1. Roll Call

2. Consent Agenda
   A. Resolution Finding Need to Conduct April 16, 2021 Meeting Electronically
   B. Approval of Agenda
   C. Authorization to Issue an Invitation for Bids for Repair and Overhaul of Air Brake Equipment
   D. Authorization to Issue an Invitation for Bids for Rehabilitation of Wheelsets and Traction Motor Assemblies

3. Approval of Minutes from the March 19, 2021 VRE Operations Board Meeting

4. Chair’s Comments

5. Chief Executive Officer's Report

6. Virginia Railway Express Riders’ and Public Comment

7. Action Items:
   A. Authorization to Exercise a Contract Option and Amend a Task Order for Maintenance Services for VRE Facilities
B. Authorization to Exercise a Contract Option for Custodial and Seasonal Services for VRE Facilities

C. Authorization to Execute a Right of Entry Agreement for MCBQ Construction Activities Adjacent to the VRE Quantico Station Parking Lot

D. Recommend Authorization to Execute the Amended and Restated Operating Access and Amended Master Lease Agreements with CSX Transportation

8. Information Items:

A. Spending Authority Report

B. Construction Manager/General Contractor (CM/GC) Alternative Delivery Method

C. Use of Federal Relief Funds in the FY 2022 Operating Budget

9. Closed Session

10. Operations Board Member's Time

The Next VRE Operations Board Meeting will be on May 21, 2021- 9:00 A.M.
Virginia Railway Express
Operations Board Resolution

2A-04-2021

Resolution Finding Need to Conduct April 16, 2021 Meeting Electronically

WHEREAS, on March 12, 2020, the Governor of Virginia declared a state of emergency in Virginia in response to the spread of novel coronavirus, or COVID-19, a communicable disease of public health threat as so declared by the State Health Commissioner on March 7, 2020 (“COVID-19”); and,

WHEREAS, in subsequent Executive Orders, particularly Executive Order Nos. 53 and 55, as amended, the Governor of Virginia, among other measures designed to ensure safe physical distancing between individuals, prohibited public and private in person gatherings of 10 or more individuals and ordered all individuals in Virginia to remain at their place of residence, with limited exceptions, to mitigate the impacts of COVID-19 and prevent its spread; and,

WHEREAS, the Virginia Railway Express Operations Board finds that it has a responsibility to demonstrate to the public, through the Board’s conduct, the importance of maintaining proper physical distance from others and to avoid gathering in public where the risks of infection are highest, and to take measures that promote physical distancing in order to protect the public health and mitigate the impacts and spread of COVID-19, including, among others, conducting meetings electronically whenever possible; and,

WHEREAS, on April 22, 2020, the Virginia General Assembly adopted, and the Governor signed, budget bill amendments to HB 29 that expressly authorize “any public body, including any state, local, [or] regional body” to “meet by electronic communication means without a quorum of the public body . . . physically assembled at one location when the Governor has declared a state of emergency . . ., provided that (i) the nature of the declared emergency makes it impracticable or unsafe for the public body . . . to assemble in a single location; (ii) the purpose of the meeting is to discuss or transact the business statutorily required or necessary to continue operations of the public body . . . and the discharge of its lawful purposes, duties, and responsibilities” among other provisions; and,
WHEREAS, jurisdictions of the Virginia Railway Express Operations Board have adopted continuity of government ordinances pursuant to Va. Code Ann. § 15.2-1413 which ordinances, among other provisions, authorize regional bodies of which the locality is a member to meet electronically to transact business to assure the continuity of government;

NOW, THEREFORE, BE IT RESOLVED, the Virginia Railway Express Operations Board hereby finds that meeting by electronic means is authorized because the nature of the declared emergency makes it both impracticable and unsafe for the Operations Board to assemble in a single location on April 16, 2021, to discuss and transact the business of the Operations Board listed on the April 16, 2021 Operations Board Meeting Agenda; and,

BE IT FURTHER RESOLVED, the Virginia Railway Express Operations Board hereby finds that meeting by electronic means is authorized because the items on the April 16, 2021 Operations Board Meeting Agenda are statutorily required or necessary to continue operations of the Operations Board and the discharge of the Operations Board’s lawful purposes, duties, and responsibilities; and,

BE IT FURTHER RESOLVED, the Virginia Railway Express Operations Board hereby finds that the items on the April 16, 2021 Operations Board Meeting Agenda are encompassed within the continuity of operations ordinances adopted by several member localities of the Virginia Railway Express Operations Board to assure the continued operation of the government during the disaster posed by the public health emergency resulting from COVID-19.

Approved this 16th day of April 2021

________________________________________
Elizabeth Bennett-Parker
Chair

________________________________________
James Walkinshaw
Secretary
To: Chair Bennett-Parker and the VRE Operations Board  
From: Rich Dalton  
Date: April 16, 2021  
Re: Authorization to Issue an Invitation for Bids for Repair and Overhaul of Air Brake Equipment

**Recommendation:**

The VRE Operations Board is asked to authorize the Chief Executive Officer to issue an Invitation for Bids (IFB) for the Repair and Overhaul of Air Brake Equipment.

**Summary:**

This resolution will authorize a solicitation for the performance of required periodic maintenance of rolling stock air brake equipment as well as repairs following a malfunction or failure of service.

**Background:**

VRE’s current periodic maintenance interval for air brakes in trailer coaches, cab coaches, and locomotives is 1,472 days. When that interval is reached, or in the case of an apparent malfunction in service, the device operating portion of the air brake is removed from the vehicle and replaced with a similar portion from VRE’s stock of new or repaired equipment. The defective device is shipped by VRE to its service provider’s air brake repair shop.

An IFB is the preferred and normal method of procurement when seeking bids to provide goods and services at a firm-fixed price. This method is utilized when there is a complete, adequate, precise specification or purchase description. Award is made based on price alone without discussions or negotiations with the Bidders.
The scope of work for the IFB includes a periodic maintenance procedure, commonly known as COT&S (Clean, Oil, Test, andStencil) on VRE’s railcar and locomotive pneumatic (air) and electropneumatic brake systems.

In November 2016, the VRE Operations Board authorized award of a contract to Wabtec Global Services for Repair and Overhaul of Air Brake Equipment. The final option year of this contract will expire on December 13, 2021. Therefore, VRE must conduct a competitive solicitation now to reprocure this necessary service.

Upon receipt of the bids, staff will return to the VRE Operations Board to request authorization to execute the contract in order to continue the services without interruption.

**Fiscal Impact:**

Funding for repair and overhaul of air brake equipment is provided for in the upcoming Fiscal Year 2022 budget under locomotive repairs and maintenance. Funding for future years will be included in each proposed annual budget.
Virginia Railway Express
Operations Board Resolution

2C-04-2021

Authorization to Issue an Invitation for Bids for
Repair and Overhaul of Air Brake Equipment

WHEREAS, VRE requires the services of a qualified and experienced contractor to perform periodic and necessary maintenance on air brake equipment; and,

WHEREAS, VRE may periodically require the contractor to also perform repairs on air brake systems or components to address malfunction or failure; and,

WHEREAS, the current contract for Repair and Overhaul of Air Brake Equipment will expire on December 13, 2021, and authorization to advertise a solicitation for these required services is therefore requested;

NOW, THEREFORE, BE IT RESOLVED THAT, the VRE Operations Board does hereby authorize the Chief Executive Officer to issue an Invitation for Bids for the Repair and Overhaul of Air Brake Equipment.

Approved this 16th day of April 2021

______________________________
Elizabeth Bennett-Parker
Chair

______________________________
James Walkinshaw
Secretary
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Agenda Item 2-D
Consent Item

To: Chair Bennett-Parker and the VRE Operations Board

From: Rich Dalton

Date: April 16, 2021

Re: Authorization to an Issue an Invitation for Bids for Rehabilitation of Wheelsets and Traction Motor Assemblies

Recommendation:

The VRE Operations Board is asked to authorize the Chief Executive Officer to issue an Invitation for Bids (IFB) for Rehabilitation of Wheelsets and Traction Motor Assemblies.

Summary:

This resolution will authorize a solicitation for the rehabilitation of Gallery IV railcar wheelsets and locomotive traction motor assemblies. The Contractor shall pick up and return wheelsets and traction motor assemblies to VRE’s Maintenance and Storage Facilities in Bristow and Fredericksburg, Virginia.

Background:

VRE locomotives and railcars operate approximately 624 miles on the Fredericksburg Line and 370 miles on the Manassas Line each week. Over the course of operations, wheelsets and traction motors incur normal wear and tear requiring regular maintenance and occasional replacement to support safe and efficient operations.

An IFB is the preferred and normal method of procurement when seeking bids to provide goods and services at a firm-fixed price. This method is utilized when there is a complete, adequate, precise specification or purchase description. Award is made based on price alone without discussions or negotiations with the Bidders.
The scope of work for the IFB includes rehabilitation services for wheelsets and traction motor assemblies. Rehabilitation services for wheelsets include replacement, repair, or overhaul of axles, wheels, journal bearings, and journal boxes. Traction motor assembly services include wheel renewal (new wheels), wheel reprofile (wheel trim), combo disassemble/reassemble, and traction motor repair.

In July 2017, the VRE Operations Board authorized award of a contract to UTC|RAS, LLC for the Rehabilitation of Wheelsets and Traction Motor Assemblies. The final option year of this contract will expire on October 5, 2021. Therefore, VRE must conduct a competitive solicitation now to reprocure this necessary service.

Upon receipt of the bids, staff will return to the VRE Operations Board to request authorization to execute the contract in order to continue the services without interruption.

**Fiscal Impact:**

Funding for the rehabilitation of wheelsets and traction motor assemblies is provided for in the current budget under ‘Mechanical Operations - Repair and Maintenance.’ Funding for future years will be included in each proposed annual budget.
Virginia Railway Express  
Operations Board Resolution  

2D-04-2021  

Authorization to Issue an Invitation for Bids for  
Rehabilitation of Wheelsets and Traction Motor Assemblies  

WHEREAS, authorization to advertise a solicitation for the rehabilitation of Gallery IV railcar wheelsets and locomotive traction motor assemblies is being requested; and,  

WHEREAS, wheelsets and traction motors incur normal wear and tear requiring regular maintenance and occasional replacement to support safe and efficient operations; and,  

WHEREAS, the current contract to provide these services will expire on October 5, 2021;  

NOW, THEREFORE, BE IT RESOLVED THAT, the VRE Operations Board does hereby authorize the Chief Executive Officer to issue an Invitation for Bids for Rehabilitation of Wheelsets and Traction Motor Assemblies.  

Approved this 16th day of April 2021  

__________________________  
Elizabeth Bennett-Parker  
Chair  

__________________________  
James Walkinshaw  
Secretary
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Members Present
*Walter Alcorn (NVTC)**
*Andrea Bailey (PRTC)
*Preston Banks (PRTC)
*Elizabeth Bennett-Parker (NVTC)
*Meg Bohmke (PRTC)**
*Katie Cristol (NVTC)
*Margaret Franklin (PRTC)**
*Jeanine Lawson (PRTC)
*Cindy Shelton (PRTC)
*Gary Skinner (PRTC)
*Dan Storck (NVTC)
*James Walkinshaw (NVTC)

Jurisdiction
Fairfax County
Prince William County
City of Manassas Park
City of Alexandria
Stafford County
Arlington County
Prince William County
Prince William County
Stafford County
Spotsylvania County
Fairfax County
Fairfax County

Members Absent
Matt Kelly (PRTC)
Jennifer Mitchell (DRPT)
Ralph Smith (PRTC)

City of Fredericksburg
Commonwealth of Virginia
City of Manassas

Alternates Present
*Michael McLaughlin (DRPT)

Commonwealth of Virginia

Alternates Absent
Canek Aguirre (NVTC)
Victor Angry (PRTC)
Pete Candland (PRTC)
Hector Cendejas (PRTC)
Deborah Frazier (PRTC)
Libby Garvey (NVTC)
Jason Graham (PRTC)
Jeff McKay (NVTC)
Alanna Mensing (PRTC)
Pam Sebesky (PRTC)

City of Alexandria
Prince William County
Prince William County
City of Manassas Park
Spotsylvania County
Arlington County
City of Fredericksburg
Fairfax County
City of Manassas Park
City of Manassas

*Voting Member

**Indicates arrival/departure following the commencement of the Operations Board Meeting. Notation of exact arrival/departure time is included in the body of the minutes.
Chair Bennett-Parker called the meeting to order at 9:00 A. M. The Roll Call followed.

**Consent Agenda – 2**

- Resolution Finding Need to Conduct the March 19, 2021 Meeting Electronically
- Approval of the Agenda

Ms. Bailey moved, with a second by Mr. Storck, to approve the Consent Agenda. The vote in favor was cast by Members Bailey, Banks, Bennett-Parker, Bohmke, Cristol, Lawson, McLaughlin, Shelton, Skinner, Storck and Walkinshaw.

**Approval of the Minutes of the February 19, 2021 VRE Operations Board Meeting – 3**

Ms. Bohmke moved, with a second by Mr. Storck, to approve the Minutes from February 19, 2021 Meeting with a correction. The vote in favor was cast by Members Bailey, Banks, Bennett-Parker, Bohmke, Cristol, Lawson, McLaughlin, Shelton, Storck and Walkinshaw. Mr. Skinner abstained.

**Chair’s Comments – 4**

Chair Bennett-Parker noted it has been just over a year since we had to make significant changes to our lives due to COVID-19. VRE reduced service to run the “S” schedule beginning on March 17th last year; and after cancelling the March and April meetings, the VRE Operations Board began doing them virtually. Chair Bennett-Parker thanked VRE Staff, as well as those from Keolis and other contractors, who have worked tirelessly to make sure we could continue to run service in a safe manner. On behalf of the Operations Board Members, Chair Bennett-Parker thanked the frontline workers whose dedication and commitment was, and is, pivotal during these challenging times.

**Chief Executive Officer’s Report – 5**

- Safety COVID-19 Update
- Ridership
- Performance
- Project Spotlight: VRE Headquarters Reception Area
- Excess Liability Insurance

[Ms. Franklin joined the meeting at 9:11 a.m.]
COVID Relief Funds:
  - Mr. Schofield briefed the Board on staff recommendations for use of CRRSA and CARES Act funding for FY2022.

Public Comment Time – 6

Chair Bennett-Parker stated that in the virtual meeting environment, Public Comments were being accepted electronically through the VRE Website. The Chair asked the Clerk to read any comments received into the record. Ms. Lamb stated there were no Public Comments received.

Action Items - 7

Acceptance of Title VI Service Standards and Policies Monitoring Results - 7A

Ms. Cristol moved, with a second by Ms. Bailey, to accept the results of the Title VI Service Standards and Policies Monitoring and forward them to the Potomac and Rappahannock Transportation Commission for inclusion in PRTC’s Title VI submittal. The vote in favor was cast by Members Bailey, Banks, Bennett-Parker, Bohmke, Cristol, Franklin, Lawson, McLaughlin, Shelton, Skinner, Storck, and Walkinshaw.

Authorization to Issue a GEC VIII Task Order for Construction Manager/General Contractor Engineering Support for the Alexandria Station Improvements Project – 7B

Ms. Bailey moved, with a second by Ms. Bohmke, to authorize the CEO to issue a GEC VIII Task Order for Construction Manager/General Contractor Engineering Support for the Alexandria Station Improvements Project. The vote in favor was cast by Members Bailey, Banks, Bennett-Parker, Bohmke, Cristol, Franklin, Lawson, McLaughlin, Shelton, Skinner, Storck and Walkinshaw.

[Mr. Alcorn joined the meeting at 9:57 a.m.]

Authorization to Issue a General Planning Consulting Services Task Order for an Alternatives Analysis for the L’Enfant Station and Fourth Track Project – 7C

Mr. Skinner moved, with a second by Ms. Shelton, to authorize the CEO to issue a GPC Task Order for an Alternatives Analysis for the L’Enfant Station and Fourth Track Project. The vote in favor was cast by Members Alcorn, Bailey, Banks, Bennett-Parker, Bohmke, Cristol, Franklin, Lawson, McLaughlin, Shelton, Skinner, Storck and Walkinshaw.

Information Items – 8

Spending Authority Report – 8A

In, the following purchases greater than $50,000 but less than $200,000 were made:

- On February 8, 2021, VRE issued a Blanket Purchase Order to Powersolv, Inc. in an amount not to exceed $50,000 to provide on-call support and development for VRE’s project controls software, e-Builder.
- On February 15, 2021, VRE issued a Task Order to HDR Engineering, Inc. in the amount of $162,103 under the General Engineering Consulting Services (GEC VIII) contract to provide procurement support for the Construction Manager/General Contractor (CM/GC) delivery method to be employed for construction of the Alexandria Station Improvements project.
On February 18, 2021, VRE issued a Blanket Purchase Order to YRC Freight in an amount not to exceed $50,000 to provide freight shipping service on an as needed basis to transport VRE parts and equipment such as turbochargers, HVAC units, and air brake equipment to vendors to facilitate core exchanges and repair work.

On February 18, 2021, VRE issued a Task Order to ADS System Safety Consulting, LLC in an amount not to exceed $195,310 under the Safety and Security Consulting Services contract to provide on-call support on an as needed basis for a variety of assignments including assisting with incident and accident response and investigation activities, inspecting facilities for potential safety concerns, and providing internal and external training and safety campaign support.

On February 27, 2021, VRE amended an existing Task Order with Vanasse Hangen Brustlin, Inc. under the General Planning Consulting Services (GPC) contract to provide Virginia Pollutant Discharge Elimination System (VPDES) Stormwater General Permit Compliance Support for the Broad Run and Crossroads Maintenance and Storage Facilities. This amendment extended the term of the Task Order by one year and increased the commitment by $46,046 to a total amount of $99,377.

Closed Session – 12

Ms. Lawson moved, with a second by Ms. Bailey, pursuant to the Virginia Freedom of Information Act (Section 2.2-3711.A (1) and of the Code of Virginia,) to convene a closed meeting for the purpose of discussing one matter involving personnel matter involving an appointee of the Commissions.

The vote in favor was cast by Members Alcorn, Bailey, Banks, Bennett-Parker, Bohmke, Cristol, Franklin, Lawson, McLaughlin, Shelton, Skinner, Storck, and Walkinshaw.

Ms. Lawson moved, with a second by Ms. Cristol to certify that to the best of each member’s knowledge and with no individual member dissenting, at the just concluded Closed Session, only public business matters lawfully exempted from open meeting requirements under the Freedom of Information Act were discussed; and, only such public business matters as were identified in the motion by which the Closed Session was convened were heard, discussed, or considered.

[Ms. Bohmke left the meeting during Closed Session]

The vote in favor was cast by Members Alcorn, Bailey, Banks, Bennett-Parker, Cristol, Franklin, Lawson, McLaughlin, Shelton, Skinner, Storck, and Walkinshaw.

Board Members’ Time – 13

Chair Bennett Parker asked if Members had any additional business.

Ms. Franklin noted event March 18th was Transit Worker Appreciation Day and thanked VRE staff and contractors for the work that they do.

Chair Bennett Parker moved, with a second by Mr. Skinner, to adjourn the meeting.

The vote in favor was cast by Members Alcorn, Bailey, Bennett-Parker, Cristol, Franklin, Lawson, McLaughlin, Shelton, Skinner, Storck, and Walkinshaw.
Approved this 16th day of April 2021

_____________________________
Elizabeth Bennett-Parker
Chair

_____________________________
James Walkinshaw
Secretary

CERTIFICATION

This certification hereby acknowledges the minutes for the March 19, 2021 Virginia Railway Express Operations Board Meeting have been recorded to the best of my ability.

Lezlie M. Lamb
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The Virginia Railway Express, a joint project of the Northern Virginia Transportation Commission and the Potomac Rappahannock Transportation Commission, will provide safe, cost-effective, accessible, reliable, convenient, and customer responsive commuter-oriented rail passenger service. VRE contributes to the economic vitality of its member jurisdictions as an integral part of a balanced, intermodal regional transportation system.
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PERFORMANCE AT A GLANCE

PARKING UTILIZATION
The total number of parking spaces used in the VRE system during the month, divided by the total number of parking spaces available.

AVERAGE DAILY RIDERSHIP
The average number of boardings each operating day inclusive of Amtrak Step-Up boardings and reduced, “S” schedule, service.
Same month, previous year: 8,764

ON-TIME PERFORMANCE
Percent of trains arriving at their destination within five minutes of the schedule.
Same month, previous year: 93%

SYSTEM CAPACITY
The percent of peak hour train seats occupied. The calculation excludes reverse flow and non-peak hour trains.

OPERATING RATIO
Year-to-date operating revenues divided by year-to-date operating expenses, which represents the share of operating costs paid by the riders.
Board-approved goal: 52%

March 2021
ON-TIME PERFORMANCE

OUR RECORD

<table>
<thead>
<tr>
<th></th>
<th>March 2021</th>
<th>February 2021</th>
<th>March 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manassas Line</td>
<td>93%</td>
<td>93%</td>
<td>94%</td>
</tr>
<tr>
<td>Fredericksburg Line</td>
<td>93%</td>
<td>92%</td>
<td>92%</td>
</tr>
<tr>
<td>Systemwide</td>
<td>93%</td>
<td>93%</td>
<td>93%</td>
</tr>
</tbody>
</table>

PRIMARY REASON FOR DELAY

VRE operated 414 trains in March. Our on-time rate for March was 93 percent.

Twenty-eight trains arrived more than 5 minutes late to their final destinations. Of those late trains, 13 were on the Manassas Line (46 percent), and 15 were on the Fredericksburg Line (54 percent).

Train interference has consistently been the leading cause for delays of late and was again in March.

*Includes trains that were delayed due to operational testing and passenger handling.

LATE TRAINS

<table>
<thead>
<tr>
<th></th>
<th>System Wide</th>
<th>Fredericksburg Line</th>
<th>Manassas Line</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Jan</td>
<td>Feb</td>
<td>Mar</td>
</tr>
<tr>
<td>Total late trains</td>
<td>24</td>
<td>25</td>
<td>28</td>
</tr>
<tr>
<td>Average minutes late</td>
<td>14</td>
<td>16</td>
<td>25</td>
</tr>
<tr>
<td>Number over 30 minutes</td>
<td>0</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>Heat restrictions</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
</tbody>
</table>
ON-TIME PERFORMANCE

VRE SYSTEM

FREDERICKSBURG LINE

MANASSAS LINE
AVERAGE DAILY RIDERSHIP

VRE SYSTEM

FREDERICKSBURG LINE

MANASSAS LINE

AVERAGE DAILY RIDERSHIP
RIDERSHIP UPDATES

Average daily ridership (ADR) in March was 1,379. The average for the last two months was 1,155, so we did have a noteworthy increase in ridership. We continue to operate an “S” Schedule Plus (which includes trains 300 and 307), as necessitated by the COVID-19 pandemic.

<table>
<thead>
<tr>
<th></th>
<th>March 2021</th>
<th>February 2021</th>
<th>March 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monthly Ridership</td>
<td>31,714</td>
<td>21,482</td>
<td>192,815</td>
</tr>
<tr>
<td>Average Daily Ridership</td>
<td>1,379</td>
<td>1,131</td>
<td>8,692</td>
</tr>
<tr>
<td>Full Service Days</td>
<td>0</td>
<td>0</td>
<td>11</td>
</tr>
<tr>
<td>“S” Service Days</td>
<td>23</td>
<td>19</td>
<td>11</td>
</tr>
</tbody>
</table>

SUMMONSES ISSUED

VRE SYSTEM

Summary of ridership for the VRE system from April 2020 to March 2021, showing a decrease in ridership over the months. The graph illustrates the current ridership compared to the year prior, with a noticeable dip in ridership in recent months.

SUMMONSES WAIVED OUTSIDE OF COURT

<table>
<thead>
<tr>
<th>Reason for Dismissal</th>
<th>Occurrences</th>
</tr>
</thead>
<tbody>
<tr>
<td>Passenger showed proof of a monthly ticket</td>
<td>0</td>
</tr>
<tr>
<td>One-time courtesy</td>
<td>0</td>
</tr>
<tr>
<td>Per the request of the conductor</td>
<td>0</td>
</tr>
<tr>
<td>Defective ticket</td>
<td>0</td>
</tr>
<tr>
<td>Per ops manager</td>
<td>0</td>
</tr>
<tr>
<td>Unique circumstances</td>
<td>0</td>
</tr>
<tr>
<td>Insufficient information</td>
<td>0</td>
</tr>
<tr>
<td>Lost and found ticket</td>
<td>0</td>
</tr>
<tr>
<td>Other</td>
<td>0</td>
</tr>
<tr>
<td>Total Waived</td>
<td>0</td>
</tr>
</tbody>
</table>

MONTHLY SUMMONSES COURT ACTION

Due to the COVID-19 pandemic there was no court action in March.

<table>
<thead>
<tr>
<th>Reason for Dismissal</th>
<th>Occurrences</th>
</tr>
</thead>
<tbody>
<tr>
<td>Guilty (G)</td>
<td>1</td>
</tr>
<tr>
<td>Not guilty (NG)</td>
<td>2</td>
</tr>
<tr>
<td>Guilty in absentia (GA)</td>
<td>0</td>
</tr>
<tr>
<td>Dismissed (D)</td>
<td>0</td>
</tr>
<tr>
<td>Continued to next court date (C)</td>
<td>0</td>
</tr>
<tr>
<td>Prepaid prior to court (PP)</td>
<td>4</td>
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</tbody>
</table>
TRAIN UTILIZATION

FREDERICKSBURG LINE

Manassas Line

Average Ridership
Midweek Average
**PARKING UTILIZATION**

**FREDERICKSBURG LINE**

<table>
<thead>
<tr>
<th>Location</th>
<th>Number of Spaces</th>
<th>Number in Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spotsylvania</td>
<td>1500</td>
<td>100</td>
</tr>
<tr>
<td>Fredericksburg</td>
<td>1000</td>
<td>75</td>
</tr>
<tr>
<td>Leeland Road</td>
<td>750</td>
<td>50</td>
</tr>
<tr>
<td>Brooke</td>
<td>500</td>
<td>25</td>
</tr>
<tr>
<td>Quantico</td>
<td>250</td>
<td>10</td>
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<tr>
<td>Rippon</td>
<td>150</td>
<td>10</td>
</tr>
<tr>
<td>Woodbridge</td>
<td>100</td>
<td>7</td>
</tr>
<tr>
<td>Lorton</td>
<td>5</td>
<td>3</td>
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</tbody>
</table>

**MANASSAS LINE**

<table>
<thead>
<tr>
<th>Location</th>
<th>Number of Spaces</th>
<th>Number in Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Broad Run</td>
<td>1500</td>
<td>100</td>
</tr>
<tr>
<td>Manassas</td>
<td>1000</td>
<td>75</td>
</tr>
<tr>
<td>Manassas Park</td>
<td>750</td>
<td>50</td>
</tr>
<tr>
<td>Burke Centre</td>
<td>500</td>
<td>25</td>
</tr>
<tr>
<td>Rolling Road</td>
<td>250</td>
<td>10</td>
</tr>
<tr>
<td>Backlick Road</td>
<td>100</td>
<td>7</td>
</tr>
</tbody>
</table>

Legend:
- **Blue** = Number of Spaces
- **Red** = Number in Use
FACILITIES UPDATE

The following is a status update of VRE facilities projects.

Completed projects:

1. Replacement of signage at Franconia-Springfield Station
2. Repair of leaking ground hydrant adjacent to sidewalk at Woodbridge Station garage
3. Construction of renovations to Alexandria headquarters reception area
4. Replacement of water heater at Fredericksburg office

Projects scheduled to be completed this quarter:

1. Replacement of west platform and canopy lighting at Woodbridge Station
2. Submission of IFB package for canopy roof replacement at Backlick Road Station
3. Replacement of deck joint sealant at Manassas Station parking garage
4. Replacement of lighting at Broad Run MASF service & inspection building
5. Submission of IFB package for replacement of tactile warning strips at various stations

Projects scheduled to be initiated this quarter:

1. Issuance of GEC task orders for design of minor structural repairs at Franconia-Springfield, Woodbridge, Rippon, Brooke and Manassas stations
2. Minor stair steel repairs and caulking at Franconia-Springfield Station
3. Painting of Franconia-Springfield Station
4. Repair of minor cracks in west platform at Woodbridge Station
5. Repair of platform sealer delamination at Spotsylvania Station
6. Replacement of lighting at Manassas Station parking garage
7. Issuance of general signage services request for quotes

Ongoing projects:

1. Design of waiting area at L’Enfant Station
2. Replacement of signage at Franconia-Springfield, Woodbridge and Leeland Road stations
3. Replacement of waste and recycling receptacles at various stations
4. Design of subsequent phases of renovations to Alexandria headquarters
5. Overhaul of emergency generators at Woodbridge and Manassas Stations, Alexandria headquarters and Fredericksburg office

UPCOMING PROCUREMENTS

- Renewal of locomotive head end power engine systems
- Program management consulting services
- Canopy roof replacement at the Backlick Road Station
- Modernization of VRE Woodbridge Station east elevator
- Forklift trucks
- Passenger car wheelchair lift assemblies
- Purchase of LED light fixtures
- Construction of L’Enfant south storage track wayside power
- Variable Messaging System replacement
- Tactile strip replacements
- Headquarters renovations
- Construction management services for Fredericksburg Station platform rehabilitation
CAPITAL PROJECTS UPDATES

The following is a status update of VRE capital projects.

Completed projects or major project milestones:

1. Construction initiated on Lifecycle Overhaul & Upgrade Facility (LOU)
2. Construction initiated on Quantico Station Improvements

Projects or project phases scheduled to be completed this quarter:

3. Franconia-Springfield Station Improvements draft final design plans and specifications
4. Broad Run Expansion (BRX) Section 106 Consultation
5. Construction of Benchmark Road Slope Stabilization Complete (Hamilton to Crossroads overall project/funding closeout and stakeholder concurrence anticipated this quarter)

Projects or project phases scheduled to be initiated this quarter:

6. Execution of Contract for Construction of Quantico Station Improvements and Pre-NTP activities - NTP forthcoming
7. Execution of Contract for Construction of Lifecycle Overhaul & Upgrade Facility (LOU) and Pre-NTP activities - NTP forthcoming
8. Board Authorization, Execution of Contract for Construction of Rolling Road Station Improvements and Pre-NTP activities – NTP forthcoming
9. Execution of Contract and NTP for CM for Construction of Quantico Station Improvements
Ongoing projects:

10. Broad Run Expansion (BRX)
11. Manassas Park Parking Improvements
12. Rolling Road Station Improvements
13. Crossroads Maintenance and Storage Facility (MSF) – land acquisition completed
14. Lifecycle Overhaul & Upgrade Facility (LOU)
15. Quantico Station Improvements
16. Franconia-Springfield Station Improvements
17. Alexandria Station Improvements
18. Alexandria Station Track 1 Access (Slaters Lane)
19. Crystal City Station Improvements
20. L’Enfant Train Storage Track - South
21. L’Enfant Station Improvements
22. New York Avenue Midday Storage Facility
23. Potomac Shores VRE Station – design by others
24. Washington Union Station Improvements Environmental Impact Statement – study by others
25. DC2RVA Environmental Impact Statement – study by others
26. Long Bridge Project – study by others

Projects Progress Report Follows
# PASSENGER FACILITIES

<table>
<thead>
<tr>
<th>PROJECT</th>
<th>DESCRIPTION</th>
<th>PHASE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alexandria Station Improvements</td>
<td>Eliminate at-grade track crossing, add elevators, modify platforms.</td>
<td>CD: ● ● ●</td>
</tr>
<tr>
<td>Franconia-Springfield Station</td>
<td>Extend both platforms and widen East Platform for future third track.</td>
<td>CD: ● ● ●</td>
</tr>
<tr>
<td>Improvements</td>
<td>New VRE station and parking in Prince William County provided by private developer.</td>
<td>CD: ●</td>
</tr>
<tr>
<td>Quantico Station Improvements</td>
<td>Extend existing platform, construct new second platform with pedestrian overpass.</td>
<td>CD: ● ● ●</td>
</tr>
<tr>
<td>Manassas Park Parking Improvements</td>
<td>Parking garage to increase parking capacity to 1,100 spaces.</td>
<td>CD: ● ● ●</td>
</tr>
<tr>
<td>Rolling Road Station Improvements</td>
<td>Extend existing platform and rehabilitate existing station</td>
<td>CD: ● ● ●</td>
</tr>
<tr>
<td>Crystal City Station Improvements</td>
<td>Replace existing side platform with new, longer island platform.</td>
<td>CD: ●</td>
</tr>
<tr>
<td>L'Enfant Station Improvements</td>
<td>Replace existing platform with wider, longer island platform. Add fourth track (VA-LE)</td>
<td>CD: ●</td>
</tr>
</tbody>
</table>

**PHASE:**
- **CD:** Conceptual Design
- **PE:** Preliminary Engineering
- **EC:** Environment Clearance
- **RW:** Right of Way Acquisition
- **FD:** Final Design
- **CN:** Construction

**STATUS:**
- **Completed**
- **Underway**
- **On Hold**

1. Total project cost estimate in adopted FY2020 CIP Budget; percentage complete based on VRE Operations Board authorization
2. Does not include minor (< $50,000) operating expenditures
3. $2,181,630 authorization divided across the "Penta-Platform" program stations
<table>
<thead>
<tr>
<th>Total</th>
<th>Funded</th>
<th>Unfunded</th>
<th>Authorized</th>
<th>Expended</th>
<th>Percent Complete</th>
<th>Project Completion Date</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>31,875,014</td>
<td>31,875,014</td>
<td>-</td>
<td>2382759</td>
<td>2193257</td>
<td>90%</td>
<td>2nd QTR 2023</td>
<td>Getting ready for Alternate delivery CMGC Procurement. CSX and City of Alexandria review progressing.</td>
</tr>
<tr>
<td>13,000,000</td>
<td>13,000,000</td>
<td>-</td>
<td>*</td>
<td>935,100</td>
<td>35%</td>
<td>4th QTR 2023</td>
<td>FD underway with anticipated completion 2nd QTR 2021. Ongoing coordination with DRPT projects.</td>
</tr>
</tbody>
</table>

* No costs for VRE. Private developer providing station. 30% TBD |

<table>
<thead>
<tr>
<th>Total</th>
<th>Funded</th>
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<th>Expended</th>
<th>Percent Complete</th>
<th>Project Completion Date</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>18,372,949</td>
<td>18,372,949</td>
<td>0</td>
<td>21,505,529</td>
<td>1,034,908</td>
<td>35%</td>
<td>TBD</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Total</th>
<th>Funded</th>
<th>Unfunded</th>
<th>Authorized</th>
<th>Expended</th>
<th>Percent Complete</th>
<th>Project Completion Date</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>25,983,000</td>
<td>25,983,000</td>
<td>0</td>
<td>2,238,144</td>
<td>670,225</td>
<td>30%</td>
<td>4th QTR 2022</td>
<td>Progressing towards 60% design at relocated site.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Total</th>
<th>Funded</th>
<th>Unfunded</th>
<th>Authorized</th>
<th>Expended</th>
<th>Percent Complete</th>
<th>Project Completion Date</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>5,000,000</td>
<td>2,000,000</td>
<td>3,000,000</td>
<td>640,503</td>
<td>418,887</td>
<td>70%</td>
<td>4th QTR 2021</td>
<td>Contractor working on pre-NTP submittals.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Total</th>
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<th>Authorized</th>
<th>Expended</th>
<th>Percent Complete</th>
<th>Project Completion Date</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>49,940,000</td>
<td>19,098,463</td>
<td>30,841,537</td>
<td>1,584,619</td>
<td>1,366,909</td>
<td>30%</td>
<td>2nd QTR 2024</td>
<td>PE &amp; EC initiated in Oct 2019 and anticipated completion 3rd QTR 2021.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Total</th>
<th>Funded</th>
<th>Unfunded</th>
<th>Authorized</th>
<th>Expended</th>
<th>Percent Complete</th>
<th>Project Completion Date</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>70,650,000</td>
<td>62,465,721</td>
<td>8,184,279</td>
<td>130,501</td>
<td>65,150</td>
<td>50%</td>
<td>2nd QTR 2023</td>
<td>DRPT LONP received. Real estate research in progress under LONP.</td>
</tr>
</tbody>
</table>
## TRACK AND INFRASTRUCTURE

<table>
<thead>
<tr>
<th>PROJECT</th>
<th>DESCRIPTION</th>
<th>PHASE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hamilton-to-Crossroads Third Track</td>
<td>2½-miles of new third track with CSXT design and construction of signal and track tie-ins.</td>
<td></td>
</tr>
<tr>
<td>L'Enfant Train Storage Track - South</td>
<td>Conversion of CSXT track to VRE storage track and as well as signal and wayside-power work.</td>
<td></td>
</tr>
<tr>
<td>Lifecycle Overhaul &amp; Upgrade Facility</td>
<td>New LOU facility to be added to the Crossroads MSF.</td>
<td></td>
</tr>
<tr>
<td>Crossroads Maintenance and Storage</td>
<td>Acquisition of 19.5 acres of land, construction of two storage tracks and related site improvements.</td>
<td></td>
</tr>
<tr>
<td>Facility - Land Acquisition</td>
<td></td>
<td></td>
</tr>
<tr>
<td>New York Avenue Midday Storage Replacement Facility</td>
<td>Midday storage facility replacement for Ivy City storage facility.</td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

## MAINTENANCE AND STORAGE FACILITIES

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<th>PHASE</th>
</tr>
</thead>
<tbody>
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<td></td>
</tr>
<tr>
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<td></td>
</tr>
</tbody>
</table>

## ROLLING STOCK

<table>
<thead>
<tr>
<th>PROJECT</th>
<th>DESCRIPTION</th>
<th>PHASE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Passenger Railcar Procurement</td>
<td>Acquisition of 29 new railcars.</td>
<td></td>
</tr>
<tr>
<td>Positive Train Control</td>
<td>Implement Positive Train Control for all VRE locomotives and control cars.</td>
<td></td>
</tr>
</tbody>
</table>

## PLANNING, COMMUNICATIONS AND IT

<table>
<thead>
<tr>
<th>PROJECT</th>
<th>DESCRIPTION</th>
<th>PHASE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Broad Run Expansion</td>
<td>NEPA and PE for expanding commuter rail service capacity in Western Prince William County</td>
<td></td>
</tr>
<tr>
<td>Mobile Ticketing</td>
<td>Implementation of a new mobile ticketing system.</td>
<td></td>
</tr>
</tbody>
</table>

---

1. Total project cost estimate in adopted FY2020 CIP Budget; percentage complete based on VRE Operations Board authorization
2. Does not include minor (< $50,000) operating expenditures
<table>
<thead>
<tr>
<th>Total1</th>
<th>Funded</th>
<th>Unfunded</th>
<th>Authorized</th>
<th>Expended2</th>
<th>Percent Complete1</th>
<th>Project Completion Date</th>
<th>STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td>32,500,000</td>
<td>32,500,000</td>
<td>-</td>
<td>33,285,519</td>
<td>30,578,003</td>
<td>100%</td>
<td>3rd QTR 2018</td>
<td>Benchmark Slope project complete. Hamilton-to-Crossroads Third Track Complete.</td>
</tr>
<tr>
<td>3,965,000</td>
<td>3,965,000</td>
<td>-</td>
<td>2,937,323</td>
<td>1,699,610</td>
<td>60%</td>
<td>4th QTR 2019</td>
<td>CSXT Construction Agreement received. CM underway.</td>
</tr>
<tr>
<td>38,183,632</td>
<td>38,183,632</td>
<td>-</td>
<td>48,342,297</td>
<td>5,888,376</td>
<td>10%</td>
<td>3rd QTR 2023</td>
<td>Notice to proceed issued to construction contractor on December 14, 2020.</td>
</tr>
<tr>
<td>2,950,000</td>
<td>2,950,000</td>
<td>-</td>
<td>2,950,000</td>
<td>163,565</td>
<td>100%</td>
<td>1st QTR 2020</td>
<td>Land acquisition completed.</td>
</tr>
<tr>
<td>89,666,508</td>
<td>89,666,508</td>
<td>-</td>
<td>3,588,305</td>
<td>2,257,455</td>
<td>90%</td>
<td>4th QTR 2021</td>
<td>Preliminary design has been completed and continuing to collaborate with Amtrak on agreements.</td>
</tr>
<tr>
<td>75,264,693</td>
<td>75,264,693</td>
<td>-</td>
<td>69,457,809</td>
<td>47,915,644</td>
<td>99%</td>
<td>4th QTR 2020</td>
<td>All cars received. Completion date reflects end of warranty period.</td>
</tr>
<tr>
<td>14,191,833</td>
<td>14,191,833</td>
<td>-</td>
<td>10,294,079</td>
<td>7,984,451</td>
<td>95%</td>
<td>4th QTR 2018</td>
<td>Implementation completed.</td>
</tr>
<tr>
<td>110,700,000</td>
<td>82,526,398</td>
<td>28,173,602</td>
<td>5,855,650</td>
<td>4,539,446</td>
<td>80%</td>
<td>4th QTR 2024</td>
<td>PE design and EC underway. Property acquisition due diligence underway.</td>
</tr>
</tbody>
</table>
Agenda Item 7-A
Action Item

To: Chair Bennett-Parker and the VRE Operations Board
From: Rich Dalton
Date: April 16, 2021
Re: Authorization to Exercise a Contract Option and Amend a Task Order for Maintenance Services for VRE Facilities

Recommendation:

The VRE Operations Board is asked to authorize the Chief Executive Officer to exercise the two-year option period of the contract with NVE, Inc. of Reston, Virginia for Maintenance Services for VRE Facilities and to increase the contract value by $2,386,778, plus a 10% contingency of $238,678, for a total amount not to exceed $6,150,870 for the original three-year contract term, which was in the amount of $3,525,414, and two-year option period combined. This contract includes base work along with task order work.

The VRE Operations Board is also asked to authorize the Chief Executive Officer to amend a task order under the Maintenance Services for VRE Facilities contract with NVE, Inc. for comprehensive on-call services, including miscellaneous repair, installation and inspection services, electrical, lighting, generator and plumbing service and repairs, HVAC service and repairs, and elevator service and repairs, in an amount of $650,000, plus a 10% contingency of $65,000, for a total of $715,000. This will increase the total authorization for this task order from $1,013,250, to a total amount not to exceed $1,728,250.

Summary:

This action will provide ongoing maintenance services at 18 rail stations, two rail storage yards, headquarters, and satellite office spaces. The task order amendment will enable ongoing, comprehensive repair, installation, and inspection services of small to medium effort to be performed through the two-year option period of the contract.
Background:

On April 20, 2018, the Operations Board approved award of a contract to NVE, Inc. for Maintenance Services for VRE Facilities for a term of three years with the option to extend the contract for an additional period of two years, to be exercised with the authorization of the Operations Board. The base term of the contract will expire on May 19, 2021.

The scope of services for this contract includes base work along with task order work on an as-needed basis to address electrical, lighting, generator, plumbing, HVAC and elevator service and repairs, as well as other routine and preventive maintenance-related projects. Each project will include different requirements depending on location and degree of work; as such, the contract includes provisions for work to be assigned through the VRE task order process. VRE Operations Board approval is required prior to award of each task order in excess of the CEO’s delegated spending authority.

Fiscal Impact:

Funding is provided for in the FY 2021 and FY 2022 operating budgets for facilities routine and non-routine maintenance and repairs. Funding for future years will be included in each proposed annual budget.
Authorization to Exercise a Contract Option and Amend a Task Order for Maintenance Services for VRE Facilities

WHEREAS, in April 2018, the Operations Board approved award of a contract to NVE, Inc. for Maintenance Services for VRE Facilities for a term of three years with the option to extend the contract for an additional period of two years; and,

WHEREAS, the current base contract will expire on May 19, 2021; and,

WHEREAS, exercising this contract option will provide ongoing maintenance services at eighteen rail stations, two rail storage yards, headquarters, and satellite office spaces; and,

WHEREAS, the task order amendment will enable continued, comprehensive repair, installation, and inspection services of small to medium effort through the two-year option period of the contract;

NOW, THEREFORE, BE IT RESOLVED THAT, the VRE Operations Board does hereby authorize the Chief Executive Officer to exercise the two-year option period of the contract with NVE, Inc. of Reston, Virginia for Maintenance Services for VRE Facilities and to increase the contract value by $2,386,778, plus a 10% contingency of $238,678, for a total amount not to exceed $6,150,870 for the original three-year contract term, which was in the amount of $3,525,414, and two-year option period combined. This contract includes base work along with task order work; and,

BE IT FURTHER RESOLVED THAT, the VRE Operations Board does hereby authorize the Chief Executive Officer to amend a task order under the Maintenance Services for VRE Facilities contract with NVE, Inc. for comprehensive on-call services, including miscellaneous repair, installation and inspection services, electrical, lighting, generator and plumbing service and repairs, HVAC service and repairs, and elevator service and repairs, in an amount of $650,000, plus a 10% contingency of $65,000, for a total of $715,000. This will increase the total authorization for this task order from $1,013,250, to a total amount not to exceed $1,728,250.

Approved this 16th day of April 2021

_________________________
Elizabeth Bennett-Parker
Chair

_________________________
James Walkinshaw
Secretary
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Agenda Item 7-B
Action Item

To: Chair Bennett-Parker and the VRE Operations Board

From: Rich Dalton

Date: April 16, 2021

Re: Authorization to Exercise a Contract Option for Custodial and Seasonal Services for VRE Facilities

Recommendation:

The VRE Operations Board is asked to authorize the Chief Executive Officer to exercise the two-year option period of the contract with Fresh Air Duct Cleaning, LLC of Capitol Heights, Maryland, for Custodial and Seasonal Services for VRE Facilities and to increase the contract value by $4,481,662, plus a 10% contingency of $448,166, for a total amount not to exceed $11,300,047 for the original three-year contract term, which was in the amount of $6,370,219, and two-year option period combined. This contract includes base work along with task order work.

Summary:

This action will provide ongoing custodial and seasonal services at eighteen rail stations, two rail storage yards, headquarters and satellite office spaces.

Background:

On April 20, 2018, the Operations Board approved award of a contract to Fresh Air Duct Cleaning, LLC for Custodial and Seasonal Services for VRE Facilities for a term of three years with the option to extend the contract for an additional period of two years, to be exercised with the authorization of the Operations Board. The base term of the contract will expire on May 19, 2021.

The scope of services for this contract includes base work along with task order work on an as-needed basis to address custodial, landscaping, winter weather services, station and
platform cleaning, trash removal and painting services, as well as other routine and preventive maintenance-related projects. Each project will include different requirements depending on location and degree of work; as such, the contract includes provisions for work to be assigned through the VRE task order process. VRE Operations Board approval is required prior to award of each task order in excess of the CEO’s delegated spending authority.

**Fiscal Impact:**

Funding is provided for in the FY 2021 and FY 2022 operating budgets for facilities custodial and winter weather services. Funding for future years will be included in each proposed annual budget.
Virginia Railway Express  
Operations Board Resolution  
7B-04-2021  

Authorization to Exercise a Contract Option for Custodial and Seasonal Services for VRE Facilities  

WHEREAS, in April 2018, the Operations Board approved award of a contract to Fresh Air Duct Cleaning, LLC for Custodial and Seasonal Services for VRE Facilities for a base term of three years with the option to extend the contract for an additional period of two years; and,  

WHEREAS, the current base term of the contract will expire on May 19, 2021; and,  

WHEREAS, exercising this contract option will provide ongoing custodial and seasonal services at eighteen rail stations, two rail storage yards, headquarters, and satellite office spaces;  

NOW, THEREFORE, BE IT RESOLVED THAT, the VRE Operations Board does hereby authorize the Chief Executive Officer to exercise the two-year option period of the contract with Fresh Air Duct Cleaning, LLC of Capitol Heights, Maryland, for Custodial and Seasonal Services for VRE Facilities and to increase the contract value by $4,481,662, plus a 10% contingency of $448,166, for a total amount not to exceed $11,300,047 for the original three-year contract term, which was in the amount of $6,370,219, and two-year option period combined. This contract includes base work along with task order work.  

Approved this 16th day of April 2021  

_________________________  
Elizabeth Bennett-Parker  
Chair  

_________________________  
James Walkinshaw  
Secretary
To: Chair Bennett-Parker and the VRE Operations Board

From: Rich Dalton

Date: April 16, 2021

Re: Authorization to Execute a Right of Entry Agreement for MCBQ Construction Activities Adjacent to the VRE Quantico Station Parking Lot

Recommendation:

The VRE Operations Board is asked to authorize the Chief Executive Officer to execute a right of entry agreement with the United States of America/Navy/NAVFAC for temporary construction activities, environmental sampling, and any other non-permanent actions required for construction activities related to the Marine Corps Base Quantico (MCBQ) parking project adjacent to the VRE Quantico Station Southern Parking Lot.

Summary:

Marine Corps Base Quantico has requested Right of Entry Access through their legal representation (NAVFAC) for construction activities adjacent to VRE facilities at the Quantico Station (namely the southern parking lot and corresponding Stormwater Management (SWM) basin). All construction activities will occur on the MCBQ side of the existing fence and shall not disrupt VRE operations or parking.

Background:

VRE owns a parcel of land east of the existing SWM basin for the existing VRE parking lot that was part of the old RF&P wye track at this same location. The adjacent parking project for MCBQ would need to encroach upon the VRE-owned parcel for temporary construction activities on an as needed basis such as access, survey, erosion and sediment control, storm water management for their construction site, environmental testing, and temporary construction fencing.
**Fiscal Impact:**

No fiscal impact from this agreement is anticipated.
Virginia Railway Express
Operations Board Resolution

7C-04-2021

Authorization to Execute a Right of Entry Agreement for MCBQ Construction Activities Adjacent to the VRE Quantico Station Parking Lot

WHEREAS, VRE owns a parcel of land east of the existing Quantico Station parking and storm water management facilities; and,

WHEREAS, MCBQ needs access on said parcel for temporary construction activities; and,

WHEREAS, none of the temporary construction activities will disrupt VRE operations or parking; and,

WHEREAS, NAVFAC has requested Right of Entry on behalf of the United States of America/Navy/NAVFAC; and,

WHEREAS, these activities will have no fiscal or operational impact upon VRE;

NOW, THEREFORE, BE IT RESOLVED THAT, the VRE Operations Board does hereby authorize the Chief Executive Officer to execute a right of entry agreement with the United States of America/Navy/NAVFAC for temporary construction activities, environmental sampling, and any other non-permanent actions required for construction activities related to the MCBQ parking project adjacent to VRE Quantico Station Southern Parking Lot.

Approved this 16th day of April 2021

_________________________  ______________________________
                  Elizabeth Bennett-Parker        
                        Chair

_________________________  ______________________________
                 James Walkinshaw        
                   Secretary
RIGHT-OF-ENTRY AGREEMENT
NO. N40080-21-RP-00066

THIS RIGHT-OF-ENTRY AGREEMENT, hereinafter called AGREEMENT, is made and entered by and between NORTHERN VIRGINIA TRANSPORTATION COMMISSION and POTOMAC AND RAPPAHANNOCK TRANSPORTATION COMMISSION dba Virginia Railway Express (VRE), hereinafter called the OWNER, and the UNITED STATES OF AMERICA, acting by and through the Naval Facilities Engineering Systems Command Washington, hereinafter called the NAVY.

WHEREAS, NAVY and OWNER have been in discussions regarding the Acquisition of land located in the Town of Quantico, Dumfries Magisterial District, Prince William County, Virginia in Quantico, Virginia, within the area as described and shown in Exhibit A, hereinafter called PROPERTY.

WHEREAS, NAVY needs to use said PROPERTY prior to Acquisition for construction laydown and fencing for work to be done on NAVY property, erosion and sediment control trap in order to facilitate demolition and construction in the area on NAVY property, performance of Phase 1 Environmental Site Assessment, and other non-possessory tasks required in preparation for Acquisition of the PROPERTY.

WITNESSETH:

That for and in consideration of the mutual covenants hereinafter stated, the parties hereto agree as follows:

1. The OWNER hereby grants to the NAVY, and its designated representatives (including but not limited to agents, contractors, etc.), a non-exclusive right to enter onto the PROPERTY in order to setup a construction fence, an erosion and sediment control trap to facilitate demolition and construction in the area on NAVY property as shown in Exhibit B, perform Phase 1 Environmental Site Survey Analysis, and any other non-possessory actions required to prepare for Acquisition of the PROPERTY.

2. The OWNER and the NAVY agree that this AGREEMENT will be governed by Federal Law in accordance with the Federal Tort Claims Act, 28 U.S.C. 1346(b) and 28 U.S.C. 2671 et seq. AGREEMENT, for itself, its employees, agents, servants, contractors and all others connected in any way with the work described in this AGREEMENT, accepts the PROPERTY in an "as is -where is" condition understanding that OWNER does not warrant or promise anything about the safety and/or suitability of the property for NAVY’s entry.

3. The OWNER shall not be responsible or otherwise liable for any damage to
NAVY, its employees agents, servants, contractors, and all others connected in any way with NAVY’s use caused by forces of nature or by any other cause, including acts of OWNER’s employees, agents, contractors, or any third parties; provided, however, OWNER shall be responsible to NAVY for damages caused by OWNER's gross negligence or willful misconduct toward NAVY, its employees, agents, servants, contractors, and all others connected in any way with NAVY’s use of the property, as determined in accordance with applicable provisions of Virginia law.

4. The NAVY is not considered as acquiring a permanent real estate interest in property not already belonging to NAVY at this time, but is looking to acquire the property in the near future.

5. If the death or injury to any person, or the loss of or damage to any property is caused by the NAVY, its agents, servants, and employees in the course of its use of the property, the liability, if any, of the UNITED STATES OF AMERICA therefore shall be determined in accordance with applicable provisions of Federal law.

6. The rights granted herein shall be in effect from the date of execution of this Agreement through 30 September 2021, except that all rights granted herein shall automatically terminate upon the conveyance or transfer of title to said land to any party. Upon the termination or expiration of this Agreement, the NAVY will remove all of its personal property from said PROPERTY.

7. The NAVY will notify the OWNERS before entry is made on the land. Said notice may be provided either in writing or by telephone to the OWNERS as follows:

   Mr. Rich Dalton – Chief Executive Officer
   Virginia Railway Express
   1500 King Street, Suite 202
   Alexandria, VA 22314
   Email: rdalton@vre.org
   Office Phone: (703) 838-5439
   Mobile Phone: (571) 327-6355

8. The Right-of-Entry granted herein may be terminated by the OWNERS upon the provision of ninety (90) days advance written notice to the NAVY. Such written notice shall be provided to the NAVY at the following address:

   Department of the Navy
   Naval Facilities Engineering Systems Command
   Washington
   1314 Harwood Street SE
   Building 212, Code RE
   Washington Navy Yard, DC 20374
   Email: holland.hargrove@navy.mil
IN WITNESS WHEREOF, the parties hereto have executed this Right-of-Entry Agreement as of the date written below.

OWNER

By: ____________________________

RICH DALTON, CEO

UNITED STATES OF AMERICA

By: _________________________

ERIC W. CRAFTON
Real Estate Contracting Officer
NAVFAC Washington

WITNESSES:

Name: ______________________

Name: ______________________
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Agenda Item 7-D
Action Item

To: Chair Bennett-Parker and the VRE Operations Board

From: Rich Dalton

Date: April 16, 2021

Re: Recommend Authorization to Execute the Amended and Restated Operating Access and Amended Master Lease Agreements with CSX Transportation

Recommendation:

The VRE Operations Board is asked to recommend the Commissions authorize the Chief Executive Officer to execute the Amended and Restated Operating Access Agreement and Amended Master Lease Agreement with CSX Transportation (CSXT).

Summary:

The amended and restated operating access agreement and amended master lease agreement reflect changes to the contractual relationship between the Commissions and CSXT resulting from the right-of-way acquisition by the Commonwealth. CSXT will continue to dispatch and maintain both CSXT and VPRA owned tracks resulting in a seamless VRE operation. The Commissions will continue to lease station property from CSXT that is not part of the acquisition by the Commonwealth.

Background:

The Commissions have an Operating Access Agreement with CSXT related to VRE Operations in the Fredericksburg to Washington corridor. The agreement was entered in 1994; and has been amended and extended several times. In June of 2011, a new amended and restated agreement was executed with a five-year term ending June 30, 2016. Since that time, the Commissions have authorized the VRE CEO to amend the agreement to extend the term annually with the current extended agreement expiring on June 30, 2021.
In December of 2019, the Commonwealth of Virginia announced the Virginia Rail Improvement Program, currently referred to as Transforming Rail in Virginia. One of the many elements of the program includes the acquisition of CSXT right-of-way in the Commonwealth. The terms of this transaction are detailed in a Comprehensive Rail Agreement (CRA) between CSXT and the Commonwealth. During the 2020 Virginia Assembly session, the Virginia Passenger Rail Authority (VPRA) was established. Until the VPRA is established as an organization, DRPT has performed all staff functions and has entered into all agreements which will later be assigned to VPRA. In part, the VPRA will own and manage the right-of-way acquired by the Commonwealth; and will have operating agreements with the Commissions and Amtrak, as well as a Joint Operating and Maintenance Agreement (JOMA) with CSXT. VRE staff have executed the necessary operating and station lease agreements with DRPT/VPRA pertaining to the right-of-way purchased by the Commonwealth. VRE staff have been working with CSXT in parallel on an amended and restated operating access agreement and an amended master lease agreement to capture the contractual relationship needed with CSXT to ensure VRE service continues in the Fredericksburg to Washington corridor.

**Substantive Provisions of New Agreements: Changes from Previous Agreements:**

The agreements with CSXT primarily account for separation of the corridor ownership between CSXT and VPRA. The major terms include:

- **Generally.** Since CSXT will dispatch all trains on VPRA railroad property as well as its own; and will maintain both its right of way and VPRA’s, the terms of the new agreement with CSXT are not substantially different from past agreements.
- **VPRA-CSXT Agreements Govern.** The terms of the VRE-CSXT agreement are subject to the Comprehensive Rail Agreement and Joint Operations and Maintenance Agreement between VPRA and CSXT as they may be amended over time.
- **Term.** The term of the CSXT agreement is no longer in 5-year increments. This agreement will be coterminous with the Joint Operations and Maintenance Agreement – 100 Years unless sooner terminated.
- **Contract Fee.** The current train mile fee and other charges remain unchanged. CSXT will bill VRE directly for access fees related to use of VPRA tracks.
- **Annual Escalation.** Remains at the greater of 4% or CPI.
- **Station Leases.** Reset Station Lease rates to $1.00 per year for each existing and currently planned station site. Going forward, expanded footprints will be negotiated at fair market value for each new station location or expanded station.
- **Service Plan.** Removed the defined rush hour period. VRE service will now be governed by the service plan which is part of the Comprehensive Rail Agreement and the Operations and Access Agreement between VRE and VPRA.
- **Third Mainline.**Removed the Commissions commitment for constructing a 3rd mainline. This will now be part of the Comprehensive Rail Agreement that includes the Planned Infrastructure Improvements led by VPRA resulting in incremental additional passenger and commuter rail service.
Corridor Coordination. Dissolved the Joint Operations Committee and replaced it with one or more coordination management committees as identified in the Joint Operations and Maintenance Agreement. Representatives from the Commissions will participate in these coordination management committees.

Liability. Increased the cap for excess liability insurance coverage to be carried by the Commissions to meet the current federal requirement of $317,864,228.

Indemnification. VRE will continue, through its Liability Insurance Plan, to provide full indemnification of CSXT, regardless of fault, for all commuter rail related incidents on both CSXT property and VPRA’s.

**Fiscal Impact:**

Funding is provided for in the FY 2021 and FY 2022 operating budgets for CSX Transportation track access fees and payments associated with the lease of station facilities.
Recommend Authorization to Execute the Amended and Restated Operating Access and Amended Master Lease Agreements with CSX Transportation

WHEREAS, the Commissions currently have an Amended and Restated Operating/Access Agreement with CSX Transportation relating to VRE operations in the Fredericksburg to Washington corridor, with the agreement ending June 30, 2021; and,

WHEREAS, in December of 2019, the Commonwealth of Virginia announced the Virginia Rail Improvement Plan which includes the acquisition of CSX Transportation right-of-way in the Commonwealth including in the Fredericksburg to Washington corridor; and,

WHEREAS, during the 2020 Virginia General Assembly session, the Virginia Passenger Rail Authority (VPRA) was established; and,

WHEREAS, in part, the VPRA will own and manage the right-of-way acquired by the Commonwealth from CSX Transportation; and,

WHEREAS, in December of 2020, the Commissions approved the Operations and Access and Master Lease agreement with the VPRA to account for VRE service on the newly acquired VPTA right-of-way; and,

WHEREAS, the current agreements the Commissions have with CSX Transportation must be amended to accommodate the acquisition of CSXT right-of-way by the Commonwealth;

NOW, THEREFORE, BE IT RESOLVED THAT, the VRE Operations Board does hereby recommend the Commissions authorize the Chief Executive Officer to execute the Amended and Restated Operating Access Agreement and the Amended Master Lease Agreement with CSX Transportation.

Approved this 16th day of April 2021

________________________
Elizabeth Bennett-Parker
Chair

________________________
James Walkinshaw
Secretary
AMENDED AND RESTATED
OPERATING/ACCESS AGREEMENT

Between

CSX TRANSPORTATION, INC.

and

NORTHERN VIRGINIA TRANSPORTATION COMMISSION AND POTOMAC AND
RAPPAHANNOCK TRANSPORTATION COMMISSION

CONCERNING COMMUTER RAIL SERVICE
THIS AMENDED AND RESTATED OPERATING ACCESS AGREEMENT, made and entered into this ___ day of __________, 2021 ("Agreement") is by and between CSX TRANSPORTATION, INC., a corporation organized and existing under the laws of the Commonwealth of Virginia, with a principal place of business at 500 Water Street, Jacksonville, Florida 32202 (hereafter the "Railroad"), and the NORTHERN VIRGINIA TRANSPORTATION COMMISSION and the POTOMAC AND RAPPAHANNOCK TRANSPORTATION COMMISSION, bodies politic and corporate and political subdivisions of the Commonwealth of Virginia, established under the provisions of the Transportation District Act of 1964, as amended, and having principal places of business at 2300 Wilson Boulevard, Suite 620, Arlington, Virginia 22201, and 14700 Potomac Mills Road, Woodbridge, Virginia 22192, respectively (hereinafter, individually, a "Commission" and, collectively, the "Commissions");

EXPLANATORY STATEMENT

A. The Railroad is engaged in the business of providing efficient, reliable freight rail transportation services to industrial and commercial enterprises. The Railroad has the following obligations to its key constituents: (i) to its shippers: to provide high quality, reliable service; (ii) to its employees: to provide a safe place to work where their skills and talents can be fairly and productively utilized; and (iii) to its shareholders:
to engage in efficient operations that will assure superior returns.

B. The Railroad is the owner of a system of railroad lines, including the railroad line between Richmond, Virginia and Washington, D.C. (the “RF&P Subdivision”). The RF&P Subdivision is a fully integrated component of the Railroad’s system and serves as a primary link between its operations in the North and South.

C. The Railroad’s freight rail operations also promote significant economic interests within the Commonwealth of Virginia and thereby enhance the welfare of its citizens. Within the RF&P Subdivision, the Railroad currently serves substantial utilities and business enterprises, annually transporting thousands of carloads of coal, nonmetallic mineral, paper and food and consumer commodities in a safe and environmentally superior manner. It is the Railroad’s intention to attract more traffic off the already overburdened highway system, thus helping ease congestion and reduce pollution.

D. The National Rail Passenger Corporation (“NRPC” or “AMTRAK”) also utilizes the RF&P Subdivision to provide intercity passenger rail services, pursuant to its mandate and authority under Federal Law.

E. The Commissions are engaged in planning and operating a high quality, world-class public transportation rail system, known as the Virginia Railway Express (“VRE”), that is reliable, safe
and economical, with financial assistance from the Commonwealth of Virginia (the “Commonwealth”) and the United States Government through such agencies as the Federal Transit Administration (“FTA”) and the Federal Railroad Administration (“FRA”). The Commissions have become leaders in providing an efficient and environmentally sound alternative to single occupant automobile travel on the overcrowded highway network at a significantly lower cost. By foregoing automobile travel, the Commissions’ commuters make a significant contribution in reducing automobile generated pollution, which is responsible for nearly two-thirds of all air pollution in Northern Virginia. The Commissions’ commuter rail service is an important component of the region’s approach to meeting the air quality standards set by the Federal Government in the Clean Air Act Amendments of 1990. In addition to the mobility provided to the daily commuters and the reduction in air pollution, the Commissions’ commuter service is important to the region’s economy by providing significant, meaningful employment itself, as well as reliable transportation for commuters to and from important employment centers in Washington, D.C. and Northern Virginia. Energy conservation from this mass transit service also reduces dependence on foreign oil.

F. In view of the potential benefits of commuter rail services to the Commonwealth, the Railroad and the Commissions undertook cooperative efforts to initiate certain commuter rail
services within that portion of the RF&P Subdivision between MP 110.0 (RO Interlocking) and MP 53.2 (XR) (the “Commuter Corridor”), pursuant to an Operating/Access Agreement dated December 1, 1989, between Richmond, Fredericksburg and Potomac Railroad Company (the “Original Agreement”). The Original Agreement was to expire on November 30, 1994, but was extended for additional periods until a new agreement was entered into on January 10, 1995 (the “1995 Agreement”).

G. Subsequent to execution of the 1995 Agreement, CSXT assumed and succeeded to the rights and responsibilities of the Consolidated Rail Corporation (“Conrail”) under the Operating Agreement with the Commissions dated December 1, 1989 (the “Conrail Agreement”). This enlarged the RF&P Subdivision to include the former Conrail territory with the Commissions’ operation commuter services between MP CFP 53.2 (XR) (also referred to as Crossroads) and MP CFP 112.3 (Virginia Avenue Interlocking) (also referred to as CP Virginia). Both the 1995 Agreement and the Conrail Agreement have been amended and extended numerous times through to the present by letter agreements and formal agreements, including the Amendment to Operating/Access Agreement, dated January 31, 2002, and the Amended and Restated Operating/Access Agreement, dated July 1, 2011, and the eight amendments thereto (the “Existing Agreement”).
H. Since the start of its operations, the Commissions’ commuter rail service was well received by the public and the Commissions expanded its initial commuter rail service to its current service levels, through amendment of the Existing Agreement, the terms of which included a Corridor Improvement Project to construct a new Third Mainline that would increase the amount of capacity available to both freight and passenger rail traffic in the Commuter Corridor.

I. The Virginia Department of Rail and Public Transportation, an executive department of the Commonwealth of Virginia (“DRPT”) has negotiated with Railroad to purchase portions of Railroad’s right of way and other rights to specified railroad assets, to design and construct certain improvements within the Commuter Corridor, among other locations, for the benefit of one or both Parties, to increase intercity and commuter passenger trains operating in the Commuter Corridor and to address operational matters (the “Transaction”).

J. To implement the Transaction, the Railroad and DRPT have executed the Transaction Agreements.

K. A separate operations and access agreement between DRPT and the Commissions has been executed governing the Commuter Rail Service on Commonwealth-Dispatched Tracks.

L. As part of the Transaction, as certain construction milestones are achieved, as set forth in the Comprehensive Rail
Agreement, the Service Plan, attached hereto as Exhibit A, allows for expansion of the Service.

M. In light of the foregoing, the Railroad and the Commissions desire to amend and restate the Existing Agreement in its entirety as set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the parties hereto agree as follows:

ARTICLE ONE

DEFINITIONS

1.1 The following terms (except as otherwise expressly provided or unless the context otherwise requires) for all purposes of this Agreement shall have the meanings hereafter specified:

Access Fee: The dollars-per-train-mile compensation rate established in Exhibit C-1 that is multiplied by the scheduled mileage of VRE Trains over the CSXT-Dispatched Tracks, as may be adjusted in accordance with Exhibit C-1. The Access Fee is one component of the Contract Fee.

Amendment Effective Date: Shall be the same date as Sale Date 1, as used in the Comprehensive Rail Agreement.

Commonwealth-Dispatched Tracks: The Commonwealth-Owned Tracks that are dispatched on behalf of DRPT by an entity other than Railroad.
Commonwealth-Owned Tracks: The railroad operating facilities in the Commuter Corridor that are owned by the Commonwealth of Virginia, or an agency or political subdivision thereof, as identified on Exhibit B-2 to this Agreement.

Commuter Corridor: The Railroad’s railroad line between MP CFP 112.3 (Virginia Avenue Interlocking) (also referred to as CP Virginia) and MP CFP 53.2 (XR) (also referred to as Crossroads), it being understood and agreed that this Agreement does not address or contemplate operation of the Service beyond the limits of such railroad line.

Commuter Rail Service: Passenger rail service in an urban area, its suburbs and more distant outlying communities in the applicable greater metropolitan area, excluding (1) urban rapid transit operations not connected to the general railroad system; and (2) any intercity passenger rail route or service operated by NRPC in the Commonwealth of Virginia.

Comprehensive Rail Agreement: That certain Comprehensive Rail Agreement between CSXT and DRPT made and entered into as of March 26, 2021, as may be amended from time to time, the current version of which, as of the execution date of this Agreement, is attached hereto as Exhibit G. CSXT will provide copies of amendments to the Comprehensive Rail Agreement to the Commissions.
Contract Fee: The Access Fee and the General Supervision Fee set forth in Exhibit C-1, which compensation is payable by the Commissions to Railroad pursuant to Section 5.1(b) for the operation of the Service over the CSXT-Dispatched Tracks.

CSXT-Dispatched Tracks: The railroad operating facilities in the Commuter Corridor that are dispatched and maintained by or on behalf of Railroad, regardless of whether it is CSXT-Owned Tracks or Commonwealth-Owned Tracks. CSXT-Dispatched Tracks includes all CSXT-Owned Tracks and certain Commonwealth-Owned Tracks, including such additional CSXT-Dispatched Tracks as may be constructed as part of the Transaction Agreements that are located between the endpoints described in Exhibit B.

CSXT-Owned Tracks: The railroad operating facilities in the Commuter Corridor that are not Commonwealth-Owned Tracks.

Equipment: The locomotives and cars complying with Section 2.4 of this Agreement which are at any time used by the Commissions, or either of them, or by an agent or Operator, to provide rail commuter Service over the Railroad’s tracks.

General Supervision Fee: The fee for certain Railroad services, such as a VRE Trainmaster, VRE Commuter Desk Specialist, and general and administrative expenses. It is one component of the Contract Fee.
Joint Operating and Maintenance Agreement: That certain Joint Operating and Maintenance Agreement between CSXT and DRPT dated and effective as of March 26, 2021, as may be amended from time to time, the current version of which, as of the execution date of this Agreement, is attached hereto as Exhibit H. CSXT will provide copies of amendments to the Joint Operating and Maintenance Agreement to the Commissions.

Operator: Shall mean any person, firm, corporation or other legal entity contracting with or utilized by the Commissions to operate all or any part of the Service or to be responsible for providing and supervising on-train personnel for operation of the Equipment and Trains. The term may include one or both of the Commissions. An Operator must be approved by and remain subject to the continuing approval of the Railroad.

RF&P Subdivision: The RF&P Subdivision consists of the Railroad’s railroad line between Richmond, Virginia, and Washington, D.C.

Service: The Service shall consist of all Trains, whether occupied or empty, which are used to provide Commuter Rail Service pursuant to the authority granted by this Agreement or the Transaction Agreements, on the Tracks. Service includes the movement of Trains operated at the times identified in Exhibit A to this Agreement, on the Commuter Corridor, and the movement of
Special Trains allowed pursuant to Section 3.1. As the Infrastructure Improvements (as defined in the Comprehensive Rail Agreement) are completed, the Service will be expanded automatically in accordance with Exhibit A, the Comprehensive Rail Agreement, and the Joint Operating and Maintenance Agreement. Service may be amended at any time by written agreement of the parties.

Station Leases: The Station Leases shall consist of the separate Lease Agreements between the Commissions and the Railroad, for the leasing of certain real property for the operation of commuter rail passenger service stations, including those stations enumerated on the annexed Exhibit E, as amended from time to time. Railroad shall continue to make available to the Commissions those passenger facilities listed in Exhibit E under that certain Master Lease Agreement, dated May 6, 2013, as amended, including specifically an amendment made contemporaneously with this Agreement, and as may be amended from time to time.

Tracks: The Tracks subject to this Agreement shall be the CSXT-Dispatched Tracks, including all signaling facilities. The Tracks are shown or described in Exhibit B attached to this Agreement, and may be revised by the parties from time to time. With respect to any obligation of the Commissions wherever
contained in this Agreement to defend, indemnify, protect, save harmless Railroad, or provide insurance with respect to these obligations or for the benefit of Railroad, any reference to Tracks refers to both CSXT-Dispatched Tracks and Commonwealth-Dispatched Tracks.

**Train:** A Train subject to this Agreement shall consist of a locomotive unit, or more than one unit coupled, with or without cars, whether or not carrying passengers, having not less than 4.0 horsepower per trailing ton, displaying markers or carrying an end of train device, and capable of adhering to the schedule standards specified for the Service.

**Transaction Agreements:** Means the Comprehensive Rail Agreement, the Joint Operating and Maintenance Agreement, and the Ancillary Agreements, as defined in the Comprehensive Rail Agreement.

**Special Train:** Specified in Exhibit F, as may be allowed pursuant to Section 3.1 of this Agreement.

**VRE Cure Period:** Shall mean the thirty(30) day period after Railroad provides written notice to the Commissions that the Commissions are in default of this Agreement, giving rise to Railroad’s right to terminate this Agreement, other than the
payment of amounts due under this Agreement, for which the VRE Cure Period shall be five (5) business days.

ARTICLE TWO

CONDITIONS

2.1 This Agreement shall supersede and replace the 1995 Agreement and the Conrail Agreement, and shall be effective as of July 1, 2011, for the term hereof. The Commissions acknowledge that they have executed separate agreements with Norfolk Southern Railway and NRPC, which agreements grant the Commissions the right to operate commuter rail service over the lines of each of those railroads. The Commissions shall promptly provide Railroad with current copies of such agreements and any subsequent amendments thereto, upon the execution of such agreements or amendments.

2.2 In the event that the terms and provisions of any agreement described in Section 2.1 shall at any time be interpreted, modified or amended so as to become more favorable to another railroad contracting with the Commissions than the terms and provisions of this Agreement are to Railroad, Railroad may request the Commissions to modify this Agreement so as to incorporate such interpretation, modification or amendment, in whole or in part, by amendment to this Agreement.

2.3 The Commissions have informed Railroad that they may desire to operate the Service through an agent. Any person, firm,
corporation or other legal entity contracting with or utilized by the Commissions to operate all or any part of the Service on the CSXT-Dispatched Tracks shall be an Operator within the meaning of this Agreement, must be approved in advance by Railroad, which approval shall not be unreasonably withheld, and must at all times during the term of this Agreement remain acceptable to Railroad. If at any time an Operator becomes unacceptable to Railroad, Railroad shall notify the Commissions of such unacceptability and the Commissions shall promptly select a new Operator acceptable to Railroad. An Operator must comply at all times with all applicable provisions of this Agreement. The Commissions shall not have the right to assign this Agreement or any portion hereof to any other person or entity, or to permit any person or entity other than Operator acceptable to Railroad to exercise such rights or enter upon the property of Railroad without the written consent of Railroad. The retention of an Operator by the Commissions shall not relieve the Commissions of any of their obligations under this Agreement.

2.4 (a) Railroad shall have no responsibility, but shall have the right, to inspect any Equipment of the Commissions. Railroad shall have no responsibility to maintain, service or repair any of the Equipment of the Commissions, but all such Equipment shall at all times comply with applicable federal, state and local requirements and with Railroad’s standards for
locomotives and cars permitted to operate over Railroad’s Tracks, which standards, as adopted and revised from time to time by the Railroad in its sole discretion, shall be identified and specified in writing to the Commissions. Upon adoption by Railroad of any revised standards, the Commissions shall be afforded a reasonable notice from Railroad to bring its Equipment into compliance with the revised standards, subject to all requirements of applicable law.

(b) All Equipment used in the Service shall comply with the provisions of the federal Locomotive Inspection Act and the Federal Safety Appliance Acts, as amended, and with all regulations adopted pursuant to either Act. The Commissions and any Operator shall also comply with any other applicable laws, regulations or rules, state or federal, covering the operation, condition, inspection or safety of the Equipment.

(c) The Commissions shall defend, indemnify, protect and save wholly harmless Railroad, its corporate affiliates, and its and their respective officers, directors, agents and employees from all fines, penalties, costs, expenses and liabilities imposed upon or asserted against Railroad, its corporate affiliates or any of its or their officers, agents or employees as a result of an alleged violation by the Commissions or an Operator of either (i) any of the laws, rules and regulations to which reference is made in Subsection 2.4(b) or (ii) any of the terms of this Agreement.
2.5 (a) Operation of the Service on the CSXT-Dispatched Tracks shall at all times comply with the Railroad’s operating rules, safety rules, instructions (including verbal or written directive of the Railroad’s operating officers) and other regulations. The Commissions, an Operator and all personnel of either and of the Railroad who are present on the Equipment at any time shall comply fully with the applicable laws, regulations or rules, whether federal, state or local, covering the operation, maintenance, condition, inspection, testing or safety of personnel or Equipment employed in the maintenance and operation of any of the Trains.

(b) The Commissions shall defend, indemnify, protect and save wholly harmless Railroad, its corporate affiliates and its and their respective officers, director, agents and employees from all fines, penalties, costs, expenses and liabilities imposed upon or asserted against Railroad, its corporate affiliates, or its or their respective officers, directors, agents or employees as the result of an alleged violation by the Commissions or an Operator of any of the laws, rules and regulations to which reference is made in Subsection 2.5(a).

(c) The Commissions shall make such arrangements with Railroad as may be required to ensure that all persons operating Equipment or Trains over the CSXT-Dispatched Tracks must be fully competent, trained and qualified for the tasks they are performing.
All persons operating Equipment or Trains must be approved by and remain subject to approval by the Railroad. Upon the request of the Commissions, Railroad shall provide training appropriate to qualify the Operator’s crew in accordance with then current Federal certification procedures and operating rules of Railroad, and shall conduct periodic orientation sessions with the participation of Railroad’s dispatchers (including the chief dispatcher for the territory) and the Operator’s personnel. The Commissions shall pay to Railroad, promptly upon receipt of bills therefore, all expenses incurred by Railroad for qualifying, testing, and maintaining the qualifications of the Operator’s personnel and conducting the orientation sessions, pursuant to this Section 2.5(c). In addition, the Commissions shall pay to Railroad promptly upon receipt of bills all expenses incurred by Railroad for training Railroad personnel as a result of the Service. Reimbursable costs shall include the costs of all labor furnished by Railroad, including pilots, if any. The labor rates shall be set forth in attached Exhibit C-3 and periodically updated by Railroad.

(d) Whenever the Service shall be modified so as by such modification alone to require a change in Railroad’s Timetables, Railroad will furnish the Commissions or their designee with Timetables, Switch Keys, Operating Rule Books, Safety Rule Books, and any related publications or material deemed
necessary by Railroad, and the Commissions shall pay Railroad the
cost of such related publications or material, including, but not
limited to the actual cost of printing and distributing new
Timetables.

(e) The Commissions, at their sole expenses, shall
obtain, install and maintain, in all locomotives used with
Commission’s Trains operating over the Tracks, functioning radios
to transmit and receive appropriate Railroad frequencies.

(f) Any investigation or hearing concerning the
violation of any operating rule, safety rule or instructions of
Railroad by any of the employees of the Commissions or of its
Operator may be attended by any official of the Commissions and of
the Operator designated by the Commissions, and any such
investigation or hearing shall be conducted in accordance with any
applicable collective bargaining agreements.

(g) Railroad shall have the right to exclude from the
CSXT-Dispatched Tracks or Railroad property any employee of the
Commissions or its Operator determined by Railroad to be in
violation of Railroad’s rules, regulations, orders or
instructions, whether issued by Timetable, bulletin or otherwise.
The Commissions shall indemnify, defend and save wholly harmless
Railroad, its corporate affiliates and its and their respective
officers, agents and employees from and against any and all claims,
liabilities and expenses resulting from such exclusion or from performance by an employee who has been so excluded.

2.6 (a) The Commissions acknowledge that their right to use of the Tracks is subject to Railroad’s rights, as set forth in the Transaction Agreements. The Commissions understand that Railroad heretofore granted rights to use of the Tracks to other railroad companies, to NRPC, and to MCI, Plantation Pipeline, and WilTel (which continue through their successors, as applicable), and that the rights herein granted are subject to such prior rights of others and to such rights as the Railroad has granted or may elect, in its sole discretion (subject to the terms of any then-existing Station Lease), to grant in the future to other persons or corporations. The Commissions’ right to provide Service on the Commuter Corridor is subsumed by and co-extensive with DRPT’s rights to provide Commuter Rail Service over the Commuter Corridor, as limited by this Agreement and the Commissions’ statutory authority. Notwithstanding the foregoing, Railroad acknowledges that the Commissions and Railroad have agreed upon a schedule of operations for the Service as specified in Exhibit A, as such may be amended from time to time under the provisions of this Agreement, much of which Service having been made possible by improvements funded by or on behalf of the Commissions, or which improvements DRPT has agreed to make. The Commissions hereby agree that they will not assert, directly or through any Operator, that
the Trains or the Service is entitled to preference over the Railroad’s freight operations, or over the freight operation of another railroad company entitled to use the Tracks, or over the intercity passenger trains of NRPC, in the use of any part of the Tracks. Railroad hereby agrees that it will make reasonable efforts to secure adherence to the Service specifications set out in Exhibit A, and as it may be amended, on the Tracks subject to this Agreement. In no event shall Railroad suffer any penalty or incur any damage claim for or arising from delays or disruptions in Service for any reason, including, but not limited to, basic or restorative maintenance or improvements undertaken within the Commuter Corridor, conflicting freight or NRPC intercity passenger services.

(b) Any proposed modification of the Service or of its scheduled operations, will be determined in accordance with Article 3 hereof. Railroad retains exclusive authority to approve or reject, in its sole discretion, appropriate modifications to the Contract Fee whenever the Commissions propose modifications to the Service or to its scheduled operations, other than the additional Service contemplated by Exhibit A.

(c) The Commissions acknowledge that DRPT and Railroad have agreed to establish one or more coordination or management committees, the terms of which are governed by the Joint Operating and Maintenance Agreement. The Commissions will participate in
such committees as provided in the Joint Operating and Maintenance Agreement, and the current Joint Operations Committee provided for in the Existing Agreement will dissolve.

2.7 In the event that operation of the Service requires the prior approval of or exemption from regulations by the Surface Transportation Board, the Federal Railroad Administration or any other governmental agency, securing such approval or exemptions shall be the exclusive responsibility of the Commissions. The Commissions shall not commence the Service, either in their own behalf or by means of any third party Operator, until any such approval or exemptions becomes effective. To the extent Railroad deems appropriate, Railroad will make reasonable efforts to support the actions which the Commission may initiate pursuant to this Section.

2.8 Railroad shall at all times have exclusive control of the management of all operations over the CSXT-Dispatched Tracks. The Commissions recognize that delays or cancellations of the Service due to conflicts with Railroad’s freight service, NRPC’s intercity passenger service, weather, labor difficulties, track or equipment failure, conflicting schedules or missed connections of NRPC trains, of trains of Railroad, or trains of other railroads entitled to use of the Tracks, or from other causes, are probable. Although Railroad will make reasonable efforts to avoid such delays or cancellations, Railroad shall in no event be responsible for or
liable to the Commissions, or its Operator, or any passenger for the consequences of any such delay or cancellation.

2.9 Maintenance of the Tracks will be performed in accordance with the Joint Operating and Maintenance Agreement. Performance by Railroad of its maintenance obligations will occasionally result in delays or cancellations of operations of the commuter rail passenger service. Delays or cancellations so occasioned will not relieve the Commissions of any obligations herein set forth, or give rise to any rights in the Commissions not otherwise set forth herein.

2.10 Clearing of wrecks will be governed by Article 10 of the Joint Operating and Maintenance Agreement unless otherwise agreed upon by Railroad and the Commissions, with the written consent of DRPT.

2.11 If during the term of this Agreement the CSXT-Owned Tracks should be appropriated or otherwise acquired, in whole or in part, by a governmental body or agency thereof, or by a quasi-public body, all awards or compensation for the CSXT-Owned Tracks or parts thereof resulting from such appropriation or acquisition shall be paid to Railroad subject to the provisions of this Agreement concerning the reimbursement of any federal interest in the CSXT-Owned Tracks. The Commissions shall be entitled to participate in condemnation proceedings to seek recovery of compensation attributable to property which it owns to the extent
permissible under applicable law. In the event of a partial appropriation or acquisition as herein contemplated, the parties hereto shall endeavor to reach agreement as to the appropriate adjustment, if any, to the Contract Fee. In the event agreement is not reached, the issue shall be resolved in accordance with the provisions of Article Eleven.

ARTICLE THREE
ACCESS

3.1 Railroad hereby grants to the Commissions, subject to the terms and conditions of this Agreement, the right to use the Tracks with the Commissions’ Trains in the provision of the Service, including the Special Trains, set forth in Exhibit A. With the written consent of the Railroad, and subject to such terms and conditions as the Railroad may prescribe, the Commissions may operate test trains and trains required for employee training. In addition, Railroad may allow, at its sole discretion, the operation of Special Trains by the Commissions in addition to those in Exhibit A, upon the Commissions’ request, at the rates set forth on the annexed Exhibit F and upon such other terms and conditions (including, without limitation, the same provisions for and evidence of such indemnification and insurance applicable to other Trains in the Service), as the Railroad may require in its sole discretion.
3.2 The rights granted to the Commissions herein shall relate solely to use of the Tracks of Railroad for the operation of Trains in the provision of the Service. Station Leases regarding the facilities listed in Exhibit E are addressed in a separate Master Lease Agreement.

ARTICLE FOUR

TERM

4.1 The Term of this Agreement commenced as of July 1, 2011 and, as of the Amendment Effective Date, shall be coterminous with the Joint Operating and Maintenance Agreement.

4.2 Termination of this Agreement for any cause shall not relieve any of the parties hereto from any obligations or liabilities accrued under this Agreement as of the time such termination becomes effective. Without limiting the generality of the foregoing, it is specifically recognized that any obligation on the part of a party to assume financial responsibility, to indemnify and insure or to make a payment of money shall survive termination of this Agreement.

ARTICLE FIVE

PAYMENT

5.1 (a) The premise upon which Railroad and the Commissions have agreed to the continuation of the Service pursuant to this Agreement is that Railroad will permit operation of the Service with the following conditions: (1) the Commissions will make
payment to Railroad of the Contract Fee pursuant to Section 5.1(b); and (2) the Railroad (and its licensees, its corporate affiliates and its and their respective officers, agents and employees) will incur no liability or losses from the operation of the Service. Any such claims for recovery of costs incurred or lost revenue must be raised by Railroad within 90 days of such event by written notice to the Commissions as defined in Article 13. The Commissions, therefore, hereby undertake to hold harmless Railroad (which term, as used in this Section 5.1, shall include Railroad, its licensees, its corporate affiliates, and its and their respective officers, agents and employees) against all losses, costs, expenses, obligations, maintenance or discontinuance of the Service. The enumeration of any such costs or expenses and inclusion of provisions requiring payment to or indemnification of Railroad by the Commissions for such expenses, costs and risks elsewhere in this Agreement shall in no way diminish the liability of the Commissions to compensate or indemnify Railroad for any such costs, liabilities, expenses or obligations as hereafter occur, it being the intent of the parties that Railroad be fully protected, indemnified and made whole by the Commissions against any such costs, expenses, liabilities and obligations so caused or so exacerbated, whether or not specifically described in this Agreement.
(b) In addition to such other sums which accrue under other provisions of this Agreement, the Commissions agree to pay Railroad the Contract Fee in accordance with Exhibit C-1 of this Agreement. The Commissions shall pay the Railroad each month an Access Fee of $28.26 per train mile on the CSXT-Dispatched Tracks. The Access Fee may be escalated annually pursuant to Section 5.1(d) below, but otherwise will not be adjusted except by mutual agreement of the parties. The parties acknowledge that, as the Commonwealth undertakes those Infrastructure Improvements set forth in Exhibit E to the Comprehensive Rail Agreement, the Commissions intend to shift incrementally the primary operation of the Service from CSXT-Dispatched Tracks to Commonwealth-Dispatched Tracks, thereby reducing the total number of train miles of CSXT-Dispatched Tracks used by the Commissions to operate the Service. Accordingly, during the life of this Agreement, the parties anticipate that the total amount of compensation paid by the Commissions to Railroad will likely decrease over time, even though the Access Fee may escalate annually pursuant to Section 5.1(d) below.

(c) Upon the Commissions’ request, Railroad may agree to accept an annual payment of the Contract Fee with an appropriate discount and such other terms that are mutually acceptable to the parties.
(d) On and after July 1, 2021, the Access Fee may be increased annually by Railroad during the term of this Agreement on each July 1st by the greater of the following amounts:

(i) four percent (4%) per year, calculated on the Access Fee in effect the previous year; or

(ii) the increase in the CPI Urban Wage Earners and Clerical Workers for Washington, D.C. – Maryland – Virginia.

(e) Payment of the Contract Fee shall be made no less than five (5) days prior to the first day of each month by wire transfer to such account as Railroad designates in writing to the Commissions.

(f) The amounts payable to the Railroad under this Agreement shall be subject to audit or review for up to three years following payment thereof. Notwithstanding the foregoing, the Contract Fee shall be subject to audit and review only to the extent necessary to verify the number of train miles for the purpose of its variable component.

5.2 In addition to the payments specified hereinabove, the Commissions shall also pay to Railroad monthly, within thirty (30) days of demand when supported by appropriate documentation, any amounts which Railroad shall have failed to earn from or been forced to pay to NRPC pursuant to Appendix V (as it may from time to time be amended) of the Basic Agreement between Railroad and NRPC governing the operation of intercity passenger service over
lines of Railroad and attributable to the presence of Equipment, personnel, passengers or property of the Commissions or of an Operator or to the normal or abnormal operation or to the malfunction of the Service while on the CSXT-Dispatched Tracks.

5.3 In addition to the payments specified elsewhere in this Article Five, the Commissions shall also pay to Railroad, within thirty (30) days of demand, when supported by appropriate documentation, any amounts which become due to be so paid pursuant to the provisions of Article Two, Article Seven, Article Eight and Article Nine. Railroad’s reimbursable labor costs shall utilize the approved public rate for overhead percentages that Railroad uses for all such projects.

In addition to the payments specified hereinabove, the Commissions shall also pay to Railroad monthly, within thirty (30) days of receipt by VRE of an invoice, when supported by appropriate documentation, expenses incurred by Railroad for maintenance costs pursuant to the provisions of Section 6.2 hereof.

5.4 Invoices for amounts due to Railroad under this Agreement shall be prepared substantially in accordance with the format annexed to this Agreement as Exhibit C-2, as it may be changed from time to time by Railroad.

5.5 If Railroad is at any time required by law, rule, regulation or ordinance or by order of a court or of any administrative agency to give the commuter rail service priority
over Railroad’s freight operations or NRPC’s intercity passenger service on the CSXT-Dispatched Tracks, the Railroad shall be entitled to terminate this Agreement immediately upon delivery of written notice to the Commissions, unless the Commissions provide Railroad with a legally binding and effective waiver of all such priority as it may relate to the Service and indemnification against all liability attributable to or arising from the Commissions’ waiver of, and Railroad’s failure to comply within the otherwise applicable priority requirements, which waiver and indemnification shall be in form and substance acceptable to Railroad in Railroad’s sole judgment. Should an event occur which triggers Railroad’s rights under this Section 5.6, both parties shall attempt to negotiate, in good faith, a suitable amendment to this Agreement which might avoid the need, in the sole discretion of the Railroad, to exercise its right to immediately terminate this Agreement pursuant to this Section 5.6.

ARTICLE SIX

MAINTENANCE

6.1 Subject to the provisions of Sections 2.7, 2.8 and 2.9 hereof, and excepting force majeure, Railroad shall, during the term of this Agreement, keep and maintain the Tracks as provided in the Joint Operating and Maintenance Agreement. Railroad does not guarantee the condition of the Tracks or that the Service will not be delayed or interrupted. Failure on the part of the Railroad
to maintain the Tracks as required in this Article Six, including but not limited to any FRA findings or reports, shall in no event impose any liability on the Railroad (or its licensees, its corporate affiliates, or its or their respective officers, agents or employees), nor shall any such failure absolve the Commissions of any of the obligations imposed upon them by Article Nine hereof.

6.2 The Commissions shall reimburse the Railroad for actual maintenance and inspection costs of certain Tracks, constructed primarily for the use and benefit of VRE (VRE Crossroads Lead, VRE L’Enfant South Storage Track), as specified in Exhibit B.

ARTICLE SEVEN

CLAIMS SERVICE

7.1 The provision of claims handling service in connection with any aspect of the commuter rail service shall be the exclusive responsibility of the Commissions, and in no event shall the Commissions or its Operator assert any right to require provision of such service from the Railroad or any affiliate thereof.

ARTICLE EIGHT

RAILROAD POLICE

8.1 The provision of the services of railroad police or law enforcement personnel in connection with any aspect of the commuter rail service shall be the exclusive responsibility of the Commissions, and in no event shall the Commissions or any Operator
assert any right to require provision of the services of such railroad police or law enforcement personnel from the Railroad of any affiliate thereof.

ARTICLE NINE

RISK OF LIABILITY

9.1 (a) The Commissions shall protect, defend, indemnify and save harmless Railroad from any loss, cost or expense incurred by Railroad (including, but not limited to, lost incentives, penalties, detour and rerouting expenses), and all liability for death, personal injury or property damage, (including, but not limited to, the property and employees of Railroad, which is attributable in any way to, or which is exacerbated by, the operation of the Service over the CSXT-Dispatched Tracks and the Commonwealth-Dispatched Tracks, or to the presence of cars, equipment, personnel, contractors, agents or passengers of the Commissions or an Operator on or about the Commuter Corridor. The Commissions shall indemnify and save Railroad harmless under this Article Nine whether or not such death, injury or damage is caused, in whole or in part, by the negligence, regardless of its character or degree, of Railroad, and whether the damages are compensatory, punitive or exemplary, provided, that the liability of the Commissions under this Article Nine shall not exceed Three Hundred and Twenty Two Million, Eight Hundred and Sixty Four Thousand and Two Hundred and Twenty Eight Dollars ($322,864,228.00) (or such
greater sum as may be required by the provisions of Section 9.2 hereof) in any one calendar year.

(b) To guarantee payment of their obligations under this Article Nine, the Commissions shall, subject to the approval and continuing supervision of the Division of Risk Management of the Commonwealth of Virginia (the “Division”), procure and at all times maintain a policy or policies of liability insurance, with annual aggregate limits of at least Three Hundred and Twenty Two Million, Eight Hundred and Sixty Four Thousand and Two Hundred and Twenty Eight Dollars ($322,864,228.00) (or with such additional limits as may be required by the provisions of Section 9.2 hereof covering the liability assumed by the Commissions under this Article Nine. Such insurance may consist of a program of self-insurance approved and administered by the Division for up to Five Million Dollars ($5,000,000.00), with the balance of the coverage (at least $317,864,228.00 in excess of the $5 million self-insured retention) to be obtained through commercial insurance. All insurance policies shall name Railroad as an insured, shall provide liability insurance covering the liabilities assumed by the Commissions under this Agreement, and shall be endorsed to provide that the insurance company will give Railroad thirty (30) days prior written notice if the policies are to be terminated or modified during the term of this Agreement. The Commissions shall provide Railroad with copies of all commercial insurance policies,
including all current endorsements, carried by the Commissions pursuant to this Section 9.1, and a copy of all agreements, including amendments thereto, between the Commissions and the Division relating to the coverage, structure, administration or funding of the Commissions’ insurance program at least ten (10) business days before the expiration of any such policy, including all current endorsements. Such copy shall be delivered to:

CSX Transportation, Inc.
500 Water Street
Jacksonville, Florida 32202
Attention: Director - Insurance
(with a copy to its General Counsel at the same address as set forth above).

(c) In accordance with Section 2.2-1839 of the Code of Virginia, the Division has established the Northern Virginia and Potomac Rappahannock Transportation Commissions Commuter Rail Operations Liability Insurance Plan, a copy of which is annexed as Exhibit D (the “Plan”). The Plan is and shall be maintained by the Commissions and administered by the Division in accordance with Section 15.2-4518 of the Virginia Code and constitutes a “liability policy” for the purposes of that Section and Section 15.2-4526 of the Virginia Code. It is the intention of the parties that the Plan provides coverage for all liability which is or may
be imposed upon or assumed by the Commissions under this Article Nine. The parties further agree that, subject to the additional criteria set forth in this Article Nine (including, but not limited to Sections 9.1(b), 9.1(d) and 9.2), the Plan is sufficient, as of the date hereof, to fulfill the obligations of the Commissions with respect to the procurement and maintenance of liability insurance pursuant to Section 9.1(b). Notwithstanding the terms and conditions of the Plan and subject to the limits of Virginia law, the Commissions’ obligation set forth herein is absolute and Commissions shall be fully obligated to fully indemnify Railroad for all claims as set forth in Section 9.1 of this Agreement. The Plan shall not be amended without the agreement of the Railroad evidenced by amendment of this Agreement.

(d) The Commissions shall provide to Railroad a copy of all reports which are submitted pursuant to Part B(2) (b) of the Plan. The reports to be made pursuant to Part C(3) of the Plan shall include the balance sheets and income statements of the Trust Fund (as defined by Section 9.1(f)).

(e) If, at any time, the total insurance coverage applicable to the liabilities assumed by the Commissions under this Article Nine falls below Three Hundred and Twenty Two Million, Eight Hundred and Sixty Four Thousand and Two Hundred and Twenty Eight Dollars ($322,864,228.00) or, because of pending claims, is reasonably expected to fall below Three Hundred and Twenty Two
Million, Eight Hundred and Sixty Four Thousand and Two Hundred and Twenty Eight Dollars ($322,864,228.00) (or, in each case, such greater coverage as may be required by the provisions of Section 9.2), or such coverage is otherwise subject to challenge or diminution for any reason (including, without limitation, court decisions or applicable laws or regulations affecting the validity or enforceability of the Plan or this Article Nine), notice of such fact shall be given promptly by the Division to the Commissions, the Railroad and the Operator. If the Commissions fail to immediately (i.e., the day of such notice) restore the available insurance coverage to Three Hundred and Twenty Two Million, Eight Hundred and Sixty Four Thousand and Two Hundred and Twenty Eight Dollars ($322,864,228.00) (or such higher level as may be required by the provisions of Section 9.2), or to otherwise obtain relief from any other causes which may diminish such coverage for any reason, the Service and all rights granted the Commissions under Article Three of this Agreement shall immediately cease and shall not be resumed until the full Three Hundred and Twenty Two Million, Eight Hundred and Sixty Four Thousand and Two Hundred and Twenty Eight Dollars ($322,864,228.00) in insurance coverage (or such higher levels as may be required by the provisions of Section 9.2) has been obtained; provided, however, the cessation of passenger service shall not occur until after the Railroad has consulted with the
Commissions and determined, in its sole judgment, that the coverage specified herein will not be promptly restored; and provided further that the Service and all rights granted the Commissions under Article Three of this Agreement shall immediately cease at any time the total insurance coverage falls below $317,864,228.00. Any determination by Railroad under this subparagraph (e) shall be conclusive and not subject to challenge by the Commissions.

(f) Pursuant to the Plan, the Division administers the Commuter Rail Operations Liability Insurance Trust Fund (the “Trust Fund”) for the purposes of implementing and funding the Commissions’ obligations under the Plan and this Article Nine. The Commissions shall ensure that, at all times, the Trust Fund is solvent and adequately funded for the purposes contemplated by this Article Nine, and shall arrange for a review by the Division of the financial condition of such Trust Fund and the commercial insurance and self-insurance maintained under the Plan, from time to time, as requested by Railroad. Such review shall include a written certification to Railroad that the Trust Fund is solvent, and that the Plan’s insurance program fails to comply with the requirements of this Article Nine, or that the Trust Fund is not adequately funded, the Division shall promptly give notice of such fact to Railroad, the Commissions and the Operator. If Railroad determines that the Trust Fund is not adequately funded, Railroad may give notice of such fact to the Commissions. If the
Commissions fails to immediately (i.e., the day of such notice by the Division or Railroad) provide funding in amounts determined by the Division or by Railroad to be adequate or obtain the required insurance, the Service and all rights of the Commissions under Article Three of this Agreement shall immediately cease until such funding and/or insurance is provided; provided, however, the cessation of passenger service shall not occur until after the Railroad has consulted with the Commissions and determined, in its sole judgment, that adequate funding and/or insurance will not be promptly restored. Any determination by Railroad under this subparagraph (f) shall be conclusive and not subject to challenge by the Commissions. Notwithstanding the foregoing, in the event that the Division fails to comply with any of the requirements of this Agreement, including but not limited to those set forth in this Article 9, the Commissions shall take all actions, including the commencement of litigation and/or direct purchase of policies of insurance, to prevent a breach of such requirement.

(g) In the event that Railroad determines, in its sole judgment, that either this Article Nine or the Plan (or the insurance coverage provided thereunder) is invalid or unenforceable for any reason, or that the Commissions have otherwise failed to comply with its obligations under this Article Nine, such determination shall constitute a default pursuant to Section 12.2 of this Agreement. Any determination by railroad
under this subparagraph (g) shall be conclusive and not subject to challenge by the Commissions.

(h) The term “Railroad,” as used in this Article Nine, shall include not only CSX Transportation, Inc., but also its licensees, corporate affiliates and its and their respective officers, directors, agents and employees.

(i) The Commissions policy or policies of liability insurance shall include coverage for Terrorism and Sabotage.

9.2 (a) If, as a result of any statute enacted by the Commonwealth of Virginia or the Federal Government, the minimum liability limitation of Commissions is increased to an amount in excess of $322,864,228.00, the amount of liability insurance that Commissions are required to procure and maintain in order to guarantee its obligations under this Article or to the general public, is increased to an amount in excess of $322,864,228.00, then the minimum liability limit of $322,864,228.00 (or higher amount if increased pursuant to subparagraph 9.2(b) below) set forth in Section 9.1 of this Article shall be automatically increased and the liability insurance shall be amended to reflect such higher amount. If the exposure of the Railroad to liability under this Agreement or under the Station Leases is increased by statute or judicial decision, the limits on the liability of the Commissions pursuant to this Agreement shall be increased proportionately and the limits of the liability insurance carried
by the Commissions shall be increased to reflect such increased exposure. As a condition to employing self-insurance to cover such higher amount of increased exposure, the Commissions agree to obtain the advance approval of both the Railroad and the Division. In the event the Commissions fail to obtain and maintain the insurance required by this Section for any reason (including the unavailability of such insurance), then either party shall have the right to terminate this Agreement by delivery of written notice to the other.

(b) At any time during the term of this Agreement, upon Railroad’s request, the parties hereto will review and evaluate the number and cost of claims which have been made against the insurance carried by the Commissions, the actual and potential liabilities incurred by the Commissions for death, personal injury or property damage, any relevant judicial decisions, inflation and current trends in the cost of tort claims, and the likelihood and potential cost of future claims. Based on this review and evaluation, the parties will determine whether there are reasonable grounds to increase the limit of the Commissions’ liability under Subsection 9.1(a) or to increase the limits and expand the coverage of the insurance required to be carried by the Commissions under Subsection 9.1(b) and Subsection 9.1(d) hereof. If the parties are unable to agree, the dispute shall be resolved in accordance with the provisions of Article Eleven; provided,
however, that in no event shall the liability of the Commissions or the amount of insurance to be carried by the Commissions be reduced below the limits required by Section 9.1 hereof. Any increase in the amount of insurance coverage which results from the application of this Section 9.2 shall automatically cause a proportionate adjustment to the limits specified in Subsection 9.1(e) hereof.

9.3 Immediately upon the execution and delivery of this Agreement, the parties shall execute and deliver a Station Lease with respect to the station Facilities enumerated in the annexed Exhibit E. It is contemplated that an additional agreement (including Station Leases and amendments thereto) may be entered into between Commissions and Railroad concerning the construction, maintenance, use and removal of certain ancillary facilities, including, among others, stations, platforms, canopies, parking areas and depots, for the accommodation of the Commissions’ employees, and particularly passengers. It is understood that the indemnification and insurance provisions of this Article Nine of this Agreement shall apply with respect to such construction, maintenance, use and removal by the Commissions, any Operator, its or their employees, agents, contractors, passengers, invitees and the general public of any such facilities.

9.4 The Commissions expressly understand and agree that their obligations to indemnify Railroad and hold Railroad harmless
under the provisions of this Article Nine also extend to and include the obligation to indemnify and hold Railroad harmless from and against any and all damages (including punitive and exemplary damages), penalties, losses, fines, claims, liens, suits, liabilities, costs (including cleanup costs), judgments and expenses (including attorneys, consultants or expert fees and expenses) of every kind and nature suffered by or asserted against Railroad as a direct or indirect result of or due to the presence or escape of any hazardous materials, substances, wastes or other environmentally regulated substances on or from the Tracks, a Train or Equipment which presence or escape is attributable in any way to, or is exacerbated by, the operation of the Service over the Tracks or the presence of the Commissions’ or any Operator’s Equipment, personnel or passengers on or about Railroad’s property.

9.5 (a) Railroad shall give notice to the Division of Risk Management and to the Commissions as soon as reasonably practicable whenever the Railroad receives credible notice from any party that it is the intention of such party to hold Railroad responsible for an incident for which the Commissions are potentially liable under Section 9.1 hereof.

(b) Railroad agrees: (1) to cooperate in the defense of claims of which it gives the Division of Risk Management notice hereunder; (2) to allow the Division of Risk Management, within
its sole discretion, to settle or defend any such claim; and (3) to execute all documents reasonably required to enable the Division of Risk Management to recover amounts paid by the Division of Risk Management on behalf of the Commissions to persons other than Railroad.

ARTICLE TEN

RISK OF LABOR CLAIMS

10.1 The Commissions will indemnify and hold harmless Railroad, its corporate affiliates, and its and their respective officers, agents and employees against any and all costs and payments, including, but not limited to, awards of benefits, back pay, penalty pay, allowances and awards of damages of any kind, however they may be denominated, and all arbitration, administrative and litigation expenses, arising out of claims or grievances made by or on behalf of employees of Railroad, or its corporate affiliates in connection with the implementation, operation or termination of the Service, whether pursuant to employee protective conditions imposed by a governmental agency as conditions for that agency’s approval or exemption of the Service or this Agreement, or pursuant to a collective bargaining agreement.

ARTICLE ELEVEN

DISPUTE RESOLUTION
Disputes will be resolved in accordance with Article 24 of the Comprehensive Rail Agreement, as if the Commissions were Railroad’s counterparty to that agreement. However, for disputes not involving DRPT, and not reasonably anticipated to involve DRPT, with CSXT’s consent, which will not be unreasonably withheld, mediation may take place in Alexandria, Virginia.

ARTICLE TWELVE

DEFAULT

12.1 The following items shall be considered a default by the Commissions under this Agreement:

(a) Failure on the part of the Commissions or its Operator to comply with the conditions of Article Two related to safety of operations or as provided in Subsection 2.5(a) of Article Two.

(b) Failure on the part of the Commissions to comply with any of the provisions of Article Nine hereof or the Plan.

(c) Failure on the part of the Commissions to replace any Operator which becomes unacceptable to Railroad within a reasonable time following notice.

(d) Failure of the Commissions timely to make any payment required to be made to Railroad under any provision of this Agreement.

(e) Failure on the part of the Commissions to substantially comply with any of its obligations under this Agreement.

12.2 If the Commissions are in default under this Agreement, CSXT shall provide to the Commissions written notice within five
(5) business days of actual knowledge of such default. During a VRE Cure Period, CSXT shall not terminate this Agreement but may provide to the Commissions notice of its intent to terminate this Agreement. However, if CSXT otherwise has cause to terminate this Agreement, CSXT may suspend, as of the date of breach, the Service during a VRE Cure Period until such time as the underlying breach or default of the Commissions has been cured, or until the VRE Cure Period has expired without cure, at which time CSXT may continue to suspend service or elect any applicable remedy to which it is entitled.

12.3 The parties acknowledge that, under Article 14 of the Comprehensive Rail Agreement, DRPT has the right, but not the obligation, to cure defaults by the Commissions under this Agreement before Railroad may terminate this Agreement.

12.4 Failure on the part of Railroad to substantially comply with its obligations under Article Six of this Agreement shall constitute a default by Railroad giving the Commission the right to terminate this Agreement on ten (10) days prior written notice.

ARTICLE THIRTEEN

NOTICES

13.1 Any report, notice or other communication required or permitted hereunder shall, unless otherwise specified, be in writing and shall be delivered by hand or deposited in the United States mail, postage prepaid, addressed as follows:
If to Railroad:

CSX Transportation, Inc.
500 Water Street
Jacksonville, Florida 32202
Attention: Assistant Vice President – Passenger Services
(with a copy to its General Counsel at the same address as set forth above)

If to Commissions:

Chief Executive Officer
Virginia Railway Express
1500 King Street, Suite 202
Alexandria, Virginia 22314
(With a copy to the County Attorney of Arlington County
2100 Clarendon Boulevard, Suite 403
Arlington, Virginia 22201)

Either party may change the address at which it shall receive communications and notifications hereunder by notifying the other party in writing of such change.
ARTICLE FOURTEEN

MISCELLANEOUS

14.1 Force Majeure. Each party will be excused from performance of any of its obligations hereunder (except Article Nine), to the other party, where such nonperformance is occasioned by any event beyond its control, which shall include, without limitation, any order, rule or regulations of any federal, state or local government body, agent or instrumentality, work stoppage, accident, natural disaster or civil disorder, provided that the party excused hereunder shall use all reasonable efforts to minimize its nonperformance and to overcome, remedy or remove such event in the shortest practical time. Railroad shall promptly undertake and complete the repair, restoration or replacement of any property which is necessary for the provision of the Service, or for the performance of any of the Railroad’s other obligations hereunder which is damaged or destroyed as a result of the force majeure occurrence, subject to the Commissions’ agreement to reimburse Railroad for the full cost of such repair, restoration or replacement.

14.2 The article and section headings herein are for convenience only and shall not affect the construction hereof. Neither this Agreement nor any of the terms hereof may be terminated, amended, supplemented, waived or modified orally, but only by an instrument in writing signed by all of the parties.
hereto, unless a specific provision hereof expressly permits one party to effect termination, amendment, supplementation, waiver or modification hereunder, in which case such change shall be made in accordance with the terms of such provision. All exhibits attached hereto, and as they may be amended, are integral parts of this Agreement and the provisions set forth in the exhibits shall bind the parties hereto to the same extent as if such provisions had been set forth in their entirety in the main body of this Agreement.

14.3 In the event that any material provision of this Agreement is found to be invalid or unenforceable in any respect, either party may immediately terminate this Agreement by delivery of written notice to the other party.

14.4 The failure of either party to insist at any time upon the strict observance or performance of any of the provisions of this Agreement, or to exercise any right or remedy in this Agreement, shall not impair any such right or remedy to be construed as a waiver or relinquishment thereof.

14.5 This Agreement and each and every provision hereof are for the exclusive benefit of the parties hereto and not for the benefit of any third party. Nothing herein contained shall be construed as creating or increasing any right in any third party to recovery by way of damages or otherwise against either of the parties hereto.
14.6 The rights and obligations of the Railroad and the Commissions hereunder may be assigned only with the prior consent of the other party, except in the event of dissolution, merger or other event terminating the existence of either the Railroad as a corporate entity or one or both of the Commissions, as bodies politic, in which case the rights and obligations of either party hereunder shall be assumed by the party’s successor and assigns.

14.7 While it is understood and agreed that the Commissions shall act together in all matters affecting the Service, the rights and obligations of the Commissions hereunder shall be shared jointly and severally.

14.8 This Agreement shall be governed by the laws of the Commonwealth of Virginia.

14.9 CSXT and DRPT have agreed to certain rights and obligations in the Transaction Agreements with respect to dispatching (Article 5 of the Joint Operating and Maintenance Agreement), maintenance (Article 7 of the Joint Operating and Maintenance Agreement), capital improvements (Article 8 of the Joint Operating and Maintenance Agreement, Exhibit E of the Comprehensive Rail Agreement), clearing of wrecks (Article 10 of the Joint Operating and Maintenance Agreement), construction and engineering (the Master Engineering Agreement (CSXT), Master Engineering Agreement (DRPT), Master Development and Construction Agreement (CSXT), and Master Development and Construction Agreement (DRPT)).
Agreement (DRPT)), all of which will apply to the Commuter Corridor. These cited portions of the Transaction Agreements will govern in the event of a conflict with this Agreement.

Except as provided in the previous paragraph, or as otherwise expressly set forth herein, in the event of a conflict between this Agreement, as amended and any of the Transaction Agreements, this Agreement will govern, provided, however, for the avoidance of doubt, Articles 7, 9 and 10 of this Agreement, and any obligation of the Commissions wherever contained in this Agreement to defend, indemnify, protect, save harmless Railroad, or provide insurance with respect to these obligations or for the benefit of Railroad, will control in the event of any conflict between the Transaction Agreements and this Agreement.

14.10 The parties acknowledge that the action or inactions of DRPT pursuant to the Transaction Agreements may impact the rights and obligations of the Commissions under this Agreement. The Commissions consent to the terms hereof.

14.11 Effective July 1, 2020, legislation enacted by the Virginia General Assembly and signed by the Governor of Virginia created the Virginia Passenger Rail Authority (“VPRA”). The Parties acknowledge that, as of the date of this Agreement, the necessary executive and administrative actions to permit VPRA to undertake the rights, responsibilities and obligations of DRPT imposed by the Transaction Agreements, as of the date of this
Agreement, have not been completed, and it is therefore neither practical nor reasonable to have VPRA possess and undertake such rights, responsibilities and obligations as of the date of this Amendment. Accordingly, the Commissions agree and consent to the future assignment by DRPT, and the assumption by VPRA, of all of DRPT’s rights, responsibilities and obligations under the Transaction Agreements (memorialized in an assignment and assumption agreement). Following the effective date of such assignment and assumption agreement, all references to DRPT in this Agreement shall mean VPRA unless context clearly means otherwise. In the event VRPA is dissolved, the references to DRPT shall again refer to DRPT.
IN WITNESS WHEREOF, the Railroad and Commissions have caused their names to be signed hereto by their officers thereunto duly authorized and their seals, duly attested, to be hereunto affixed as of the day and year first above written.

Attest: CSX TRANSPORTATION, INC.

__________________________________  By: __________________________
Secretary Title:

Attest: NORTHERN VIRGINIA TRANSPORTATION COMMISSION and POTOMAC AND RAPPAHANNOCK TRANSPORTATION COMMISSION

__________________________________  By: __________________________
Secretary Title:
EXHIBIT A

SERVICE PLAN

[TO COME ONCE FINALIZED]
EXHIBIT B

CSXT-DISPATCHED TRACKS

[TO COME FROM CSXT]
EXHIBIT B-2
COMMONWEALTH-OWNED TRACKS
[TO COME]
EXHIBIT C-1

CONTRACT FEE

[TO COME ONCE FINALIZED]
EXHIBIT C-2

SAMPLE INVOICE

CSX Appendix and Invoice Format
Invoice for Virginia Railway Express Operations
Jul-20

<table>
<thead>
<tr>
<th>CONTRACT FEE</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>I General Supervision</td>
<td>12,740</td>
<td></td>
</tr>
<tr>
<td>VRE Trainmaster</td>
<td>10,529</td>
<td></td>
</tr>
<tr>
<td>VRE Commuter Desk Specialist</td>
<td>10,109</td>
<td></td>
</tr>
<tr>
<td>G&amp;A</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>33,377.76</strong></td>
<td></td>
</tr>
</tbody>
</table>

| II Access Fee         | **630,691.78** |

| III Contract Fee Total| **664,069.54** |

SUPPLIED SERVICES

| Communications Monthly Charge: | TBD |
| Expenses:                      | TBD |
| Special Trains:                | TBD |
| Sub Total:                     | $   |

TOTAL DUE: **664,069.54**
EXHIBIT C-3

LABOR RATES

[TO BE ATTACHED]
EXHIBIT D

NORTHERN VIRGINIA AND POTOMAC RAPPAHANNOCK TRANSPORTATION COMMISONS COMMUTER RAIL OPERATIONS LIABILITY INSURANCE PLAN

[TO BE ATTACHED]
EXHIBIT E

PASSENGER FACILITIES

[TO COME FROM CSXT AFTER AMENDMENT TO LEASE]
EXHIBIT F

SPECIAL TRAINS

[TO BE ATTACHED]
EXHIBIT G

COMPREHENSIVE RAIL AGREEMENT

[TO COME ONCE FINALIZED]
EXHIBIT H

JOINT OPERATING AND MAINTENANCE AGREEMENT

[TO COME ONCE FINALIZED]
Second Amendment to the Master Lease Agreement

This Second Amendment to the Master Lease Agreement ("Amendment"), is made this [●] day of [●], 2021 (the “Amendment Effective Date”), by and among CSX Transportation, Inc., as lessor (the “Railway”), and the Northern Virginia Transportation Commission and the Potomac and Rappahannock Transportation Commission, as lessees (collectively the “Commissions,” and the Commissions and the Railway are collectively referred to herein as the “Parties”).

WHEREAS, the Parties entered into the Master Lease Agreement ("MLA") dated May 6, 2013, as amended by the Supplement and Amendment Agreement, dated June 28, 2019, under which Railway leases to the Commissions the surface rights to certain commuter rail stations, some of which preceded the start of the Commissions’ commuter rail service and some of which were constructed by the Commissions (the “Premises”).

WHEREAS, Railway and the Virginia Department of Passenger Rail Transportation ("DRPT") have entered into that certain Comprehensive Rail Agreement (the “CRA”) pursuant to which DRPT will purchase from Railway, among other property, a portion of the RF&P Corridor (the portion so purchased, “Segment 1”), subject to a retained, perpetual, exclusive freight easement, governed by the Joint Operating and Maintenance Agreement (“JOMA”).

WHEREAS, the property sold under the CRA includes portions of the Premises that are subject to the MLA.

WHEREAS, the Parties desire to amend the MLA to remove the portion of the Premises located within Segment 1 from the MLA, and to allow the Commissions to retain the remainder, rent free (other than as provided herein), for the duration of the JOMA.

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performances herein contained, and other consideration the receipt and sufficiency of which is hereby acknowledged, and with the intent to be legally bound hereby, the Commissions and Railway agree to incorporate the above recitals into this Amendment and further contract, promise and agree as follows:

1. **Premises.** The Premises are hereby revised to reflect the station sites in accordance with Exhibit A.

2. **Term.** The Term of the MLA is hereby revised to be coterminous with the Amended and Restated Operating Access Agreement between Railway and the Commissions dated as of the Amendment Effective Date, unless earlier terminated in accordance with Section 12 of the MLA.

3. **Rent.** The Commissions are hereby relieved of their obligation to pay rent for (i) the Premises as the Premises exist on the Amendment Effective Date, and (ii) additions to or expansions of the Premises at the Alexandria, Franconia, Quantico, and Fredericksburg stations sites that are advanced beyond conceptual design (30%) phase as of the
Amendment Effective Date. Any future additions to or expansion of the Premises shall be subject to market rent to be paid by the Commissions to the Railway.

4. Future Additions and/or Expansions. Any future additions to or expansions of the Premises shall be subject to the Railway’s approval and a written amendment to the MLA executed by all Parties prior to the commencement of any construction.

5. Effective Date. This Amendment shall be effective as of the Amendment Effective Date.

6. No Other Changes. Other than as expressly set forth in this Amendment, the MLA shall remain in full force and effect.

IN WITNESS WHEREOF, each of the undersigned, intending to be legally bound, has caused this Amendment to be executed and delivered as of the Amendment Effective Date.

CSX Transportation, Inc.

By: _____________________________
Name: ___________________________
Title: ___________________________

Northern Virginia Transportation Commission

By: _____________________________
Name: ___________________________
Title: ___________________________

Potomac and Rappahannock Transportation Commission

By: _____________________________
Name: ___________________________
Title: ___________________________
Exhibit A

(Premises)

[To Be Inserted]
To:        Chair Bennett-Parker and the VRE Operations Board  
From:      Rich Dalton  
Date:      April 16, 2021  
Re:        Spending Authority Report

On September 18, 2020, the VRE Operations Board approved increasing the Chief Executive Officer’s delegated spending authority from $100,000 to $200,000. It was resolved as part of that increased delegation that any purchase or contract award in the range of $50,000 to $200,000 would be communicated to the Board as an information item.

▪ On March 9, 2021, VRE issued a Task Order to Vanasse Hangen Brustlin, Inc. in an amount not to exceed $71,004 under the General Planning Consulting Services (GPC) contract to provide real estate acquisition negotiation services for the proposed purchase of the Contractors Storage LLC properties associated with the Broad Run Expansion project.

▪ On March 18, 2021, VRE amended an existing Task Order for Passenger Car Truck Overhaul Oversight with STV Incorporated under the Mechanical Engineering Consulting Services (MEC) contract to increase the total commitment for this Task Order by $30,037 to an amount not to exceed $122,148.

▪ On March 18, 2021, VRE amended an existing Task Order for General Engineering Services with STV Incorporated under the Mechanical Engineering Consulting Services (MEC) contract to increase the total commitment for this Task Order by $67,141 to an amount not to exceed $165,351.

▪ On March 18, 2021, VRE amended an existing Task Order for Engineering Services for Life Cycle Maintenance with STV Incorporated under the Mechanical Engineering Consulting Services (MEC) contract to increase the total commitment for this Task Order by $65,815 to an amount not to exceed $163,537.
On March 26, 2021, VRE issued a Sole Source Purchase Order to Winchester Interconnect in the amount of $99,994 to acquire new communication and multiple unit cables for VRE’s fleet of locomotives and railcars.

On March 31, 2021, VRE issued a Blanket Purchase Order to Railroad Friction Products in an amount not to exceed $60,000 to acquire new brake shoes on an as needed basis for VRE’s fleet of locomotives and railcars.
To: Chair Bennett-Parker and the VRE Operations Board  
From: Rich Dalton  
Date: April 16, 2021  
Re: Construction Manager/General Contractor (CM/GC) Alternative Delivery Method

VRE plans to use the Construction Manager/General Contractor (CM/GC) alternative delivery method for the Alexandria Station Improvement Project and subsequently other projects in the Capital Improvement Program. This alternative delivery method is also referred to as Construction Manager at Risk (CMAR). This approach, which was used by PRTC to construct its Western Bus Facility and is currently used to construct an equipment maintenance facility for MARC trains, allows the CMAR to advise VRE and the engineer-of-record on constructability, schedule, sequencing, selection of components and materials, and other matters prior to finalizing design. When the design is completed, the CMAR becomes the builder, or general contractor, responsible or “at risk” for completing construction within the Guaranteed Maximum Price (GMP) for the contract. Therefore, as opposed to the design-bid-build method, the CMAR plays a part in the design process and, together with VRE and the engineer-of-record, proactively tackles concerns about constructability, schedule, sequencing, etc. that often lead to costly change orders during construction. Additionally, during the procurement process for this alternate delivery method, VRE is able to evaluate the qualifications of prospective contractors as well as negotiate the price or GMP for the project.

Staff will provide a presentation outlining the process and benefits for using the CM/GC alternative delivery method.
VRE OPERATIONS BOARD MEETING

Construction Manager / General Contractor (CM/GC) Presentation

April 16, 2021

Meeting materials are available at vre.org/about/board/board-agenda-minutes/2021/April
Construction Contract Mechanisms

- **Design-Bid-Build (D-B-B)**
  - Most Common / Traditional Method
  - Smaller / Less Complex Projects

- **Construction Management / General Contractor (CM/GC)**
  - Relatively New Delivery Method
  - Various Size Projects / Greater Complexity

- **Design-Build (D-B)**
  - Most common ‘alternate delivery’ method
  - Very large / complex projects
# Construction Contract Mechanisms

## D-B-B
- **Owner**
- **Designer**

## CM/GC
- **Owner**
- **Contractor**
- **Designer**

## D-B
- **Owner**
- **Contractor**
- **Designer**

---

**Source:** Texas Transportation Institute, Virginia Railway Express Congestion Relief Contribution; 2014

**Information Item 8B**

---

**8B-04-2021-Attachment 1**
What Is Construction Manager/General Contractor (CM/GC) Alternative Delivery Method?

CM/GC = CMR = CMAR
Contract with Designer and Contractor

Two-Phase Contract with Contractor:

- **Phase I:**
  Construction Management

- **Phase II:**
  General Contracting
Two-Phase Contracting

PRE-CONSTRUCTION

- Construction Manager

Professional Services

CONSTRUCTION

- General Contractor

Price Agreement: TMP or GMP

Construction Contract 2
CM/GC Collaboration

Information Item 8B
Why Owners Use CM/GC

- Manage inherent project risks
- Opportunities for innovation
- Need for specialized qualifications
- Benefits from early procurement
- Limited or fixed budget
**Owner Benefits**

- **Risk Reduction and Allocation**
- **Improved Cost Control**
- **Improved Design Quality**
- **Schedule Optimization**
- **Collaboration**
CM/GC Risk Management

**Analyze** risk impacts and cost *before* the final schedule and cost of the project is determined.

**Jointly** analyze, allocate, and mitigate risk earlier in the project.

**Manage** risk that can adversely impact schedule and budget.
Other Transportation Owners / Agencies

- Commuter Railroads
- Transit Agencies
- State DOTs
## Construction Manager/General Contractor Method

<table>
<thead>
<tr>
<th>Project Traits</th>
<th>D-B-B</th>
<th>CM/GC</th>
<th>D-B</th>
</tr>
</thead>
<tbody>
<tr>
<td>Risk Management</td>
<td>Very limited</td>
<td>Very effective</td>
<td>Best for risk shifting</td>
</tr>
<tr>
<td>Collaboration w/Designer &amp; Contractor</td>
<td>Very limited</td>
<td>Very collaborative</td>
<td>Moderate collaboration, contractual limitations</td>
</tr>
<tr>
<td>Price Certainty</td>
<td>None, subject to over-runs and change orders</td>
<td>Very effective, early price certainty during project development</td>
<td>Very effective, early price certainty during project development</td>
</tr>
<tr>
<td>Schedule Acceleration/Compression</td>
<td>No ability to overlap design &amp; construction, can accelerate construction with A+B</td>
<td>Ability to overlap design &amp; construction, ability to optimize schedule not just accelerate</td>
<td>Ability to overlap design &amp; construction, very effective for accelerating project delivery</td>
</tr>
<tr>
<td>Construction Quality</td>
<td>Low bid can compromise quality</td>
<td>Very beneficial to building a quality project</td>
<td>Very beneficial to building a quality project</td>
</tr>
</tbody>
</table>
## Construction Manager/General Contractor Method

<table>
<thead>
<tr>
<th>Project Traits</th>
<th>D-B-B</th>
<th>CM/GC</th>
<th>D-B</th>
</tr>
</thead>
<tbody>
<tr>
<td>Innovation</td>
<td>Design innovation only, very limited opportunities for contractor innovation</td>
<td>Very effective for capturing design and construction innovation</td>
<td>Very effective for capturing design and construction innovation</td>
</tr>
<tr>
<td>Constructability</td>
<td>Very difficult to obtain construction input during design</td>
<td>Optimal delivery method for obtaining construction input before design is complete</td>
<td>Effective delivery method for obtaining construction input before design is complete</td>
</tr>
<tr>
<td>Owner Control</td>
<td>High level control</td>
<td>Optimal level of owner control</td>
<td>Somewhat limited owner control, more performance-based outcome</td>
</tr>
<tr>
<td>Competitive Pricing</td>
<td>High level</td>
<td>Somewhat limited, competitive markup not final project cost</td>
<td>Good competition, but usually limited to short-listed teams</td>
</tr>
</tbody>
</table>
Information Item 8B

CM/GC Method  Additional Resources

Federal Highway Administration (FHWA)
FHWA CM/GC Description and Fact Sheet

Minnesota DOT – Benefits of CM/GC
MnDOT Benefits

Construction Management Association of America (CMAA)
CMAA Owner's Guide to Delivery Methods
Agenda Item 8-C
Information Item

To: Chair Bennett-Parker and the VRE Operations Board
From: Rich Dalton
Date: April 16, 2021
Re: Use of Federal Relief Funds in the FY 2022 Operating Budget

Summary of Recommendation
VRE staff recommends the Operations Board consider utilizing available federal pandemic relief funds to replace local jurisdictional operating subsidy and state reimbursement of track access fees in VRE’s FY 2022 budget. In total, approximately $29 million of relief funds would be utilized to replace these revenue sources. If this recommendation is supported by the Operations Board, VRE staff further recommends that an amended FY 2022 budget reflecting these changes be presented to the Operations Board in May for approval and referral to the Commissions in June, prior to the start of FY 2022 on July 1.

Pandemic Relief Funding
Three separate federal COVID-19 relief acts have been passed since the onset of the pandemic in March 2020, and each of these acts contains funds to support transit agencies. All the transit relief funds are being distributed through existing FTA programs (the Section 5307 program for VRE). The funds are provided to designated recipients in each urbanized area (UZA) and then allocated via “split letter” to the individual transit agencies. VRE is part of the Washington-DC-MD-VA UZA, with WMATA as our region’s designated recipient. The three relief acts are:

- **CARES Act**: This act was signed in March 2020, and the split letter allocating $86.1 million to VRE was executed in April 2020.
- **CRRSAA**: This act was signed in December 2020, and the split letter allocating approximately $70 million to VRE was executed in March 2021.
- **American Rescue Plan Act (ARPA)**: This act was signed in March 2021, and transit agencies are awaiting apportionment data from FTA to begin the split letter process.

FTA guidance states that relief funds should be prioritized for the agency’s operating budget but can be used for capital if the agency can certify that they have not furloughed any workers.
VRE FY 2022 Budget

VRE’s FY 2022 budget was approved by the Operations Board in December 2020, prior to the passage of CRRSAA. The budget did not assume the availability of any relief funding beyond the CARES Act, and all the CARES relief funding was programmed to replace lost passenger revenue (except for a required 1% set aside for safety/security projects being used for security cameras). The budget assumed the following use of CARES funding:

- $3 million in FY2020-Q4
- $32 million in FY2021 (only $10 million of fare revenue)
- $24 million in FY 2022 ($18 million fare revenue)

This leaves approximately $26 million available for FY 2023 and beyond.

Relief for Local/State Funding Partners

With CRRSAA now passed and allocated, VRE has the opportunity to provide relief to its local and state funding partners. VRE staff recommends the Operations Board considers using relief funds to replace local jurisdiction operating subsidy and state reimbursement of track access fees in the FY 2022 budget:

- The total jurisdictional subsidy for FY 2022 is $18.30 million. The operating portion of the subsidy is $13.54 million or 74% of the total. The remaining amount comprises $1.76 million for local capital match on debt service and CIP projects and a $3.0 million contribution to VRE capital reserve.
- The total budgeted track access fee expense for all three host railroads (NS, CSX, and Amtrak) in FY 2022 is $18.62 million. The budget includes state reimbursement at 84% of the total, or $15.64 million.

Between these two items, $29.2 million of relief funds would be applied in the FY 2022 budget. Jurisdictions will be able to reprogram the subsidy funds for other critical transportation projects and prevent cuts to important programs. The Commonwealth will be able to advance its Transforming Rail in Virginia (TRV) program more quickly, with major benefits to VRE, and potentially prevent reductions to important transit State of Good Repair efforts in the region and across the state.

ARPA complicates the recommendation outlined above but should not change the overall result. ARPA has deadlines for obligating and spending the funds that CARES and CRRSAA do not. Because of these deadlines, the American Public Transportation Association (APTA) and other organizations have initially suggested that agencies may wish to reprioritize their funding and use ARPA funds first. VRE staff expect to have clarity on the prioritization of funding source(s) later this spring.

If ridership and fare revenue recover strongly over the next 6-8 months as vaccinations are widely available and employees return to work, staff expect to propose similar local and state relief in the FY 2023 budget. If ridership is still substantially lagging, we would likely need to reserve additional funds to backfill passenger revenue but could potentially still provide partial relief on subsidy and access fees.
Proposed Reduction in FY 2022 Subsidy by Jurisdiction

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Approved Total FY 2022 Subsidy</th>
<th>Proposed Operating Subsidy Relief (74%)</th>
<th>Proposed Total FY 2022 Subsidy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fairfax County</td>
<td>$6,379,017</td>
<td>($4,721,011)</td>
<td>$1,658,006</td>
</tr>
<tr>
<td>Prince William County</td>
<td>$5,930,777</td>
<td>($4,389,276)</td>
<td>$1,541,501</td>
</tr>
<tr>
<td>Stafford County</td>
<td>$2,477,175</td>
<td>($1,833,319)</td>
<td>$643,856</td>
</tr>
<tr>
<td>Spotsylvania County</td>
<td>$1,503,754</td>
<td>($1,112,905)</td>
<td>$390,849</td>
</tr>
<tr>
<td>Manassas County</td>
<td>$807,234</td>
<td>($597,421)</td>
<td>$209,813</td>
</tr>
<tr>
<td>Manassas Park</td>
<td>$468,364</td>
<td>($346,629)</td>
<td>$121,735</td>
</tr>
<tr>
<td>Fredericksburg</td>
<td>$367,089</td>
<td>($271,677)</td>
<td>$95,412</td>
</tr>
<tr>
<td>Arlington County</td>
<td>$218,219</td>
<td>($161,500)</td>
<td>$56,719</td>
</tr>
<tr>
<td>Alexandria</td>
<td>$149,151</td>
<td>($110,384)</td>
<td>$38,767</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$18,300,780</strong></td>
<td><strong>($13,544,122)</strong></td>
<td><strong>$4,756,658</strong></td>
</tr>
</tbody>
</table>

Other Potential Uses of Relief Funds

Beyond the FY 2022 and 2023 operating budgets, staff continues to analyze the potential use of relief funds for (a) filling existing funding gaps in the VRE CIP budget and (b) advancing VRE’s components of the TRV program, particularly planned additional service and contributions to larger planned capital improvements. The TRV funding and access agreements are being finalized by all parties now, and the ARPA funding amounts, timelines, and eligible uses will be clearer in the coming weeks. Staff expects to return to the Operations Board for additional discussion on this subject later in the spring.
Pursuant to the Virginia Freedom of Information Act (Section 2.2-3711.A(6) and (8) of the Code of Virginia), I move that the VRE Operations Board convene a closed meeting for the purpose of discussing the investment of public funds related to the provision of commuter rail service where competition or bargaining is involved, where, if made public initially, the financial interest of the Commissions would be adversely affected, and for consultation with legal counsel and staff concerning the terms and conditions of an agreement for the provision of such public funds.

________________________ Moved
________________________ Seconded

Vote __ Unanimous

CERTIFICATION

The VRE Operations Board certifies that, to the best of each member's knowledge and with no individual member dissenting, at the just concluded Closed Session:

1. Only public business matters lawfully exempted from open meeting requirements under the Freedom of Information Act were discussed; and,

2. Only such public business matters as were identified in the motion by which the Closed Session was convened were heard, discussed or considered.

________________________ Moved
________________________ Seconded

Vote __ Unanimous