) until each of the following conditions precedent has been satisfied or waived in writing by the USDOT Lender:

(i) (A) With regard to the disbursement of the PTC Tranche only, the Borrower shall have delivered to the USDOT Lender evidence satisfactory to the USDOT Lender that (I) the Borrower has commenced utilizing PTC during revenue service operation on at least one North Side Line and at least one South Side Line and (II) the aggregate amount of Eligible Project Costs paid or incurred by or on behalf of the Borrower in connection with the Project equals no less than \$382,000,000 (as set forth in Eligible Project Costs Documentation approved by the USDOT Lender in accordance with this Agreement); (B) with regard to the disbursement of the ATC Tranche only, the Borrower

shall have delivered to the USDOT Lender evidence satisfactory to the USDOT Lender that the aggregate amount of Eligible Project Costs paid or incurred by or on behalf of the Borrower in connection with the Project equals no less than \$369,064,667 (as set forth in Eligible Project Costs Documentation approved by the USDOT Lender in accordance with this Agreement); and (C) with regard to the disbursement of the Resiliency Tranche only, the Borrower shall have delivered to the USDOT Lender evidence satisfactory to the USDOT Lender that the aggregate amount of Eligible Project Costs paid or incurred by or on behalf of the Borrower in connection with the Project equals no less than \$100,085,333 (as set forth in Eligible Project Costs Documentation approved by the USDOT Lender in accordance with this Agreement).

(ii) The Borrower shall have provided to the USDOT Lender evidence satisfactory to the USDOT Lender of the issuance of Project BANs, if applicable, and the application of the proceeds of such Project BANs to the payment of Eligible Project Costs.

(iii) The Borrower shall have provided the Financial Plan, or the most recent update thereto, in each case in accordance with Section 22(a) (*Financial Plan*).

(iv) To the extent not previously delivered to the USDOT Lender, the Borrower shall have delivered to the USDOT Lender certified, complete and fully executed copies of any Sales Tax Trust Documents entered into after the Effective Date.

(v) To the extent not previously delivered to the USDOT Lender, the Borrower shall have provided certified copies of all Principal Project Contracts and all Additional Project Contracts requested by the USDOT Lender pursuant to Section 16(b) (*Copies of Documents*) or Section 17(e) (*Additional Project Contracts*) (including, in each case, any amendment, modification or supplement thereto) entered into after the Effective Date.

(vi) The Borrower shall have demonstrated to the USDOT Lender's satisfaction that all Governmental Approvals necessary as of such Disbursement Date for the development, implementation, operation and maintenance of the Project have been issued and are in full force and effect.

(vii) Each of the insurance policies obtained by the Borrower and by any applicable Principal Project Party in satisfaction of the conditions in Section 13(a)(xvii) (*Conditions Precedent to Effectiveness*) is in full force and effect, and no notice of termination thereof has been issued by the applicable insurance provider.

(viii) At the time of, and immediately after giving effect to, the disbursement of RRIF Loan Proceeds, (A) no Default or Event of Default hereunder and no event of default (howsoever described or designated) under any other Related Document (other than an event of default of a Principal Project Party) shall have occurred and be continuing, and (B) no material event of default (howsoever described or designated) of any Principal Project Party under any Principal Project Contract shall have occurred and be continuing, and (C) no event or condition that, with the giving of notice, the passage of time or both, would constitute an event of default (howsoever described or designated) of

the Borrower under any other Related Document, in each case, shall have occurred and be continuing.

(ix) To the extent necessary to make the corresponding representations and warranties true, correct, and complete as of such Disbursement Date, the Borrower shall have delivered an updated version of **Schedule 14(u)**, in form and substance satisfactory to the USDOT Lender in its sole discretion.

(x) The representations and warranties of the Borrower set forth in this Agreement (including Section 14 (*Representations and Warranties of Borrower*)) and in each other Related Document shall be true, correct, and complete as of each Disbursement Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).

(xi) No Material Adverse Effect, or any event or condition that could reasonably be expected to result in a Material Adverse Effect, shall have occurred and be continuing since the earlier of the date the Borrower submitted the RRIF Application to the USDOT Lender.

(xii) The Borrower shall have delivered to the USDOT Lender the Requisition, and the Requisition complies with the provisions of Section 4 (*Disbursement Conditions*), and the USDOT Lender shall have approved (or be deemed to have approved in accordance with Section 4(b) (*Disbursement Conditions*)) the Requisition.

(xiii) The Borrower shall have paid in full all invoices received from the USDOT Lender (or by advisors to the USDOT Lender that have direct billing arrangements with the Borrower) as of such Disbursement Date, for the reasonable fees and expenses of the USDOT Lender's counsel and financial advisors and any auditors or other consultants employed by the USDOT Lender for the purposes hereof (such reasonableness to be determined in accordance with Part 31 of the Federal Acquisition Regulation).

(xiv) To the extent not previously delivered to the USDOT Lender, the Borrower shall have provided to the USDOT Lender certified, complete and fully executed copies of each performance security instrument delivered to or by the Borrower pursuant to any Principal Project Contract as of such Disbursement Date, each of which performance security instruments shall be (A) in compliance with the requirements for such performance security pursuant to the applicable Principal Project Contract, and (B) in full force and effect.

(xv) The Borrower shall have paid in full, at least three (3) Business Days prior to such Disbursement Date, the Credit Risk Premium in respect of the RRIF Loan proceeds to be disbursed therewith.

(xvi) The Borrower shall have provided the USDOT Lender with evidence satisfactory to the USDOT Lender that, as of such Disbursement Date, the aggregate amount of all disbursements of the RRIF Loan (including the requested disbursement), together with the amount of any other credit assistance provided under the

RRIF Act to the Borrower, does not exceed one hundred percent (100%) of reasonably anticipated Eligible Project Costs.

(xvii) Prior to the initial disbursement under the RRIF Loan, the Borrower shall have paid in full the invoice issued by the USDOT Lender to the Borrower on or about June 15, 2020.

(xviii) Within thirty (30) days of the Effective Date, the Borrower shall have delivered to the USDOT Lender: (A) certificates of insurance evidencing that Ansaldo STS USA, Inc. (n/k/a Hitachi Rail) has obtained and maintains property damage insurance policies with respect to the Project that meet the requirements of the Design, Furnish and Install Contract; and (B) if applicable, certificates of insurance evidencing insurance maintained by Keolis Commuter Services, LLC that relates to the Project.

Section 14. Representations and Warranties of Borrower. The Borrower hereby represents and warrants that, as of the Effective Date and, as to each of the representations and warranties below other than those contained in Section 14(b) (*Officer's Authorization*) and Section 14(l) (*Credit Ratings*), as of (x) each date on which any disbursement of the RRIF Loan is requested and (y) each Disbursement Date:

(a) **Organization; Power and Authority.** The Borrower is a body politic and corporate and political subdivision of the Commonwealth, duly organized, validly existing and in good standing under the laws of the Commonwealth, has full legal right, power and authority to enter into the Related Documents then in existence, to execute and deliver each of the RRIF Bonds, and to carry out and consummate all transactions contemplated hereby and thereby and has duly authorized the execution, delivery and performance of the Related Documents.

(b) **Officers' Authorization.** As of the Effective Date, the officers of the Borrower executing (or that previously executed) the Related Documents, and any certifications or instruments related thereto, to which the Borrower is a party are (or were at the time of such execution) duly and properly in office and fully authorized to execute the same.

(c) **Due Execution; Enforceability.** Each of the Related Documents in effect as of any date on which this representation and warranty is made, and to which the Borrower is a party, has been duly authorized, executed and delivered by the Borrower and constitutes the legal, valid and binding agreement of the Borrower enforceable in accordance with its terms, except as such enforceability (i) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally, and (ii) is subject to general principles of equity (regardless of whether enforceability is considered in equity or at law).

(d) **Non-Contravention.** The execution and delivery of the Related Documents to which the Borrower is a party, the consummation of the transactions contemplated in the Related Documents and the fulfillment of or compliance with the terms and conditions of the Related Documents will not (i) conflict with the Borrower's Organizational Documents, (ii) conflict in any material respect with, or constitute a violation, breach or default (whether immediately or after notice or the passage of time or both) by the Borrower of or under, any

applicable law, administrative rule or regulation, any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which the Borrower is a party or by which it or its properties or assets are otherwise subject or bound, or (iii) result in the creation or imposition of any Lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower other than Permitted Liens.

(e) Consents and Approvals. No consent or approval of any trustee, holder of any indebtedness of the Borrower or any other Person, and no consent, permission, authorization, order or license of, or filing or registration with, any Governmental Authority is necessary in connection with (i) the execution and delivery by the Borrower of the Related Documents, except as have been obtained or made and as are in full force and effect, or (ii) (A) the consummation of any transaction contemplated by the Related Documents or (B) the fulfillment of or compliance by the Borrower with the terms and conditions of the Related Documents, except as have been obtained or made and as are in full force and effect or as are ministerial in nature and can reasonably be expected to be obtained or made in the ordinary course on commercially reasonable terms and conditions when needed.

(f) Litigation. As of the Effective Date, except as set forth in **Schedule 14(f)**, there is no action, suit, proceeding or, to the knowledge of the Borrower, any inquiry or investigation, in any case before or by any court or other Governmental Authority pending or, to the knowledge of the Borrower, threatened against or affecting the Project or the ability of the Borrower to execute, deliver and perform its obligations under the Related Documents. As of the Effective Date and as of each other date on which the representations and warranties herein are made or confirmed, there is no action, suit, proceeding or, to the knowledge of the Borrower, any inquiry or investigation before or by any court or other Governmental Authority pending, or to the knowledge of the Borrower, threatened against or affecting the Project, the Borrower or the assets, properties or operations of the Borrower, that in any case could reasonably be expected to result in a Material Adverse Effect. To the Borrower's knowledge, there are no actions of the type described above pending, threatened against, or affecting any of the Principal Project Parties except for matters arising after the Effective Date that could not reasonably be expected to (i) result in a Material Adverse Effect or (ii) adversely affect the Borrower's ability to receive Pledged Revenues in amounts sufficient to meet the financial projections contained in the Base Case Financial Model (or any Revised Financial Model, to the extent any Revised Financial Model has been approved by the USDOT Lender). The Borrower is not in default (and no event has occurred and is continuing that, with the giving of notice or the passage of time or both, could constitute a default) with respect to any Governmental Approval, which default could reasonably be expected to result in a Material Adverse Effect.

(g) Security Interests. The Sales Tax Trust Documents and Section 3 of the Enabling Act, establish, in favor of the Sales Tax Trustee for the benefit of the USDOT Lender, the valid and binding Liens on the Sales Tax Trust Estate that they purport to create, irrespective of whether any Person has notice of the pledge and without the need for any physical delivery, recordation, filing, or further act. Such Liens are in full force and effect and are not subordinate or junior to any other Liens in respect of the Sales Tax Trust Estate except for the Permitted Liens associated with Senior Sales Tax Obligations, and not *pari passu* with any other obligations of the Borrower. The Borrower has duly and lawfully taken all actions required

under this Agreement, the Sales Tax Trust Documents, and applicable laws for the pledge of the Sales Tax Trust Estate pursuant to and in accordance with the Sales Tax Trust Documents. The Borrower is not in breach of any covenants set forth in Section 16(a) (*Securing Liens*) or in the Sales Tax Trust Documents with respect to the matters described in such section or documents. As of the Effective Date and as of each other date this representation and warranty is made, (i) all documents and instruments have been recorded or filed for record in such manner and in such places as are required and all other action as is necessary or desirable has been taken to establish a legal, valid, binding, and enforceable Lien on the Sales Tax Trust Estate in favor of the Sales Tax Trustee (for the benefit of the Secured Parties) to the extent contemplated by the Sales Tax Trust Documents, and (ii) all taxes and filing fees that are due and payable in connection with the execution, delivery or recordation of any Sales Tax Trust Documents or any instruments, certificates or financing statements in connection with the foregoing, have been paid. Neither the attachment, perfection, validity, enforceability or priority of the security interest in the Sales Tax Trust Estate granted pursuant to the Sales Tax Trust Documents is governed by Article 9 of the UCC.

(h) No Debarment. The Borrower has fully complied with its verification obligations under 2 C.F.R. § 180.320 and confirms, based on such verification, that, to its knowledge, neither the Borrower nor any of its principals (as defined in 2 C.F.R. § 180.995) is debarred, suspended or voluntarily excluded from participation in Government contracts, procurement or non-procurement matters or delinquent on a Government debt as more fully set forth in the certificate delivered pursuant to Section 13(a)(iv) (*Conditions Precedent to Effectiveness*).

(i) Accuracy of Representations and Warranties. The representations, warranties and certifications of the Borrower set forth in this Agreement and the other Related Documents are true, correct, and complete, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true, correct, and complete as of such earlier date).

(j) Compliance with Federal Requirements. The Borrower has complied, with respect to the Project, with all applicable requirements of NEPA, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 *et seq.*), and Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*).

(k) [Reserved].

(l) Credit Ratings. The RRIF Loan has received a public rating from a Nationally Recognized Rating Agency, and written evidence of such rating has been provided to the USDOT Lender prior to the Effective Date, and no such rating has been reduced, withdrawn or suspended as of the Effective Date.

(m) No Defaults. No Default or Event of Default, and no event of default (howsoever described or designated) of the Borrower under any Related Document has occurred and is continuing.

(n) Governmental Approvals. All Governmental Approvals required as of the Effective Date and any subsequent date on which this representation is made (or deemed made) for the undertaking and completion by the Borrower of the Project, and for the operation and management thereof, have been obtained or effected and are in full force and effect and there is no basis for, nor proceeding that is pending or threatened that could reasonably be expected to result in, the revocation of any such Governmental Approval.

(o) Principal Project Contracts. Each Principal Project Contract in effect as of any date on which this representation and warranty is made is in full force and effect and all conditions precedent to the obligations of the respective parties under each Principal Project Contract have been satisfied. The Borrower has delivered to the USDOT Lender a fully executed, complete, and correct copy of each such Principal Project Contract required to be delivered to, or requested by, the USDOT Lender pursuant to Section 16(b) (*Copies of Documents*) (including, in each case, all exhibits, schedules and other attachments) that is in effect, including any amendments or modifications thereto and any related credit support instruments or side letters. No event has occurred that gives the Borrower or, to the Borrower's knowledge, any Principal Project Party, the right to terminate any Principal Project Contract. The Borrower is not in breach of, or in default under, any Principal Project Contract, and, to the knowledge of the Borrower, no Principal Project Party is in breach of, or in default under, any material term of any Principal Project Contract.

(p) Information. The information furnished by the Borrower to the USDOT Lender, when taken as a whole, does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements contained therein not misleading as of the date made or furnished; provided that no representation or warranty is made with regard to projections or other forward-looking statements provided by or on behalf of the Borrower (including the Base Case Financial Model, any Revised Financial Model, and the assumptions therein) except that the assumptions in the Base Case Financial Model and any Revised Financial Model were reasonable in all material respects when made.

(q) OFAC; Anti-Money Laundering; Anti-Corruption Laws.

(i) None of the Borrower nor, to the knowledge of the Borrower, any Principal Project Party, is a Sanctioned Person;

(ii) None of the Borrower nor, to the knowledge of the Borrower, any Principal Project Party, is in violation of or, since the date that is five (5) years prior to the Effective Date, has violated: (A) any applicable Anti-Money Laundering Laws; (B) any applicable Sanctions; (C) any applicable Anti-Corruption Laws, or (D) any applicable anti-drug trafficking or anti-terrorism laws, civil or criminal;

(iii) There are no pending or, to the knowledge of the Borrower, threatened claims or investigations by any Governmental Authority against, or any internal investigations conducted by, the Borrower or any Principal Project Party with respect to any possible or alleged violations of any Sanctions, Anti-Money Laundering Laws, Anti-Corruption Laws, or any anti-drug trafficking or anti-terrorism laws.

(iv) No use of proceeds of the RRIF Loan or other transaction contemplated by this Agreement or any other Related Document will violate any applicable Sanctions, Anti-Money Laundering Laws, or Anti-Corruption Laws, or any applicable anti-drug trafficking or anti-terrorism laws.

(r) Compliance with Law. The Borrower is in compliance in all material respects with, and has conducted (or caused to be conducted) its business and government functions and the business and operations of the Project in compliance in all material respects with, all applicable laws (other than Environmental Laws, which are addressed in Section 14(s) (*Environmental Matters*)), including those set forth on **Exhibit E**, to the extent applicable. To the Borrower's knowledge, each Principal Project Party is, and has caused its respective contractors and subcontractors to be, in compliance in all material respects with all applicable laws, including those set forth on **Exhibit E**, to the extent applicable. No notices of violation of any applicable law have been issued, entered or received by the Borrower or, to the Borrower's knowledge and solely in respect of the Project or any Principal Project Contract, any Principal Project Party, other than, in each case, notices of violations that are immaterial.

(s) Environmental Matters. Each of the Borrower and, to the Borrower's knowledge, each Principal Project Party, is in compliance with all laws applicable to the Project relating to (i) air emissions, (ii) discharges to surface water or ground water, (iii) noise emissions, (iv) solid or liquid waste disposal, (v) the use, generation, storage, transportation or disposal of toxic or hazardous substances or wastes, (vi) biological resources (such as threatened and endangered species), and (vii) other environmental, health or safety matters, including all laws applicable to the Project referenced in the notice "Federal Environmental Statutes, Regulations, and Executive Orders Applicable to the Development and Review of Transportation Infrastructure Projects," 79 Fed. Reg. 22756 (April 23, 2014) (or any successor Federal Register notice of similar import), which document is available at <http://www.transportation.gov/policy/transportation-policy/environment/laws> ("**Environmental Laws**"). All Governmental Approvals for the Project relating to Environmental Laws have been, or, when required, will be, obtained and are (or, as applicable, will be) in full force and effect. The Borrower has not received any written communication or notice, whether from a Governmental Authority, employee, citizens group, or any other Person, that alleges that the Borrower is not in full compliance with all Environmental Laws and Governmental Approvals relating thereto in connection with the Project and, to the Borrower's knowledge, there are no circumstances that may prevent or interfere with full compliance in the future by the Borrower with any such Environmental Law or Governmental Approval. The Borrower has provided to the USDOT Lender all material assessments, reports, results of investigations or audits, and other material information in the possession of or reasonably available to the Borrower regarding the Borrower's or the Project's compliance with (A) Environmental Laws, and (B) Governmental Approvals relating to Environmental Laws that are required for the Project.

(t) Sufficient Rights and Utilities. The Borrower possesses either valid legal and beneficial title to, leasehold title in, or other valid legal rights with respect to the real property relating to the Project, in each case as is necessary and sufficient as of the date this representation is made for the construction, operation, maintenance and repair of the Project. As of any date on which this representation and warranty is made, the Principal Project Contracts then in effect

and the Governmental Approvals that have been obtained and are then in full force and effect create rights in the Borrower sufficient to enable the Borrower to own, construct, operate, maintain and repair the Project and to perform its obligations under the Principal Project Contracts to which it is a party. All utility services, means of transportation, facilities and other materials necessary for the construction and operation of the Project (including, as necessary, gas, electrical, water and sewage services and facilities) are, or will be when needed, available to the Project and arrangements in respect thereof have been made on commercially reasonable terms.

(u) Insurance. **Schedule 14(u)** lists all insurance policies of any nature maintained by the Borrower with respect to the Project, as well as a summary of the terms of each such policy. The Borrower is in compliance with all insurance obligations required under each Principal Project Contract and the other Related Documents as of the date on which this representation and warranty is made. To the extent the Borrower self-insures, the Borrower's self-insurance program is actuarially sound and the Borrower has received an opinion from an accredited actuary within the last twelve (12) months, which opinion confirms that the Borrower's self-insurance program is actuarially sound.

(v) Title. The Borrower has valid legal and beneficial title to the assets and revenues (including the Pledged Revenues and the Sales Tax Trust Estate) on which it purports to grant Liens pursuant to the Sales Tax Trust Documents, in each case free and clear of any Lien of any kind, except for Permitted Liens.

(w) No Liens. Except for Permitted Liens, the Borrower has not created, and is not under any obligation to create, and has not entered into any transaction or agreement that would result in the imposition of, any Lien on the Sales Tax Trust Estate, the Project, the Pledged Revenues, or the properties or assets in relation to the Project.

(x) Intellectual Property. The Borrower owns, or has adequate licenses or other valid rights to use, all patents, trademarks, service marks, trade names, copyrights, franchises, formulas, licenses and other rights with respect thereto and has obtained assignment of all licenses and other rights of whatsoever nature, in each case necessary for the Project and the operation of its business. To the Borrower's knowledge, there exists no conflict with the rights or title of any third party with respect to the intellectual property described in the preceding sentence. Excluding the use of commercially available "off-the-shelf" software, to the Borrower's knowledge, no product, process, method, substance, part or other material produced or employed or presently contemplated to be produced by or employed by the Project infringes or will infringe any patent, trademark, service mark, trade name, copyright, franchise, formula, license or other intellectual property right of any third party.

(y) Investment Company Act. The Borrower is not, and after applying the proceeds of the RRIF Loan will not be, required to register as an "investment company" within the meaning of the Investment Company Act of 1940, as amended, and is not "controlled" by a company required to register as an "investment company" under the Investment Company Act of 1940, as amended.

(z) Financial Statements. Each income statement, balance sheet, and statement of operations and cash flows (collectively, “**Financial Statements**”) delivered to the USDOT Lender pursuant to Section 22(c) (*Financial Statements*) has been prepared in accordance with GASB and presents fairly, in all material respects, the financial condition of the Borrower as of the respective dates of the balance sheets included therein and the results of operations of the Borrower for the respective periods covered by the statements of income included therein. Except as reflected in such Financial Statements, there are no liabilities or obligations of the Borrower of any nature whatsoever for the period to which such Financial Statements relate that are required to be disclosed in accordance with GASB.

(aa) Taxes. The Borrower is not required to file tax returns with any Governmental Authority.

(bb) ERISA Compliance. Neither the Borrower nor any ERISA Affiliate maintains or otherwise has any liability in respect of any plan or other arrangement that is subject to ERISA or Section 412 of the Code.

(cc) Sufficient Funds. The aggregate of all funds available under any unused funding that is committed and available, or reasonably expected to be available, will be sufficient to pay all Total Project Costs necessary to achieve Substantial Completion for each Phase.

(dd) Sovereign Immunity. The Borrower either has no immunity from the jurisdiction of any court of competent jurisdiction or from any legal process therein which could be asserted in any action to enforce the obligations of the Borrower under any of the Related Documents to which it is a party or the transactions contemplated hereby or thereby, including the obligations of the Borrower hereunder and thereunder, or, to the extent that the Borrower has such immunity, the Borrower has waived such immunity pursuant to Section 16(r) (*Immunity*).

(ee) Compliance with PTC Requirements. The Borrower is in compliance with 49 U.S.C. § 20157 and the regulations at 49 C.F.R. Part 236 Subpart I.

(ff) Patriot Act. The Borrower is not required to establish an anti-money laundering compliance program pursuant to the Patriot Act.

Section 15. Representations and Warranties of USDOT Lender. The USDOT Lender represents and warrants that:

(a) Power and Authority. The USDOT Lender has all requisite power and authority to make the RRIF Loan and to perform all transactions contemplated by the Related Documents to which it is a party.

(b) Due Execution; Enforceability. The Related Documents to which it is a party have been duly authorized, executed and delivered by the USDOT Lender, and are legally valid and binding agreements of the USDOT Lender, enforceable in accordance with their terms.

(c) Officers’ Authorization. The officers of the USDOT Lender executing each of the Related Documents to which the USDOT Lender is a party are duly and properly in office and fully authorized to execute the same on behalf of the USDOT Lender.

Section 16. Affirmative Covenants. The Borrower covenants and agrees as follows until the date each of the RRIF Bonds and the obligations of the Borrower under this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in cash and the USDOT Lender no longer has any commitment to make disbursements to the Borrower, unless the USDOT Lender waives compliance in writing:

(a) Securing Liens. The Borrower shall at any and all times, so far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable in connection with assuring, conveying, granting, assigning, securing and confirming the Liens in and to the Sales Tax Trust Estate (whether now existing or hereafter arising) granted to the Sales Tax Trustee for the benefit of the USDOT Lender pursuant to the Sales Tax Trust Documents, or intended to be so granted pursuant to the Sales Tax Trust Documents, or which the Borrower may become bound to grant, and the Borrower shall at all times maintain the Sales Tax Trust Estate free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto that has priority over, or equal rank with, the Liens created by the Sales Tax Trust Documents, other than as permitted by this Agreement, and all organizational, regulatory or other necessary action on the part of the Borrower to that end shall be duly and validly taken at all times. The Borrower shall at all times, to the extent permitted by law, defend, preserve and protect the Liens on the Sales Tax Trust Estate granted pursuant to the Sales Tax Trust Documents and all the rights of the Trustee for the benefit of the USDOT Lender under the Sales Tax Trust Documents against all claims and demands of all Persons whomsoever, subject to Permitted Liens.

(b) Copies of Documents. The Borrower shall furnish to the USDOT Lender copies of any draft offering documents and final offering documents and, to the extent not part of such draft or final offering documents, cash flow projections prepared in connection with the incurrence of any Permitted Debt, prior to the incurrence of any such Permitted Debt, as well as copies of any continuing disclosure documents, prepared by or on behalf of the Borrower in connection with the incurrence of such Permitted Debt, in each case promptly following the preparation or filing thereof. Except as otherwise agreed by the USDOT Lender in writing, the Borrower will provide to the USDOT Lender copies of fully executed or final versions of such documentation described above within ten (10) days following execution or completion thereof. The Borrower shall notify the USDOT Lender and the FTA Regional Office, in writing, promptly after execution of each Additional Project Contract and shall provide a copy thereof upon request.

(c) Use of Proceeds. The Borrower shall use the proceeds of the RRIF Loan for purposes permitted by applicable law and as otherwise permitted under this Agreement and the other Related Documents.

(d) Prosecution of Work; Verification Requirements.

(i) The Borrower shall diligently prosecute the work relating to the Project and complete the Project in accordance with the Implementation Schedule, and in accordance with the highest standards of the Borrower's industry.

(ii) The Borrower shall ensure that, in connection with the Project, each Principal Project Party complies with all applicable laws and legal or contractual requirements with respect to any performance security instrument delivered by such Principal Project Party to the Borrower and shall ensure that any letter of credit provided pursuant to any Principal Project Contract meets the requirements therefor set forth in such Principal Project Contract.

(iii) The Borrower shall comply with the verification requirements set forth in 2 C.F.R. §§ 180.300 and 180.320.

(iv) Without limiting the foregoing, the Borrower shall in addition to, and not in limitation of, the foregoing provisions of this Section 16(d) (*Prosecution of Work; Verification Requirements*), maintain its other assets and property in good condition, normal wear and tear excepted, and make all necessary repairs and renewals and replacements thereof except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

(e) Operations and Maintenance. The Borrower shall, in accordance with the requirements of applicable laws and regulations and each applicable Related Document: (i) operate and maintain the Project in a reasonable and prudent manner, (ii) maintain the Project in good repair, working order and condition, and (iii) for so long as the RRIF Loan or any portion thereof shall remain outstanding, comply with the requirements of 45 U.S.C. § 822(h)(1)(A)-(C). The Borrower shall at all times do or cause to be done all things necessary to obtain, preserve, renew, extend and keep in full force and effect the Governmental Approvals and any other rights, licenses, franchises, and authorizations material to the conduct of its business.

(f) Insurance. The Borrower shall at all times, through a combination of insurance policies and self-insurance programs, maintain or cause its contractors to maintain, all insurance necessary and sufficient to protect the Project and the Borrower against accidental loss or damage during the Implementation Period, as is customarily maintained by the Borrower with respect to works and properties of like character, against accident to, loss of, damage to and liability from such works or properties, in each case satisfying the requirements of the Sales Tax Trust Documents and the Principal Project Contracts, as applicable, all applicable laws and Governmental Approvals. All such general liability and excess liability insurance policies maintained by the Borrower or its contractors with respect to the Project shall name the USDOT Lender as an additional insured.

(g) Notice.

(i) The Borrower shall, within five (5) Business Days after the Borrower learns of the occurrence, give the USDOT Lender notice of any of the following events or receipt of any of the following notices, as applicable, setting forth details of such event:

(A) Substantial Completion: the occurrence of Substantial Completion for each Phase, such notices to be provided in the form set forth in **Exhibit L;**

(B) [Reserved].

(C) Events of Default: any Event of Default or any event that, with the giving of notice or the passage of time or both, would constitute an Event of Default;

(D) Litigation: (1) the filing of any litigation, suit or action, or the commencement of any proceeding, against the Borrower before any arbitrator, Governmental Authority, alternative dispute resolution body, or other neutral third-party, or the receipt by the Borrower in writing of any threat of litigation, suit, action, or proceeding, or of any written claim against the Borrower that, in each case, could reasonably be expected to have a Material Adverse Effect, and any material changes in the status of such litigation, suit, action or claim, and (2) any judgments against the Borrower with award amounts in excess of \$25,000,000, either individually or in the aggregate, and (3) any material notices or filings in respect of any action, petition, suit or proceeding listed in **Schedule 14(f)**;

(E) Delayed Governmental Approvals: any failure to receive or delay in receiving any Governmental Approval or making any required filing, notice, recordation or other demonstration to or with a Governmental Authority, in each case to the extent such failure or delay will or could reasonably be expected to result in a delay to any major milestone date (including any Projected Substantial Completion Date) set forth in the Implementation Schedule, together with a written explanation of the reasons for such failure or delay and the Borrower's plans to remedy or mitigate the effects of such failure or delay;

(F) Environmental Notices: any material notice of violation under any Environmental Law related to the Project or any material changes to the NEPA Determination;

(G) Insurance Claim: any insurance claims made by the Borrower or a Principal Project Party in respect of the Project in excess of \$5,000,000 either individually or in the aggregate, to the extent related to the Project;

(H) Amendments: except as otherwise agreed by the USDOT Lender in writing, copies of (1) any proposed amendments to any Related Document at least thirty (30) days prior to the effective date thereof and (2) fully executed amendments within ten (10) days following execution thereof;

(I) Contract Defaults: any material breach or default or event of default on the part of the Borrower or any other party under any Principal Project Contract;

(J) Uncontrollable Force: the occurrence of any Uncontrollable Force that could reasonably be expected to result in a Material Adverse Effect;

(K) Project Changes: (1) any change to the forecasted amount of Total Project Costs in excess of five percent (5%) of the then-current aggregate amount of forecasted Eligible Project Costs, or (2) any change to the implementation schedule for the Project in excess of five percent (5%) of the total number of days reflected in the Implementation Schedule attached as **Schedule II**;

(L) Ratings Changes: any change in the rating assigned to the Senior Sales Tax Obligations or the RRIF Loan by any Nationally Recognized Rating Agency that has provided a public rating on such indebtedness, the Borrower, or the Pledged Revenues;

(M) 2 C.F.R. Notices: (1) that any of the information set forth in the certificate provided pursuant to Section 13(a)(iv) (*Conditions Precedent to Effectiveness*) was incorrect at the time the certificate was delivered or there has been a change in status of the Borrower or any of its principals-with respect to the criteria set forth in 2 C.F.R. § 180.335; (2) any other notification required pursuant to 2 C.F.R. § 180.350; and (3) any violation of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the RRIF Loan as described in 2 C.F.R. § 200.113, and the Borrower shall require its subcontractors to provide it notice of any such violation; and

(N) Other Adverse Events: the occurrence of any other event or condition, including any notice of breach from a contract counterparty, that could reasonably be expected to result in a Material Adverse Effect.

(ii) The Borrower shall provide the USDOT Lender with any further information reasonably requested by the USDOT Lender from time to time concerning the matters described in Section 16(g)(i) (*Notice*).

(h) Remedial Action. Within thirty (30) calendar days after the Borrower learns of the occurrence of an event specified in Section 16(g)(i) (*Notice*) (other than in Section 16(g)(i)(A) (*Substantial Completion*), Section 16(g)(i)(I) (*Amendments*) or Section 16(g)(i)(M) (*Ratings Changes*) (in the case of a ratings upgrade)), the Borrower's Authorized Representative shall provide a statement to the USDOT Lender setting forth the actions the Borrower proposes to take with respect thereto.

(i) Maintain Legal Structure. The Borrower shall maintain its existence as a body politic and corporate and political subdivision of the Commonwealth, under the laws of the Commonwealth.

(j) Annual Rating. The Borrower shall, commencing in 2021, no later than the last Business Day of June of each year during the term of the RRIF Bonds, at no cost to the USDOT Lender, provide to the USDOT Lender a public rating on the RRIF Bonds by a Nationally Recognized Rating Agency, together with the rating report or letter delivered by such Nationally Recognized Rating Agency in connection with each such rating, and the existing ratings on all Outstanding Sales Tax Bonds, in each case prepared no earlier than June 1 of such year.

(k) Pledged Sales Tax Accounts; Permitted Investments. All amounts on deposit in each of (i) the USDOT Loan Account (and any sub-account thereof) shall be held uninvested or invested in Permitted Investments, and (ii) the Pledged Sales Tax Accounts (other than the USDOT Loan Account and all sub-accounts thereto) shall be held uninvested or invested in “Investment Obligations” (as defined in the Sales Tax Trust Agreement). Any such Permitted Investments or “Investment Obligations” must mature or be redeemable at the election of the holder as follows: (A) with respect to Permitted Investments maintained in the USDOT Loan Account (and any sub-account thereof) corresponding to amounts needed for the payment of interest, not later than the next Semi-Annual Payment Date, (B) with respect to Permitted Investments maintained in the USDOT Loan Account (and any sub-account thereof) corresponding to amounts needed for the repayment of principal, the next Semi-Annual Payment Date for repayment of principal in respect of such debt, and (C) with respect to Permitted Investments or “Investment Obligations” maintained in the USDOT Capital Account or other Pledged Sales Tax Account (other than the USDOT Loan Account), on or prior to the date on which the funds invested in such Permitted Investments or “Investment Obligations” are reasonably expected to be needed for any payment from the applicable account.

(l) [Reserved].

(m) Compliance with Law. The Borrower shall comply in all material respects with all applicable material federal and Commonwealth laws, including (i) all items set forth in **Exhibit E**, to the extent applicable, (ii) the requirements of 49 U.S.C. §§ 20101 – 28505, and (iii) the terms and conditions of the FTA Master Agreement, as applicable.

(n) Material Obligations; Liens. The Borrower shall pay its material obligations promptly and in accordance with their terms and pay and discharge promptly all taxes, assessments and governmental charges or levies imposed upon it or upon the Pledged Revenues or the Borrower’s other income or profits or in respect of its property, before the same shall become delinquent or in default, as well as all lawful and material claims for labor, materials and supplies or other claims which, if unpaid, might give rise to a Lien upon such properties or any part thereof or on the Pledged Revenues or the Sales Tax Trust Estate; provided, however, that such payment and discharge shall not be required with respect to any such tax, assessment, charge, levy, claim or Lien so long as the validity or amount thereof shall be contested by the Borrower in good faith by appropriate proceedings and so long as the Borrower shall have set aside adequate reserves with respect thereto in accordance with and to the extent required by GASB, applied on a consistent basis.

(o) Hedging. To protect against fluctuations in interest rates, the Borrower shall make arrangements for a Qualified Hedge to be in place and maintained with respect to all Sales Tax Bonds during any period in which such Bonds bear interest at a Variable Interest Rate (including Sales Tax Bonds for which a Qualified Hedge is executed that has the effect of converting the fixed rate of interest thereon to a synthetic Variable Interest Rate), except that this requirement shall not apply to (A) Variable Interest Rate Bonds such as commercial paper having a final maturity of one (1) year or less, or (B) outstanding Variable Interest Rate Bonds (excluding any outstanding Variable Interest Rate Bonds described in clause (A)) in an aggregate total principal amount, when taken together with all other indebtedness of the Borrower that bears interest at a variable rate, not in excess of the percentage of the total principal amount of

the Borrower's then-outstanding indebtedness permitted to accrue interest at a variable rate pursuant to the Borrower's then-current hedging policy (the "Hedging Threshold").

(p) SAM Registration. The Borrower shall (i) maintain its active registration status with the federal System for Award Management (www.SAM.gov) (or any successor system or registry) and (ii) within sixty (60) days prior to each anniversary of the Effective Date, provide to the USDOT Lender evidence of such active registration status with no active exclusions reflected in such registration, in each case until the Final Maturity Date or to such earlier date as all amounts due or to become due to the USDOT Lender hereunder have been irrevocably paid in full in cash.

(q) [Reserved].

(r) Immunity. To the fullest extent permitted by applicable law, the Borrower agrees that it will not assert any immunity (and hereby waives any such immunity) it may have as a governmental entity from lawsuits, other actions and claims, and any judgments with respect to the enforcement of any of the obligations of the Borrower under this Agreement or any other RRIF Loan Document.

(s) Patriot Act. If the anti-money laundering compliance program provisions of the Patriot Act become applicable to the Borrower, then the Borrower will provide written notice to the USDOT Lender of the same and will promptly establish an anti-money laundering compliance program that complies with all requirements of the Patriot Act.

(t) Cargo Preference Act. Pursuant to 46 C.F.R. Part 381, the Borrower hereby agrees as follows, and shall insert the following clauses in contracts entered into by the Borrower pursuant to which equipment, materials or commodities may be transported by ocean vessel in carrying out the Project:

(i) At least fifty percent (50%) of any equipment, materials or commodities procured, contracted for or otherwise obtained with the proceeds of the RRIF Loan, and which may be transported by ocean vessel, shall be transported on privately owned United States-flag commercial vessels, if available.

(ii) Within twenty (20) days following the date of loading for shipments originating within the United States or within thirty (30) Business Days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (i) above shall be furnished to both the USDOT Lender and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.

(u) Lobbying. The Borrower shall comply with all applicable certification, declaration and/or disclosure requirements under 49 C.F.R. Part 20.

(v) Employee Protection and Prevailing Wages.

(i) The Borrower shall make fair and equitable arrangements, in accordance with 45 U.S.C. § 822(h)(3)(B) and 45 U.S.C. § 836, to protect the interests of any employees who may be adversely affected by actions pursuant to, or as a consequence of, this Agreement, including the arrangements prescribed by the United States Secretary of Labor on July 6, 1976, including the appendix thereto, attached as Annex 1 to **Exhibit E** hereto.

(ii) The Borrower shall (A) comply with the requirements of 49 U.S.C. § 24312 in the same manner that the National Railroad Passenger Corporation is required to comply with such requirements, and (B) comply with any additional wage and safety standards required by 49 U.S.C. chapter 53.

(w) Notice to Assessment Trustee. In the event the amount on deposit in the Subordinated Debt Service Fund (including, for the avoidance of doubt, the USDOT Loan Account therein) shall be less than the requirement thereof pursuant to Section 504 of the Sales Tax Trust Agreement, Borrower shall, or shall cause the Sales Tax Trustee to, provide a certificate to the Assessment Trustee pursuant to Section 508 of the Sales Tax Trust Agreement setting forth the amount of the shortfall and shall receive such amount (to the extent available) from the “Pledged Revenue Fund” (as defined in the Assessment Trust Agreement) in accordance with Section 504(4) of the Assessment Trust Agreement.

Section 17. Negative Covenants. The Borrower covenants and agrees as follows until the date each of the RRIF Bonds and the obligations of the Borrower under this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in cash, unless the USDOT Lender waives compliance in writing:

(a) Indebtedness.

(i) Except for Permitted Debt, the Borrower shall not, without the prior written consent of the USDOT Lender, issue or incur indebtedness of any kind payable from, or secured or supported by a Lien on, the Sales Tax Trust Estate; provided that the Borrower shall not incur any indebtedness of any kind payable from or secured by a lien on the Sales Tax Trust Estate, including Permitted Debt, without the prior written consent of the USDOT Lender, following the occurrence, and during the continuation, of an Event of Default.

(ii) Prior to the incurrence of Permitted Debt described in clauses (d) or (e) of the definition thereof, the Borrower shall provide to the USDOT Lender a certificate signed by the Borrower’s Authorized Representative, demonstrating to the USDOT Lender’s satisfaction that such proposed indebtedness is authorized pursuant to this Section 17(a) (*Indebtedness*) and satisfies the applicable requirements under the definitions of “Permitted Debt” and “Additional Sales Tax Obligations,” as applicable.

(iii) To the extent any Permitted Debt consists of Put Bonds, the Borrower must maintain a Credit Facility that will pay any amounts payable by the Borrower in respect of such Put Bonds.

(iv) The Borrower shall not incur any indebtedness that ranks *pari passu* in right of payment or priority with RRIF Bonds.

(b) No Lien Extinguishment or Adverse Amendments. The Borrower shall not, and shall not permit any Person to, without the prior written consent of the USDOT Lender, either (i) extinguish, impair or transfer the Liens on the Sales Tax Trust Estate granted pursuant to the Sales Tax Trust Agreement; (ii) amend, modify, replace, or supplement any Related Document in a manner that could adversely affect the USDOT Lender (in the USDOT Lender's determination) in connection with the RRIF Loan; (iii) waive or permit a waiver of any provision of any Related Document in a manner that could adversely affect the USDOT Lender (in the USDOT Lender's determination) in connection with the RRIF Loan; (iv) terminate, assign, amend or modify, or waive timely performance by any party of material covenants under any Principal Project Contract except for termination, assignment, amendment, modification or waiver that could not reasonably be expected to have a Material Adverse Effect (in the USDOT Lender's determination); (v) except as expressly permitted in this Agreement, take any action, or fail to take any action, which would have the effect of reducing any of (A) the Dedicated Sales Tax, (B) the Base Revenue Floor Amount, (C) the Assessments or (D) the Assessment Floor Amount, or cause the expiration of any of the foregoing prior to the Final Maturity Date; or (vi) provide for the acceleration of any Senior Sales Tax Obligations or Prior Obligations. Except as otherwise agreed by the USDOT Lender in writing, the Borrower will provide to the USDOT Lender (x) copies of any proposed amendments, modifications, replacements of, or supplements to any Related Document at least thirty (30) days prior to the effective date thereof, and (y) complete, correct and fully executed copies of any amendment, modification or supplement to any Related Document within five (5) Business Days after execution thereof.

(c) No Prohibited Liens. Except for Permitted Liens, the Borrower shall not create, incur, assume or permit to exist any Lien on the Sales Tax Trust Estate, the Pledged Revenues or the Borrower's respective rights therein.

(d) [Reserved].

(e) Additional Project Contracts. The Borrower shall not, without the prior written consent of the USDOT Lender, enter into any Additional Project Contract (or series of related contracts) that commits the Borrower to spend, or is reasonably expected to involve expenditures by the Borrower of, amounts that either: (i) exceed \$2,500,000 in any Borrower Fiscal Year, or (ii), alone or when aggregated with the other Total Project Costs in the same line item of the applicable budget set forth in the Financial Plan most recently approved by the USDOT Lender, would cause aggregate Total Project Costs for such line item in any Borrower Fiscal Year to exceed by more than five percent (5%) the amounts for such line item for any Borrower Fiscal Year reflected in the budget in the Financial Plan most recently approved by the USDOT Lender.

(f) No Prohibited Sale, Lease or Assignment. The Borrower shall not sell, lease or assign its rights in and to the Project, a substantial portion of the assets included in the Project, or its rights and obligations under any Related Document, in each case unless such sale, lease or assignment (i) could not reasonably be expected to result in a Material Adverse Effect, and (ii) is made by the Borrower in the ordinary course of business.

(g) Organizational Documents; Borrower Fiscal Year. The Borrower shall not at any time (i) amend or modify its Organizational Documents (other than any amendment or modification that is of a ministerial nature and that is not adverse to the interests of any Secured Party under the Sales Tax Trust Agreement or in the Sales Tax Trust Estate) without the prior written consent of the USDOT Lender, or (ii) adopt any fiscal year other than the Borrower Fiscal Year, except with thirty (30) days' prior written notice to the USDOT Lender.

(h) Transactions with other Governmental Authorities. Except for the transactions expressly contemplated in the RRIF Loan Documents, the Borrower shall not (i) sell or transfer any property or assets constituting part of the Project to, or purchase or acquire any property or assets of, any other Governmental Authority, or (ii) otherwise engage in any other transactions in connection with the Project with, any other Governmental Authority (including any other Governmental Authority of or in the Commonwealth) the terms and provisions of which are materially adverse to the Borrower or the Project or that could reasonably be expected to result in a Material Adverse Effect.

(i) No Payment with Federal Funds. The Borrower shall not pay any portion of RRIF Debt Service nor any other amount to the USDOT Lender or the Government pursuant to the RRIF Loan Documents with funds received directly or indirectly from the Government.

(j) Change in Legal Structure; Mergers and Acquisitions. The Borrower shall not, and shall not agree to reorganize, consolidate with, or merge into another Person unless (i)(A) such Person is a successor public authority created by Commonwealth law that succeeds to the assets of the Borrower and assumes the obligations of the Borrower hereunder and under the Related Documents to which the Borrower is a party, including payment of each of the RRIF Bonds and (B) such merger, consolidation or reorganization does not adversely affect or impair to any extent or in any manner (1) the Pledged Revenues or other elements of the Sales Tax Trust Estate, or (2) the availability of the Pledged Revenues for the payment and security of the obligations of the Borrower under this Agreement; and (ii) the Borrower provides to the USDOT Lender, no later than sixty (60) days prior to the date of reorganization, consolidation or merger, prior written notice of such reorganization, consolidation or merger and the agreements and documents authorizing the reorganization, consolidation or merger, satisfactory in form and substance to the USDOT Lender. The documents authorizing any reorganization, consolidation or merger shall contain a provision, satisfactory in form and substance to the USDOT Lender, that, following such reorganization, consolidation or merger, the successor will assume, by operation of law or otherwise, the due and punctual performance and observance of all of the representations, warranties, covenants, agreements and conditions of this Agreement and the other Related Documents to which the Borrower is a party. In addition, the Borrower shall provide all information concerning such reorganization, consolidation or merger as shall have been reasonably requested by the USDOT Lender.

(k) No Defeasance of RRIF Bonds. The Borrower shall not defease any of the RRIF Bonds pursuant to the Sales Tax Trust Documents without the prior written consent of the USDOT Lender.

(l) OFAC Compliance.

(i) The Borrower shall not violate (A) any applicable Anti-Money Laundering Laws, (B) any applicable Sanctions, (C) Anti-Corruption Laws or (D) any applicable anti-drug trafficking or anti-terrorism laws, civil or criminal.

(ii) The Borrower shall not use the proceeds of the RRIF Loan for purposes other than those permitted by applicable law and as otherwise permitted under this Agreement and the other Related Documents.

(iii) The Borrower shall not make a payment, directly or indirectly, to any Principal Project Party that has violated any of the laws referenced in Section 17(l)(i) (*OFAC Compliance*) or that is a Sanctioned Person.

(iv) The Borrower shall procure that and each of their respective directors, officers, employees, and agents, shall not, directly or indirectly, use the proceeds of the RRIF Loan or lend to, make any payment to, contribute or otherwise make available any funds to any Affiliate, joint venture partner or other Person (A) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any applicable Anti-Corruption Laws, (B) in any manner that would result in the violation of any applicable Anti-Money Laundering Laws, (C) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, or (D) in any other manner that would result in the violation of any Sanctions by any Person (including the Executive Director, the USDOT Lender or any Principal Project Party).

(m) Hedging. Other than Qualified Hedges not prohibited by Section 16(o) (*Hedging*), the Borrower shall not enter into any swap or hedging transaction secured by a lien on the Pledged Revenues, including inflation indexed swap transactions, “cap” or “collar” transactions, futures, or any other hedging transaction without the prior written consent of the USDOT Lender.

(n) Additional Rights. In the event that the Borrower shall, directly or indirectly, enter into, consent to, or otherwise grant any Contractual Obligation which provides any counterparty to such Contractual Obligation with rights to accelerate any Senior Sales Tax Obligations or Prior Obligations (the “**Additional Rights**”) in violation of Section 17(b)(vi) (*No Lien Extinguishment or Adverse Amendments*), then, to the extent permitted by law, such Additional Rights shall automatically be deemed to be incorporated into this Agreement and the USDOT Lender shall have the benefits of such Additional Rights including the right to accelerate the RRIF Loan pursuant to Sections 20(c) and (d) (*Events of Default and Remedies*). The Borrower shall promptly, upon entering into or otherwise consenting to a Contractual Obligation containing such Additional Rights, notify the USDOT Lender of such Contractual Obligation and, to the extent permitted by law, enter into an amendment to this Agreement to incorporate such Additional Rights herein; provided that the USDOT Lender shall have the benefit of such Additional Rights, to the extent permitted by law, even if the Borrower fails to provide such notice or enter into an amendment hereto to incorporate such Additional Rights into this Agreement.

Section 18. Indemnification. The Borrower shall indemnify the USDOT Lender and any official, employee, agent, advisor or representative of the USDOT Lender (each such Person

being herein referred to as an “**Indemnitee**”) against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities, fines, penalties, costs and expenses (including the fees, charges and disbursements of any counsel for any Indemnitee and the costs of environmental remediation), whether known, unknown, contingent or otherwise, incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (a) the execution, delivery and performance of this Agreement or any of the other Related Documents, (b) the RRIF Loan or the use of the proceeds thereof, or (c) the violation of any law, rule, regulation, order, decree, judgment or administrative decision relating to the environment, the preservation or reclamation of natural resources, the management, release or threatened release of any hazardous material or to health and safety matters; in each case arising out of or in direct relation to the Project; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities, fines, penalties, costs or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee. In case any action or proceeding is brought against an Indemnitee by reason of any claim with respect to which such Indemnitee is entitled to indemnification hereunder, the Borrower shall be entitled, at its expense, to participate in the defense thereof; provided that such Indemnitee has the right to retain its own counsel, at the Borrower’s expense, and such participation by the Borrower in the defense thereof shall not release the Borrower of any liability that it may have to such Indemnitee. Any Indemnitee against whom any indemnity claim contemplated in this Section 18 (*Indemnification*) is made shall be entitled, after consultation with the Borrower and upon consultation with legal counsel wherein such Indemnitee is advised that such indemnity claim is meritorious, to compromise or settle any such indemnity claim. Any such compromise or settlement shall be binding upon the Borrower for purposes of this Section 18 (*Indemnification*). Nothing herein shall be construed as a waiver of any legal immunity that may be available to any Indemnitee. To the extent permitted by applicable law, neither the Borrower nor the USDOT Lender shall assert, and each of the Borrower and the USDOT Lender hereby waives, any claim against any Indemnitee or the Borrower, respectively, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any of the other Related Documents, the other transactions contemplated hereby and thereby, the RRIF Loan or the use of the proceeds thereof; provided that nothing in this sentence shall limit the Borrower’s indemnity obligations to the extent such damages are included in any third party claim in connection with which an Indemnitee is entitled to indemnification hereunder. All amounts due to any Indemnitee under this Section 18 (*Indemnification*) shall be payable promptly upon demand therefor. The obligations of the Borrower under this Section 18 (*Indemnification*) shall survive the payment or prepayment in full or transfer of the RRIF Bonds, the enforcement of any provision of this Agreement or the other Related Documents, any amendments, waivers (other than amendments or waivers in writing with respect to this Section 18 (*Indemnification*)) or consents in respect hereof or thereof, any Event of Default, and any workout, restructuring or similar arrangement of the obligations of the Borrower hereunder or thereunder.

Section 19. Sale of RRIF Loan. The USDOT Lender shall not sell the RRIF Loan at any time prior to the Substantial Completion Date for Phase III. After such date, the USDOT Lender may sell the RRIF Loan to another entity or reoffer the RRIF Loan into the capital markets only in accordance with the provisions of this Section 19 (*Sale of RRIF Loan*). Such sale or reoffering shall be on such terms as the USDOT Lender shall deem advisable. However, in making

such sale or reoffering the USDOT Lender shall not change the terms and conditions of the RRIF Loan without the prior written consent of the Borrower in accordance with Section 30 (*Amendments and Waivers*). The USDOT Lender shall provide, at least sixty (60) days prior to any sale or reoffering of the RRIF Loan, written notice to the Borrower of the USDOT Lender's intention to consummate such a sale or reoffering; provided, however, that no such notice shall be required during the continuation of any Event of Default. The provision of any notice pursuant to this Section 19 (*Sale of RRIF Loan*) shall not (x) obligate the USDOT Lender to sell nor (y) provide the Borrower with any rights or remedies in the event the USDOT Lender, for any reason, does not sell the RRIF Loan.

Section 20. Events of Default and Remedies.

(a) An “**Event of Default**” shall exist under this Agreement if any of the following occurs:

(i) Payment Default. The Borrower shall fail to pay any of the principal amount of or interest on the RRIF Loan (including RRIF Debt Service required to have been paid pursuant to the provisions of Section 9 (*Payment of Principal and Interest*), when and as the payment thereof shall be required under this Agreement or any RRIF Bond or on any Final Maturity Date (a “**Payment Default**”).

(ii) Covenant Default. The Borrower shall fail to observe or perform any covenant, agreement or obligation of the Borrower under this Agreement, the RRIF Bonds or any other RRIF Loan Document (other than in the case of any Payment Default or any Development Default), and such failure shall not be cured within thirty (30) days after the earlier to occur of (A) receipt by the Borrower from the USDOT Lender of written notice thereof, or (B) the Borrower's knowledge of such failure; provided, however, that if such failure is capable of cure but cannot reasonably be cured within such thirty (30) day cure period, then no Event of Default shall be deemed to have occurred or be continuing under this Section 20(a)(ii) (*Covenant Default*), and such thirty (30) day cure period shall be extended by up to one hundred fifty (150) additional days, if and so long as (x) within such thirty (30) day cure period the Borrower shall commence actions reasonably designed to cure such failure and shall diligently pursue such actions until such failure is cured, and (y) such failure is cured within one hundred eighty (180) days of the date specified in either (A) or (B) above, as applicable.

(iii) Development Default. A Development Default shall occur.

(iv) Misrepresentation Default. Any of the representations, warranties or certifications of the Borrower made in or delivered pursuant to the RRIF Loan Documents (or in any certificates delivered by the Borrower in connection with the RRIF Loan Documents) shall prove to have been false or misleading in any material respect when made or deemed made (or any representation and warranty that is subject to a materiality qualifier shall prove to have been false or misleading in any respect); provided that no Event of Default shall be deemed to have occurred under this Section 20(a)(iv) (*Misrepresentation Default*) if and so long as:

- (1) such misrepresentation is not intentional;
- (2) such misrepresentation is not a misrepresentation in respect of Section 14(h) (*No Debarment*), Section 14(j) (*Compliance with Federal Requirements*), Section 14(p) (*Information*), Section 14(q) (*OFAC; Anti-Corruption Laws*), Section 14(x) (*Financial Statements*) or Section 14(ff) (*Patriot Act*);
- (3) in the reasonable determination of the USDOT Lender, such misrepresentation has not had, and would not reasonably be expected to result in, a Material Adverse Effect;
- (4) in the reasonable determination of the USDOT Lender, the underlying issue giving rise to the misrepresentation is capable of being cured;
- (5) the underlying issue giving rise to the misrepresentation is cured by the Borrower within thirty (30) days from the date on which the Borrower first became aware (or reasonably should have become aware) of such misrepresentation; and
- (6) the Borrower diligently pursues such cure during such thirty (30) day period.

(v) Acceleration of Borrower Obligations. Any acceleration shall occur of the maturity of any Senior Sales Tax Obligation or any Prior Obligation, or any such Senior Sales Tax Obligations or Prior Obligations shall not be paid in full upon the final maturity thereof.

(vi) Events of Default under Sales Tax Trust Documents and Other Loan Documents. Any default under (and as defined in) any Sales Tax Trust Documents (other than the USDOT Supplemental Sales Tax Trust Agreement), or other agreement(s) pursuant to which the Borrower has incurred indebtedness in an aggregate amount equal to or greater than \$1,000,000 that is payable on a parity basis with, or senior to, RRIF Debt Service and that is secured by all or any part of the Sales Tax Trust Estate (“**Other Loan Documents**”) shall occur and shall not have been cured by the Borrower or waived in writing in accordance with the requirements of the applicable Indenture Document or Other Loan Document within the applicable cure period (if any) provided under such Indenture Document or Other Loan Document.

(vii) Judgments. One or more judgments (A) for the payment of money in an aggregate amount in excess of \$25,000,000 (inflated annually by CPI) that are not otherwise fully covered by insurance (for which the insurer has acknowledged and not disputed coverage) or (B) that would reasonably be expected to result in a Material Adverse Effect shall, in either case, be rendered against the Borrower, and the same shall remain undischarged for a period of thirty (30) consecutive days during which time period

execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of the Borrower to enforce any such judgment.

(viii) Failure to Maintain Existence. The Borrower shall fail to maintain its existence as a body politic and corporate and political subdivision of the Commonwealth, unless at or prior to the time the Borrower ceases to exist in such form a successor public agency or governing body has been created by the Commonwealth pursuant to a valid and unchallenged Commonwealth law and has succeeded to the assets of the Borrower and has assumed all of the obligations of the Borrower under the RRIF Loan Documents, including the payment of all Sales Tax Bonds.

(ix) Occurrence of a Bankruptcy Related Event. (A) A Bankruptcy Related Event shall occur with respect to the Borrower or (B) a Bankruptcy Related Event shall occur with respect to any Principal Project Party; provided, that: (1) a Bankruptcy Related Event in connection with a Principal Project Party shall not constitute an Event of Default if the Borrower shall have promptly provided evidence satisfactory to the USDOT Lender demonstrating that any substitute Principal Project Party has sufficient financial resources and operating expertise to complete the Principal Project Contract to which such Principal Project Party was a party; and (2) after the Substantial Completion Date for Phase III, the occurrence of a Bankruptcy Related Event in connection with any Principal Project Party shall not constitute an Event of Default if at the time of such occurrence, (x) each applicable warranty period shall have ended and no claim against any warranty under the applicable Principal Project Contract shall exist or remain outstanding, or (y) if any applicable warranty period has not yet ended or any claim against any warranty remains outstanding, the Borrower promptly provides evidence satisfactory to the USDOT Lender showing that it has (I) sufficient moneys to correct any defect or nonconforming work of such Principal Project Party, and (II) a plan to carry out such works referred to in clause (I) hereof.

(x) Project Abandonment. The Borrower shall abandon the Project or any Phase thereof.

(xi) Invalidity of RRIF Loan Documents. (A) Any RRIF Loan Document ceases to be in full force and effect (other than as a result of the termination thereof in accordance with its terms) or becomes void, voidable, illegal or unenforceable, or (B) any Sales Tax Trust Document ceases (other than as expressly permitted thereunder) to be effective to grant a valid and binding security interest on any material portion of the Sales Tax Trust Estate other than as a result of actions or a failure to act by, and within the control of, the Sales Tax Trustee or any Secured Party, and with the priority purported to be created thereby.

(xii) Cessation of Operations. Operation of the Project shall cease for a continuous period of not less than one hundred eighty (180) days unless such cessation of operations shall occur by reason of an Uncontrollable Force that is not due to the fault of the Borrower (and which the Borrower could not reasonably have avoided or mitigated).

(b) Upon the occurrence of an Event of Default described in Section 20(a)(iii) (*Development Default*), the USDOT Lender may, in its sole discretion, (i) suspend the disbursement of RRIF Loan proceeds under this Agreement, (ii) terminate all of its obligations hereunder with respect to the disbursement of any undisbursed amounts of the RRIF Loan. If so requested by the USDOT Lender in connection with a Development Default, the Borrower shall immediately repay any unexpended RRIF Loan proceeds previously disbursed to the Borrower.

(c) Upon the occurrence of any Bankruptcy Related Event with respect to the Borrower, all obligations of the USDOT Lender hereunder with respect to the disbursement of any undisbursed amounts of the RRIF Loan shall automatically be deemed terminated, and the Outstanding RRIF Balance, together with all interest accrued thereon and all fees, costs, expenses, indemnities and other amounts payable under this Agreement, any RRIF Bond or the other RRIF Loan Documents, shall automatically become immediately due and payable, without presentment, demand, notice, declaration, protest or other requirements of any kind, all of which are hereby expressly waived.

(d) Upon the occurrence of any other Event of Default, the USDOT Lender, by written notice to the Borrower, may (A) suspend or terminate all of its obligations hereunder with respect to the disbursement of any undisbursed amounts of the RRIF Loan, and (B) if an Event of Default described in Section 20(a)(v) (*Acceleration of Borrower Obligations*) or if the USDOT Lender has a right to accelerate the RRIF Loan pursuant to Section 17(n) (*Additional Rights*), declare the unpaid principal amount of each RRIF Bond to be, and the same shall thereupon forthwith become, immediately due and payable, together with the interest accrued thereon and all fees, costs, expenses, indemnities and other amounts payable under this Agreement, the RRIF Bonds or the other RRIF Loan Documents, all without presentment, demand, notice, protest or other requirements of any kind, all of which are hereby expressly waived.

(e) Whenever any Event of Default hereunder shall have occurred and be continuing, the USDOT Lender shall be entitled and empowered to institute any actions or proceedings at law or in equity for the collection of any sums due and unpaid hereunder or under the RRIF Bonds or the other RRIF Loan Documents, and may prosecute any such judgment or final decree against the Borrower and collect in the manner provided by law out of the property of the Borrower the moneys adjudged or decreed to be payable, and the USDOT Lender shall have all of the rights and remedies of a creditor, including all rights and remedies of a secured creditor under the Uniform Commercial Code, and may take such other actions at law or in equity as may appear necessary or desirable to collect all amounts payable by Borrower under this Agreement, the RRIF Bonds or the other RRIF Loan Documents then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Agreement, the RRIF Bonds or the other RRIF Loan Documents.

(f) Whenever any Event of Default hereunder shall have occurred and be continuing, the USDOT Lender may suspend or debar the Borrower from further participation in any Government program administered by the USDOT Lender and to notify other departments and agencies of such default.

(g) No action taken pursuant to this Section 20 (*Events of Default and Remedies*) shall relieve Borrower from its obligations pursuant to this Agreement, the RRIF Bonds or the other RRIF Loan Documents, all of which shall survive any such action.

Section 21. Accounting and Audit Procedures; Inspections; Reports and Records.

(a) Accounting and Audit Procedures. The Borrower shall establish fiscal controls and accounting procedures sufficient to assure proper accounting for all Project-related transactions (including collection of Pledged Revenues, and RRIF Loan requisitions received and disbursements made with regard to the Project), so that audits may be performed to ensure compliance with and enforcement of this Agreement. The Borrower shall use accounting, audit and fiscal procedures conforming to GASB, including, with respect to the RRIF Loan, accounting of principal and interest payments, disbursements, prepayments and calculation of interest and principal amounts outstanding.

(b) Inspections. So long as any RRIF Loan or any portion thereof shall remain outstanding and until five (5) years after the date that the RRIF Loan shall have been paid in full, the USDOT Lender shall have the right, upon reasonable prior notice, to visit and inspect any of the locations or properties of the Borrower, to examine its books of account and records, to make copies and extracts therefrom at the Borrower's expense, and to discuss the Borrower's affairs, finances and accounts with, and to be advised as to the same by, its officers and employees and its independent public accountants (and by this provision the Borrower irrevocably authorizes its independent public accountants to discuss with the USDOT Lender the affairs, finances and accounts of the Borrower, whether or not any representative of the Borrower is present, it being understood that nothing contained in this Section 21(b) (*Accounting and Audit Procedures; Inspections; Reports and Records*) is intended to confer any right to exclude any such representative from such discussions), all at such reasonable times and intervals as the USDOT Lender may desire. The Borrower agrees to pay all out-of-pocket expenses incurred by the USDOT Lender in connection with the USDOT Lender's exercise of its rights under this Section 21(b) (*Accounting and Audit Procedures; Inspections; Reports and Records*) at any time when an Event of Default shall have occurred and be continuing.

(c) Reports and Records. The Borrower shall maintain and retain all files relating to the Project, the Pledged Revenues and the RRIF Loan until three (3) years after the later of the date on which (i) all rights and duties hereunder and under each of the RRIF Bonds (including payments) have been fulfilled and any required audits have been performed and (ii) any litigation relating to the Project, the Pledged Revenues, the RRIF Loan or this Agreement is finally resolved or, if the USDOT Lender has reasonable cause to extend such date, a date to be mutually agreed upon by the USDOT Lender and the Borrower. The Borrower shall provide to the USDOT Lender in a timely manner all records and documentation relating to the Project or the Pledged Revenues that the USDOT Lender may reasonably request from time to time.

(d) Copies of Senior Debt Related Notices. The Borrower shall provide to the USDOT Lender, promptly after the sending or receipt thereof, copies of (i) final ratings presentations sent to, and any notices, reports or other written materials (other than those that are ministerial in nature) received from, any Nationally Recognized Rating Agency that has provided, or is being requested to provide, a rating with respect to the Project or any indebtedness

of the Borrower that is or will be secured by or paid from the Pledged Revenues, (ii) all notices and other written communications, other than those that are non-substantive or ministerial in nature, received by it from the Sales Tax Trustee or any Sales Tax Bondholder, and (iii) all reports, notices and other written materials, other than those that are non-substantive or ministerial in nature, required to be sent to the Sales Tax Trustee or any Sales Tax Bondholder under the Sales Tax Trust Documents, unless, in each case, the USDOT Lender notifies the Borrower that any such reports, notices and/or other written materials no longer need to be provided.

(e) Required Audit. The Borrower shall have a single or program-specific audit conducted in accordance with 2 C.F.R. Part 200 Subpart F and 31 U.S.C. § 7502 in 2020 and annually thereafter, except to the extent biennial audits are permitted for the Borrower pursuant to 2 C.F.R. § 200.504 and 31 U.S.C. § 7502(b). Upon reasonable notice, the Borrower shall cooperate fully in the conduct of any periodic or compliance audits conducted by the USDOT Lender, the USDOT, or designees thereof, pursuant to 49 C.F.R. § 80.19, 31 U.S.C. § 7503(b), or 31 U.S.C. § 6503(h) and shall provide full access to any books, documents, papers or other records that are pertinent to the Project or any RRIF Loan, to the Secretary, or the designee thereof, for any such project or programmatic audit.

Section 22. Financial Plan, Statements, and Reports.

(a) Financial Plan. The Borrower shall provide to the USDOT Lender and the FTA Regional Office, within sixty (60) days after the Effective Date and, beginning with Borrower Fiscal Year 2021, annually thereafter not later than ninety (90) days after the beginning of each Borrower Fiscal Year, a Financial Plan. The Financial Plan submitted within sixty (60) days after the Effective Date should be consistent in all respects with the projections, assumptions and other information contained or reflected in the Base Case Financial Model.

(i) The Financial Plan shall be prepared in accordance with recognized financial reporting standards, such as those in the “Guide for Prospective Financial Information” of the American Institute of Certified Public Accountants and shall meet the FTA Project Management Oversight Requirements, as amended from time to time, to the extent applicable.

(ii) The Financial Plan shall include: (A) a certificate signed by the Borrower’s Authorized Representative to the effect that the Financial Plan, including the assumptions and supporting documentation, is accurate and reasonable to the best of the Borrower’s knowledge and belief; (B) a certificate signed by the Borrower’s Authorized Representative demonstrating that annual projected Pledged Revenues shall be sufficient to meet the Loan Amortization Schedule; and (C) an electronic copy of a Revised Financial Model for the period from the Effective Date through the Final Maturity Date, in substantially the form of the Base Case Financial Model, based upon assumptions and projections with respect to the Project Revenues, expenses and other financial aspects of the Project that shall reflect the prior experience and current status of the Project, and the expectations of the Borrower with respect to the Project, as of the most recent practicable date prior to the delivery of such Revised Financial Model.

(iii) For the period through the Substantial Completion Date for Phase III, the Financial Plan shall:

(A) provide the current estimate of Total Project Costs and the remaining cost to complete the Project and each Phase thereof, identify any significant cost changes since the previous Financial Plan, discuss reasons for and implications of the cost changes, and include a summary table showing the history of Total Project Costs by major activity or category in comparison to the Base Case Financial Model and the preceding Financial Plan;

(B) provide updates to the Implementation Schedule, including an update, if any, to the Projected Substantial Completion Dates and an explanation of any such adjustment;

(C) identify major milestones for each Phase and compare current milestone dates with the milestone dates in the Implementation Schedule and in the preceding Financial Plan, and discuss reasons for changes in Project milestones;

(D) provide current estimates of sources and uses of funds for each Phase, identify any significant funding changes since the preceding Financial Plan, discuss reasons for and implications of the funding changes, and include a summary table showing the history of funding for such Phase in comparison to the Base Case Financial Model and the preceding Financial Plan;

(E) provide an updated cash flow schedule showing annual cash needs versus available revenues and funding to meet those needs and identify any potential revenue and funding shortfalls, and addressing contingency measures that will or may be taken to address any shortfalls;

(F) provide cost containment strategies and risk mitigation plans that have been or may be implemented to address factors that are affecting or could affect the scheduled completion or financial viability of each Phase;

(G) provide the total value of approved changes in Project design or scope, and provide a listing of each individual change valued at \$5,000,000 or more, setting forth the rationale or need for the proposed change and describing the impact of such change on the applicable Phase; and

(H) contain, in form and substance satisfactory to the USDOT Lender, a written narrative executive summary of the topics described in clauses (A) through (H) above since the Effective Date and since the preceding Financial Plan, describing in reasonable detail all material matters that may affect the future performance of the Borrower's obligations under this Agreement, including any adjustment to the Projected Substantial Completion Dates, and the causes thereof.

(iv) For the period following the Substantial Completion Date for Phase III until repayment of the RRIF Loan in full, the Financial Plan shall:

(A) provide an updated cash flow schedule showing annual cash inflows (including all Pledged Revenues) and outflows (including required payments on all Senior Sales Tax Obligations, Prior Obligations and RRIF Loan), with a narrative identifying any potential revenue or funding shortfall and discussing contingency measures that will or may be taken to address any shortfalls;

(B) provide current and estimated amounts of Pledged Revenues received and the amounts deposited into each of the accounts and subaccounts established under the Sales Tax Trust Documents and the amount disbursed from such funds and accounts and the balance in each of the funds and accounts;

(C) provide an updated schedule of actual and projected Pledged Revenues, showing actual and projected Assessment Floor Coverage Ratios, Base Revenue Floor Coverage Ratios, Historic Dedicated Sales Tax Senior Coverage Ratios and Historic Dedicated Sales Tax Total Coverage Ratios, and report on variances during the prior Borrower Fiscal Year between the Pledged Revenues actually received and the budgeted Pledged Revenues as shown in the Financial Plan for such prior Borrower Fiscal Year, together with a brief narrative explanation of the reasons for any such variance of ten percent (10%) or more;

(D) provide a schedule of then current moneys constituting Pledged Revenues and planned increases thereto; and

(E) contain, in form and substance satisfactory to the USDOT Lender, a written narrative executive summary of the topics described in clauses (A) through (H) above since the Effective Date and since the preceding Financial Plan, including in reasonable detail (i) an explanation of any variances in costs or revenues in comparison to the Base Case Financial Model and the preceding Financial Plan, and (ii) a description of any material matters that may affect the future performance of the Borrower's obligations under this Agreement and the causes thereof.

(b) Modifications to Total Project Costs. For the period through the Substantial Completion Date for Phase III, the Borrower shall provide the USDOT Lender with written notification at least thirty (30) days prior to instituting any increase or decrease to the Total Project Costs, in an amount equal to or greater than five percent (5%) of the then-current aggregate amount thereof, which notification shall set forth the nature of the proposed increase or decrease and an estimate of the impact of such increase or decrease on the capital costs and operating costs of the Project, and the Financial Plan. The Borrower's notice shall demonstrate that the proposed increase or decrease is consistent with the provisions of this Agreement, is necessary or beneficial to the Project, does not materially impair the USDOT Lender's security or the Borrower's ability to comply with its obligations under the Related Documents (including any financial ratios or covenants included therein), and could not reasonably be expected to result in a Material Adverse Effect.

(c) Financial Statements. The Borrower shall furnish to the USDOT Lender as soon as available, but no later than one hundred eighty (180) days after the end of each

Borrower Fiscal Year, a copy of the audited income statement and balance sheet of the Borrower as of the end of such fiscal year and the related audited statements of operations and of cash flow of the Borrower for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, certified without a “going concern” or like qualification or exception, or qualification as to the scope of the audit, by an independent public accounting firm selected by the Borrower and which is reasonably acceptable to the USDOT Lender. All such financial statements shall be complete and correct in all material respects and shall be prepared in reasonable detail and in accordance with GASB (or in the case of non-U.S. Persons, substantially equivalent principles) applied consistently throughout the periods reflected therein (except for changes approved or required by the independent public accountants certifying such statements and disclosed therein).

(d) Officer’s Certificate. The Borrower shall furnish to the USDOT Lender, together with each delivery of annual audited financial statements of the Borrower pursuant to Section 22(c) (*Financial Statements*), a certificate signed by the chief executive officer or chief financial officer of the Borrower or any Borrower’s Authorized Representative, stating whether or not, to the Borrower’s knowledge, during the annual period covered by such financial statements, there occurred any Event of Default or event that, with the giving of notice or the passage of time or both, would become an Event of Default, and, if any such Event of Default or other event shall have occurred during such period, the nature of such Event of Default or other event and the actions that the Borrower has taken or intends to take in respect thereof.

Section 23. Project Oversight and Monitoring.

(a) Project Development, Design and Implementation. The USDOT Lender shall have the right in its sole discretion to monitor (or direct its agents to monitor) the development, including environmental compliance, design, and implementation of the Project. The Borrower shall be responsible for administering oversight of the implementation of the Project in accordance with the FTA Master Agreement, as applicable. The Borrower’s oversight of Project development, environmental compliance, design, and monitoring of implementation shall be conducted pursuant to the FTA Master Agreement; provided, however, FRA shall conduct oversight of the Project with respect to the applicable provisions of 49 U.S.C. and the applicable regulations in 49 C.F.R. Part 236. The Borrower agrees to cooperate in good faith with the USDOT Lender, FRA and the FTA Regional Office in the conduct of such monitoring by promptly providing the USDOT Lender, FRA and the FTA Regional Office with such reports, documentation or other information as shall be requested by the USDOT Lender, FRA and the FTA Regional Office, or its agents, documentation or information.

(b) Reporting. The Borrower shall furnish to the USDOT Lender the documentation described below.

(i) Quarterly Implementation Progress Report. On or before the fifteenth (15th) day of each quarterly period of each Borrower Fiscal Year during the Implementation Period, a report in respect of the most-recently completed quarterly period, executed by a Borrower’s Authorized Representative that:

(A) specifies the amount of Total Project Costs expended for each Phase since the Effective Date as well as during such preceding quarterly period and the amount of Total Project Costs estimated to be required to complete each Phase;

(B) provides a demonstration that the Borrower has sufficient funds (including funds on hand and funds obtainable without undue delay or conditions that cannot reasonably be satisfied by the Borrower as and when such funds are needed) to complete each Phase;

(C) provides an assessment of the overall construction progress of each Phase since the date of the last report and since the Effective Date, together with an assessment of how such progress compares to the Implementation Schedule;

(D) specifies the most recent projections for the Substantial Completion Date for each Phase, each as compared to the applicable Projected Substantial Completion Date specified in the Financial Plan most recently approved by the USDOT Lender;

(E) provides a detailed description of all material problems (including actual and anticipated cost and/or schedule overruns, if any) encountered or anticipated in connection with the implementation of each Phase since the date of the last report, together with an assessment of how such problems may impact the Implementation Schedule and the meeting of critical dates thereunder and a detailed description of the proposed solutions to any such problems;

(F) specifies the delivery status of major equipment and the effect, if any, that the anticipated delivery dates of such equipment has on the overall Implementation Schedule;

(G) specifies any proposed or pending change orders;

(H) includes a copy of each report delivered by a Principal Project Party to the Borrower that has not previously been delivered to the USDOT Lender in a prior report delivered pursuant to this Section 23(b)(i) (*Quarterly Implementation Progress Report*); and

(I) provides a discussion or analysis of such other matters related to each Phase as the USDOT Lender may reasonably request. The Borrower shall respond, and use commercially reasonable efforts to cause the Principal Project Parties to respond, to the USDOT Lender's inquiries regarding such report, the construction of each Phase and any Principal Project Party's performance of its obligations under the Principal Project Contract to which such Principal Project Party is a party.

(ii) Recovery Plan. If the quarterly implementation progress report described in Section 23(b)(i) (*Quarterly Implementation Progress Report*) or the monthly

report issued pursuant to the FTA Project Management Oversight Requirements, as applicable, indicates either a failure to maintain the Implementation Schedule, including a failure to achieve Substantial Completion for any Phase by the Projected Substantial Completion Date or the anticipated Substantial Completion Date for such Phase set forth in the previous quarterly implementation progress report provided pursuant to Section 23(b)(i) (*Quarterly Implementation Progress Report*), or actual or projected Eligible Project Cost overruns in excess of five percent (5%) of the Eligible Project Costs reflected in the Project Budget, or both, then the Borrower shall notify the USDOT Lender and the FTA Regional Office of such failure and shall, upon request by the USDOT Lender, provide the USDOT Lender within thirty (30) days of receipt of such request, a Recovery Plan for review and acceptance by the USDOT Lender.

(iii) Requested Information. The Borrower shall, at any time while the RRIF Loan remains outstanding, promptly deliver to the USDOT Lender such additional information regarding the business, financial, legal or organizational affairs of the Borrower or regarding the Project or the Pledged Revenues as the USDOT Lender may from time to time reasonably request.

Section 24. No Personal Recourse. No official, employee or agent of the USDOT Lender or the Borrower or any Person executing this Agreement or any of the other RRIF Loan Documents shall be personally liable on this Agreement or such other RRIF Loan Documents by reason of the issuance, delivery or execution hereof or thereof.

Section 25. No Third Party Rights. The parties hereby agree that this Agreement creates no third party rights against the Borrower, the Government, or the USDOT Lender, solely by virtue of the RRIF Loan, and the Borrower agrees to indemnify and hold the USDOT Lender, the Servicer (if any), the Executive Director, and the Government harmless, to the extent permitted by law and in accordance with Section 18 (*Indemnification*), from any lawsuit or claim arising in law or equity solely by reason of the RRIF Loan, and that no third party creditor or creditors of the Borrower shall have any right against the USDOT Lender with respect to the RRIF Loan made pursuant to this Agreement.

Section 26. Borrower's Authorized Representative. The Borrower shall at all times have appointed a Borrower's Authorized Representative by designating such Person or Persons from time to time to act on the Borrower's behalf pursuant to a written certificate furnished to the USDOT Lender and the Servicer, if any, containing the specimen signature or signatures of such Person or Persons and signed by the Borrower.

Section 27. USDOT Lender's Authorized Representative.

(a) The USDOT Lender shall at all times have appointed the USDOT Lender's Authorized Representative by designating such Person or Persons from time to time to act on the USDOT Lender's behalf pursuant to a written certificate furnished to the Borrower and the Servicer, if any, containing the specimen signature or signatures of such Person or Persons and signed by the USDOT Lender.

(b) Pursuant to the delegation of authority, dated July 20, 2016, from the Secretary to the Under Secretary of Transportation for Policy, the further delegation of authority, dated July 20, 2016, from the Under Secretary of Transportation for Policy to the Executive Director of the Build America Bureau, and the further delegation of authority, dated August 31, 2016 (the “**Delegation**”), by the Executive Director of the Build America Bureau to the Director of the Credit Office of the Build America Bureau (the “**Director of Credit**”), the Director of Credit has been delegated the authority to enter into contracts and sign all contractual and funding documents (with the exception of the term sheets and credit agreements) necessary to implement the RRIF Act, including entering into technical amendments to, and restatements of, term sheets and credit agreements that do not materially impair the credit quality of the revenues pledged to repay the USDOT Lender. Pursuant to the Delegation, the Director of Credit may act and serve as the USDOT Lender’s Authorized Representative under this Agreement, in addition to the Executive Director, for the purposes set forth herein.

Section 28. Servicer. The USDOT Lender may from time to time designate another entity or entities to perform, or assist the USDOT Lender in performing, the duties of the Servicer or specified duties of the USDOT Lender under this Agreement and the RRIF Bonds. The USDOT Lender shall give the Borrower written notice of the appointment of any successor or additional Servicer and shall enumerate the duties or any change in duties to be performed by any Servicer. Any references in this Agreement to the USDOT Lender shall be deemed to be a reference to the Servicer with respect to any duties which the USDOT Lender shall have delegated to such Servicer. The USDOT Lender may at any time assume the duties of any Servicer under this Agreement and the RRIF Bonds. The Borrower shall cooperate and respond to any reasonable request of the Servicer for information, documentation or other items reasonably necessary for the performance by the Servicer of its duties hereunder.

Section 29. Fees and Expenses.

(a) Commencing in Federal Fiscal Year (“**FFY**”) 2021 and continuing thereafter each year throughout the term of this Agreement, the Borrower shall pay to the USDOT Lender a loan servicing fee on or before the fifteenth (15th) of November. The USDOT Lender shall establish the amount of this annual fee, and the USDOT Lender or the Servicer, if any, shall notify the Borrower of the amount, at least thirty (30) days before payment is due.

(b) In establishing the amount of the fee, the USDOT Lender will adjust the previous year’s base amount in proportion to the percentage change in CPI. For the FFY 2021 calculation, the USDOT Lender will use the FFY 2020 base amount of \$13,694.49, which applies to other RRIF borrowers, as the previous year’s base amount. The USDOT Lender will calculate the percentage change in the CPI, before seasonal adjustment, from August of the previous year to August of the current year and will then adjust the previous year’s base amount in proportion to the CPI percentage change. To calculate the amount of the fee, the USDOT Lender shall round the current year’s base amount using increments of \$500. Results with the ending integers between 250-499 or between 750-999 shall be rounded upward, and results with the ending integers between 001-249 or between 501-749 shall be rounded downward. The CPI adjustments in the following years shall begin with the base amount, not the rounded fee.

(c) The Borrower agrees, whether or not the transactions hereby contemplated shall be consummated, to reimburse the USDOT Lender on demand from time to time, within thirty (30) days after receipt of any invoice from the USDOT Lender, for any and all fees, costs, charges, and expenses incurred by it (including the reasonable fees, costs, and expenses of its legal counsel, financial advisors, auditors and other consultants and advisors, such reasonableness determined in accordance with Part 31 of the Federal Acquisition Regulation) in connection with the negotiation, preparation, execution, delivery, and performance of this Agreement and the other RRIF Loan Documents and the transactions hereby and thereby contemplated, including reasonable attorneys', and engineers' fees and professional costs, including all such fees, costs, and expenses incurred as a result of or in connection with:

(i) the enforcement of or attempt to enforce any provision of this Agreement or any of the other RRIF Loan Documents;

(ii) any amendment, modification, or requested amendment or modification of, waiver, consent, or requested waiver or consent under or with respect to, or the protection or preservation of any right or claim under, this Agreement, any other Related Document, or the Sales Tax Trust Estate, or advice in connection with the administration, preservation in full force and effect, and enforcement of this Agreement or any other Related Document or the rights of the USDOT Lender thereunder; and

(iii) any work-out, restructuring, or similar arrangement of the obligations of the Borrower under this Agreement or the other RRIF Loan Documents, including during the pendency of one or more Events of Default.

The obligations of the Borrower under this Section 29 (*Fees and Expenses*) shall survive the payment or prepayment in full or transfer of the RRIF Bonds, the enforcement of any provision of this Agreement or the other RRIF Loan Documents, any such amendments, waivers or consents, any Event of Default, and any such workout, restructuring, or similar arrangement.

Section 30. Amendments and Waivers. No amendment, modification, termination, or waiver of any provision of this Agreement shall in any event be effective without the prior written consent of each of the parties hereto.

Section 31. Governing Law. This Agreement shall be governed by the federal laws of the United States of America if and to the extent such federal laws are applicable and the internal laws of the Commonwealth, if and to the extent such federal laws are not applicable.

Section 32. Severability. In case any provision in or obligation under this Agreement shall be invalid, illegal, or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

Section 33. Successors and Assigns. This Agreement shall be binding upon the parties hereto and their respective permitted successors and assigns and shall inure to the benefit of the parties hereto and their permitted successors and assigns. Neither the Borrower's rights or obligations hereunder nor any interest therein may be assigned, delegated or transferred by the Borrower without the prior written consent of the USDOT Lender.

Section 34. Remedies Not Exclusive. No remedy conferred herein or reserved to the USDOT Lender 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 hereunder or now or hereafter existing at law or in equity or by statute.

Section 35. Delay or Omission Not Waiver. No delay or omission of the USDOT Lender to exercise any right or remedy provided hereunder upon a default of the Borrower (except a delay or omission pursuant to a written waiver) shall impair any such right or remedy or constitute a waiver of any such default or acquiescence therein. Every right and remedy given by this Agreement or by law to the USDOT Lender may be exercised from time to time, and as often as may be deemed expedient by the USDOT Lender.

Section 36. Counterparts. This Agreement and any amendments, waivers, consents or supplements hereto or in connection herewith may be executed in any number of counterparts and by the different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document. Electronic delivery of an executed counterpart of a signature page of this Agreement or of any document or instrument delivered in connection herewith in accordance with Section 37 (*Notices; Payment Instructions*) shall be effective as delivery of an original executed counterpart of this Agreement or such other document or instrument, as applicable. Each party acknowledges and agrees that they may execute this Agreement, and any variation or amendment hereto, using Electronic Signatures. Such Electronic Signatures are intended to authenticate this writing and to have the same force and effect as handwritten signatures.

Section 37. Notices; Payment Instructions. Notices hereunder shall be (a) in writing, (b) effective as provided below and (c) given by (i) nationally recognized courier service, (ii) hand delivery, or (iii) email, in each case to:

If to USDOT Lender: Build America Bureau
United States Department of Transportation
Room W12-464
1200 New Jersey Avenue, SE
Washington, D.C. 20590
Attention: Director, Office of Credit Programs
Email: BureauOversight@dot.gov

with copies to: Federal Transit Administration
Region I
Kendall Square
55 Broadway, Suite 920
Cambridge, Massachusetts 02142-1093
Telephone: (617) 494-2055
Fax: (617) 494-2865
Attention: Regional Administrator

If to Borrower:

Massachusetts Bay Transportation Authority
State Transportation Building
10 Park Plaza
Boston, MA 02116
Attention: Patrick F. Landers, III
Email: planders@mbta.com

with copies to:

Massachusetts Bay Transportation Authority
State Transportation Building
10 Park Plaza
Boston, MA 02116
Attention: General Counsel
Email: Marie.Breen@dot.state.ma.us

Unless otherwise instructed by the USDOT Lender's Authorized Representative, all notices to the USDOT Lender should be made by email to the email address noted above for the USDOT Lender. Notices required to be provided herein shall be provided to such different addresses or to such further parties as may be designated from time to time by a Borrower's Authorized Representative, with respect to notices to the Borrower, or by the USDOT Lender's Authorized Representative, with respect to notices to the USDOT Lender or the Servicer. The Borrower shall make any payments hereunder or under the applicable RRIF Bond in accordance with Section 9(f) (*Manner of Payment*) and the payment instructions hereafter provided to the Borrower by the USDOT Lender's Authorized Representative, as modified from time to time by the USDOT Lender. The Borrower shall provide a copy of any payment instruction from the USDOT Lender to the Sales Tax Trustee within five (5) Business Days of receipt from the USDOT Lender. Each such notice, request or communication shall be effective (x) if delivered by hand or by nationally recognized courier service, when delivered at the address specified in this Section 37 (*Notices; Payment Instructions*) (or in accordance with the latest unrevoked written direction from the receiving party) and (y) if given by email, when such email is delivered to the address specified in this Section 37 (*Notices; Payment Instructions*) (or in accordance with the latest unrevoked written direction from the receiving party); provided that notices received on a day that is not a Business Day or after 5:00 p.m. Eastern Time on a Business Day will be deemed to be effective on the next Business Day; provided, further, any payment instructions provided by the USDOT Lender under this Section 37 (*Notices; Payment Instructions*), and any subsequent modifications thereto, shall be effective with respect to any Semi-Annual Payment Date only if such instructions or modification shall have been delivered to the Borrower from the USDOT Lender not less than ten (10) Business Days prior to such Semi-Annual Payment Date.

Section 38. Effectiveness. This Agreement shall be effective on the Effective Date.

Section 39. Termination. This Agreement shall terminate upon the irrevocable payment in full in cash by the Borrower of the Outstanding RRIF Loan Balance, together with all accrued interest and fees with respect thereto; provided, however, that the indemnification requirements of Section 18 (*Indemnification*), the inspection, reporting and record keeping requirements of Section 21(b) (*Inspections*) and Section 21(c) (*Reports and Records*), and the payment

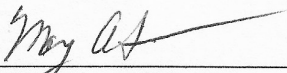
requirements of Section 29 (*Fees and Expenses*) shall survive the termination of this Agreement as provided in such sections.

Section 40. Integration. This Agreement constitutes the entire contract between the parties relating to the subject matter hereof and supersedes any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the Effective Date.

MASSACHUSETTS BAY
TRANSPORTATION AUTHORITY

By: 
Name: Mary Ann O'Hara
Title: Chief Financial Officer

UNITED STATES DEPARTMENT OF
TRANSPORTATION, acting by and
through the Executive Director of the Build
America Bureau

MORTEZA

By: FARAJIAN

Digitally signed by MORTEZA
FARAJIAN
Date: 2020.06.25 15:20:25
-04'00'

Name: Dr. Morteza Farajian

Title: Executive Director, Build America
Bureau

SCHEDULE I
PROJECT BUDGET

	ATC		Resiliency		PTC		Total
	SCC Codes	\$ Amount	SCC Codes	\$ Amount	SCC Codes	\$ Amount	
Sources of Funds							
MBTA Contribution (Bonds / Paygo)		10,733,227		2,671,020		88,955,982	102,360,228
MBTA Contribution (USDOT Fees)		253,700		68,800		0	322,500
Federal Funds		0		0		35,364,298	35,364,298
RRIF Loan (Request Amount)		369,064,667		100,085,333		382,000,000	851,150,000
Total Sources		380,051,594		102,825,153		506,320,280	989,197,026
Uses of Funds							
Project Component							
System-wide Engineering		0		0	80.02	19,572,587	19,572,587
ACSES Wayside System		0		0	50.01	128,706,796	128,706,796
ACSES Communication System		0		0	50.05	64,938,057	64,938,057
MBTA ACSES On-Board System		0		0	50.05	40,643,437	40,643,437
ACSES On-Board System for PanAm Locomotives		0		0	50.05	1,361,470	1,361,470
ACSES Back Office System		0		0	50.05	8,495,612	8,495,612
FRA Documentation and Technical Support		0		0	80.01	4,721,465	4,721,465
Training MBTA Staff, Contract Operator & Pan Am		0		0	80.01	2,683,275	2,683,275
Commissioning Activities		0		0	80.01	2,670,413	2,670,413
Maintenance & Warranty Support		0		0	80.01	2,184,733	2,184,733
PTC Contractor Project Admin		0		0	80.01	27,783,449	27,783,449
220 MHz Spectrum Purchase including Legal Fees		0		0	50.05	290,000	290,000
MBTA Initial Implementation Consulting Services		0		0	80.03	2,763,189	2,763,189
Pan-Am Settlement Payment		0		0	60.00	17,600,000	17,600,000
Seaview Transportation Co. - Facility Lease		0		0	60.00	754,667	754,667
Project Management including Mobilization	80.03	27,830,000		0		0	27,830,000
Engineering/Design	80.02	43,946,100		0		0	43,946,100
ATC Wayside System	50.01	181,223,900		0		0	181,223,900
Estimated Resiliency Costs		0	50.05	72,850,000		0	72,850,000
LTK -ATC	80.03	8,750,000		0		0	8,750,000
HNTB - ATC	80.03	4,000,000		0		0	4,000,000
MBTA Legal - ATC	80.03	1,500,000		0		0	1,500,000
WSP	80.03	14,500,000		0		0	14,500,000
WSP -Planning		0	80.01	2,884,091		0	2,884,091
WSP -Design		0	80.02	6,537,273		0	6,537,273
WSP -Construction/Build		0	80.04	11,536,364		0	11,536,364
WSP -Close-Out		0	80.04	192,273		0	192,273
Other Project Consulting		0		0	80.03	37,724,185	37,724,185
Keolis Support	50.01	25,000,000		0	10.01	40,020,415	65,020,415
MBTA Support	80.04	4,000,000		0	80.04	4,600,000	8,600,000
Other Support - Amtrak, Diversions/Busing	40.08	3,000,000		0	10.01	8,859,562	11,859,562
Contingency	90.00	55,000,000	90.00	6,000,000	90.00	28,000,000	89,000,000
Total Eligible Project Capital Costs		368,750,000		100,000,000		444,373,313	913,123,313
Eligible MBTA Sales Tax Contribution Financing Costs		0		0		1,700,000	1,700,000
Eligible Cost of issuance (MBTA Fees)		314,667		85,333		2,318,749	2,718,749
Eligible Cost of issuance (Rounding)		0		0		0	0
Eligible Underwriters Discount (BANs)		0		0		0	0
Less BAN Interest associated with USDOT Fee		0		0		0	0
RRIF / BAN Interest Costs		10,733,227		2,671,020		53,528,218	66,932,464
Total Eligible Financing Costs		11,047,894		2,756,353		57,546,967	71,351,213
Total Eligible Project and Financing Costs		379,797,894		102,756,353		501,920,280	984,474,526
Ineligible Pan Am Settlement Payment						4,400,000	
USDOT Fee		253,700		68,800		0	322,500
Total Project Costs (Uses of Funds)		380,051,594		102,825,153		506,320,280	989,197,026

SCHEDULE II
IMPLEMENTATION SCHEDULE

PTC Implementation		
	Date	Status
Back Office Network Hardware Installation	2/19/2018	Completed
PTC Pilot Testing	8/21/2018	Completed
PTC Systems Design	8/28/2018	Completed
Onboard Equipment Hardware Installation	9/14/2018	Completed
Onboard Equipment Final Configuration	10/10/2018	6/30/2020
Back Office Network Hardware Configuration	1/14/2019	Completed
PTC Training	8/22/2019	Completed
Wayside and Communications Hardware Installation	8/24/2019	Completed
PTC Implementation Request for Extension	9/30/2019	Completed
Wayside and Communications Hardware Configuration	6/15/2020	6/15/2020
PTC System Verification	12/3/2020	7/31/2020
PTCSP	12/3/2020	7/31/2020
PTC System Start-up	12/3/2020	12/31/2020
Substantial Completion Date	12/31/2020	12/31/2020

ATC Implementation Schedule		
Task	Date	Status
Pre-qualification	6/6/2018 – 7/24/2018	Completed
RFP Package	6/6/2018 – 1/01/2019	Completed
Proposal Phase	1/1/2019 – 4/1/2019	Completed
Award to Design / Build Entity	6/1/2019	Completed
NTP to Design / Build Entity	6/15/2019	Completed
Secure RRIF loan	4/2020	In progress
Design Phase	6/2019 – 12/2020	In progress
Factory Testing	6/2019 – 12/2020	In progress
Testing and Commissioning	6/2020 – 4/2022	Pending
Substantial Completion	3/31/2022	Pending

System Resiliency Schedule		
Task*	Date	Status
WSP USA Selected as Design Consultant	8/13/2019	Completed
Conceptual Designs	2/24/2020 – 12/11/2020	Pending
Secure RRIF loan	4/2020	In progress
Final Design Procurement - 5 packages	8/31/2020 – 4/9/2021	Pending
Final Design - Package 1 & 4	11/20/2020 – 4/6/2021	Pending
- Package 2 & 3	4/9/2021 – 6/9/2021	Pending
- Package 5	12/14/2020 – 5/14/2021	Pending
Release of competitive procurement for construction contractor - Package 1 & 4	4/6/2021	Pending
- Package 2 & 3	6/9/2021	Pending
- Package 5	5/14/2021	Pending
Selection of construction contractor - Package 1 & 4	5/4/2021	Pending
- Package 2 & 3	7/9/2021	Pending
- Package 5	6/14/2021	Pending
Substantial completion - Package 1 & 4	6/1/2024	Pending
- Package 2 & 3	8/1/2024	Pending
- Package 5	7/14/2024	Pending
* MBTA Lines per package: Package 1 - Newburyport - Rockport - Haverhill Package 2 - New Hampshire Mainline & Wildcat Package 3 - Fitchburg Package 4 - Worcester Package 5 - Franklin - Needham - Stoughton - Fairmount		

**SCHEDULE III
EXISTING INDEBTEDNESS**

(excluding Subordinated Sales Tax Bonds securing 2017 TIFA/RRIF Loan)

Series	Outstanding Principal Amount (as of June 15, 2020)
Senior Sales Tax Bonds	
2003 Series A	\$ 44,580,000
2003 Series C	68,715,000
2004 Series B	173,495,000
2004 Series C	59,255,000
2005 Series A	723,435,000
2005 Series B	91,695,000
2006 Series A	238,850,000
2006 Series B	99,300,000
2007 Series A-1	205,675,000
2008 Series B	30,885,000
2009 Series B	218,300,000
2010 Series C	23,270,000
2010 Series D	210,000,000
2014 Series A	179,030,000
2015 Series A	177,855,000
2015 Series B	169,095,000
2016 Series A (Capital Appreciation Bonds)*	241,495,917
2018 Series A	168,650,000
Senior Sales Tax Bond Anticipation Notes (Commercial Paper)**	
Series A, B and C	35,000,000
Subordinated Sales Tax Bonds	
2017 Series A-1	99,170,000
2017 Series A-2	130,930,000
2020 Series A***	0
2020 Series B-1	339,080,000
2020 Series B-2	45,685,000
Assessment Bonds	
2006 Series A	161,340,000
2012 Series A	338,595,000
2016 Series A	119,260,000
General Transportation System Bonds (Prior Obligations)	
1991 Series A	9,980,000
1998 Series C	1,970,000
2000 Series A (Variable Rate Demand Obligations)	129,635,000
<p>*For capital appreciation bonds, includes accreted value. **Up to \$250 million capacity. ***Up to \$50 million capacity (through October 2020).</p>	

SCHEDULE IV¹

SECTION 504 OF THE SALES TAX TRUST AGREEMENT²

Pledged Revenue Fund and Application Thereof. The Authority shall, immediately following the execution hereof, transfer to the Trustee for payment into the Pledged Revenue Fund all Pledged Revenues as received, except Investment Income required by the terms hereof to be deposited in another Fund or Account. Amounts in the Pledged Revenue Fund shall be deposited in, or credited to, as appropriate, on the last Business Day of the month in which the first such amounts are deposited in the Pledged Revenue Fund and on or before the last Business Day of each month thereafter, the following Funds and Accounts, in the amounts and in the order and priority, as follows:

(1) Into the Senior Debt Service Fund, the amount, if any, required so that the balance in said Fund shall equal the Senior Net Debt Service and the fees and charges related to Credit Facilities, Liquidity Facilities, and Qualified Hedge Agreements entered into in connection with Senior Sales Tax Bonds accrued or accruing prior to the last Business Day of the next succeeding month;

(2) Into the Senior Debt Service Reserve Fund, the amount, if any, required for such Fund, after giving effect to any surety bond, insurance policy, letter of credit or other similar obligation deposited in such Fund pursuant to subsection 4 of Section 507 and subject to the provisions of subsection 6 of Section 507, to equal the Senior Debt Service Reserve Requirement as of the last day of the then current month; provided, however, that the provisions of Section 507 shall govern any replenishment required after a withdrawal from such Fund;

(3) (a) *first*, into the Subordinated Debt Service Fund, the amount, if any, required so that the balance in said Fund shall equal the Subordinated Net Debt Service (excluding, for the purpose of such calculation, Debt Service payable on any USDOT Sales Tax Bonds) and the fees and charges related to Credit Facilities, Liquidity Facilities and Qualified Hedge Agreements entered into in connection with Subordinated Sales Tax Bonds (other than any USDOT Sales Tax Bonds) accrued or accruing prior to the last Business Day of the next succeeding month, and (b) *second*, into the USDOT Loan Account within the Subordinated Debt Service Fund, the amount, if any, required so that the balance in the USDOT Loan Account shall equal the amount of Debt Service payable on any USDOT Sales Tax Bonds accrued or accruing prior to the last Business Day of the next succeeding month;

(4) Into the Subordinated Debt Service Reserve Fund, the amounts, if any, after giving effect to any surety bond, insurance policy, letter of credit or other similar obligation deposited in such Fund pursuant to subsection 4 of Section 509 and subject

¹ Upon the occurrence of a Bankruptcy Related Event, the Debt Service payable on any USDOT Sales Tax Bonds shall be payable from amounts on deposit in the Senior Debt Service Fund.

² All defined terms used in this Schedule IV shall have the meanings given to them in the Sales Tax Trust Agreement.

to the provisions of subsection 6 of Section 509, to equal the Subordinated Debt Service Reserve Requirement as of the last day of the then current month; provided, however, that the provisions of Section 509 shall govern any replenishment required after a withdrawal from such Fund;

(5) To the Authority for credit to the Rebate Fund, notwithstanding any other provisions of this Article V, such Pledged Revenues at such times and in such amounts as shall be set forth in a certificate of an Authorized Officer;

(6) If the Trustee shall have received a certificate from the trustee under the Assessment Bond Trust Agreement in accordance with Section 506 thereof, to such trustee the amount set forth in such certificate;

(7) To the applicable trustee or custodian for Prior Obligations, the amount set forth in a certificate of an Authorized Officer for the payment of Prior Obligations;

(7A) To pay the provider of any surety bond, insurance policy, letter of credit or other similar obligation held on the Senior Debt Service Reserve Fund outstanding interest and expenses on amounts advanced under such obligation in accordance with the terms thereof;

(8) To the General Fund, the amount set forth in an certificate of an Authorized Officer for the payment of certain amounts under Hedge Agreements; and

(9) To the Authority, the moneys remaining on deposit in the Pledged Revenue Fund after making the foregoing deposits.

Notwithstanding the foregoing, in the event that by April 1 of any year, commencing April 1, 2001, the Authority is otherwise unable to make the certification required under Section 35T that it has made provision in its annual budget under the Act for sufficient amounts to be available in the next Fiscal Year to meet the Prior Obligations without changing the priority of payment of the Prior Obligations in accordance with this sentence, the deposit required pursuant to clause (7) above shall be made prior to the deposit required pursuant to clause (1) during the following Fiscal Year; provided, however, that if during such Fiscal Year the Authority shall adopt a supplemental budget which would permit the Authority to be able to make such certification without changing such priority as aforesaid, the deposit required pursuant to clause (7) shall not be required to be paid prior to the deposit under clause (1) for the remainder of such Fiscal Year.

In determining the amounts to be transferred to the Authority for deposit in the Funds and Accounts held by the Authority, the Trustee may rely exclusively on a certificate of an Authorized Officer setting forth such amounts, which certificate shall be timely provided to the Trustee by the Authority.

Notwithstanding anything in this Trust Agreement to the contrary, in the event that the Dedicated Sales Tax to be credited by the Commonwealth to the State and Local Contribution Fund in a particular month is delayed to a subsequent month, such amounts may be deposited or credited to the Funds and Account as set forth in this Section 504, at any time, upon the direction of the Authority.

SCHEDULE 14(f)

LITIGATION

None.

SCHEDULE 14(u)

INSURANCE

Excess Liability Policy Number B080119597U19, underwritten by Aegis Casualty Consortium 9148, Lloyd's (39.34%), Apollo Liability Consortium 9984, Lloyd's (34.43%) and AmTrust Casualty Consortium 9148, Lloyd's (26.23%). Policy Period: September 19, 2019 to September 19, 2020 (Renewed Annually). Policy Limit: \$17,500,000.

Excess Liability Policy Number B080119657U19, underwritten by Aspen Casualty Consortium 4711, Lloyd's (10%), Argo Casualty Consortium 1200, Lloyd's (20%), Lex London, Lloyd's (20%) and AXA/XL Insurance Dublin (50%). Policy Period: September 19, 2019 to September 19, 2020 (Renewed Annually). Policy Limit: \$50,000,000.

Description: The MBTA self-insures all liability exposures which include General Liability, Automobile Liability, Worker's Compensation and Employers Liability, up to \$7.5 million and carries Excess Liability Insurance above this \$7.5 million self-insured retention up to \$67.5 million. The MBTA's self-insured program is in lieu of a commercial policy. Excess Liability Policy pays sums the insured becomes legally liable to pay as damages because of bodily injury or property damage, arising from an occurrence during the policy period.

EXHIBIT A

FORM OF RRIF BOND

UNITED STATES OF AMERICA

THE COMMONWEALTH OF MASSACHUSETTS

MASSACHUSETTS BAY TRANSPORTATION AUTHORITY

SUBORDINATED SALES TAX BONDS

2020 SERIES [C-1][C-2][C-3]

(RRIF LOAN)

REGISTERED OWNER: UNITED STATES DEPARTMENT OF TRANSPORTATION,
acting by and through the Executive Director of the Build America
Bureau, or its assigns (the “USDOT Lender”)

MAXIMUM PRINCIPAL
AMOUNT: \$[_____]

MATURITY DATE: the earlier of (a) the Semi-Annual Payment Date occurring on or
immediately prior to the [____th (__th)] anniversary of the
Substantial Completion Date and (b) [_____]

EFFECTIVE DATE: July 1, 2020

INTEREST PAYMENT
DATES: Each January 1 and July 1 on or after the Debt Service Payment
Commencement Date

The MASSACHUSETTS BAY TRANSPORTATION AUTHORITY, a body politic and corporate and political subdivision of The Commonwealth of Massachusetts (the “Authority”), for value received, hereby promises to pay, but solely in the manner and from the revenues and sources hereinafter provided, to the Registered Owner stated above, the lesser of (x) the Maximum Principal Amount set forth above and (y) the Outstanding RRIF Loan Balance (as defined in the hereinafter defined Loan Agreement) for the [PTC][ATC][Resiliency] Tranche (such lesser amount being hereinafter referred to as the “Outstanding Principal Sum”), together with accrued and unpaid interest (including, if applicable, interest at the Default Rate) on the Outstanding Principal Sum and all fees, costs and other amounts payable in connection therewith, all as more fully described in that certain RRIF Loan Agreement, dated as of the date hereof, between the USDOT Lender and the Authority (the “Loan Agreement”). All capitalized terms used in this bond and not defined herein shall have the meanings set forth in the Loan Agreement.

This bond is issued under and by virtue of Chapter 161A of Massachusetts General Laws, as amended, and under and pursuant to the Sales Tax Bond Trust Agreement, dated as of July 1, 2000, by and between the Authority and U.S. Bank National Association (the “Trustee”), as

amended, and the Forty-First Supplemental Trust Agreement, dated July 1, 2020, by and between the Authority and the Trustee (collectively, the “Trust Agreement”).

THE TRUST AGREEMENT PROVIDES THAT THE 2020 SERIES C BONDS, INCLUDING THIS BOND, SHALL NOT BE GENERAL OBLIGATIONS OF THE AUTHORITY AND THE FULL FAITH AND CREDIT OF THE AUTHORITY ARE NOT PLEDGED FOR THE PAYMENT OF THE 2020 SERIES C BONDS. THIS BOND SHALL BE SECURED PURSUANT TO THE TRUST AGREEMENT BY A LIEN ON THE PLEDGED REVENUES AND PAYABLE FROM THE USDOT LOAN ACCOUNT OF THE SUBORDINATED DEBT SERVICE FUND (OR UPON THE OCCURRENCE OF A BANKRUPTCY RELATED EVENT, FROM AMOUNTS ON DEPOSIT IN THE SENIOR DEBT SERVICE FUND), AS SET FORTH IN THE TRUST AGREEMENT, OF THE AUTHORITY. NEITHER THE COMMONWEALTH OF MASSACHUSETTS NOR ANY OTHER POLITICAL SUBDIVISION THEREOF SHALL BE OBLIGATED TO PAY THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON ANY 2020 SERIES C BONDS, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE COMMONWEALTH OF MASSACHUSETTS OR OF ANY POLITICAL SUBDIVISION THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON ANY 2020 SERIES C BONDS, EXCEPT AS PROVIDED IN THE TRUST AGREEMENT.

The principal hereof shall be payable in the manner and at the place provided in the Loan Agreement in accordance with Exhibit G to the Loan Agreement, as revised from time to time in accordance with the Loan Agreement, until paid in full. The Registered Owner is hereby authorized to modify the Loan Amortization Schedule included in Exhibit G to the Loan Agreement from time to time in accordance with the terms of the Loan Agreement to reflect the amount of each disbursement made thereunder and the date and amount of principal or interest paid by the Authority thereunder. Absent manifest error, the Registered Owner’s determination of such matters as set forth on Exhibit G to the Loan Agreement shall be conclusive evidence thereof; provided, however, that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Authority’s obligations hereunder or under any other RRIF Loan Document.

Payments hereon are to be made in accordance with Section 9(f) (*Manner of Payment*) and Section 37 (*Notices; Payment Instructions*) of the Loan Agreement as the same become due; provided that the Authority shall have delivered to the Trustee payment instructions in respect of the Registered Owner at least five (5) Business Days prior to the first Semi-Annual Payment Date occurring on or after the Debt Service Payment Commencement Date for any 2020 Series C Bonds, and any change to such instructions with respect to any future Semi-Annual Payment Date shall not take effect unless such changed instruction is delivered from the Authority to the Trustee at least five (5) Business Days prior to such Semi-Annual Payment Date. Principal of and interest on this bond shall be paid in funds available on or before the due date and in any lawful coin or currency of the United States of America that at the date of payment is legal tender for the payment of public and private debts.

This bond has been issued under the Trust Agreement to evidence the obligation of the Authority under the Loan Agreement to repay the [____] Tranche of the RRIF Loan made by the

USDOT Lender and any other payments of any kind required to be paid by the Authority under the Loan Agreement or the other RRIF Loan Documents referred to therein, in each case, in connection with the [_____] Tranche of the RRIF Loan or this bond. Reference is made to the Loan Agreement for all details relating to the Authority's obligations hereunder.

This bond may be prepaid at the option of the Authority in whole or in part (and, if in part, the principal installments and amounts thereof to be prepaid are to be determined in accordance with the Loan Agreement; provided, however, such prepayments shall be in minimum principal amounts of at least \$1,000,000), at any time or from time to time, without penalty or premium, by paying to the Registered Owner all or part of the principal amount of the bond in accordance with the Loan Agreement.

Payment of the obligations of the Authority under this bond is secured pursuant to the Trust Agreement.

The obligations of the Authority under this bond, the Loan Agreement and the other RRIF Loan Documents referred to therein are subordinated in right of security to certain other indebtedness of the Authority in the manner and to the extent provided in the Trust Agreement.

Any delay on the part of the Registered Owner in exercising any right hereunder shall not operate as a waiver of any such right, and any waiver granted with respect to one default shall not operate as a waiver in the event of any subsequent default.

It is hereby certified, recited and declared that all conditions, acts and things required by the Constitution or statutes of The Commonwealth of Massachusetts and by the Trust Agreement to exist, to have happened or to have been performed precedent to or in connection with the issuance of this bond exist, have happened and have been performed and that the issuance of the 2020 Series C Bonds, together with all other indebtedness of the Authority, is within every debt and other limit prescribed by said Constitution and statutes.

This bond shall not be valid until the Certificate of Authentication hereon shall have been manually signed by the Trustee.

IN WITNESS WHEREOF, the Massachusetts Bay Transportation Authority has caused this bond to be signed in its name and on its behalf by its Chief Financial Officer and attested to by its Treasurer (which signature of said Chief Financial Officer and Treasurer may be by facsimile), and has caused its corporate seal to be affixed or reproduced hereon, all as of the Effective Date specified above.

MASSACHUSETTS BAY TRANSPORTATION
AUTHORITY

[SEAL]

By: _____
Mary Ann O'Hara
Chief Financial Officer

ATTESTED:

By: _____
Patrick F. Landers, III
Treasurer

[FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION]

This bond is one of the bonds described in the within-mentioned Trust Agreement and is one of the 2020 Series [C-1][C-2][C-3] Bonds of the Massachusetts Bay Transportation Authority.

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: _____
(Authorized Signer)

Date of Authentication: _____

[FORM OF ASSIGNMENT]

FOR VALUE RECEIVED, the Undersigned hereby unconditionally sells, assigns
and transfers unto

(Please Insert EIN, Social Security or other identifying number of Assignee(s)):

the within bond and all rights thereunder.

Dated: _____

Registered Owner

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

Witness:

Participant in a Recognized
Signature Guaranty Medallion
Program

EXHIBIT B

ANTICIPATED RRIF LOAN DISBURSEMENT SCHEDULE

Commuter Rail Safety And Resiliency Program

Calendar Year	Automatic Train Control	Resiliency	PTC	Total
2020	\$ 114,384,667	\$ 15,085,333		\$ 129,470,000
2021	\$ 114,000,000	\$ 30,000,000	\$ 382,000,000	\$ 526,000,000
2022	\$ 85,680,000	\$ 30,000,000		\$ 115,680,000
2023	\$ 55,000,000	\$ 25,000,000		\$ 80,000,000
Total	\$ 369,064,667	\$ 100,085,333	\$ 382,000,000	\$ 851,150,000

EXHIBIT C

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

The undersigned, on behalf of the MASSACHUSETTS BAY TRANSPORTATION AUTHORITY (the “**Borrower**”), hereby certifies that the Borrower has fully complied with its verification obligations under 2 C.F.R. § 180.320 and hereby further confirms, based on such verification, that, to its knowledge, the Borrower and its principals (as defined in 2 C.F.R. § 180.995):

(a) Are not presently excluded (as defined in 2 C.F.R. § 180.940) or disqualified (as defined in 2 C.F.R. § 180.935);

(b) Have not within a three (3) year period preceding the Effective Date been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) or private transaction or agreement; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or false claims, receiving stolen property, tax evasion, obstruction of justice, or any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the Borrower’s obligations under the RRIF Loan Agreement dated as of July 1, 2020, between the USDOT Lender and the Borrower, as the same may be amended from time to time;

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

(d) Have not within a three (3) year period preceding the Effective Date had one or more public transactions (federal, state or local) terminated for cause or default.

(e) Capitalized terms used in the certificate and not defined shall have the respective meanings ascribed to such terms in the RRIF Loan Agreement.

Dated: July 1, 2020

**MASSACHUSETTS BAY TRANSPORTATION
AUTHORITY³**

By: _____
Name: Mary Ann O'Hara
Title: Chief Financial Officer

³ To be executed by Borrower’s Authorized Representative.

EXHIBIT D

REQUISITION PROCEDURES

This **Exhibit D** sets out the procedures which the Borrower agrees to follow in submitting Requisitions for the disbursement of RRIF Loan proceeds, in each case, in respect of the Eligible Project Costs incurred in connection with the Project. Section 1 sets out the manner in which Requisitions are to be submitted and reviewed. Sections 2 through Section 4 set out the circumstances in which the USDOT Lender may reject or correct Requisitions submitted by the Borrower or withhold a disbursement. The Borrower expressly agrees to the terms hereof, and further agrees that (i) the rights of the USDOT Lender contained herein are in addition to (and not in lieu of) any other rights or remedies available to the USDOT Lender under the RRIF Loan Agreement, and (ii) nothing contained herein shall be construed to limit the rights of the USDOT Lender to take actions including administrative enforcement action and actions for breach of contract against the Borrower if it fails to carry out its obligations under the RRIF Loan Agreement during the term thereof.

Section 1. General Requirements. All requests by the Borrower for the disbursement of RRIF Loan proceeds shall be made by electronic mail or overnight delivery service by submission to the USDOT Lender, in accordance with Section 37 (*Notices; Payment Instructions*) of the RRIF Loan Agreement, of a Requisition, in form and substance satisfactory to the USDOT Lender and completed and executed by the Borrower's Authorized Representative. The form of Requisition is attached as Appendix One to this **Exhibit D**. Supporting documentation should be submitted with the Requisition.

All disbursement requests must be received by the USDOT Lender at or before 5:00 P.M. (EST) on or before the first (1st) Business Day of the immediately preceding calendar month in order to obtain disbursement by the first (1st) day of the calendar month for which a disbursement is requested or, if either such day is not a Business Day, the next succeeding Business Day. If a Requisition is approved by the USDOT Lender, the USDOT Lender will notify the Borrower of such approval and of the amount so approved.

Section 2. Rejection. A Requisition may be rejected in whole or in part by the USDOT Lender if it is:

- (a) submitted without signature;
- (b) submitted under signature of a Person other than a Borrower's Authorized Representative;
- (c) submitted after prior disbursement of all proceeds of the RRIF Loan; or
- (d) submitted without adequate documentation of Eligible Project Costs incurred or paid, including invoices for costs incurred or paid relating to the implementation of the Project (to the extent not previously delivered to the USDOT Lender).

The USDOT Lender will notify the Borrower of any Requisition so rejected, and the reasons therefor. Any Requisition rejected for the reasons specified in (a), (b) or (d) above must be resubmitted in proper form in order to be considered for approval. If a Requisition exceeds the balance of the RRIF Loan proceeds remaining to be disbursed, the request will be treated as if submitted in the amount of the balance so remaining, and the USDOT Lender will so notify the Borrower.

Section 3. Correction. A Requisition containing an apparent mathematical error will be corrected by the USDOT Lender, after telephonic or email notification to the Borrower, and will thereafter be treated as if submitted in the corrected amount.

Section 4. Withholding. The USDOT Lender shall be entitled to withhold approval (in whole or in part) of any pending or subsequent requests for the disbursement of RRIF Loan proceeds, if:

(a) an Event of Default or event that, with the giving of notice or the passage of time or both, would constitute an Event of Default under the RRIF Loan Agreement shall have occurred and be continuing; or

(b) the Borrower:

(i) knowingly takes any action, or omits to take any action, amounting to fraud or violation of any applicable federal or local criminal law, in connection with the transactions contemplated hereby; or

(ii) fails to construct the Project in a manner consistent with the Governmental Approvals with respect to the Project, or in accordance with the highest standards of the Borrower's industry, where such failure prevents or materially impairs the Project from fulfilling its intended purpose, or prevents or materially impairs the ability of the USDOT Lender or the FTA Regional Office to monitor compliance by the Borrower with applicable federal or local law pertaining to the Project or with the terms and conditions of the RRIF Loan Agreement; or

(iii) fails to observe or comply with any applicable federal or local law, or any term or condition of the RRIF Loan Agreement; or

(iv) fails to satisfy the conditions set forth in Section 4 (*Disbursement Conditions*) and Section 13(b) (*Conditions Precedent to the Disbursements*) of the RRIF Loan Agreement; or

(v) fails to deliver documentation satisfactory to the USDOT Lender evidencing Eligible Project Costs claimed for disbursement at the times and in the manner specified by the RRIF Loan Agreement; provided, that in such case the USDOT Lender may, in its sole discretion, partially approve a disbursement request in respect of any amounts for which adequate documentation evidencing Eligible Project Costs has been provided and may, in its sole discretion, disburse in respect of such properly documented amounts.

Section 5. Government Shutdown. Notwithstanding anything to the contrary set forth in this **Exhibit D**, the USDOT Lender (a) shall be entitled to withhold approval of any pending or subsequent requests for the disbursement of RRIF Loan proceeds and (b) shall have no obligation to make any disbursement of proceeds of the RRIF Loan to the Borrower (even if such disbursement has been approved by the USDOT Lender), in each case if the USDOT Lender's ability to make the relevant disbursement is impaired as a result of a partial or total shutdown of the operations of any federal department or agency (including the USDOT or any of its agencies), or any contractor of any such department or agency, due to a lapse in appropriations by Congress.

APPENDIX ONE TO EXHIBIT D
FORM OF REQUISITION

Build America Bureau
United States Department of Transportation
Room W12-464
1200 New Jersey Avenue, SE
Washington, D.C. 20590
Attention: Director, Office of Credit Programs
Email: BureauOversight@dot.gov

Federal Transit Administration
Region I
Kendall Square
55 Broadway, Suite 920
Cambridge, Massachusetts 02142-1093
Telephone: (617) 494-2055
Fax: (617) 494-2865
Attention: Regional Administrator

[Loan Servicer]
[Address]
[Attention]

Re: COMMUTER RAIL SAFETY AND RESILIENCY PROGRAMS (RRIF-2020-0044)

Tranche:

Ladies and Gentlemen:

Pursuant to Section 4 (*Disbursement Conditions*) of the RRIF Loan Agreement, dated as of July 1, 2020 (the “**RRIF Loan Agreement**”), by and between the MASSACHUSETTS BAY TRANSPORTATION AUTHORITY (the “**Borrower**”) and the UNITED STATES DEPARTMENT OF TRANSPORTATION, acting by and through the Executive Director of the Build America Bureau (the “**USDOT Lender**”), we hereby request disbursements in the amounts of \$[_____], in respect of Eligible Project Costs paid or incurred by or on behalf of the Borrower. Capitalized terms used but not defined herein have the meaning set forth in the RRIF Loan Agreement. In connection with this Requisition the undersigned does hereby represent and certify the following:

1. This Requisition is Requisition number [____].
2. The requested date of disbursement is [_____] [1], 20[___] (the “**Disbursement Date**”)[, which is the first Business Day following [_____] 1, 20[_____]].

3. [No amounts have previously been disbursed under the RRIF Loan Agreement.] [The amounts previously disbursed under the RRIF Loan Agreement equal, in the aggregate, \$[_____].]
4. The amounts hereby requisitioned have been paid or incurred by or on behalf of the Borrower for Eligible Project Costs and have not been paid for or reimbursed by any previous disbursement from RRIF Loan proceeds.
5. The amount of this Requisition, together with all prior Requisitions, does not exceed the amount of the RRIF Loan and the amount of this Requisition with respect to the [____] Tranche[s] does not exceed the maximum principal amount for such Tranche[s, respectively].
6. All documentation evidencing the Eligible Project Costs to be reimbursed by the above-requested disbursement has been delivered by the Borrower at the times and in the manner specified by the RRIF Loan Agreement.
7. The Borrower has all Governmental Approvals necessary as of the date hereof and as of the Disbursement Date (immediately after giving effect to the above-requested disbursement of RRIF Loan proceeds), for the development, implementation, operation and maintenance of the Project and each such Governmental Approval is in full force and effect (and is not subject to any notice of violation, breach or revocation).
8. Each of the insurance policies obtained by the Borrower and by any applicable Principal Project Party in satisfaction of the condition in Section 13(a)(xvii) (*Conditions Precedent to Effectiveness*) of the RRIF Loan Agreement is in full force and effect, and no notice of termination thereof has been issued by the applicable insurance provider.
9. [The Substantial Completion Date for Phase [I][II][III] of the Project has occurred.] [The Project has been, and is being, constructed in a manner consistent with all plans, specifications, engineering reports and facilities plans previously submitted to and approved by the USDOT Lender and in accordance with the highest standards of the Borrower's industry.]⁴
10. The representations and warranties of the Borrower set forth in the RRIF Loan Agreement and in each other Related Document are true and correct as of the date hereof and as of the Disbursement Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).
11. As of the date hereof and on the Disbursement Date (immediately after giving effect to the above-requested disbursement of RRIF Loan proceeds), (i) no Event of Default or event of default under any other Related Document and (ii) no event that, with the giving of notice

⁴ **Note to Draft:** Use first sentence, modified appropriately, for the PTC Tranche. Use first or second sentence, as applicable and as modified appropriately, for draws with respect to the ATC Tranche and the Resiliency Tranche.

or the passage of time or both, would constitute an Event of Default or event of default under any Related Document, in each case, has occurred and is continuing.

12. No Material Adverse Effect, or any event or condition that could reasonably be expected to have a Material Adverse Effect, has occurred since February 18, 2020 and is continuing.
13. As of the Disbursement Date, the aggregate amount of all disbursements of the RRIF Loan (including the requested disbursement), together with the amount of any other credit assistance provided under the RRIF Act to the Borrower, does not exceed one hundred percent (100%) of reasonably anticipated Eligible Project Costs.
14. A copy of the quarterly implementation progress report pursuant to Section 23(b)(i) (*Quarterly Implementation Progress Report*) of the RRIF Loan Agreement for the quarterly period of the Borrower Fiscal Year preceding the date of the applicable Requisition has been delivered to each of the above named addresses.
15. The undersigned acknowledges that if the Borrower makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Government in connection with the Project, the Government reserves the right to impose on the Borrower the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(1)(1), to the extent the Government deems appropriate.
16. A copy of this Requisition has been delivered to each of the above named addressees.
17. The undersigned is duly authorized to execute and deliver this Requisition on behalf of the Borrower.

[Add wire instructions for 2020 Series C Capital Account.]

Date: _____

MASSACHUSETTS BAY
TRANSPORTATION AUTHORITY⁵

By: _____
Name: Mary Ann O'Hara
Title: Chief Financial Officer

⁵ To be executed by Borrower's Authorized Representative.

APPENDIX TWO TO EXHIBIT D

**[APPROVAL/DISAPPROVAL] OF THE USDOT LENDER
(To be delivered to the Borrower)**

Requisition Number [●] is [approved in the amount of \$[●] for the RRIF Loan] [approved in part in the amount of \$[●] for the RRIF Loan] [not approved]⁶ by the USDOT Lender (as defined herein) pursuant to Section 4 (*Disbursement Conditions*) of the RRIF Loan Agreement, dated as of July 1, 2020, by and between the Massachusetts Bay Transportation Authority (the “**Borrower**”) and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the “**USDOT Lender**”).

Any determination, action or failure to act by the USDOT Lender with respect to the Requisition set forth above, including any withholding of a disbursement, shall be at the USDOT Lender’s sole discretion, and in no event shall the USDOT Lender be responsible for or liable to the Borrower for any and/or all consequence(s) which are the result thereof.

**UNITED STATES DEPARTMENT OF
TRANSPORTATION**, acting by and
through the Executive Director of the Build
America Bureau

By: _____
Name:
Title:
Dated:

⁶ Attached hereto as Exhibit A are reasons for any partial or full denial of approval.

EXHIBIT A TO APPENDIX TWO TO EXHIBIT D

[Insert reasons for any partial or full denial of approval.]

EXHIBIT E

COMPLIANCE WITH LAWS

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

- (i) The Americans With Disabilities Act of 1990 and implementing regulations (42 U.S.C. § 12101 *et seq.*; 28 C.F.R. Part 35; 29 C.F.R. Part 1630; 36 C.F.R. part 1192; Appendix A of 49 C.F.R. part 37);
- (ii) Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d *et seq.*), and USDOT implementing regulations (49 C.F.R. Part 21);
- (iii) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. § 4601 *et seq.*), with the understanding that the requirements of said Act are not applicable with respect to utility relocations except with respect to acquisitions by the Borrower of easements or other real property rights for the relocated facilities;
- (iv) Equal employment opportunity requirements under Executive Order 11246 dated September 24, 1965 (30 F.R. 12319), any Executive Order amending such order, and implementing regulations (29 C.F.R. §§ 1625-27, 1630; 28 C.F.R. Part 35; 41 C.F.R. Part 60; and 49 C.F.R. Part 27);
- (v) Restrictions governing the use of federal appropriated funds for lobbying (31 U.S.C. § 1352; 49 C.F.R. Part 20);
- (vi) The Clean Air Act, as amended (42 U.S.C. § 7401 *et seq.*);
- (vii) The National Environmental Policy Act of 1969 (42 U.S.C. § 4321 *et seq.*), including the environmental mitigation requirements and commitments made by the Borrower (if any) that result in USDOT Lender's approval of the NEPA Determination;
- (viii) The Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251 *et seq.*, as amended by Pub. L. 92-500);
- (ix) The Endangered Species Act, 16 U.S.C. § 1531, *et seq.*;
- (x) 23 U.S.C. § 138 and 49 U.S.C. § 303, as applicable;
- (xi) The health and safety requirements set forth in 40 U.S.C. §§ 3701-3702 and implementing regulations (29 C.F.R. part 1926);
- (xii) The prevailing wage requirements set forth in 40 U.S.C. § 3141 *et seq.* and implementing regulations (29 C.F.R. Part 5);
- (xiii) The Buy America requirements set forth in 49 U.S.C. § 5323(j) and implementing regulations (49 C.F.R. Part 661);
- (xiv) The requirements of 49 U.S.C. Chapter 53 and 49 C.F.R. Part 600;

- (xv) The Cargo Preference Act of 1954, as amended (46 U.S.C. §1241(b)), and implementing regulations (46 C.F.R. Part 381);
- (xvi) The applicable requirements of 49 C.F.R. Part 26 relating to the Disadvantaged Business Enterprise program;
- (xvii) The requirements of 49 U.S.C. §§ 20101-28505; and
- (xviii) pursuant to 45 U.S.C. § 836, the provisions of the letter from the Secretary of Labor dated July 6, 1976, including the appendix thereto, attached as Annex 1 hereto.

ANNEX 1

SECRETARY OF LABOR LETTER DATED JULY 6, 1976

[See attached.]

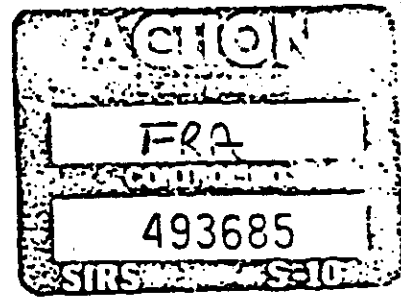
U. S. DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON

JUL 6 1976

EXHIBIT E



Honorable William T. Coleman
Secretary of Transportation
United States Department of Transportation
Washington, D. C. 20590

Dear Secretary Coleman:

Section 516 of the Railroad Revitalization and Regulatory Reform Act of 1976 (PL 94-210) which was enacted into law on February 5, 1976 provides:

Fair and equitable arrangements shall be provided, in accordance with this section, to protect the interests of any employees not otherwise protected under Title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771 et. seq.), who may be affected by actions taken pursuant to authorizations or approval obtained under this title. Such arrangements shall be determined by the execution of an agreement between the representatives of the railroads and the representatives of their employees, within 120 days after the date of enactment of this title. In the absence of such an executed agreement, the Secretary of Labor shall prescribe the applicable protective arrangements, within 150 days after the date of enactment of this title.

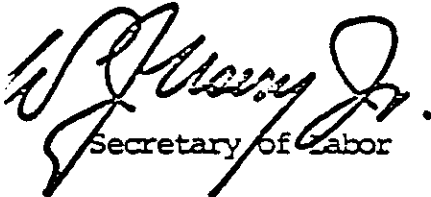
The parties attempted to negotiate a protective arrangement during the 120 day period but failed to conclude an agreement. It is therefore my responsibility to prescribe the applicable protective conditions to comply with the statutory requirement.

Representatives of the nation's railroads and railroad brotherhoods continued to negotiate and have transmitted to me jointly by letter dated July 2, 1976 an arrangement which embodies agreed upon employee protective provisions which they recommend to the Secretary as a basis for his determination.

I have reviewed this arrangement, a copy of which is attached, and find that it affords all protected employees who may be affected by actions taken pursuant to authorizations or approval obtained under Title V of the Act fair and equitable protection satisfying the requirements of Section 516. Accordingly, I prescribe the terms and conditions of this arrangement and direct that it be incorporated as an appendix to any financing agreement entered into under Title V of the Act in form identical to that submitted to me.

The arrangement stipulates that in the event any dispute or controversy arises between a railroad and an employee not represented by a labor organization with respect to the interpretation, application, or enforcement of any provision of the arrangement which cannot be settled by the parties within 30 days after the dispute arises, either party may refer the dispute to the Secretary of Labor for determination. The determination of the Secretary of Labor, or his designated representative, shall be final and binding on the parties.

Sincerely,



Secretary of Labor

Attachment

cc: Stephen Ailes, President, Association of American Railroads
William H. Dempsey, Chairman, National Railroad Labor Conference
Charles J. Chamberlain, Chairman, Railway Labor Executives' Association
C. L. Dennis, President, Brotherhood of Railway, Airline and
Steamship Clerks, Freight Handlers,
Express and Station Employees

APPENDIX

The scope and purpose of this Appendix are to provide, pursuant to Section 516 of the Railroad Revitalization and Regulatory Reform Act of 1976 (P.L. 94-210), for fair and equitable arrangements to protect the interests of employees of railroads affected by actions taken pursuant to authorizations or approval under Title V of that Act (hereinafter referred to as "Title V"); therefore, fluctuations and changes in volume or character of employment brought about solely by other causes are not within the purview of this Appendix.

ARTICLE I

1. DEFINITIONS - Whenever used in this Appendix, unless its context requires otherwise:

(a) "Railroad" means a common carrier by railroad or express as defined in Section 1(3) of the Interstate Commerce Act (49 U.S.C. 1(3)), and includes the Consolidated Rail Corporation, the National Railroad Passenger Corporation and the Alaska Railroad.

(b) "Project" means any action taken pursuant to authorizations or approval obtained under Title V.

(c) "Protected employee" means an employee of a railroad who had an employment relationship with such railroad on the date on which such railroad first applied for financial assistance applicable to the project involved and who is affected by actions taken pursuant to the authorization or approval under Title V: provided, however, that for so long as an employee is protected under Title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C.

July 2, 1976

Mr. Bernard E. DeLury
Assistant Secretary of Labor
U.S. Department of Labor
200 Constitution Avenue, N. W.
Washington, D. C. 20210

Dear Mr. DeLury:

Section 516(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 provides, among other things, that the fair and equitable arrangements for the protection of employees required thereunder "shall be determined by the execution of an agreement between the representatives of the railroads and the representatives of their employees, within 120 days after the date of enactment of this title," and that in "the absence of such an executed agreement, the Secretary of Labor shall prescribe the applicable protective arrangements, within 150 days after the date of enactment of this title."

The National Railway Labor Conference, on behalf of its member railroads, the Railway Labor Executives' Association, on behalf of the employees represented by its member unions, and the Brotherhood of Railway, Airline and Steamship Clerks were unable to make such an executed agreement within the 120-day period allowed by Section 516. However, they have now reached agreement upon a protective arrangement which they consider to be an appropriate arrangement for use under Title V and which they recommend be prescribed by the Secretary pursuant to Section 516. Those protective arrangements are set forth in an Appendix which is enclosed herewith. We suggest in that regard that they be attached as an Appendix to the Secretary's order prescribing those arrangements, assuming that the Secretary accepts our recommendation.

Yours very truly,

William H. Dempsey
William H. Dempsey, Chairman
National Railway Labor Conference

C. G. Chamberlain
C. G. Chamberlain, Chairman
Railway Labor Executives' Association

Encl.

C. L. Dennis
C. L. Dennis, President
Brotherhood of Railway, Airline
Steamship Clerks

771 at seq.), he shall not be a protected employee under this Appendix; and provided, further, that an employee who was benefitted solely as a result of a project shall not be a protected employee under this Appendix.

(d) "Displaced employee" means a protected employee of a railroad who, as a result of a project is placed in a worse position with respect to his compensation and rules governing his working conditions.

(e) "Dismissed employee" means a protected employee of a railroad who, as a result of a project, is deprived of employment with the railroad because of the abolition of his position or the loss thereof as the result of the exercise of seniority rights by an employee whose position is abolished as a result of a project and he is unable to secure another position by the exercise of his seniority rights.

(f) "Protective period" means that period of time during which a displaced or dismissed employee is to be provided protection hereunder and ends from the date on which an employee is displaced or dismissed to the expiration of 6 years therefrom: provided, however, that the protective period for any particular employee shall not continue for a longer period following the date he was displaced or dismissed than the period during which such employee was in the employ of the railroad prior to the date of his displacement or his dismissal. For purposes of this Appendix, an employee's length of service shall be determined in accordance with the provisions of Section 7(b) of the Washington Job Protection Agreement of May, 1935.

2. The rates of pay, rules, working conditions and all collective bargaining and other rights, privileges and benefits (including continuation of pension rights and benefits) of a railroad's employees under applicable

laws and/or existing collective bargaining agreements or otherwise shall be preserved and be applicable unless changed by future collective bargaining agreements or applicable statutes. As applied to the regulation of subcontracting by the railroads of work which is financed by funds provided pursuant to Title V, the provisions of this Section shall mean that a determination of whether or not such work validly may be subcontracted by a railroad shall not be affected by the fact that the work is being financed by funds provided pursuant to Title V.

3. Nothing in this Appendix shall be construed as depriving any employee of any rights or benefits or eliminating any obligations which such employee may have under any existing job security or other protective conditions or arrangements: provided, however, that if a protected employee otherwise is eligible for protection under both this Appendix and some other security or other protective conditions or arrangements, he shall elect between protection under this Appendix and protection under such other arrangement and, for so long as he continues to be protected under the arrangement which he so elects, he shall not be entitled to any protection or benefit (regardless of whether or not such benefit is duplicative) under the arrangement which he does not so elect; and, provided further, that after expiration of the period for which such employee is entitled to protection under the arrangement which he so elects, he may then be entitled to protection under the other arrangement for the remainder, if any, of his protective period under that arrangement.

4.(a) When a railroad contemplates a change or changes in its operations, services, facilities or equipment as a result of a project which may be the dismissal or displacement of protected employees or rearrangement

of forces involving such employees, it shall give at least sixty (60) days written notice of such intended change or changes by posting a notice on bulletin boards convenient to the interested protected employees of the railroad and by sending registered mail notice to the duly authorized representatives of such employees. Such notice shall contain a full and adequate statement of the proposed changes to be effected, including an estimate of the number of protected employees of each class affected by the intended changes.

(b) At the request of either the railroad or the representative of such interested employees, negotiations for the purpose of reaching agreement with respect to application of the terms and conditions of this Appendix shall commence within ten (10) days from the receipt of such request. Each change which may result in a dismissal or displacement of protected employees or rearrangement of forces involving such employees, shall provide for the reassignment of forces from all employees involved on bases accepted as appropriate for application in the particular case and any assignment of employees made necessary by the change shall be made on the basis of an agreement or decision under this Section 4. In the event of failure to agree within thirty (30) days from the approval of the railroad's application for financial assistance either party to the dispute may submit it for resolution in accordance with the following procedures:

(1) Within five (5) days after either party has notified the other in writing of his desire to submit the dispute for resolution hereunder, the parties shall select a neutral referee and in the event they are unable to agree within said five (5) days upon the selection of said referee, the National Mediation Board shall immediately appoint a referee. No

later than twenty (20) days after a referee has been designated a hearing the dispute shall commence.

(ii) The decision of the referee shall be final, binding, and conclusive and shall be rendered within thirty (30) days from the date of the commencement of the hearing of the dispute.

(iii) The salary and expenses of the referee shall be borne equally by the parties to the proceeding; all other expenses shall be paid by the party incurring them.

(c) If a notice of intended changes is served pursuant to this section 4, the implementation of work funded from financial assistance under the project shall not be commenced until after an agreement is reached or the decision of a referee has been rendered.

5. DISPLACEMENT ALLOWANCES - (a) So long after a displaced employee's displacement as he is unable, in the normal exercise of his seniority rights under existing agreements, rules and practices, to obtain a position producing compensation equal to or exceeding the compensation he received in the position from which he was displaced, he shall, during his protective period, be paid a monthly displacement allowance equal to the difference between the monthly compensation received by him in the position in which he is retained and the average monthly compensation received by him in the position from which he was displaced.

Each displaced employee's displacement allowance shall be determined by dividing separately by twelve (12) the total compensation received by the employee and the total time for which he was paid during the last twelve (12) months in which he performed compensated service immediately preceding the date of his displacement as a result of the project (thereby producing average monthly

compensation and average monthly time paid for in the test period). Such

allowance shall be adjusted to reflect subsequent general wage increases.

If a displaced employee's compensation in his retained position is less in any month in which he performs work than the aforesaid average compensation (adjusted to reflect subsequent general wage increases) to which he would have been entitled, he shall be paid the difference, less compensation for time lost on account of his voluntary absences to the extent that he is not available for service equivalent to his average monthly time during the test period but if in his retained position he works in any month in excess of the aforesaid average monthly time paid for during the test period he shall be additionally compensated for such excess time at the rate of pay of the retained position.

(b) If a displaced employee fails to exercise his seniority rights to secure another position available to him which does not require a change in his place of residence, to which he is entitled under the working agreement and which carries a rate of pay and compensation exceeding those of the position which he elects to retain, he shall thereafter be treated for the purposes of this section as occupying the position he elects to decline.

(c) The displacement allowance shall cease prior to the expiration of the protective period in the event of the displaced employee's resignation, death, retirement or dismissal for justifiable cause.

6. DISMISSAL ALLOWANCES - (a) A dismissed employee shall be paid a monthly dismissal allowance, from the date he is deprived of employment and continuing during his protective period, equivalent to one-twelfth of the compensation received by him in the last twelve (12) months of his employment

in which he earned compensation prior to the date he is first deprived of employment as a result of the project. Such allowance shall be adjusted to reflect subsequent general wage increases. A claim for the initial month of a dismissal allowance shall be paid within ninety (90) days and a claim for a subsequent month shall be paid within sixty (60) days after the claim is filed by the employee unless the claim is disputed by the railroad.

(b) The dismissal allowance of any dismissed employee who returns to service with the railroad shall cease while he is so reemployed. During the time of such reemployment, he shall be entitled to protection in accordance with the provisions of Section 5.

(c) The dismissal allowance of any dismissed employee who is otherwise employed shall be reduced to the extent that his combined monthly earnings in such other employment, any benefits received under any unemployment insurance law, and his dismissal allowance exceed the amount upon which his dismissal allowance is based. Such employee, or his representative, and the railroad shall agree upon a procedure by which the railroad shall be currently informed of the earnings of such employee in employment other than with the railroad, and the benefits received.

(d) The dismissal allowance shall cease prior to the expiration of the protective period in the event of the employee's resignation, death, retirement, dismissal for justifiable cause under existing agreements, failure without good cause to return to service after being notified in accordance with the working agreement, or failure without good cause to accept a comparable position which does not require a change of residence, for which he is qualified and eligible with the railroad from which he was dismissed after being notified, if his return does not infringe upon employment rights of other employees under a working agreement.

7. SEPARATION ALLOWANCE - A dismissed employee entitled to protect under this Appendix, may, at his option within seven (7) days of his dismissal or an arbitration award establishing that he is a dismissed employee, resign and (in lieu of all other benefits and protections provided in this Appendix) accept a lump sum payment computed in accordance with Section 9 of the Washington Job Protection Agreement of May, 1936.

8. FRINGE BENEFITS - No protected employee who is affected by a project shall be deprived during his protective period of any rights, privileges or benefits attached to his previous employment, such as free transportation, hospitalization, pensions, insurance, vacation benefits, et cetera under the same conditions and so long as such rights, privileges or benefits continue to be accorded to other employees of the railroad, in active service or on furlough as the case may be, to the extent that such rights, privileges or benefits can be so maintained under present authority of law, corporate action or through future authorization which may be obtained.

9. MOVING EXPENSES - Any protected employee retained in the service of a railroad or who is later restored to service after being entitled to receive a dismissal allowance, and who is required to change the point of his employment as a result of the project and who within his protective period is required to move his place of residence shall be reimbursed for all expenses of moving his household and other personal effects, for the traveling expenses of himself and members of his family, including living expenses for himself and his family and for his own actual wage loss, during the time necessary for making the move, and for a reasonable time thereafter, not to exceed three working days, used in securing a place of residence in his new location. The exact extent of the responsibility of the railroad under this

Section 9 and the ways and means of transportation shall be agreed upon in advance by the railroad and the affected employee or his representatives: provided, however, that changes in residence which are not a result of a project, which are made subsequent to the initial change and which grow out of the normal exercise of seniority rights, shall not be considered to be within the purview of this Section; provided further, that the railroad shall, to the same extent provided above, assume the expenses, etc. for an employee furloughed within three (3) years after changing his point of employment as a result of a project, who elects to move his place of residence back to his original point of employment. A claim for reimbursement shall be paid under the provisions of this Section within sixty (60) days after it is submitted unless disputed by the railroad but no claim shall be paid if presented to the railroad more than ninety (90) days after the date on which the expenses were incurred.

10. Should a railroad rearrange or adjust its forces in anticipation of a project with the purpose or effect of depriving an employee of benefits to which he otherwise would have become entitled under this Appendix, this Appendix will apply to such employee.

11. ARBITRATION OF DISPUTES - (a) In the event a railroad and its employees or their authorized representatives cannot settle any dispute or controversy with respect to the interpretation, application or enforcement of any provision of this Appendix, except Sections 4 and 12 of this Article I, within thirty (30) days after the dispute arises, it may be referred by either party to an arbitration committee. Upon notice in writing served by one party on the other of intent by that party to refer a dispute or controversy to an arbitration committee, each party shall, within ten (10) days, select one member

of the committee and the members thus chosen shall select a neutral member who shall serve as chairman. If any party fails to select its member of the arbitration committee within the prescribed time limit, the general chairman of the involved labor organization or the highest officer designated by the railroad, as the case may be, shall be deemed the selected member, and the committee shall then function and its decision shall have the same force and effect as though all parties had selected their members. Should the members be unable to agree upon the appointment of the neutral member within ten (10) days, the parties shall then within an additional ten (10) days endeavor to agree to a method by which a neutral member shall be appointed, and, failing such agreement, either party may request the National Mediation Board to designate within ten (10) days the neutral member whose designation will be binding upon the parties.

(b) In the event a dispute involves more than one labor organization, each will be entitled to a representative on the arbitration committee, in which event the railroad will be entitled to appoint additional representatives so as to equal the number of labor organization representatives, provided however, that the decision in such case shall be made by the neutral member.

(c) The decision, by majority vote except as provided otherwise in paragraph (b) of this Section, of the arbitration committee shall be final, binding, and conclusive and shall be rendered within forty-five (45) days after the hearing of the dispute or controversy has been concluded and the record closed.

(d) The salaries and expenses of the neutral member shall be borne equally by the parties to the proceeding and all other expenses shall be paid by the party incurring them.

(e) In the event of any dispute as to whether or not a particular employee was affected by a project, it shall be his obligation to identify

the project which allegedly affected him and to specify the pertinent facts of that project relied upon, including the change or changes resulting from project which allegedly affected him. It shall then be the railroad's burden to prove that factors other than a change resulting from the project affected the employee. The claiming employee shall prevail on this issue if it is established that the project had an effect upon the employee even if other factors also may have affected the employee.

12. LOSSES FROM HOME REMOVAL - (a) The following conditions shall apply to the extent they are applicable in each instance to any protected employee who is retained in the service of a railroad (or who is later restored to service after being entitled to receive a dismissal allowance) who is required to change the point of his employment within his protective period as a result of the project and is therefore required to move his place of residence:

(1) If the employee owns his own home in the locality from which he is required to move, he shall at his option be reimbursed by the railroad for any loss suffered in the sale of his home for less than its fair value, such loss to be paid within sixty (60) days after the employee has filed a claim for such loss unless a controversy arises as to which paragraph (d) of this Section applies. In each case the fair value of the home in question shall be determined as of a date sufficiently prior to implementation of work funded from financial assistance under the project so as to be unaffected thereby. The railroad shall in each instance be afforded an opportunity to purchase the home at such fair value before it is sold by the employee to any other person.

(11) The employee may elect to waive the provisions of paragraph

(a)(i) of this Section and to receive, in lieu thereof, an amount equal to the closing costs which are ordinarily paid for and assumed by a seller of real estate in the jurisdiction in which the residence is located. Such costs shall include a real estate commission paid to a licensed realtor (not to exceed \$3,000 or 6 per centum of sale price, whichever is less), and any prepayment penalty required by the institution holding the mortgage; such costs shall not include the payment of any "points" by the seller.

(iii) If the employee is under a contract to purchase his home, the railroad shall protect him against loss to the extent of the fair value of any equity he may have in the home and in addition shall relieve him from any further obligation under his contract.

(iv) If the employee holds an unexpired lease of a dwelling occupied by him as his home, the railroad shall protect him from all loss and cost in securing the cancellation of said lease.

(b) Changes in place of residence which are not the result of a project, which are made subsequent to the initial changes caused by the project and which grow out of the normal exercise of seniority rights, shall not be considered to be within the purview of this Section.

(c) No claim for loss shall be paid under the provisions of this Section unless such claim is presented to the railroad within one (1) year after the date the employee moves.

(d) Should a controversy arise in respect to the value of the home, the loss sustained in its sale, the loss under a contract for purchase, loss and cost in securing termination of a lease, or any other question in connection with these matters, it shall be decided through joint conference between the employees, or their representatives, and the railroad. In the event they are unable to agree, the dispute or controversy may be referred by either party to a board of competent real estate appraisers, selected

In the following manner: One to be selected by the representatives of the employees and one by the railroad, and these two, if unable to agree within thirty (30) days upon a valuation, shall endeavor by agreement within ten (10) days thereafter to select a third appraiser, or to agree to a method by which a third appraiser shall be selected, and, failing such agreement, either party may request the National Mediation Board to designate within ten (10) days a third appraiser whose designation will be binding upon the parties. A decision of a majority of the appraisers shall be required and said decision shall be final and conclusive. The salary and expenses of the third or neutral appraiser, including the expenses of the appraisal board, shall be borne equally by the parties to the proceedings. All other expenses shall be paid by the party incurring them, including the compensation of the appraiser selected by such party.

ARTICLE II

1. Any protected employee whose employment is terminated or who is furloughed as a result of a project shall, if he so requests, be granted priority of employment or reemployment to fill a position comparable to that which he held when so affected, even though in a different craft or class, on the railroad which he is, or by training or retraining physically and mentally can become, qualified, not however, in contravention of collective bargaining agreements relating thereto.

2. In the event such training or retraining is requested by such employee, the railroad shall provide for such training or retraining at no cost to the employee.

3. If an employee who has made a request under Sections 1 or 2 of this Article II fails without good cause within ten (10) calendar days to accept

an offer of a position comparable to that which he held when his employment terminated or he was furloughed for which he is qualified, or for which he has satisfactorily completed such training, he shall, effective at the expiration of such 10-day period, forfeit all rights and benefits under this Appendix.

ARTICLE III

Protected employees of a railroad who are not represented by a labor organization shall be afforded substantially the same levels of protection as are afforded to members of labor organizations under these terms and conditions.

In the event any dispute or controversy arises between a railroad and an employee not represented by a labor organization with respect to the interpretation, application or enforcement of any provision hereof which cannot be settled by the parties within thirty (30) days after the dispute arises, either party may refer the dispute to the Secretary of Labor for determination. The determination of the Secretary of Labor, or his designated representative, shall be final and binding on the parties.

ARTICLE IV

1. It is the intent of this Appendix to provide fair and equitable employee protections which meet the requirements of Section 516 of Title V of Public Law 94-210 and which, insofar as is compatible with Title V, shall contain the basic monetary protections and arbitration provisions of the employee protection arrangements prescribed by the Secretary of Labor and interpreted by the Secretary of Labor, pursuant to the Rail Passenger Service Act of 1970 (45 U.S.C. 521 at seq.).

2. In the event any provision of this Appendix is held to be invalid or otherwise unenforceable under applicable law, the remaining provisions of this Appendix shall not be affected, and such provision shall be renegotiated and resubmitted to the Secretary of Labor for certification pursuant to Section 516 of Title V.

EXHIBIT F
[RESERVED]

EXHIBIT G
RRIF DEBT SERVICE

[Attached]

**Exhibit G-1
Loan Amortization Schedule**

Project: Resiliency
Maturity Date: 7/1/2054

\$ Maximum Principal Sum		\$100,085,333.00		Interest Rate:		1.45%	
Semi Annual Payment Period	Date	Beginning Balance	Disbursements	Principal Repayment	Interest Repayment	Total Loan Repayment	Ending Balance
		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
1	7/1/2020	-	-	-	-	-	-
2	1/1/2021	-	15,085,333.00	-	90,491.33	90,491.33	15,085,333.00
3	7/1/2021	15,085,333.00	30,000,000.00	-	108,469.74	108,469.74	45,085,333.00
4	1/1/2022	45,085,333.00	-	-	329,555.26	329,555.26	45,085,333.00
5	7/1/2022	45,085,333.00	30,000,000.00	-	324,182.07	324,182.07	75,085,333.00
6	1/1/2023	75,085,333.00	-	-	548,842.93	548,842.93	75,085,333.00
7	7/1/2023	75,085,333.00	25,000,000.00	-	539,894.40	539,894.40	100,085,333.00
8	1/1/2024	100,085,333.00	-	-	729,583.79	729,583.79	100,085,333.00
9	7/1/2024	100,085,333.00	-	1,314,373.71	721,653.53	2,036,027.25	98,770,959.29
10	1/1/2025	98,770,959.29	-	1,314,052.13	721,975.12	2,036,027.25	97,456,907.16
11	7/1/2025	97,456,907.16	-	1,335,272.04	700,755.21	2,036,027.25	96,121,635.12
12	1/1/2026	96,121,635.12	-	1,333,417.60	702,609.65	2,036,027.25	94,788,217.52
13	7/1/2026	94,788,217.52	-	1,354,461.01	681,566.24	2,036,027.25	93,433,756.51
14	1/1/2027	93,433,756.51	-	1,353,064.89	682,962.36	2,036,027.25	92,080,691.62
15	7/1/2027	92,080,691.62	-	1,373,929.24	662,098.01	2,036,027.25	90,706,762.39
16	1/1/2028	90,706,762.39	-	1,374,809.65	661,217.60	2,036,027.25	89,331,952.74
17	7/1/2028	89,331,952.74	-	1,391,909.70	644,117.55	2,036,027.25	87,940,043.04
18	1/1/2029	87,940,043.04	-	1,393,221.67	642,805.57	2,036,027.25	86,546,821.37
19	7/1/2029	86,546,821.37	-	1,413,720.04	622,307.21	2,036,027.25	85,133,101.33
20	1/1/2030	85,133,101.33	-	1,413,739.27	622,287.98	2,036,027.25	83,719,362.06
21	7/1/2030	83,719,362.06	-	1,434,050.63	601,976.62	2,036,027.25	82,285,311.43
22	1/1/2031	82,285,311.43	-	1,434,555.44	601,471.81	2,036,027.25	80,850,755.99
23	7/1/2031	80,850,755.99	-	1,454,677.09	581,350.16	2,036,027.25	79,396,078.91
24	1/1/2032	79,396,078.91	-	1,457,260.20	578,767.05	2,036,027.25	77,938,818.70
25	7/1/2032	77,938,818.70	-	1,474,058.55	561,968.70	2,036,027.25	76,464,760.15
26	1/1/2033	76,464,760.15	-	1,477,101.28	558,925.97	2,036,027.25	74,987,658.87
27	7/1/2033	74,987,658.87	-	1,496,835.17	539,192.08	2,036,027.25	73,490,823.70
28	1/1/2034	73,490,823.70	-	1,498,839.53	537,187.72	2,036,027.25	71,991,984.17
29	7/1/2034	71,991,984.17	-	1,518,375.30	517,651.95	2,036,027.25	70,473,608.88
30	1/1/2035	70,473,608.88	-	1,520,894.13	515,133.12	2,036,027.25	68,952,714.75
31	7/1/2035	68,952,714.75	-	1,540,228.89	495,798.36	2,036,027.25	67,412,485.85
32	1/1/2036	67,412,485.85	-	1,544,616.01	491,411.24	2,036,027.25	65,867,869.84
33	7/1/2036	65,867,869.84	-	1,561,094.71	474,932.54	2,036,027.25	64,306,775.13
34	1/1/2037	64,306,775.13	-	1,565,971.15	470,056.10	2,036,027.25	62,740,803.97
35	7/1/2037	62,740,803.97	-	1,584,895.09	451,132.16	2,036,027.25	61,155,908.89
36	1/1/2038	61,155,908.89	-	1,589,002.69	447,024.56	2,036,027.25	59,566,906.20
37	7/1/2038	59,566,906.20	-	1,607,716.71	428,310.54	2,036,027.25	57,959,189.49
38	1/1/2039	57,959,189.49	-	1,612,369.39	423,657.86	2,036,027.25	56,346,820.09
39	7/1/2039	56,346,820.09	-	1,630,870.46	405,156.79	2,036,027.25	54,715,949.64
40	1/1/2040	54,715,949.64	-	1,637,168.91	398,858.34	2,036,027.25	53,078,780.73
41	7/1/2040	53,078,780.73	-	1,653,308.94	382,718.31	2,036,027.25	51,425,471.79
42	1/1/2041	51,425,471.79	-	1,660,128.18	375,899.07	2,036,027.25	49,765,343.61
43	7/1/2041	49,765,343.61	-	1,678,193.98	357,833.27	2,036,027.25	48,087,149.63
44	1/1/2042	48,087,149.63	-	1,684,529.95	351,497.30	2,036,027.25	46,402,619.68
45	7/1/2042	46,402,619.68	-	1,702,373.34	333,653.91	2,036,027.25	44,700,246.34
46	1/1/2043	44,700,246.34	-	1,709,286.82	326,740.43	2,036,027.25	42,990,959.52
47	7/1/2043	42,990,959.52	-	1,726,904.58	309,122.67	2,036,027.25	41,264,054.94
48	1/1/2044	41,264,054.94	-	1,735,228.07	300,799.18	2,036,027.25	39,528,826.86
49	7/1/2044	39,528,826.86	-	1,751,009.29	285,017.96	2,036,027.25	37,777,817.58
50	1/1/2045	37,777,817.58	-	1,759,886.93	276,140.32	2,036,027.25	36,017,930.65
51	7/1/2045	36,017,930.65	-	1,777,043.53	258,983.72	2,036,027.25	34,240,887.12
52	1/1/2046	34,240,887.12	-	1,785,740.44	250,286.81	2,036,027.25	32,455,146.68
53	7/1/2046	32,455,146.68	-	1,802,661.41	233,365.84	2,036,027.25	30,652,485.28
54	1/1/2047	30,652,485.28	-	1,811,970.18	224,057.07	2,036,027.25	28,840,515.10
55	7/1/2047	28,840,515.10	-	1,828,652.09	207,375.16	2,036,027.25	27,011,863.00
56	1/1/2048	27,011,863.00	-	1,839,121.10	196,906.15	2,036,027.25	25,172,741.90
57	7/1/2048	25,172,741.90	-	1,854,522.15	181,505.10	2,036,027.25	23,318,219.75
58	1/1/2049	23,318,219.75	-	1,865,580.65	170,446.60	2,036,027.25	21,452,639.11
59	7/1/2049	21,452,639.11	-	1,881,773.96	154,253.29	2,036,027.25	19,570,865.15
60	1/1/2050	19,570,865.15	-	1,892,972.27	143,054.98	2,036,027.25	17,677,892.88
61	7/1/2050	17,677,892.88	-	1,908,915.93	127,111.31	2,036,027.25	15,768,976.94
62	1/1/2051	15,768,976.94	-	1,920,762.51	115,264.74	2,036,027.25	13,848,214.44
63	7/1/2051	13,848,214.44	-	1,936,452.90	99,574.35	2,036,027.25	11,911,761.54
64	1/1/2052	11,911,761.54	-	1,949,195.06	86,832.19	2,036,027.25	9,962,566.47
65	7/1/2052	9,962,566.47	-	1,964,193.33	71,833.92	2,036,027.25	7,998,373.14
66	1/1/2053	7,998,373.14	-	1,977,562.43	58,464.82	2,036,027.25	6,020,810.71
67	7/1/2053	6,020,810.71	-	1,992,735.15	43,292.10	2,036,027.25	4,028,075.56
68	1/1/2054	4,028,075.56	-	2,006,583.67	29,443.58	2,036,027.25	2,021,491.89
69	7/1/2054	2,021,491.89	-	2,021,491.89	14,535.36	2,036,027.25	0.00

**Exhibit G-1
Loan Amortization Schedule**

Project: Automatic Train Control
Maturity Date: 7/1/2042

\$ Maximum Principal Sum		\$369,064,667.00			Interest Rate: 1.29%		
Semi Annual Payment Period	Date	Beginning Balance	Disbursements	Mandatory Principal Repayment	Interest Repayment	Total Loan Repayment	Ending Balance
		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
1	7/1/2020	-	-	-	-	-	-
2	1/1/2021	-	114,384,667.00	-	610,438.06	610,438.06	114,384,667.00
3	7/1/2021	114,384,667.00	114,000,000.00	-	731,717.15	731,717.15	228,384,667.00
4	1/1/2022	228,384,667.00	-	-	1,485,188.62	1,485,188.62	228,384,667.00
5	7/1/2022	228,384,667.00	85,680,000.00	-	1,460,973.59	1,460,973.59	314,064,667.00
6	1/1/2023	314,064,667.00	-	-	2,042,366.83	2,042,366.83	314,064,667.00
7	7/1/2023	314,064,667.00	55,000,000.00	-	2,009,067.37	2,009,067.37	369,064,667.00
8	1/1/2024	369,064,667.00	-	-	2,393,475.12	2,393,475.12	369,064,667.00
9	7/1/2024	369,064,667.00	-	8,876,647.04	2,367,459.09	11,244,106.12	360,188,019.96
10	1/1/2025	360,188,019.96	-	8,901,798.50	2,342,307.63	11,244,106.12	351,286,221.46
11	7/1/2025	351,286,221.46	-	8,996,932.98	2,247,173.15	11,244,106.12	342,289,288.49
12	1/1/2026	342,289,288.49	-	9,018,194.19	2,225,911.93	11,244,106.12	333,271,094.30
13	7/1/2026	333,271,094.30	-	9,112,175.50	2,131,930.62	11,244,106.12	324,158,918.80
14	1/1/2027	324,158,918.80	-	9,136,096.23	2,108,009.89	11,244,106.12	315,022,822.56
15	7/1/2027	315,022,822.56	-	9,228,909.44	2,015,196.68	11,244,106.12	305,793,913.12
16	1/1/2028	305,793,913.12	-	9,260,957.40	1,983,148.72	11,244,106.12	296,532,955.52
17	7/1/2028	296,532,955.52	-	9,341,920.13	1,902,185.99	11,244,106.12	287,191,035.58
18	1/1/2029	287,191,035.58	-	9,376,498.89	1,867,607.24	11,244,106.12	277,814,536.70
19	7/1/2029	277,814,536.70	-	9,466,930.34	1,777,175.79	11,244,106.12	268,347,606.36
20	1/1/2030	268,347,606.36	-	9,499,037.96	1,745,068.16	11,244,106.12	258,848,568.40
21	7/1/2030	258,848,568.40	-	9,588,255.38	1,655,850.75	11,244,106.12	249,260,313.02
22	1/1/2031	249,260,313.02	-	9,623,162.89	1,620,943.23	11,244,106.12	239,637,150.12
23	7/1/2031	239,637,150.12	-	9,711,150.56	1,532,955.57	11,244,106.12	229,925,999.57
24	1/1/2032	229,925,999.57	-	9,752,979.48	1,491,126.65	11,244,106.12	220,173,020.09
25	7/1/2032	220,173,020.09	-	9,831,750.34	1,412,355.78	11,244,106.12	210,341,269.75
26	1/1/2033	210,341,269.75	-	9,876,253.97	1,367,852.16	11,244,106.12	200,465,015.78
27	7/1/2033	200,465,015.78	-	9,961,734.16	1,282,371.96	11,244,106.12	190,503,281.62
28	1/1/2034	190,503,281.62	-	10,005,260.67	1,238,845.45	11,244,106.12	180,498,020.94
29	7/1/2034	180,498,020.94	-	10,089,462.76	1,154,643.37	11,244,106.12	170,408,558.19
30	1/1/2035	170,408,558.19	-	10,135,936.94	1,108,169.19	11,244,106.12	160,272,621.25
31	7/1/2035	160,272,621.25	-	10,218,844.36	1,025,261.76	11,244,106.12	150,053,776.89
32	1/1/2036	150,053,776.89	-	10,270,970.48	973,135.64	11,244,106.12	139,782,806.41
33	7/1/2036	139,782,806.41	-	10,347,433.79	896,672.33	11,244,106.12	129,435,372.61
34	1/1/2037	129,435,372.61	-	10,402,386.12	841,720.00	11,244,106.12	119,032,986.49
35	7/1/2037	119,032,986.49	-	10,482,653.74	761,452.38	11,244,106.12	108,550,332.75
36	1/1/2038	108,550,332.75	-	10,538,201.82	705,904.30	11,244,106.12	98,012,130.93
37	7/1/2038	98,012,130.93	-	10,617,123.87	626,982.26	11,244,106.12	87,395,007.06
38	1/1/2039	87,395,007.06	-	10,675,775.20	568,330.93	11,244,106.12	76,719,231.87
39	7/1/2039	76,719,231.87	-	10,753,334.25	490,771.88	11,244,106.12	65,965,897.62
40	1/1/2040	65,965,897.62	-	10,816,301.06	427,805.07	11,244,106.12	55,149,596.56
41	7/1/2040	55,149,596.56	-	10,890,335.02	353,771.10	11,244,106.12	44,259,261.54
42	1/1/2041	44,259,261.54	-	10,956,287.54	287,818.58	11,244,106.12	33,302,974.00
43	7/1/2041	33,302,974.00	-	11,031,067.46	213,038.67	11,244,106.12	22,271,906.54
44	1/1/2042	22,271,906.54	-	11,099,271.61	144,834.51	11,244,106.12	11,172,634.93
45	7/1/2042	11,172,634.93	-	11,172,634.93	71,471.19	11,244,106.12	0.00

**Exhibit G-1
Loan Amortization Schedule**

Project: Positive Train Control
Maturity Date: 1/1/2039

\$ Maximum Principal Sum		\$382,000,000.00		Interest Rate:		1.15%	
Semi Annual Payment Period	Date	Beginning Balance	Disbursements	Principal Repayment	Interest Repayment	Total Loan Repayment	Ending Balance
		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
1	12/1/2021	-	382,000,000.00	-	-	-	382,000,000.00
2	1/1/2022	382,000,000.00	-	-	373,104.11	373,104.11	382,000,000.00
3	7/1/2022	382,000,000.00	-	10,222,712.15	2,178,446.58	12,401,158.72	371,777,287.85
4	1/1/2023	371,777,287.85	-	10,245,869.02	2,155,289.70	12,401,158.72	361,531,418.83
5	7/1/2023	361,531,418.83	-	10,339,439.14	2,061,719.58	12,401,158.72	351,191,979.69
6	1/1/2024	351,191,979.69	-	10,370,770.12	2,030,388.60	12,401,158.72	340,821,209.58
7	7/1/2024	340,821,209.58	-	10,452,145.63	1,949,013.09	12,401,158.72	330,369,063.94
8	1/1/2025	330,369,063.94	-	10,485,923.27	1,915,235.45	12,401,158.72	319,883,140.67
9	7/1/2025	319,883,140.67	-	10,576,948.43	1,824,210.29	12,401,158.72	309,306,192.24
10	1/1/2026	309,306,192.24	-	10,608,030.22	1,793,128.50	12,401,158.72	298,698,162.02
11	7/1/2026	298,698,162.02	-	10,697,760.85	1,703,397.87	12,401,158.72	288,000,401.17
12	1/1/2027	288,000,401.17	-	10,731,545.44	1,669,613.28	12,401,158.72	277,268,855.74
13	7/1/2027	277,268,855.74	-	10,819,966.60	1,581,192.12	12,401,158.72	266,448,889.13
14	1/1/2028	266,448,889.13	-	10,860,705.58	1,540,453.14	12,401,158.72	255,588,183.55
15	7/1/2028	255,588,183.55	-	10,939,557.44	1,461,601.28	12,401,158.72	244,648,626.11
16	1/1/2029	244,648,626.11	-	10,982,866.96	1,418,291.76	12,401,158.72	233,665,759.15
17	7/1/2029	233,665,759.15	-	11,068,623.72	1,332,535.01	12,401,158.72	222,597,135.43
18	1/1/2030	222,597,135.43	-	11,110,705.19	1,290,453.53	12,401,158.72	211,486,430.24
19	7/1/2030	211,486,430.24	-	11,195,106.66	1,206,052.07	12,401,158.72	200,291,323.58
20	1/1/2031	200,291,323.58	-	11,240,017.79	1,161,140.93	12,401,158.72	189,051,305.79
21	7/1/2031	189,051,305.79	-	11,323,048.33	1,078,110.39	12,401,158.72	177,728,257.46
22	1/1/2032	177,728,257.46	-	11,373,636.88	1,027,521.84	12,401,158.72	166,354,620.58
23	7/1/2032	166,354,620.58	-	11,449,846.64	951,312.08	12,401,158.72	154,904,773.94
24	1/1/2033	154,904,773.94	-	11,503,135.43	898,023.29	12,401,158.72	143,401,638.51
25	7/1/2033	143,401,638.51	-	11,583,376.50	817,782.22	12,401,158.72	131,818,262.00
26	1/1/2034	131,818,262.00	-	11,636,973.95	764,184.77	12,401,158.72	120,181,288.06
27	7/1/2034	120,181,288.06	-	11,715,796.12	685,362.61	12,401,158.72	108,465,491.94
28	1/1/2035	108,465,491.94	-	11,772,356.03	628,802.69	12,401,158.72	96,693,135.90
29	7/1/2035	96,693,135.90	-	11,849,742.94	551,415.79	12,401,158.72	84,843,392.97
30	1/1/2036	84,843,392.97	-	11,910,643.37	490,515.35	12,401,158.72	72,932,749.60
31	7/1/2036	72,932,749.60	-	11,984,087.02	417,071.71	12,401,158.72	60,948,662.58
32	1/1/2037	60,948,662.58	-	12,047,823.46	353,335.26	12,401,158.72	48,900,839.12
33	7/1/2037	48,900,839.12	-	12,122,289.96	278,868.76	12,401,158.72	36,778,549.16
34	1/1/2038	36,778,549.16	-	12,187,943.90	213,214.82	12,401,158.72	24,590,605.26
35	7/1/2038	24,590,605.26	-	12,260,924.90	140,233.82	12,401,158.72	12,329,680.36
36	1/1/2039	12,329,680.36	-	12,329,680.36	71,478.37	12,401,158.72	0.00

EXHIBIT H-1

OPINIONS REQUIRED OF COUNSEL TO BORROWER

An opinion of the counsel of the Borrower, dated as of the Effective Date, to the effect that: (a) the Borrower is duly formed and validly existing under the laws of the Commonwealth; (b) the Borrower has all requisite power and authority to conduct its business and to execute and deliver, and to perform its obligations under the Related Documents to which it is a party; (c) the execution and delivery by the Borrower of, and the performance of its respective obligations under, the Related Documents to which it is a party, have been duly authorized by all necessary organizational or regulatory action; (d) the Borrower has duly executed and delivered each of the Related Documents to which it is a party and each Principal Project Contract constitutes the legal, valid and binding obligation of such party; enforceable against such party in accordance with their respective terms; (e) no authorization, consent, or other approval of, or registration, declaration or other filing with any governmental authority of the United States of America or of the Commonwealth, or any other Person, is required on the part of the Borrower for the execution and delivery by such party of, and the performance of such party under, any Principal Project Contract to which it is a party other than authorizations, consents, approvals, registrations, declarations and filings that have already been timely obtained or made by the Borrower; (f) the execution and delivery by the Borrower of, and compliance with the provisions of, the Related Documents to which it is a party in each case do not (i) violate the Organizational Documents of the Borrower, (ii) violate the law of the United States of America or of the Commonwealth or (iii) conflict with or constitute a breach of or default under any material agreement or other instrument known to such counsel to which the Borrower is a party, or to the best of such counsel's knowledge, after reasonable review, any court order, consent decree, statute, rule, regulation or any other law to which the Borrower is subject; and (g) to our knowledge after due inquiry, there are no actions, suits, proceedings or investigations against the Borrower by or before any court, arbitrator or any other Governmental Authority in connection with the Related Documents or the Project that are pending.

EXHIBIT H-2

OPINIONS REQUIRED FROM BOND COUNSEL

An opinion of bond counsel, dated as of the Effective Date, to the effect that: (a) no authorization, consent, or other approval of, or registration, declaration or other filing with any governmental authority of the United States of America or of the Commonwealth, or any other Person, is required on the part of the Borrower for the execution and delivery by such party of, and the performance of such party under, any RRIF Loan Document or Assessment Trust Document to which it is a party other than authorizations, consents, approvals, registrations, declarations and filings that have already been timely obtained or made by the Borrower; (b) each of the RRIF Loan Documents is in full force and effect and constitutes the legal, valid, and binding obligation of the Borrower, enforceable in accordance with its respective terms and conditions; (c) each of the RRIF Bonds is secured by the Sales Tax Trust Estate and is a Bond entitled to the benefits of a Bond under the Sales Tax Trust Agreement, enforceable under the laws of the Commonwealth without any further action by the Borrower or any other Person; (d) the Sales Tax Trust Agreement creates the valid and binding assignment and pledge of the Sales Tax Trust Estate to secure the payment of the principal of, interest on, and other amounts payable in respect of the RRIF Bonds, irrespective of whether any party has notice of the pledge and without the need for any physical delivery, recordation, filing or further act; (e) all actions by the Borrower that are required for the use of Pledged Revenues as required under the Sales Tax Trust Agreement, USDOT Supplemental Sales Tax Trust Agreement and under the RRIF Loan Agreement have been duly and lawfully made; (f) the Borrower has complied with the requirements of law of the Commonwealth to lawfully pledge the Sales Tax Trust Estate and use the Pledged Revenues as required by the terms of the Sales Tax Trust Agreement, USDOT Supplemental Sales Tax Trust Agreement and the RRIF Loan Agreement; (g) the Borrower is not eligible to be a debtor in either a voluntary or involuntary case under the United States Bankruptcy Code; (h) the Borrower is not entitled to claim governmental immunity in any breach of contract action under the RRIF Loan Agreement, USDOT Supplemental Sales Tax Trust Agreement or the RRIF Bonds or by the Trustee under the Sales Tax Trust Documents, subject to Section 2 of the Enabling Act; (i) the statutory covenant contained in Section 35T is a valid and binding obligation of the Commonwealth, which may not be impaired substantially by subsequent legislative enactments unless the holders of the Sales Tax Bonds are provided reasonable and adequate compensation or such impairment is both reasonable and necessary to serve legitimate state purposes; and (j) the Borrower is not an investment company required to register under the Investment Company Act of 1940, as amended.

EXHIBIT I
[RESERVED]

Exhibit I

EXHIBIT J

FORM OF CERTIFICATE OF TRUSTEE

MASSACHUSETTS BAY TRANSPORTATION AUTHORITY

(Subordinated Sales Tax Bonds, 2020 Series C Consisting of Series C-1, Series C-2 and Series C-3)

The undersigned, U.S. Bank National Association (the “*Trustee*”), certifies with respect to the above referenced bonds (the “*RRIF Bonds*”) dated as of July 1, 2020, as follows (capitalized terms used in this Certificate which are not otherwise defined shall have the meanings given to such terms in the Sales Tax Trust Agreement (as defined below)):

1. That the Trustee is a national association duly organized and validly existing under the laws of the United States of America and is duly licensed and in good standing under the laws of the Commonwealth of Massachusetts.
2. All approvals, consents and orders of any governmental authority or agency having jurisdiction in the matter which would constitute a condition precedent to the performance by the Trustee of its duties and obligations under the documents pertaining to the issuance of the RRIF Bond have been obtained and are in full force and effect.
3. That the documents pertaining to the issuance of the RRIF Bonds to which the Trustee is a party were executed and each of the RRIF Bonds was authenticated on behalf of the Trustee by one or more of the persons whose names and offices appear on Annex One attached hereto and made part hereof, that each person was at the time of the execution of such documents and the authentication of each of the RRIF Bonds and now is duly appointed, qualified and acting incumbent of his or her respective office, that each such person was authorized to execute such documents and to authenticate each of the RRIF Bonds, and that the signature appearing after the name of each such person is a true and correct specimen of that person’s genuine signature.
4. That the undersigned is authorized to act as Trustee and accept the trusts conveyed to it under the Sales Tax Trust Agreement (“*Trusts*”), has accepted the Trusts so conveyed and in so accepting the Trusts and so acting is in violation of no provision of its articles of association or bylaws, any law, regulation or court or administrative order or any agreement or other instrument to which it is a party or by which it may be bound.
5. That attached to this Certificate as Annex One is a full, true and correct copy of excerpts from resolutions of the board of directors of the Trustee and other applicable documents that evidence the Trustee’s trust powers and the authority of the officers referred to above to act on behalf of the Trustee; and that these excerpts and other applicable documents were in effect on the date or dates such officers acted and remain in full force and effect today, and such excerpts and documents have not been amended since the date of the last amendment thereto shown on any such copy, as applicable.
6. That receipt is acknowledged of all instruments, certifications and other documents or confirmations required to be received by the Trustee pursuant to Section 202 of that certain

Sales Tax Trust Agreement (the “*Sales Tax Trust Agreement*”), dated as of July 1, 2000 (as amended), between the Massachusetts Bay Transportation Authority, a body politic and corporate subdivision of the Commonwealth of Massachusetts (the “*Borrower*”) and the Trustee.

7. That receipt is also acknowledged of that certain RRIF Loan Agreement, dated as of July 1, 2020 (the “*RRIF Loan Agreement*”), between the Borrower and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the “*RRIF Bondholder*”).
8. That the Trustee also accepts its appointment and agrees to perform the duties and responsibilities of Trustee, Bond Registrar and Paying Agent for and in respect of the RRIF Bonds as set forth in the Sales Tax Trust Agreement and the RRIF Loan Agreement, including from time to time redeeming all or a portion of the RRIF Bonds as provided in Article IV of the Sales Tax Trust Agreement. In accepting such duties and responsibilities, the Trustee shall be entitled to all of the privileges, immunities, rights and protections set forth in Article VII of the Sales Tax Trust Agreement.
9. That all funds and accounts for the payment of the RRIF Bonds pursuant to the Sales Tax Trust Agreement (including, but not limited to, the USDOT Loan Account and the sub-accounts thereunder) have been established as provided in the Sales Tax Trust Agreement.

[SIGNATURE PAGE FOLLOWS]

Dated: July 1, 2020

U.S. BANK NATIONAL ASSOCIATION

By: _____
Its:

ANNEX ONE TO EXHIBIT J

OFFICERS OF TRUSTEE AND

RESOLUTIONS OF BOARD OF DIRECTORS OF TRUSTEE

EXHIBIT K
FORM OF BORROWER’S OFFICER’S CERTIFICATE

Reference is made to that certain RRIF Loan Agreement, dated as of July 1, 2020 (the “*RRIF Loan Agreement*”), by and between the Massachusetts Bay Transportation Authority (the “*Borrower*”) and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the “*USDOT Lender*”). Capitalized terms used in this certificate and not defined shall have the respective meanings ascribed to such terms in the RRIF Loan Agreement.

The undersigned, Mary Ann O’Hara, as Borrower’s Authorized Representative, does hereby certify on behalf of the Borrower and not in his personal capacity, as of the date hereof:

- (a) pursuant to Section 13(a)(ii) (*Conditions Precedent to Effectiveness*) of the RRIF Loan Agreement, attached hereto as Exhibit A are complete and fully executed copies of each Sales Tax Trust Document, together with any amendments, waivers or modifications thereto, in each case that has been entered into on or prior to the Effective Date, and each such agreement is in full force and effect, and all conditions contained in such documents to the closing of the transactions contemplated thereby have been fulfilled or effectively waived by the USDOT Lender in its sole discretion;
- (b) pursuant to Section 13(a)(vii) (*Conditions Precedent to Effectiveness*) of the RRIF Loan Agreement, attached hereto as Exhibit B is an incumbency certificate that lists all persons, together with their positions and specimen signatures, who are duly authorized by the Borrower to execute the Related Documents to which the Borrower is or will be a party, and who have been appointed a Borrower’s Authorized Representative in accordance with Section 26 (*Borrower’s Authorized Representative*) of the RRIF Loan Agreement;
- (c) pursuant to Section 13(a)(ix) (*Conditions Precedent to Effectiveness*) of the RRIF Loan Agreement, attached hereto as Exhibit C are true, correct and complete copies of each Principal Project Contract that has been executed on or prior to the Effective Date and not previously delivered to the USDOT Lender, and each such Principal Project Contract is in full force and effect and has not been amended, amended and restated, modified or supplemented;
- (d) the Borrower has obtained all Governmental Approvals necessary to commence implementation of the Project and each such Governmental Approval is final and non-appealable and in full force and effect (and is not subject to any notice of violation, breach or revocation);
- (e) pursuant to Sections 13(a)(viii) and 13(a)(xi) (*Conditions Precedent to Effectiveness*) of the RRIF Loan Agreement, attached hereto as Exhibit D is the Base Case Financial Model, which Base Case Financial Model (i) demonstrates that the aggregate of all funds shown in the Base Case Financial Model and in the Project Budget that are committed or forecasted to be available to pay Total Project Costs are sufficient to pay all Total Project Costs necessary to achieve Substantial Completion for each Phase, (ii) demonstrates that projected Pledged Revenues are sufficient to meet the RRIF Loan Amortization Schedule

and otherwise pay all Senior Sales Tax Obligations and Prior Obligations, (iii) demonstrates for each Borrower Fiscal Year through the Final Maturity Date (1) an Assessment Floor Coverage Ratio that is not less than 9.6, (2) a Base Revenue Floor Coverage Ratio that is not less than 2.0, (3) an Historic Dedicated Sales Tax Senior Coverage Ratio that is not less than 2.2, and (4) an Historic Dedicated Sales Tax Total Coverage Ratio that is not less than 2.0, and (iv) otherwise is in form and substance acceptable to the USDOT Lender.

- (f) pursuant to Section 13(a)(xiv) (*Conditions Precedent to Effectiveness*) of the RRIF Loan Agreement, (i) attached hereto as Exhibit E is a true, correct and complete copy of the final NEPA Determination, which document has not been revoked or amended on or prior to the date hereof, (ii) the Borrower is in compliance with Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. §§ 2000d *et seq.*) and USDOT regulation, 49 C.F.R. § 21, and (iii) the Borrower has complied with all applicable requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 *et seq.*);
- (g) pursuant to Section 13(a)(xvi) (*Conditions Precedent to Effectiveness*) of the RRIF Loan Agreement, (i) the Borrower's Federal Employer Identification Number is 04-2323989 and attached hereto as Exhibit F-1 is evidence thereof, (ii) the Borrower's Data Universal Numbering System number is 122872260, and (iii) the Borrower has registered with, and obtained confirmation of active registration status from, the federal System for Award Management (www.SAM.gov), and attached hereto as Exhibit F-2 is evidence of each of (ii) and (iii);
- (h) pursuant to Section 13(a)(xvii) (*Conditions Precedent to Effectiveness*) of the RRIF Loan Agreement, attached hereto as Exhibit G are true, correct and complete copies of certificates of insurance that demonstrate satisfaction of the insurance requirements of Section 13(a)(xvii) of the RRIF Loan Agreement;
- (i) pursuant to Section 13(a)(xviii) (*Conditions Precedent to Effectiveness*) of the RRIF Loan Agreement, attached hereto as (i) Exhibit H-1 is a copy of the Borrower's Organizational Documents, as in effect on the Effective Date (and certified by the Secretary of State of the Commonwealth, to the extent applicable), which Organizational Documents are in full force and effect and have not been amended since the date of the last amendment thereto shown on the certificate, (ii) Exhibit H-2 is a copy of all resolutions authorizing the Borrower to execute and deliver, and to perform its respective obligations under, the RRIF Loan Documents to which it is a party, and such resolutions have not been subsequently modified, rescinded or amended, are in full force and effect in the form adopted, and are the only resolutions adopted by the Borrower relating to the matters described therein, and (iii) as Exhibit H-3 is a copy of such further instruments and documents as are necessary, appropriate or advisable to effectuate the foregoing resolutions and to consummate and implement the transactions contemplated by such resolutions and the RRIF Loan Documents;
- (j) pursuant to Section 13(a)(xx) (*Conditions Precedent to Effectiveness*) of the RRIF Loan Agreement, attached hereto as Exhibit I are complete and fully executed copies of each

performance security instrument delivered to or by the Borrower pursuant to any Principal Project Contract as of the Effective Date, each of which performance security instruments is in compliance with the requirements for such performance security instrument pursuant to the applicable Principal Project Contract and is in full force and effect;

- (k) the representations and warranties of the Borrower set forth in the RRIF Loan Agreement and in each other Related Document to which the Borrower is a party are true and correct on and as of the date hereof, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct as of such earlier date;
- (l) the maximum principal amount of the RRIF Loan, together with the amount of any other credit assistance provided under the RRIF Act to the Borrower, does not exceed one hundred percent (100%) of reasonably anticipated Eligible Project Costs; and
- (m) no Material Adverse Effect, or any event or condition that could reasonably be expected to have a Material Adverse Effect, has occurred since February 18, 2020 and is continuing.

IN WITNESS WHEREOF, the undersigned has executed this certificate as of the date first mentioned above.

MASSACHUSETTS BAY
TRANSPORTATION AUTHORITY

By: _____
Mary Ann O'Hara
Chief Financial Officer

EXHIBIT B TO EXHIBIT K

INCUMBENCY CERTIFICATE

The undersigned certifies that he is the Counsel to the Board of Directors of the Massachusetts Department of Transportation (the “**Board**”), the governing board of the Massachusetts Bay Transportation Authority (the “**Borrower**”), and to the Fiscal and Management Control Board (“**FMCB**”), which has been afforded all powers, responsibilities and obligations relative to the Borrower that are vested in the Board (with certain limited exceptions), and as such he is authorized to execute this certificate and further certifies that the following persons have been appointed, are qualified, and are now acting as officers or authorized persons of the Borrower in the capacity or capacities indicated below, and that the signatures set forth opposite their respective names are their true and genuine signatures. He further certifies that any of the officers listed below is authorized to sign agreements and give written instructions with regard to any matters pertaining to the RRIF Loan Documents and the Sales Tax Trust Documents as the Borrower’s Authorized Representative (each as defined in that certain RRIF Loan Agreement, dated as of the date hereof, between the Borrower and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau):

<u>Name</u>	<u>Title</u>	<u>Signature</u>
Mary Ann O’Hara	Chief Financial Officer	_____
Patrick F. Landers, III	Treasurer	_____

IN WITNESS WHEREOF, the undersigned has executed this certificate as of this 1st day of July, 2020.

Massachusetts Bay Transportation Authority

By: _____
Name: Owen P. Kane
Title: Counsel to the Board

EXHIBIT L
FORM OF CERTIFICATE OF SUBSTANTIAL COMPLETION

[Letterhead of Borrower]

[Date]

Build America Bureau
United States Department of Transportation
Room W12-464
1200 New Jersey Avenue, SE
Washington, D.C. 20590
Attention: Director, Office of Credit Programs
Email: BureauOversight@dot.gov

Project: Commuter Rail Safety and Resiliency Programs (RRIF-2020-0044)

Dear Director:

This Notice is provided pursuant to Section 16(g)(i)(A) (*Substantial Completion*) of that certain RRIF Loan Agreement (the “**RRIF Loan Agreement**”), dated as of July 1, 2020, by and between the Massachusetts Bay Transportation Authority (the “**Borrower**”) and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the “**USDOT Lender**”).

Unless otherwise defined herein, all capitalized terms in this Notice have the meanings assigned to those terms in the RRIF Loan Agreement.

I, the undersigned, in my capacity as the Borrower’s Authorized Representative and not in my individual capacity, do hereby certify to the USDOT Lender that, on *[insert date Substantial Completion requirements were satisfied]*, Substantial Completion, as defined in the RRIF Loan Agreement, has been achieved for Phase [___] of the Project.

[Borrower’s Authorized Representative]

Name:

Title:

EXHIBIT M
[RESERVED]

EXHIBIT N
[RESERVED]

Exhibit N-1

EXHIBIT O

**CERTIFICATION REGARDING THE PROHIBITION ON THE USE OF
APPROPRIATED FUNDS FOR LOBBYING**

The undersigned, on behalf of the MASSACHUSETTS BAY TRANSPORTATION AUTHORITY (the "**Borrower**"), hereby certifies, to the best of his or her knowledge and belief, that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Borrower, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of the RRIF Loan.

(b) If any funds other than proceeds of the RRIF Loan have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the RRIF Loan, the Borrower shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(c) The Borrower shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when the USDOT Lender entered into the RRIF Loan Agreement. Submission of this certification is a prerequisite to the effectiveness of the RRIF Loan Agreement imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Dated: _____

**MASSACHUSETTS BAY TRANSPORTATION
AUTHORITY**

By: _____

Name: Mary Ann O'Hara

Title: Chief Financial Officer