



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

REGION V
Illinois, Indiana,
Michigan, Minnesota,
Ohio, Wisconsin

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October 4, 2019

Mr. Michael Noland
President
Northern Indiana Commuter Transportation District
33 E. U.S. Highway 12
Chesterton, IN 46304

Re: Approval to Enter Engineering
West Lake Corridor Commuter Rail Project

Dear Mr. Noland:

The Federal Transit Administration (FTA) is pleased to inform you that the Northern Indiana Commuter Transportation District's (NICTD) request for the West Lake Corridor Commuter Rail project (Project) to enter the New Starts Engineering phase of the FTA Capital Investment Grants (CIG) Program is approved. This approval to initiate Engineering is a requirement of Federal public transportation law (49 U.S.C. § 5309(g)) governing the CIG Program.

The FTA is required by law to evaluate proposed CIG projects against a number of criteria and ensure that prospective grant recipients demonstrate the technical, legal, and financial capability to implement the project. As a result of FTA's evaluation of the Project, an overall project rating of *Medium-High* was assigned.

Please note that NICTD undertakes Engineering work at its own risk, and that the Project must still progress through further steps in the CIG program to be eligible for consideration to receive CIG funding.

With this Engineering approval, NICTD has automatic pre-award authority to incur costs for Engineering activities, demolition and other non-construction activities such as the procurement of rails, ties, commodities, and other specialized equipment. NICTD should consult with the FTA Region V office for a determination of whether any other non-construction activity falls within the automatic pre-award authority granted with Engineering approval.

In addition, NICTD has automatic pre-award authority to procure vehicles, acquire real property and perform utility relocation since the National Environmental Policy Act (NEPA) review process has been completed. FTA reminds NICTD that the procurement of vehicles must comply with all Federal requirements including, but not limited to, competitive procurement practices, the Americans with Disabilities Act, and Buy America Act Requirements. FTA encourages NICTD to discuss the procurement of vehicles with FTA prior to exercising the pre-award authority.

This pre-award authority does not constitute any FTA commitment that future Federal funds will be approved for the Project or for any element of the Project. As with all pre-award authority, all Federal requirements must be met prior to incurring costs in order to retain eligibility for future FTA grant assistance. This approval also does not constitute approval to start any physical construction activity other than those highlighted above without the issuance of a Letter of No Prejudice. Additional guidance regarding pre-award authority for the Capital Investment Grants Program is provided in the FTA Fiscal Year 2019 Apportionments, Allocations, and Program Information Notice, that was published in the Federal Register Notice on July 3, 2019.

Local Financial Commitment

In NICTD's original Engineering request submitted in September 2018, the total project cost was \$890.88 million with a CIG request \$440.10 million (49.4 percent). Based on FTA's financial review of the September 2018 Engineering request, FTA determined that all non-Section 5309 CIG capital funds were committed or budgeted.

NICTD subsequently provided FTA with an updated project capital cost of \$933.09 million, and a reduced CIG share request of \$354.57 million (38.0 percent). Thus, prior to consideration for funding, NICTD must submit a revised financial plan reflecting the new numbers. Additionally, NICTD must secure and document the commitments of all non-CIG funding.

Please be advised that the amount of CIG funding for the Project is fixed at the time of entry into Engineering. Therefore, consistent with NICTD's request, \$354.57 million represents the maximum amount of CIG funds that will be provided by FTA for the Project, should a Full Funding Grant Agreement (FFGA) be approved.

Scope, Schedule, Cost, and Technical Capacity

The FTA has determined that NICTD has the technical capacity and capability to effectively manage the Engineering phase of project development. However, during Engineering, NICTD must address all recommendations noted in FTA's *Readiness to Enter Engineering Review Report*, which represent risks to the project cost and schedule, including the key items listed below:

- NICTD must update its Project Management Plan (PMP) and sub-plans to meet the requirements for the milestone of award of the FFGA within six-months after entering engineering.
- NICTD must continue the process of risk identification and mitigation. Especially important are the project requirements and design risks that should be resolved as much as possible before design-build proposals are received.
- NICTD must accelerate procurement and clearing/remediation of parcels associated with the Hammond Maintenance Facility as soon as possible to facilitate location of buried structures and utilities. NICTD must identify contaminated soils and other hazardous

material within the project limits. These unknowns can have significant schedule and cost impact as the project progresses.

Civil Rights

Pursuant to the Civil Rights Act of 1964 and its implementing regulations, including FTA Circular 4702.1 (Title VI Program Guidelines for FTA Recipients, Part II, Section 114), NICTD submitted a revised Title VI program on October 2, 2017. The current program remains effective through July 31, 2020, and a new program must be submitted by June 1, 2020.

NICTD's Equal Employment Opportunity (EEO) Plan was submitted on February 2, 2018. The plan expires on April 30, 2022. NICTD must submit the required EEO program update at least 30 calendar days before the current program expires, or by the updated due date per FTA's Circular 4704.1A.

NICTD's updated Disadvantaged Business Enterprise (DBE) program was submitted on June 27, 2014, and does not expire. NICTD's required triennial DBE program goal was submitted May 10, 2017, and the agency's goal remains valid through September 30, 2019. Multiple program submissions from NICTD have an in-review status, which indicates that NICTD has met its civil rights obligations by complying with FTA's program submission requests. NICTD does not need to obtain final approvals of new program submissions for purposes of this Engineering approval.

NICTD is required to ensure that the vehicles, stations, and facilities are designed and engineered to ensure compliance with current standards for accessibility under U.S. Department of Transportation regulations implementing the transportation provisions of the Americans with Disabilities Act of 1990 (ADA). NICTD is advised to independently verify manufacturers' claims of ADA compliance, and to consult with FTA's Office of Civil Rights concerning ADA requirements as project construction and implementation progresses.

Before and After Study

Within four months of entry into Engineering, NICTD should complete the milestone activities required for the Before-and-After Study of the Project, namely the documentation, analysis, and archiving of the predicted physical scope, capital cost, transit service levels, operating and maintenance costs, and ridership. NICTD should coordinate this work, as it is underway, with the FTA Office of Planning and Environment.

The FTA looks forward to working with NICTD on the West Lake Corridor project. If you have any questions, please call me at (312) 353-1654 or Susan Weber of our Region V office at (312) 353-3888.

Sincerely,



Kelley Brookins
Regional Administrator