



COMMONWEALTH of VIRGINIA

Virginia Passenger Rail Authority

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Zach Trogon
Interim Chairperson

RESOLUTION OF THE VIRGINIA PASSENGER RAIL AUTHORITY BOARD

August 27, 2024

MOTION

Made By: Rhinehart Seconded By: Cardwell

Action: Motion carried, unanimously

Title: Authority to Execute 2024 Comprehensive Rail Agreement between Virginia Passenger Rail Authority and Norfolk Southern

WHEREAS, on January 10, 2022, the Virginia Passenger Rail Authority (“VPRA”) and Norfolk Southern Railway Company (“Norfolk Southern”) entered into a *Comprehensive Rail Agreement* (the “2022 CRA”); and

WHEREAS, the 2022 CRA permits VPRA to, *inter alia*, purchase from Norfolk Southern the Virginian Line and to use it to extend passenger rail service from Roanoke to the New River Valley; and

WHEREAS, due to the high cost of extending passenger rail service to New River Valley *via* the Virginian Line, VPRA and Norfolk Southern have negotiated an *Amended and Restated Comprehensive Rail Agreement* (the “2024 CRA”) the form of which is attached hereto as **EXHIBIT A**; and

WHEREAS, the 2024 CRA would permit VPRA to, *inter alia*, (i) extend passenger rail service from Roanoke to the New River Valley *via* the Norfolk Southern mainline known as the “N-Line”, (ii) sell back to Norfolk Southern the Virginian Line, and (iii) acquire from Norfolk Southern certain real property interests between approximately mileposts 36.23 in Manassas and 9.25 in Alexandria to facilitate passenger rail service along the Manassas Line.

NOW THEREFORE, BE IT RESOLVED, that the Board hereby authorizes the VPRA Executive Director to execute the 2024 CRA between VPRA and Norfolk Southern in substantially the form attached hereto as **EXHIBIT A**, with any modifications he deems necessary or reasonable.

EXHIBIT A

[SEE ATTACHED]

####

AMENDED AND RESTATED COMPREHENSIVE RAIL AGREEMENT

BETWEEN

NORFOLK SOUTHERN RAILWAY COMPANY

AND

THE VIRGINIA PASSENGER RAIL AUTHORITY

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AMENDED AND RESTATED COMPREHENSIVE RAIL AGREEMENT

THIS AMENDED AND RESTATED COMPREHENSIVE RAIL AGREEMENT (“**Agreement**”), is made and entered into as of this [●] day of [●], 2024 (the “**Execution Date**”), by and between **NORFOLK SOUTHERN RAILWAY COMPANY**, a Virginia corporation (herein referred to as “**Norfolk Southern Railway**”), and the **VIRGINIA PASSENGER RAIL AUTHORITY**, a political subdivision of the Commonwealth of Virginia (hereinafter referred to as “**VPRA**”). Norfolk Southern Railway and VPRA hereinafter sometimes may be referred to collectively as the “**Parties**” or individually as a “**Party**.”

RECITALS

WHEREAS, VPRA desires to improve Passenger Rail Service in western and northern Virginia in the rail corridor between Alexandria and Radford (each as defined herein) (the “**Corridor**”), including over railway assets currently owned by, or under the primary control of, Norfolk Southern Railway;

WHEREAS, the Parties previously entered into a Comprehensive Rail Agreement, dated January 10, 2022 (the “**2022 CRA**”), that provided for, among other things, the conveyance of the Purchased V-Line (as defined in the 2022 CRA) and a Passenger Easement for the Roanoke Easement Area (as defined in the 2022 CRA) from Norfolk Southern Railway to VPRA and certain other provisions related to the improvement of Passenger Rail Service in western Virginia;

WHEREAS, in exchange for the V-Line Conveyed Property (as defined herein), Norfolk Southern Railway has agreed to transfer, or cause to be transferred, to VPRA, and VPRA has agreed to purchase from Norfolk Southern Railway, certain railroad assets, including right-of-way and personal property along and within a railroad corridor within the City of Alexandria, Commonwealth of Virginia that are part of the rail line designated by Norfolk Southern Railway as the Seminary Passage located between a point at or about MP 9.25 in Alexandria and a point at or about MP 10.76 also in the City of Alexandria, Commonwealth of Virginia, including the Conveyed Horn Track Property and Seminary Yard (each as defined herein), as is further depicted in Exhibit H-1 (Existing Valuation Maps (Seminary Passage)) and described in Exhibit H (Real Property Description (Seminary Passage)) (the “**Seminary Passage**”), subject to Norfolk Southern Railway’s retention of particular assets located along and within the railroad corridor, as are specifically identified below in Section 2.1(d) (Manassas Passenger Easement; NSR-Conveyed Property), and Norfolk Southern Railway’s retention of (a) the Seminary Passage Freight Easement (as set forth and defined in Section 5.5(e)(v) (Second Closing)) set forth in the Seminary Passage Deed (as defined below) and (b) certain other reservations and restrictions set forth in Section 5.5 (Second Closing) and Section 5.6 (Restrictive Covenants for Manassas Line Conveyed Property and Seminary Passage Conveyed Property);

WHEREAS, Norfolk Southern Railway has agreed to sell, or cause to be sold, to VPRA, and VPRA has agreed to purchase from Norfolk Southern Railway, certain railroad assets, including right-of-way and personal property along and within a railroad corridor extending between the City of Alexandria and the City of Manassas, Commonwealth of Virginia, that are part of the rail line designated by Norfolk Southern Railway as the Manassas Line located between a point at or about MP 10.76 in Alexandria and a point at or about MP 32.75 in Manassas as is

further depicted in Exhibit B-1 (*Existing Valuation Maps (Manassas Line)*) and described in Exhibit B (*Real Property Description (Manassas Line)*) (the “**Manassas Line**”), subject to Norfolk Southern Railway’s retention of particular assets located along and within the railroad corridor, as are specifically identified below in Section 2.1(d) (*Manassas Passenger Easement; NSR-Conveyed Property*), and Norfolk Southern Railway’s retention of (a) the Manassas Line Freight Easement (as set forth and defined in Section 5.3(e) (*Conveyance of Manassas Line Conveyed Property*)) set forth in the Manassas Line Deed (as defined below) and (b) certain other reservations and restrictions set forth in Section 5.3 (*Conveyance of Manassas Line Conveyed Property*) and Section 5.6 (*Restrictive Covenants for Manassas Line Conveyed Property and Seminary Passage Conveyed Property*);

WHEREAS, Norfolk Southern Railway has agreed to sell, or cause to be sold, to VPRA and VPRA has agreed to purchase from Norfolk Southern Railway, a continuous strip of land, currently without tracks, between approximately MP 33.6 and MP 36.23 in the City of Manassas, Commonwealth of Virginia, as is further depicted in Exhibit C-1 (*Existing Valuation Maps (Broad Run Corridor)*) and described in Exhibit C (*Real Property Description (Broad Run Corridor)*) (the “**Broad Run Corridor**”), for purposes of VPRA’s construction of an additional passenger-dedicated track leading into the passenger station at Broad Run and the rail yard in the vicinity of such station (such additional passenger-dedicated track the “**Broad Run Pocket Track**”);

WHEREAS, Norfolk Southern Railway has agreed to sell, or cause to be sold, to VPRA and VPRA has agreed to purchase from Norfolk Southern Railway, the land, tracks, and other improvements, to the extent of Norfolk Southern Railway’s current ownership (inclusive of (i) subject to Section 11.5(c) (*Completion and Turnover of NSR-Delivered Scope*), the property underlying the original depot building (the “**Original Depot Building Parcel**”)¹ and (ii) the approximately 6,000 square-foot building located at 800 Depot Street NE in Christiansburg (the “**New Depot Building**”), within or adjacent to the railroad corridor between approximately MP N289.86 and MP N290.20 in Christiansburg, Commonwealth of Virginia, as is further depicted in Exhibit D-1 (*Existing Valuation Maps (NRV Station Parcel)*) and described in Exhibit D (*Real Property Description (NRV Station Parcel)*) (the “**NRV Station Parcel**”), for purposes of accommodating certain passenger rail infrastructure improvements described herein;

WHEREAS, Norfolk Southern Railway has agreed to sell, or cause to be sold, to VPRA and VPRA has agreed to purchase from Norfolk Southern Railway, the approximately five-acre parcel at or near MP NB300.0 in Radford, Commonwealth of Virginia, as is further depicted in Exhibit E-1 (*Existing Valuation Maps (Radford Layover)*) and described in Exhibit E (*Real Property Description (Radford Layover)*) (the “**Radford Layover Parcel**”) to accommodate the Layover Facility;

WHEREAS, Norfolk Southern Railway has agreed to grant, or cause to be granted, to VPRA passenger easements and/or certain operating rights over the Manassas Segment, the NSR-

¹ Note to Draft: Will need a better way to refer to this parcel ultimately. Property description and survey to include the platform track and that portion of the property that will become the parking lot. Note to VPRA: NSR is working on this description.

Retained Broad Run Tracks, and the tracks between the NRV Station Parcel and the Radford Layover Parcel (each as defined herein);

WHEREAS, in exchange for the Seminary Passage Conveyed Property (as defined herein), VPRA has agreed to transfer back to Norfolk Southern Railway, and Norfolk Southern Railway has agreed to acquire from VPRA the Purchased V-Line, as is further depicted in Exhibit F-1 (*Existing Valuation Maps (V-Line Conveyed Property)*) and described in Exhibit F (*Real Property Description (V-Line Conveyed Property)*), along with any and all railroad assets and improvements added to the Purchased V-Line since VPRA's acquisition of the Purchased V-Line pursuant to the 2022 CRA;

WHEREAS, VPRA has agreed to make certain funds available to Norfolk Southern Railway to fund Capital Improvements and Capital Maintenance on or affecting the railroad corridor south and west of Manassas (including infrastructure potentially located between the Town of Alta Vista, Commonwealth of Virginia, and the Town of Narrows, Commonwealth of Virginia, on Norfolk Southern Railway's Alta Vista Line) in order for Norfolk Southern Railway to develop, maintain, and otherwise mitigate the effects of Passenger Rail Service under this Agreement (such purposes being the "**WVRI Grant Purposes**");

WHEREAS, VPRA has agreed to make certain funds available to Norfolk Southern Railway to fund Capital Improvements and Capital Maintenance between the passenger rail platform at Roanoke and Radford, in each case invested in (i) the N-Line and/or (ii) the Purchased V-Line east of the Salem Crossovers (collectively, the "**Roanoke/Radford Improvements**"), in each case in order to improve fluidity of Passenger Rail Service between such points (such purposes being the "**Passenger Capacity Grant Purposes**"); and

WHEREAS, the Parties desire to amend and restate the 2022 CRA to address the items set forth above, to address the items otherwise set forth herein and to otherwise establish their respective rights, responsibilities, and obligations for the consummation of the foregoing (collectively, the "**Transaction**");

NOW THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, intending to be legally bound, do hereby agree as follows.

Article 1

Definitions; Exhibits and Schedules; 2022 CRA

1.1 Definitions

All capitalized terms used in this Agreement, and not otherwise expressly defined in the main body of this Agreement, shall have the respective meanings set forth in Exhibit A (*Definitions*).

1.2 Exhibit and Schedules

Attached hereto and forming an integral part of this Agreement are Exhibit A – Exhibit [DD], all of which are incorporated into this Agreement as fully as if the contents thereof were set out in full herein at each point of reference thereto.

1.3 2022 CRA Transfer of Purchased V-Line and Passenger Easement for Roanoke Easement Area

The Parties acknowledge and agree that (i) Article 1 (*Definitions; Exhibits and Schedules*) through Article 7 (*Representations and Warranties*) of the 2022 CRA provided for the sale and transfer of the Purchased V-Line from Norfolk Southern Railway to VPRA and the provision of the Passenger Easement for the Roanoke Easement Area; (ii) such sale and transfer closed and was fully performed by the Parties; (iii) as a result, those provisions have been removed from this Agreement; and (iv) the replacement of Article 1 (*Definitions; Exhibits and Schedules*) through Article 7 (*Representations and Warranties*) of the 2022 CRA with Article 1 (*Definitions; Exhibits and Schedules; 2022 CRA*) through Article 7 (*Representations and Warranties*) of this Agreement does not, in and of itself, alter or diminish the prior operation of those provisions of the 2022 CRA or the effectiveness of the transfer of the Purchased V-Line or the Passenger Easement for the Roanoke Easement Area granted pursuant to those provisions of the 2022 CRA. The Parties further acknowledge and agree that the Passenger Easement for the Roanoke Easement Area granted pursuant to the 2022 CRA remains in full force and effect.

Article 2 Sale and Purchase

2.1 Manassas Passenger Easement; NSR-Conveyed Property

(a) Manassas Passenger Easement

Norfolk Southern Railway agrees to sell, or cause to be sold, to VPRA and VPRA agrees to purchase from Norfolk Southern Railway, subject to the terms and conditions hereinafter set forth a perpetual, irrevocable, assignable, divisible, licensable and transferable easement for passenger rail purposes over the lines owned by Norfolk Southern Railway between MP 32.75 and MP 33.6 (the “**Manassas Segment**”) all as generally shown as the areas on the maps referenced as the Manassas Segment Valuation Maps in Exhibit G-1 (*Existing Valuation Maps (Manassas Segment)*), with cut points to be indicated on the diagram in Exhibit G-1 (*Existing Valuation Maps (Manassas Segment)*) prior to Initial Closing in accordance with the legal description prepared in accordance with Section 5.10(a) (*Legal Descriptions*) and which easement will provide that VPRA’s use shall not Unreasonably Interfere with Freight Rail Operations (the “**Manassas Passenger Easement**”).

(b) **NSR-Conveyed Property**

Norfolk Southern Railway agrees to sell, or cause to be sold, to VPRA and VPRA agrees to purchase from Norfolk Southern Railway, subject to the terms and conditions hereinafter set forth, the following real property, equipment, fixtures and improvements of Norfolk Southern Railway, except as may be excluded as Excluded Property (as defined below):

- (i) all right, title and interest in the land and improvements of Norfolk Southern Railway to the Manassas Line, together with all servitudes, easements, appurtenances and hereditaments appertaining thereto, all as generally shown as the areas on the maps referenced as the Manassas Line Real Property Valuation Maps in Exhibit B-1 (Existing Valuation Maps), with cut points to be indicated on the diagram in Exhibit B-1 (Existing Valuation Maps) prior to Initial Closing in accordance with the legal description prepared in accordance with Section 5.10(a) (Legal Descriptions), including the Conveyed Passenger Stations Property and only those improvements identified on the Bill of Sale set forth in Exhibit B-2 (Bill of Sale (Manassas Line)) and being situated generally within the Commonwealth (the “**Manassas Line Real Property**”); *provided* that VPRA’s use of the Manassas Line Real Property shall not Unreasonably Interfere with Freight Rail Operations on the Manassas Line, the Manassas Segment, the Seminary Passage, or the NSR ROW;
- (ii) all right, title and interest in and to any and all personal property, fixtures, and improvements located upon the Manassas Line Real Property, including all of Norfolk Southern Railway’s interest in all rail, ballast, tracks, communications equipment, signals, structures, landscaping, and appurtenances located on the Manassas Line Real Property (the “**Manassas Line Personal Property**”);
- (iii) all right, title and interest in and to any easements, drainage rights, licenses, privileges, adjacent streets, roads, alleys or rights of way, bridges, and all development rights, entitlements, permits, certificates of occupancy, consents and approvals whether governmental or otherwise, located on the Manassas Line Real Property or relating to the use, operation or maintenance of the Manassas Line Real Property or Manassas Line Personal Property (the “**Manassas Line Miscellaneous Property**”);
- (iv) all right, title and interest in the land and improvements of Norfolk Southern Railway in the Seminary Passage, all as generally shown as the areas on the maps referenced as the Seminary Passage Valuation Maps in Exhibit H-1 (Existing Valuation Maps (Seminary Passage)), with cut points to be indicated on the diagram in Exhibit H-1 (Existing Valuation Maps (Seminary Passage)) prior to the Second Closing in accordance with the legal description prepared in accordance with Section 5.10(a) (Legal Descriptions), together with all servitudes, easements, appurtenances and

hereditaments appertaining thereto, all as generally shown as the areas on the maps referenced as the Seminary Passage Real Property Valuation Maps in Exhibit H-1 (*Existing Valuation Maps (Seminary Passage)*), with cut points to be indicated on the diagram in Exhibit H-1 (*Existing Valuation Maps (Seminary Passage)*) prior to the Second Closing in accordance with the legal description prepared in accordance with Section 5.10(a) (*Legal Descriptions*), including only those improvements identified on the Bill of Sale set forth in Exhibit H-2 (*Bill of Sale (Seminary Passage)*) and being situated generally within the Commonwealth (the “**Seminary Passage Real Property**”); *provided* that VPRA’s use of the Seminary Passage Real Property shall not Unreasonably Interfere with Freight Rail Operations on the Manassas Line, the Manassas Segment, the Seminary Passage, or the NSR ROW;

- (v) all right, title and interest in and to any and all personal property, fixtures, and improvements located upon the Seminary Passage Real Property, including all of Norfolk Southern Railway’s interest in all rail, ballast, tracks, communications equipment, signals, structures, landscaping, and appurtenances located on the Seminary Passage Real Property (the “**Seminary Passage Personal Property**”);
- (vi) all right, title and interest in and to any easements, drainage rights, licenses, privileges, adjacent streets, roads, alleys or rights of way, bridges, and all development rights, entitlements, permits, certificates of occupancy, consents and approvals whether governmental or otherwise, located on the Seminary Passage Real Property or relating to the use, operation or maintenance of the Seminary Passage Real Property or Seminary Passage Personal Property (the “**Seminary Passage Miscellaneous Property**”);
- (vii) all right, title and interest in the land and improvements of Norfolk Southern Railway to the Broad Run Corridor, together with all servitudes, easements, appurtenances and hereditaments appertaining thereto, all as generally shown as the areas on the maps referenced as the Broad Run Real Property Valuation Maps in Exhibit C-1 (*Existing Valuation Maps (Broad Run Corridor)*), including only those improvements identified on the Bill of Sale set forth in Exhibit C-2 (*Bill of Sale (Broad Run Corridor)*) and being situated generally within the Commonwealth (the “**Broad Run Real Property**”); *provided* that VPRA’s construction on and use of the Broad Run Real Property shall not Unreasonably Interfere with Freight Rail Operations on the Manassas Line, the Manassas Segment, the Seminary Passage, or the NSR ROW;
- (viii) all right, title and interest in and to any and all personal property, fixtures, and improvements located upon the Broad Run Real Property, including all of Norfolk Southern Railway’s interest in all rail, ballast, tracks, communications equipment, signals, structures, landscaping, and

appurtenances located on the Broad Run Real Property (the “**Broad Run Personal Property**”);

- (ix) all right, title and interest in and to any easements, drainage rights, licenses, privileges, adjacent streets, roads, alleys or rights of way, bridges, and all development rights, entitlements, permits, certificates of occupancy, consents and approvals whether governmental or otherwise, located on the Broad Run Real Property or relating to the use, operation or maintenance of the Broad Run Real Property or Broad Run Personal Property (the “**Broad Run Miscellaneous Property**”);
- (x) all right, title and interest in the land and improvements of Norfolk Southern Railway to the NRV Station Parcel, together with all servitudes, easements, appurtenances and hereditaments appertaining thereto, all as generally shown as the areas on the maps referenced as the NRV Station Real Property Valuation Maps in Exhibit D-1 (*Existing Valuation Maps (NRV Station Parcel)*), including only those improvements to be identified on the final Bill of Sale and being situated generally within the Commonwealth which shall not include the Norfolk Southern Railway mainline track (the “**NRV Station Real Property**”); *provided* that VPRA’s construction on and use of the NRV Station Real Property shall not Unreasonably Interfere with Freight Rail Operations on the Manassas Line, the Manassas Segment, the Seminary Passage, or the NSR ROW;
- (xi) all right, title and interest in and to any and all personal property, fixtures, and improvements located upon the NRV Station Real Property, including all of Norfolk Southern Railway’s interest in all rail, ballast, tracks, communications equipment, signals, structures, landscaping, and appurtenances located on the NRV Station Real Property (the “**NRV Station Personal Property**”);
- (xii) all right, title and interest in and to any easements, drainage rights, licenses, privileges, adjacent streets, roads, alleys or rights of way, bridges, and all development rights, entitlements, permits, certificates of occupancy, consents and approvals whether governmental or otherwise, located on the NRV Station Real Property or relating to the use, operation or maintenance of the NRV Station Real Property or the NRV Station Personal Property (the “**NRV Station Miscellaneous Property**”);
- (xiii) all right, title and interest in the land and improvements of Norfolk Southern Railway to the Radford Layover Parcel, together with all servitudes, easements, appurtenances and hereditaments appertaining thereto, all as generally shown as the areas on the maps referenced as the Radford Layover Real Property Valuation Maps in Exhibit E-1 (*Existing Valuation Maps (Radford Layover)*), including only those improvements to be identified on the final Bill of Sale and being situated generally within the Commonwealth (the “**Radford Layover Real Property**”); *provided* that VPRA’s

construction on and use of the Radford Layover Real Property shall not Unreasonably Interfere with Freight Rail Operations on the Manassas Line, the Manassas Segment, the Seminary Passage, or the NSR ROW;

- (xiv) all right, title and interest in and to any and all personal property, fixtures, and improvements located upon the Radford Layover Real Property, including all of Norfolk Southern Railway's interest in all rail, ballast, tracks, communications equipment, signals, structures, landscaping, and appurtenances located on the Radford Layover Real Property (the "**Radford Layover Personal Property**"); and
 - (xv) all right, title and interest in and to any easements, drainage rights, licenses, privileges, adjacent streets, roads, alleys or rights of way, bridges, and all development rights, entitlements, permits, certificates of occupancy, consents and approvals whether governmental or otherwise, located on the Radford Layover Real Property or relating to the use, operation or maintenance of the Radford Layover Real Property or Radford Layover Personal Property (the "**Radford Layover Miscellaneous Property**").
- (c) The Parties agree to the following property-related definitions:
- (i) the Manassas Line Real Property, the Manassas Line Personal Property, and the Manassas Line Miscellaneous Property are collectively referenced in this Agreement as the "**Manassas Line Conveyed Property**";
 - (ii) the Seminary Passage Real Property, the Seminary Passage Personal Property, and the Seminary Passage Miscellaneous Property are collectively referenced in this Agreement as the "**Seminary Passage Conveyed Property**";
 - (iii) the Broad Run Real Property, the Broad Run Personal Property, and the Broad Run Miscellaneous Property are collectively referenced in this Agreement as the "**Broad Run Conveyed Property**";
 - (iv) the NRV Station Real Property, the NRV Station Personal Property, and the NRV Station Miscellaneous Property are collectively referenced in this Agreement as the "**NRV Station Conveyed Property**";
 - (v) the Radford Layover Real Property, the Radford Layover Personal Property, and the Radford Layover Miscellaneous Property are collectively referenced in this Agreement as the "**Radford Layover Conveyed Property**";
 - (vi) the Manassas Line Conveyed Property and the Broad Run Conveyed Property are collectively referenced in this Agreement as the "**Initial NSR-Conveyed Property**"; and

- (vii) the Manassas Line Conveyed Property, the Broad Run Conveyed Property, the NRV Station Conveyed Property, the Radford Layover Conveyed Property, and the Seminary Passage Conveyed Property are collectively referenced in this Agreement as the “**NSR-Conveyed Property**”.
- (d) Norfolk Southern Railway and VPRA expressly agree that the NSR-Conveyed Property shall not include any of the following excluded property (“**Excluded Property**”) notwithstanding anything to the contrary in Section 2.1(b) (*NSR-Conveyed Property*):
 - (i) rail, other track material, ties, switches, turnouts, signal systems and other similar improvements that are not affixed to the NSR-Conveyed Property but which may be stored on the NSR-Conveyed Property;
 - (ii) any other such non-affixed personal property, trade fixtures, or equipment owned by, in the possession of, or utilized by, Norfolk Southern Railway, including, without limitation, locomotives, rolling stock, railroad cars, chassis, vehicles, or other moveable equipment owned by, in the possession of, or utilized by, Norfolk Southern Railway and located on the NSR-Conveyed Property;
 - (iii) all right, title and interest to certain third-party agreements (including, without limitation, all third-party agreements for Communication Facilities, Billboard Facilities, and Utility Facilities), along with the various easements necessary to facilitate Norfolk Southern Railway’s continued use and administration of the excluded right, title and interest in such current and future third-party agreements, as more particularly given effect by the Pipe and Wire Easement Agreement, as more particularly defined in this Agreement;
 - (iv) all rights reserved to Norfolk Southern Railway with respect to the Freight Easements or other easements hereunder, as reserved and set forth in the applicable Deed, as more particularly defined in this Agreement;
 - (v) facilities, equipment, and personal property owned or operated by Norfolk Southern Railway (or third parties under agreement with Norfolk Southern Railway) that are retained by Norfolk Southern Railway and operated pursuant to easements for Communication Facilities, Billboard Facilities, and Utility Facilities;
 - (vi) the TBT and all associated assets including, without limitation, all associated real property (including the expansion parcel just east of the TBT), personal property, and agreements, *provided* that Norfolk Southern Railway will convey to VPRA no less than two through tracks within the Corridor and north of the TBT; and
 - (vii) with respect to the NRV Station Conveyed Property and the Radford Layover Conveyed Property, any other items that Norfolk Southern

Railway would like to exclude prior to the NRV Station Closing or the Radford Layover Closing, as applicable, which items shall be subject to the written consent of VPRA, which consent shall not be unreasonably withheld, conditioned, or delayed.

2.2 V-Line Conveyed Property

As the direct and exclusive consideration for VPRA's acquisition of the Seminary Passage Conveyed Property, VPRA agrees to transfer to Norfolk Southern Railway and Norfolk Southern Railway, agrees to acquire from VPRA, subject to the terms and conditions hereinafter set forth:

- (a) the following real property, equipment, fixtures and improvements of VPRA between a point just east of the connection of the Salem Crossovers (at or about MP V-250.9304) to Christiansburg at MP V-279.0, located in Montgomery County, Roanoke County, and the City of Salem, all within the Commonwealth, which constitutes the Purchased V-Line and all railroad assets and improvements added to the Purchased V-Line by VPRA since VPRA's acquisition of the Purchased V-Line pursuant to the 2022 CRA, as set forth herein:
 - (i) all right, title and interest in the land and improvements of VPRA, together with all servitudes, easements, appurtenances and hereditaments appertaining thereto, all as generally shown as the areas on the maps referenced as the V-Line Real Property Valuation Maps in Exhibit F-1 (Existing Valuation Maps (V-Line Conveyed Property)) and being situated generally within the boundaries of Montgomery County, Roanoke County, and the City of Salem, all within the Commonwealth (the "**V-Line Real Property**");
 - (ii) all right, title and interest in and to any and all personal property, fixtures, and improvements located upon the V-Line Real Property including, without limitation, all of VPRA's interest in all rail, ballast, tracks, communications equipment, signals, structures, landscaping, and appurtenances located on the V-Line Real Property, except as may be excluded as Excluded Property (hereinafter defined) (the "**V-Line Personal Property**"); and
 - (iii) all right, title and interest in and to any easements, drainage rights, licenses, privileges, adjacent streets, roads, alleys or rights of way, bridges, and all development rights, entitlements, permits, certificates of occupancy, consents and approvals whether governmental or otherwise, located on the V-Line Real Property or relating to the use, operation or maintenance of the V-Line Real Property or V-Line Personal Property, including, without limitation, all contracts conveyed to VPRA by Norfolk Southern Railway pursuant to the 2022 CRA (the "**V-Line Miscellaneous Property**").

The V-Line Real Property, the V-Line Personal Property, and the V-Line Miscellaneous Property is collectively referenced in this Agreement as the “**V-Line Conveyed Property**,” it being understood and agreed that the V-Line Conveyed Property is identical to the “Purchased V-Line” as that term was defined in the 2022 CRA, plus all railroad assets and improvements added to the Purchased V-Line by VPRA since VPRA’s acquisition of the Purchased V-Line pursuant to the 2022 CRA.

2.3 Purchase Price and Property Exchange

- (a) The purchase price for the Manassas Line, Broad Run Corridor, and Manassas Passenger Easement is \$357,000,000, the purchase price for the NRV Station Conveyed Property is \$1,500,000 (the “**NRV Station Payment**”), and the purchase price for the Radford Layover Conveyed Property is \$400,000 (the “**Radford Layover Payment**”) (such collective amount of \$358,900,000 being the “**Purchase Price**”). The Purchase Price shall be paid and property shall be exchanged as follows:
 - (i) at Initial Closing, VPRA shall pay to Norfolk Southern Railway by wire transfer of immediately available funds to the account or accounts designated by Norfolk Southern Railway an amount in cash equal to \$315,000,000 (the “**Initial Closing Cash Payment**”);
 - (ii) at the Second Closing, the Parties will exchange the following properties, each as full consideration for the other and without the exchange of any cash payments: (A) the Seminary Passage Conveyed Property from Norfolk Southern Railway to VPRA, and (B) the V-Line Conveyed Property from VPRA to Norfolk Southern Railway;
 - (iii) within thirty (30) days after the Turnover Date or such alternate date as determined pursuant to Section 2.3(b) (*Stop Work Notice*) (the “**Final Installment Payment Date**”), VPRA shall pay to Norfolk Southern Railway by wire transfer of immediately available funds to the account or accounts designated by Norfolk Southern Railway an amount in cash equal to \$42,000,000 (the “**Final Installment Payment**”), which amount shall be subject to any adjustment pursuant to Section 3.1(d) (*Title Examination Due Diligence and Purchase Price Adjustments*);
 - (iv) within thirty (30) days after the Turnover Date (the “**NRV Station Closing Date**”), VPRA shall pay to Norfolk Southern Railway by wire transfer of immediately available funds to the account or accounts designated by Norfolk Southern Railway an amount in cash equal to the NRV Station Payment; and
 - (v) within thirty (30) days after the Turnover Date (the “**Radford Layover Closing Date**”), VPRA shall pay to Norfolk Southern Railway by wire transfer of immediately available funds to the account or accounts

designated by Norfolk Southern Railway an amount in cash equal to the Radford Layover Payment.

(b) **Stop Work Notice**

- (i) If, after the Initial Closing, VPRA provides written notice to Norfolk Southern Railway that VPRA determines that the NSR-Delivered Scope would be unaffordable or otherwise not feasible and directs Norfolk Southern Railway to not proceed with the NSR-Delivered Scope or to stop the NSR-Delivered Scope Work (a “**Stop Work Notice**”), then the Parties shall negotiate in good faith for Norfolk Southern Railway to provide VPRA passenger rail access to Christiansburg via the V-Line Conveyed Property under compensation and other terms to be negotiated between the Parties.
 - (ii) If VPRA provides a Stop Work Notice prior to the Initial Closing Date, none of the 2024 CRA Closings shall occur and the Parties’ obligations under this Agreement shall automatically terminate and be subject to the effect of termination provisions set forth in Section 4.5 (*Effect of Termination Prior to Initial Closing*) (it being understood that each Party’s respective obligations under Section 2.3(b)(i) (*Stop Work Notice*) shall survive any such termination in accordance with Section 4.5 (*Effect of Termination Prior to Initial Closing*)).
 - (iii) If VPRA provides a Stop Work Notice to Norfolk Southern Railway after the Initial Closing, then VPRA shall (A) complete the Second Closing in accordance with Section 2.3(a)(ii) (*Purchase Price and Property Exchange*) and (B) make the Final Installment Payment required pursuant to Section 2.3(a)(iii) (*Purchase Price and Property Exchange*) on the later of (1) within thirty (30) days after the date of such Stop Work Notice or (2) December 31, 2025.
 - (iv) If VPRA provides a Stop Work Notice to Norfolk Southern Railway at any time prior to the Final Installment Payment Date, then the NRV Station Closing and the Radford Layover Closing shall not occur and the Parties’ obligations to transfer those parcels shall be terminated and be subject to the effect of termination provisions set forth in Section 4.5 (*Effect of Termination Prior to Initial Closing*).
- (c) Norfolk Southern Railway and VPRA agree that each Party, acting in its sole discretion, shall be entitled to determine its own accounting and tax allocations associated with the Transaction. Prior to the Initial Closing, the Parties shall reasonably cooperate with each other to agree on the fraction of the total Purchase Price to be attributed to the real property interests being conveyed in each jurisdiction (Alexandria, Fairfax, Prince William, Montgomery County, and Radford) for the purpose of computing recordation taxes.

2.4 Earnest Money

No earnest money shall be due under this Agreement.

Article 3

Due Diligence, Purchase Price Adjustments and Pre-Closing Activities

3.1 Title Examination Due Diligence and Purchase Price Adjustments

- (a) Norfolk Southern Railway shall provide VPRA with access to all deeds and other relevant title information in the possession of the real estate department of Norfolk Southern Railway with respect to the NSR-Conveyed Property, the Manassas Segment, and the NSR-Retained Broad Run Tracks no later than July 15, 2024, and VPRA shall have until October 15, 2024 (the “**Study Period**”) to examine title to such properties. If VPRA discovers any material title issues relating to the NSR-Conveyed Property prior to the Initial Closing Date, it will promptly notify Norfolk Southern Railway in writing of such issues (any such written notice, a “**Closing Title Statement**”) at least ten (10) days prior to the Initial Closing Date and VPRA may elect to either (i) terminate this Agreement pursuant to Section 4.4(b)(i) (*Termination Prior to Initial Closing*) or (ii) proceed to Initial Closing hereunder, and will advise Norfolk Southern Railway of such election in the Closing Title Statement. Norfolk Southern Railway shall have seven (7) days from the date of the receipt of the Closing Title Statement to provide written notice to VPRA whether Norfolk Southern Railway elects to either (A) terminate this Agreement or (B) proceed to Initial Closing hereunder. If the Parties elect to proceed to Initial Closing notwithstanding the delivery of a Closing Title Statement from VPRA to Norfolk Southern Railway, then VPRA may preserve any noted material title issues for resolution after Initial Closing pursuant to a Title Deficiency Statement delivered under Section 3.1(b) (*Title Examination Due Diligence and Purchase Price Adjustments*).
- (b) On or prior to the end of the Study Period, VPRA may deliver to Norfolk Southern Railway a written statement (“**Title Deficiency Statement**”) that includes (i) a detailed description of any objections affecting the receipt of Marketable Title to the NSR-Conveyed Property (which detailed description may include, but need not be limited to, issues noted in any Closing Title Statement delivered by VPRA to Norfolk Southern Railway) and (ii) in the event VPRA notes any such objections, VPRA’s reasonable determination of the cost to cure each deficiency of Marketable Title (the total of such costs, the “**Proposed Adjustment Amount**”). The Closing Title Statement and the Title Deficiency Statement shall be prepared by VPRA in good faith and be accompanied by reasonably detailed descriptions of any issues and supporting documentation.
- (c) Norfolk Southern Railway shall have thirty (30) days from the date of the receipt of the Title Deficiency Statement to provide written notice to VPRA (an “**Objection Notice**”) setting forth one or more of the following: (i) Norfolk Southern Railway’s objections to VPRA’s calculation of the Proposed Adjustment

Amount identifying in reasonable detail any amounts disputed by Norfolk Southern Railway in good faith and (ii) such title issues that Norfolk Southern Railway will elect to cure, but shall be under no obligation so to do, prior to December 20, 2024. If Norfolk Southern Railway does timely provide an Objection Notice, thereafter for a period of thirty (30) days, the Parties shall cooperate and negotiate in good faith to reach agreement on the total cost to cure each such disputed title deficiency set forth in the Objection Notice that Norfolk Southern Railway has not elected to cure. If the Parties are unable to reach agreement on the calculation within such thirty (30) days, any disputed items shall be determined by submitting the matter to an Independent Appraiser agreed upon by the Parties, who shall (A) act as an expert, not an arbiter and (B) complete its work prior to February 28, 2025, and whose decision shall be final and binding upon the Parties barring manifest error. Each Party shall bear all fees and costs incurred by it in connection with the determination of any dispute under this Section 3.1(c) (*Title Examination Due Diligence and Purchase Price Adjustment*), except that each Party shall pay fifty percent (50%) of the fees and expenses of the Independent Appraiser. The total amount of the undisputed items from the Proposed Adjustment Amount and the disputed items from the Proposed Adjustment Amount as determined by a neutral third-party Independent Appraiser is hereby referred to as a “**Final Purchase Price Adjustment**”.

- (d) The amount of the Final Purchase Price Adjustment shall be deducted from the Final Installment Payment. If the Final Purchase Price Adjustment exceeds the amount of the Final Installment Payment, Norfolk Southern Railway shall pay VPRA, on the Final Installment Payment Date, the amount of such excess by wire transfer of immediately available funds to an account designated by VPRA on the Final Installment Payment Date. For the avoidance of doubt, if the NRV Station Closing or Radford Layover Closing does not occur, the Final Purchase Price Adjustment will not include any items related to the NRV Station Conveyed Property or the Radford Layover Conveyed Property, as applicable.
- (e) VPRA may, at its expense, elect to obtain a policy of title insurance acceptable to VPRA pursuant to which title to the NSR-Conveyed Property and/or the Manassas Segment shall be insured. The procurement of any such title insurance policy shall not be a condition precedent to any of the Applicable Closings.
- (f) If neither VPRA nor Norfolk Southern Railway elects to terminate this Agreement pursuant to this Section 3.1, the Final Purchase Price Adjustment pursuant to this Section 3.1 (*Title Examination Due Diligence and Purchase Price Adjustment*), if any, shall be VPRA’s sole recourse and remedy from Norfolk Southern Railway following Initial Closing with respect to any title issues with the NSR-Conveyed Property.

3.2 Environmental Information and Right of Entry Agreement

- (a) Norfolk Southern Railway shall provide VPRA, on or prior to July 15, 2024, with all information in the possession of the real estate and environmental departments

of Norfolk Southern Railway with regard to any releases of Hazardous Materials on the NSR-Conveyed Property occurring prior to July 15, 2024 that were reportable to a state or federal Governmental Authority under applicable Law, or which required investigation and/or remediation activities under applicable Law.

- (b) VPRA shall provide Norfolk Southern Railway (i) upon request by Norfolk Southern Railway, with all environmental reports or similar documents prepared by or on behalf of VPRA and relating to VPRA's acquisition of the V-Line Conveyed Property under the 2022 CRA and (ii) on or prior to July 15, 2024, with all information in the possession of VPRA with regard to any releases of Hazardous Materials occurring on the V-Line Conveyed Property from the 2022 Closing Date to July 15, 2024 that were reportable to any Governmental Authority under applicable Law, or which required investigation and/or remediation activities under applicable Law, other than those for which Norfolk Southern Railway was the entity reporting to the Governmental Authority or conducting the investigation and/or remediation.
- (c) Norfolk Southern Railway and VPRA have entered into Environmental Right of Entry Agreements For Due Diligence Purposes dated June 10, 2024 and July 11, 2024 (the "**Environmental Right of Entry Agreements**") under which VPRA and its contractors may enter the NSR-Conveyed Property to conduct certain due diligence environmental inspection, samples, and testing prior to the Initial Closing Date, as further described in the Environmental Right of Entry Agreements.

3.3 Discovery of Environmental Conditions

If VPRA's environmental due diligence inspections and testing reveal either any conditions concerning the NSR-Conveyed Property that render it unsuitable for VPRA's use of the NSR-Conveyed Property or the existence of Hazardous Materials in such quantities that render it unsuitable for VPRA's use of the NSR-Conveyed Property as an operating railroad under applicable Hazardous Materials Laws, VPRA shall furnish Norfolk Southern Railway with a written statement at least seven (7) days prior to the Initial Closing that the NSR-Conveyed Property is unsuitable for VPRA's use. The written statement shall not include the results of any environmental sampling without the prior consent of Norfolk Southern Railway. VPRA acknowledges and agrees that the Manassas Line Conveyed Property, the Seminary Passage Conveyed Property, and the NRV Station Conveyed Property each has been used as an operating railroad, and the mere presence of an operating railroad does not constitute a recognized environmental condition under ASTM standards. Norfolk Southern Railway shall have seven (7) days after receipt of such notice to remedy such identified conditions, but shall be under no obligation so to do, and if Norfolk Southern Railway declines to or fails to remedy such conditions within the prescribed time, or if Norfolk Southern Railway declines to give VPRA permission to perform any invasive due diligence inspection or testing, then, at VPRA's option evidenced by written notice to Norfolk Southern Railway, VPRA may either (i) terminate this Agreement pursuant to Section 4.4(b) (*Termination Prior to Initial Closing*), or (ii) waive any or all objections not cured by Norfolk Southern Railway and proceed to the Applicable Closing hereunder without diminution in the Purchase Price.

3.4 Liability for Inspections

VPRA shall be solely responsible for any and all Claims arising out of its own acts and/or omissions, and those of its employees and agents, during the performance of its due diligence inspections and testing contemplated in this Article 3 (*Due Diligence, Purchase Price Adjustments and Pre-Closing Activities*), provided, however, that this provision is not intended to give, nor will it be interpreted as giving, a right of indemnification to Norfolk Southern Railway by VPRA, either by contract or by Law, for Claims arising out of the performance of this Article 3 (*Due Diligence, Purchase Price Adjustments and Pre-Closing Activities*). Should any third-party contractor file a lien against the NSR-Conveyed Property as a result of VPRA's due diligence inspections and testing, VPRA shall have the same cancelled, satisfied, or otherwise discharged of record within ten (10) Business Days after actual notice thereof. VPRA shall restore any portion of the NSR-Conveyed Property affected or disturbed by its due diligence inspections and testing to the condition the NSR-Conveyed Property existed prior to any such inspection or testing. However, other than removal from the NSR-Conveyed Property of soil, fill, debris, or other materials actually excavated by VPRA conducting due diligence or its contractors, nothing in this Article 3 (*Due Diligence, Purchase Price Adjustments and Pre-Closing Activities*) shall be construed to require VPRA to remediate any pre-existing environmental condition(s) discovered or released during the activities covered by the Environmental Right of Entry Agreements.

3.5 Cost of Consents

Costs associated with the acquisition of any Consents, if any, shall be borne solely by the Party requesting the Consent.

3.6 Pre-Closing Covenants

- (a) **STB Approval.** VPRA, at its own cost and expense, shall initiate STB filings and thereafter diligently pursue such filings necessary to secure a determination from the STB that the conveyance of the NSR-Conveyed Property does not require STB approval or exemption. VPRA shall submit such filing no later than June 7, 2024, and shall request expedited STB review. Norfolk Southern Railway, at its own cost and expense, shall assist and support efforts of VPRA to secure such determination.
- (b) **Encumbrances.**
 - (i) Norfolk Southern Railway does hereby covenant and agree with respect to the NSR-Conveyed Property that, from and after the Execution Date to the date and time of each Applicable Closing Date, Norfolk Southern Railway shall not, without prior written consent of VPRA, convey any portion of the associated NSR-Conveyed Property or any rights therein, nor enter into any conveyance or other agreement or amendment to agreement granting to any Person or entity any rights with respect thereto or any part thereof, or any interest whatsoever therein, or any option thereto, unless such conveyance, right or other interest is subordinate to the rights of VPRA under this

Agreement, and any such conveyance or other agreement entered into in violation of this Section 3.6(b) (Encumbrances) shall be null and void and of no force or effect. Norfolk Southern Railway further agrees that from and after June 1, 2024, Norfolk Southern Railway shall not fail to make any payments to any Person or entity who, as a result of such failure, would have the right to claim any lien rights with respect to any of the NSR-Conveyed Property or any interest of Norfolk Southern Railway therein. Norfolk Southern Railway shall have the right to convert any such payment so long as Norfolk Southern Railway bonds off any liens filed with respect thereto or provides VPRA with reasonably adequate security with respect thereto. Notwithstanding the foregoing, Norfolk Southern Railway may enter into usual and customary agreements related to crossings for utilities, pipe, wire, operations, or other usual agreements typical of Norfolk Southern Railway's business or railroad operations without the aforementioned consent of VPRA, provided that Norfolk Southern Railway shall notify VPRA in writing of all such agreements that Norfolk Southern Railway may execute after June 1, 2024.

- (ii) VPRA does hereby covenant and agree with respect to the V-Line Conveyed Property that, from and after June 1, 2024 to the date and time of the Second Closing, VPRA shall not, without prior written consent of Norfolk Southern Railway, convey any portion of the V-Line Conveyed Property or any rights therein, nor enter into any conveyance or other agreement or amendment to agreement granting to any Person or entity any rights with respect thereto or any part thereof, or any interest whatsoever therein, or any option thereto, unless such conveyance, right or other interest is subordinate to the rights of Norfolk Southern Railway under this Agreement, and any such conveyance or other agreement entered into in violation of this Section 3.6(b) (Encumbrances) shall be null and void and of no force or effect. VPRA further agrees that from and after the Execution Date, VPRA shall not fail to make any payments to any Person or entity who, as a result of such failure, would have the right to claim any lien rights with respect to any of the V-Line Conveyed Property or any interest of VPRA therein. VPRA shall have the right to convert any such payment so long as VPRA bonds off any liens filed with respect thereto or provides Norfolk Southern Railway with reasonably adequate security with respect thereto.
- (c) **Payment of Taxes.** Without waiving any right to contest any and all amounts that may be levied against Norfolk Southern Railway for ad valorem taxes, Norfolk Southern Railway shall continue to pay all ad valorem taxes for which it is responsible under this Agreement in its usual course of business.
- (d) **Notification of Environmental Releases.**
 - (i) From and after July 15, 2024 through the transfer of the applicable portion of the NSR-Conveyed Property on the associated Applicable Closing Date,

in the event a release of Hazardous Materials occurs on the NSR-Conveyed Property that is reportable to a state or federal government agency under Laws, Norfolk Southern Railway shall report such release to VPRA in writing at the earlier of (i) five (5) Business Days after the date that Norfolk Southern Railway reports such release to the applicable agency, or (ii) ten (10) days prior to the associated Applicable Closing Date for known releases that occur prior to such Applicable Closing Date.

- (ii) From and after July 15, 2024 through the Second Closing Date, in the event a release of Hazardous Materials occurs on the V-Line Conveyed Property (other than any release arising from Norfolk Southern Railway's activities on the V-Line Real Property) that is reportable to a state or federal government agency under Laws, VPRA shall report such release to Norfolk Southern Railway in writing at the earlier of (i) five (5) Business Days after the date that VPRA reports such release to the applicable agency, or (ii) ten (10) days prior to the Second Closing Date for known releases that occur prior to such date.
- (e) **Signs and Advertising.** Before the transfer of the applicable portion of the NSR-Conveyed Property on each Applicable Closing Date, VPRA will not place any advertising or promotional signs on such NSR-Conveyed Property or on any of Norfolk Southern Railway's other property without the written consent of Norfolk Southern Railway.
- (f) **VPRA Operating Agreements.** VPRA shall use commercially reasonable efforts to finalize on or prior to July 31, 2024 (i) an operating agreement with Amtrak governing the Manassas Line Conveyed Property, and (ii) an operating agreement with the two commissions that operate the Commuter Rail Service known as Virginia Railway Express (such commissions collectively "VRE") governing the Manassas Line Conveyed Property; provided that neither such agreement shall Unreasonably Interfere with Freight Rail Operations. Such operating agreements shall extend to the Seminary Passage Conveyed Property from and after the Second Closing Date.

3.7 Casualty

- (a) Except for any damage or liability arising from VPRA's activities on the Initial NSR-Conveyed Property pursuant to this Agreement, Norfolk Southern Railway shall bear the risk of loss or damage to the Initial NSR-Conveyed Property prior to the Initial Closing by fire, flood, casualty, or other unforeseen event affecting the Initial NSR-Conveyed Property prior to the Initial Closing. If, at any time prior to the Initial Closing hereunder, any action or proceeding is filed under which it is reasonably likely that the Initial NSR-Conveyed Property or a substantial portion thereof may be taken pursuant to any Law, ordinance or regulation or by condemnation or the right of eminent domain, then either Norfolk Southern Railway or VPRA may terminate this Agreement by delivering to the other party written notice of termination on or before the tenth (10th) day following the day on

which the terminating party receives notice that such suit has been filed. If neither party elects to terminate this Agreement pursuant to the preceding sentence, then Norfolk Southern Railway, at the time of the Initial Closing hereunder, shall transfer and assign, or cause to be transferred and assigned, to VPRA all of Norfolk Southern Railway's right, title and interest in any proceeds received or which may be received by the taking, or a sale in lieu thereof.

- (b) Except for any damage or liability arising from VPRA's activities on the Seminary Passage Conveyed Property, the NRV Station Conveyed Property, or the Radford Layover Conveyed Property pursuant to this Agreement, Norfolk Southern Railway shall bear the risk of loss or damage to the Seminary Passage Conveyed Property, the NRV Station Conveyed Property, or the Radford Layover Conveyed Property prior to the associated Applicable Closing, by fire, flood, casualty, or other unforeseen event affecting such property prior to the associated Applicable Closing. If, at any time prior to the associated Applicable Closing, any action or proceeding is filed under which it is reasonably likely that the Seminary Passage Conveyed Property, the NRV Station Conveyed Property, the Radford Layover Conveyed Property or a substantial portion of one or more thereof may be taken pursuant to any Law, ordinance or regulation or by condemnation or the right of eminent domain, then with respect to such impacted property, Norfolk Southern Railway, at the time of the associated Applicable Closing, shall transfer and assign, or cause to be transferred and assigned, to VPRA all of Norfolk Southern Railway's right, title and interest associated with such proceeding, including any proceeds received or which may be received in conjunction with the taking, or a sale in lieu thereof; provided that the forgoing shall not limit VPRA's rights pursuant to Section 4.1(e) (*VPRA's Conditions to Initial Closing and Second Closing*) or Section 4.7(a)(v) (*Conditions Precedent for the NRV Station Closing and the Radford Layover Closing*).
- (c) Except for any damage or liability arising from Norfolk Southern Railway's activities on the V-Line Conveyed Property, VPRA shall bear the risk of loss or damage to the V-Line Conveyed Property prior to the Second Closing by fire, flood, casualty, or other unforeseen event affecting the V-Line Conveyed Property prior to the Second Closing. If, at any time prior to the Second Closing hereunder, any action or proceeding is filed under which it is reasonably likely that the V-Line Conveyed Property or a substantial portion thereof may be taken pursuant to any Law, ordinance or regulation or by condemnation or the right of eminent domain, then, with respect to such impacted property, VPRA, at the time of the Second Closing, shall transfer and assign, or cause to be transferred and assigned, to Norfolk Southern Railway all of VPRA's right, title and interest associated with such proceeding, including any proceeds received or which may be received in conjunction with the taking, or a sale in lieu thereof, provided that the forgoing shall not limit Norfolk Southern Railway's rights pursuant to Sections 4.2(e) and 4.2(f) (*Norfolk Southern Railway's Conditions to Initial Closing and Second Closing*).

Article 4
Conditions Precedent to 2024 CRA Closings

4.1 VPRA's Conditions to Initial Closing and Second Closing

The obligation of VPRA to consummate Initial Closing or the Second Closing, as applicable, pursuant to this Agreement shall be contingent upon the satisfaction (or waiver by VPRA) of all following conditions precedent:

- (a) Norfolk Southern Railway shall not be in breach in any material respect of any of its covenants and agreements under this Agreement;
- (b) Norfolk Southern Railway shall have complied in all material respects with all of its obligations required to be performed by it under this Agreement prior to Initial Closing or the Second Closing, as applicable;
- (c) the representations and warranties of Norfolk Southern Railway set forth in Section 7.1 (*Norfolk Southern Railway's Representations*) shall be true and correct in all material respects on and as of the Initial Closing Date or the Second Closing Date, as applicable, as if made and as of such date;
- (d) Norfolk Southern Railway shall have provided to VPRA, in accordance with Sections 3.2(a) and 3.6(d)(i), copies of all information in the possession of the real estate and environmental departments of Norfolk Southern Railway with regard to any releases of Hazardous Materials on the Initial NSR-Conveyed Property or the Seminary Passage Conveyed Property, as applicable, prior to the Initial Closing Date or the Second Closing Date, as applicable, that were reportable to a state or federal government agency under Laws or which required investigation and/or remediation activities under Laws;
- (e) with respect to the Second Closing only (and, for the avoidance of doubt, not with respect to the Initial Closing), Norfolk Southern Railway has provided written notification to VPRA that Norfolk Southern Railway has obtained all necessary approvals and is prepared to proceed to the Second Closing;
- (f) VPRA shall have determined, in its sole discretion, that the conditions of the Initial NSR-Conveyed Property (solely with respect to the Initial Closing) or the Seminary Passage Conveyed Property (solely with respect to the Second Closing), as applicable, are not unsatisfactory in any way; and
- (g) [with respect to the Second Closing only (and, for the avoidance of doubt, not with respect to the Initial Closing), VPRA shall have determined, to its reasonable satisfaction, that Norfolk Southern Railway has removed all obsolete rail ties in Seminary Passage.]²

² Note to Draft: This provision remains subject to further negotiation between the Parties.

4.2 Norfolk Southern Railway's Conditions to Initial Closing and Second Closing

The obligation of Norfolk Southern Railway to consummate Initial Closing or the Second Closing, as applicable, pursuant to this Agreement shall be contingent upon the satisfaction (or waiver by Norfolk Southern Railway) of all following conditions precedent:

- (a) VPRA shall not be in breach in any material respect of any of its covenants and agreements under this Agreement;
- (b) VPRA shall have complied in all material respects with all of its obligations required to be performed by it under this Agreement prior to Initial Closing or the Second Closing, as applicable;
- (c) the representations and warranties of VPRA set forth in Section 7.2 (*VPRA's Representations*) shall be true and correct in all material respects on and as of the Initial Closing Date or the Second Closing Date, as applicable, as if made and as of such date;
- (d) in accordance with Section 3.2(b) (*Environmental Information and Right of Entry Agreement*) and Section 3.6(d)(ii) (*Pre-Closing Covenants*), VPRA shall have provided to Norfolk Southern Railway copies of all information in the possession of the real estate and environmental departments of VPRA with regard to any releases of Hazardous Materials on the V-Line Conveyed Property prior to the Initial Closing Date or Second Closing Date, as applicable, that were reportable to a state or federal government agency under Laws or which required investigation and/or remediation activities under Laws;
- (e) with respect to the Initial Closing only (and, for the avoidance of doubt, not with respect to the Second Closing), Norfolk Southern Railway shall have determined, in its sole discretion, that the conditions of the V-Line Conveyed Property are not unsatisfactory in any way;
- (f) with respect to the Second Closing only, no change to the V-Line Conveyed Property shall have occurred between the Initial Closing Date and the Second Closing Date that would materially and adversely affect the conditions of the V-Line Conveyed Property (provided that any such change arising from Norfolk Southern Railway's operations over the V-Line Conveyed Property shall not be considered as a change that would materially and adversely affect the conditions of the V-Line Conveyed Property);
- (g) with respect to the Initial Closing only (and, for the avoidance of doubt, not with respect to the Second Closing), VPRA shall have delivered to Norfolk Southern Railway a certificate certifying that funds to pay the Purchase Price when and as required pursuant to this Agreement: (i) have been irrevocably appropriated, or do not require appropriation, by the General Assembly or any further allocation by the Commonwealth Transportation Board or the Board of Directors of VPRA, and (ii) are included within approved capital and/or operating plans under VPRA's annual budget process, and with respect to both (i) and (ii), certifying that such funds are

available to VPRA and will continue to be available to make the corresponding payments as they come due under this Agreement; and

- (h) with respect to the Second Closing only (and, for the avoidance of doubt, not with respect to the Initial Closing), VPRA has provided written notification to Norfolk Southern Railway that VPRA has obtained all necessary approvals and is prepared to proceed to the Second Closing.

4.3 Mutual Conditions to Initial Closing and Second Closing

The obligation of both Parties to consummate Initial Closing or the Second Closing, as applicable, pursuant to this Agreement shall be contingent upon the satisfaction (or waiver by both Parties) of all of the following conditions precedent:

- (a) all necessary material Consents from third parties or Governmental Authorities, or any other necessary material Consent to effectuate the Transaction, have been acquired, including the jurisdictional determination from STB;
- (b) the Transaction shall not have been stayed or enjoined, in whole or in any part, by any Governmental Authority;
- (c) there shall be no material claim, litigation, labor dispute or work stoppage threatened or pending in connection with the Transaction that materially affects the ability of Parties to consummate the Initial Closing or the Second Closing, as applicable, or carry out the Transaction;
- (d) the Parties shall have mutually agreed, in accordance with Section 11.4(e)(i) (Engineering and Construction Principles), on 30% design plans (which shall include a preliminary project schedule and preliminary budget) for each of the NSR-Delivered Scope and the MofW Scope;
- (e) prior to conveyance to VPRA of any property over which Amtrak and/or VRE operate, VPRA shall have executed (i) an operating agreement with Amtrak governing such property, and (ii) an operating agreement with VRE governing such property, neither of which such agreement would reasonably be expected to Unreasonably Interfere with Freight Rail Operations, and, with respect to the Second Closing, that such operating agreements shall extend to the Seminary Passage Conveyed Property from and after the Second Closing Date; and
- (f) no change shall have occurred in Law between the Execution Date and the Initial Closing Date or the Second Closing Date, as applicable, that would materially adversely affect the ability of either Party to consummate the Initial Closing or the Second Closing, as applicable, or, in the case of VPRA, to provide the Passenger Rail Service as set forth in this Agreement.

4.4 Termination Prior to Initial Closing

This Agreement may be terminated at any time prior to the Initial Closing:

- (a) by either Party, upon written notice to the other Party, in the event that:
 - (i) following presentment of the Transaction to the STB:
 - (A) the STB shall have found any part of the Transaction requires STB authorization and such authorization is not granted prior to Initial Closing;
 - (B) the STB shall have found that it has jurisdiction over the Transaction and does not approve the Transaction prior to Initial Closing; or
 - (C) regulatory or other action (including, without limitation, that of the STB) shall have resulted in the imposition of any conditions, including, without limitation, labor protective conditions, that Norfolk Southern Railway, in its sole and absolute discretion, deems unacceptable;
 - (ii) the Transaction shall have been stayed or enjoined by any Governmental Authority; or
 - (iii) any material Claim, litigation, labor dispute or work stoppage shall be threatened or pending in connection with the Transaction that materially affects the ability of Parties to consummate the Initial Closing or carry out the Transaction;
- (b) by VPRA, upon written notice to Norfolk Southern Railway, in the event that:
 - (i) VPRA elects to terminate this Agreement pursuant to Section 3.1(a) (*Title Examination Due Diligence and Purchase Price Adjustments*);
 - (ii) VPRA elects to terminate this Agreement pursuant to Section 3.3 (*Environmental Due Diligence*); or
 - (iii) Norfolk Southern Railway fails to deliver to VPRA a 30% design submission on or before August 16, 2024, for the NSR-Delivered Scope that is acceptable to VPRA in accordance with Section 11.4(e)(i) (*Engineering and Construction Principles*);
- (c) by Norfolk Southern Railway, upon written notice to VPRA, in the event that:
 - (i) Norfolk Southern Railway elects to terminate this Agreement pursuant to Section 3.1(a) (*Title Examination Due Diligence and Purchase Price Adjustments*); or

- (ii) the Initial Closing has not occurred on or prior to the Outside Closing Date (or such later date agreed to in writing by the Parties); or
- (d) automatically upon VPRA providing a Stop Work Notice prior to the Initial Closing Date.

4.5 Effect of Termination Prior to Initial Closing

In the event of termination of this Agreement by either VPRA or Norfolk Southern Railway as provided in Section 4.4 (*Termination Prior to Initial Closing*) only, this Agreement shall forthwith become void and there shall be no liability or obligation on the part of VPRA or Norfolk Southern Railway, except that, if this Agreement is terminated other than by Norfolk Southern Railway pursuant to Section 4.4(c)(ii) (*Termination Prior to Initial Closing*) or by VPRA pursuant to Section 4.6(a)(i) (*Failure to Complete Initial Closing*), then VPRA agrees to reimburse all costs incurred by Norfolk Southern Railway for the NSR-Delivered Scope prior to such termination, including any reasonable and customary additives but excluding any costs that VPRA is prohibited by Law from reimbursing; provided, that the terms of Section 2.3(b)(i) (*Stop Work Notice*), Section 2.3(b)(iv) (*Stop Work Notice*), this Section 4.5 (*Effect of Termination Prior to Initial Closing*), Section 8.5(a) (*VRE Service*), Section 29.4 (*Forum and Venue*), Article 32 (*Notices*), Article 33 (*Miscellaneous*), and Exhibit A (*Definitions*) shall survive such termination. In the event of such a termination prior to Initial Closing pursuant to Section 4.4 (*Termination Prior to Initial Closing*), the terms of the 2022 CRA will be reinstated in full. Notwithstanding anything to the contrary in this Agreement, including, without limitation, Section 31.7 (*Survival*), the terms of this Section 4.5 (*Effect of Termination Prior to Initial Closing*) shall control with respect to any termination of this Agreement prior to the Initial Closing pursuant to Section 4.4 (*Termination Prior to Initial Closing*).

4.6 Failure to Complete Initial Closing

- (a) In the event that either Party does not materially discharge all duties and obligations applicable to that Party at Initial Closing (except as this Agreement may otherwise be terminated prior to Initial Closing as set forth herein) as and when required pursuant to this Agreement, the other Party may, at its option and in its discretion:
 - (i) terminate this Agreement by giving notice, such termination to be immediately effective upon the provision of such notice; *provided* that, in the event of such a termination, the terms of the 2022 CRA will be reinstated in full;
 - (ii) other than in connection with a termination of this Agreement by Norfolk Southern Railway pursuant to Section 4.4(c)(ii) (*Termination Prior to Closing*), proceed by appropriate judicial proceedings, either at law or in equity, to enforce performance of the other Party related to the Initial Closing and/or to recover Damages (provided that, notwithstanding any other provision of this Agreement to the contrary, any Damages awarded pursuant to this Section 4.6 (*Failure to Complete Initial Closing*) shall be

limited to direct and actual costs and expenses of the Party claiming such Damages), and/or to seek other remedies; and

- (iii) without limitation to Section 29.4 (*Forum and Venue*), no provision of this Section 4.6 (*Failure to Complete Initial Closing*) shall require either Party to engage in, or otherwise exhaust the procedures set forth at Article 29 (*Dispute Resolution*) prior to that Party availing itself of any right or remedy otherwise set forth in this Section 4.6 (*Failure to Complete Initial Closing*).
- (b) The rights and remedies described in this Section 4.6 (*Failure to Complete Initial Closing*) are and shall be deemed to be cumulative and the exercise of any of them shall not be deemed to be an election excluding the exercise at any time of a different remedy otherwise permitted by this Section 4.6 (*Failure to Complete Initial Closing*).
- (c) Any waiver by either Party of a failure to proceed to Initial Closing or any delay of either Party in enforcing any remedy set forth herein shall not constitute a waiver of the right to pursue any remedy at a later date, nor shall any such waiver in any way affect either Party's right to enforce this Agreement.

4.7 Conditions Precedent for the NRV Station Closing and the Radford Layover Closing

- (a) The obligation of VPRA to consummate the NRV Station Closing and the Radford Layover Closing, as applicable, shall be contingent upon the satisfaction (or waiver by VPRA) of all following conditions precedent:
 - (i) the representations and warranties of Norfolk Southern Railway set forth in Section 7.1 (*Norfolk Southern Railway's Representations*) shall be true and correct in all material respects solely as they relate to the NRV Station Conveyed Property or the Radford Layover Conveyed Property, as applicable, on and as of the NRV Station Closing Date or Radford Layover Closing Date, as applicable, as if made and as of such date;
 - (ii) Norfolk Southern Railway shall have provided to VPRA, in accordance with Sections 3.2(a) (*Environmental Information and Right of Entry Agreement*) and 3.6(d)(i) (*Pre-Closing Covenants*), copies of all information in the possession of the real estate and environmental departments of Norfolk Southern Railway with regard to any releases of Hazardous Materials on the NRV Station Conveyed Property or the Radford Layover Conveyed Property, as applicable, prior to the date of the NRV Station Closing or the Radford Layover Closing, as applicable, that were reportable to a state or federal government agency under Laws or which required investigation and/or remediation activities under Laws;
 - (iii) no change shall have occurred in Law between the Execution Date and the NRV Station Closing Date or Radford Layover Closing Date, as applicable, that would materially adversely affect the ability of VPRA to consummate the NRV Station Closing or the Radford Layover Closing, as applicable;

- (iv) the transfer of the NRV Station Conveyed Property or the Radford Layover Conveyed Property, as applicable, shall not have been stayed or enjoined by any Governmental Authority;
- (v) VPRA shall have determined, in its sole discretion and in accordance with Section 11.5 (*Completion of Turnover of NSR Delivered Scope*), that construction on the NRV Station Conveyed Property or the Radford Layover Conveyed Property, as applicable, is not unsatisfactory in any way; *provided* that VPRA has provided Norfolk Southern Railway a reasonable opportunity to remedy any unsatisfactory construction condition prior to the NRV Station Closing or the Radford Layover Closing, as applicable; and
- (vi) a survey for the NRV Station Conveyed Property or the Radford Layover Conveyed Property, as applicable, shall have been completed to the reasonable satisfaction of VPRA and Norfolk Southern Railway in accordance with Section 6.1(a) (*Initial Surveys*).

Article 5 2024 CRA Closings

5.1 Initial Closing Date

Closing on the grant of the Manassas Passenger Easement and the purchase and sale of the Initial NSR-Conveyed Property (the “**Initial Closing**”) shall occur on or before the Outside Closing Date, subject to satisfaction of the conditions precedent to Initial Closing set forth in Article 4 (*Conditions Precedent to 2024 CRA Closings*) and to any extensions mutually agreed by the Parties in the sole discretion of each Party. The date on which Initial Closing occurs shall be referred to as the “**Initial Closing Date**”. This Section 5.1 (*Initial Closing Date*) sets forth the following respective undertakings of the Parties at the Initial Closing:

- (a) Norfolk Southern Railway shall deliver, or cause to be delivered, to the settlement agent, in a form that is recordable in the applicable Virginia circuit court(s), the duly executed and acknowledged (i) Deeds for the Initial NSR-Conveyed Property and one or more deeds of release to release the lien of any mortgage or trust (if any) that may apply to the Initial NSR-Conveyed Property and (ii) the Manassas Segment Deed of Easement. Upon Initial Closing, the Deeds for the Initial NSR-Conveyed Property and the Manassas Segment Deed of Easement shall be recorded by the settlement agent in all appropriate Clerks’ Offices where the Initial NSR-Conveyed Property and the Manassas Passenger Easement are located.
- (b) VPRA shall pay to Norfolk Southern Railway the Initial Closing Cash Payment.
- (c) General ad valorem real estate taxes (whether assessed for the county, city or state, as applicable) for the then-current year relating to any portions of the Initial NSR-Conveyed Property assessed by the local county or city taxing authority shall be prorated as of the Initial Closing Date and shall be so adjusted at Initial Closing. If the Initial Closing shall occur before the tax rate or assessed value of the Initial NSR-Conveyed Property is fixed for the then-current year, the apportionment of

taxes shall be upon the basis of the tax rate or assessed value of the Initial NSR-Conveyed Property for the immediately preceding year. For any portion of the Initial NSR-Conveyed Property that is not assessed locally and upon which Norfolk Southern Railway pays taxes upon a franchise operating tax return basis, then there shall not be pro-rations at Initial Closing for the portion of such taxes or assessments that are on the franchise operating tax return basis, with Norfolk Southern Railway continuing to pay such obligations through the Initial Closing Date in the usual course of its business, and VPRA assuming any such liability arising on or after the Initial Closing Date based on VPRA's specific tax considerations.

- (d) All rents or other sums due pursuant to any applicable lease that is to be assigned to VPRA at Initial Closing shall be prorated as of the Initial Closing Date. Further, all special taxes or assessments of any type of which Norfolk Southern Railway is aware to be due and payable prior to the Initial Closing Date shall be paid by Norfolk Southern Railway. After the Initial Closing Date, all such special taxes or assessments (including, without limitation, sanitary sewer, water and utility charges and assessments) arising after the Initial Closing, or arising before the Initial Closing Date but of which Norfolk Southern Railway was not aware on the Initial Closing Date, shall be paid by VPRA as the same may become due and payable. Further, for any sanitary sewer, water and utility charges and assessments affecting the Initial NSR-Conveyed Property, either Party may elect to require, prior to Initial Closing, that the meters for all utility charges, if any, be read and new accounts therefor established as of midnight of the Business Day prior to Initial Closing, whereupon Norfolk Southern Railway shall be responsible for and shall pay for all such charges relating to the period prior to the Initial Closing Date, and VPRA shall pay and be responsible for all such charges from and after the Initial Closing Date. Any such pro-rations shall be pro-rated based on the amount due for the then-current payment period as divided by the number of days within the then-current payment period, with each Party receiving a credit or debit, as applicable, for each Party's period of ownership through the Initial Closing Date. If no such bill has been provided for the then-current payment period, then the Parties shall make the pro-rations discussed herein based on the amounts paid in satisfaction of the immediately preceding payment period as calculated based on the number of days in the then-current payment period, with each Party being credited or debited at Initial Closing as otherwise set forth herein.
- (e) Each Party shall deliver to the settlement agent a settlement statement executed by Norfolk Southern Railway and VPRA setting forth the Initial Closing Cash Payment, applicable pro-rations, and other matters as may be mutually agreed to be included on such statement.
- (f) Norfolk Southern Railway shall deliver to the settlement agent an affidavit with respect to Norfolk Southern Railway's non-foreign status in compliance with Section 1445 of the Internal Revenue Code, in a form substantially similar to the form set forth in Exhibit J (*Form of FIRPTA*).

- (g) Norfolk Southern Railway shall deliver to the settlement agent an Owner's Affidavit speaking to certain matters of title in a form substantially similar to that form set forth in Exhibit K (*Owner's Affidavit*) with respect to the Initial NSR-Conveyed Property.
- (h) Norfolk Southern Railway shall deliver to the settlement agent a certificate stating that for a period of at least twenty years immediately prior to the date of the certificate, Norfolk Southern Railway has continuously used and actually possessed for railroad purposes the Initial NSR-Conveyed Property.
- (i) Norfolk Southern Railway shall deliver to the settlement agent a certificate of good standing from the Virginia State Corporation Commission, Certificate of Incumbency documenting Norfolk Southern Railway's authority to proceed with the Initial Closing, form 1099-S (upon request), an R-5E (upon request), and other forms, in mutually agreeable form to the Parties, settlement agent, and the title insurance company, that are necessary to consummate the Initial Closing set forth herein.
- (j) Each Party shall deliver to the settlement agent an Assignment and Assumption Agreement, in a form substantially similar to that form set forth in Exhibit L (*Form of Assignment and Assumption Agreement*) ("**Assignment and Assumption Agreement**"), executed by Norfolk Southern Railway and VPRA, respectively.
- (k) Each Party shall deliver to the settlement agent an easement agreement ("**Pipe and Wire Easement Agreement**") executed by Norfolk Southern Railway and VPRA, respectively, in a form substantially similar to that form set forth in Exhibit M (*Form of Pipe and Wire Easement Agreement*).
- (l) Each Party shall deliver to the settlement agent Bills of Sale executed by VPRA and Norfolk Southern Railway, respectively, in a form substantially similar to that form set forth in Exhibit B-2 (*Bill of Sale (Manassas Line)*) and Exhibit C-2 (*Bill of Sale (Broad Run Corridor)*).

5.2 Conveyance of Manassas Passenger Easement

At Initial Closing, Norfolk Southern Railway shall convey, or cause to be conveyed, to VPRA the Manassas Passenger Easement by a deed of easement (the "**Manassas Segment Deed of Easement**") attached hereto as Exhibit N-7 (*Form of Deed of Easement for Manassas Segment*) (which shall be based on the Valuation Maps and other information described in Section 5.10 (*Legal Descriptions*)).

5.3 Conveyance of Manassas Line Conveyed Property

At Initial Closing, Norfolk Southern Railway shall convey, or cause to be conveyed, all of its right, title and interest to the Manassas Line Conveyed Property to VPRA by quitclaim deed (the "**Manassas Line Deed**"), in the form substantially as set forth in Exhibit N-1 (*Form of Quitclaim Deed for Manassas Line*) (which shall be based on the Valuation Maps

and other information described in Section 5.10(a) (Legal Descriptions)) subject to the following:

- (a) General real estate taxes (prorated in accordance with Section 5.1(c) (Closing Date)) for the year of Initial Closing and subsequent years not yet due and payable.
- (b) Applicable existing Laws, orders, rules and regulations.
- (c) All rights, restrictions, encumbrances, easements, tenancies, reservations, leases, licenses, permits, privileges, agreements, third-party agreements, conditions, covenants, rights of reentry, or other reversionary interests whether or not of record.
- (d) All rights of any third party (or the general public) in all roads, alleys, bridges, streets, streams, rivers, creeks, or waterways affecting the Manassas Line Conveyed Property (including, without limitation, any culverts, ditches, drainage systems or other facilities affecting the Manassas Line Conveyed Property).
- (e) Norfolk Southern Railway's reservation, in the text of the Manassas Line Deed, of an exclusive freight easement for Norfolk Southern Railway's continued performance of its common carrier obligations and other freight rail services and obligations pursuant to transportation agreements under 49 U.S.C. 10709 or other rights and responsibilities under the ICC Termination Act of 1995 ("ICCTA") on and across the Manassas Line Conveyed Property (excluding the Conveyed Passenger Stations Property) after Initial Closing (the "**Manassas Line Freight Easement**"). The Manassas Line Freight Easement shall be an exclusive, perpetual, irrevocable, assignable, divisible, licensable and transferable (in whole or in part) easement (subject to the prior written approval of VPRA, in the sole discretion of VPRA, of any such assignment, division, license, or transfer to any Person other than (i) to any Norfolk Southern Railway affiliate or Norfolk Southern Railway successor or (ii) for any license related to haulage or trackage) in, over, under, across, and upon the Manassas Line Conveyed Property for all freight railroad purposes. VPRA may install new tracks or other railroad infrastructure within the Manassas Line Conveyed Property corridor after Initial Closing; provided that any such new tracks, other railroad infrastructure or work with respect to any such improvements shall not Unreasonably Interfere with Freight Rail Operations. Any such new tracks or other railroad infrastructure would not be subject to the Manassas Line Freight Easement absent VPRA's written consent or as may otherwise be required by applicable Law or order of an agency or court exercising jurisdiction. If VPRA installs new tracks or other railroad infrastructure along the Manassas Line Conveyed Property at no cost to Norfolk Southern Railway, then VPRA shall be empowered to elect to make any such newly installed tracks or other railroad infrastructure available exclusively for Passenger Rail Service; *provided* that such exclusive use shall not Unreasonably Interfere with Freight Rail Operations. VPRA may relocate the Manassas Line Freight Easement within the Manassas Line Conveyed Property; *provided* that any such relocation shall not Unreasonably Interfere with Freight Rail Operations. The rights hereby reserved pursuant to the Manassas Line Freight Easement are for the purpose of

Norfolk Southern Railway (including, without limitation, any affiliates, parent companies, subsidiaries, successors or assigns, whether now existing or to come into existence at a future date) using the same for bridging its freight trains, connecting with other freight railroads, serving existing and future freight industries located along, adjacent to and near the Manassas Line Conveyed Property, having connections made to the Manassas Line Conveyed Property to serve existing and future industries, and operating freight trains and other equipment over the Manassas Line Conveyed Property.

- (f) Norfolk Southern Railway's reservation, in the text of the Manassas Line Deed, of an exclusive, perpetual, irrevocable, assignable, divisible, licensable and transferable easement (the "**Communications Easement**") over, under, across and upon the Manassas Line Conveyed Property, excluding the Conveyed Passenger Stations Property, for the purposes of constructing, accessing (ingress/egress), owning, repairing, renewing, replacing, installing, operating and maintaining existing or new communication, signal and fiber optic communications systems and appurtenant facilities and equipment and any other communication systems, including, without limitation, existing or new telecommunication and other towers (the "**Communication Facilities**"), provided that (i) the exercise of such rights with respect to any new Communication Facilities does not Unreasonably Interfere with Passenger Rail Operations, (ii) with respect to agreements for new Communication Facilities (or new agreements with respect to existing Communication Facilities) Norfolk Southern Railway will (A) use commercially reasonable efforts to include a provision that the licensee, at its cost, would remove, relocate or protect in place its Communication Facilities in the event VPRA or Norfolk Southern Railway operations or capital projects require such relocation and within no more than 120 days after VPRA or Norfolk Southern Railway, as applicable, provides written notice to the licensee and (B) ensure that VPRA has rights at least equivalent to Norfolk Southern Railway with respect to the future removal, relocation, or protection in place of the relevant Communication Facilities; and (iii) Norfolk Southern Railway may license rights reserved under the Communication Easement, but not assign, divide, or transfer the Communications Easement itself without the prior written consent of VPRA, which may be withheld in the sole discretion of VPRA. The exercise of such right by Norfolk Southern Railway will not be construed to Unreasonably Interfere with Passenger Rail Operations solely on account of the location of any Communication Facilities in place at the Initial Closing Date.
- (g) Norfolk Southern Railway's reservation, in the text of the Manassas Line Deed, of an exclusive, perpetual, irrevocable, assignable, divisible, licensable and transferable non-terminable billboard easement (the "**Billboard Easement**") upon the Manassas Line Conveyed Property, excluding the Conveyed Passenger Stations Property, for any existing or new billboards or signboards and appurtenant facilities and equipment (including, without limitation, utility connections to service such billboards and/or signboards or appurtenant facilities) ("**Billboard Facilities**") upon the Manassas Line Conveyed Property for purposes of accessing (ingress/egress), owning, repairing, renewing, replacing, installing, constructing,

operating and maintaining such Billboard Facilities of Norfolk Southern Railway or its grantees, lessees or licensees, provided that (i) the exercise of such rights does not Unreasonably Interfere with Passenger Rail Operations, (ii) with respect to agreements for new Billboard Facilities (or new agreements with respect to existing Billboard Facilities) Norfolk Southern Railway will (A) use commercially reasonable efforts to include a provision that the licensee, at its cost, would remove, relocate or protect in place its Billboard Facilities in the event VPRA or Norfolk Southern Railway operations or capital projects require such relocation and within no more than 120 days after VPRA or Norfolk Southern Railway, as applicable, provides written notice to the licensee and (B) ensure that VPRA has rights at least equivalent to Norfolk Southern Railway with respect to the future removal, relocation, or protection in place of the relevant Billboard Facilities and (iii) Norfolk Southern Railway may license rights reserved under the Billboard Easement, but not assign, divide, or transfer the Billboard Easement itself without the prior written consent of VPRA, which may be withheld in the sole discretion of VPRA. The exercise of such right by Norfolk Southern Railway will not be construed to Unreasonably Interfere with Passenger Rail Operation solely on account of the location of any Billboard Facilities in place at the Initial Closing Date.

- (h) Norfolk Southern Railway's reservation, in the text of the Manassas Line Deed, of an exclusive, perpetual, irrevocable, assignable, divisible, licensable and transferable easement (or easements, as applicable) (collectively, the "**Utility Easement**") over, under, across and upon the Manassas Line Conveyed Property, excluding the Conveyed Passenger Stations Property, for the purposes of constructing, accessing (ingress/egress), owning, repairing, renewing, replacing, installing, constructing, operating and maintaining existing or new utility lines (including, without limitation, those for water, sewer, electrical, gas or telecommunication lines, which are parallel to the main tracks on the Manassas Line Conveyed Property, as well as appurtenant facilities and equipment ("**Utility Facilities**")), provided that (i) the exercise of such rights does not Unreasonably Interfere with Passenger Rail Operations, (ii) with respect to agreements for new Utility Facilities (or new agreements with respect to existing Utility Facilities) Norfolk Southern Railway will (A) use commercially reasonable efforts to include a provision that the licensee, at its cost, would remove, relocate or protect in place its Utility Facilities in the event VPRA or Norfolk Southern Railway operations or capital projects require such relocation and within no more than 120 days after VPRA or Norfolk Southern Railway, as applicable, provides written notice to the licensee and (B) ensure that VPRA has rights at least equivalent to Norfolk Southern Railway with respect to the future removal, relocation, or protection in place of the relevant Utility Facilities and (iii) Norfolk Southern Railway may license rights reserved under said the Utility Easement, but not assign, divide, or transfer the Utility Easement itself without the prior written consent of VPRA, which may be withheld in the sole discretion of VPRA. The exercise of such right by Norfolk Southern Railway will not be construed to Unreasonably Interfere with Passenger Rail Operation solely on account of the location of any Utility Facilities in place at the Initial Closing Date.

- (i) The Pipe and Wire Easement Agreement as otherwise described by this Agreement.

5.4 Conveyance of Broad Run Conveyed Property

At Initial Closing, Norfolk Southern Railway shall convey, or cause to be conveyed, all of its right, title and interest to the Broad Run Conveyed Property to VPRA by quitclaim deed (the “**Broad Run Deed**”), in the form substantially as set forth in Exhibit N-2 (Form of Quitclaim Deed for Broad Run Corridor) (which shall be based on the Valuation Maps and other information described in Section 5.10(a) (Legal Description)) subject to the following:

- (a) General real estate taxes (prorated in accordance with Section 5.1(c) (*Closing Date*)) for the year of Initial Closing and subsequent years not yet due and payable.
- (b) Applicable existing Laws, orders, rules and regulations.
- (c) All rights, restrictions, encumbrances, easements, tenancies, reservations, leases, licenses, permits, privileges, agreements, third-party agreements, conditions, covenants, rights of reentry, or other reversionary interests whether or not of record.
- (d) All rights of any third party (or the general public) in all roads, alleys, bridges, streets, streams, rivers, creeks, or waterways affecting the Broad Run Conveyed Property (including any culverts, ditches, drainage systems or other facilities affecting the Broad Run Conveyed Property).
- (e) Norfolk Southern Railway’s reservation, in the text of the Broad Run Deed, of an exclusive, perpetual, irrevocable, assignable, divisible, licensable and transferable easement over, under, across and upon the Broad Run Conveyed Property, for the purposes of accessing the property and tracks owned by Norfolk Southern Railway adjacent to the Broad Run Conveyed Property for purposes of constructing, accessing (ingress/egress), owning, repairing, renewing, replacing, installing, operating and maintaining existing or new track and other railroad infrastructure on the property and tracks owned by Norfolk Southern Railway.

5.5 Second Closing

The Second Closing shall occur on a date mutually agreeable to the Parties, subject to satisfaction of the conditions precedent to the Second Closing set forth in Article 4 (Conditions Precedent to 2024 CRA Closings) and to any extensions mutually agreed by the Parties in the sole discretion of each Party (such date the “**Second Closing Date**”). The Parties shall use their respective commercially reasonable efforts to consummate the Second Closing no later than December 31, 2024. At the Second Closing, (i) Norfolk Southern Railway shall convey, or cause to be conveyed, all of its right, title and interest to the Seminary Passage Conveyed Property to VPRA by quitclaim deed (the “**Seminary Passage Deed**”), in the form substantially as set forth in Exhibit N-4 (Form of Quitclaim Deed for Seminary Passage) (which shall be based on the Valuation Maps and other information described in Section 5.10(a) (*Legal Descriptions*)); and (ii) VPRA shall convey all of its right, title and interest to the V-Line Conveyed Property to Norfolk

Southern Railway by quitclaim deed (the “**V-Line Deed**”), in the form substantially as set forth in Exhibit N-3 (*Form of Quitclaim Deed for V-Line Conveyed Property*) (which shall be based on the information described in Section 5.10(b) (*Legal Descriptions*)). This Section 5.5 (*Second Closing*) sets forth the respective undertakings of the Parties at the Second Closing:

- (a) Norfolk Southern Railway shall deliver, or cause to be delivered, to the settlement agent, in a form that is recordable in the applicable Virginia circuit court(s), the duly executed and acknowledged Seminary Passage Deed, and one or more deeds of release to release the lien of any mortgage or trust (if any) that may apply to the Seminary Passage Conveyed Property. Upon the Second Closing, the Seminary Passage Deed shall be recorded by the settlement agent in the appropriate Clerks’ Office where the property is located.
- (b) VPRA shall deliver to the settlement agent, in a form that is recordable in the applicable Virginia circuit court(s), the duly executed and acknowledged V-Line Deed and one or more deeds of release to release the lien of any mortgage or trust (if any) that may apply to the V-Line Conveyed Property. Upon the Second Closing, the V-Line Deed shall be recorded by the settlement agent in all appropriate Clerks’ Offices where the V-Line Conveyed Property is located.
- (c) General ad valorem real estate taxes (whether assessed for the county, city or state, as applicable) for the then-current year relating to any portions of the Seminary Passage Conveyed Property assessed by the local county or city taxing authority shall be prorated as of the Second Closing Date and shall be so adjusted at the Second Closing. If the Second Closing shall occur before the tax rate or assessed value of the Seminary Passage Conveyed Property is fixed for the then-current year, the apportionment of taxes shall be upon the basis of the tax rate or assessed value of the Seminary Passage Conveyed Property for the immediately preceding year. For any portion of the Seminary Passage Conveyed Property that is not assessed locally and upon which Norfolk Southern Railway pays taxes upon a franchise operating tax return basis, then there shall not be pro-rations at the Second Closing Date for the portion of such taxes or assessments that are on the franchise operating tax return basis, with Norfolk Southern Railway continuing to pay such obligations through the Second Closing Date in the usual course of its business, and VPRA assuming any such liability arising on or after the Second Closing Date based on VPRA’s specific tax considerations.
- (d) VPRA is not subject to general ad valorem real estate taxes. Accordingly, Norfolk Southern Railway shall be responsible for general ad valorem real estate taxes (whether assessed for the county, city or state, as applicable) for the V-Line Conveyed Property on and after the Second Closing Date.
- (e) All rents or other sums due pursuant to any applicable lease that is to be assigned to VPRA with respect to the Seminary Passage Conveyed Property at the Second Closing shall be prorated as of the Second Closing Date. Further, all special taxes or assessments of any type with respect to the Seminary Passage Conveyed

Property of which Norfolk Southern Railway is aware to be due and payable prior to the Second Closing Date shall be paid by Norfolk Southern Railway. After the Second Closing Date, all such special taxes or assessments (including, without limitation, sanitary sewer, water and utility charges and assessments) with respect to the Seminary Passage Conveyed Property arising after the Second Closing Date, or arising before the Second Closing Date but of which Norfolk Southern Railway was not aware on the Second Closing Date, shall be paid by VPRA as the same may become due and payable. Further, for any sanitary sewer, water and utility charges and assessments affecting the Seminary Passage Conveyed Property, either Party may elect to require, prior to the Second Closing, that the meters for all utility charges, if any, be read and new accounts therefor established as of midnight of the Business Day prior to the Second Closing Date, whereupon Norfolk Southern Railway shall be responsible for and shall pay for all such charges relating to the period prior to the Second Closing Date, and VPRA shall pay and be responsible for all such charges from and after the Second Closing Date. Any such pro-rations shall be pro-rated based on the amount due for the then-current payment period as divided by the number of days within the then-current payment period, with each Party receiving a credit or debit, as applicable, for each Party's period of ownership through the Second Closing Date. If no such bill has been provided for the then-current payment period, then the Parties shall make the pro-rations discussed herein based on the amounts paid in satisfaction of the immediately preceding payment period as calculated based on the number of days in the then-current payment period, with each Party being credited or debited at the Second Closing as otherwise set forth herein.

- (f) All special taxes or assessments of any type with respect to the V-Line Conveyed Property of which VPRA is aware to be due and payable prior to the Second Closing Date shall be paid by VPRA. After the Second Closing Date, all such special taxes or assessments (including, without limitation, sanitary sewer, water and utility charges and assessments) with respect to the V-Line Conveyed Property arising after the Second Closing Date, or arising before the Second Closing Date but of which VPRA was not aware on the Second Closing Date, shall be paid by Norfolk Southern Railway as the same may become due and payable. Further, for any sanitary sewer, water and utility charges and assessments affecting the V-Line Conveyed Property, either Party may elect to require, prior to Second Closing, that the meters for all utility charges, if any, be read and new accounts therefor established as of midnight of the Business Day prior to Second Closing Date, whereupon VPRA shall be responsible for and shall pay for all such charges relating to the period prior to the Second Closing Date, and Norfolk Southern Railway shall pay and be responsible for all such charges from and after the Second Closing Date. Any such pro-rations shall be pro-rated based on the amount due for the then-current payment period as divided by the number of days within the then-current payment period, with each Party receiving a credit or debit, as applicable, for each Party's period of ownership through the Second Closing Date. If no such bill has been provided for the then-current payment period, then the Parties shall make the pro-rations discussed herein based on the amounts paid in satisfaction of the immediately preceding payment period as calculated based on the number of days

in the then-current payment period, with each Party being credited or debited at Second Closing as otherwise set forth herein.

- (g) With respect to the Seminary Passage Conveyed Property, each Party shall deliver to the settlement agent a Bill of Sale executed by VPRA and Norfolk Southern Railway, respectively, in a form substantially similar to that form set forth in Exhibit H-2 (Bill of Sale (Seminary Passage)), with such updates as agreed by the Parties.
- (h) With respect to the V-Line Conveyed Property, each Party shall deliver to the settlement agent a Bill of Sale executed by VPRA and Norfolk Southern Railway, respectively, in a form substantially similar to that form set forth in Exhibit F-2 (*Bill of Sale (V-Line Conveyed Property)*), with such updates as agreed by the Parties.
- (i) Conveyance of all of Norfolk Southern Railway's right, title and interest to the Seminary Passage Conveyed Property to VPRA pursuant to the Seminary Passage Deed shall be subject to the following:
 - (i) General real estate taxes (prorated in accordance with Section 5.1(c) (Closing Date)) for the year of the Second Closing and subsequent years not yet due and payable.
 - (ii) Applicable existing Laws, orders, rules and regulations.
 - (iii) All rights, restrictions, encumbrances, easements, tenancies, reservations, leases, licenses, permits, privileges, agreements, third-party agreements, conditions, covenants, rights of reentry, or other reversionary interests whether or not of record.
 - (iv) All rights of any third party (or the general public) in all roads, alleys, bridges, streets, streams, rivers, creeks, or waterways affecting the Seminary Passage Conveyed Property (including, without limitation, any culverts, ditches, drainage systems or other facilities affecting the Seminary Passage Conveyed Property).
 - (v) Norfolk Southern Railway's reservation, in the text of the Seminary Passage Deed, of an exclusive freight easement for Norfolk Southern Railway's continued performance of its common carrier obligations and other freight rail services and obligations pursuant to transportation agreements under 49 U.S.C. 10709 or other rights and responsibilities under ICCTA on and across the Seminary Passage Conveyed Property after the Second Closing (the "**Seminary Passage Freight Easement**"). The Seminary Passage Freight Easement shall be an exclusive, perpetual, irrevocable, assignable, divisible, licensable and transferable (in whole or in part) easement (subject to the prior written approval of VPRA, in the sole discretion of VPRA, of any such assignment, division, license, or transfer to any Person other than (i) to any Norfolk Southern Railway affiliate or Norfolk Southern Railway

successor or (ii) for any license related to haulage or trackage) in, over, under, across, and upon the Seminary Passage Conveyed Property for all freight railroad purposes. VPRA may install new tracks or other railroad infrastructure within the Seminary Passage Conveyed Property corridor after the Second Closing; provided that any such new tracks, other railroad infrastructure or work with respect to any such improvements shall not Unreasonably Interfere with Freight Rail Operations. Any such new tracks or other railroad infrastructure would not be subject to the Seminary Passage Freight Easement absent VPRA's written consent or as may otherwise be required by applicable Law or order of an agency or court exercising jurisdiction. If VPRA installs new tracks or other railroad infrastructure along the Seminary Passage Conveyed Property at no cost to Norfolk Southern Railway, then VPRA shall be empowered to elect to make any such newly installed tracks or other railroad infrastructure available exclusively for Passenger Rail Service; *provided* that such exclusive use shall not Unreasonably Interfere with Freight Rail Operations. VPRA may relocate the Seminary Passage Freight Easement within the Seminary Passage Conveyed Property; *provided* that any such relocation shall not Unreasonably Interfere with Freight Rail Operations. The rights hereby reserved pursuant to the Seminary Passage Freight Easement are for the purpose of Norfolk Southern Railway (including, without limitation, any affiliates, parent companies, subsidiaries, successors or assigns, whether now existing or to come into existence at a future date) using the same for bridging its freight trains, connecting with other freight railroads, serving existing and future freight industries located along, adjacent to and near the Seminary Passage Conveyed Property, having connections made to the Seminary Passage Conveyed Property to serve existing and future industries, and operating freight trains and other equipment over the Seminary Passage Conveyed Property.

- (vi) Norfolk Southern Railway's reservation, in the text of the Seminary Passage Deed, of an exclusive, perpetual, irrevocable, assignable, divisible, licensable and transferable Communications Easement over, under, across and upon the Seminary Passage Conveyed Property for the purposes of constructing, accessing (ingress/egress), owning, repairing, renewing, replacing, installing, operating and maintaining existing or new Communication Facilities, provided that (i) the exercise of such rights with respect to any new Communication Facilities does not Unreasonably Interfere with Passenger Rail Operations, (ii) with respect to agreements for new Communication Facilities (or new agreements with respect to existing Communication Facilities) Norfolk Southern Railway will (A) use commercially reasonable efforts to include a provision that the licensee, at its cost, would remove, relocate or protect in place its Communication Facilities in the event VPRA or Norfolk Southern Railway operations or capital projects require such relocation and within no more than 120 days after VPRA or Norfolk Southern Railway, as applicable, provides written notice to the licensee and (B) ensure that VPRA has rights at least equivalent

to Norfolk Southern Railway with respect to the future removal, relocation, or protection in place of the relevant Communication Facilities; and (iii) Norfolk Southern Railway may license rights reserved under the Communication Easement, but not assign, divide, or transfer the Communications Easement itself without the prior written consent of VPRA, which may be withheld in the sole discretion of VPRA. The exercise of such right by Norfolk Southern Railway will not be construed to Unreasonably Interfere with Passenger Rail Operations solely on account of the location of any Communication Facilities in place at the Second Closing Date.

- (vii) Norfolk Southern Railway's reservation, in the text of the Seminary Passage Deed, of an exclusive, perpetual, irrevocable, assignable, divisible, licensable and transferable non-terminable Billboard Easement upon the Seminary Passage Conveyed Property for any existing or new Billboard Facilities upon the Seminary Passage Conveyed Property for purposes of accessing (ingress/egress), owning, repairing, renewing, replacing, installing, constructing, operating and maintaining such Billboard Facilities of Norfolk Southern Railway or its grantees, lessees or licensees, provided that (i) the exercise of such rights does not Unreasonably Interfere with Passenger Rail Operations, (ii) with respect to agreements for new Billboard Facilities (or new agreements with respect to existing Billboard Facilities) Norfolk Southern Railway will (A) use commercially reasonable efforts to include a provision that the licensee, at its cost, would remove, relocate or protect in place its Billboard Facilities in the event VPRA or Norfolk Southern Railway operations or capital projects require such relocation and within no more than 120 days after VPRA or Norfolk Southern Railway, as applicable, provides written notice to the licensee and (B) ensure that VPRA has rights at least equivalent to Norfolk Southern Railway with respect to the future removal, relocation, or protection in place of the relevant Billboard Facilities and (iii) Norfolk Southern Railway may license rights reserved under the Billboard Easement, but not assign, divide, or transfer the Billboard Easement itself without the prior written consent of VPRA, which may be withheld in the sole discretion of VPRA. The exercise of such right by Norfolk Southern Railway will not be construed to Unreasonably Interfere with Passenger Rail Operation solely on account of the location of any Billboard Facilities in place at the Second Closing Date.
- (viii) Norfolk Southern Railway's reservation, in the text of the Seminary Passage Deed, of an exclusive, perpetual, irrevocable, assignable, divisible, licensable and transferable Utility Easement (or Utility Easements, as applicable) over, under, across and upon the Seminary Passage Conveyed Property for the purposes of constructing, accessing (ingress/egress), owning, repairing, renewing, replacing, installing, constructing, operating and maintaining existing or new Utility Facilities, provided that (i) the exercise of such rights does not Unreasonably Interfere with Passenger Rail Operations, (ii) with respect to agreements for new Utility Facilities (or new

agreements with respect to existing Utility Facilities) Norfolk Southern Railway will (A) use commercially reasonable efforts to include a provision that the licensee, at its cost, would remove, relocate or protect in place its Utility Facilities in the event VPRA or Norfolk Southern Railway operations or capital projects require such relocation and within no more than 120 days after VPRA or Norfolk Southern Railway, as applicable, provides written notice to the licensee and (B) ensure that VPRA has rights at least equivalent to Norfolk Southern Railway with respect to the future removal, relocation, or protection in place of the relevant Utility Facilities and (iii) Norfolk Southern Railway may license rights reserved under said the Utility Easement, but not assign, divide, or transfer the Utility Easement itself without the prior written consent of VPRA, which may be withheld in the sole discretion of VPRA. The exercise of such right by Norfolk Southern Railway will not be construed to Unreasonably Interfere with Passenger Rail Operation solely on account of the location of any Utility Facilities in place at the Second Closing Date.

- (ix) The Pipe and Wire Easement Agreement as otherwise described by this Agreement.
- (j) Conveyance of all of VPRA's right, title and interest to the V-Line Conveyed Property to Norfolk Southern Railway pursuant to the V-Line Deed shall be subject to the following:
 - (i) Applicable existing Laws, orders, rules and regulations;
 - (ii) All rights, restrictions, encumbrances, easements, tenancies, reservations, leases, licenses, permits, privileges, agreements, third-party agreements, conditions, covenants, rights of reentry, or other reversionary interests whether or not of record; and
 - (iii) All rights of any third party (or the general public) in all roads, alleys, bridges, streets, streams, rivers, creeks, or waterways affecting the V-Line Conveyed Property (including, without limitation, any culverts, ditches, drainage systems or other facilities affecting the V-Line Conveyed Property).
- (k) Norfolk Southern Railway shall deliver to the settlement agent an affidavit with respect to Norfolk Southern Railway's non-foreign status in compliance with Section 1445 of the Internal Revenue Code, in a form substantially similar to the form set forth in Exhibit J (*Form of FIRPTA*).
- (l) Norfolk Southern Railway shall deliver to the settlement agent an Owner's Affidavit speaking to certain matters of title in a form substantially similar to that form set forth in Exhibit K (*Owner's Affidavit*) with respect to the Seminary Passage Conveyed Property.

- (m) VPRA shall deliver to the settlement agent an Owner's Affidavit speaking to certain matters of title in a form substantially similar to that form set forth in Exhibit K (Owner's Affidavit) with respect to the V-Line Conveyed Property, and modified wherever necessary to refer to VPRA, a political subdivision of the Commonwealth of Virginia, rather than "Company".
- (n) Norfolk Southern Railway shall deliver to the settlement agent a certificate of good standing from the Virginia State Corporation Commission, Certificate of Incumbency documenting Norfolk Southern Railway's authority to proceed with the Second Closing, form 1099-S (upon request), an R-5E (upon request), and other forms, in mutually agreeable form to the Parties, settlement agent, and the title insurance company, that are necessary to consummate the Second Closing with respect to the Seminary Passage Conveyed Property.
- (o) VPRA shall deliver to the settlement agent any forms, in mutually agreeable form to the Parties, settlement agent, and the title insurance company, that are necessary to consummate the Second Closing with respect to the V-Line Conveyed Property.
- (p) Each Party shall deliver to the settlement agent an Assignment and Assumption Agreement in a form substantially similar to that form set forth in Exhibit L (*Form of Assignment and Assumption Agreement*), executed by Norfolk Southern Railway and VPRA.
- (q) VPRA shall deliver to the settlement agent a Form W-9, or a Form W-9 Commonwealth of Virginia substitute, properly completed by VPRA.

5.6 Restrictive Covenants for Manassas Line Conveyed Property and Seminary Passage Conveyed Property

Notwithstanding any other provision of this Agreement, VPRA agrees that the Manassas Line Deed and Seminary Passage Deed executed as part of the Transaction shall include as a permanent covenant of VPRA running with and touching the land that VPRA (or any operator, contractor, agent or licensee, and all permitted successors and assigns, except Norfolk Southern Railway and its successors and assigns) shall not use the Manassas Line Conveyed Property or the Seminary Passage Conveyed Property (or any portion thereof) for any freight rail purposes other than for the movement of company material of VPRA, an Intercity Rail User, Commuter Rail User, or VPRA contractor (including any maintenance materials).

5.7 NRV Station Closing and Radford Layover Closing

The Parties shall use commercially reasonable efforts to consummate the NRV Station Closing and the Radford Layover Closing. On the NRV Station Closing Date, subject to satisfaction of Norfolk Southern Railway the conditions precedent set forth in Section 4.7 (*Conditions Precedent for the NRV Station Closing and the Radford Layover Closing*) with respect to such property, Norfolk Southern Railway shall convey, or cause to be conveyed, all of its right, title and interest to the NRV Station Conveyed Property to VPRA (the "**NRV Station Closing**"), by a quitclaim deed (the "**NRV Station Deed**") in the form

substantially as set forth in Exhibit N-5 (*Form of Quitclaim Deed for NRV Station Parcel*) (which shall be based on the NRV/Radford Valuation Maps and other information described in Section 5.10(c) (*Legal Descriptions*)) and on the Radford Layover Closing Date, subject to satisfaction of Norfolk Southern Railway the conditions precedent set forth in Section 4.7 (*Conditions Precedent for the NRV Station Closing and the Radford Layover Closing*) with respect to such property, Norfolk Southern Railway shall convey, or cause to be conveyed, all of its right, title and interest to the Radford Layover Conveyed Property (the “**Radford Layover Closing**”), by a quitclaim deed (the “**Radford Layover Deed**”) in the form substantially as set forth in Exhibit N-6 (*Form of Quitclaim Deed for Radford Layover Parcel*) (which shall be based on the NRV/Radford Valuation Maps and other information described in Section 5.10(c) (*Legal Descriptions*)). This Section 5.7 (*NRV Station Closing and Radford Layover Closing*) sets forth the respective undertakings of the Parties at NRV Station Closing and Radford Layover Closing, as applicable:

- (a) Norfolk Southern Railway shall deliver to the settlement agent, in a form that is recordable in the applicable Virginia circuit court(s), the duly executed and acknowledged NRV Station Deed and Radford Layover Deed, as applicable, and one or more deeds of release to release the lien of any mortgage or trust (if any) that may apply to the NRV Station Conveyed Property or the Radford Layover Conveyed Property, as applicable. Upon (i) the NRV Station Closing, the NRV Station Deed and (ii) the Radford Layover Closing, the Radford Layover Deed, as applicable, shall be recorded by the settlement agent in all appropriate Clerks’ Offices where the applicable property is located.
- (b) General ad valorem real estate taxes (whether assessed for the county, city or state, as applicable) for the then-current year relating to any portions of the NRV Station Conveyed Property or the Radford Layover Conveyed Property, as applicable, assessed by the local county or city taxing authority shall be prorated as of the NRV Station Closing Date and the Radford Layover Closing Date and shall be so adjusted at the NRV Station Closing and the Radford Layover Closing, as applicable. If the NRV Station Closing or the Radford Layover Closing shall occur before the tax rate or assessed value of the NRV Station Conveyed Property or the Radford Layover Conveyed Property, as applicable, is fixed for the then-current year, the apportionment of taxes shall be upon the basis of the tax rate or assessed value of the NRV Station Conveyed Property or the Radford Layover Conveyed Property, as applicable, for the immediately preceding year. For any portion of the NRV Station Conveyed Property or the Radford Layover Conveyed Property, as applicable, that is not assessed locally and upon which Norfolk Southern Railway pays taxes upon a franchise operating tax return basis, then there shall not be prorations at the NRV Station Closing Date and the Radford Layover Closing Date for the portion of such taxes or assessments that are on the franchise operating tax return basis, with Norfolk Southern Railway continuing to pay such obligations through the NRV Station Closing Date and the Radford Layover Closing Date, as applicable, in the usual course of its business, and VPRA assuming any such liability arising on or after the NRV Station Closing Date and the Radford Layover Closing Date, as applicable, based on VPRA’s specific tax considerations.

- (c) All rents or other sums due pursuant to any applicable lease that is to be assigned to VPRA at the Applicable Closing shall be prorated as of the Applicable Closing Date. Further, all special taxes or assessments of any type of which Norfolk Southern Railway is aware to be due and payable prior to the NRV Station Closing Date and the Radford Layover Closing Date, as applicable, shall be paid by Norfolk Southern Railway. After the NRV Station Closing Date and the Radford Layover Closing Date, as applicable, all such special taxes or assessments (including, without limitation, sanitary sewer, water and utility charges and assessments) arising after the NRV Station Closing and the Radford Layover Closing, as applicable, or arising before the NRV Station Closing Date and the Radford Layover Closing Date, as applicable, but of which Norfolk Southern Railway was not aware on the NRV Station Closing Date and the Radford Layover Closing Date, as applicable, shall be paid by VPRA as the same may become due and payable. Further, for any sanitary sewer, water and utility charges and assessments affecting the NRV Station Conveyed Property or the Radford Layover Conveyed Property, as applicable, either Party may elect to require, prior to the Applicable Closing, that the meters for all utility charges, if any, be read and new accounts therefor established as of midnight of the Business Day prior to the NRV Station Closing and the Radford Layover Closing, as applicable, whereupon Norfolk Southern Railway shall be responsible for and shall pay for all such charges relating to the period prior to the NRV Station Closing Date and the Radford Layover Closing Date, as applicable, and VPRA shall pay and be responsible for all such charges from and after the NRV Station Closing Date and the Radford Layover Closing Date, as applicable. Any such pro-rations shall be pro-rated based on the amount due for the then-current payment period as divided by the number of days within the then-current payment period, with each Party receiving a credit or debit, as applicable, for each Party's period of ownership through the NRV Station Closing Date and the Radford Layover Closing Date, as applicable. If no such bill has been provided for the then-current payment period, then the Parties shall make the pro-rations discussed herein based on the amounts paid in satisfaction of the immediately preceding payment period as calculated based on the number of days in the then-current payment period, with each Party being credited or debited at the NRV Station Closing and the Radford Layover Closing, as applicable, as otherwise set forth herein.
- (d) Each Party shall deliver to the settlement agent Bills of Sale executed by VPRA and Norfolk Southern Railway, respectively, in a form substantially similar to that form set forth in Exhibit D-2 (Bill of Sale (NRV Station Parcel)) and Exhibit E-2 (Bill of Sale (Radford Layover)), in each case with such updates as agreed by the Parties.
- (e) Conveyance of all of Norfolk Southern Railway's right, title and interest to the NRV Station Conveyed Property to VPRA pursuant to the NRV Station Deed and the Radford Layover Conveyed Property to VPRA pursuant to the Radford Layover Deed, as applicable, shall be subject to the following:

- (i) General real estate taxes (prorated in accordance with Section 5.1(c) (Closing Date)) for the year of the NRV Station Closing Date and the Radford Layover Closing Date, as applicable, and subsequent years not yet due and payable.
- (ii) Applicable existing Laws, orders, rules and regulations.
- (iii) All rights, restrictions, encumbrances, easements, tenancies, reservations, leases, licenses, permits, privileges, agreements, third-party agreements, conditions, covenants, rights of reentry, or other reversionary interests whether or not of record.
- (iv) All rights of any third party (or the general public) in all roads, alleys, bridges, streets, streams, rivers, creeks, or waterways affecting the NRV Station Conveyed Property and Radford Layover Conveyed Property, as applicable (including, without limitation, any culverts, ditches, drainage systems or other facilities affecting the applicable property).
- (f) Norfolk Southern Railway shall deliver to the settlement agent an affidavit with respect to Norfolk Southern Railway's non-foreign status in compliance with Section 1445 of the Internal Revenue Code, in a form substantially similar to the form set forth in Exhibit J (Form of FIRPTA).
- (g) Norfolk Southern Railway shall deliver to the settlement agent an Owner's Affidavit speaking to certain matters of title in a form substantially similar to that form set forth in Exhibit K (Owner's Affidavit) with respect to the property such Party is conveying.
- (h) Norfolk Southern Railway shall deliver to the settlement agent a certificate of good standing from the Virginia State Corporation Commission, Certificate of Incumbency documenting such Party's authority to proceed with the NRV Station Closing and the Radford Layover Closing, as applicable, form 1099-S (upon request), an R-5E (upon request), and other forms, in mutually agreeable form to the Parties, settlement agent, and the title insurance company, that are necessary to consummate the NRV Station Closing and the Radford Layover Closing, as applicable, set forth herein.
- (i) Each Party shall deliver to the settlement agent an Assignment and Assumption Agreement in a form substantially similar to that form set forth in Exhibit L (Form of Assignment and Assumption Agreement), executed by Norfolk Southern Railway and VPRA, respectively.
- (j) Upon and after the NRV Station Closing and if requested by Norfolk Southern Railway, VPRA agrees to lease the New Depot Building to Norfolk Southern Railway until Norfolk Southern Railway establishes a new reporting location for its employees, and Norfolk Southern Railway shall pay Five Thousand Dollars (\$5,000) monthly in advance to VPRA for such lease; *provided* that the rights and

obligations in this clause (j) shall be extinguished if and when VPRA or its designees require access to the New Depot Building for renovation or other uses.

5.8 Deed Preparation

- (a) Norfolk Southern Railway shall pay for the Manassas Line Deed, the Seminary Passage Deed, the Broad Run Deed, the Manassas Segment Deed of Easement, the NRV Station Deed and the Radford Layover Deed preparations, each as applicable, costs to prepare any other documents for the Applicable Closing that Norfolk Southern Railway has expressly agreed herein to produce at the Applicable Closing, grantor's tax (including those due pursuant to § 58.1-802 and 58.1-802.3 of the Code of Virginia) and Norfolk Southern Railway's attorney's fees. For the purpose of calculating grantor's tax, the price due and payable to each county or city shall be calculated upon the portion of the Purchase Price or exchange value allocated to that respective county or city.
- (b) VPRA shall pay for the V-Line Deed preparation, costs to prepare any other documents for the Second Closing that VPRA has expressly agreed herein to produce at Second Closing, and for VPRA's attorney's fees. For clarity, VPRA is exempt from grantor's tax (including those due pursuant to § 58.1-802 and 58.1-802.3 of the Code of Virginia).

5.9 Other Closing Costs

- (a) VPRA shall pay for all other closing costs with respect to the NSR-Conveyed Property not paid by Norfolk Southern Railway, including, without limitation, taxes related to the Applicable Closing (excluding grantor's tax), filing or recording fees, survey costs, title examination fees, title insurance premiums, escrow or settlement agent fees, and VPRA's attorney's fees.
- (b) Norfolk Southern Railway shall pay for all other Second Closing costs with respect to the V-Line Conveyed Property not paid by VPRA, including, without limitation, taxes related to the Second Closing (excluding grantor's tax), filing or recording fees, survey costs, title examination fees, title insurance premiums, escrow or settlement agent fees, and Norfolk Southern Railway's attorney's fees.

5.10 Legal Descriptions

- (a) Prior to the Initial Closing Date, Norfolk Southern Railway shall provide the existing Valuation Maps for the Initial NSR-Conveyed Property, the Manassas Segment, and the Seminary Passage Conveyed Property (the "**NSR Valuation Maps**") via electronic delivery methods. The NSR Valuation Maps shall also clearly indicate the mileposts applicable to the Manassas Line Conveyed Property, the Seminary Passage Conveyed Property, the Broad Run Conveyed Property, and the Manassas Segment. Further, VPRA, at the cost and expense of VPRA, shall commission the Initial Surveys (as described herein), and any Additional Survey (as described herein), as applicable, pursuant to Article 6 (Surveys; Deeds of Confirmation) of this Agreement and, which Initial Surveys and any Additional

Survey shall be subject to review and approval of Norfolk Southern Railway and VPRA, that accurately depict the termination points of the Initial NSR-Conveyed Property, the Seminary Passage Conveyed Property, the Manassas Segment, a metes and bounds description of the Broad Run Conveyed Property, and any applicable cut points for any Excluded Property. The surveyor conducting the Initial Surveys and any Additional Survey on behalf of VPRA, or other VPRA contractor or consultant, shall prepare legal descriptions for the cut points for the Initial NSR-Conveyed Property, the Manassas Segment, the Seminary Passage and a metes and bounds description of the Broad Run Conveyed Property, such legal descriptions to be subject to the approval of Norfolk Southern Railway and VPRA. The Initial Surveys, any Additional Survey, and the applicable full legal descriptions shall be attached to the applicable Deed and, if applicable, the Manassas Segment Deed of Easement as exhibits and recorded therewith as part of the public record. Such NSR Valuation Maps shall be included in Exhibit B-1 (Existing Valuation Maps (Manassas Line)), Exhibit C-1 (Existing Valuation Maps (Broad Run Corridor)), Exhibit G-1 (Existing Valuation Maps (Manassas Segment)) and Exhibit H-1 (Existing Valuation Maps (Seminary Passage)). Norfolk Southern Railway agrees to assist VPRA in procuring the Initial Surveys by recommending surveyors, providing collaborative comments, and timely review of survey work, and otherwise advise VPRA of Norfolk Southern Railway survey standards to expedite the required approvals.

- (b) Prior to the Initial Closing Date, VPRA shall prepare a legal description for the V-Line Conveyed Property conveying to Norfolk Southern Railway all the real property interests granted to VPRA under (i) instrument no. 202207030 recorded in the clerk's office of Roanoke County Circuit Court on June 30, 2022, (ii) instrument no. 2022005439 recorded in Montgomery County Circuit Court clerk's office on July 7, 2022, and (iii) instrument no. 220001719 recorded in the clerk's office of Salem Circuit Court on June 30, 2022. The aforementioned legal description shall also clearly describe the mileposts applicable to the V-Line Conveyed Property, as well as any applicable locally assessed tax map parcels to be conveyed as part of the V-Line Conveyed Property set forth herein.
- (c) Prior to the Initial Closing Date, Norfolk Southern Railway shall provide the existing Valuation Maps for the NRV Station Real Property and the Radford Layover Real Property, as applicable (the "**NRV/Radford Valuation Maps**"), and deliver the same to VPRA via electronic delivery methods. The aforementioned NRV/Radford Valuation Maps shall also clearly indicate any applicable mileposts applicable to the NRV Station Conveyed Property and the Radford Layover Conveyed Property. Further, VPRA, at the cost and expense of VPRA, may commission any Additional Survey, as applicable, pursuant to Article 6 (Surveys; Deeds of Confirmation) of this Agreement and subject to review and approval of Norfolk Southern Railway and VPRA. The surveyor conducting any Additional Survey on behalf of VPRA shall also prepare legal descriptions for the NRV Station Real Property and the Radford Layover Real Property, such legal descriptions to be subject to the approval of Norfolk Southern Railway and VPRA. The Additional Survey and associated legal descriptions shall be attached to the applicable Deed as

exhibits and recorded therewith as part of the public record. Such NRV/Radford Valuation Maps shall be included in Exhibit D-1 (Existing Valuation Maps (NRV Station Parcel)) and Exhibit E-1 (Existing Valuation Maps (Radford Layover)), with the aforementioned legal description being prepared and approved by VPRA and Norfolk Southern Railway prior to the Initial Closing Date. Norfolk Southern Railway agrees to assist VPRA in procuring any such survey by recommending surveyors, providing collaborative comments, and timely review of survey work, and otherwise advise VPRA of Norfolk Southern Railway survey standards to expedite the required approvals.

5.11 Recording

With respect to each 2024 CRA Closing, the Parties shall record the Deeds and the Manassas Segment Deed of Easement, as applicable, with the Circuit Court Clerk in the relevant localities where such rights and interest exist.

5.12 Tax Credits

[To the extent NSR is entitled to a tax credit pursuant to Va. Code Sec. 58.1-3360 with respect to any NSR-Conveyed Property after the Applicable Closing Date, then VPRA shall reasonably cooperate with Norfolk Southern Railway to execute any necessary documents to support Norfolk Southern Railway's claim of divestment of the relevant NSR-Conveyed Property.]³

Article 6 Surveys; Deeds of Confirmation

6.1 Initial Surveys

- (a) On or before the August 31, 2024, VPRA shall make good faith efforts to diligently secure, at the cost and expense of VPRA but with the cooperation of Norfolk Southern Railway as set forth in Section 5.10(a) (Legal Descriptions):
 - (i) a survey made by a registered land surveyor licensed in the Commonwealth depicting with respect to the Manassas Line Conveyed Property a cut point survey of (A) thirty (30) feet to the east of the switches located east of the eastern abutment of the bridges crossing Cameron Run (at or about MP Manassas 10.76) to (B) a point of termination thirty (30) feet west from the western end of an overpass bridge crossing Grant Avenue in Manassas (at or about MP Manassas 32.75), and (C) including between such points described in (A) and (B) above, each of the Conveyed Passenger Stations Property, and (D) any applicable Excluded Property listed in Exhibit N-1 (Form of Quitclaim Deed for Manassas Line) (the “**Manassas Line Survey**”);

³ Note to Draft: This provision remains subject to further negotiation between the Parties.

- (ii) a survey made by a registered land surveyor licensed in the Commonwealth depicting a metes and bounds description of the Broad Run Conveyed Property listed in Exhibit N-2 (*Form of Quitclaim Deed for Broad Run Corridor*) (the “**Broad Run Survey**”);
 - (iii) a survey made by a registered land surveyor licensed in the Commonwealth depicting with respect to the Seminary Passage Conveyed Property a cut point survey of (A) thirty (30) feet to the east of the mainline track crossing into CSX ROW (at or about MP 9.25) to (B) a point of termination thirty (30) feet to the east of the switches located east of the eastern abutment of the bridges crossing Cameron Run (at or about MP 10.76), and (C) any applicable Excluded Property listed in Exhibit N-4 (*Form of Quitclaim Deed for Seminary Passage*) (the “**Seminary Passage Survey**”);
 - (iv) a survey made by a registered land surveyor licensed in the Commonwealth depicting a metes and bounds description of the NRV Station Conveyed Property listed in Exhibit N-5 (*Form of Quitclaim Deed for NRV Station Parcel*) (the “**NRV Station Parcel Survey**”); and
 - (v) a survey made by a registered land surveyor licensed in the Commonwealth depicting a metes and bounds description of the Radford Layover Conveyed Property listed in Exhibit N-6 (*Form of Quitclaim Deed for Radford Layover Parcel*) (the “**Radford Layover Parcel Survey**” and together with the Manassas Line Survey, the Broad Run Survey, the Seminary Passage Survey, and the NRV Station Parcel Survey, the “**Initial Surveys**”).
- (b) The Initial Surveys, which are subject to approval of Norfolk Southern Railway and VPRA, shall be obtained by VPRA at the sole cost of VPRA. VPRA shall arrange for the Initial Surveys (with all Parties working diligently and in good faith to provide Norfolk Southern Railway such Initial Surveys on or before August 21, 2024 for any review, comment, and approval of applicable survey drafts, but with failure to meet such deadline not being deemed to be a breach of this Agreement) and furnish to Norfolk Southern Railway three (3) copies of the metes and bounds description (including the applicable CADD file) describing the applicable points of termination and Excluded Property, acceptable to Norfolk Southern Railway, VPRA and to the officials responsible for recordation of deeds in the county or city in which the applicable portion of the NSR-Conveyed Property, as applicable, is located. The Parties agree that they will prioritize the completion and review of the Initial Surveys with respect to the Initial NSR-Conveyed Property, with the goal of completing and approving them before August 31, 2024. If some or all of the Initial Surveys are completed and approved by Norfolk Southern Railway prior to August 31, 2024, then with respect to the Initial Closing, VPRA shall utilize the approved Initial Surveys, along with the legal descriptions described in Section 5.10(a) (*Legal Description*), in preparation of conveyance documents and all other applicable instruments contemplated by this Agreement with respect to the Initial Closing. If some or all of the Initial Surveys are completed and/or approved by Norfolk Southern Railway after the Applicable Closing Date, then the Initial

Surveys shall be placed of record in the applicable locality pursuant to Section 6.3 (Deeds of Confirmation). The Initial Surveys shall depict the location of all improvements and tracks on or adjacent to the relevant NSR-Conveyed Property, as applicable, together with a metes and bounds description of the applicable cut points, if applicable, as well as any Excluded Property.

6.2 Additional Survey

VPRA may cause, in its sole discretion and at its sole expense, a boundary survey, or other survey plats based on title work and field surveys described in Section 3.1 (Title Examination Due Diligence and Purchase Price Adjustment) and this Article 6 (Surveys; Deeds of Confirmation) with respect to the NSR-Conveyed Property, respectively, (“**Additional Survey**”) to be conducted of the NSR-Conveyed Property or any portion thereof by a land survey duly registered under the Laws of the Commonwealth. Such Additional Survey shall include a depiction of the in-place improvements and tracks on or adjacent to the NSR-Conveyed Property together with a metes and bounds description of the applicable property. If VPRA desires that the Additional Survey is utilized in any applicable conveyance document on the Applicable Closing Date, then the Additional Survey shall be reviewed and approved by Norfolk Southern Railway pursuant to the same approval process set forth in Section 6.1 (Initial Surveys) prior to being utilized in the conveyance documents. To the extent the Additional Survey is approved by Norfolk Southern Railway and completed prior to the Applicable Closing Date, then the same shall be utilized to depict the applicable portion of the interests conveyed herein, as applicable, as a supplement to, and not in lieu of, any other legal description otherwise prepared in compliance with this Agreement. In the event that the Additional Survey is completed and/or approved by Norfolk Southern Railway after the Applicable Closing Date, then, so long as the Parties mutually agree that such Additional Survey should be placed of record, the Additional Survey shall be placed of record in the applicable locality pursuant to Section 6.3 (Deeds of Confirmation).

6.3 Deeds of Confirmation

In the event that one or more Initial Survey or Additional Survey (provided that the Parties have mutually agreed that such Additional Surveys in question are necessary to further the terms of this Agreement) are not completed and approved by the applicable Party in sufficient time to utilize as part of the legal description described in Section 5.10(a) (Legal Description) on the Applicable Closing Date, then, upon completion and approval of such Initial Surveys or Additional Surveys after the Applicable Closing Date, Norfolk Southern Railway and VPRA shall execute a quitclaim deed of confirmation in a form substantially similar to that form set forth at Exhibit N-8 (Form of Deed of Confirmation) (“**Deed of Confirmation**”), with such Initial Surveys or Additional Surveys being placed of record as an exhibit to the aforementioned Deed of Confirmation at the sole cost and expense of the Party requesting such Deed of Confirmation in the applicable locality. Notwithstanding the foregoing, each Party shall make good faith efforts to diligently pursue the completion of all Initial Surveys and any Additional Surveys prior to the Applicable Closing Date. Any Initial Survey and/or Additional Survey completed or approved by a Party after the Applicable Closing Date shall only serve to confirm ownership to the applicable portions

of the NSR-Conveyed Property. No Initial Survey or Additional Survey completed or approved after the Applicable Closing Date shall serve to: (a) alter or amend the Transaction (except to the extent of confirming the acreage conveyed herein), or (b) amend the Purchase Price, or any other sum payable by, or property exchanged by, any Party pursuant to this Agreement in any way, or (c) extend, revive, or otherwise modify any time period for objection, due diligence, or any rights of evaluation or termination that have otherwise expired, terminated, or been waived by a Party pursuant to the terms of this Agreement, with regard to any matter revealed by the Initial Survey or Additional Survey, or (d) limit or otherwise amend the nature of the quitclaim conveyance contemplated by this Agreement, and the Parties' acceptance of all or any part of the NSR-Conveyed Property on the Applicable Closing Date AS-IS, WHERE-IS without representation or warranty (excepting the specific representations and warranties expressly set forth in this Agreement). Further, neither Party shall assume any costs, liability, or other obligation (in addition to the terms of this Agreement) to execute any additional documentation other than the Deed of Confirmation and any applicable signatures within the Initial Survey or Additional Surveys (including, without limitation, title insurance company or settlement agent documentation) to facilitate additional title insurance coverage or other uses of the Initial Survey or Additional Surveys that a Party, a Party's title insurance company, settlement agent, or any other party associated with the transaction may deem desirable. Any dispute arising after the Applicable Closing Date as a result of this Deed of Confirmation process set forth herein shall be governed by Article 29 (Dispute Resolution).

Article 7

Representations and Warranties

7.1 Norfolk Southern Railway's Representations

Norfolk Southern Railway hereby represents and warrants to VPRA, (v) as of the Execution Date with respect to the NSR Conveyed Property and the Manassas Segment, (w) as of the Initial Closing Date solely with respect to the Initial NSR-Conveyed Property and the Manassas Segment, (x) as of the Second Closing Date solely with respect to the Seminary Passage Conveyed Property, (y) as of the NRV Station Closing Date solely with respect to the NRV Station Conveyed Property and (z) as of the Radford Layover Closing Date solely with respect to the Radford Layover Conveyed Property, as follows:

- (a) *Knowledge of Norfolk Southern Railway.* As used herein and elsewhere in this Agreement, the phrase "actual knowledge of Norfolk Southern Railway" or similar reference shall refer to the actual knowledge of (i) Jennifer Schilke with respect to the representations in subsection (b) below; (ii) Cliff Garner with respect to the representations in subsections (c), (d) and (k) below; (iii) Thomas Zoeller with respect to subsection (h) below; and (iv) David Lehlbach with respect to subsection (i) and (j) below, as of the Execution Date and as of the Applicable Closing Date, as applicable, and after reasonable inquiry with regard to such representations (which reasonable inquiry shall be limited to review of internal documents in the actual possession of Norfolk Southern Railway). In the event that any of the knowledge parties listed above is no longer an employee of Norfolk Southern Railway as of the Applicable Closing Date, such person will be replaced by his or

her successor for purposes of this definition of “actual knowledge of Norfolk Southern Railway”.

- (b) *Assessments.* To Norfolk Southern Railway’s actual knowledge, no assessments have been made against the applicable NSR-Conveyed Property or the Manassas Segment, as applicable, that are unpaid (except ad valorem taxes for the current year), whether or not they have become liens.
- (c) *Boundary Lines of Land.* To Norfolk Southern Railway’s actual knowledge, there is no pending litigation or dispute concerning the location of the lines and corners of the applicable NSR-Conveyed Property or the Manassas Segment, as applicable.
- (d) *No Condemnation.* To Norfolk Southern Railway’s actual knowledge, there is no pending (or to Norfolk Southern Railway’s actual knowledge, threatened) condemnation, expropriation, eminent domain, change in grade of public street or similar proceeding affecting all or any portion of the applicable NSR-Conveyed Property or the Manassas Segment, as applicable.
- (e) *Authorization.* Norfolk Southern Railway has taken all necessary corporate action to authorize the execution of this Agreement, and those Persons executing this Agreement on behalf of Norfolk Southern Railway, are authorized to do so; provided, however, that no officer, director, shareholder, beneficial owner, agent or employee of Norfolk Southern Railway shall be personally liable for any obligation hereunder.
- (f) *Good Standing.* Norfolk Southern Railway is a duly organized and validly existing corporation under the Laws of the Commonwealth and duly authorized and registered to transact business in the Commonwealth.
- (g) *Binding.* This Agreement is a legal, valid and binding agreement of Norfolk Southern Railway, enforceable against Norfolk Southern Railway in accordance with its terms, except as such enforceability may be limited by (i) bankruptcy, insolvency, reorganization or other similar Laws affecting the enforcement of creditors’ rights generally and (ii) general principles of equity (regardless of whether such enforceability is considered a proceeding in equity or at law).
- (h) *No Violation.* To Norfolk Southern Railway’s actual knowledge, entering into this Agreement by Norfolk Southern Railway is not in violation of any applicable Law or order.
- (i) *No Consummated Abandonment.* To Norfolk Southern Railway’s actual knowledge, except as provided in Exhibit Q (NSR Abandonments), from January 1, 2022 to present, there have been no consummated abandonments, as that term is used in the Interstate Commerce Commission Termination Act of 1995, concerning the mainline trackage of Norfolk Southern Railway which are located on the applicable NSR-Conveyed Property or the Manassas Segment, as applicable.

- (j) *Trackage Rights Agreements.* To Norfolk Southern Railway’s actual knowledge, the list of Trackage Rights Agreements contained in Exhibit P (NSR Trackage Rights Agreements) are all of the Trackage Rights held by other rail carriers on the applicable NSR-Conveyed Property or the Manassas Segment, as applicable.
- (k) *Positive Train Control.* Positive Train Control has been installed on the Manassas Line, the N-Line, and the NB-Line, including between the passenger platform at Roanoke and the Radford Layover Parcel, including through the NRV Station Parcel.
- (l) *Disclaimer.* Other than as expressly set forth in this Agreement, Norfolk Southern Railway has not and does not hereby make any express or implied representation or warranty or give any indemnification of any kind to VPRA concerning the NSR-Conveyed Property or the Manassas Segment.
- (m) *[No Conflict, Breach, or Consent under other Agreements.* The execution, delivery, and performance of this Agreement by Norfolk Southern Railway (including, without limitation, with regards to (i) Section 14.1 (Dispatching) and VPRA’s selection of the Dispatcher, (ii) Article 15 (Improvements and Maintenance) and VPRA’s undertaking of maintenance of the Purchased Line, and (iii) all other provisions of this Agreement related to VPRA’s Passenger Rail Service rights) does not and will not conflict with, result in a breach of, or require any consent or waiver of Amtrak or any other third parties, under any other agreement, contract, or obligation to which Norfolk Southern Railway is a party or by which Norfolk Southern Railway is otherwise bound, including, without limitation, the NSR Off-Corridor Agreement.]⁴

7.2 VPRA’s Representations

VPRA hereby represents and warrants to Norfolk Southern Railway, (x) as of the Execution Date and the Initial Closing Date, (y) as of the Second Closing Date solely with respect to the V-Line Conveyed Property and (z) as of each other Applicable Closing solely with respect to Subsections 7.2(a), 7.2(e), 7.2(f) and 7.2(g) below, as follows:

- (a) *Knowledge of VPRA.* As used herein and elsewhere in this Agreement, the phrase “actual knowledge of VPRA” or similar reference shall refer to the actual knowledge of Michael McLaughlin, as of the Execution Date, the Closing Date and the Second Closing Date, and after reasonable inquiry with regard to such representations (which reasonable inquiry shall be limited to review of internal documents in the actual possession of VPRA). In the event that any of the knowledge parties listed above is no longer an employee of VPRA as of the applicable date, such person will be replaced by his or her successor for purposes of this definition of “actual knowledge” of VPRA.

⁴ Note to Draft: This provision remains subject to further negotiation between the Parties.

- (b) *Assessments.* VPRA is exempt from ad valorem taxes.
- (c) *Boundary Lines of Land.* To VPRA's actual knowledge, there is no pending litigation or dispute concerning the location of the lines and corners of the V-Line Conveyed Property.
- (d) *No Condemnation.* To VPRA's actual knowledge, there is no pending (or to VPRA's actual knowledge, threatened) condemnation, expropriation, eminent domain, change in grade of public street or similar proceeding affecting all or any portion of the V-Line Conveyed Property.
- (e) *Authorization.* VPRA has taken all necessary corporate action to authorize the execution of this Agreement, and those Persons executing this Agreement on behalf of VPRA, are authorized to do so; provided, however, that no officer, director, shareholder, beneficial owner, agent or employee of VPRA shall be personally liable for any obligation hereunder.
- (f) *Binding.* This Agreement is a legal, valid and binding agreement of VPRA, enforceable against VPRA in accordance with its terms, except as such enforceability may be limited by (i) bankruptcy, insolvency, reorganization or other similar Laws affecting the enforcement of creditors' rights generally and (ii) general principles of equity (regardless of whether such enforceability is considered a proceeding in equity or at law).
- (g) *No Violation.* To VPRA's actual knowledge, entering into this Agreement by VPRA is not in violation of any applicable Law or order.
- (h) *No Consummated Abandonment.* To VPRA's actual knowledge, except as provided in Exhibit Q (*V-Line Abandonments*), from January 1, 2022 to present, there have been no consummated abandonments, as that term is used in the Interstate Commerce Commission Termination Act of 1995, concerning the mainline trackage of VPRA which are located on the V-Line Conveyed Property.
- (i) *Trackage Rights Agreements.* VPRA has not entered into any Trackage Rights Agreements and to VPRA's actual knowledge, since the date of the 2022 CRA, there have not been any changes to Exhibit J (*Trackage Rights Agreements*) of the 2022 CRA.
- (j) *Assigned Agreements and Instruments.* To VPRA's actual knowledge, VPRA is not a party to any pending litigation alleging a material breach of any agreement or instrument that will be assigned to Norfolk Southern Railway.
- (k) *Changes Since 2022 CRA.* Since the date of the 2022 CRA, (i) VPRA has not transferred or conveyed all or any portion of the V-Line Conveyed Property to any Person or (ii) to VPRA's actual knowledge, there has not been any Release of Hazardous Materials (other than any release arising from Norfolk Southern Railway's activities on the V-Line Real Property) in such quantities that render it unsuitable for use of the V-Line Conveyed Property as an operating railroad.

- (l) *Disclaimer.* Other than as expressly set forth in this Agreement, VPRA has not and does not here-by make any express or implied representation or warranty or give any indemnification of any kind to Norfolk Southern Railway concerning the V-Line Conveyed Property.

7.3 Survival and Breach of Representations

Norfolk Southern Railway's representations and warranties in this Article 7 (*Representations and Warranties*) shall survive until the sixth (6th) anniversary of the Initial Closing Date and, solely with respect to Norfolk Southern Railway's representations and warranties in this Article 7 (*Representations and Warranties*) with respect to the respective NSR Conveyed Property, such representations and warranties shall survive until the sixth (6th) anniversary of the associated Applicable Closing Date. VPRA's representations and warranties in this Article 7 (*Representations and Warranties*) shall survive until the sixth (6th) anniversary of the Applicable Closing Date at which such representations and warranties in this Article 7 (*Representations and Warranties*) were made.

Article 8 Corridor Rail Services

8.1 Passenger Rail Service

- (a) VPRA shall have the right to provide or cause to be provided by an Intercity Rail User and/or Commuter Rail User the following passenger rail service (together, "**Passenger Rail Service**"), subject to the applicable Operating Rules, and the terms and conditions of this Agreement and the Intercity Operating Schedule (such Passenger Rail Service will not Unreasonably Interfere with Freight Rail Operations and the Parties acknowledge and agree that any Passenger Rail Service already in operations as of the Execution Date does not Unreasonably Interfere with Freight Rail Operations):
- (i) the Baseline First Frequency, the Baseline Second Frequency, and, subject to Section 8.1(g) (*Passenger Rail Service*), the Third Roanoke Frequency;
 - (ii) upon and after (A) the Turnover Date, (B) the NRV Station Closing, and (C) the Radford Layover Closing:
 - (A) the Extended First Frequency;
 - (B) the Extended Second Frequency; and
 - (C) subject to Section 8.1(g) (*Passenger Rail Service*), the Extended Third Frequency;
 - (iii) upon and after (A) the Turnover Date, (B) the NRV Station Closing, (C) the Radford Layover Closing, (D) the substantial completion of the Roanoke Easement Area Improvements, and (E) the substantial completion of the

Roanoke/Radford Improvements, Excursion Passenger Rail Service (which Norfolk Southern Railway shall accommodate, including on weekends and holidays, if such service does not Unreasonably Interfere with Freight Rail Operations);

- (iv) upon and after the Initial Closing Date, Commuter Rail Service operated by VRE over the VRE Manassas Territory (A) at frequencies set forth in Exhibit Z-1 (VRE Weekday Service Schedule) and Exhibit Z-2 (VRE Saturday Service Schedule), in each case subject to any consents required from any applicable third parties, or (B) at such other frequencies in accordance with Section 8.5(b) (VRE Service);
 - (v) upon and after the Initial Closing Date and prior to the completion of construction of the Broad Run Pocket Track, over the NSR-Retained Broad Run Tracks, Intercity Passenger Rail Service and Commuter Rail Service at frequencies selected by VPRA that do not Unreasonably Interfere with Freight Rail Operations, subject to Section 8.5(b) (VRE Service).
- (b) The Parties will arrange access to and use of passenger platforms as follows:
- (i) VPRA shall be responsible for arranging with Amtrak access to and use of the passenger platform in Roanoke if the operator of VPRA service is a party other than Amtrak; and
 - (ii) [within the Purchased Line and NRV Station Parcel, VPRA will provide any Intercity Rail Users and/or Commuter Rail Users access to and use of passenger platforms existing on the Conveyed Passenger Stations Property and the NRV Station Conveyed Property.]⁵
- (c) Subject to the statutory and contract rights of Amtrak, Norfolk Southern Railway shall not provide, and may not assign license, transfer (in whole or in part and including the grant of any passenger Trackage Rights to others) or otherwise permit any other Person to use the NSR ROW to provide passenger rail service that would have a material adverse effect on the Blended Quarterly OTP Percentage or the Intercity Operating Schedule without the prior written consent of VPRA, such consent not to be unreasonably withheld or delayed.
- (d) VPRA's use of the NSR ROW shall be in common with any NSR User. Norfolk Southern Railway's right to use the NSR ROW shall not be diminished by this Agreement. Subject to the terms of this Agreement, it is the intention of the Parties that the NSR ROW shall be used in an integrated way by all Users providing passenger or freight rail services such that there shall be no assigned windows for the operation of either without agreement of the Parties.

⁵ Note to Draft: This provision remains subject to further negotiation between the Parties.

- (e) VPRA may designate the provider of its choosing as an Intercity Rail User. Any Intercity Rail User other than Amtrak will be required to provide to Norfolk Southern Railway, under a direct agreement with Norfolk Southern Railway (hereinafter referred to as a “**Future Intercity Rail User Contract**”), the indemnification and insurance protections set forth in Exhibit W (*Liability Provisions Applicable to Future Intercity Rail Users other than Amtrak*), unless waived by Norfolk Southern Railway in writing at the time. No Passenger Rail Service on NSR ROW shall be performed by any Intercity Rail User other than Amtrak unless and until such Intercity Rail User has entered into a Future Intercity Rail User Contract with Norfolk Southern Railway in conformance with the provisions of this Section 8.1(e) (*Passenger Rail Service*). Should the Intercity Passenger Rail Service be provided by Amtrak, such service will be provided pursuant to the existing NSR Off-Corridor Agreement, or future replacement of the same, and the terms and conditions of the NSR Off-Corridor Agreement shall apply.
- (f) VPRA may designate the provider of its choosing as a Commuter Rail User. Any Commuter Rail User other than VRE will be required to provide to Norfolk Southern Railway, under a direct agreement with Norfolk Southern Railway (hereinafter referred to as a “**Future Commuter Rail User Contract**”), the indemnification and insurance protections set forth in Exhibit W-1 (*Liability Provisions Applicable to Future Commuter Rail Users other than VRE*), unless waived by Norfolk Southern Railway in writing at the time. No Passenger Rail Service on NSR ROW shall be performed by any Commuter Rail User other than VRE unless and until such Commuter Rail User has entered into a Future Commuter Rail User Contract with Norfolk Southern Railway in conformance with the provisions of this Section 8.1(f) (*Passenger Rail Service*). Should the Commuter Rail Service be provided by VRE, such VRE service shall be provided pursuant to (i) an agreement between VPRA and VRE as to the operations as set forth in Section 4.3(e) (*Mutual Conditions to Initial Closing and Second Closing*), and (ii) an agreement between VRE and Norfolk Southern Railway that, unless otherwise agreed between VRE and Norfolk Southern Railway, provides equal protections to Norfolk Southern Railway, including without limitation relating to insurance and liability, as contained in the existing Operating Access Agreement between VRE and Norfolk Southern Railway (as amended and extended from time to time, or future replacement of the same).
- (g) If an Intercity Rail User is abolished or otherwise ceases to exist without a designated successor or assign, VPRA shall have the right to designate the successor for the purposes of this Agreement and the designated successor shall have the right to operate passenger trains on the same routes and at the same frequencies as the former Intercity Rail User subject to the provisions of Section 8.1(e) (*Passenger Rail Service*).
- (h) No later than March 31, 2026, Norfolk Southern Railway shall perform or cause to be performed an RTC study (the “**Base RTC Study**”) between Roanoke and Alexandria that includes all current and future freight rail traffic, all current

passenger rail traffic, and assumes the completion of the Nokesville-Calverton Double Track Project, the Roanoke/Radford Improvements, and the Roanoke Easement Area Improvements and shall perform or cause to be performed an RTC study (the “**TRF Incremental RTC Study**”) that would add to the Base RTC Study only the Third Roanoke Frequency. Norfolk Southern Railway shall allow VPRA (including its employees and consultants) to participate in and observe the inputs for any such Base RTC Study and TRF Incremental RTC Study. The Parties shall meet and confer promptly after the completion of the Base RTC Study and the TRF Incremental RTC Study to determine what additional infrastructure or VPRA passenger service may be required, if any, to introduce the Third Roanoke Frequency such that it would not Unreasonably Interfere with Freight Rail Operations. After the Parties’ completion of any such mutually agreed infrastructure improvements, operating modifications, and/or compensation, VPRA may initiate the proposed Third Roanoke Frequency upon thirty (30) days’ notice; *provided* that the Parties agree that such infrastructure improvements, operating modifications, and/or compensation shall be funded by sources other than the WVRI Grant Funds and *provided* that Norfolk Southern Railway shall have no responsibility for funding any such infrastructure improvements, operating modifications, and/or compensation. For the avoidance of doubt, nothing set forth in this Agreement shall guarantee or require Norfolk Southern Railway’s approval of the Third Roanoke Frequency.

- (i) Upon the completion of the Nokesville-Calverton Double Track Project and the completion of the construction of a passenger rail platform in Bedford, VPRA shall have the right to cause one intercity passenger train pair per day between Washington, D.C. and Roanoke (or Christiansburg, if applicable) to stop at such Bedford platform, *provided* that the stop does not Unreasonably Interfere with Freight Rail Operations. If the Third Roanoke Frequency has been added in accordance with Section 8.1(g) (Passenger Rail Service), then the Parties shall discuss under what terms the Third Roanoke Frequency may stop at the Bedford platform based on RTC modeling reasonably agreed between the Parties.
- (j) The Parties shall reasonably cooperate in good faith to explore the extension of Passenger Rail Service beyond Christiansburg into Radford; *provided* that Passenger Rail Service shall not be permitted to extend to Radford prior to January 1, 2030. Norfolk Southern Railway shall perform or cause to be performed, at VPRA’s sole cost and expense, an RTC study with respect to the extension of Passenger Rail Service to Radford as a condition to any such extension. Norfolk Southern Railway shall allow VPRA (including its employees and consultants) to participate in and observe the inputs for any such RTC study. The Parties shall meet and confer promptly after the completion of such RTC study to determine what additional infrastructure and/or VPRA passenger service may be required, if any, to extend Passenger Rail Service to Radford. After the Parties’ completion of any such mutually agreed infrastructure improvements, operating modifications, and/or compensation, VPRA may initiate the proposed Passenger Rail Service to Radford upon thirty (30) days’ notice. For the avoidance of doubt, nothing set forth in this Agreement shall guarantee or require Norfolk Southern Railway’s approval

of any extension of Passenger Rail Service to Radford and in no case would any such service be initiated before 2030.

- (k) Notwithstanding anything to the contrary in this Agreement, (i) VPRA shall have the right to run up to two deadhead train pairs between Christiansburg and Radford per day, with charges for the operation to be paid pursuant to the then applicable rate set forth in the NSR Off-Corridor Agreement, and (ii) Norfolk Southern Railway shall provide a best-efforts dispatching preference for such deadhead movements. The slots for such deadhead movements are reflected in Exhibit AA (*Christiansburg-Radford Deadhead Movements*). For avoidance of doubt and notwithstanding anything to the contrary in this Agreement, Norfolk Southern Railway is not granting passenger operating rights between NRV Station Parcel and Radford Layover Parcel and is granting operating rights between NRV Station Parcel and Radford Layover Parcel for the purposes set forth in this Section 8.1(k) (*Passenger Rail Service*).
- (l) From the Radford Closing Date through the date that Amtrak begins utilizing Airo trainsets on all frequencies between Alexandria and the Southern-Most Station, Norfolk Southern Railway shall provide Amtrak (or other Intercity Rail User, if applicable) the use of the wye track at Walton (MP N 297.6/NB 297.6 – Christiansburg District and Pulaski District, respectively) for the deadhead movements as set forth in Section 8.1(k) (*Passenger Rail Service*), with charges for such operation to be paid pursuant to the then applicable rate set forth in the NSR Off-Corridor Agreement. In addition, Norfolk Southern Railway shall provide VPRA and Amtrak (or other Intercity Rail User, if applicable) access to and from the Radford Layover Parcel by means of the route depicted in Exhibit DD (*Radford Layover Access Route*) between Stockton Street in Radford and the Radford Layover Parcel. Norfolk Southern Railway shall maintain the route to a condition acceptable to Norfolk Southern Railway and nothing in this Section 8.1(l) (*Passenger Rail Service*) shall require Norfolk Southern Railway to conduct any additional maintenance associated with third-party use. Further, nothing in this Section 8.1(l) (*Passenger Rail Service*) shall be construed to alter any statutory rights of Amtrak to operate over rail assets owned by either Party.

8.2 Intercity Passenger Performance Regime

- (a) The Passenger Performance Regime will begin upon the earlier of: (i) the first day of the first full month following the completion of the Nokesville-Calverton Double Track Project and (ii) if VPRA has provided at least Fifty Million Dollars (\$50,000,000) through the first four WVRI Grant Funds installment payments, then January 1, 2026.
- (b) The Passenger Performance Regime will apply to the Baseline Second Frequency, the Extended First Frequency, the Extended Second Frequency, the Extended Third Frequency, and the Third Roanoke Frequency only. Notwithstanding the

foregoing, Norfolk Southern Railway shall not be subject to the Passenger Performance Regime for any extended frequencies west of Roanoke until:

- (i) the earlier between (A) the completion of construction of the Roanoke/Radford Improvements and the Roanoke Easement Area Improvements, and (B) December 31, 2028; and
 - (ii) the earlier of (A) the completion of the Nokesville-Calverton Double Track Project and (B) January 1, 2030.
- (c) For Non-Late Trains, the Parties shall measure on-time performance using the customer on-time performance metric (“**Standard Customer OTP**”) defined in the November 16, 2020 FRA *Final Rule on Metrics and Minimum Standards for Intercity Passenger Rail Services* (49 C.F.R. Part 273). Standard Customer OTP will measure the percentage of applicable Intercity Passenger Rail Service customers arriving at their station destination within fifteen minutes of the applicable published schedule. Standard Customer OTP shall be measured quarterly using data collected by Amtrak and provided to the Parties.
- (d) For each Late Train, the Parties shall measure on-time performance by comparing the Actual Run Time to the Adjusted Run Time, in all cases between the same two points. Measured at each individual passenger station, if the Actual Run Time is less than the Adjusted Run Time, the corresponding passengers delivered to such individual passenger station shall be considered on time.
- (i) If either Party believes that additional Capital Improvements to the Corridor have been accomplished such that the Late Run Time Cushions should be readjusted, then such Party may provide written notice to the other Party and the Parties will meet within forty-five (45) days after delivery of such written notice to negotiate in good faith to adjust the Late Run Time Cushions. However, neither Party shall be compelled to agree to any such adjustment.
- (e) Upon the close of each quarter, and the Parties receiving the applicable data from Amtrak, VPRA shall use such data to calculate a single percentage combining the number of passengers delivered on time for both Non-Late Trains and Late Trains as a percentage of all passengers during such quarter (the “**Blended Quarterly OTP Percentage**”). Thereafter, VPRA shall be permitted to discount the Passenger Per Train Mile Rate in accordance with the following table during the next-occurring full quarter.

Blended Quarterly OTP Percentage	Permitted Discount Applied to the Next Full Quarter
100% - 91%	0%
90% - 81%	10%
80% - 71%	20%
70% - 61%	30%

60% - 51%	40%
50% - 31%	50%
30% - 0%	100%

- (f) VPRA shall provide its calculation of each Blended Quarterly OTP Percentage to Norfolk Southern Railway, which shall have the right to give notice of its intent to audit and dispute VPRA's calculation, such notice to be provided within thirty (30) days of VPRA delivering said calculation. If Norfolk Southern Railway fails to give notice of its intent to dispute such calculation within said thirty (30) days, then Norfolk Southern Railway will be deemed to have waived the right to dispute such calculation. If Norfolk Southern Railway disputes any Blended Quarterly OTP Percentage calculation provided by VPRA, VPRA shall be permitted to apply the corresponding discount (if any) to the Passenger Per Train Mile Rate pending the outcome of such dispute, with a true-up being applied once the dispute is resolved.
- (g) If, for any quarter, the Blended Quarterly OTP Percentage falls below eighty percent (80%), then the Performance Managers Committee shall meet within thirty (30) days following the end of such quarter to address the causational factors. Thereafter, the Performance Managers Committee shall meet quarterly (or less frequently if mutually agreed) until such factors are addressed to the satisfaction of each Party.
- (h) Should VPRA elect to assume control of dispatching of the Purchased Line in accordance with the terms of this Agreement, then all performance measures, including the Blended Quarterly OTP Percentage for the applicable Trains, shall be measured from milepost 32.75 on the Purchased Line as the farthest point north and east for both northbound and southbound Trains.

8.3 Freight Rail Service

- (a) The Freight Rail Service rights include the right of Norfolk Southern Railway to operate Trains, cars, and Equipment with its own crews over the Purchased Line. The Parties acknowledge that the Freight Rail Service rights reserved pursuant to the Freight Easements are for the purpose of Norfolk Southern Railway using the same for bridging their Freight Rail Trains, serving existing and future freight industries located along, adjacent and near the Purchased Line, having connections made, after prior notice and subject to ongoing coordination with VPRA, to the Purchased Line to serve existing and future industries, and operating haulage or any other freight service of any kind of character for itself or any other freight rail carrier. Subject to Section 30.1 (Abandonment), VPRA shall not provide, and may not assign, license, transfer (in whole or in part and including the grant of any freight trackage rights to others) or otherwise permit any other Person to use the Purchased Line to provide Freight Rail Service.
- (b) Without limitation to the granting of priority in Section 14.1 (Dispatching), Norfolk Southern Railway's use of the Purchased Line shall be in common with VRE, Amtrak, and any other Commuter Rail User or Intercity Rail User, respectively.

Subject to the terms of this Agreement, it is the intention of the Parties that the Purchased Line shall be used in an integrated way by all Users providing passenger or freight rail services; *provided* that Passenger Rail Service shall not Unreasonably Interfere with Freight Rail Operations and [Norfolk Southern Railway shall not be required to change its current freight schedules existing as of the Effective Date.]⁶

- (c) Norfolk Southern Railway shall have the right to perform the Freight Rail Service over the Purchased Line at such levels of activity that Norfolk Southern Railway deems to be appropriate, consistent with the terms of this Agreement. Norfolk Southern Railway shall have the right to operate in either direction on the Purchased Line trackage, and shall have the right to provide overhead and local Freight Rail Service to existing and future customers located on or near the Purchased Line. The rights hereunder shall be connective with the NSR ROW and any interchange with CSX Transportation, Inc. or any affiliate, successor, or assign thereof.
- (d) Norfolk Southern Railway's rights shall include the right to expand, modify, discontinue or abandon freight service as is reasonable or necessary to respond to market demands and conditions, including the right to locate and serve new freight customers on either side of the Purchased Line at Norfolk Southern Railway's sole expense and definition of the Purchased Line shall be expanded, modified or contracted in conformance thereof; provided, however, that any such expansion or modification of the freight service shall be coordinated with VPRA and any Intercity Rail User and/or Commuter Rail User so as to minimize material interference with Passenger Rail Service.

8.4 Intercity Operating Schedule

- (a) The Parties acknowledge and agree that the schedule for Intercity Passenger Rail Service (other than for Excursion Passenger Rail Service) set forth in Exhibit S (Intercity Operating Schedule) (the “**Intercity Operating Schedule**”) is intended to be permanent in accordance with conditions described therein, subject to amendment of the Intercity Operating Schedule as described in clauses (d), (e), and (f) below or by the mutual consent of the Parties. In the event that either Party desires to amend the Intercity Operating Schedule (other than VPRA pursuant to clauses (d), (e), and (f) below) and makes such request in writing, the Parties shall cooperate in good faith to conduct capacity analysis and rail traffic capacity modeling to determine the feasibility of such request, as reasonably required and at the cost of the requesting party, and to negotiate in good faith any such proposed amendment to the Intercity Operating Schedule.
- (b) VPRA shall be entitled to operate the Baseline First Frequency and the Baseline Second Frequency in accordance with the Intercity Operating Schedule.
- (c) Upon and after (i) the Turnover Date, and (ii) the NRV Station Closing, and (iii) the Radford Layover Closing, VPRA shall be entitled to begin the Extended First

⁶ Note to Draft: This provision remains subject to further negotiation between the Parties.

Frequency and the Extended Second Frequency in accordance with the Intercity Operating Schedule.

- (d) If VPRA has the right to begin the Third Roanoke Frequency under Section 8.1(g) (*Passenger Rail Service*), then the current Virginia-Supported Services Agreement shall be amended upon VPRA's request to reflect the Third Roanoke Frequency (and, to the extent VPRA has begun the Extended First Frequency and the Extended Second Frequency), VPRA shall be entitled to begin the Third Roanoke Frequency (and, if applicable, the Extended Third Frequency) in accordance with the Intercity Operating Schedule, as amended.
- (e) If VPRA has the right to cause one intercity passenger train pair per day between Washington, D.C. and Roanoke (or Christiansburg, if applicable) to stop at the Bedford platform under Section 8.1(h) (*Passenger Rail Service*), then the current Virginia-Supported Services Agreement shall be amended upon VPRA's request to reflect such stop, and VPRA shall be entitled to make such stop in accordance with the Intercity Operating Schedule, as amended.
- (f) If VPRA has the right to cause the extension of Passenger Rail Service to Radford under Section 8.1(i) (*Passenger Rail Service*) then the current Virginia-Supported Services Agreement shall be amended upon VPRA's request to reflect such extension, and VPRA shall be entitled to begin such extension in accordance with the Intercity Operating Schedule, as amended.

8.5 VRE Service

- (a) Norfolk Southern Railway shall agree to extend VRE's access to the VRE Manassas Territory under the provisions of the Existing VRE Operating Agreement for the period between July 1, 2023 and the Initial Closing Date (or such other extended date as agreed between Norfolk Southern Railway and VRE); *provided* that, if the Initial Closing Date does not occur by September 5, 2024, then Norfolk Southern Railway shall have the right to bill VRE retroactively to July 1, 2023 pursuant to compensation provisions to be included in a new operating agreement between Norfolk Southern Railway and VRE.
- (b) In accordance with Section 8.1(a)(iv) (*Passenger Rail Service*), upon the Initial Closing, VPRA shall have the right to modify VRE service, including to add or subtract commuter rail frequencies, over the VRE Manassas Territory from time to time; *provided* that any such modification shall be in writing and shall not Unreasonably Interfere with Freight Rail Operations; and *provided, further* that VPRA proposes any such modification to Norfolk Southern Railway no less than sixty (60) days prior to implementation and Norfolk Southern Railway reasonably determines that any such modification does not Unreasonably Interfere with Freight Rail Operations prior to implementation and provides written consent thereto, which consent may be withheld only if Norfolk Southern Railway determines, acting in good faith, that the proposed modification would Unreasonably Interfere with Freight Rail Operations. If Norfolk Southern Railway fails to reject a proposed

modification in writing during such 60-day period, then Norfolk Southern Railway shall be deemed to have provided consent after the expiration of such 60-day period. Without limiting the foregoing, the Parties approve (i) the schedule attached as Exhibit Z-1 (*VRE Weekday Service Schedule*) with respect to weekday enhancements and (ii) the schedule attached as Exhibit Z-2 (*VRE Saturday Service Schedule*) with respect to Saturday service; *provided* such Saturday service shall be implemented upon or after the Initial Closing (or as otherwise earlier agreed by Norfolk Southern Railway).

- (c) Upon the Initial Closing, and for at least twenty (20) years after the Initial Closing Date, VRE (under a separate agreement between VRE and Norfolk Southern Railway) shall pay Norfolk Southern Railway annually an amount equal to (x) \$750,000 in lieu of the Base Payment and Train-Mile Lease Fee (as such terms are defined in the Existing VRE Operating Agreement), which shall escalate at the same rate as the Current Charges set forth in Section 19.2(d) (*Current Charges*) (each year, such amount, as escalated, referred to as the “**Fixed VRE Operating Fee**”) *minus* (y) any applicable deductions set forth in clause (d) below (the actual contemporaneous escalated amount including deductions being the “**VRE Operating Fee**”) in consideration of (i) VRE’s right to operate on the Manassas Segment and the NSR-Retained Broad Run Tracks (excluding, for the avoidance of doubt, the Broad Run Pocket Track, once constructed), and (ii) dispatching services provided by Norfolk Southern Railway in connection with the foregoing operations; provided that no less than six (6) months prior to the end of the twenty-year period, the Parties shall negotiate in good faith the VRE Operating Fee, if any, that shall apply beyond such twenty-year period.
- (d) The following deductions will be taken from the Fixed VRE Operating Fee:
 - (i) upon and after such a time that construction of the Broad Run Pocket Track is completed, the VRE Operating Fee will include a deduction equal to 6.67% of the contemporaneous Fixed VRE Operating Fee; and
 - (ii) upon and after the Second Closing Date, the VRE Operating Fee will include a deduction equal to 60.00% of the contemporaneous Fixed VRE Operating Fee; and
 - (iii) upon and after such a time that VPRA or VRE takes over dispatching of the Manassas Line, the VRE Operating Fee will include a deduction equal to 23.33% of the contemporaneous Fixed VRE Operating Fee.

For the avoidance of doubt and notwithstanding the foregoing, in no event shall the VRE Operating Fee equal an amount less than 10% of the contemporaneous Fixed VRE Operating Fee.

Article 9
[Reserved]

Article 10
Roanoke Easement Area Improvements

10.1 Roanoke Easement Area Improvements; REA Long Stop Date

Norfolk Southern Railway shall expeditiously design and construct the improvements to the Roanoke Easement Area depicted in Exhibit X (*Roanoke Easement Area Improvements*) (the “**Roanoke Easement Area Improvements**”), and shall achieve final completion of the Roanoke Easement Area Improvements no later than the REA Long Stop Date. In the event that Norfolk Southern Railway fails to achieve final completion prior to the REA Long Stop Date then Norfolk Southern Railway shall provide alternative priority access through the Roanoke Easement Area such that full Passenger Rail Service commences in accordance with the Intercity Operating Schedule and without additional travel time through the Roanoke Easement Area (and without other material adverse impact to Passenger Rail Service through the Roanoke Easement Area). The Parties acknowledge and agree that, as of August 13, 2024 the plans and permitting requirements for the Roanoke Easement Area Improvements have been completed by Norfolk Southern Railway, and construction has not commenced on any of the improvements.

10.2 VPRA Review

Norfolk Southern Railway provided Roanoke Easement Area Improvement plans to VPRA and VPRA approved those plans in 1Q of 2023. Should the plans be altered in any meaningful way, Norfolk Southern Railway shall advise VPRA and VPRA will have sixty (60) days to review such change, provide comments and propose any changes it reasonably deems necessary. The Parties acknowledge that the current cost of the Roanoke Easement Area Improvements plan is estimated to be \$53,500,000.

10.3 Reimbursement

Payments shall be made by VPRA to Norfolk Southern Railway upon approval of an invoice. Such invoices shall include: (i) the actual REA Work Costs incurred by Norfolk Southern Railway during the preceding month, (ii) a certification that the REA Work Costs incurred are correct and reflect the total amount expended for the month, (iii) supporting documentation to substantiate a payment, and (iv) the total REA Work Costs reimbursed by VPRA to date. Norfolk Southern Railway agrees that it shall bear all REA Work Costs that it is unable to reasonably substantiate, provided that VPRA gives Norfolk Southern Railway reasonable notice and opportunity to provide supporting documentation or other means of substantiating the relevant costs. VPRA shall remit payment to Norfolk Southern Railway within a timely manner, subject to state or federal prompt payment requirements as applicable for delivery of such invoice to VPRA.

10.4 REA Work Costs

The obligation of VPRA to reimburse REA Work Costs hereunder shall be capped at the REA Reimbursement Cap, such that (i) VPRA shall be under no obligation to reimburse REA Work Costs hereunder once the total reimbursements by VPRA for REA Work Costs exceeds the REA Reimbursement Cap, and (ii) Norfolk Southern Railway shall be solely financially responsible for REA Work Costs hereunder once the total reimbursements by VPRA for REA Work Costs exceeds the REA Reimbursement Cap. To the extent VPRA has reimbursed REA Work Costs in an aggregate amount of \$36,500,000, any additional reimbursements for REA Work Costs shall be made using the WVRI Grant Funds to the extent such WVRI Grant Funds remain available under Article 12 (*Western Virginia Rail Initiative Grant*); *provided* that reimbursements made from WVRI Grant Funds shall reduce the obligation detailed in Article 12 (*Western Virginia Rail Initiative Grant*) on a dollar for dollar basis. The Parties acknowledge and agree that, as of August 31, 2024, VPRA has reimbursed Norfolk Southern Railway for REA Work Costs in the amount of \$1,802,351.31. REA Work Costs shall be computed in accordance with and subject to the following conditions:

- (a) *General and Administrative Costs.* In order to properly charge for Norfolk Southern Railway's related indirect costs, Norfolk Southern Railway's labor costs incurred in performing the REA Work shall be multiplied by the applicable percentages established by Norfolk Southern Railway for its labor additives. The most current labor additives approved by the Georgia Department of Transportation and the Federal Highway Administration for Federal reimbursement as of the applicable time will apply, including labor surcharge, insurance, department support, and equipment rates. The products of these multiplication processes will be added to Norfolk Southern Railway's labor cost as REA Work Costs.
- (b) *Travel Expenses.* The direct cost of travel incurred by the personnel of Norfolk Southern Railway and Contractor(s) related to the Roanoke Easement Area Improvements shall be reimbursed in accordance with Commonwealth travel policies.
- (c) *Rental Rates of Rented Equipment.* If Norfolk Southern Railway rents or leases equipment for a project from an entity other than an affiliate of Norfolk Southern Railway, VPRA will reimburse Norfolk Southern Railway for full leased cost, insurance, fuel, lubricants, electrical power and all similar operating costs. Norfolk Southern Railway will endeavor to control these costs, utilizing purchasing strategies such as competitive bidding and annual contracts. Norfolk Southern Railway may use existing contracts for engineering services, warehousing, logistics services, equipment rental or lease, and material purchase without separately obtaining bids for individual projects, provided that Norfolk Southern Railway shall provide and make available all books, documents, papers, accounting records, and such other evidence as may be appropriate to substantiate contracted costs incurred under this Agreement.

- (d) *Materials and Supplies.* Reimbursement by VPRA to Norfolk Southern Railway for materials and supplies purchased new shall be made in an amount equal to the invoice price of such materials and supplies. Reimbursement for materials and supplies currently on hand and used by Norfolk Southern Railway, shall be in the amount equal to Norfolk Southern Railway's stock (inventory) prices. In addition, Norfolk Southern Railway shall be entitled to payment of the lesser of: (i) all actual direct costs of both handling and loading out materials and supplies from Norfolk Southern Railway's stock or (ii) five percent (5%) of the amounts billed for such materials and supplies. Used materials released from service shall be credited against the REA Work Cost in an amount equal to the scrap value less five percent (5%) for both handling and transportation of same. The only used materials for which such a credit will be given shall be: rail, joint bars, ties, tie plates, signal materials and turnout materials. All other materials shall be considered disposable for the purposes of this Agreement.
- (e) *Sales Use and Other Taxes.* Any and all sales, use and other taxes applicable to the purchase or use of materials and supplies utilized in the Roanoke Easement Area Improvements shall be a REA Work Cost.
- (f) *Cost of Mobilization.* All costs reasonably incurred by Norfolk Southern Railway and Contractors in mobilizing to perform work will be reimbursed at the full cost of same.
- (g) *Demobilization Costs.* All costs reasonably incurred in ceasing performance of the REA Work (including but not limited to costs associated with continued safe rail operations) shall constitute reimbursable REA Work Costs.

10.5 Audit

Subject to any additional requirements that may be imposed by federal requirements, all cost records and accounts for the Roanoke Easement Area Improvements shall be subject to audit by VPRA for a period of three (3) years following Norfolk Southern Railway's receipt of final payment for the Roanoke Easement Area Improvements. Norfolk Southern Railway shall maintain/make all books, documents, papers, accounting records, and such other evidence either in hard copy or electronic form as may be appropriate to substantiate costs incurred under this Agreement. Further, Norfolk Southern Railway shall make such materials available at its office at all reasonable times during the contract period, and for three (3) years from the date of final payment under this Article 10 (Roanoke Easement Area Improvements), for inspection and audit by VPRA. Representatives of VPRA shall have such access to the books and accounts of Norfolk Southern Railway as may be required to audit said bill. After the bill has been audited by VPRA, VPRA will pay to Norfolk Southern Railway any amount remaining due to Norfolk Southern Railway in addition to the amount previously paid within thirty (30) days following the audit, provided, however, in the event of overpayment, Norfolk Southern Railway shall remit such overpayment to VPRA within thirty (30) days following receipt of written notice of such overpayment if Norfolk Southern Railway agrees with the audit finding. If Norfolk

Southern Railway disagrees with a finding of overpayment, the finding will be subject to the procedures set forth in Article 29 (*Dispute Resolution*).

10.6 Consequence of Early Termination

Subject to any reinstatement in full of the terms of the 2022 CRA in accordance with Section 4.5 (*Effect of Termination Prior to Initial Closing*) or Section 4.6 (*Failure to Complete Initial Closing*), in the event that this Agreement terminates prior to the completion of the Roanoke Easement Area Improvements, then Norfolk Southern Railway shall have no further obligation to continue any REA Work and VPRA shall make reimbursements to Norfolk Southern Railway for REA Work Costs actually incurred before the date of termination, subject to the REA Reimbursement Cap, plus, following a termination for any reason other than an NSR Default, any reasonable demobilization costs, but shall have no further obligation to make any reimbursements for future REA Work Costs incurred after the date of termination pursuant to this Article 10 (*Roanoke Easement Area Improvements*).

10.7 Compliance with Law

Norfolk Southern Railway shall at all times observe and comply in all material respects with all Laws applicable to the REA Work.

Article 11 NSR-Delivered Scope and Related Improvements

11.1 NSR-Delivered Scope

Norfolk Southern Railway shall expeditiously design, construct, and deliver to VPRA the following scope of work (the “**NSR-Delivered Scope**”):

- (a) on the NRV Station Parcel, a high-level passenger platform (which may be of varying widths depending on final design), approximately 960 feet long, together with a canopy no longer than 640 feet that meets Amtrak canopy length requirements in proportion to the platform length;
- (b) on the NRV Station Parcel, a new pocket track to serve the new platform, such pocket track to have a grade of no more than 0.6%, as defined in Section 11.4(a) (*Engineering and Construction Principles*), unless otherwise agreed by the Parties;
- (c) on the NRV Station Parcel, at least six paved, ADA-compliant parking spots;
- (d) a layover facility sufficient to accommodate two trains for minor servicing and overnight storage, and train crew parking of at least six spots (the “**Layover Facility**”), to be located on the Radford Layover Parcel; and
- (e) any additional ancillary infrastructure to accommodate the foregoing, as mutually agreed by the Parties.

11.2 MofW Scope

Norfolk Southern Railway shall expeditiously design and construct any ancillary improvements required to reconfigure Norfolk Southern Railway's maintenance of way facilities at Christiansburg (the "**MofW Scope**"), which, for the avoidance of doubt, will not be a part of the NSR-Delivered Scope, but will be funded by VPRA out of the \$42,000,000 that VPRA will make available for the combined NSR-Delivered Scope and the MofW Scope.

11.3 Additional Paving Scope

- (a) Norfolk Southern Railway shall develop, on behalf of VPRA, design plans for a paved parking facility of a mutually agreeable number of parking spots, not to exceed 150 parking spaces (including the ADA parking spots under Section 11.1(c) (*NSR-Delivered Scope*), which ADA parking spots, for the avoidance of doubt, shall be part of the NSR-Delivered Scope) transit/coach bus egress/ingress, relevant drainage structures, and other appropriate improvements, at the NRV Station Parcel (the "**Additional Paving Scope**") for VPRA's acceptance or rejection. Norfolk Southern Railway shall make reasonable efforts to complete the 30% and final design levels for the Additional Paving Scope concurrently with the corresponding design level for the NSR-Delivered Scope. For the avoidance of doubt, if Norfolk Southern Railway is unable to include the 30% and final design submissions for the Additional Paving Scope to VPRA concurrently with the equivalent design submissions for the NSR-Delivered Scope, then Norfolk Southern Railway shall deliver to VPRA isolated 30% and final design submissions for the Additional Paving Scope for VPRA's approval or rejection separately from the equivalent design submissions for the NSR-Delivered Scope. Norfolk Southern Railway shall undertake the preliminary engineering for the Additional Paving Scope at VPRA's cost (up to a cap of \$1,000,000, such cost to be paid by VPRA promptly after its receipt of evidence reasonably satisfactory to VPRA of such cost), in addition to the \$42,000,000 estimated for the NSR-Delivered Scope (the "**NSR Additional Paving Scope Contribution**").
- (b) If VPRA accepts the Additional Paving Scope, including the budget therefor, then Norfolk Southern Railway shall use reasonable efforts to undertake such work along with the NSR-Delivered Scope, at VPRA's cost that is in addition to the \$42,000,000 estimated for the NSR-Delivered Scope, and to complete it within a reasonable time (and in no event later than 270 days after the Turnover Date).
- (c) For the avoidance of doubt, the Additional Paving Scope shall be delivered by Norfolk Southern Railway, but shall not be part of the NSR-Delivered Scope set forth in Section 11.1 (*NSR-Delivered Scope*).

11.4 Engineering and Construction Principles

- (a) The NSR-Delivered Scope shall be engineered and constructed according to the engineering concepts and requirements provided for and attached hereto as Exhibit

I (*Engineering Concepts and Requirements*); *provided* that, the Parties shall agree on exact distances between track centers during the design process. For the avoidance of doubt, the Parties acknowledge that the NRV Station platform will have a grade of up to 0.6%, and VPRA acknowledges that it and Amtrak have approved this design exception. Notwithstanding anything to the contrary in this Agreement or any exhibits hereto, to the extent any state laws or regulations relating to the design and/or construction of any component of the NSR-Delivered Scope are preempted by applicable federal laws or regulations, including without limitation the ICCTA, the Federal laws and regulations shall control.

- (b) Norfolk Southern Railway engineers and other design consultants shall work in consistent collaboration with VPRA engineers and design consultants during design efforts to keep VPRA engaged as the NSR-Delivered Scope is designed.
- (c) Norfolk Southern Railway shall seek VPRA's written approval at the 30%, 60%, 90% and final issued-for-construction design milestones. The "**Final Plan Set Approval Date**" shall mean the date on which all required permits for the NSR-Delivered Scope have been obtained and VPRA issues final, written approval for final design, schedule, and budget of the NSR-Delivered Scope and consents to Norfolk Southern Railway starting construction of the NSR-Delivered Scope, which approval and consent shall not be unreasonably withheld, delayed, or conditioned.
- (d) Norfolk Southern Railway shall reasonably consider VPRA's future inclusion of an approximately 800-foot-long, high-level platform at the Layover Facility as part of its design of the NSR-Delivered Scope. For the avoidance of doubt, any such platform shall not be part of the NSR-Delivered Scope.
- (e) In addition, the following principles shall apply to Norfolk Southern Railway's engineering and construction of the NSR-Delivered Scope and the MofW Scope:
 - (i) Norfolk Southern Railway shall deliver to VPRA a 30% design submission that includes a preliminary project schedule and preliminary budget, and VPRA shall have 15 days after VPRA confirms by e-mail receipt of the 30% design submission, with such confirmation from VPRA occurring promptly upon such receipt, to review, comment, and approve such design; *provided* that, if VPRA does not respond within such 15-day period, then such submission shall be deemed to be approved by VPRA;
 - (ii) the NSR-Delivered Scope shall be designed to Amtrak standards and VPRA may request any additional design changes it deems necessary or useful upon its review of the 30% design submission, and Norfolk Southern Railway shall incorporate such changes into the design, schedule, and budget;
 - (iii) if VPRA requires any modifications to the design that (a) are not mandatory to comply with this Agreement, governing standards, or other applicable

Law, and (b) would negatively impact the schedule or cost of construction, then VPRA shall be financially responsible for the implementation of such modifications, and the date of August 31, 2027 established in Section 11.7(b) (*Cost Overruns; Late Delivery of NSR-Delivered Scope*) shall be extended day-for-day based on the approved revised schedule to accommodate the modifications;

- (iv) for all design submissions other than 30%, VPRA shall have 20 days after VPRA confirms by e-mail receipt of the relevant design submission, with such confirmation from VPRA occurring promptly upon such receipt, to review, comment, and approve such submission, with any failure by VPRA to respond to each submission within such timeline deemed approved by VPRA; and
- (v) Norfolk Southern Railway shall use Contractors to perform the construction work as appropriate without violating its existing agreements.

11.5 Completion and Turnover of NSR-Delivered Scope

- (a) The “**Turnover Date**” shall mean the date on which Norfolk Southern Railway has completed all NSR-Delivered Scope Work and VPRA has provided its final written acceptance of the same to Norfolk Southern Railway; *provided* that VPRA shall provide such acceptance unless the completed NSR-Delivered Scope does not (i) safely provide the utility required or (ii) comply with this Agreement, governing standards, or other applicable Law.
- (b) Norfolk Southern Railway shall make commercially reasonable efforts to cause the Turnover Date to occur by August 31, 2027. For the avoidance of doubt, Norfolk Southern Railway shall not be required to deliver the MofW Scope or the Additional Paving Scope by August 31, 2027.
- (c) Notwithstanding anything to the contrary in this Agreement, Norfolk Southern Railway shall not turnover the Original Depot Building Parcel as part of the NSR-Delivered Scope to VPRA on the Turnover Date unless, at least thirty (30) days prior to the Turnover Date, Norfolk Southern Railway has supplied VPRA with any leases or other use agreements that VPRA would take over as the new owner of the Original Depot Building Parcel.

11.6 Cost Savings; Performance Fees

- (a) “Cost Savings” shall mean (x) \$42,000,000 *minus* (y) the amount of funds actually provided by VPRA to Norfolk Southern Railway in support of the NSR-Delivered Scope and the MofW Scope, *provided that* if such difference is a negative number, then the Cost Savings shall be considered \$0.

- (b) The following incentives shall govern Norfolk Southern Railway's delivery of the NSR-Delivered Scope:
 - (i) if the Turnover Date occurs on or before November 1, 2026:
 - (A) VPRA shall pay Norfolk Southern Railway a \$3,000,000 performance fee; and
 - (B) Norfolk Southern Railway shall receive 100% of any Cost Savings;
 - (ii) if the Turnover Date occurs on or before April 1, 2027:
 - (A) VPRA shall pay Norfolk Southern Railway a \$1,000,000 performance fee; and
 - (B) Norfolk Southern Railway shall receive 75% of any Cost Savings and VPRA shall retain the remaining 25% of such Cost Savings;
 - (iii) if the Turnover Date occurs on or before August 31, 2027, then Norfolk Southern Railway shall receive 50% of any Cost Savings and VPRA shall retain the remaining 50% of such Cost Savings; and
 - (iv) if the Turnover Date occurs after August 31, 2027, then VPRA shall retain 100% of any Cost Savings.

11.7 Cost Overruns; Late Delivery of NSR-Delivered Scope

- (a) If the total aggregate costs of the NSR-Delivered Scope and the MofW Scope together exceed \$42,000,000 (such excess costs, the "**Cost Overruns**"), then:
 - (i) VPRA shall deduct such Cost Overruns, up to \$15,000,000, from the WVRI Grant Funds payable to Norfolk Southern Railway under this Agreement; and
 - (ii) Norfolk Southern Railway shall pay 15% of any remaining Cost Overruns and VPRA shall pay the other 85% of any such remaining Cost Overruns.
- (b) If Norfolk Southern Railway fails to deliver the NSR-Delivered Scope by August 31, 2027, then VPRA shall be entitled to deduct \$250,000 from the WVRI Grant Funds on a monthly basis until delivery of the NSR-Delivered Scope, up to a total aggregate deduction of \$3,000,000.
- (c) If deductions from the WVRI Grant Funds are necessary due to Cost Overruns that are subject to Section 11.7(a)(i), such deductions will come from the tenth and final payment of the WVRI Grant Funds. If the tenth payment is insufficient to cover the Cost Overruns, any further deductions will be made from the ninth payment.

11.8 Reimbursement

[VPRA shall reimburse Norfolk Southern Railway for Eligible Costs incurred by Norfolk Southern Railway in connection with the NSR-Delivered Scope, the MofW Scope, and the Additional Paving Scope; *provided* that VPRA's reimbursement obligation with respect to Eligible Costs incurred by Norfolk Southern Railway for the MofW Scope shall be capped at an amount equal to \$10,000,000. If Norfolk Southern Railway incurs less than \$10,000,000 in Eligible Costs for the MoW Scope, any difference between the \$10,000,000 cap and the actual Eligible Costs for the MoW Scope may be allocated to the NSR-Delivered Scope.]⁷ Such invoices shall include: (i) the actual Eligible Costs incurred by Norfolk Southern Railway during the preceding month, (ii) a certification that the Eligible Costs incurred are correct and reflect the total amount expended for the month, (iii) supporting documentation to substantiate a payment, and (iv) the total Eligible Costs reimbursed by VPRA to date. Norfolk Southern Railway agrees that it shall bear all Eligible Costs that it is unable to reasonably substantiate, provided that VPRA gives Norfolk Southern Railway reasonable notice and opportunity to provide supporting documentation or other means of substantiating the relevant costs. VPRA shall remit payment to Norfolk Southern Railway within a timely manner, subject to state or federal prompt payment requirements as applicable for delivery of such invoice to VPRA.

11.9 Eligible Costs

Eligible Costs shall be computed in accordance with and subject to the following conditions:

- (a) *General and Administrative Costs.* In order to properly charge for Norfolk Southern Railway's related indirect costs, Norfolk Southern Railway's labor costs incurred in performing the NSR-Delivered Scope, the MofW Scope, or the Additional Paving Scope shall be multiplied by the applicable percentages established by Norfolk Southern Railway for its labor additives. The most current labor additives approved by the Georgia Department of Transportation and the Federal Highway Administration for Federal reimbursement as of the applicable time will apply, including labor surcharge, insurance, department support, and equipment rates. The products of these multiplication processes will be added to Norfolk Southern Railway's labor cost as Eligible Costs.
- (b) *Travel Expenses.* The direct cost of travel incurred by the personnel of Norfolk Southern Railway and Contractor(s) related to the NSR-Delivered Scope, the MofW Scope, or the Additional Paving Scope shall be reimbursed in accordance with Commonwealth travel policies.
- (c) *Rental Rates of Rented Equipment.* If Norfolk Southern Railway rents or leases equipment for a project from an entity other than an affiliate of Norfolk Southern Railway, VPRA will reimburse Norfolk Southern Railway for full leased cost, insurance, fuel, lubricants, electrical power and all similar operating costs. Norfolk

⁷ Note to Draft: This provision remains subject to further negotiation between the Parties.

Southern Railway will endeavor to control these costs, utilizing purchasing strategies such as competitive bidding and annual contracts. Norfolk Southern Railway may use existing contracts for engineering services, warehousing, logistics services, equipment rental or lease, and material purchase without separately obtaining bids for individual projects, provided that Norfolk Southern Railway shall provide and make available all books, documents, papers, accounting records, and such other evidence as may be appropriate to substantiate contracted costs incurred under this Agreement.

- (d) *Materials and Supplies.* Reimbursement by VPRA to Norfolk Southern Railway for materials and supplies purchased new shall be made in an amount equal to the invoice price of such materials and supplies. Reimbursement for materials and supplies currently on hand and used by Norfolk Southern Railway, shall be in the amount equal to Norfolk Southern Railway's stock (inventory) prices. In addition, Norfolk Southern Railway shall be entitled to payment of the lesser of: (i) all actual direct costs of both handling and loading out materials and supplies from Norfolk Southern Railway's stock or (ii) five percent (5%) of the amounts billed for such materials and supplies. Used materials released from service shall be credited against the Eligible Cost in an amount equal to the scrap value less five percent (5%) for both handling and transportation of same. The only used materials for which such a credit will be given shall be: rail, joint bars, ties, tie plates, signal materials and turnout materials. All other materials shall be considered disposable for the purposes of this Agreement.
- (e) *Sales Use and Other Taxes.* Any and all sales, use and other taxes applicable to the purchase or use of materials and supplies utilized in the NSR-Delivered Scope, the MofW Scope, or the Additional Paving Scope shall be an Eligible Cost.
- (f) *Cost of Mobilization.* All costs reasonably incurred by Norfolk Southern Railway and Contractors in mobilizing to perform work will be reimbursed at the full cost of same.
- (g) *Demobilization Costs.* All costs reasonably incurred in ceasing performance of the NSR-Delivered Scope, the MofW Scope, or the Additional Paving Scope (including but not limited to costs associated with continued safe rail operations) shall constitute reimbursable Eligible Costs.

11.10 Audit

Subject to any additional requirements that may be imposed by federal requirements, all cost records and accounts for the work by Norfolk Southern Railway undertaken pursuant to this Article 11 (NSR-Delivered Scope and Related Improvements) shall be subject to audit by VPRA for a period of three (3) years following Norfolk Southern Railway's receipt of final payment for the any such work. Norfolk Southern Railway shall maintain/make all books, documents, papers, accounting records, and such other evidence either in hard copy or electronic form as may be appropriate to substantiate costs incurred under this Agreement. Further, Norfolk Southern Railway shall make such materials

available at its office at all reasonable times during the contract period, and for three (3) years from the date of final payment under this Article 11 (NSR-Delivered Scope and Related Improvements), for inspection and audit by VPRA. Representatives of VPRA shall have such access to the books and accounts of Norfolk Southern Railway as may be required to audit said bill. After the bill has been audited by VPRA, VPRA will pay to Norfolk Southern Railway any amount remaining due to Norfolk Southern Railway in addition to the amount previously paid within thirty (30) days following the audit, provided, however, in the event of overpayment, Norfolk Southern Railway shall remit such overpayment to VPRA within thirty (30) days following receipt of written notice of such overpayment if Norfolk Southern Railway agrees with the audit finding. If Norfolk Southern Railway disagrees with a finding of overpayment, the finding will be subject to the procedures set forth in Article 29 (Dispute Resolution).

11.11 Consequence of Early Termination or Stop Work Notice

In the event that this Agreement terminates prior to the completion of the NSR-Delivered Scope, the MofW Scope, or the Additional Paving Scope, then Norfolk Southern Railway shall have no further obligation to continue any such work and VPRA shall make reimbursements to Norfolk Southern Railway for Eligible Costs actually incurred before the date of termination, but shall have no further obligation to make any reimbursements for future costs incurred after the date of such termination. If VPRA issues a Stop Work Notice prior to the completion on the NSR-Delivered Scope, then VPRA shall make reimbursements to Norfolk Southern Railway for Eligible Costs actually incurred before the date of such Stop Work Notice, but shall have no further obligation to make any reimbursements for future costs incurred after the date of such termination.

11.12 Compliance with Law

Norfolk Southern Railway shall at all times observe and comply in all material respects with all Laws applicable to work for the NSR-Delivered Scope, the MofW Scope, or the Additional Paving Scope undertaken by Norfolk Southern Railway under this Article 11 (NSR-Delivered Scope and Related Improvements). To the extent any state laws or regulations relating to the design and/or construction of any component of the NSR-Delivered Scope, the MofW Scope, or the Additional Paving Scope are preempted by applicable federal laws or regulations, including without limitation the ICCTA, the Federal laws and regulations shall control. VPRA has advised Norfolk Southern Railway that an environmental impact report is required for the NSR-Delivered Scope pursuant to Va. Code § 10.1-1188 is and the Additional Paving Scope. VPRA will lead such environmental impact report at VPRA's cost concurrently with Norfolk Southern Railway's design schedule. If such environmental impact report would negatively impact the schedule of the NSR-Delivered Scope and/or the Additional Paving Scope, then Norfolk Southern Railway shall be entitled to day-for-day schedule relief under Section 11.6 (Cost Savings; Performance Fees) and Section 11.7 (Cost Overruns; Late Delivery of NSR-Delivered Scope). In addition, if such environmental impact report results in additional scope elements to the NSR-Delivered Scope and/or the Additional Paving Scope, then, to the extent the additional scope elements deriving from such environmental impact report do not lead to Cost Overruns as defined in Section 11.7(a) (Cost Overruns; Late Delivery of

NSR-Delivered Scope) for the NSR-Delivered Scope, such additional costs shall be reimbursed in the same manner as other costs associated with the NSR-Delivered Scope and/or the Additional Paving Scope, respectively, under this Article 11 (*NSR-Delivered Scope and Related Improvements*). To the extent the additional scope elements deriving from such environmental impact report do lead to Cost Overruns as defined in Section 11.7(a) (*Cost Overruns; Late Delivery of NSR-Delivered Scope*) for the NSR-Delivered Scope, VPRA shall be responsible for those additional costs and such additional costs associated with the NSR-Delivered Scope shall not be subject to contribution from the WVRI Grant Funds in Section 11.7(a)(i) (*Cost Overruns; Late Delivery of NSR-Delivered Scope*) and Section 11.7(a)(ii) (*Cost Overruns; Late Delivery of NSR-Delivered Scope*).

Article 12

Western Virginia Rail Initiative Grant

12.1 Limitation on Use of Funds

- (a) Norfolk Southern Railway shall apply the WVRI Grant Funds only for the WVRI Grant Purposes.
- (b) At least Fifty Million Dollars (\$50,000,000) of the funds from the WVRI Grant Funds shall be dedicated to the engineering, construction, and other costs of implementing the Nokesville-Calverton Double Track Project. Norfolk Southern Railway shall achieve final completion of the Nokesville-Calverton Double Track Project expeditiously. Any of the Fifty Million Dollars (\$50,000,000) dedicated to the Nokesville-Calverton Double Track Project not used for the completion of the Nokesville-Calverton Double Track Project shall remain available to Norfolk Southern Railway for other purposes consistent with this Agreement.

12.2 Timing of Payment of WVRI Grant Funds; WVRI Grant Funds Sunset Date

- (a) The Parties acknowledge and agree that, as of the Execution Date, VPRA has paid \$39,450,000 of the WVRI Grant Funds to Norfolk Southern Railway. VPRA shall pay the remainder of the WVRI Grant Funds to Norfolk Southern Railway, in a total aggregate amount of \$92,050,000, in equal annual installments of Thirteen Million One Hundred Fifty Thousand Dollars (\$13,150,000). The Parties agree that each annual WVRI Grant Funds installment payment shall be due and payable on each anniversary of the 2022 Closing Date. Under no circumstance shall the aggregate amount of WVRI Grant Funds supplied by VPRA exceed \$131,500,000, including any such WVRI Grant Funds that may be applied towards the REA Work Costs pursuant to Section 10.4 (*REA Work Costs*).
- (b) If Norfolk Southern Railway anticipates there will be a WVRI Unused Disbursement at the tenth (10th) anniversary of the first annual WVRI Grant Funds installment payment, then no less than six (6) months prior to such tenth (10th) anniversary, Norfolk Southern Railway shall provide to VPRA for review and comment detailed plans for utilizing the WVRI Unused Disbursement during the subsequent two (2) years in a manner that is consistent with WVRI Grant Purposes.

Although not subject to VPRA approval, the detailed plans submitted by Norfolk Southern Railway shall include information demonstrating compliance with WVRI Grant Purposes. VPRA's review of the detailed plans shall not constitute a waiver of any right of VPRA under this Agreement. Nothing in this Agreement shall prevent VPRA from deciding that the funds could be used more optimally if VPRA were to permit additional time beyond the twelfth (12th) anniversary of the first annual WVRI Grant Funds installment payment, and therefore provide Norfolk Southern Railway additional time to use the funds. If any portion of the WVRI Unused Disbursement remains unused at the twelfth (12th) anniversary of the first annual WVRI Grant Funds installment payment (or such later period as VPRA may designate, in its sole discretion), such portion shall be returned to VPRA, within thirty (30) days after the twelfth (12th) anniversary of the first annual installment payment (or such later period as VPRA may designate, in its sole discretion) (such repayment date being hereinafter referred to as the **"WVRI Unused Disbursement Repayment Date"**).

12.3 Documentation of Costs and Audit Rights

- (a) Norfolk Southern Railway shall retain for a period of three (3) years after the end of the WVRI Disbursement Period all records such as properly executed payrolls, time records, invoices, contracts, vouchers, and other documentation describing in detail the nature and purposes of the uses of the WVRI Grant Funds. Norfolk Southern Railway shall clearly identify and keep all records relating to the WVRI Grant Funds. Norfolk Southern Railway shall maintain accounting records in accordance with U.S. generally accepted accounting principles and project records in accordance with generally accepted business and industry practices.
- (b) On or before December 31 of each year during the WVRI Disbursement Period, Norfolk Southern Railway shall provide to VPRA written reports demonstrating the uses of the WVRI Grant Funds. In addition, after all WVRI Grant Funds have been expended and/or returned to VPRA, Norfolk Southern Railway shall provide to VPRA a final report demonstrating all the uses of the WVRI Grant Funds provided by VPRA.
- (c) VPRA shall have the right to audit the uses of the WVRI Grant Funds and Norfolk Southern Railway's records relating to the WVRI Grant Funds to determine if Norfolk Southern Railway has complied with the terms of this Agreement.
- (d) Norfolk Southern Railway shall make its records related to WVRI Grant Funds available for inspection and audit at Norfolk Southern Railway's offices upon reasonable notice by VPRA during the WVRI Disbursement Period and for a period of three (3) years thereafter. Copies of such information shall be furnished to VPRA upon request.

12.4 Repayment

- (a) Within thirty (30) days after written notice delivered to Norfolk Southern Railway by VPRA, Norfolk Southern Railway shall either (i) repay VPRA for any WVRI Grant Funds used by Norfolk Southern Railway for costs other than WVRI Eligible Project Costs, or (ii) provide VPRA documentation as to other expenditures for WVRI Grant Funds not previously submitted to VPRA that would constitute WVRI Grant Purposes. Any disputes between the Parties with respect to whether a cost is a WVRI Eligible Project Cost shall be handled under the procedures set forth in Article 29 (Dispute Resolution). VPRA's audit rights and right to repayment by Norfolk Southern Railway shall survive any termination of this Agreement.
- (b) Any repayment by Norfolk Southern Railway to VPRA of WVRI Grant Funds, shall also require the payment of interest using the prevailing statutory legal rate of interest established by the Virginia General Assembly, calculated from the date payment was made by the VPRA to the date the cost that was not a WVRI Eligible Project Cost was incurred by Norfolk Southern Railway. However, if Norfolk Southern Railway must repay VPRA a WVRI Unused Disbursement under this Agreement, Norfolk Southern Railway shall pay interest calculated from the WVRI Unused Disbursement Repayment Date.
- (c) In no event shall the Norfolk Southern Railway's total repayment pursuant to this Section 12.4 (Repayment) exceed the sums paid by the VPRA to Norfolk Southern Railway under this Article 12 (Western Virginia Rail Initiative Grant), excluding any interest the Norfolk Southern Railway may owe on such repayments pursuant to Section 12.4(b) (Repayment).

12.5 Consequence of Early Termination

In the event that this Agreement terminates prior to the end of the WVRI Disbursement Period, then VPRA shall have no further obligation to make any payments of WVRI Grant Funds to Norfolk Southern Railway pursuant to this Article 12 (Western Virginia Rail Initiative Grant).

12.6 Compliance with Law

Norfolk Southern Railway shall at all times observe and comply in all material respects with all Laws applicable to the WVRI Grant Work.

12.7 Indemnification

Norfolk Southern Railway shall indemnify and hold harmless the Commonwealth and the VPRA, and their respective officers, agents, and employees from and against all Damages and Claims arising out of, resulting from, or in any way relating to the negligent performance of the WVRI Grant Work, but only to the extent such WVRI Grant Work is occurring on the Purchased Line. Nothing in this Section 12.7 (Indemnification) shall be interpreted as amending or modifying the allocation of liability and indemnification

regarding the performance of freight or passenger rail operations over or associated with any project constructed, improved or modified by the WVRI Grant Work.

12.8 Deductions

Notwithstanding anything to the contrary herein, the Parties acknowledge and agree that VPRA shall be entitled to make certain deductions from the WVRI Grant Funds payable to Norfolk Southern Railway pursuant to Section 11.7 (*Cost Overruns; Late Delivery of NSR-Delivered Scope*).

Article 13 Passenger Capacity Grant

13.1 Limitation on Use of Funds

- (a) Norfolk Southern Railway shall apply the Passenger Capacity Grant Funds only for the Passenger Capacity Grant Purposes.
- (b) Norfolk Southern Railway shall achieve final completion of the Roanoke/Radford Improvements expeditiously.
- (c) The Passenger Capacity Grant Funds shall not fund Roanoke Easement Area Improvements or the Nokesville-Calverton Double Track Project.
- (d) In connection with the prosecution and completion of the Roanoke/Radford Improvements, Norfolk Southern Railway shall use commercially reasonable efforts to increase passenger train track speeds by up to ten (10) miles per hour on existing infrastructure over the applicable rail route; *provided* such efforts to increase speeds does not Unreasonably Interfere with Freight Rail Operations.

13.2 Timing of Payment of Passenger Capacity Grant Funds; Passenger Capacity Grant Funds Sunset Date

- (a) VPRA shall make the Passenger Capacity Grant Funds available to Norfolk Southern Railway in the following three installments: (i) \$8,400,000 at the Initial Closing, (ii) \$8,300,000 on or before May 1, 2025 and (iii) \$8,300,000 on or before May 1, 2026. Passenger Capacity Grant Funds not spent in a given year will carry over to subsequent years. Norfolk Southern Railway shall have until the Passenger Capacity Unused Disbursement Repayment Date to complete the applicable work and provide a final invoice to VPRA subject to extension pursuant to Section 13.2(b) (*Timing of Payment of Passenger Capacity Grant Funds; Passenger Capacity Grant Funds Sunset Date*).
- (b) If Norfolk Southern Railway anticipates there will be a Passenger Capacity Unused Disbursement at the fourth (4th) anniversary of the Turnover Date, then no less than six (6) months prior to such fourth (4th) anniversary, Norfolk Southern Railway shall provide to VPRA for review and comment detailed plans for utilizing the Passenger Capacity Unused Disbursement during the subsequent two (2) years in a

manner that is consistent with Passenger Capacity Grant Purposes. Although not subject to VPRA approval, the detailed plans submitted by Norfolk Southern Railway shall include information demonstrating compliance with Passenger Capacity Grant Purposes. VPRA's review of the detailed plans shall not constitute a waiver of any right of VPRA under this Agreement. Nothing in this Agreement shall prevent VPRA from deciding that the funds could be used more optimally if VPRA were to permit additional time, and therefore provide Norfolk Southern Railway additional time to use the funds. If any portion of the Passenger Capacity Unused Disbursement remains unused at the sixth (6th) anniversary of the Turnover Date (or such later period as VPRA may designate, in its sole discretion), such portion shall be returned to VPRA within thirty (30) days after the sixth (6th) anniversary of the Turnover Date (or such later period as VPRA may designate, in its sole discretion) (such repayment date being hereinafter referred to as the **"Passenger Capacity Unused Disbursement Repayment Date"**).

13.3 Documentation of Costs and Audit Rights

- (a) Norfolk Southern Railway shall retain for a period of three (3) years after the end of the Passenger Capacity Disbursement Period all records such as properly executed payrolls, time records, invoices, contracts, vouchers, and other documentation describing in detail the nature and purposes of the uses of the Passenger Capacity Grant Funds. Norfolk Southern Railway shall clearly identify and keep all records relating to the Passenger Capacity Grant Funds. Norfolk Southern Railway shall maintain accounting records in accordance with U.S. generally accepted accounting principles and project records in accordance with generally accepted business and industry practices.
- (b) On or before December 31 of each year during the Passenger Capacity Disbursement Period, Norfolk Southern Railway shall provide to VPRA written reports demonstrating the uses of the Passenger Capacity Grant Funds. In addition, after all Passenger Capacity Grant Funds have been expended and/or returned to VPRA, Norfolk Southern Railway shall provide to VPRA a final report demonstrating all the uses of the Passenger Capacity Grant Funds provided by VPRA.
- (c) VPRA shall have the right to audit the uses of the Passenger Capacity Grant Funds and Norfolk Southern Railway's records relating to the Passenger Capacity Grant Funds to determine if Norfolk Southern Railway has complied with the terms of this Agreement.
- (d) Norfolk Southern Railway shall make its records related to Passenger Capacity Grant Funds available for inspection and audit at Norfolk Southern Railway's offices upon reasonable notice by VPRA during the Passenger Capacity Disbursement Period and for a period of three (3) years thereafter. Copies of such information shall be furnished to VPRA upon request.

13.4 Repayment

- (a) Within thirty (30) days after written notice delivered to Norfolk Southern Railway by VPRA, Norfolk Southern Railway shall either (i) repay VPRA for any Passenger Capacity Grant Funds used by Norfolk Southern Railway for costs other than Passenger Capacity Eligible Project Costs, or (ii) provide VPRA documentation as to other expenditures for Passenger Capacity Grant Funds not previously submitted to VPRA that would constitute Passenger Capacity Grant Purposes. Any disputes between the Parties with respect to whether a cost is a Passenger Capacity Eligible Project Cost shall be handled under the procedures set forth in Article 29 (Dispute Resolution). VPRA's audit rights and right to repayment by Norfolk Southern Railway shall survive any termination of this Agreement.
- (b) Any repayment by Norfolk Southern Railway to VPRA of Passenger Capacity Grant Funds, shall also require the payment of interest using the prevailing statutory legal rate of interest established by the Virginia General Assembly, calculated from the date payment was made by the VPRA to the date the cost that was not a Passenger Capacity Eligible Project Cost was incurred by Norfolk Southern Railway. However, if Norfolk Southern Railway must repay VPRA a Passenger Capacity Unused Disbursement under this Agreement, Norfolk Southern Railway shall pay interest calculated from the Passenger Capacity Unused Disbursement Repayment Date.
- (c) In no event shall the Norfolk Southern Railway's total repayment pursuant to this Section 13.4 (Repayment) exceed the sums paid by the VPRA to Norfolk Southern Railway under this Article 13 (Passenger Capacity Grant), excluding any interest the Norfolk Southern Railway may owe on such repayments pursuant to Section 13.4(b) (Repayment).

13.5 Consequence of Early Termination

In the event that this Agreement terminates prior to the end of the Passenger Capacity Disbursement Period, then VPRA shall have no further obligation to make any payments of Passenger Capacity Grant Funds to Norfolk Southern Railway pursuant to this Article 13 (Passenger Capacity Grant).

13.6 Compliance with Law

Norfolk Southern Railway shall at all times observe and comply in all material respects with all Laws applicable to the Passenger Capacity Grant Work.

13.7 Indemnification

Norfolk Southern Railway shall indemnify and hold harmless the Commonwealth and the VPRA, and their respective officers, agents, and employees from and against all Damages and Claims arising out of, resulting from, or in any way relating to the negligent performance of the Passenger Capacity Grant Work, but only to the extent such Passenger Capacity Grant Work is occurring on the Purchased Line. Nothing in this Section 13.7

(*Indemnification*) shall be interpreted as amending or modifying the allocation of liability and indemnification regarding the performance of freight or passenger rail operations over or associated with any project constructed, improved or modified by the Passenger Capacity Grant Work.

Article 14

Management and Operations

14.1 Dispatching

All railroad facilities addressed by this Agreement (including, without limitation, the Manassas Line, the Manassas Segment, the Broad Run Corridor, the NRV Station Parcel, the Radford Layover Parcel, the V-Line Conveyed Property, and the Seminary Passage) shall be dispatched in accordance with sound dispatching principles. The Dispatcher for the Purchased Line and the dispatcher for the Roanoke Easement Area shall give due regard to the needs of freight and passenger carriers and their respective customers, provided that Intercity Passenger Rail Service on the Purchased Line and the Roanoke Easement Area shall be given dispatching preference. For the avoidance of doubt, the Parties acknowledge that the Current Charges compensate Norfolk Southern Railway for, among other things, dispatching services provided by Norfolk Southern Railway for the Intercity Passenger Rail Service with respect to the Purchased Line, and that no other amounts will be payable for such Intercity Passenger Rail Services. The charges for VRE dispatching are addressed in Section 8.5(c) (VRE Service) and Section 8.5(d) (VRE Service) of this Agreement. In the event Norfolk Southern Railway provides dispatching services on the Purchased Line or the NSR ROW for a Commuter Rail User other than VRE, the Parties shall negotiate in good faith for compensation and other terms to be used for such dispatching services. As used herein, “**Dispatcher**” shall mean, (i) with regard to the NSR ROW and, until the Second Closing, the Purchased V-Line, Norfolk Southern Railway and (ii) with regard to the Manassas Line Conveyed Property and the Seminary Passage, Norfolk Southern Railway until the Second Closing Date at which time VPRA may select the Dispatcher of the Purchased Line, or may elect to have Norfolk Southern Railway continue as Dispatcher of the Purchased Line until a future date agreed by the Parties. If VPRA selects a Dispatcher other than Norfolk Southern Railway, then Norfolk Southern Railway and VPRA shall collaborate in good faith to ensure the orderly transition of dispatch duties to the new Dispatcher.

14.2 Compliance

- (a) Norfolk Southern Railway shall comply and shall require all NSR Users to comply, and VPRA shall require all Intercity Rail Users and Commuter Rail Users to comply, with any and all applicable provisions of the Federal Railroad Safety Act, the Federal Locomotive Inspection Act and the Federal Safety Appliance Act, as amended, and any other applicable federal and state and local Laws, regulations and rules respecting the operation, condition, inspection and safety of its Trains, locomotives, cars and Equipment while such Trains, locomotives, cars, and Equipment are being operated over the Purchased Line. VPRA shall require all Intercity Rail Users and Commuter Rail Users to comply with any and all applicable

provisions of the Federal Railroad Safety Act, the Federal Locomotive Inspection Act and the Federal Safety Appliance Act, as amended, and any other applicable federal and state and local Laws, regulations and rules respecting the operation, condition, inspection and safety of its Trains, locomotives, cars and Equipment while such Trains, locomotives, cars, and Equipment are being operated over the NSR ROW. Norfolk Southern Railway shall indemnify, protect, defend, and hold harmless VPRA and its officers, directors, employees, agents, affiliates, successors, and permitted assigns (collectively, “**VPRA Indemnified Parties**”) from and against all fines, penalties and liabilities imposed upon VPRA Indemnified Parties under such Laws, rules, and regulations by any public authority or court having jurisdiction in the Purchased Line, when attributable solely to the failure of Norfolk Southern Railway to comply with its obligations set forth in this Section 14.2 (Compliance). VPRA will require Intercity Rail Users other than Amtrak and all Commuter Rail Users to indemnify, protect, defend, and hold harmless Norfolk Southern Railway from and against all fines, penalties and liabilities imposed upon Norfolk Southern Railway under such Laws, rules, and regulations by any public authority or court having jurisdiction in the Purchased Line, when attributable solely to the failure of such Intercity Rail User or Commuter Rail User to comply with its obligations set forth in this Section 14.2 (Compliance).

- (b) In its use of the Purchased Line, Norfolk Southern Railway shall comply in all respects with its own safety and general conduct rules, airbrake and train handling rules, and Hazardous Material instructions. In its use of the Purchased Line and the NSR ROW, VPRA shall require all Intercity Rail Users and Commuter Rail Users to comply, in all respects with the safety and general conduct rules, airbrake and train handling rules, and Hazardous Material instructions of the Intercity Rail Users and Commuter Rail Users. While using the Purchased Line, Norfolk Southern Railway shall comply, and while using the Purchased Line and the NSR ROW, VPRA shall require all Intercity Rail Users and Commuter Rail Users to comply with the applicable Operating Rules, timetables, equipment handling rules and special instructions of the applicable Dispatcher. The movement of Trains, locomotives, cars, and Equipment over the NSR ROW shall at all times be subject to the orders of the transportation officers of Norfolk Southern Railway, and the movement of Trains, locomotives, cars, and Equipment over the Purchased Line shall at all times be subject to the orders of the Chief Operating Officer of VPRA, or such other Person as VPRA shall designate from time to time; provided, however, that such Operating Rules, timetables, and special instructions and orders of such transportation officers shall not unjustly discriminate between the Users, except that Passenger Rail Service shall be given dispatching preference on the Purchased Line and the Roanoke Easement Area. VPRA shall not make any rule or restriction applying to Trains of Norfolk Southern Railway that does not apply equally to all other Users’ Trains. No User’s Trains shall include locomotives, cars or Equipment which exceed the width, height, weight or other restrictions or capacities of the Purchased Line and the Roanoke Easement Area. Any issues related to this Article 14 (Management and Operations) may be raised for discussion at the Performance Managers Committee in accordance with Article 22 (Performance Managers Committee) of this Agreement.

14.3 Removal of Employees

Norfolk Southern Railway (as to the NSR ROW) and VPRA (as to the Purchased Line) (in each case, the “**Respective Owner**”) shall have the right to exclude from its tracks any employee of Norfolk Southern Railway (as to the Purchased Line) or VPRA or an Intercity Rail User or Commuter Rail User (as to the NSR ROW) determined by the Respective Owner to be in violation of the Respective Owner’s rules, regulations, orders, practices, or instructions promulgated in the normal course of business in writing by the Respective Owner in its timetable or otherwise, and provided in advance to the other Party. The decision to bar any employee(s) of Norfolk Southern Railway from VPRA’s tracks will not be interpreted as a request for Norfolk Southern Railway to fire the individual(s). The decision to bar any employee(s) of VPRA or an Intercity Rail User or Commuter Rail User will not be interpreted as a request for VPRA or said Intercity Rail User or Commuter Rail User to fire the individual(s). Each Party shall be responsible with respect to its own employees for any Claims and expenses arising from a Respective Owner excluding such employee from its tracks.

14.4 Qualification of Crews

Procedures for qualification and occupancy of any portion of the Norfolk Southern Railway owned and/or controlled trackage shall be arranged by the local supervision of Norfolk Southern Railway. Procedures for qualification and occupancy of any portion of the Purchased Line shall be arranged by the local supervision of the Purchased Line. Procedures for qualification and occupancy shall be administered in a non-discriminatory manner.

14.5 Communications with Dispatcher

When operating over the Purchased Line, each of Norfolk Southern Railway’s locomotives and crews shall be equipped to communicate with the Dispatcher on radio frequencies normally used by said Dispatcher in directing train movements on the Purchased Line. When operating over the NSR ROW, each Intercity Rail User’s and Commuter Rail User’s locomotives and crews shall be equipped to communicate with the Roanoke Easement Area’s dispatcher on radio frequencies normally used by said dispatcher in directing train movements on the relevant section of NSR ROW.

14.6 PTC

Any future Positive Train Control or other automatic train control system installation on any and all portions of the Purchased Line shall be compatible with the Norfolk Southern Railway Positive Train Control or other automatic train control system as it then-exists, including any upgrades and modifications to the same.

14.7 Train Consist Information

In the event Norfolk Southern Railway is not the Dispatcher of the Purchased Line, Norfolk Southern Railway shall furnish to the Dispatcher customary train consist information via

EDI transmission. This procedure shall be governed by AAR standard reporting procedures for trackage rights carriers.

14.8 Rights in the Horn Track

[The Parties acknowledge and agree that Norfolk Southern Railway has trackage rights over the Third-Party-Owned Horn Track Area pursuant to the 1962 Horn Track Agreement. Accordingly, in addition to conveying all of its right, title, and interest in the Conveyed Horn Track Property to VPRA pursuant to Sections 2.1(b)(iv) and (v) (NSR-Conveyed Property), on and after the Second Closing Date, for so long as the 1962 Horn Track Agreement is in force, Norfolk Southern Railway shall procure and make available to VPRA for Passenger Rail Service, at no additional cost to VPRA, access to and use of the Third-Party-Owned Horn Track Area. For clarity, after the Second Closing Date, (a) [VPRA shall assume all payment and performance obligations of under the 1962 Horn Track Agreement of Norfolk Southern Railway to any of the other parties to that agreement with respect to the Conveyed Horn Track Property including, without limitation, all maintenance requirements related to the Conveyed Horn Track Property]⁸ and (b) Norfolk Southern Railway shall otherwise remain responsible to pay, without contribution from VPRA, any and all other compensation under the 1962 Horn Track Agreement due from Norfolk Southern Railway to any of the other parties to that agreement.]⁹

Article 15 Improvements and Maintenance

15.1 Transition Periods

(a) Transition Period for the Purchased V-Line

The provisions of this Section 15.1(a) (Transition Period for the Purchased V-Line) shall only apply prior to the Second Closing, and upon and after the Second Closing they shall have no further force or effect.

- (i) The Parties acknowledge the need to provide for maintenance of the Purchased V-Line during a transition period which is the period of time between (i) the 2022 Closing Date and (ii) the Second Closing (the “**Purchased V-Line Transition Period**”).
- (ii) During the Purchased V-Line Transition Period, Norfolk Southern Railway shall perform Expense Maintenance and Capital Maintenance on the Purchased V-Line on a Fully-allocated Cost Basis, without profit mark-up; *provided* that Norfolk Southern Railway’s right to reimbursement for any such expenses shall be capped at an aggregate amount of \$13,831,000. Norfolk Southern Railway shall submit Capital Maintenance plans substantially in the form set forth on Exhibit BB (Form of Capital

⁸ Note to NSR: Under review by VPRA.

⁹ Note to VPRA: Under review by NSR.

Maintenance Plans) to VPRA prior to March 15 of each year and any Capital Maintenance plan shall be approved annually in advance by VPRA, such approval not to be withheld or delayed if Norfolk Southern Railway reasonably demonstrates that such Capital Maintenance is required for Norfolk Southern Railway to be able to fulfill its freight common carrier obligations. Norfolk Southern Railway shall submit Expense Maintenance budget estimates to VPRA for planning on a quarterly and annual basis, with the annual budget estimate provided prior to September 15 of each year.

(b) **Transition Period for the Initial NSR-Conveyed Property**

The provisions of this Section 15.1(b) (*Transition Period for the Initial NSR-Conveyed Property*) shall apply upon and after Initial Closing, and prior to Initial Closing they shall have no force or effect.

- (i) The Parties acknowledge the need to provide for maintenance of the Initial NSR-Conveyed Property during a transition period of at least two (2) years after the Initial Closing Date (the “**Initial NSR-Conveyed Property Transition Period**”). Prior to the Turnover Date, the Parties shall reasonably agree on the actual duration of the Initial NSR-Conveyed Property Transition Period; *provided* that the Initial NSR-Conveyed Property Transition Period shall not exceed six (6) years.
- (ii) During the Initial NSR-Conveyed Property Transition Period, Norfolk Southern Railway shall perform Expense Maintenance and Capital Maintenance on the Initial NSR-Conveyed Property (to the extent such Initial NSR-Conveyed Property has been conveyed to VPRA pursuant to this Agreement) on a Fully-allocated Cost Basis, without profit mark-up. No later than 90 days after the Initial Closing Date, Norfolk Southern Railway shall provide the following items relating to the Initial NSR-Conveyed Property to VPRA to the extent maintained by Norfolk Southern Railway in its ordinary course of business: (A) location of and other asset information, as available, for railroad track, rail bridges, tunnels, culverts, drainage structures, under tracks, turnouts, storage yards, and maintenance facilities, and (B) electronic copies of inspection reports for the prior year as such inspections are required by Law and/or Norfolk Southern Railway standards. Nothing in the foregoing requires that Norfolk Southern Railway generate new data or information that is not currently maintained in Norfolk Southern Railway’s ordinary course of business. In addition, Norfolk Southern Railway shall submit Capital Maintenance plans substantially in the form set forth on Exhibit BB (*Form of Capital Maintenance Plans*) to VPRA prior to September 15 of each year and any Capital Maintenance plan shall be approved annually in advance by VPRA, such approval not to be withheld, conditioned, or delayed if Norfolk Southern Railway reasonably demonstrates that such Capital Maintenance is required for Norfolk Southern Railway to be able to fulfill its freight common carrier

obligations and other Freight Rail Services, or otherwise to ensure that the Initial NSR-Conveyed Property (to the extent such Initial NSR-Conveyed Property has been conveyed to VPRA pursuant to this Agreement) mainline tracks meet the requirements set forth in Section 15.1(b)(iv) (*Transition Period for the Initial NSR-Conveyed Property*). VPRA shall have the option, in its sole discretion and at its sole cost, to contract with a third party to perform in lieu of Norfolk Southern Railway any Expense Maintenance and Capital Maintenance; *provided* that any such maintenance provided by a third party shall comply with the maintenance standards set forth herein. Norfolk Southern Railway shall submit Expense Maintenance budget estimates to VPRA for planning on a quarterly and annual basis, with the annual budget estimate provided prior to September 15 of each year.

- (iii) During the Initial NSR-Conveyed Property Transition Period, the Parties agree to cooperate to develop a plan to transfer maintenance responsibilities for the Initial NSR-Conveyed Property (to the extent such Initial NSR-Conveyed Property has been conveyed to VPRA pursuant to this Agreement) to VPRA.
- (iv) Norfolk Southern Railway shall ensure that the Initial NSR-Conveyed Property (to the extent such Initial NSR-Conveyed Property has been conveyed to VPRA pursuant to this Agreement) meets the FRA track classification approved by VPRA prior to the end of the Initial NSR-Conveyed Property Transition Period and the handover of maintenance responsibilities to VPRA.
- (v) Notwithstanding anything to the contrary herein, after the Initial NSR-Conveyed Property Transition Period, Norfolk Southern Railway shall retain the right to:
 - (A) to the extent it or its affiliates hold the applicable Freight Easement, approve any maintenance contractor and maintenance standards with respect to the Initial NSR-Conveyed Property (to the extent such Initial NSR-Conveyed Property has been conveyed to VPRA pursuant to this Agreement);
 - (B) inspect the Initial NSR-Conveyed Property (to the extent such Initial NSR-Conveyed Property has been conveyed to VPRA pursuant to this Agreement) trackage and request VPRA to promptly repair any track defects; and
 - (C) operate equipment over the Initial NSR-Conveyed Property (to the extent such Initial NSR-Conveyed Property has been conveyed to VPRA pursuant to this Agreement) if necessary to conduct maintenance on the TBT or any other reserved property; *provided* that such operation does not impede Passenger Rail Operations.

- (vi) Upon and after the Second Closing Date, the provisions of this Section 15.1(b) (*Transition Period for the Initial NSR-Conveyed Property*) shall apply to the Seminary Passage Conveyed Property to the same extent as they apply to the Initial NSR-Conveyed Property.

15.2 After the Transition Period

- (a) The provisions of this Section 15.2 (*After the Transition Period*) shall apply except as provided for in Section 15.1 (*Transition Periods*).
- (b) As between the Parties, VPRA shall be responsible, at its sole cost, risk and expense, for the maintenance, repair and renewal of the Purchased Line, which may be performed either with its own supervision and labor or through that of a contractor. As between the Parties, VPRA shall be responsible, at its sole cost, risk and expense, for the maintenance, repair and renewal of the Broad Run Corridor, the NRV Station Parcel, and the Radford Layover Parcel, which may be performed either with its own supervision and labor or through that of a contractor. VPRA shall cause Intercity Rail Users and Commuter Rail Users to hold harmless Norfolk Southern Railway for any Claims relating to any maintenance under the foregoing two sentences. Responsibility for any Claims arising from either Party's performance or non-performance of maintenance activities after the Purchased V-Line Transition Period or the Initial NSR-Conveyed Property Transition Period, as applicable, will be handled without regard to fault under the provisions of Article 25 (*Liability on the Purchased Line, NRV Station Parcel, and Radford Layover Parcel*) (as between Norfolk Southern Railway and any applicable Intercity Rail User and/or Commuter Rail User).
- (c) Norfolk Southern Railway shall have the right, but not the obligation, with its own forces or with those of a contractor, to provide for maintenance at its own cost on such sections of the Purchased Line as may be, in the reasonable judgment of Norfolk Southern Railway, reasonable or necessary for provision of the current or anticipated Freight Rail Service; *provided* that Norfolk Southern Railway shall, or shall cause its contractors to, comply with reasonable and customary safety protocols in accessing such sections of the Purchased Line in order to conduct such maintenance and shall, or shall cause its contractors to, conduct such maintenance in compliance with any and all applicable Laws, regulations and rules respecting such maintenance. VPRA shall promptly work with Norfolk Southern Railway to restore VPRA maintenance services over the Purchased Line. Any such maintenance undertaken by Norfolk Southern Railway pursuant to this Agreement shall be without warranty that the Purchased Line or any portion thereof is suitable for the operation of passenger trains, including Intercity Passenger Rail Service; *provided*, however, that nothing in this Section 15.2(c) (*After the Transition Period*) shall be interpreted to alter the liability allocation set forth in the NSR-Amtrak Liability Allocation Agreement. Responsibility for any Claims arising from Norfolk Southern Railway's performance or non-performance of maintenance undertaken pursuant to this Section 15.2(c) (*After the Transition Period*) will be

handled without regard to fault under the provisions of Article 25 (*Liability on the Purchased Line, NRV Station Parcel, and Radford Layover Parcel*).

- (d) Upon and after Initial Closing and the Second Closing, as applicable, VPRA (through its contractors, which may include Norfolk Southern Railway) shall keep and maintain the tracks and facilities within the Purchased Line at not less than the Level of Utility existing as of the Initial Closing Date and the Second Closing Date, as applicable, including the speeds shown in Exhibit Y (*Level of Utility*). Nothing in this Section 15.2(d) (*After the Transition Period*) shall be construed to prohibit VPRA from electing, at VPRA's cost and expense, to maintain the Purchased Line to a standard higher than the applicable Level of Utility, or from upgrading the FRA track classification to a higher classification than the one existing as of the Applicable Closing Date. Norfolk Southern Railway shall have the right, but not the obligation, with its own forces or with those of a contractor, to provide for maintenance at its own cost on such sections of the Purchased Line as may be, in the reasonable judgment of Norfolk Southern Railway, reasonable or necessary for provision of the current or anticipated Freight Rail Service; *provided* that Norfolk Southern Railway shall, or shall cause its contractors to, comply with reasonable and customary safety protocols in accessing such sections of the Purchased Line in order to conduct such maintenance and shall, or shall cause its contractors to, conduct such maintenance in compliance with any and all applicable Laws, regulations and rules respecting such maintenance. The reasonable cost incurred by Norfolk Southern Railway in undertaking such work shall reduce, dollar for dollar, any trackage rights charges due from Norfolk Southern Railway in the calendar year in which the maintenance costs were incurred. VPRA shall promptly work with Norfolk Southern Railway to restore VPRA maintenance services over the Purchased Line. Any such maintenance undertaken by Norfolk Southern Railway pursuant to this Section 15.2(d) (*After the Transition Period*) shall be without warranty that the Purchased Line or any portion thereof is suitable for the operation of passenger Trains, including Intercity Passenger Rail Service; provided, however, that nothing in this Section 15.2(d) (*After the Transition Period*) shall be interpreted to alter the liability allocation set forth in the NSR-Amtrak Liability Allocation Agreement. VPRA shall cause all Intercity Rail Users and Commuter Rail Users to indemnify and hold harmless the Norfolk Southern Railway Indemnified Parties for any Claims arising from Norfolk Southern Railway's performance or non-performance of maintenance undertaken pursuant to this Section 15.2(d) (*After the Transition Period*). VPRA shall have no Claim against the Norfolk Southern Railway Indemnified Parties arising from Norfolk Southern Railway's performance or non-performance of maintenance undertaken pursuant to this Section 15.2(d) (*After the Transition Period*), provided that liability will be addressed in accordance with Article 25 (*Liability on the Purchased Line*) and nothing in this Section 15.2(d) (*After the Transition Period*) shall negate Article 25 (*Liability on the Purchased Line, NRV Station Parcel, and Radford Layover Parcel*).

Article 16 Additional Capital Improvements

16.1 Existing Connections

Existing connections or facilities on or connected to the Purchased Line that are jointly used by the Users hereto shall continue to be maintained, repaired by and at the expense of the Party or Parties responsible for such maintenance, repair and renewal under such agreements.

16.2 Right to Propose and Prosecute Future Capital Improvements

This Article 16 (*Additional Capital Improvements*) applies to Capital Improvements to either the Purchased Line or the NSR ROW that are in addition to the (i) Roanoke Easement Area Improvements, (ii) improvement undertaken pursuant to Article 11 (*NSR-Delivered Scope and Related Improvements*), (iii) improvement undertaken pursuant to Article 12 (*Western Virginia Rail Initiative Grant*), and (iv) improvements undertaken pursuant to Article 13 (*Passenger Capacity Grant*).

- (a) Except as may be required to maintain a continuous route capable of handling at least the current weight and clearance capacity, including, where extra-dimensional (high/wide) loads can be currently operated, VPRA, from time to time and at its sole cost and expense, may make changes in, additions and betterments to or retirements from the Purchased Line as shall, in its judgment, be necessary or desirable for the economical or safe operation thereof or as shall be required by any Law, rule, regulation, or ordinance promulgated by any governmental body having jurisdiction. Such additions and betterments shall become a part of the Purchased Line and such retirements shall be excluded from the Purchased Line. Financial responsibility for the on-going maintenance costs of any modifications and/or improvements made pursuant to this Section 16.2(a) (*Right to Propose and Prosecute Future Capital Improvements*) shall be allocated to VPRA. VPRA shall have the right, with sixty (60) days advance notice and the provision of supporting materials detailing any reasonably anticipated negative impact to Norfolk Southern Railway or delay to Freight Rail Service arising therefrom, to prosecute future Capital Improvements on the Purchased Line. In addition, VPRA shall have the right to propose to Norfolk Southern Railway at any time future Capital Improvements to the NSR ROW, which VPRA may undertake if approved by Norfolk Southern Railway.
- (b) Norfolk Southern Railway shall have the right to propose future Capital Improvements to the Purchased Line reasonable or necessary to serve new or existing customers. In such a case, Norfolk Southern Railway shall submit plans for track and other rail facility additions, modifications, or betterments and a proposed schedule for the same (“**Description of Future Work**”) to VPRA. VPRA shall have sixty (60) days to review the Description of Future Work, provide comments and propose any changes it reasonably deems necessary. The Parties shall work reasonably and in good faith, provided that VPRA shall be obligated to

accept any proposal for Capital Improvements that do not Unreasonably Interfere with Passenger Rail Operations, *provided* that the design and construction thereof shall be subject to the procedures set forth in Article 29 (*Dispute Resolution*).

- (c) For the avoidance of doubt, VPRA shall have the right to construct, or to cause the construction of, the Broad Run Pocket Track after consulting with Norfolk Southern Railway to ensure that such project does not Unreasonably Interfere With Freight Rail Operations.

16.3 Responsibility for Performance of Work

All work associated with Capital Improvements undertaken pursuant to this Article 16 (*Additional Capital Improvements*) shall be the responsibility of Norfolk Southern Railway when the Capital Improvement is made on NSR ROW (excluding, for the avoidance of doubt, the Purchased Line and the Broad Run Conveyed Property). All work associated with Capital Improvements undertaken pursuant to this Article 16 (*Additional Capital Improvements*) shall be the responsibility of VPRA when the Capital Improvement is made on the Purchased Line and the Broad Run Conveyed Property, unless otherwise agreed by the Parties. However, either Party shall be entitled to freely subcontract any components of such work for which it is responsible under this Section 16.3 (*Responsibility for Performance of Work*).

16.4 Funding Responsibility for Capital Improvements

Unless the Parties otherwise agree to share costs, the upfront capital costs of any Capital Improvement undertaken pursuant to this Article 16 (*Additional Capital Improvements*) shall be borne by the Party proposing the Capital Improvement. Prior to placing any Capital Improvement into operations, the Parties shall collaborate in good faith to allocate financial responsibility for ongoing maintenance costs between the Parties in proportion to the anticipated maintenance needs arising from each Party's anticipated use of the corresponding Capital Improvement. However, whenever deemed appropriate by the Parties, they may adjust such responsibility for ongoing maintenance or agree to another basis by which to allocate ongoing maintenance costs for a particular Capital Improvement.

Article 17 Clearing of Wrecks

17.1 Clearing of Wrecks

- (a) Whenever Norfolk Southern Railway's use of the Purchased Line requires rerailing, wrecking service or wrecking train service, Norfolk Southern Railway shall be responsible to perform or provide such service, including the repair and restoration of roadbed, track, and structures so as to minimize the impact on VPRA and Norfolk Southern Railway operations, unless otherwise agreed in writing between the Parties. The cost, liability, and expense of the foregoing, including without limitation any Damages, shall be apportioned in accordance with the provisions of Article 15 (*Improvements and Maintenance*). All locomotives, cars, and Equipment and salvage from the same so picked up and removed that are

owned by or under the management and control of or used by an Intercity Rail User or Commuter Rail User at the time of such wreck shall be promptly delivered to the Intercity Rail User or Commuter Rail User, as applicable.

- (b) Whenever VPRA's use of the Purchased Line requires rerailling, wrecking service or wrecking train service, VPRA shall be responsible to perform or provide such service, including the repair and restoration of roadbed, track, and structures so as to minimize the impact on VPRA and Norfolk Southern Railway operations, unless otherwise agreed in writing between the Parties. The cost, liability, and expense of the foregoing, including without limitation any Damages, shall be apportioned in accordance with the provisions of Article 15 (*Improvements and Maintenance*). All locomotives, cars, and Equipment and salvage from the same so picked up and removed that are owned by or under the management and control of or used by Norfolk Southern Railway at the time of such wreck shall be promptly delivered to Norfolk Southern Railway.
- (c) Whenever VPRA's use of the NSR ROW requires rerailling, wrecking service or wrecking train service, Norfolk Southern Railway shall be responsible to perform or provide such service, including the repair and restoration of roadbed, track, and structures so as to minimize the impact on VPRA and Norfolk Southern Railway operations, unless otherwise agreed in writing between the Parties. The cost, liability, and expense of the foregoing, including without limitation any Damages, shall be apportioned in accordance with the provisions of Article 15 (*Improvements and Maintenance*). All locomotives, cars, and Equipment and salvage from the same so picked up and removed that are owned by or under the management and control of or used by an Intercity Rail User or Commuter Rail User at the time of such wreck shall be promptly delivered to the Intercity Rail User or Commuter Rail User.

Article 18

Catastrophic Events

18.1 Catastrophic Event

In the event that the respective portion of the Corridor owned by such Party (the **"Respective Portion"**) of a Party (a **"Casualty Party"**) is damaged or destroyed as a result of a catastrophic event (including cyberattack, fire, earthquake, flood, tornado, hurricane, explosion, wreck (including derailment) act of terrorism or other casualty) (each a **"Catastrophic Event"**), the Casualty Party shall not have an obligation under this Agreement to restore its Respective Portion except to the extent of a failure to fulfill the Casualty Party's obligation under Article 15 (*Improvements and Maintenance*). Notwithstanding the foregoing, within sixty (60) days of the occurrence of any such Catastrophic Event, the Casualty Party shall either (i) notify the other Party (the **"Non-Casualty Party"**) of its intent to restore the Respective Portion or (ii) notify the Non-Casualty Party of its intent to not restore the Respective Portion.

18.2 Non-Casualty Party Option

If the Casualty Party makes the notification in clause (ii) of Section 18.1 (*Catastrophic Event*), the Non-Casualty Party shall have the right (but not the obligation) to bear the cost and expense of restoration of the Respective Portion to a level it deems necessary for Freight Rail Service or Passenger Rail Service, as the case may be; provided that the terms and conditions for construction of such restored Respective Portion shall be determined in accordance with Article 16 (*Additional Capital Improvements*).

18.3 Effect of Catastrophic Event on Take or Pay Amount

Prior to the Second Closing, in the event that a Catastrophic Event prevents Norfolk Southern Railway from operating on all or any portion of the Purchased V-Line for a period of at least thirty (30) consecutive days, the amount of the Take or Pay Amount, if any, that Norfolk Southern Railway shall be obligated to pay to VPRA pursuant to Section 19.4 (*Minimum Take or Pay Amount*) in the year in which said Catastrophic Event occurs shall be reduced by a fraction determined by the numerator being the number of consecutive days by which Norfolk Southern Railway was prevented from operating on any portion of the Purchased V-Line and the denominator being three hundred sixty-five (365).

Article 19

Compensation and Payment of Bills

19.1 Trackage Rights Compensation

- (a) During the Term, Norfolk Southern Railway shall compensate VPRA monthly in arrears for any NSR User's use of the Purchased Line by paying to VPRA a sum computed by multiplying (i) the Current Charge (Purchased Line), as hereinafter defined, by (ii) the number of cars (loaded or empty) moved by an NSR User over the Purchased Line by (iii) the miles of the Purchased Line over which the cars are moved by an NSR User.
- (b) VPRA shall compensate Norfolk Southern Railway monthly in arrears for each Intercity Rail User's use of the tracks between the Roanoke Station and the NRV Station on NSR ROW, including the Roanoke Easement Area (the "**Christiansburg-Roanoke Segment**"), by paying to Norfolk Southern Railway, for a period of twenty (20) years from the 2022 Closing Date, a sum computed by multiplying (i) the Current Charge (Christiansburg-Roanoke Segment), as hereinafter defined, by (ii) the number of Trains moved by an Intercity Rail User over the Christiansburg-Roanoke Segment by (iii) the miles of the Christiansburg-Roanoke Segment which the Trains are moved by an Intercity Rail User; provided that payments for each Train moved by an Intercity Rail User over the Christiansburg-Roanoke Segment that are made by Amtrak to Norfolk Southern Railway pursuant to the NSR Off-Corridor Agreement as the host railroad shall be credited towards this VPRA payment to Norfolk Southern Railway; provided further that no less than six (6) months prior to the end of the twenty-year period,

the Parties shall negotiate in good faith the Current Charge (Christiansburg-Roanoke Segment), if any, that shall apply beyond such twenty-year period.

- (c) VPRA shall compensate Norfolk Southern Railway monthly in arrears for each Intercity Rail User's use of the tracks between Manassas and the Roanoke Station on NSR ROW (but excluding the Broad Run Pocket Track) (the "**Manassas-Roanoke Segment**"), in each case beyond the Amtrak service that existed at the 2022 Closing Date (each "**Additional Intercity Rail User**") by paying to Norfolk Southern Railway, for a period of twenty (20) years from the 2022 Closing Date, a sum computed by multiplying (i) the Current Charge (Manassas-Roanoke Segment), as hereinafter defined, by (ii) the number of Trains moved by an Additional Intercity Rail User over the Manassas-Roanoke Segment by (iii) the miles of the Manassas-Roanoke Segment over which the Trains are moved by an Additional Intercity Rail User; provided that payments for each Train moved by an Additional Intercity Rail User over the Manassas-Roanoke Segment that are made by Amtrak to Norfolk Southern Railway pursuant to the NSR Off-Corridor Agreement as the host railroad shall be credited towards this VPRA payment to Norfolk Southern Railway; provided further that no less than six (6) months prior to the end of the twenty-year period, the Parties shall negotiate in good faith the Current Charge (Manassas-Roanoke Segment), if any, that shall apply beyond such twenty-year period. For the avoidance of doubt, there is no VPRA compensation pursuant to this agreement for the Amtrak service that existed at the 2022 Closing Date.
- (d) Notwithstanding any provision of this Agreement to the contrary, any payments made by Amtrak to Norfolk Southern Railway pursuant to the NSR Off-Corridor Agreement as the host railroad allocable to the Third Roanoke Frequency shall be credited against any obligations of VPRA to compensate Norfolk Southern Railway for the Third Roanoke Frequency under this Agreement.
- (e) The Parties acknowledge and agree that VRE and Norfolk Southern Railway are parties to a separate agreement by which VRE compensates Norfolk Southern Railway for its service over the NSR ROW, excluding the Purchased Line, and such payments are set forth in Section 8.5. In the event of use of the Corridor by any Commuter Rail User other than VRE, the Parties shall negotiate in good faith the compensation and terms and conditions for such use, which shall be in accordance with the terms and conditions of this Agreement
- (f) Upon the Closing, VPRA shall be entitled to receive all payments by Amtrak for use of the Manassas Line, including any payments for use of the Seminary Passage; *provided* that Amtrak does not object to Amtrak making payments directly to VPRA.

19.2 Current Charges

The “**Current Charges**” shall be as follows:

- (a) The “**Current Charge (Purchased Line)**” shall initially be set at 45/100 Dollars (\$0.45) per car mile. The Current Charge (Purchased Line) shall be subject to change to reflect any increase or decrease subsequent to the Execution Date in labor, material and other costs, as more fully set forth below in Section 19.2(d) (*Current Charges*).
- (b) The “**Current Charge (Christiansburg-Roanoke Segment)**” shall initially be set at Twenty-Four and 91/100 Dollars (\$24.91) per Train mile. The Current Charge (Christiansburg-Roanoke Segment) shall be subject to change to reflect any increase or decrease subsequent to the Execution Date in labor, material and other costs, as more fully set forth below in Section 19.2(d) (*Current Charges*).
- (c) The “**Current Charge (Manassas-Roanoke Segment)**” shall initially be set at Twenty-Four and 91/100 Dollars (\$24.91) per Train mile. The Current Charge (Manassas-Roanoke Segment) shall be subject to change to reflect any increase or decrease subsequent to the Execution Date in labor, material and other costs, as more fully set forth below in Section 19.2(d) (*Current Charges*).
- (d) The Current Charges shall be revised and made effective July 1 of each year, beginning July 1, 2021, to compensate for the prior year increase or decrease in the cost of labor and materials, excluding fuel, as reflected in Table C, Quarterly Indexes of Chargeout Prices and Wage Rates (1977=100), Series RCR, included in AAR Railroad Cost Indexes and supplements thereto, issued by the AAR. In making such determination, the final “material prices, wage rates and supplements combined (excluding fuel)” index for the East District Quarter Three (3) shall be used. The Current Charges shall be revised by calculating the percentage of increase or decrease for the year to be revised based on the final index of the most recently completed Quarter Three (3) as related to the final index of the Quarter Three (3) of the year prior to the most recently completed calendar year; and applying this percentage of increase or decrease to the Current Charge to be escalated. Notwithstanding the foregoing, under no circumstances shall the Current Charges be less than those set forth in Section 19.2(a) (*Current Charges*), Section 19.2(b) (*Current Charges*), and Section 19.2(c) (*Current Charges*) above.

19.3 Car Counts

Norfolk Southern Railway shall furnish VPRA, in care of the Chief Operating Officer of VPRA, or such other person as VPRA shall designate in writing from time to time, by the fifteenth (15th) of each month, a statement of the number of loaded and empty cars that operated over the Purchased Line during the prior month. If possible, Norfolk Southern Railway will provide car counts by AAR Car Code to facilitate the administration of billing per this Agreement. VPRA shall render billing to Norfolk Southern Railway for Norfolk

Southern Railway's previous month's use of the Purchased Line computed in accordance with the terms and conditions of this Agreement.

19.4 Minimum Take or Pay Amount

- (a) Prior to the Second Closing, the minimum annual compensation paid by Norfolk Southern Railway with respect to the Purchased V-Line pursuant to Section 19.1(a) (*Trackage Rights Compensation*) shall not be less than the amount that would have been owed if Norfolk Southern Railway had operated the minimum car miles specified for such year set forth below (the "Take or Pay Amount").

For the 12-month period ending on the following anniversaries of the 2022 Closing Date:	Minimum Car Miles
<i>First (1st) anniversary</i>	5,087,250
<i>Second (2nd) anniversary</i>	4,239,375
<i>Third (3rd) anniversary</i>	3,391,500
<i>Fourth (4th) anniversary</i>	2,543,625
<i>Fifth (5th) anniversary</i>	1,695,750

- (b) The obligation to pay the Take or Pay Amount shall expire on the earlier of (a) the fifth (5th) anniversary of the 2022 Closing Date, (b) the date that Norfolk Southern Railway has paid for the cumulative amount of sixteen million nine hundred fifty-seven thousand five hundred (16,957,500) car miles on the Purchased V-Line, or (c) the Second Closing. Upon the expiration of the obligation to pay the Take or Pay Amount, for the duration of the Term, Norfolk Southern Railway shall compensate VPRA for any NSR User's actual use of the Purchased Line pursuant to Section 19.1(a) (*Trackage Rights Compensation*), based on actual train car miles and without a guaranteed minimum payment amount.
- (c) VPRA shall calculate any Take or Pay Amount annually on or before each anniversary of the 2022 Closing Date for each prior twelve (12) month period, and send an invoice to Norfolk Southern Railway accordingly.

19.5 Payments

- (a) Bills rendered for charges other than those set forth in Section 19.1 (*Trackage Rights Compensation*) shall include direct labor and material costs, together with the surcharges, overhead percentages and equipment rentals as specified by VPRA at the time any work is performed by VPRA for Norfolk Southern Railway or by Norfolk Southern Railway at the time any work is performed by Norfolk Southern Railway for VPRA.
- (b) All payments called for under this Agreement shall be made within thirty (30) days after receipt of bills therefore. No such payments shall be withheld because of any dispute as to the correctness of items in the bills rendered, and any discrepancies reconciled between the Parties hereto shall be adjusted in the accounts of a

subsequent month. The records of each Party hereto, insofar as they pertain to matters covered by this Agreement, shall be open at all reasonable times to inspection by the other Party for a period of three (3) years from the date of billing. The Parties acknowledge that a significant amount of the information contained in the records will be commercially sensitive and highly confidential information and will implement this Section 19.5(b) (*Payments*) in a manner so as to best protect that information from public disclosure, subject to Section 33.12 (*VFOIA*).

- (c) In the event the AAR or any successor organization discontinues publication of the Quarterly Indexes of Chargeout Prices and Wage Rates (1977=100), an appropriate substitute for determining the percentage of increase or decrease shall be negotiated by the Parties hereto.
- (d) All payments shall be made by wire transfer according to instructions supplied on the invoice.
- (e) In the event that a Party fails to pay an invoice within thirty (30) days, the paying Party shall also pay the other Party interest at the rate of one-half ($\frac{1}{2}$) of one percent (1.0%) per month late charge on the delinquent sum until paid in full. Interest would begin accruing upon one-hundred twenty (120) days after due date of the specific invoice.
- (f) With respect to payments by VPRA, Norfolk Southern Railway shall provide reports as required based on the particular funding source for each project by the Federal Funding Accountability and Transparency Act for the projects. Reimbursement to Norfolk Southern Railway shall also be subject to the guidance contained in 2 C.F.R. § 170 (<http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf>) and Office of Management and Budget (OMB).

19.6 Audits and Record-keeping

- (a) The Parties shall establish and maintain accurate records, in accordance with U.S. generally accepted accounting principles, of all expenses incurred for which payment is sought or made under this Agreement (the “**Records**”). Separate records shall be established and maintained for all payments incurred under this Agreement.
- (b) Norfolk Southern Railway shall maintain the Records for at least three (3) years from the date of the final payment for that year made to VPRA under this Agreement. VPRA shall maintain the Records for at least three (3) years from the date of the final payment for that year made to Norfolk Southern Railway under this Agreement. In the event of a dispute with regard to the allowable expenses or any other issue under this Agreement, the Parties shall thereafter continue to maintain the Records at least until that dispute has been finally decided and the time for all available challenges or appeals of that decision has expired.
- (c) The Parties or their representatives may inspect, copy, or audit the Records at any reasonable time after giving reasonable notice during the three (3) year period

specified in Section 19.6(b) (*Audits and Record-keeping*). The Parties acknowledge that a significant amount of the information contained in the Records will be commercially sensitive and highly confidential information, and will cooperate to implement this Section 19.6 (*Audits and Record-keeping*) in a manner so as to best protect that information from public disclosure.

Article 20

Mileage and Car Hire

20.1 Mileage and Car Hire

All mileage and car hire charges accruing on cars in Norfolk Southern Railway's Trains on the Purchased Line shall be assumed by Norfolk Southern Railway and reported and paid by it directly to the owner of such cars.

Article 21

Bedford Station

21.1 Bedford Station

- (a) The Parties have separately undertaken a rail traffic capacity study to determine what rail infrastructure may be needed for the introduction of a new passenger station at the so-called "Merchants Site" in Bedford, Virginia, which study was performed by Norfolk Southern Railway at the expense of VPRA and in full cooperation with VPRA, with the goal of determining the additional infrastructure required in order to permit the addition of a Bedford passenger station without any degradation of freight rail and Amtrak passenger train fluidity for current and future services (twenty (20) year time horizon).
- (b) Norfolk Southern Railway currently owns a parcel of property reasonably necessary for the construction of the Bedford station at the Merchants Site, which parcel is identified in Exhibit V (*Proposed Site of Bedford Amtrak Station at Macon Street between MP 229 and 230*) hereto. The current delineations of that parcel include mainline property, which Norfolk Southern Railway will not sell to VPRA. If the Bedford station is to be constructed, Norfolk Southern Railway shall sell to VPRA the reasonably necessary portion of the real estate parcel (approximately 2.5 acres) for an amount to be agreed based on an independent appraisal performed by an appraiser of VPRA's choice pursuant to instructions agreed upon by the Parties; *provided* that Norfolk Southern Railway shall have the right to hire an independent appraiser of Norfolk Southern Railway's choice to appraise such parcel pursuant to instructions agreed upon by the Parties, in which case both appraisals shall be used by the Parties in the development of a sale price. Notwithstanding anything in this Agreement to the contrary, the inclusion of this Article 21 does not in any way exempt VPRA or any developers of the Bedford station from getting full engineering and liability approvals from Norfolk Southern Railway prior to construction and operation of such station.

Article 22

Performance Managers Committee

22.1 Performance Managers Committee

The Parties shall form a committee consisting of at least two (2) representatives of each Party (the “**Performance Managers Committee**”). Unless otherwise agreed, the Performance Managers Committee shall meet quarterly (in person or telephonically) and more often (i) when necessary to address issues between the Parties that require prompt resolution or (ii) when required pursuant to Section 8.2(h) (*Intercity Passenger Performance Regime*). The Performance Managers Committee shall be a forum for the Parties to share information, discuss matters submitted by one Party to the other Party for review and/or approval, and progress resolution of any issues between the Parties with respect to this Agreement. Without limiting the generality of the foregoing, either Party may raise in good faith any topic relevant to this Agreement and the other Party shall be obligated to consider such topic in good faith, provided, however, that neither Party shall be obligated by the Performance Managers Committee to amend this Agreement other than upon mutual agreement of the Parties, or for Norfolk Southern Railway to agree to provide additional frequencies, permit modifications to existing infrastructure, or to permit the construction of new infrastructure on the NSR ROW, except as it may determine to do so in its sole discretion. At any time a Party deems it beneficial to assist resolving the issues faced by the Performance Managers Committee, either Party may request that the Parties invite representatives from VRE and/or Amtrak to participate in a quarterly meeting, and such invitation may only be issued upon agreement by both Parties. [In addition, upon specific request with sufficient support for the use and need for such data, Norfolk Southern Railway will make available to VPRA only, subject to a non-disclosure agreement if required by Norfolk Southern Railway, certain (i) on sheet train signal data, and (ii) historic dispatching records (often called “playback” or “replay”) responsive to that request within a reasonable time of receiving VPRA’s request.]¹⁰

Article 23

Environmental

23.1 Remediation

(a) Remediation on the V-Line Conveyed Property Prior to Second Closing

The provisions of this Section 23.1(a) (*Remediation on the V-Line Conveyed Property Prior to Second Closing*) shall only apply to the V-Line Conveyed Property prior to the Second Closing, and upon and after the Second Closing they shall have no further force or effect.

- (i) Subject to Section 23.1(c), Norfolk Southern Railway shall remain liable for, and shall reimburse VPRA for, fifty percent (50%) of the actual out of pocket costs incurred for Remediation on the V-Line Conveyed Property

¹⁰ Note to Draft: This provision remains subject to further negotiation between the Parties.

between the 2022 Closing Date and the fifth (5th) anniversary of the 2022 Closing Date, with respect to the Purchased V-Line, upon the following conditions:

- (A) VPRA shall pay for the other fifty percent (50%) of such Remediation costs;
- (B) VPRA shall have provided Norfolk Southern Railway with all reasonably requested relevant information regarding the nature and extent of the condition requiring Remediation and reasonable documentation as to the costs of Remediation;
- (C) Norfolk Southern Railway shall not be responsible for any single remediation claim or occurrence costing less than Fifty Thousand Dollars (\$50,000);
- (D) Norfolk Southern Railway's obligations for reimbursement shall cease and be null and void from and after the fifth (5th) anniversary of the 2022 Closing, such that VPRA shall have no claim, and shall not pursue any such claim, for reimbursement after such period;
- (E) VPRA shall have the right to allocate Norfolk Southern Railway's contribution for Remediation to such portions of the Purchased V-Line as VPRA may elect in its sole and absolute discretion;
- (F) Norfolk Southern Railway's responsibility for Remediation shall be limited as provided in this Section 23.1(a) (Remediation on the V-Line Conveyed Property Prior to Second Closing). VPRA shall be solely responsible for any costs and expenses for any Remediation beyond Norfolk Southern Railway's reimbursement obligations set forth in this Section 23.1(a) (Remediation on the V-Line Conveyed Property Prior to Second Closing).

(b) **Remediation of NSR-Conveyed Property Upon and After the Applicable Closing**

The provisions of this Section 23.1(b) (Remediation Upon and After Closing) shall only apply to the NSR-Conveyed Property upon and after the associated Applicable Closing, and prior to the associated Applicable Closing they shall have no force or effect.

- (i) Subject to Section 23.1(c), Norfolk Southern Railway shall remain liable for, and shall reimburse VPRA for, fifty percent (50%) of the actual out of pocket costs incurred for Remediation on the Initial NSR-Conveyed Property, the Seminary Passage Conveyed Property, the NRV Station Conveyed Property, or the Radford Layover Conveyed Property, as the case may be, from the associated Applicable Closing Date to the fifth (5th)

anniversary of the associated Applicable Closing Date, each upon the following conditions:

- (A) VPRA shall pay for the remaining Remediation costs;
 - (B) VPRA shall have provided Norfolk Southern Railway with all reasonably requested relevant information regarding the nature and extent of the condition requiring Remediation and reasonable documentation as to the costs of Remediation;
 - (C) Norfolk Southern Railway shall not have any obligation to reimburse VPRA if the reasonable costs of Remediation for any single and discrete claim or occurrence is less than Fifty Thousand Dollars (\$50,000);
 - (D) Norfolk Southern Railway's obligations for reimbursement shall cease and be null and void from and after the fifth (5th) anniversary of the Applicable Closing Date, such that VPRA shall have no claim, and shall not pursue any such claim, for reimbursement after such period;
 - (E) VPRA shall have the right to allocate Norfolk Southern Railway's contribution for Remediation to such portions of the NSR-Conveyed Property as VPRA may elect in its sole and absolute discretion;
 - (F) Norfolk Southern Railway's responsibility for Remediation shall be limited as provided in this Section 23.1(b) (*Remediation Upon and After Closing*). VPRA shall be solely responsible for any costs and expenses for any Remediation beyond Norfolk Southern Railway's reimbursement obligations set forth in this Section 23.1(b) (*Remediation Upon and After Closing*).
- (c) Norfolk Southern Railway's total aggregate reimbursement for Remediation under this Article 23, inclusive of both Section 23.1(a) and 23.1(b), shall not exceed Three Million Five Hundred Thousand Dollars (\$3,500,000).

23.2 Claims Against Third Parties

The Parties reserve any and all rights that they may have against third parties under Law, including but not limited to the presence or release of Hazardous Materials in, on, under, from, to or about the NSR-Conveyed Property, the Manassas Segment, and Roanoke Easement Area. In the event that a third party brings a contribution claim against Norfolk Southern Railway relating to a claim against that third party brought by VPRA, any payments by Norfolk Southern Railway with respect to such third-party contribution claims shall reduce, on a dollar-for-dollar basis, the maximum contribution of Three Million Five Hundred Thousand Dollars (\$3,500,000) by Norfolk Southern Railway described herein.

Article 24

Insurance

24.1 Insurance Requirement

Each Party shall provide and maintain throughout the Term insurance in the kinds and amounts specified herein. Such insurance may be obtained from one or more insurers: (i) licensed to transact insurance business in the Commonwealth and (ii) with a current A.M. Best Rating of A:VII or better or a comparable successor rating.

24.2 Norfolk Southern Railway Liability – Losses/Claims arising from Operations on the Purchased Line

During the pendency of this Agreement, Norfolk Southern Railway undertakes to act and will continue to act as a self-insurer with respect to certain of its liabilities, if any, and will pay all sums which it will become legally obligated to pay in connection with this Agreement. VPRA shall be named as an additional insured on premises and liability policies acquired and maintained by Norfolk Southern Railway pertaining to the Corridor. In the event that Norfolk Southern Railway assigns this Agreement to any Person, firm, partnership or corporation that is not affiliated with Norfolk Southern Railway, then as a condition to the conduct of operations by such Person, firm, partnership or corporation on the Purchased Line, VPRA may require such entity to maintain during the remainder of the Term of this Agreement insurance having a limit of Thirty Million Dollars (\$30,000,000) combined single limit for personal injury and property damage per occurrence, with deductibles or self-assumed amounts not in excess of One Million Dollars (\$1,000,000). To the extent and in the event mutually agreeable to VPRA and such other entity, the aforesaid limits and/or amounts of insurance required of such other entity may be changed from time to time during the Term of this Agreement. VPRA shall be named as an additional insured on any such policies maintained by such entity.

24.3 VPRA Obligations

- (a) VPRA shall not permit an Intercity Rail User other than Amtrak to operate on the Purchased Line (including, without limitation, all stations on the Conveyed Passenger Stations Property), the NRV Station Conveyed Property, and the Radford Layover Conveyed Property without said other Intercity Rail User first entering into an agreement with Norfolk Southern Railway that provides the indemnification and insurance protections and remedies set forth in Exhibit W (*Liability Provisions Applicable to Future Intercity Rail Users other than Amtrak*), unless waived by Norfolk Southern Railway in writing at the time, such waiver to be provided by Norfolk Southern Railway in its sole discretion.
- (b) VPRA shall not permit a Commuter Rail User to operate on the Purchased Line (including, without limitation, all stations on the Conveyed Passenger Stations Property), the NRV Station Conveyed Property, and the Radford Layover Conveyed Property without said Commuter Rail User first entering into an agreement with Norfolk Southern Railway that provides the indemnification and

insurance protections and remedies set forth in Exhibit W-1 (*Liability Provisions Applicable to Future Commuter Rail Users other than VRE*), unless waived by Norfolk Southern Railway in writing at the time, such waiver to be provided by Norfolk Southern Railway in its sole discretion.

- (c) VPRA shall cause its contractors (other than an Intercity Rail User or a Commuter Rail User) performing construction or maintenance on the Purchased Line to indemnify, defend, and hold harmless Norfolk Southern Railway to the same extent VPRA itself is entitled to indemnity under its agreements with any such contractor. In addition, VPRA shall require that each contractor engaged by VPRA (other than an Intercity Rail User or a Commuter Rail User) for the performance of construction or maintenance services on the Purchased Line (including, without limitation, all stations on the Conveyed Passengers Stations Property), the NRV Station Conveyed Property and the Radford Layover Conveyed Property is adequately insured in accordance with the requirements outlined in Exhibit U (*Liability Insurance Requirements for VPRA Contractors*). VPRA shall require each contractor and operator to name VPRA and Norfolk Southern Railway as indemnitees under any contract let by VPRA. Further, VPRA shall obtain and maintain premises liability insurance with respect to the Purchased Line (including, without limitation, all stations on the Conveyed Passenger Stations Property), the NRV Station Conveyed Property and the Radford Layover Conveyed Property with combined limits of Fifteen Million Dollars (\$15,000,000) (per occurrence) and Thirty Million Dollars (\$30,000,000) (annual aggregate) and shall name Norfolk Southern Railway as an additional insured for any residual liability risk.

Article 25

Liability on the Purchased Line, NRV Station Parcel, and Radford Layover Parcel

25.1 Applicability of Article

This Article 25 (*Liability on the Purchased Line, NRV Station Parcel, and Radford Layover Parcel*) applies to the Purchased Line, the NRV Station Conveyed Property and the Radford Layover Conveyed Property and does not apply to the NSR ROW. Nothing in this Article 25 (*Liability on the Purchased Line, NRV Station Parcel, and Radford Layover Parcel*) is intended to modify or supersede any Freight/Passenger Liability Provisions that exist in agreements between Norfolk Southern Railway and third parties. For the purposes of this Article 25 (*Liability on the Purchased Line, NRV Station Parcel, and Radford Layover Parcel*), the term “Norfolk Southern Railway” shall include the parent and any operating railroad subsidiary of Norfolk Southern Railway.

25.2 Norfolk Southern Railway Indemnity

- (a) Subject to Section 25.2(b) (*Norfolk Southern Railway Indemnity*) below, Norfolk Southern Railway agrees to protect, indemnify, defend, and hold harmless the VPRA Indemnified Parties against Claims arising on the Purchased Line, the NRV

Station Conveyed Property and the Radford Layover Conveyed Property, without regard to fault, as follows.

- (i) Norfolk Southern Railway shall indemnify, defend, and hold harmless the VPRA Indemnified Parties, irrespective of any negligence or fault of the VPRA Indemnified Parties, their respective agents, employees or servants, or howsoever the same shall occur or be caused, from any and all liability for injury to or death of any NSR Agents or Employees, and for loss of, damage to or destruction of his or her property.
- (ii) Norfolk Southern Railway shall indemnify, defend, and hold harmless the VPRA Indemnified Parties, irrespective of any negligence or fault of VPRA, its employees, agents, or servants, or howsoever the same shall occur or be caused, (a) from any and all liability for injury to or death of any Person or Persons (other than a Non-NSR Person) and (b) from any and all liability for loss, damage, or destruction to any property (other than Non-NSR Property) which arises from the operations of Trains conducted by or for the account of Norfolk Southern Railway pursuant to this Agreement.
- (iii) Norfolk Southern Railway shall indemnify, defend, and hold harmless the VPRA Indemnified Parties, irrespective of any negligence or fault of VPRA, its employees, agents, or servants, or howsoever the same shall occur or be caused, from any loss, damage, or destruction to VPRA-owned real property and rail assets (including without limitation, tracks, structures, and passenger facilities), which arises from the operations of Trains conducted by or for the account of Norfolk Southern Railway pursuant to this Agreement.
- (iv) Norfolk Southern Railway shall indemnify, defend, and hold harmless the VPRA Indemnified Parties, irrespective of any negligence or fault of VPRA, its employees, agents, or servants, or howsoever the same shall occur or be caused, for any liabilities against which Norfolk Southern Railway is obliged to indemnify (A) an Intercity Rail User pursuant to any Freight/Passenger Liability Provisions applicable to the Purchased Line, the NRV Station Conveyed Property and the Radford Layover Conveyed Property, including any agreement entered into between Norfolk Southern Railway and an Intercity Rail User pursuant to Section 24.3(a) (*VPRA Obligations*), and (B) a Commuter Rail User pursuant to any Freight/Passenger Liability Provisions applicable to the Purchased Line, including any agreement entered into between Norfolk Southern Railway and a Commuter Rail User pursuant to Section 24.3(a) (*VPRA Obligations*).
- (v) Notwithstanding anything to the contrary contained herein, Norfolk Southern Railway's provision of maintenance, dispatch, and/or PTC services over the Purchased Line, the NRV Station Conveyed Property and the Radford Layover Conveyed Property will not be considered when determining whether Norfolk Southern Railway has a duty to indemnify the

VPRA Indemnified Parties under this Section 25.2(a) (*Norfolk Southern Railway Indemnity*). Rather, Norfolk Southern Railway's duty to indemnify the VPRA Indemnified Parties under this Section 25.2(a) (*Norfolk Southern Railway Indemnity*) in connection with any Claims or Damages shall be the same without regard to whether Norfolk Southern Railway was the provider of maintenance, dispatch, and/or PTC services over the Purchased Line, the NRV Station Conveyed Property and the Radford Layover Conveyed Property in connection with the events giving rise to such Claims or Damages, or whether such services were provided by a third party.

- (b) Notwithstanding Section 25.2(a) (*Norfolk Southern Railway Indemnity*), above, Norfolk Southern Railway's duty to indemnify, defend, and hold harmless VPRA under this Section 25.2 (*Norfolk Southern Railway Indemnity*) for the Claims on the Purchased Line, the NRV Station Conveyed Property and the Radford Layover Conveyed Property shall not include:
 - (i) any Claim or Damages, irrespective of any negligence or fault of Norfolk Southern Railway, its employees, agents, or servants or howsoever the same shall occur or be caused, which arises as a result of activities conducted by or for the account of VPRA or an Intercity Rail User or Commuter Rail User pursuant to this Agreement, except as provided in Section 25.2(a)(iv) (*Norfolk Southern Railway Indemnity*). For the avoidance of doubt Norfolk Southern Railway's performance of dispatch, maintenance, and PTC services neither expands nor contracts the categories of injuries/damages for which Norfolk Southern Railway indemnifies VPRA under this Section 25.2 (*Norfolk Southern Railway Indemnity*).
 - (ii) Norfolk Southern Railway property on which fuel oil has been spilled, which arises from activities conducted by or for the account of VPRA or an Intercity Rail User or Commuter Rail User pursuant to this Agreement;
 - (iii) Coincidental NSR Employee Passengers; and
 - (iv) any Claim or loss with respect to NSR Agents or Employees, whose injury or loss is proximately caused as a result of (i) a collision of a vehicle or a Person with a Passenger Rail Service Train, or (ii) a collision of a derailed Passenger Rail Service Train or any part thereof with any Person, property, or object on or off the Corridor.
- (c) In case a suit asserting liability shall at any time be brought against Norfolk Southern Railway or any of Norfolk Southern Railway Indemnified Parties for which Section 25.2(b) (*Norfolk Southern Railway Indemnity*) applies, VPRA shall cooperate in good faith with Norfolk Southern Railway to require any third parties having a duty to defend and indemnify Norfolk Southern Railway for such liabilities (as described on Exhibit W (*Liability Provisions Applicable to Future Intercity Rail Users other than Amtrak*) and Exhibit W-1 (*Liability Provisions*

Applicable to Future Commuter Rail Users other than VRE)), to in fact defend and indemnify Norfolk Southern Railway for such liabilities.

25.3 Release of Hazardous Materials

In the event Norfolk Southern Railway's continued freight operations over the Purchased Line, the NRV Station Conveyed Property, and the Radford Layover Conveyed Property result in a Release of Hazardous Materials, Norfolk Southern Railway shall remediate or cause to be remediated such Release of Hazardous Materials to the extent required by Hazardous Materials Laws utilizing institutional and engineering controls to achieve an industrial/commercial level of remediation consistent with the use of the Purchased Line, the NRV Station Conveyed Property, and the Radford Layover Conveyed Property for railroad purposes, the initial cost for which shall be borne by Norfolk Southern Railway; provided, however, that Norfolk Southern Railway shall remain entitled to pursue any right or remedy to which it is entitled at law or equity against any Person, including VPRA, for the recovery of such cost, and Damages, if any, sustained by Norfolk Southern Railway, provided, further that if Norfolk Southern Railway is determined, by final judgement, after all appeals, to be at fault for the Release of Hazardous Materials, Norfolk Southern Railway shall indemnify, but not defend, the VPRA Indemnified Parties for the categories of loss or damage identified in Section 25.2(a)(i), Section 25.2(a)(ii), and Section 25.2(a)(iii) (*Norfolk Southern Railway Indemnity*), proximately caused by the Release of Hazardous Materials.

25.4 Intercity Rail User other than Amtrak

As a condition precedent to any Intercity Rail User other than Amtrak providing the Passenger Rail Service, any such Intercity Rail User shall enter into one or more direct agreements with Norfolk Southern Railway containing the indemnification and liability provisions set forth in Exhibit W (*Liability Provisions Applicable to Future Intercity Rail Users other than Amtrak*), unless waived by Norfolk Southern Railway in writing at the time.

25.5 Commuter Rail User other than VRE

As a condition precedent to any Commuter Rail User other than VRE providing the Passenger Rail Service, any such Commuter Rail User shall enter into one or more direct agreements with Norfolk Southern Railway containing the indemnification and liability provisions set forth in Exhibit W-1 (*Liability Provisions Applicable to Future Commuter Rail Users other than VRE*), unless waived by Norfolk Southern Railway in writing at the time.

25.6 VPRA Liability Insurance

VPRA shall obtain and maintain liability insurance covering the Purchased Line, the NRV Station Conveyed Property, and the Radford Layover Conveyed Property and naming Norfolk Southern Railway as an additional insured, if and as required under Section 24.3 (*VPRA Obligations*).

Article 26

Employee Claims and Remedies

26.1 Employee Claims and Remedies

Each Party shall be responsible for any and all costs and payments, including benefits, allowances, and arbitration, administrative and litigation expenses, arising out of Claims or grievances made by or on behalf of its own employees or their collective bargaining representatives, either pursuant to employee protective conditions imposed by a Governmental Authority upon the agency's approval or exemption of this Agreement and operations hereunder or pursuant to a collective bargaining agreement, provided, however, that the Parties will share said costs as follows: (i) Norfolk Southern Railway will bear the first Fifty Thousand Dollars (\$50,000); (ii) VPRA will bear the next Fifty Thousand Dollars (\$50,000); (iii) the Parties will each bear fifty percent (50%) of additional costs, provided that VPRA's liability for such costs shall be capped at Two Hundred Fifty Thousand Dollars (\$250,000) in the aggregate; and provided further that Norfolk Southern Railway shall engage in good faith efforts to avoid such costs and payments through offers of relocation to other locations. It is the Parties' intention that, other than as provided in the immediately-preceding sentence, each Party shall bear the full costs of protection of its own employees under employee protective conditions that may be imposed, and of grievances filed by its own employees arising under its collective bargaining agreements with its employees.

Article 27

Funding Partners

27.1 Funding Partners

The Parties agree to work cooperatively and creatively to reach agreements as may be required for VPRA to satisfy the requirements of any Funding Partner, including any necessary amendment to this Agreement. Notwithstanding the foregoing, nothing in this Agreement, expressed or implied, shall be construed as to commit Norfolk Southern Railway to agree to any service outcome in any agreement. Any increase in costs reasonably determined to be the direct result of satisfying the requirements of any Funding Partner providing funds shall be borne solely by VPRA, unless the funds involved are, or have the typical obligations associated with federal formula funds or Virginia general fund allocations, or would have resulted in the absence of such funding. By way of example and not limitation to the foregoing, if any projects Norfolk Southern Railway constructs with funding provided by the WVRI Grant Funds is more costly due to the use of funds from a Funding Partner contributing the funds through a CRISI Grant, that increase in cost shall be paid for by VPRA and such amounts shall not count against either the WVRI Grant Funds due to Norfolk Southern Railway.

Article 28 Assignment

28.1 Assignment

This Agreement shall inure to the benefit of and be binding upon the successors and permitted assigns of the Parties hereto including any Person, firm or corporation succeeding to the ownership of substantially all of the assets or business of Norfolk Southern Railway or into which Norfolk Southern Railway is merged or consolidated. Upon prior notice to Norfolk Southern Railway, VPRA may assign this Agreement to another agency of the Commonwealth or to an authority or commission authorized by the Virginia General Assembly or the Governor of Virginia to undertake VPRA's obligation and the activities contemplated by this Agreement. As a material component of Norfolk Southern Railway's consideration hereunder, Norfolk Southern Railway expressly reserves the right to assign Norfolk Southern Railway's rights related to the purchase and sale of the Manassas Line Conveyed Property, Broad Run Conveyed Property, V-Line Conveyed Property, and the Seminary Passage Conveyed Property (together the "**LKE Property**"), but not its obligations, and duties hereunder to one or more third parties, including without limitation a qualified intermediary as defined by Treasury Regulation Section 1.1031(k)(1)(g)(4), in connection with a tax deferred exchange pursuant to Section 1031 of the Internal Revenue Code (this last type of assignment being called a "**Intermediary Assignment**"); provided, however, (i) VPRA shall not incur any additional expense or liability and shall not be delayed in its acquisition of the LKE Property, (ii) VPRA shall not incur any additional liability by reason of such tax deferred exchange, and (iii) Norfolk Southern Railway will indemnify, defend and hold VPRA harmless for, from and against any claim, demand, cause of action, liability or expense (including attorney's fees) in connection therewith, including without limitation, any increase in escrow fees or charges resulting from such tax deferred exchange; provided, further, however, that except for an Intermediary Assignment (which shall not require consent), any such assignment and/or delegation shall be subject to the written consent of VPRA, such consent not to be withheld or delayed unreasonably, and provided further that for any such assignment pursuant to a sale of all or substantially all of the assets of Norfolk Southern Railway by conveyance or the operation of law, such consent shall not be required. Any other assignment, division, license, or transfer of its rights, interests or obligations hereunder to any other entity shall not result in more than one freight operator operating on any segment of the NSR-Conveyed Property.

Article 29 Dispute Resolution

29.1 Generally

- (a) All Disputes arising out of or relating to this Agreement that are not otherwise resolved by the Parties, except as set forth in Section 4.6 (Failure to Complete Initial Closing) of this Agreement, must be resolved in accordance with this Article 29 (Dispute Resolution).

- (b) Upon the occurrence of any Dispute that is not otherwise resolved by the Parties:
 - (i) the Parties must first use all reasonable efforts to resolve the Dispute through a Senior Representative Negotiation in accordance with Section 29.2 (*Senior Representative Negotiations*); and
 - (ii) if the Parties fail to achieve a resolution through a Senior Representative Negotiation, before either Party may institute legal action against the other in connection with the Dispute, the Parties must first attempt to resolve the Dispute by referring the matter to a Mediation in accordance with Section 29.3 (*Mediation*).

29.2 Senior Representative Negotiations

- (a) If either Party notifies the other Party of a Dispute, senior representatives of each Party (with authority to make decisions for the respective Parties) must meet and use all reasonable efforts to resolve the Dispute (“**Senior Representative Negotiations**”).
- (b) The Senior Representative Negotiation must commence within seven (7) days of receipt of notification from a Party initiating a Dispute and will not exceed thirty (30) consecutive days (or such longer period agreed by the Parties).
- (c) Written statements, materials and information prepared for, made or presented at or during a Senior Representative Negotiation (including any meeting of the senior representatives) are deemed privileged and confidential (and shall be marked as such) and may not be used as evidence in any proceedings.
- (d) If the Senior Representative Negotiation resolves the Dispute, the Parties shall enter into a written agreement acknowledging such resolution.

29.3 Mediation

- (a) If the Parties are unable to come to a resolution through Senior Representative Negotiations, then the Parties may submit such Dispute to non-binding mediation proceedings (a “**Mediation**”). Mediation is intended to assist the Parties in resolving Disputes over the correct interpretation of this Agreement.
- (b) The mediator for any Mediation shall be selected by mutual agreement of the Parties or, if an agreement cannot be reached by the Parties within seven (7) Business Days of submission of the Dispute to Mediation, the mediator must be selected by the American Arbitration Association (“**AAA**”) in accordance with its Commercial Industry Mediation Rules and Procedures then in effect. Any mediator selected by mutual agreement of the Parties or through the AAA selection process must have no current or ongoing relationship with either Party (or an affiliate of either Party). The Parties agree that only one (1) mediator shall be selected as the AAA mediator.

- (c) Each Mediation must:
 - (i) be administered in accordance with AAA's Commercial Industry Mediation Rules and Procedures then in effect;
 - (ii) be held in Richmond, unless the Parties mutually agree, in writing, to the Mediation being held in a different location;
 - (iii) be concluded within thirty (30) days of the date of selection of the mediator, or within such other time period as may be agreed by the Parties (acting reasonably in regard to the nature of the Dispute).
- (d) The Parties shall share the mediator's fee and any filing or administrative fees equally.
- (e) No mediator will be empowered to render a binding decision as to any Dispute. Any Mediation will be nonbinding.

29.4 Forum and Venue

Any and all Disputes arising out of this Agreement, or any performances made hereunder that are not otherwise resolved through Senior Representative Negotiations or Mediation, shall be brought, and any judicial proceeding shall take place, only in the Circuit Court of Richmond, or the United States District Court for the Eastern District of Virginia, Richmond Division. Norfolk Southern Railway does not waive any rights it may have to remove any such Dispute from the Circuit Court of Richmond to the United States District Court for the Eastern District of Virginia, Richmond Division.

Article 30 Abandonment; Force Majeure

30.1 Abandonment

Norfolk Southern Railway shall have, in its sole and absolute discretion, the right to continue to have current use, or future use, of the Purchased Line or any portion thereof. Norfolk Southern Railway shall have, in its sole and absolute discretion but, subject to securing any necessary regulatory approval, the right to formally discontinue, pursuant to federal law, its use of the Purchased Line or any portion thereof. In the event that Norfolk Southern Railway seeks any regulatory approval (or, as may be applicable in Norfolk Southern Railway's sole and absolute discretion, exemption from the need to obtain said regulatory approval) for the discontinuance of its use of the Purchased Line or any portion thereof, VPRA agrees (1) not to oppose such discontinuance and (2) to provide reasonable cooperation in order to effectuate the same; provided that Norfolk Southern Railway will give VPRA one hundred eighty (180) days' notice of its intention to seek authority to discontinue its use of the Purchased Line (or any portion thereof) and within one hundred fifty (150) days of such notice, VPRA designates a successor rail carrier. Should VPRA choose to designate a successor rail carrier, VPRA shall, as a condition of such designation, (a) waive any Claims against Norfolk Southern Railway arising out of the designation,

including any Claims arising from the potential adverse effect that the operations of such successor (including as to any adverse effect such operations would have on the Passenger Rail Service operating over the Purchased Line and the NSR ROW), (b) cause such successor to indemnify and hold harmless Norfolk Southern Railway from any Claims arising from operations of such successor (including as to any adverse effect such operations would have on the Passenger Rail Service operating over the Purchased Line and the NSR ROW), (c) cause such successor to provide reasonable insurance to back up (but not limit) such indemnity, (d) cause such successor or other entity (but not including Norfolk Southern Railway) to pay to Norfolk Southern Railway or reimburse Norfolk Southern Railway for all costs and expenses incurred by Norfolk Southern Railway reasonably related to establishment of operations of such successor (including such costs and expenses for the establishment of interchange between Norfolk Southern Railway and such successor), and for any infrastructure improvements necessary to address any current or reasonably anticipated impairment to Freight Rail Service that such establishment of interchange shall create. In the event that VPRA makes such designation, and such designation and conditions underlying said designation are reasonably determined to be enforceable, Norfolk Southern Railway shall transfer its applicable Freight Easement to such designee for Ten Dollars (\$10). Should Norfolk Southern Railway obtain any approval for abandonment (or, as the case may be, exemption from said approval), Norfolk Southern Railway shall have the sole and absolute discretion to exercise any approval (or, as the case may be, exemption from said approval) so received. VPRA shall not seek any such discontinuance or abandonment (or, as the case may be, exemption from approval therefor) adverse to the rights of Norfolk Southern Railway. If Norfolk Southern Railway elects to discontinue a Freight Easement and VPRA or a party designated by VPRA files an offer of financial assistance under 49 U.S.C. §10904, Norfolk Southern Railway shall agree to negotiate with VPRA or VPRA's designee and to convey such Freight Easement to VPRA or VPRA's designee pursuant to the same conditions set forth in this Section 30.1 (Abandonment) (and specifically provisions (a) through (d) above, inclusive); provided, that VPRA agrees to pay Norfolk Southern Railway an amount equal to the highest amount offered by another financially responsible party, or One Dollar (\$1.00), whichever is greater.

30.2 Force Majeure

VPRA shall not be responsible to Norfolk Southern Railway, and Norfolk Southern Railway shall not be responsible to VPRA, for delays or failure to perform under this Agreement if such delays or failure to perform are covered by circumstances beyond its control, including, but not limited to, acts of God, pandemics, floods, storms, earthquakes, hurricanes, tornadoes, or other severe weather or climatic conditions, acts of public enemy, war, blockade, insurrection, actual or threatened acts of terrorism, vandalism or sabotage, fire, accident, wreck, derailment, washout or explosion, strike, lockout or labor disputes experienced by the Parties hereto, embargoes or AAR service orders, FRA orders, or other Laws.

Article 31 Term, Default and Remedies

31.1 Term

This Agreement shall become effective as of the Execution Date and, unless earlier terminated in accordance with the terms of Section 4.4 (*Termination Prior to Initial Closing*), shall remain in full force and effect for a period of ninety-nine (99) years from the Initial Closing Date (the “**Initial Term**”), provided that the Initial Term shall be automatically extended and this Agreement shall remain in effect after the Initial Term unless either Party elects to terminate this Agreement following the end of the Initial Term by providing six (6) months prior written notice of such termination (together with the Initial Term, the “**Term**”).

31.2 NSR Defaults

The occurrence of any one or more of the following events during the Term will constitute a “**NSR Default**” pursuant to this Agreement:

- (a) Norfolk Southern Railway fails to comply with, perform or observe any material obligation, covenant, agreement, term or condition in this Agreement (other than any material obligation, covenant, agreement, term or condition under Article 2 (*Sale and Purchase*) through Article 6 (*Surveys; Deeds of Confirmations*)), which failure materially and adversely affects VPRA’s rights or obligations under this Agreement, and such failure continues without cure for a period of sixty (60) days following the date VPRA delivers to Norfolk Southern Railway written notice thereof (giving particulars of the failure in reasonable detail); provided, that, if such failure arises out of construction related obligations and if Norfolk Southern Railway is attempting to cure such failure, the foregoing cure period shall be extended for an additional ninety (90) days (for a total of one hundred fifty (150) days), but only for so long as Norfolk Southern Railway is attempting to cure such failure; and provided further that this Section 31.2(a) (*NSR Defaults*) shall not apply to events covered by other provisions in this Section 31.2 (*NSR Defaults*);
- (b) Norfolk Southern Railway fails to pay to VPRA when due any undisputed amount payable to VPRA pursuant to this Agreement, and such failure continues without cure for a period of sixty (60) days following the date VPRA delivers to Norfolk Southern Railway written notice thereof;
- (c) In the event that Norfolk Southern Railway (i) fails to achieve final completion of the Roanoke Easement Area Improvements prior to the REA Long Stop Date, and (ii) Norfolk Southern Railway also fails, prior to the REA Long Stop Date, to provide alternative priority access through the Roanoke Easement Area such that full Passenger Rail Service commences without additional travel time through the Roanoke Easement Area (and without other material adverse impact to Passenger Rail Service through the Roanoke Easement Area), provided that such provision of alternative priority access through Roanoke Easement Area pursuant to this

Section 31.2(c) (*NSR Defaults*) shall have no effect on the ability of Norfolk Southern Railway to complete the Roanoke Easement Area Improvements (subject to the cure rights in Section 31.2(a) (*NSR Defaults*)), or the obligation of VPRA to reimburse Norfolk Southern Railway for the costs of the Roanoke Easement Area Improvements;

- (d) Norfolk Southern Railway (i) admits, in writing, that it is unable to pay its debts as they become due, (ii) makes an assignment for the benefit of its creditors, (iii) files a voluntary petition under Subchapter IV (Railroad Reorganization) of Title 11 of the U.S. Code, or files any other petition or answer seeking, consenting to or acquiescing in any reorganization, liquidation, dissolution or similar relief under the present or any future U.S. bankruptcy code or any similar Law, or (iv) seeks or consents to or acquiesces in the appointment of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of Norfolk Southern Railway, or of all or any substantial part of its properties (so long as such person continues to have obligations hereunder); and
- (e) within ninety (90) days after the commencement of any proceeding against Norfolk Southern Railway seeking any reorganization, liquidation, dissolution or similar relief under the present or any future U.S. bankruptcy code or any similar Law, such proceeding has not been dismissed, or, within ninety (90) days after the appointment, without the consent or acquiescence of Norfolk Southern Railway, of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of Norfolk Southern Railway or of all or any substantial part of its properties, such appointment has not been vacated or stayed on appeal or otherwise, or, within sixty (60) days after the expiration of any such stay, such appointment has not been vacated.

If VPRA provides notice to Norfolk Southern Railway of a condition or failure that could, with the passage of time and a failure of Norfolk Southern Railway to cure, become an Event of Default pursuant to Section 31.2(a), Section 31.2(b), or Section 31.2(c) (*NSR Defaults*), the Parties shall meet and confer within thirty (30) days of such notice to discuss how and when such condition or failure may be cured, provided that the failure to meet and confer shall not toll the applicable cure period or otherwise limit any rights or remedies that VPRA may have hereunder.

31.3 VPRA Defaults

The occurrence of any one or more of the following events during the Term will constitute a “**VPRA Default**” pursuant to this Agreement:

- (a) VPRA fails to comply with, perform or observe any other material obligation, covenant, agreement, term or condition in this Agreement (other than any material obligation, covenant, agreement, term or condition under Article 2 (*Sale and Purchase*) through Article 6 (*Surveys; Deeds of Confirmations*)), which failure materially and adversely affects Norfolk Southern Railway’s rights or obligations under this Agreement, and such failure continues without cure for a period of sixty

(60) days following the date Norfolk Southern Railway delivers to VPRA written notice thereof (giving particulars of the failure in reasonable detail); provided that this Section 31.3(a) (*VPRA Defaults*) shall not apply to events covered by other provisions in this Section 31.3 (*VPRA Defaults*); and

- (b) Subject to Section 33.25 (*Availability of Funds for VPRA's Performance*), VPRA fails to pay to Norfolk Southern Railway when due any undisputed amount payable to VPRA pursuant to this Agreement, and such failure continues without cure for a period of sixty (60) days following the date Norfolk Southern Railway delivers to VPRA written notice thereof.

If Norfolk Southern Railway provides notice to VPRA of a condition or failure that could, with the passage of time and a failure of VPRA to cure, become an Event of Default pursuant to Section 31.3(a) or Section 31.3(b) (*VPRA Defaults*) the Parties shall meet and confer within thirty (30) days of such notice to discuss how and when such condition or failure may be cured, provided that the failure to meet and confer shall not toll the applicable cure period or otherwise limit any rights or remedies that Norfolk Southern Railway may have hereunder.

31.4 Remedies Upon Default

- (a) Upon the occurrence of an Event of Default, the Parties shall cause the Event of Default that is the subject of a Dispute to be subject to the procedures set forth in Article 29 (*Dispute Resolution*), and, to the extent not resolved thereunder, the other Party may, at its option and in its discretion:
 - (i) exercise any rights it has under this Agreement;
 - (ii) proceed by appropriate judicial proceedings, either at law or in equity, to enforce performance or observance by the Defaulting Party of the applicable provisions of this Agreement and/or to recover Damages, and/or to seek other remedies; and/or
 - (iii) cure the Event of Default by making any such payment or performing any such obligation, as applicable, at the Defaulting Party's sole expense, without waiving or releasing the Defaulting Party from any obligation.
- (b) In addition to the remedies specified in Section 31.4(a) (*Remedies Upon Default*):
 - (i) upon the occurrence of a NSR Default occurring or continuing after VPRA has provided at least Fifty Million Dollars (\$50,000,000) through the WVRI Grant Funds installment payment, VPRA may, at its option and in its discretion, without being required to cause the NSR Default that is the subject of a dispute to be subject to the procedures set forth in Article 29 (*Dispute Resolution*), withhold WVRI Grant Funds installment payments due under this Agreement until such time as such NSR Default is cured; provided that upon the curing of such NSR Default, VPRA shall pay to Norfolk Southern Railway within thirty (30) days of such cure any WVRI

Grant Funds that have been withheld pursuant to this Section 31.4(b)(i) (*Remedies Upon Default*); provided further that the WVRI Disbursement Period shall be extended day for day for the period during which such funds were withheld by VPRA; and

- (ii) upon the occurrence of a NSR Default, VPRA may, at its option and in its discretion, without being required to cause the NSR Default that is the subject of a dispute to be subject to the procedures set forth in Article 29 (*Dispute Resolution*), withhold Passenger Capacity Grant Funds installment payments due under this Agreement until such time as such NSR Default is cured; provided that upon the curing of such NSR Default, VPRA shall pay to Norfolk Southern Railway within thirty (30) days of such cure any Passenger Capacity Grant Funds that have been withheld pursuant to this Section 31.4(b)(ii) (*Remedies Upon Default*); provided further that the Passenger Capacity Disbursement Period shall be extended day for day for the period during which such funds were withheld by VPRA.

31.5 Cumulative Rights and Remedies

The rights and remedies described in this Article 31 (*Term, Default and Remedies*) are and shall be deemed to be cumulative and the exercise of any of them shall not be deemed to be an election excluding the exercise at any time of a different remedy, subject to the limitations set forth in the first sentence of this Article 31 (*Term, Default and Remedies*).

31.6 No Waiver of Remedies

Any waiver by either Party of any Event of Default under this Agreement or any delay of either Party in enforcing any remedy set forth herein shall not constitute a waiver of the right to pursue any remedy at a later date, nor shall any such waiver in any way affect either Party's right to enforce this Agreement.

31.7 Survival

- (a) Expiration or early termination of this Agreement shall not relieve or release either Party hereto from any obligations assumed or from any liability which may have arisen or been incurred by such Party under the terms of this Agreement and prior to expiration thereof.
- (b) Expiration or early termination of this Agreement shall have no effect on the underlying right to perform Freight Rail Service, which shall continue until terminated pursuant to Law. Should this Agreement expire or terminate prior to the termination of the underlying right to perform Freight Rail Service, such Freight Rail Service shall continue under terms and conditions agreed to by the Parties or prescribed therefor pursuant to Law.
- (c) For the avoidance of doubt, the grants of the easements and the conveyances of the NSR-Conveyed Property at the associated Applicable Closing and the V-Line Conveyed Property at the Second Closing are intended to be final and irrevocable,

such that the early termination or expiration of this Agreement after the Applicable Closing, shall not affect or undo in any way the grants and conveyances consummated at that Applicable Closing.

- (d) The following provisions shall survive expiration or early termination of this Agreement other than a termination pursuant to Section 4.4, which is governed by Section 4.5:
- (i) Section 10.5 (*Audit*);
 - (ii) Section 10.6 (*Consequence of Early Termination*);
 - (iii) Section 10.7 (*Compliance with Law*);
 - (iv) Section 12.2(b) (*Timing of Payment of WVRI Grant Funds; WVRI Grant Funds Sunset Date*);
 - (v) Section 12.3 (*Documentation of Costs and Audit Rights*);
 - (vi) Section 12.4 (*Repayment*);
 - (vii) Section 12.6 (*Compliance with Law*);
 - (viii) Section 12.7 (*Indemnification*);
 - (ix) Section 13.3 (*Documentation of Costs and Audit Rights*);
 - (x) Section 13.4 (*Repayment*);
 - (xi) Section 13.6 (*Compliance with Law*);
 - (xii) Section 13.7 (*Indemnification*);
 - (xiii) Section 19.6 (*Audits and Record-keeping*);
 - (xiv) Article 32 (*Notices*);
 - (xv) Article 33 (*Miscellaneous*); and
 - (xvi) Exhibit A (*Definitions*)

Article 32

Notices

32.1 Notices

- (a) Notice under this Agreement shall be in writing and sent by (i) registered or certified mail, return receipt requested, (ii) courier, express or overnight delivery, or (iii) e-mail.

- (b) The date such notice shall be deemed to have been given shall be (i) the Business Day of receipt if received during business hours, (ii) the first Business Day after the Business Day of receipt if received after business hours on the preceding Business Day, (iii) the first Business Day after the date sent by courier, express or overnight (“next day delivery”) service, (iv) the third Business Day after the date of the postmark on the envelope if mailed, or (v) the date of confirmation of receipt in the event the sender of an e-mail notice receives a “bounce back”, “out-of-office” or similar message indicating non-receipt thereof, whichever occurs first.

If to Norfolk Southern Railway:

Norfolk Southern Railway Company
Director -Real Estate
650 W. Peachtree Street, NW
Atlanta, GA 30308
Attn: [Kristi D. Blair]
E-mail: [●]

With a Copy to:
Norfolk Southern Railway Company
General Attorney -Real Estate
650 W. Peachtree Street, NW
Atlanta, GA 30308
Attn: [●]
E-mail: [●]

With a Copy to:
Norfolk Southern Railway Company
c/o Norfolk Southern Corporation
Attn: Senior Director Interline Services
650 W. Peachtree Street, NW
Atlanta, GA 30308

If to VPRA:

Virginia Passenger Rail Authority
919 E. Main St., Suite 2400
Richmond, VA 23219
Attn: Executive Director
E-mail: dj.stadtler@vpva.virginia.gov

With a Copy to:
Virginia Passenger Rail Authority
919 E. Main St, Suite 2400.
Richmond, VA 23219
Attn: General Counsel
E-mail: michael.westermann@vpra.virginia.gov
Phone 804-241-5881

With a Copy to:
Virginia Passenger Rail Authority
919 E. Main St., Suite 2400
Richmond, VA 23219
Attn: Chief Operating Officer
Email: michael.mclaughlin@vpra.virginia.gov

Article 33

Miscellaneous

33.1 Disadvantaged Business Enterprises

In any subcontract related to activities of this Agreement, each Party agrees to include appropriate provisions regarding the utilization of Disadvantaged Business Enterprises as required in Title 49 Part 26 of the Code of Federal Regulations.

33.2 Unauthorized Aliens

Norfolk Southern Railway certifies that it does not, and that it and its contractors shall not, during the performance of any construction work under this Agreement, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986 (“Act”). Unauthorized alien means, with respect to the employment of an alien (which is defined as any person not a citizen or national of the United States), at a particular time, that the alien is not at that time either (a) an alien lawfully admitted for permanent residence, or (b) authorized to be so employed by the Act or by the United States Attorney General.

33.3 Discrimination in Employment

Each Party acknowledges and agrees that is an equal employment employer and that it will not discriminate against any of their respective employees or applicants for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment.

33.4 Drug-free Workplace

During the term of this Agreement, Norfolk Southern Railway agrees to provide a drugfree workplace for its employees and subcontractors. Any subcontract subject to 49 C.F.R. Part 219 will be required to ensure maintenance of a drug-free workplace to qualify as a subcontractor. For the purposes of this Section 33.4 (*Drug-free Workplace*), “drug-free

workplace” means a site for the performance of work done in connection with a specific contract awarded to a contractor or subcontractor in accordance with the Virginia Public Procurement Act, §§ 2.2-4300 et seq. of the Code of Virginia (1950), as amended, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession, or use of any controlled substance listed in the Federal Controlled Substances Act (Title 21 US Code) to include schedule I drugs and any schedule II through V drugs without a valid prescription.

33.5 No Liability of Directors

No Party shall hold or attempt to hold any director, officer, member, manager, agent, or employee of any other Party acting within the scope of their employment personally liable for a breach of this Agreement or an Event of Default.

33.6 Brokerage Commission

VPRA and Norfolk Southern Railway each represent that no real estate or investment bank commissions are due and owing to any party with respect to the Transaction. To the extent that any third-party broker or agent shall assert a Claim for any such commission, then the party against which such a Claim is asserted shall fully assume and discharge any alleged Claims or liability.

33.7 Benefit

This Agreement and each and every provision hereof is for the exclusive benefit of the Parties hereto and not for the benefit of any third party. Nothing herein contained shall be taken as creating or increasing any right of any third party to recover by way of Damages or otherwise against either of the Parties hereto.

33.8 Interpretation

All words, terms and phrases used in this Agreement shall be construed in accordance with the generally applicable definition or meaning of such words, terms and phrases in the railroad industry.

33.9 Headings

All section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

33.10 Reference to Trains, locomotives, cars or Equipment

As used in this Agreement, whenever reference is made to the Trains, locomotives, cars or Equipment of one of the Parties or Users, such expression means the Trains, locomotives, cars and Equipment in the possession of or operated by one of the Parties and Users and includes such Trains, locomotives, cars and Equipment which are owned by, leased to, or in the account of such Party or User. Whenever such locomotives, cars or Equipment are owned or leased by one Party or User and are in the possession or account of another Party

or User, such locomotives, cars, and Equipment shall be considered those of the other Party or User.

33.11 Drafter

This Agreement is the result of mutual negotiations of the Parties hereto, neither of whom shall be considered the drafter for purposes of contract construction.

33.12 VFOIA

Norfolk Southern Railway acknowledges that information provided by Norfolk Southern Railway to VPRA is subject to public inspection in accordance with the Virginia Freedom of Information Act (“VFOIA”). If Norfolk Southern Railway believes any such information qualifies for an exemption from disclosure under VFOIA, Norfolk Southern Railway may designate the information as subject to a VFOIA exemption claim prior to, or upon or after submission of, the information to VPRA, or upon notice from VPRA that the undesignated information provided (“Designated Information”). Upon receipt of a request for disclosure of proprietary or Designated Information pursuant to the VFOIA, VPRA shall provide prompt written notice to Norfolk Southern Railway of the request. The Parties shall review the request to determine whether the requested information qualifies for VFOIA exemption and whether action to oppose disclosure of the information is warranted. Nothing in this Section 33.12 (VFOIA), however, shall be construed to prevent VPRA from complying with the VFOIA, including performing its own analysis of the applicability of VFOIA exemptions and timely responding to any VFOIA requests it receives.

33.13 Illegality

The Parties agree that if any part, term or provision of this Agreement is held to be illegal or in conflict with any Law, such provision shall be severable, with the remaining provisions remaining valid and enforceable.

33.14 Compliance with Law

Each Party shall be responsible for compliance with any applicable Laws that arise for the rights and obligations found in this Agreement. Subject to the foregoing, to the extent permitted by Law, and as to any Intercity Rail User or Commuter Rail User operations, VPRA may delegate responsibility for the same by requiring any Intercity Rail User or Commuter Rail User to be responsible for compliance with any such Laws or regulations to said Intercity Rail User or Commuter Rail User.

33.15 Procurement

The Parties acknowledge that Commonwealth procurement professionals are subject to §2.2-4367 et seq. of the Code of Virginia: Ethics in Public Contracting and State and Local Government Conflict of Interests Act (§2.2-3100 et seq.), the Virginia Governmental Frauds Act (§18.2-498.1 et seq.) and Articles 2 (§18.2-438 et seq.) and 3 (§18.2-446 et seq.) of Chapter 10 of Title 18.2.

33.16 Governing Law

This Agreement shall be construed and interpreted under the laws of the United States of America and the Commonwealth.

33.17 Remedies Cumulative

Except as otherwise expressly provided herein, all rights, powers and privileges conferred hereunder upon the Parties hereto shall be cumulative and in addition to all other rights, powers and remedies hereunder and those available at Law or in equity. All such rights, powers and remedies may be exercised separately or at once, and no exercise of any right, power or remedy shall be construed to be an election of remedies or shall preclude the future exercise of any or all other rights, powers and remedies granted hereunder or available at law or in equity, except as expressly provided herein.

33.18 No Waiver

Except as otherwise expressly provided herein, neither the failure of either Party to exercise any power given such party hereunder or to insist upon strict compliance by the other party with its obligations hereunder, nor any custom or practice of the Parties at variance with the terms hereof, shall constitute a waiver of either Party's right to demand exact compliance with the terms hereof.

33.19 Condemnation

No provision of this Agreement, including but not limited to the provisions of Section 5.2 (*Conveyance of Manassas Passenger Easement*), Section 5.3 (*Conveyance of Manassas Line Conveyed Property*), Section 5.4 (*Conveyance of Broad Run Conveyed Property*) and Section 5.7 (*Second Closing*), shall be construed to limit or expand the power of eminent domain vested in VPRA by Law.

33.20 Entire Agreement

This Agreement (including all exhibits, which are to be considered a part of this Agreement) contains the entire agreement of the Parties hereto with respect to the Transaction, and no representations, inducements, promises or agreements, oral or otherwise, between the Parties not embodied herein or incorporated herein by reference shall be of any force or effect. Any previous agreements or understandings among the Parties regarding the subject matter hereof, including the 2022 CRA, are merged into and superseded by this Agreement.

33.21 Binding Effect

This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective personal representatives, successors and assigns.

33.22 Amendments

No amendment to this Agreement shall be binding on any of the Parties hereto unless such amendment is in writing and is executed by the Party against whom enforcement of such amendment is sought; *provided* that the Parties agree that the foregoing shall not prevent the full reinstatement of the 2022 CRA pursuant to Section 4.5 (*Effect of Termination Prior to Initial Closing*) or Section 4.6(a)(i) (*Failure to Complete Initial Closing*).

33.23 Counterparts

This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts together shall constitute one and the same instrument.

33.24 Severability

If any term, covenant or provision of this Agreement, or the application thereof to any person or circumstance, shall ever be held to be illegal, invalid or unenforceable, then, in such event, the remainder of this Agreement or the application of such terms, covenants and provisions hereof shall nevertheless remain in full force and effect.

33.25 Availability of Funds for VPRA's Performance

- (a) Without limiting the requirement to provide the certification contemplated by Section 4.2(g) (*Norfolk Southern Railway's Conditions to Initial Closing and Second Closing*) or the certification itself, the obligation of VPRA to make payment of amounts due and owing by VPRA pursuant to, and accruing from, this Agreement shall be subject to and dependent upon appropriation being made from time to time by the General Assembly and allocation by the Commonwealth Transportation Board or the Board of Directors of VPRA. Any failure to appropriate funds by the General Assembly or to allocate funds will not constitute a VPRA Default under this Agreement, provided that, in the event that any such failure results in a failure of VPRA to make payments due to Norfolk Southern Railway hereunder, VPRA staff responsible for the management of this Agreement shall take reasonable steps (i) to identify and utilize other lawful funds that may be available to VPRA for payment to Norfolk Southern Railway, to the extent permitted by Law, and (ii) to obtain an appropriation or allocation in the full amount required under this Agreement, including through the resubmission of budget requests that are sufficient to cover VPRA's payment obligations.
- (b) If prior to the tenth (10th) anniversary of the Applicable Closing Date, VPRA fails to make any material payment when it is due under this Agreement because of a failure of the General Assembly to appropriate funds or the Commonwealth Transportation Board or the Board of Directors of VPRA to allocate funds, after written notice of such failure is delivered from Norfolk Southern Railway to VPRA and after the applicable Non-Appropriation Cure Period ends, then, as Norfolk

Southern Railway's sole remedy for such failure, VPRA shall elect one of the following options in VPRA's sole and absolute discretion:

- (i) VPRA shall pay to Norfolk Southern Railway within ninety (90) days an amount equal to the Non-Appropriation Compensation Amount; or
- (ii) VPRA shall deliver to Amtrak within thirty (30) days written notice under Section 1.(b) (or similar successor provision) of the Virginia-Supported Services Agreement directing Amtrak to remove the Baseline Second Frequency, the Third Roanoke Frequency, or Extended Second Frequency, as applicable, from the Passenger Rail Service until VPRA catches up all undisputed payments under this Agreement, together with interest accruing from the date the undisputed payments were due at the rate of one-half (½) of one percent (1.0%) per month late charge on the delinquent sum until paid in full. Service suspended under this Section 33.25(b)(ii) (Availability of Funds for VPRA Performance) shall not be reinstated no earlier than sixty (60) days following payment of all amounts due under this Section 33.25(b)(ii) (Availability of Funds for VPRA Performance).
- (c) VPRA's payment of the Non-Appropriation Compensation Amount shall satisfy and extinguish VPRA's duty to pay the WVRI Grant Funds and the Passenger Capacity Grant Funds to Norfolk Southern Railway under this Agreement.
- (d) The portion of the Non-Appropriation Compensation Amount attributable to WVRI Grant Funds shall be considered WVRI Grant Funds and shall be subject to the same conditions as such funds under this Agreement, and the portion of the Non-Appropriation Compensation Amount attributable to Passenger Capacity Grant Funds shall be considered Passenger Capacity Grant Funds and shall be subject to the same conditions as such funds under this Agreement.

VPRA shall have no duty to pay the Non-Appropriation Compensation Amount arising from a failure of the General Assembly to appropriate funds or the Commonwealth Transportation Board or the Board of Directors of VPRA to allocate funds that occurs after the tenth (10th) anniversary of the Final Installment Payment Date. For clarity, any Non-Appropriation Compensation Amount is subject to appropriation by the General Assembly and, to the extent required by Law, allocation by the Commonwealth Transportation Board.

33.26 Title Challenges to NSR-Conveyed Property

If any third party challenges title to some or all of the NSR-Conveyed Property after the Applicable Closing Date and such challenge relates to such third party's actual or alleged possession of or title to some or all of the NSR-Conveyed Property prior to the Applicable Closing Date, then Norfolk Southern Railway shall, at VPRA's cost and expense, reasonably cooperate with VPRA to provide such evidence in the possession or knowledge of Norfolk Southern Railway, whether documentary, testimonial or both, as would be likely to assist VPRA in defending such challenge, including evidence regarding the elements of

adverse possession by Norfolk Southern Railway prior to the Applicable Closing Date, where supported by the applicable facts.

[Remainder of page intentionally left blank]

EXECUTED by VPRA as of the date first written above.

VIRGINIA PASSENGER RAIL AUTHORITY

By: _____

Name: Donald A. Stadtler, Jr.

Title: Executive Director

EXECUTED by Norfolk Southern Railway as of the date first written above.

NORFOLK SOUTHERN RAILWAY COMPANY

By: _____

Name: Alan H. Shaw

Title: President of Norfolk Southern Corporation

Exhibit A

Definitions

[“**1962 Horn Track Agreement**” shall mean the agreement dated March 16, 1962 among (i) Richmond, Fredericksburg and Potomac Railroad Company, (ii) Southern Railway Company, and (iii) Chesapeake and Ohio Railway Company, which provides Norfolk Southern Railway (as successor to Southern Railway Company) trackage rights over the Third-Party-Owned Horn Track Area, as such agreement may be amended, restated, or replaced from time to time.]¹¹

“**2022 Closing Date**” shall mean June 29, 2022.

“**2022 CRA**” shall have the meaning ascribed thereto in the Recitals.

“**2024 CRA Closings**” shall collectively mean the Initial Closing, the Second Closing, the NRV Station Closing, and the Radford Layover Closing.

“**AAA**” shall have the meaning ascribed thereto in Section 29.3(b) (*Mediation*).

“**AAR**” shall mean the Association of American Railroads.

“**AAR Car Code**” shall mean the combination of one letter and three numbers used to describe the category of a rail car. The first letter of the code identifies the major category of the railcar while the following three numbers identify more specific characteristics about the railcar such as dimension, roof type, door type, capacity, etc.

“**AAR Railroad Cost Indexes**” shall have the meaning ascribed thereto in the AAR official website: <https://www.aar.org/rail-cost-indexes/> or similar AAR official publication.

“**Act**” shall have the meaning ascribed thereto in Section 33.2 (*Unauthorized Aliens*).

“**Actual Run Time**” shall mean, with respect to any particular passenger station, the total number of actual minutes elapsed for (i) a northbound Passenger Rail Service Train to travel from the Southern-Most Station to such particular passenger station (with the passenger station at Alexandria being the last-measured passenger station), and (ii) a southbound Passenger Rail Service Train to travel from Alexandria (AF interlocking, milepost CFP 104.3) to such particular passenger station.

“**Additional Intercity Rail User**” shall have the meaning ascribed thereto in Section 19.1(c) (*Trackage Rights Compensation*).

“**Additional Paving Scope**” shall have the meaning ascribed thereto in Section 11.3 (*Additional Paving Scope*).

“**Additional Survey**” shall have the meaning ascribed thereto in Section 6.2 (*Additional Survey*).

¹¹ Note to VPRA: Under review by NSR.

“Adjusted Run Time” shall mean the Base Run Time plus the applicable Late Run Time Cushion. For clarity, Adjusted Run Times for northbound Passenger Rail Service Trains shall be measured from the Southern-Most Station, and Adjusted Run Times for southbound Passenger Rail Service Trains shall be measured from Alexandria (AF interlocking, milepost CFP 104.3).

“AF Tower” shall mean the eastern terminus of Norfolk Southern Railway’s ownership of the above ground improvements on the Conveyed Horn Track Property and the point at which maintenance responsibility and dispatch responsibility becomes the responsibility of CSX Transportation, Inc.

“Agreement” shall have the meaning ascribed thereto in the Preamble.

“Alexandria” shall mean City of Alexandria, Commonwealth of Virginia.

“A.M. Best Rating” shall mean the financial strength rating of an insurance company published by A.M. Best & Company, Inc.

“Amtrak” shall mean the National Railroad Passenger Corporation and its successors or assigns.

“Applicable Closing” shall mean the Initial Closing, the Second Closing, the NRV Station Closing, or the Radford Layover Closing, as the context requires.

“Applicable Closing Date” shall mean the Initial Closing Date, the Second Closing Date, the NRV Station Closing Date, or the Radford Layover Closing Date, as the context requires.

“Assignment and Assumption Agreement” shall have the meaning ascribed thereto in Section 5.1(j) (*Closing Date*).

“Base RTC Study” shall have the meaning ascribed thereto in Section 8.1(g) (*Passenger Rail Service*).

“Base Run Time” shall mean the run time (expressed in number of minutes) established between Norfolk Southern Railway and Amtrak (or other Intercity Rail User, if applicable) from point to point for each discrete frequency within the Corridor, including scheduled recovery time and scheduled dwell time between those points.

“Baseline First Frequency” shall mean the daily passenger rail round trip currently operated by Amtrak, already in operation under separate and independent agreements prior to January 10, 2022 between Alexandria and the passenger platform at Roanoke.

“Baseline Second Frequency” shall mean a daily passenger rail round trip currently operated by Amtrak between Alexandria and the passenger platform at Roanoke, which round trip is in addition to, and not in the place of, the Baseline First Frequency or the Third Roanoke Frequency.

“Bedford” shall mean the Town of Bedford, Commonwealth of Virginia.

“Bill of Sale” shall have the meaning ascribed thereto in Section 5.1(l) (*Closing Date*).

“Billboard Facilities” shall have the meaning ascribed thereto in Section 5.3(g) (*Conveyance of Manassas Line*).

“Blended Quarterly OTP Percentage” shall have the meaning ascribed thereto in Section 8.2(e) (*Intercity Passenger Performance Regime*).

“Broad Run Conveyed Property” shall have the meaning ascribed thereto in Section 2.1(c) (*Manassas Passenger Easement; NSR-Conveyed Property*).

“Broad Run Corridor” shall have the meaning ascribed thereto in the Recitals.

“Broad Run Deed” shall have the meaning ascribed thereto in Section 5.4 (*Conveyance of Broad Run Conveyed Property*).

“Broad Run Miscellaneous Property” shall have the meaning ascribed thereto in Section 2.1(b)(ix) (*NSR-Conveyed Property*).

“Broad Run Personal Property” shall have the meaning ascribed thereto in Section 2.1(b)(viii) (*NSR-Conveyed Property*).

“Broad Run Pocket Track” shall have the meaning ascribed thereto in the Recitals.

“Broad Run Real Property” shall have the meaning ascribed thereto in Section 2.1(b)(vii) (*NSR-Conveyed Property*).

“Broad Run Survey” shall have the meaning ascribed thereto in Section 6.1(a) (*Initial Surveys*).

“Business Day(s)” shall mean that day that is neither a Saturday, a Sunday nor a day observed as a legal holiday by the Commonwealth or the United States Government.

“Capital Improvements” shall mean design, construction, renewal, replacement, or material modification or rehabilitation of track and any structures or things necessary for the support or use thereof, including signals and communications systems, but excluding aesthetic improvements or maintenance work conducted in the ordinary course of business.

“Capital Maintenance” shall mean any repair and maintenance that does not qualify as Expense Maintenance.

“Casualty Party” shall have the meaning ascribed thereto in Section 18.1 (*Catastrophic Event*).

“Catastrophic Event” shall have the meaning ascribed thereto in Section 18.1 (*Catastrophic Event*).

“C.F.R.” shall mean the Code of Federal Regulations.

“Christiansburg” shall mean the Town of Christiansburg, Commonwealth of Virginia.

“Christiansburg-Roanoke Segment” shall have the meaning ascribed thereto in Section 19.1(b) (*Trackage Rights Compensation*).

“Claim” or **“Claims”** shall mean any and all claims, demands, losses (including the loss of use), costs (including investigation, remedial and clean-up costs), expenses (including attorneys’, consultants’ or experts’ fees and expenses), judgments, awards, penalties, governmental action (including fines and liens), causes of action, liens, suits or liability of every kind and nature suffered, but excluding special or consequential losses or Damages.

“Closing Title Statement” shall have the meaning ascribed thereto in Section 3.1(a) (*Title Examination Due Diligence and Purchase Price Adjustments*).

“Coincidental NSR Employee Passengers” shall mean any employee or agent of Norfolk Southern Railway that is a fare-paying passenger of an Intercity Rail User or Commuter Rail User at the time such employee or agent suffers injury, death, or property damage.

“Commercial Industry Mediation Rules and Procedures” shall mean the rules and procedures created by AAA for commercial industry transactions.

“Commonwealth” shall mean the Commonwealth of Virginia.

“Communication Facilities” shall have the meaning ascribed thereto in Section 5.3(f) (*Conveyance of Manassas Line*).

“Communications Easement” shall have the meaning ascribed thereto in Section 5.3(f) (*Conveyance of Manassas Line*).

“Commuter Rail Service” shall mean passenger rail service in an urban area, its suburbs and more distant outlying communities in the applicable greater metropolitan area, excluding (i) urban rapid transit operations not connected to the general railroad system; (ii) Intercity Passenger Rail Service; and (iii) Excursion Passenger Rail Service.

“Commuter Rail User” shall mean VRE and/or any other provider of Commuter Rail Service over any portion of the Purchased Line, the Roanoke Easement Area, or the NSR ROW between Alexandria and Radford pursuant to one or more direct agreements with VPRA, provided that neither VPRA nor any entity for which the principles of sovereign immunity would prevent the Commuter Rail User from providing to Norfolk Southern Railway the protections set forth in Exhibit W-1 (*Liability Provisions Applicable to Future Commuter Rail Users other than VRE*), including the indemnity protections, shall be a Commuter Rail User.

“Consent” shall mean any approval, consent, ratification, waiver, exemption, franchise, license, permit, novation, certificate of occupancy, jurisdictional determination or other authorization of any Person, including any Consent issued, granted, given or otherwise made available by or under the authority of any Governmental Authority or pursuant to any Law.

“Contractor” shall mean a private contractor, including consultants, which may be engaged by Norfolk Southern Railway to perform the REA Work, the NSR-Delivered Scope, the MofW Scope or the Additional Paving Scope.

[**“Conveyed Horn Track Property”** shall mean:

- (i) NSR-Owned Horn Track; together with
- (ii) all of the above ground improvements (including railroad tracks but not the land underlying such improvements) owned by Norfolk Southern Railway and existing over the Third-Party Owned Horn Track Area.]¹²

“Conveyed Passenger Stations Property” shall mean the real property that is part of the Manassas Line Conveyed Property on which the following passenger stations or platforms are situated as of the Execution Date, each of which are included within the Manassas Line Survey and further depicted in Exhibit CC (*Conveyed Passenger Stations Property*):

- (i) Manassas Station at approximately MP 32.6;
- (ii) Manassas Park Station at approximately MP 30.4;
- (iii) Burke Centre Station at approximately MP 21.4;
- (iv) Rolling Road Station at approximately MP 19.1; and
- (v) Backlick Road Station at approximately MP 15.0.

“Corridor” shall have the meaning ascribed thereto in the Recitals.

“Cost Overruns” shall have the meaning ascribed thereto in Section 11.7(a) (*Cost Overruns; Late Delivery of NSR-Delivered Scope*).

“Cost Savings” shall have the meaning ascribed thereto in Section 11.6(a) (*Cost Savings; Performance Fees*).

“Current Charge (Christiansburg-Roanoke Segment)” shall have the meaning ascribed thereto in Section 19.2(b) (*Current Charges*).

“Current Charge (Manassas-Roanoke Segment)” shall have the meaning ascribed thereto in Section 19.2(c) (*Current Charges*).

“Current Charge (Purchased Line)” shall have the meaning ascribed thereto in Section 19.2(a) (*Current Charges*).

“Current Charges” shall have the meaning ascribed thereto in Section 19.2 (*Current Charges*).

“Damages” shall mean death, personal injury, property loss or damage or damage to the environment, including but not limited to:

- (i) loss or damage to, or loss of use of, the property and death or personal injury to a Person; and

¹² Note to VPRA: Under review by NSR.

- (ii) environmental investigation, cleanup or remediation costs, fines, and penalties; and
- (iii) any and all damages suffered by or asserted against a Party hereto or third party as a direct or indirect result of or due to the presence, disposal, release or other escape of any Hazardous Materials on or from the NSR-Conveyed Property and V-Line Conveyed Property trackage, a Train or other Equipment, or on or at property subject to this Agreement or any related agreement; and
- (iv) attorney, expert and witness fees, and salaries, wages and benefits of a Party's employees investigating, adjusting or defending Claims, suits or proceedings for which another Party is potentially liable under this Agreement, together with associated support staff and out of pocket costs, and any investigation, litigation, appeal, arbitration, administrative hearing or governmental action cost.

“Deed of Confirmation” shall have the meaning ascribed thereto in Section 6.3 (*Deeds of Confirmation*).

“Deeds” shall mean the Manassas Line Deed, the Broad Run Deed, the Seminary Passage Deed, the V-Line Deed, the NRV Station Deed and the Radford Layover Deed.

“Defaulting Party” shall mean, when an Event of Default has occurred, the Party which fails to meet any material obligation under this Agreement where such failure continues sixty (60) days after written notice from the other Party.

“Description of Future Work” shall have the meaning ascribed thereto in Section 16.2(b) (*Right to Propose and Prosecute Future Capital Improvements*).

“Designated Information” shall have the meaning ascribed thereto in Section 33.12 (*VFOIA*).

“Disadvantaged Business Enterprises” shall have the meaning ascribed thereto in 49 C.F.R. 26.

“Dispatcher” shall have the meaning ascribed thereto in Section 14.1 (*Dispatching*).

“Dispute” shall mean any claim, dispute, disagreement or controversy between Norfolk Southern Railway and VPRA concerning their respective rights and obligations under this Agreement, including concerning any NSR Default, any VPRA Default, or any other alleged breach or failure to perform any remedy under this Agreement.

“EDI” shall mean electronic data interchange.

“Eligible Costs” shall mean all reasonable and actual costs and expenses, internal and external, direct and incidental, that comply with the terms and conditions of this Agreement and that VPRA is legally permitted to reimburse, incurred by Norfolk Southern Railway in performing its obligations or exercising its rights pursuant to Article 11 (*NSR-Delivered Scope and Related Improvements*), including without limitation acquisition of any rights in real property to complete such work. Overhead and indirect expenses shall be calculated using audited rates approved by the Federal Highway Administration and/or Federal Railroad Administration, as applicable.

“Environmental Right of Entry Agreements” shall have the meaning ascribed thereto in Section 3.2 (*Environmental Right of Entry Agreements*).

“Equipment” shall mean and be confined to hi-rail vehicles, track inspection equipment and other non-revenue vehicles and machinery (other than locomotives) capable of being operated on railroad tracks that, at the time of an occurrence, are (i) being operated on the trackage upon which such occurrence takes place, or (ii) are on the trackage upon which such occurrence takes place, or on the adjoining right-of-way, for the purpose of maintenance or repair thereof or the clearing of wrecks thereon.

“Event of Default” shall mean an NSR Default or VPRA Default, as applicable.

“Excluded Property” shall have the meaning ascribed thereto in Section 2.1(d) (*Manassas Passenger Easement; NSR-Conveyed Property*).

“Excursion Passenger Rail Service” shall mean passenger rail service and special passenger rail service that is (i) occasional and intermittent, not exceeding two (2) roundtrips per week (subject to an increase in the number of roundtrips per week that may be proposed by VPRA and considered for approval by Norfolk Southern Railway in good faith); (ii) is operated for purposes of promoting tourism, events, and holidays; and (iii) operating between the station in Roanoke and the NRV Station.

“Execution Date” shall have the meaning ascribed thereto in the opening paragraph of this Agreement.

“Existing VRE Operating Agreement” shall mean the Operating Access Agreement dated as of April 30, 2014, by and between Norfolk Southern Railway and VRE, as amended.

“Expense Maintenance” shall mean repair and maintenance that (i) does not constitute a betterment, restoration, or adaptation, and (ii) the expenses of which may be deducted for Federal tax purposes.

“Extended First Frequency” shall mean the extension of the Baseline First Frequency west of Roanoke to the NRV Station.

“Extended Second Frequency” shall mean the extension of the Baseline Second Frequency west of Roanoke to the NRV Station.

“Extended Third Frequency” shall mean the extension of the Third Roanoke Frequency west of Roanoke to the NRV Station.

“Federal Funding Accountability and Transparency Act” shall mean 31 U.S.C. §6101.

“Federal Locomotive Inspection Act” shall mean 49 U.S.C. §20701.

“Federal Safety Appliance Act” shall mean 49 U.S.C. §20302.

“Final Installment Payment” shall have the meaning ascribed thereto in Section 2.3(a)(iii) (*Purchase Price and Property Exchange*).

“Final Installment Payment Date” shall have the meaning ascribed thereto in Section 2.3(a)(iii) (*Purchase Price and Property Exchange*).

“Final Plan Set Approval Date” shall have the meaning ascribed thereto in Section 11.4(c) (*Engineering and Construction Principles*).

“Final Purchase Price Adjustment” shall have the meaning ascribed thereto in Section 3.1(c) (*Title Examination Due Diligence and Purchase Price Adjustments*).

“Fixed VRE Operating Fee” shall have the meaning ascribed thereto in Section 8.5(c) (*VRE Service*).

“FRA” shall mean the Federal Railroad Administration.

“Freight Easements” shall mean the Manassas Line Freight Easement and the Seminary Passage Freight Easement.

“Freight/Passenger Liability Provisions” shall mean the no-fault liability provisions between Norfolk Southern Railway and Amtrak under the NSR Off-Corridor Agreement (or future replacement of the same), the NSR-Amtrak Liability Allocation Agreement, or any similar provisions under a future agreement applicable to the Purchased Line between Norfolk Southern Railway and an Intercity Rail User other than Amtrak, in all cases governing the no-fault allocation of liability for injuries occurring within or near the Corridor.

“Freight Rail Service” shall mean the use of Trains to transport cargo and not passengers including, without limitation, pursuant to transportation agreements under 49 U.S.C. 10709 or other rights and responsibilities under the ICCTA.

“Freight Rail Trains” shall mean Trains operated by an NSR User to transport cargo and not passengers.

“Fully-allocated Cost Basis” shall mean the costs of labor (including allocable employee benefits and employment taxes), material, energy, utilities or other costs directly incurred and normal overhead (including, without limitation, administrative labor costs, maintenance, relevant insurance, depreciation of the equipment and depreciation of the facility) all determined in accordance with GAAP applied on a consistent basis.

“Funding Partners” shall mean Amtrak or any federal or state entity that provides funds to VPRRA in support of the Transaction.

“Future Commuter Rail User Contract” shall have the meaning ascribed thereto in Section 8.1(f).

“Future Intercity Rail User Contract” shall have the meaning ascribed thereto in Section 8.1(e) (*Passenger Rail Service*).

“Governmental Authority” shall mean any court, federal, state, local or foreign government, department, commission, board, bureau, agency or other regulatory, administrative, governmental or quasi-governmental authority, which shall include the STB but shall not include VPRA.

“Hazardous Materials” shall mean any material that is regulated under Hazardous Materials Laws, because of its quantity, concentration, or physical or chemical characteristics, is defined or included within the definition of a “hazardous substance,” “hazardous waste,” “hazardous material,” “toxic chemical,” “toxic substance,” “hazardous chemical,” “extremely hazardous substance,” “pollutant,” “contaminant,” “solid waste,” or any other words of similar meaning or significance within the context used under any applicable Hazardous Materials Laws. “Hazardous Material” includes, without limitation, any material or substance defined as a “hazardous substance” or a “pollutant or contaminant” under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601 et seq., including asbestos-containing materials and lead-based paint, as well as petroleum, including crude oil or any fraction thereof.

“Hazardous Materials Law” shall mean all present and future federal, state, or local Law relating to pollution, protection of the environment or natural resources or to human health and safety as it is affected by environmental conditions in, on, under, or about the NSR-Conveyed Property and V-Line Conveyed Property, including, without limitation, soil, air quality, water, water quality, and groundwater conditions, including, without limitation, the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986, the Hazardous Materials Transportation Act, 49 U.S.A. §§ 5101 et seq., the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 et seq., the Clean Air Act, 42 U.S.C. §§ 7401 et seq., the Clean Water Act, 33 U.S.C. § 1251 et seq., the Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq., and the Safe Drinking Water Act, 42 U.S.C. §§ 300f-300j.

“ICCTA” shall mean Interstate Commerce Commission Termination Act, 49 U.S.C. §10101 et seq.

“Independent Appraiser” shall mean a neutral, third-party, MAI certified real estate appraiser, licensed in the Commonwealth, with no less than 10 years of experience appraising property in the Manassas and Alexandria metropolitan areas.

“Initial Closing” shall have the meaning ascribed thereto in Section 5.1 (Closing Date).

“Initial Closing Cash Payment” shall have the meaning ascribed thereto in Section 2.3(a)(i) (Purchase Price and Property Exchange).

“Initial Closing Date” shall have the meaning ascribed thereto in Section 5.1 (Closing Date).

“Initial NSR-Conveyed Property” shall have the meaning ascribed thereto in Section 2.1(c) (Manassas Passenger Easement; NSR-Conveyed Property).

“Initial NSR-Conveyed Property Transition Period” shall have the meaning ascribed thereto in Section 15.1(b)(i) (Transition Period for NSR Conveyed Property).

“**Initial Surveys**” shall have the meaning ascribed thereto in Section 6.1(a)(v) (*Initial Surveys*).

“**Initial Term**” shall have the meaning ascribed thereto in Section 31.1 (*Term*).

“**Intercity Operating Schedule**” shall mean the weekday and weekend Intercity Operating Schedule as set forth in Exhibit S (*Intercity Operating Schedule*).

“**Intercity Passenger Rail Service**” shall mean any intercity passenger rail route or service operated by an Intercity Rail User in the Commonwealth.

“**Intercity Rail User**” shall mean Amtrak, and/or any provider of Intercity Passenger Rail Service on the Purchased Line, the Roanoke Easement Area, or on the NSR ROW between Alexandria and Radford pursuant to one or more direct agreements with VPRA, provided that neither VPRA nor any entity for which the principles of sovereign immunity would prevent the Intercity Rail User from providing to Norfolk Southern Railway the protections set forth in Exhibit W (*Liability Provisions Applicable to Future Intercity Rail Users other than Amtrak*), including the indemnity protections, shall be an Intercity Rail User.

“**Intermediary Assignment**” shall have the meaning ascribed thereto in Section 28.1 (*Assignment*).

“**Late Run Time Cushion**” shall mean additional minutes added to the Base Run Time for Late Trains, as follows:

NORTHBOUND PASSENGER SERVICE TRAINS		
Arriving Stations	Southern-Most Station through to and including Lynchburg	Charlottesville, Culpeper, Manassas, and Burke Center, and Alexandria
Late Run Time Cushion	5 minutes until the Turnover Date and 10 minutes thereafter	20 minutes

SOUTHBOUND PASSENGER SERVICE TRAINS			
Arriving Stations	Burke Center and Manassas	Culpeper, Charlottesville, Lynchburg	Roanoke and Southern-Most Station (if not Roanoke)
Late Run Time Cushion	5 minutes	15 minutes	25 minutes

These Late Run Time Cushions shall remain in place if and after a stop at the Bedford platform is added if the total run-time is adjusted to accommodate such Bedford stop.

“**Late Trains**” shall mean those (i) northbound Passenger Rail Service Trains departing the Southern-Most Station more than sixteen minutes and zero seconds later than the applicable schedule, which delay is due to no fault of Norfolk Southern Railway, and (ii) southbound Passenger Rail Service Trains that are actually handed off to Norfolk Southern Railway for

dispatch at Alexandria (AF interlocking, milepost CFP 104.3) more than sixteen minutes and zero seconds later than the applicable schedule.

“Law” or “Laws” shall mean any one or more present and future laws, ordinances, rules, regulations, permits, authorizations, orders, judgments, and requirements, to the extent applicable to the Parties, the Transaction, trackage, infrastructure, other facilities, and the NSR-Conveyed Property and V-Line Conveyed Property and the associated rail corridor or any portion thereof, including, without limitation, Hazardous Materials Laws, whether or not in the present contemplation of the Parties, including without limitation, all consents or approvals (including Regulatory Approvals) required to be obtained from, and all rules and regulations of, and all building and zoning laws or, all federal, state, and local governments, authorities, courts, and any other body or bodies exercising similar functions, having or acquiring jurisdiction of, or which may affect or be applicable to, the NSR-Conveyed Property and V-Line Conveyed Property and the associated rail corridor or any part thereof and of the trackage, infrastructure, and other facilities thereon.

“Layover Facility” shall have the meaning ascribed thereto in Section 11.1(d) (*NSR-Delivered Scope*).

“Level of Utility” shall mean a condition which permits both freight trains and passenger trains to operate at the Federal Railroad Administration maximum authorized freight train or passenger train speeds, respectively, corresponding to the FRA track classification existing as of the Applicable Closing Date, with a reasonable degree of reliability.

“LKE Property” shall have the meaning ascribed thereto in Section 28.1 (*Assignment*).

“Manassas Line Conveyed Property” shall have the meaning ascribed thereto in Section 2.1(c) (*Manassas Passenger Easement; NSR-Conveyed Property*).

“Manassas Line Deed” shall have the meaning ascribed thereto in Section 5.3 (*Conveyance of Manassas Line Conveyed Property*).

“Manassas Line Freight Easement” shall have the meaning ascribed thereto in Section 5.3(e) (*Conveyance of Manassas Line Conveyed Property*).

“Manassas Line Miscellaneous Property” shall have the meaning ascribed thereto in Section 2.1(b)(iii) (*NSR-Conveyed Property*).

“Manassas Line Personal Property” shall have the meaning ascribed thereto in Section 2.1(b)(ii) (*NSR-Conveyed Property*).

“Manassas Line Real Property” shall have the meaning ascribed thereto in Section 2.1(b)(i) (*NSR-Conveyed Property*).

“Manassas Line Survey” shall have the meaning ascribed thereto in Section 6.1(a)(i) (*Initial Surveys*).

“Manassas Passenger Easement” shall have the meaning ascribed thereto in Section 2.1(a) (*Manassas Passenger Easement*).

“Manassas-Roanoke Segment” shall have the meaning ascribed thereto in Section 19.1(c) (*Trackage Rights Compensation*).

“Manassas Segment” shall have the meaning ascribed thereto in Section 2.1(a) (*Manassas Passenger Easement*).

“Manassas Segment Deed of Easement” shall have the meaning ascribed thereto in Section 5.2 (*Conveyance of Manassas Passenger Easement*).

“Marketable Title” shall mean title that a title insurance company licensed to do business in the Commonwealth will insure at its regular rates subject only to standard exceptions (including, without limitation, any exceptions related to the fact that the relevant properties are or are intended to be used as for an operating railroad) and those stated in Section 5.3 (*Conveyance of Manassas Line Conveyed Property*), Section 5.4 (*Conveyance of Broad Run Conveyed Property*) and Section 5.7 (*Second Closing*), as applicable.

“Mediation” shall have the meaning ascribed thereto in Section 29.3(a) (*Mediation*).

“Merchants Site” shall mean the parcel identified in Exhibit V (*Proposed Site of Bedford Amtrak Station at Macon Street between MP 229 and 230*).

“MofW Scope” shall have the meaning ascribed thereto in Section 11.2 (*MofW Scope*).

“New Depot Building” shall have the meaning ascribed thereto in the Recitals.

“N-Line” shall mean Norfolk Southern Railway’s mainline tracks between either (i) Roanoke and Walton, Virginia, or (ii) Roanoke and Radford, with sufficient headroom and/or tailroom to wye a train at Walton, but no further west than MP N303.00 on the Pulaski District.

“NB-Line” shall mean Norfolk Southern Railway’s mainline tracks between Walton and Radford.

“Nokesville-Calverton Double Track Project” shall mean an improvement project containing all material components of the project depicted in Exhibit T (*Nokesville-Calverton Double Track Project*).

“Non-Appropriation Compensation Amount” shall mean \$156,500,000 minus an amount equal to all WVRI Grant Fund and Passenger Capacity Grant Fund payments actually made by VPRA to Norfolk Southern Railway, including any such payments made by VPRA prior to the date of this Agreement.

“Non-Appropriation Cure Period” shall mean the period of time between (i) a written notice delivered by Norfolk Southern Railway pursuant to Section 33.25 (*Availability of Funds for VPRA’s Performance*) and (ii) August 1 during the calendar year immediately following the calendar year in which Norfolk Southern Railway delivered the written notice to VPRA.

“Non-Casualty Party” shall have the meaning ascribed thereto in Section 18.1 (*Catastrophic Event*).

“Non-Late Trains” shall mean those Passenger Rail Service Trains that do not meet the definition of Late Trains.

“Non-NSR Person” shall mean any of the following Persons:

- (i) employees of VPRA (but it is expressly understood and agreed that any labor furnished by Norfolk Southern Railway for and on behalf of VPRA under any provision of this Agreement shall not be regarded for the purposes of this definition as employees of VPRA);
- (ii) employees of an Intercity Rail User or Commuter Rail User (but it is expressly understood and agreed that any labor furnished by Norfolk Southern Railway for and on behalf of any Intercity Rail User or Commuter Rail User under any provision of this Agreement shall not be regarded for the purposes of this definition as employees of an Intercity Rail User or Commuter Rail User);
- (iii) any Person (including any Coincidental NSR Employee Passenger, but excluding all other NSR Agents or Employees) who is on a Passenger Rail Service Train (including private cars but excluding business cars of Norfolk Southern Railway) operated by or for the account of VPRA or an Intercity Rail User or Commuter Rail User;
- (iv) any Person (including any Coincidental NSR Employee Passenger, but excluding all other NSR Agents or Employees) at or adjacent to a passenger station used by any Intercity Rail User or Commuter Rail User who is there in connection with the Passenger Rail Service for the purpose of boarding or detraining from any Passenger Rail Service Train, meeting a Passenger Rail Service Train, purchasing a ticket, making a reservation, or obtaining information about Intercity Rail User’s or Commuter Rail User’s service, conducting business with VPRA or any Intercity Rail User or Commuter Rail User (including a vendor from whom VPRA or any Intercity Rail User or Commuter Rail User receives compensation), or passengers riding on a Passenger Rail Service Train;
- (v) any Person at or adjacent to a passenger station who is providing local transportation to or accompanying a Person described in (iv) above;
- (vi) at stations that are used by an Intercity Rail User or Commuter Rail User and that are not used by Norfolk Southern Railway or by tenants of Norfolk Southern Railway, all Persons other than: (a) NSR Agents or Employees (unless the NSR Agents or Employees also meet the definition of Coincidental NSR Employee Passenger) and (b) Persons accompanying or doing business with such NSR Agents or Employees; and
- (vii) at stations used jointly by Norfolk Southern Railway and an Intercity Rail User or Commuter Rail User, or in which Norfolk Southern Railway leases space to third

parties, any Persons who are at the station for a purpose directly related to VPRA's use, or Intercity Rail User's or Commuter Rail User's use, of the station (including Persons dealing with a lessee of VPRA and/or an Intercity Rail User or Commuter Rail User in that station), and including but not limited to those described in (iii), (iv) or (v), above (including any Coincidental NSR Employee Passenger, but excluding all other NSR Agents or Employees).

provided, however, that in all cases the definition of Non-NSR Person shall exclude any Person who is struck by improperly secured equipment or cargo of a Norfolk Southern Railway Train operated on tracks at or adjacent to a passenger station, other than an employee of VPRA or an employee of an Intercity Rail User or Commuter Rail User.

"Non-NSR Property" shall mean (i) the property of a Person at the time such Person meets the definition of a Non-NSR Person; (ii) any locomotive, passenger car, or any other property or equipment owned by, leased to, used by or otherwise in control, custody, or possession of VPRA and/or an Intercity Rail User or Commuter Rail User; (iii) Norfolk Southern Railway property on which it demonstrates fuel oil was spilled from a VPRA or Intercity Rail User or Commuter Rail User locomotive or on which fuel oil spilled by VPRA or an Intercity Rail User or Commuter Rail User or a contractor thereof while fueling a VPRA or an Intercity Rail User or Commuter Rail User locomotive; or (iv) the property of third parties on which fuel oil was spilled by VPRA or an Intercity Rail User or Commuter Rail User or a contractor thereof while fueling a VPRA or an Intercity Rail User or Commuter Rail User locomotive.

"Norfolk Southern Railway" shall have the meaning ascribed thereto in the Preamble.

"Norfolk Southern Railway Indemnified Parties" shall mean Norfolk Southern Railway, its parent company, its affiliates, and any and all of their respective officers, directors, employees, agents, affiliates, successors, and permitted assigns.

"NRV/Radford Valuation Maps" shall have the meaning ascribed thereto in Section 5.10(c) (*Legal Descriptions*).

"NRV Station" shall mean the station to be constructed by Norfolk Southern Railway on the NRV Station Parcel and conveyed to VPRA on the NRV Station Closing Date.

"NRV Station Closing" shall have the meaning ascribed thereto in Section 5.7 (*NRV Station Closing and Radford Layover Closing*).

"NRV Station Closing Date" shall have the meaning ascribed thereto in Section 2.3(a)(iv) (*Purchase Price and Property Exchange*).

"NRV Station Conveyed Property" shall have the meaning ascribed thereto in Section 2.1(c) (*Manassas Passenger Easement; NSR-Conveyed Property*).

"NRV Station Deed" shall have the meaning ascribed thereto in Section 5.7 (*NRV Station Closing and Radford Layover Closing*).

“NRV Station Miscellaneous Property” shall have the meaning ascribed thereto in Section 2.1(b)(xii) (*NSR-Conveyed Property*).

“NRV Station Parcel” shall have the meaning ascribed thereto in the Recitals.

“NRV Station Parcel Survey” shall have the meaning ascribed thereto in Section 6.1(a)(iv) (*Initial Surveys*).

“NRV Station Payment” shall have the meaning ascribed thereto in Section 2.3(a) (*Purchase Price and Property Exchange*).

“NRV Station Personal Property” shall have the meaning ascribed thereto in Section 2.1(b)(xi) (*NSR-Conveyed Property*).

“NRV Station Real Property” shall have the meaning ascribed thereto in Section 2.1(b)(i) (*NSR-Conveyed Property*).

“NSR Additional Paving Scope Contribution” shall have the meaning ascribed thereto in Section 11.3 (*Additional Paving Scope*).

“NSR Agents or Employees” shall mean any agents or employees of Norfolk Southern Railway in the course of their agency or employment.

“NSR-Amtrak Liability Allocation Agreement” shall mean the agreement or agreements between Norfolk Southern Railway and Amtrak related to the allocation of liability and risk of damage with respect to the Purchased Line.

“NSR-Conveyed Property” shall have the meaning ascribed thereto in Section 2.1(c) (*Manassas Passenger Easement; NSR-Conveyed Property*).

“NSR Default” shall have the meaning ascribed thereto in Section 31.2 (*NSR Defaults*).

“NSR-Delivered Scope” shall have the meaning ascribed thereto in Section 11.1 (*NSR-Delivered Scope*).

“NSR-Delivered Scope Work” shall mean design and construction services, tasks, duties, obligations, services, requirements and activities to be performed, and the administration related thereto, and all items to be provided by Norfolk Southern Railway regarding design and construction of the NSR-Delivered Scope pursuant to this Agreement.

“NSR Off-Corridor Agreement” shall mean the Amended and Restated Off-Corridor Operating Agreement between Norfolk Southern Railway and National Railroad Passenger Corporation, dated February 1, 2006 (as amended from time to time).

“NSR Operating Rules” shall mean the codification of Norfolk Southern Railway’s practices and guidelines for the operation of a Class 1 railroad as required by the Federal Railroad Administration at 49 C.F.R. Part 217.

["**NSR-Owned Horn Track**" shall mean the curved railroad track, together with the land underlying it, owned by Norfolk Southern Railway as of the Effective Date, that begins just east of Cameron Run at approximately MP 10.76 and continues eastward to approximately station 1077+46.]¹³

"**NSR-Retained Broad Run Tracks**" shall mean the lines existing as of the Execution Date west of MP 33.6 leading into the passenger station on the Broad Run Corridor and the rail yard in the vicinity of such station.

"**NSR ROW**" shall mean all railroad real property and assets owned or under the primary control of Norfolk Southern Railway between Alexandria and Radford, which real property and assets are used or are to be used for the Passenger Rail Service, and excluding any real property and other assets actually conveyed to VPRA under this Agreement.

"**NSR User**" shall mean Norfolk Southern Railway, its parent company, its affiliates and/or any provider of Freight Rail Service on the NSR-Conveyed Property or V-Line Conveyed Property pursuant to one or more direct agreements with VPRA.

"**NSR Valuation Maps**" shall have the meaning ascribed thereto in Section 5.10(a) (*Legal Descriptions*).

"**Objection Notice**" shall have the meaning ascribed thereto in Section 3.1(c) (*Title Examination Due Diligence and Purchase Price Adjustments*).

"**Operating Rules**" shall mean (i) the NSR Operating Rules for territory dispatched by Norfolk Southern Railway, and (ii) the VPRA Operating Rules for territory dispatched by or through VPRA.

"**Original Depot Building Parcel**" shall have the meaning ascribed thereto in the Recitals.

"**Outside Closing Date**" shall mean September 5, 2024.

"**Party**" and "**Parties**" shall have the meaning ascribed thereto in Preamble.

"**Passenger Capacity Disbursement Period**" shall mean the period of time beginning with the first installment payment of the Passenger Capacity Grant Funds to Norfolk Southern Railway and ending on the Passenger Capacity Unused Disbursement Repayment Date, as it may or may not be extended in accordance with Section 13.2(b) (*Timing of Payment of Passenger Capacity Grant Funds; Passenger Capacity Grant Funds Sunset Date*).

"**Passenger Capacity Eligible Project Cost**" shall mean a cost incurred by Norfolk Southern Railway in support of the Passenger Capacity Grant Purposes, which is directly associated with the Passenger Capacity Grant Work and properly payable from the Passenger Capacity Grant Funds.

¹³ Note to VPRA: Under review by NSR.

“Passenger Capacity Grant Funds” shall mean funds in the amount of \$25,000,000 distributed, or to be distributed, to Norfolk Southern Railway pursuant to Article 13 (*Passenger Capacity Grant*).

“Passenger Capacity Grant Purposes” shall have the meaning ascribed thereto in the Recitals.

“Passenger Capacity Grant Work” shall mean, in support of the Passenger Capacity Grant Purposes, any and all tasks, duties, obligations, services, requirements, and activities of whatever kind or nature, express or implied, direct or incidental, performed or to be performed, and all items tangible and intangible, provided or to be provided by Norfolk Southern Railway pursuant to Article 13 (*Passenger Capacity Grant*).

“Passenger Capacity Unused Disbursement” shall mean any of the Passenger Capacity Grant Funds that have not been expended by Norfolk Southern Railway.

“Passenger Capacity Unused Disbursement Repayment Date” shall have the meaning ascribed thereto in Section 13.2(b) (*Timing of Payment of Passenger Capacity Grant Funds; Passenger Capacity Grant Funds Sunset Date*).

“Passenger Per Train Mile Rate” shall mean the dollars-per-Train-mile rate that is applied to Intercity Rail User Trains with respect to the Current Charges, which rate is initially set at Twenty-Four and 91/100 Dollars (\$24.91) per Train mile and escalated in accordance with Section 19.2 (*Current Charges*).

“Passenger Performance Regime” shall mean the system of measuring on time performance of the Passenger Rail Service, and applying discounts to the Passenger Per Train Mile Rate (if applicable) pursuant to Section 8.2 (*Intercity Passenger Performance Regime*) and Section 19.2 (*Current Charges*).

“Passenger Rail Operations” shall mean the operation of the Purchased Line, the Manassas Segment, and/or the Roanoke Easement Area for Excursion Passenger Rail Service, Commuter Rail Service, and Intercity Passenger Rail Service.

“Passenger Rail Service” has the meaning ascribed thereto in Section 8.1(a) (*Passenger Rail Service*).

“Performance Managers Committee” shall have the meaning ascribed thereto in Section 22.1 (*Performance Managers Committee*).

“Person” shall mean any individual (including the heirs, beneficiaries, executors, legal representatives or administrators thereof), corporation, partnership, joint venture, trust, limited liability company, limited partnership, joint stock company, unincorporated association or other entity or a Governmental Authority, including VPRA.

“Pipe and Wire Easement Agreement” has the meaning ascribed thereto in Section 5.1(j) (*Closing Date*).

“Positive Train Control” and **“PTC”** shall mean any system designed to prevent train-to-train collisions, over-speed derailments, incursions into established work zones, and movements of Trains through switches left in the wrong position.

“Proposed Adjustment Amount” shall have the meaning ascribed thereto in Section 3.1(b) (*Title Examination Due Diligence and Purchase Price Adjustments*).

“Purchase Price” shall have the meaning ascribed thereto in Section 2.3 (*Purchase Price and Property Exchange*).

“Purchased Line” shall mean:

- (i) prior to the Initial Closing, the Purchased V-Line;
- (ii) upon and after the Initial Closing and prior to the Second Closing, the Purchased V-Line and the Manassas Line Conveyed Property; and
- (iii) upon and after both the Initial Closing and the Second Closing, the Manassas Line Conveyed Property and the Seminary Passage Conveyed Property.

“Purchased V-Line” shall have the meaning ascribed thereto in the 2022 CRA.

“Purchased V-Line Transition Period” shall have the meaning ascribed thereto in Section 15.1(a)(i) (*Transition Period for Purchased V-Line*).

“Quarterly Indexes of Chargeout Prices and Wage Rates (1977=100)” shall have the meaning ascribed thereto in the AAR official website: <https://www.aar.org/rail-cost-indexes/> or similar AAR official publication as further set forth in Section 19.4 (*Minimum Take or Pay Amount*).

“Radford” shall mean the City of Radford, Commonwealth of Virginia.

“Radford Layover Closing” shall have the meaning ascribed thereto in Section 5.7 (*NRV Station Closing and Radford Layover Closing*).

“Radford Layover Closing Date” shall have the meaning ascribed thereto in Section 2.3(a)(v) (*Purchase Price and Property Exchange*).

“Radford Layover Conveyed Property” shall have the meaning ascribed thereto in Section 2.1(c) (*Manassas Passenger Easement; NSR-Conveyed Property*).

“Radford Layover Deed” shall have the meaning ascribed thereto in Section 5.7 (*NRV Station Closing and Radford Layover Closing*).

“Radford Layover Miscellaneous Property” shall have the meaning ascribed thereto in Section 2.1(b)(xv) (*NSR-Conveyed Property*).

“Radford Layover Parcel” shall have the meaning ascribed thereto in the Recitals.

“Radford Layover Parcel Survey” shall have the meaning ascribed thereto in Section 6.1(a)(v) (*Initial Surveys*).

“Radford Layover Payment” shall have the meaning ascribed thereto in Section 2.3(a) (*Purchase Price and Property Exchange*).

“Radford Layover Personal Property” shall have the meaning ascribed thereto in Section 2.1(b)(xiv) (*NSR-Conveyed Property*).

“Radford Layover Real Property” shall have the meaning ascribed thereto in Section 2.1(b)(xiii) (*NSR-Conveyed Property*).

“REA Long Stop Date” shall mean the fourth (4th) anniversary of the 2022 Closing Date.

“REA Reimbursement Cap” shall mean \$53,500,000.

“REA Work” shall mean design and construction services, tasks, duties, obligations, services, requirements and activities to be performed, and the administration related thereto, and all items to be provided by Norfolk Southern Railway regarding design and construction of the Roanoke Easement Area Improvements pursuant to this Agreement.

“REA Work Costs” shall mean all reasonable and actual costs and expenses, internal and external, direct and incidental, that comply with the terms and conditions of this Agreement, incurred by Norfolk Southern Railway in performing its obligations or exercising its rights pursuant to Article 10 (*Roanoke Easement Area Improvements*), including without limitation acquisition of any rights in real property to complete the Roanoke Easement Area Improvements. Overhead and indirect expenses shall be calculated using audited rates approved by the Federal Highway Administration and/or Federal Railroad Administration, as applicable.

“Records” shall have the meaning ascribed thereto in Section 19.6(a) (*Audits and Record-keeping*).

“Regulatory Approval” shall mean any authorization, approval or permit required or granted by any governmental entity having jurisdiction over the NSR-Conveyed Property and V-Line Conveyed Property and the associated railroad corridor, including, but not limited to, the Commonwealth.

“Release” shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing Hazardous Materials).

“Remediation” shall mean

- (i) remediation that
 - (a) has been required by a Governmental Authority pursuant to applicable Hazardous Material Law to respond to the presence or release of Hazardous

Materials within the Roanoke Easement Area which were present or had been released prior to the 2022 Closing Date except to the extent (I) such presence or release was disclosed by Norfolk Southern Railway to VPRA prior to the 2022 Closing Date, or (II) caused or contributed to by VPRA, and

- (b) has been subject to a plan of remediation formulated by VPRA, provided to Norfolk Southern Railway for review and approval, which approval shall not be unreasonably withheld, provided such plan utilizes institutional and engineering controls to achieve an industrial/commercial level of remediation consistent with the use of the Roanoke Easement Area for railroad purposes, including a proposed schedule and methodology designed to minimize interference with the use of the Roanoke Easement Area by the Parties, and approved by the applicable regulatory authority;
- (ii) prior to the Second Closing, remediation that
 - (a) has been required by a Governmental Authority pursuant to applicable Hazardous Material Law to respond to the presence or release of Hazardous Materials within the Purchased V-Line which were present or had been released prior to the 2022 Closing Date except to the extent (I) such presence or release was disclosed by Norfolk Southern Railway to VPRA prior to the 2022 Closing Date, or (II) caused or contributed to by VPRA, and
 - (b) has been subject to a plan of remediation formulated by VPRA, provided to Norfolk Southern Railway for review and approval, which approval shall not be unreasonably withheld, provided such plan utilizes institutional and engineering controls to achieve an industrial/commercial level of remediation consistent with the use of the Purchased V-Line for railroad purposes, including a proposed schedule and methodology designed to minimize interference with the use of the Purchased V-Line by the Parties, and approved by the applicable regulatory authority;
- (iii) upon and after the Initial Closing, remediation that
 - (a) has been required by a Governmental Authority pursuant to applicable Hazardous Material Law to respond to the presence or release of Hazardous Materials within the Initial NSR-Conveyed Property which were present or had been released prior to the Initial Closing Date except to the extent (I) such presence or release was disclosed by Norfolk Southern Railway to VPRA prior to the Initial Closing Date, or (II) caused or contributed to by VPRA, and
 - (b) has been subject to a plan of remediation formulated by VPRA, provided to Norfolk Southern Railway for review and approval, which approval shall not be unreasonably withheld, provided such plan utilizes institutional and

engineering controls to achieve an industrial/commercial level of remediation consistent with the use of the Initial NSR-Conveyed Property for railroad purposes, including a proposed schedule and methodology designed to minimize interference with the use of the Initial NSR-Conveyed Property by the Parties, and approved by the applicable regulatory authority,

(iv) upon and after the Second Closing, remediation that

- (a) has been required by a Governmental Authority pursuant to applicable Hazardous Material Law to respond to the presence or release of Hazardous Materials within the Seminary Passage Conveyed Property which were present or had been released prior to the Second Closing except to the extent (I) such presence or release was disclosed by Norfolk Southern Railway to VPRA prior to the Second Closing, or (II) caused or contributed to by VPRA, and
- (b) has been subject to a plan of remediation formulated by VPRA, provided to Norfolk Southern Railway for review and approval, which approval shall not be unreasonably withheld, provided such plan utilizes institutional and engineering controls to achieve an industrial/commercial level of remediation consistent with the use of the Seminary Passage Conveyed Property for railroad purposes, including a proposed schedule and methodology designed to minimize interference with the use of the Seminary Passage Conveyed Property by the Parties, and approved by the applicable regulatory authority;

(v) upon and after the NRV Station Closing, remediation that

- (a) has been required by a Governmental Authority pursuant to applicable Hazardous Material Law to respond to the presence or release of Hazardous Materials within the NRV Station Conveyed Property which were present or had been released prior to the NRV Station Closing except to the extent (I) such presence or release was disclosed by Norfolk Southern Railway to VPRA prior to the NRV Station Closing, or (II) caused or contributed to by VPRA, and
- (b) has been subject to a plan of remediation formulated by VPRA, provided to Norfolk Southern Railway for review and approval, which approval shall not be unreasonably withheld, provided such plan utilizes institutional and engineering controls to achieve an industrial/commercial level of remediation consistent with the use of the NRV Station Conveyed Property for railroad purposes, including a proposed schedule and methodology designed to minimize interference with the use of the NRV Station Conveyed Property by the Parties, and approved by the applicable regulatory authority; and

- (vi) upon and after the Radford Layover Closing, remediation that
 - (a) has been required by a Governmental Authority pursuant to applicable Hazardous Material Law to respond to the presence or release of Hazardous Materials within the Radford Layover Conveyed Property which were present or had been released prior to the Radford Layover Closing except to the extent (I) such presence or release was disclosed by Norfolk Southern Railway to VPRA prior to the Radford Layover Closing, or (II) caused or contributed to by VPRA, and
 - (b) has been subject to a plan of remediation formulated by VPRA, provided to Norfolk Southern Railway for review and approval, which approval shall not be unreasonably withheld, provided such plan utilizes institutional and engineering controls to achieve an industrial/commercial level of remediation consistent with the use of the Radford Layover Conveyed Property for railroad purposes, including a proposed schedule and methodology designed to minimize interference with the use of the Radford Layover Conveyed Property by the Parties, and approved by the applicable regulatory authority.

“Respective Owner” shall have the meaning ascribed thereto in Section 14.3 (*Removal of Employees*).

“Respective Portion” shall have the meaning ascribed thereto in Section 18.1 (*Catastrophic Event*).

“Roanoke” shall mean the City of Roanoke, Commonwealth of Virginia.

“Roanoke Easement Area” shall mean the NSR ROW between the passenger platform in Roanoke, through the Norfolk Southern Railway railway yard to and through the Salem Crossovers (including MP SX-0.0 and MP SX 1.0) to the boundary of the Purchased V-Line, as more particularly described in the 2022 CRA.

“Roanoke Easement Area Improvements” shall have the meaning ascribed thereto in Section 10.1 (*Roanoke Easement Area Improvements; REA Long Stop Date*).

“Roanoke/Radford Improvements” shall have the meaning ascribed thereto in the Recitals.

“Roanoke Station” shall mean the passenger rail platform and related passenger rail infrastructure within the City of Roanoke used for Intercity Passenger Rail Service.

“Salem Crossovers” shall mean the rail line connection that extends approximately one and 75/100 (1.75) miles between the N-Line and the Purchased V-Line, west of Roanoke, that includes MP SX 0.0 and MP SX 1.0.

“Second Closing” shall mean the closing at which the Seminary Passage and Conveyed Property is exchanged for the V-Line Conveyed Property.

“Second Closing Date” shall have the meaning ascribed thereto in Section 5.5 (*Second Closing*).

“Seminary Passage” shall have the meaning ascribed thereto in the Recitals.

“Seminary Passage Conveyed Property” shall have the meaning ascribed thereto in Section 2.1(c) (*Manassas Passenger Easement; NSR-Conveyed Property*).

“Seminary Passage Freight Easement” shall have the meaning ascribed thereto in Section 5.5(i)(v) (*Second Closing*).

“Seminary Passage Miscellaneous Property” shall have the meaning ascribed thereto in Section 2.1(b)(vi) (*NSR-Conveyed Property*).

“Seminary Passage Personal Property” shall have the meaning ascribed thereto in Section 2.1(b)(v) (*NSR-Conveyed Property*).

“Seminary Passage Real Property” shall have the meaning ascribed thereto in Section 2.1(b)(iv) (*NSR-Conveyed Property*).

“Seminary Passage Survey” shall have the meaning ascribed thereto in Section 6.1(a)(iii) (*Initial Surveys*).

“Seminary Yard” shall mean that set of tracks east of Cameron Run and just east of switches at approximately MP 10.76 and extending eastward for a distance of approximately 1.51 miles to the end of Norfolk Southern Railway ownership at MP 9.25, at an operating station defined as Val Station, as identified in Exhibit Y. Seminary Yard is bounded by CSX Transportation, Inc. to the north and east and by the Washington Metropolitan Area Transit Authority to the south. For the avoidance of doubt, Seminary Yard does not include the Conveyed Horn Track Property and excludes the Norfolk Southern Railway mainline, which is the northernmost track. Seminary Yard does not include any property east of the “Val” Station, and includes no property east of the CSX operating station and control point called “AF Tower”.

“Senior Representative Negotiations” shall have the meaning ascribed thereto in Section 29.2 (*Senior Representative Negotiations*).

“Southern-Most Station” shall mean the operational passenger station used for the Passenger Rail Service under this Agreement that is the farthest south and west within territory dispatched by Norfolk Southern Railway, which initially will be the passenger platform in Roanoke.

“Standard Customer OTP” shall have the meaning ascribed thereto in Section 8.2(c) (*Intercity Passenger Performance Regime*).

“STB” shall mean the United States Surface Transportation Board, an independent federal agency that is charged with the economic regulation of various modes of surface transportation, primarily freight rail.

“Stop Work Notice” shall have the meaning ascribed thereto in Section 2.3(b) (*Stop Work Notice*).

“Study Period” shall have the meaning ascribed thereto in Section 3.1(a) (*Title Examination Due Diligence and Purchase Price Adjustments*)

“Take or Pay Amount” shall have the meaning ascribed thereto in Section 19.4(a) (*Minimum Take or Pay Amount*).

“TBT” shall mean the Norfolk Southern Railway Thoroughbred Bulk Transfer Facility located in Alexandria, VA on the south side of the Manassas Line, [comprised of approximately 18 acres between mileposts MP 12.1 and MP 10.89 and the parcel on the eastern side of the developed portion of the Thoroughbred Bulk Transfer Facility, comprised of approximately 16 acres, as depicted in Exhibit B-3 (*Map of Excluded Properties (Manassas Line)*)].¹⁴

“Term” shall have the meaning ascribed thereto in Section 31.1 (*Term*).

[**“Third-Party-Owned Horn Track Area”** shall mean the curved railroad track contiguous to and east of the NSR-Owned Horn Track, together with land underlying it, beginning at approximately station 1077+46 and continuing eastward through to AF Tower.]¹⁵

“Third Roanoke Frequency” shall mean a daily passenger rail round trip between Alexandria and the passenger platform at Roanoke, which round trip is in addition to, and not in the place of, the Baseline First Frequency or the Baseline Second Frequency.

“Title Deficiency Statement” shall have the meaning ascribed thereto in Section 3.1(b) (*Title Examination Due Diligence and Purchase Price Adjustments*).

“Trackage Rights” shall mean those rights conferred on a third party with respect to a Trackage Rights Agreement.

“Trackage Rights Agreement” shall mean the rights arising by agreement between (i) Norfolk Southern Railway and other rail carriers to use the tracks or right-of-way on the Manassas Line Conveyed Property for the transport of rail traffic; without imparting an ownership interest to the other rail carriers or (ii) VPRA and other rail carriers to use the tracks or right-of-way on the V-Line Conveyed Property for the transport of rail traffic; without imparting an ownership interest to the other rail carriers.

“Train” shall mean one or more locomotives, coupled with or without cars, whether or not such locomotive or car is moving or stationary.

“Transaction” shall have the meaning ascribed thereto in the Recitals.

“Turnover Date” shall have the meaning ascribed thereto in Section 11.5(a) (*Completion and Turnover of NSR-Delivered Scope*).

¹⁴ Note to NSR: Under review by VPRA pending receipt of cut points.

¹⁵ Note to VPRA: Under review by NSR.

“Unreasonably Interfere with Freight Rail Operations” shall mean the exercise of a right or action by VPRA that would result in (i) unreasonable interference consistent with the line of ICC/STB cases originating with Maine, DOT – Acq. Exemption – ME Central R. Co., 8 I.C.C. 2d 835 (1991) or (ii) a negative impact within the applicable territory to one or more of the following, in each case as initially determined by Norfolk Southern Railway, subject to the dispute resolution provisions of Article 29 (Dispute Resolution) or a decision of the STB: (A) Norfolk Southern Railway’s costs or ability to perform Freight Rail Service for its customers, including, without limitation, causing modifications to Norfolk Southern Railway service windows if such modification would have a material negative impact on Norfolk Southern Railway costs, (B) Norfolk Southern Railway’s ability to fulfill its common carrier obligation and other freight rail services pursuant to transportation agreements under 49 U.S.C. 10709 or other rights and responsibilities under the ICC Termination Act of 1995, (C) interoperability (i.e., usability for both freight and passenger rail operations) of existing rail infrastructure, or (D) the number or availability of tracks available to Norfolk Southern Railway for freight operations.

“Unreasonably Interfere with Passenger Rail Operations” shall mean the exercise of a proposed right that would or would reasonably be expected to unreasonably impair VPRA’s present or future ability to construct, maintain or operate any reasonable planned rail lines for the purpose of providing Passenger Rail Operations within the applicable portion of the Purchased Line. Any such proposed right will not be construed to Unreasonably Interfere with Passenger Rail Operations if Norfolk Southern Railway can reasonably demonstrate (i) that the conditions, location, track setback and configuration of such proposed rights would meet Norfolk Southern Railway’s then-current occupancy standards for its own operating rights of way in the Commonwealth as applied to VPRA’s present or future ability to construct, maintain, or operate its planned rail lines within the applicable portion of the Purchased Line, (ii) the impairment is solely on account of the location of any Communication Facilities, Billboard Facilities, or Utility Facilities in place as of the Applicable Closing Date or any agreements in effect as of the Applicable Closing Date authorizing the operation and occupation of the same, (iii) the impairment is solely on account of the terms of any applicable license agreement, lease, or other third party agreement of any agreement in effect at the Applicable Closing Date, whether assigned to VPRA or reserved to Norfolk Southern Railway pursuant to the Pipe and Wire Easement Agreement, (iv) the impairment is solely on account of any renewal, modification, or replacement of any third party agreement in place on the Applicable Closing Date of any type, so long as Norfolk Southern Railway can reasonably demonstrate that the renewal, modification, or replacement does not create any new actual encroachment or actual impediment to any existing or planned projects as such planned projects are listed within the contemporaneous Transportation Improvement Program issued by the National Capital Region Transportation Planning Board.

“User” shall mean any NSR User or any Intercity Rail User or Commuter Rail User.

“Utility Facilities” shall have the meaning ascribed thereto in Section 5.3(h) (Conveyance of Manassas Line).

“VFOIA” shall have the meaning ascribed thereto in Section 33.12 (VFOIA).

“V-Line Conveyed Property” shall have the meaning ascribed thereto in Section 2.2 (V-Line Conveyed Property).

“V-Line Deed” shall have the meaning ascribed thereto in Section 5.7 (*Second Closing*).

“V-Line Miscellaneous Property” shall have the meaning ascribed thereto in Section 2.2(a)(iii) (*Conveyance of V-Line*).

“V-Line Personal Property” shall have the meaning ascribed thereto in Section 2.2(a)(ii) (*Conveyance of V-Line*).

“V-Line Real Property” shall have the meaning ascribed thereto in Section 2.2(a)(i) (*Conveyance of V-Line*).

“Valuation Maps” shall mean a map or plat created or maintained by (i) Norfolk Southern Railway that depicts the location of the rail corridor in the Manassas Line Conveyed Property (ii) Norfolk Southern Railway that depicts the location of the Broad Run Conveyed Property, (iii) Norfolk Southern Railway that depicts the location of the rail corridor in the Manassas Segment or (iv) VPRA that depicts the location of the rail corridor in the V-Line Conveyed Property.

“Virginia-Supported Services Agreement” shall mean the Grant Agreement for the Provision of Rail Passenger Operations between National Railroad Passenger Corporation and the Virginia Passenger Rail Authority for Fiscal Year 2024, or any substantially similar successor agreement between VPRA and Amtrak governing Amtrak’s provision of Virginia state-supported Intercity Passenger Rail Service.

“VPRA” shall mean the meaning ascribed thereto in the Preamble.

“VPRA Default” shall have the meaning ascribed thereto in Section 31.3 (*VPRA Defaults*).

“VPRA Indemnified Parties” shall have the meaning ascribed thereto in Section 14.2(a) (*Compliance*).

“VPRA Operating Rules” shall mean the NSR Operating Rules, as may be amended by VPRA from time to time, *provided* that any such amendment(s) shall be subject to the review and approval of Norfolk Southern Railway, which approval (i) shall not be unreasonably withheld, conditioned, or delayed, (ii) may be withheld only if Norfolk Southern Railway determines that the proposed amendment(s) would Unreasonably Interfere with Freight Rail Operations, and (iii) if withheld by Norfolk Southern Railway, will be subject to the procedures set forth in Article 29 (*Dispute Resolution*). For clarity, such approved amendments will only apply to the territories dispatched by or through VPRA and shall not unjustly discriminate between Users. VPRA shall not make any rule change or restriction that would mandate or limit any particular makeup of Norfolk Southern Railway Trains.

“VRE” shall have the meaning ascribed thereto in Section 3.6(f) (*VPRA Operating Agreements*).

“VRE Manassas Territory” shall mean the railroad corridor and assets over which VRE operates Commuter Rail Service as of the Execution Date between approximately (i) the passenger station and rail yard at Broad Run at MP 35.8 and (ii) MP 9.7 in Alexandria.

“VRE Operating Fee” shall have the meaning ascribed thereto in Section 8.5(c) (*VRE Service*).

“WVRI Disbursement Period” shall mean the period of time beginning with the first installment payment of the WVRI Grant Funds to Norfolk Southern Railway and ending on the WVRI Unused Disbursement Repayment Date, as it may or may not be extended in accordance with Section 12.2(b) (*Timing of Payment of WVRI Grant Funds; WVRI Grant Funds Sunset Date*).

“WVRI Eligible Project Cost” shall mean a cost incurred by Norfolk Southern Railway in support of the WVRI Grant Purposes, which is directly associated with the WVRI Grant Work and properly payable from the WVRI Grant Funds.

“WVRI Grant Funds” shall mean the funds distributed, or to be distributed, to Norfolk Southern Railway pursuant to Article 12 (*Western Virginia Rail Initiative Grant*).

“WVRI Grant Purposes” shall have the meaning ascribed thereto in the Recitals.

“WVRI Grant Work” shall mean, in support of the WVRI Grant Purposes, any and all tasks, duties, obligations, services, requirements, and activities of whatever kind or nature, express or implied, direct or incidental, performed or to be performed, and all items tangible and intangible, provided or to be provided by Norfolk Southern Railway pursuant to Article 12 (*Western Virginia Rail Initiative Grant*).

“WVRI Unused Disbursement” shall mean any of the WVRI Grant Funds that have not been expended by Norfolk Southern Railway.

“WVRI Unused Disbursement Repayment Date” shall have the meaning ascribed thereto in Section 12.2(b) (*Timing of Payment of WVRI Grant Funds; WVRI Grant Funds Sunset Date*).

Exhibit B

Real Property Description (Manassas Line)

[●]

Exhibit B-1

Existing Valuation Maps (Manassas Line)

[●]

Exhibit B-2

Bill of Sale (Manassas Line)

[●]

Exhibit B-3

Map of Excluded Properties (Manassas Line)¹⁶



Expansion Parcel



TBT Facility

¹⁶ Note to NSR: Under review by VPRA subject to finalization of survey work. VPRA understands the boundary between Seminary Yard CP and Expansion Parcel and TBT Facility to be 25ft south of the centerline of the southernmost through track in Alexandria Yard.

Exhibit C

Real Property Description (Broad Run Corridor)

[•]

Exhibit C-1

Existing Valuation Maps (Broad Run Corridor)

[●]

Exhibit C-2

Bill of Sale (Broad Run Corridor)

[•]

Exhibit D

Real Property Description (NRV Station Parcel)

[•]

Exhibit D-1

Existing Valuation Maps (NRV Station Parcel)

[●]

Exhibit D-2

Bill of Sale (NRV Station Parcel)

[•]

Exhibit E

Real Property Description (Radford Layover)

[•]

Exhibit E-1

Existing Valuation Maps (Radford Layover)

[●]

Exhibit E-2

Bill of Sale (Radford Layover)

[•]

Exhibit F

Real Property Description (V-Line Conveyed Property)

[•]

Exhibit F-1

Existing Valuation Maps (V-Line Conveyed Property)

[●]

Exhibit F-2

Bill of Sale (V-Line Conveyed Property)

[●]

Exhibit G

Real Property Description (Manassas Segment)

[•]

Exhibit G-1

Existing Valuation Maps (Manassas Segment)

[•]

Exhibit H

Real Property Description (Seminary Passage)

[•]

Exhibit H-1

Existing Valuation Maps (Seminary Passage)

[●]

Exhibit H-2

Bill of Sale (Seminary Passage)

[●]

Exhibit I
Engineering Concepts and Specifications

[Attached]



Scope of Work: Design & Construction Requirements

New River Valley Station and Layover Facility

July 2024

Introduction

This Exhibit includes design and construction specifications of the NSR-Delivered Scope, comprised of the proposed NRV Station to be located within the existing Norfolk Southern Railway Christiansburg Yard in Cambria, VA, and the proposed Layover Facility to be located adjacent to the Norfolk Southern Railway Radford Yard in Radford, VA. These specifications reflect the initial standards for the Parties' collaborative design of the NSR-Delivered Scope and

are subject to change by mutual agreement of the Parties during the design process. Notwithstanding anything to the contrary in this Exhibit I, to the extent any state laws or regulations relating to the design and/or construction of any component of the NSR-Delivered Scope are preempted by applicable federal laws or regulations, including without limitation ICCTA, the Federal laws and regulations shall control.

VPRA expects the following formal milestone plans submissions for stakeholder review, 30%, 60%, 90%, and 100% final bid documents. It is assumed that the following level of detail should be developed for each milestone submission: 30% - Preliminary Design, 60% - Intermediate Design including well developed details, 90% - Prefinal level set of plans, and 100% - complete design with required technical specifications and bid documents.

The bid documents shall incorporate all agreed-to comments developed from the reviewers and stakeholders of the NSR-Delivered Scope.

The plans for the NSR-Delivered Scope will include railroad, parking, roadway, sidewalk, station platform, station canopy and facility design. Design and construction of any improvements to the station building itself are not included. All other improvements required for a fully functioning passenger rail station site and layover facility shall be designed and constructed.

Unless a variance is approved by VPRA, the NSR-Delivered Scope will be designed in compliance with the following Amtrak documents:

- Amtrak Stations Design Guide 2020
- Amtrak Engineering Track Design Specification – Spec. No. 63 (Rev June 1, 2015)
- Amtrak Signage Manual - August 2018
- Amtrak Station Planning and Development Guidelines – January 2022
- Amtrak EP-4000 Engineering Stations and Facilities – Revised 2/5/2018

Railroad Engineering

Railroad design work for the NSR-Delivered Scope shall include horizontal and vertical track alignments for the purpose of providing safe, low-maintenance track infrastructure to support passenger service and station operations. The design shall follow Amtrak Design Criteria, including Amtrak Platform Guidelines and the Amtrak Track Design Specification Manual, NS Public Projects Manual (current version), *NS MW&S Standard Plans and Standard Procedures (current version)*, *NS Specifications for Design and Construction of Privately Owned Industry Tracks*, and the most current version of the American Railway Engineering and Maintenance-of-Way Association's (AREMA) Manual for Railway Engineering (MRE). The design shall comply with all applicable FRA regulations.

Communications and signals, including positive train control, modifications and upgrades are required.

Site Civil

Proper drainage from railroads and station facilities is critical to providing safe conditions and maintaining transportation infrastructure. Drainage and stormwater management structures will be designed to adequately convey design flows. All designs shall consider environmental concerns including considerations for water oil separators, floodplain impacts, erosion and sediment control measures, and the protection of structures.

All current applicable federal, state, and Commonwealth of Virginia regulations pertinent to the design of drainage and stormwater management shall be adhered to, which may include best management practices (BMPs) from the Virginia Stormwater BMP Clearinghouse. Special attention shall be paid to the surface drainage, grading, and stormwater management best practices and standards found within the latest editions of the *AREMA MRE, NS Specifications for Design and Construction of Privately Owned Industry Tracks*, and the *Virginia Stormwater Management Handbook*. If differences exist between the above-stated regulations, the more stringent of the regulations or standards shall apply.

In conjunction with the development of the track plans, grading plans shall be prepared. Hydrologic and hydraulic analysis illustrating the existing and proposed capacity of hydraulic structures and establishing the need for improvements, if any, will be documented in a Hydrology and Hydraulics Report. A Soil Erosion and Sediment Control Plan will be developed showing the site's existing topography, indicating how it will be altered, identifying the control measures that will be installed, and describing how and when these controls will be implemented and maintained. All erosion and sediment control measures shall follow the current *Virginia Department of Environmental Quality Erosion and Sediment Control Handbook*.

Utility Coordination and Design

The identification of conflicts and design for proposed and relocated utilities are included as part of the NSR-Delivered Scope.

A matrix of potential utility impacts will be developed, allowing determination of cost and impacts to construction schedule.

Water, electric, sanitary sewer, and communications utilities will be designed and constructed. Proposed lines including relocations of water, electric, sanitary sewer, and communication utilities shall be designed in accordance with the utility owner's requirements and standards. The approximate location of proposed water, electric, sanitary sewer, and communication utilities shall be coordinated with the utility owner during the 60% design phase. Approximate easements required and horizontal alignments for utilities shall be shown on the Utility Relocation Plans. All utility information provided by VPRA shall be shown on the Utility Relocation Plans.

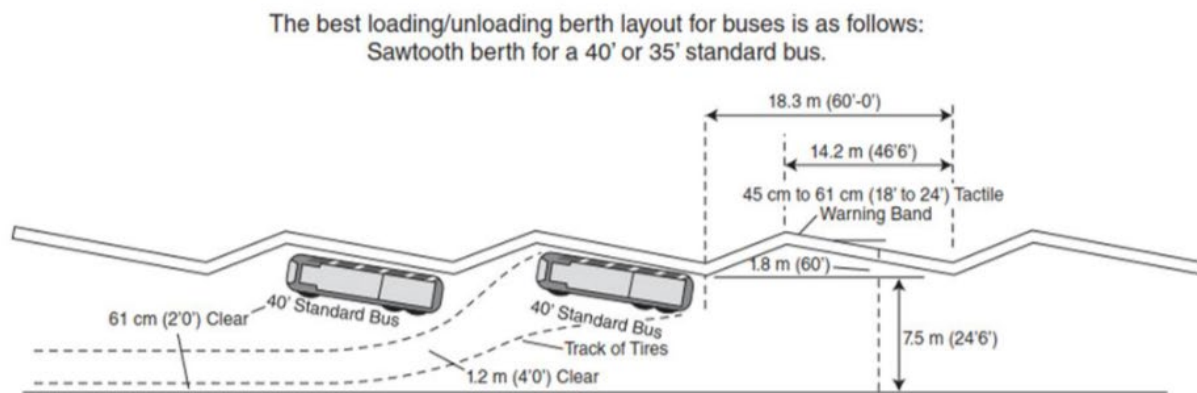
Permitting

Permitting application and attainment are required to the extent required by applicable Laws. This may require design files, exhibits, cross sections, impact calculations, and material reviews for completion of permit applications.

Parking, Sidewalks and Roadway

All parking areas and roads providing access to the passenger station on the NRV Station Parcel will be paved with asphalt pavement meeting VDOT standards for the appropriate design

loadings. As part of the Additional Paving Scope, which is in addition to and, except for the six (6) ADA parking spaces, not a part of the NSR-Delivered Scope, the parking area will accommodate approximately one hundred fifty (150) total 9'x18' standard parking spaces, including (a) the six (6) ADA parking spaces that are part of the NSR-Delivered Scope, (b) a dedicated bus lane able to accommodate two (2) bus parking spaces for bus drop off and (c) parallel space for two (2) car lengths for passenger drop off. Such bus parking spaces may be sawtooth parking spaces (see image below) or parallel parking spaces, as space permits. ADA parking spaces will not exceed a 2% slope in any direction. Maximum desirable slopes within parking lots are 6-8% in direction of travel in drive aisles and 4% within parking spaces. The minimum slope of the parking lot should be approximately 1.5-2% slope to avoid poor drainage.



ADA compliant pedestrian circulation should be reviewed from the public right of way into the site. Curb ramps should follow VDOT Standard CG-12 (A, B, or C types). ADA pathway connectivity via sidewalks and ramps from the platform to the finished floor elevation of the NRV Station must be designed.

As part of the Additional Paving Scope, two -way drive aisles shall be 24' wide and one-way drive aisles 18' wide to allow for fire truck circulation. Entry roads should be 30' wide to accommodate larger vehicles. Access points to public roads should meet VDOT access management standards for spacing. Access configuration should also meet the requirements of Appendix F of the VDOT roadway design manual.

Plans for both temporary and permanent access roads and staging areas will be developed based on VDOT standards. Norfolk Southern Railway shall prepare all maintenance of traffic plans necessary for access to the project site for the duration of construction. These plans shall ensure access to affected properties is maintained during construction.

Access to the NRV Station shall be designed to accommodate vehicular and bus traffic. The layout shall be easily traversed for all design vehicles. A safety analysis should be performed to ensure safe ingress and egress from the adjacent roadway to the parking lots and include potential impacts to adjacent roadways and the railroad crossing.

Layover Facility Specific Items

As part of the development of plans for the Layover Facility and the Layover Facility access roads in Radford, VA, the Layover Facility will provide permanent overnight storage and servicing facility for Amtrak trains. The Layover Facility shall incorporate the following improvements:

- Two (2) facility tracks meeting Amtrak and Norfolk Southern Railway design standards
- Minimum 1,000' of clear length per facility track
- Clear lengths shall be tangent track at 0% grade
- Added tail track or crossover between facility tracks to facilitate runaround of two (2) Amtrak locomotives (required if access to Walton wye is not provided)
- Parking – fifteen (15) parking spaces
- Pavement and parking area to include location for the storage of four (4) Conex containers
- Side-by-side double power stands at each end of the storage tracks. Each stand with min. 900A/480V power fitted with 100% rated breakers. Stands to be located on center 13' walkway
- Water supply cabinets with reels located every 85' along interior walkway
- Service vehicle road with turn around location
- Paved walkways
- Modular office building no less than 1,800 square feet
- Utilities lines for water, sewer, electric, and communications
- Enclose property in fencing with gate access for vehicles and trains
- High-level lighting

Technical Specifications

In addition to any previously mentioned documents, the following publications and documents should be used as references:

AREMA MRE current edition

FRA Track and Rail and Infrastructure Integrity Compliance Manual (dated March 2018)

Amtrak Stations Design Guide 2020

Amtrak Engineering Track Design Specification – Spec. No. 63 (Rev June 1, 2015)

Amtrak Signage Manual - August 2018

Amtrak Station Planning and Development Guidelines – January 2022

Amtrak EP-4000 Engineering Stations and Facilities – Revised 2/5/2018

U.S. Code of Federal Regulations

Strategic Rail Corridor Network (STRACNET) and Defense Connector Lines (October 2018)

Norfolk Southern Public Improvement Projects Manual current edition

Norfolk Southern Standard Specifications for Materials and Construction current edition

Norfolk Southern Specifications for Design and Construction of Privately Owned Industry Tracks (July 2020)

Norfolk Southern Specifications for Pipeline Occupancy (November 6, 2020)

Norfolk Southern Specifications for Wireline Occupancy (April 23, 2021)

Exhibit J

Form of FIRPTA

CERTIFICATION OF NON-FOREIGN STATUS

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. To inform the transferee that withholding of tax is not required upon the disposition of a U.S. real property interest by _____, a _____ ("**Company**"), Company hereby certifies to the following:

Company is not a foreign corporation, foreign partnership, foreign trust and foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);

Company's U.S. employer identification number is _____: and

Company's address is: _____;

Company understands that this certification may be disclosed to the Internal Revenue Service by transferee and that any false statement contained herein could be punished by fine, imprisonment or both.

Under penalties of perjury, I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign the document on behalf of the Company.

[COMPANY]

BY: _____

Name: _____

Title: _____

Exhibit K

Owner's Affidavit

[SUBJECT TO REVIEW AND APPROVAL OF TITLE COMPANY]¹⁷

STATE OF _____

COUNTY OF _____

Personally came before me, the undersigned attesting officer, _____ (“Affiant”), who after first being duly sworn, did depose and aver the following:

Affiant is _____ of _____, ultimate parent of _____ (“Company”), the owner of land described in **Exhibit “A”**, which is attached hereto and made a part hereof (“Property”), which is being sold to _____, a _____ (“Transferee”). As _____ of _____, Affiant in part is responsible to assist in the oversight of matters involving Company.

Affiant avers that to his actual knowledge, Company is in open, notorious, continuous, adverse and peaceable possession of said Property and knows of no one claiming any adverse interest in said property, except as set out below:

See Exhibit “B”

Affiant further avers that to his actual knowledge there are no suits, judgments, bankruptcies or executions pending against Company in any court whatever that could in any way affect the title to said Property, or constitute a lien thereon, and that Company is not surety on any bond that through default of the principal therein a lien would be created superior to any conveyance executed by Company, nor are there any loan deeds, trust deeds, mortgages or liens of any nature whatsoever unsatisfied against said Property, except as set out below and others of record.

N/A

Affiant further avers that to his actual knowledge there are no unpaid bills or work performed by any third party within 120 days prior to the execution of this instrument, either for services of any architect, engineer, or surveyor, or for labor or materials, for any recent improvements that may have been placed on said Property, either in the construction or repair of any of the improvements thereon.

Affiant further avers that to his actual knowledge there are no liens for past due taxes, paving, sidewalk, curbing, sewer or any other street improvements of any kind against said Property.

Affiant further avers that neither he nor Company are foreign persons as defined by Internal Revenue Code Section No. 1445 (PL 98 369, Sec. 129 at 98 Stat 655) dated July 18, 1984.

Affiant further avers that this Affidavit is made for the benefit of Transferee.

Further the Affiant sayeth not.

Sworn to and subscribed before
me, this _____ day of

[COMPANY]

By

_____, 202_.

¹⁷ Note to Draft: Comments provided separately.

Notary Public

My commission expires _____

Exhibit A to Owner's Affidavit

Insert Legal

[To be agreed prior to Applicable Closing.]

Exhibit B To Owner's Affidavit

List of all third-party agreements

[To be agreed prior to Applicable Closing.]

Exhibit L

Form of Assignment and Assumption Agreement

ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT, dated as of this ____ day of _____, 202_ (the “**Assignment and Assumption Agreement**”), is by and among _____, a _____ (“**Assignor**”) and _____, a _____ (“**Assignee**”). Assignor and Assignee are referred to individually here as a “**Party**” and collectively as the “**Parties**”.

RECITALS:

WHEREAS, the Parties have entered into that certain Amended & Restated Comprehensive Rail Agreement dated _____ (the “**Contract**”), whereby Assignor has agreed to sell to Assignee the following real property, equipment, fixtures and improvements of Assignor: _____ (the “**Purchased Property**”); and

WHEREAS, Assignor has agreed to assign, and Assignee has agreed to assume, certain agreements pursuant to which third parties have rights with respect to the Purchased Property (the “**Ancillary Agreements**”).

NOW, THEREFORE, the Parties hereto, for and in consideration of the Purchased Property, the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, agree as follows:

Section 1. Assignments.

For value received, Assignor does hereby transfer and assign unto Assignee, all of Assignor’s right, title and interest, covenants, promises, and obligations to the fullest extent that Assignor’s title permits, in those various Ancillary Agreements indicated on **Exhibit A**, attached hereto and made a part hereof.

Section 2. Assumption.

Assignee does hereby accept and assume all of Assignor’s right, title and interest, covenants, promises, and obligations, to the fullest extent that Assignor’s title permits, in those various Ancillary Agreements indicated on **Exhibit A**, and agrees to discharge all right, title and interest, covenants, promises, and obligations of Assignor arising pursuant to the Ancillary Agreements in accordance with their respective terms and conditions of each of the Ancillary Agreements.

Section 3. Erroneous Assignment.

It is the intent of Assignor to assign its interest in only those instruments affecting, and only to the extent that they affect, the Purchased Property. Should any of the Ancillary Agreements

(or any portion of one of the respective Ancillary Agreements) not affect or concern the Purchased Property, then, notwithstanding any provision to the contrary herein, this Assignment and Assumption Agreement shall be void and of no effect as to those respective Ancillary Agreements (or the portions thereof) that do not affect or concern the Purchased Property. Upon determination by either party that any instruments have been erroneously included in this Assignment and Assumption Agreement, the instruments shall be promptly returned to Assignor, if already in the custody of Assignee. Further, in the event that any of the respective Ancillary Agreements (or a portion thereof) affects or concerns the Purchased Property but also affects or concerns other property apart from the Purchased Property, then Assignor shall continue to discharge such right, title and interest, covenants, promises, and obligations as the same affect or concern property that is not located within the Purchased Property, with Assignee agreeing doing the same for property that is within the boundaries of the Purchased Property, with each Party treating that Party's right, title and interest, covenants, promises, and obligations as wholly separate agreements with the applicable third party.

Section 4. Governing Law.

The laws of the Commonwealth shall govern the validity of this Assignment and Assumption Agreement, the construction of its terms, and the interpretation of the rights and duties arising hereunder, without regard to the laws that might otherwise govern under the applicable principles of conflicts of law thereof.

Section 5. Counterparts.

This Assignment and Assumption Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

Section 6. Successors and Assigns.

This Assignment and Assumption Agreement shall be binding upon and inure solely to the benefit of each Party hereto and their respective successors and permitted assigns, and nothing in this Assignment and Assumption Agreement, express or implied, is intended to or shall confer upon any other person any rights, interests, benefits or remedies of any nature whatsoever under or by reason of this Assignment and Assumption Agreement.

Section 7. Effective Date.

The effective date of this instrument is _____, 202__

(Signature Page to Follow)

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

WITNESS The Following Seals and Signatures.

[ASSIGNOR]

By: _____ (Seal)
Printed Name: _____
Title: _____

[ASSIGNEE]

By: _____ (Seal)
Printed Name: _____
Title: _____

Exhibit A to Assignment and Assumption Agreement

[To be agreed prior to the Applicable Closing]

Exhibit M

Form of Pipe and Wire Easement Agreement

PIPE AND WIRE DEED OF EASEMENT AGREEMENT

This Deed is exempt (i) from recordation taxes pursuant to §58.1-811.A.3 and §58.1-811.C.4 of the Code of Virginia (1950), as amended, and (ii) from the payment of Clerk's fees pursuant to §§ 17.1-266 and 17.1-279.E.

This Deed of Easement Agreement (“**Agreement**”) is entered into on this ____ day of _____, 202_, between _____ (“**Grantor**”) and _____ (“**Grantee**”) for the sole purpose of granting a non-exclusive, permanent easement across the Purchased Property (as hereinafter described and defined) for the use and enjoyment of Grantee and related parties in facilitating the continued administration of certain third-party agreements at various locations.

Now, therefore, with the foregoing incorporated as more fully set forth herein, and in consideration of the mutual covenants, conditions and consideration set forth herein, Grantor and Grantee hereby agree as follows:

1. Purchased Property Affected. The property encumbered by the Pipe and Wire Agreements is generally located _____, and more particularly depicted on Exhibit A (“**Purchased Property**”).

2. Easements Granted. Grantor hereby grants to Grantee, for use and enjoyment by Grantee, and the successors, assigns, subsidiaries, affiliates, parent corporation of Grantee, as well as any third parties under agreement with Grantee (collectively referenced herein as “**Grantee Parties**”), non-exclusive, permanent easements over and located on the Purchased Property, and more fully described as follows (the “**Easement**” or “**Easements**” as the contest may require), for the construction, operation, maintenance, relocation, use, occupation, installation, repair, modification, renewal, replacement, and removal by Grantee Parties, of certain improvements, fixtures, facilities, and equipment (including, without limitation, facilities, improvements, fixtures or equipment related to facilitating electric transmission services, communications services, signals, signage, wire, pipe, fiber optic facilities, or other utility services) (“**Pipe and Wire Facilities**”), as otherwise permitted by Grantee pursuant to certain agreements between Grantee, Grantee Parties, or other third parties, as otherwise described on Exhibit B, attached hereto and made a part hereof, (“**Pipe and Wire Agreements**”). The aforementioned Easements shall include the actual area of occupation on, under, above, or across the Purchased Property (whether in the nature of sub-surface, surface, or aerial occupations) occupied by the Pipe and Wire Facilities, along with reasonable respective rights of ingress and egress to and from public roadways, and reasonable clearances on all sides of the Pipe and Wire Facilities reasonably necessary for the use and enjoyment of the rights vested in Grantee Parties pursuant to the respective Pipe and Wire Agreements. Grantor and Grantee agree that “reasonable rights” as used in this Agreement, will be defined as rights no less substantial in quality or specificity than the rights granted to any of the respective Grantee Parties pursuant to the applicable Pipe and Wire Agreements affecting the specific site or Pipe and Wire Facilities in question. Further, no provision of this Agreement shall

be interpreted in any way that would limit the quality or quantity of rights vested in Grantee Parties pursuant to this Agreement to less than the quality or quantity of rights otherwise granted to the applicable Grantee Parties pursuant to the applicable Pipe and Wire Agreements.

3. Abandonment. In the event that Grantee Parties should abandon any Easement granted herein (or any portion thereof), without the intent by Grantee to substitute another party to utilize the same, then, upon request by Grantor, Grantee shall execute a release of such applicable Easement in a form acceptable for recording in the applicable land records in which the abandoned portion the Easement is located. For the purposes of this Agreement, abandonment shall be defined as written notice to Grantor memorializing the intent of Grantee to permanently cease use and enjoyment of the rights granted by any such Easement. Upon delivery of such notice of abandonment, any rights specifically referenced in the aforementioned notice of abandonment shall be deemed terminated as to the date of such notice of abandonment with neither party having any further rights, duties or obligations, except for any rights, duties or obligations arising from the Pipe and Wire Agreements which may survive termination or expiration. Further, Grantee may abandon all Easements, any specific Easement, or any portion of any specific Easement, at any time and at the sole discretion of Grantee, without such notice being deemed a waiver or abandonment of any rights otherwise vested in Grantee Parties for any Easement, or Easements, that are not specifically referenced in such a notice of abandonment. After such written notice of abandonment and upon request by Grantor, Grantee shall provide a release in recordable form evidencing the rights released pursuant to any such written notice of abandonment (with Grantor being responsible for recording, and any associated costs or fees, as Grantor deems necessary or convenient).

4. Maintenance. Except to the extent that any cost, claim or damage to the Pipe and Wire Facilities or Purchased Property may arise from the gross negligence or willful misconduct of Grantor, the subsidiaries, affiliates, or parent companies of either Grantor, or third parties working on behalf of Grantor, whether on the effective date of this Agreement or any time thereafter (“**Owner Parties**”), Grantee Parties shall bear all costs and expenses, claims and liability arising from the Pipe and Wire Facilities located within the Easements granted herein, and the use and enjoyment of any associated rights otherwise granted herein. Grantee covenants and agrees to keep the easement areas in a reasonable state of repair so that Grantor shall retain reasonable rights of access to and across the Purchased Property for Grantor or for any other right holder, tenant, lessee, easement holder or other person or entity with the right to use the Purchased Property prior to the date of the Easements granted herein (except to the extent that any Easements reserved to Grantee Parties are exclusive in nature pursuant to the Pipe and Wire Agreements). Grantor shall keep, can shall cause all Owner Parties to keep, all adjacent property, in Grantor’s possession or control, in a state of repair sufficient for Grantee Parties to fully enjoy the Easements or associated rights granted by this Agreement.

5. Compliance with Applicable Law. Grantee shall comply with all applicable federal, state, and local laws, statutes, ordinances, regulations, self-insurance requirements, and requirements applicable to its activities under this Agreement.

6. Grantee Provided Insurance. For so long as Grantee claims any respective Easement rights upon the Purchased Property hereunder, Grantee will act as a self-insurer of its liabilities, and will pay all sums which it shall become legally obligated to pay in connection with

the enjoyment of the rights granted herein. Grantee further certifies that it maintains insurance coverage above its self-insured retention.

7. Property Taxes. Grantee shall be responsible for all personal property taxes and special assessments arising solely from the Pipe and Wire Facilities. Any bills solely attributable to a personal property assessment or special assessment for the Pipe and Wire Facilities shall be forwarded promptly by Grantor to Grantee and, if received by Grantee within a reasonable amount of time, paid by the due date. However, no increase or decrease in the assessment of the Purchased Property shall be attributed to the presence of the Pipe and Wire Facilities, and Grantee shall not be responsible for any portion of any real estate tax assessment attributed to such an increase or decrease.

(Signature Page to follow)

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

(Signature Page to Pipe and Wire Easement)

WITNESS the following signatures and seal the day and year first above written.

[GRANTOR]

By

TITLE:

STATE OF _____)

COUNTY OF _____)

Before me, a Notary Public in and for the said County, personally appeared _____ known to me to be the person who, as _____ of _____, the entity that executed the foregoing instrument, signed the same, and acknowledged to me that he/she did so sign said instrument in the name and upon behalf of said _____ as such officer; that the same is his/her free act and deed as such officer and the free and corporate act and deed of said _____; and that he/she was duly authorized thereunto by its _____.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name, and affixed my official seal, at _____, _____, this _____ day of _____, 20____.

My commission expires: _____

Notary Public

(Signature Page to Pipe and Wire Easement)

WITNESS the following signatures and seal the day and year first above written.

[GRANTEE]

By

Title: _____

STATE OF _____)

COUNTY OF _____)

Before me, a Notary Public in and for the said County, personally appeared _____ known to me to be the person who, as _____ of _____, the _____ which executed the foregoing instrument, signed the same, and acknowledged to me that he/she did so sign said instrument in the name and upon behalf of said _____ as such officer; that the same is his/her free act and deed as such officer and the free and corporate act and deed of said _____; and that he/she was duly authorized thereunto by its _____.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name, and affixed my official seal, at _____, _____, this _____ day of _____, 20_____.

My commission expires: _____

Notary Public

Exhibit A
Description of Purchased Property

[To be agreed prior to Applicable Closing based on the corresponding exhibit in the Quitclaim Deed.]

Exhibit B
List of Pipe and Wire Agreements

[To be agreed prior to Applicable Closing.]

Exhibit N
Forms of Deeds¹⁸

¹⁸ Note to NSR: Forms of deeds N-2 through N-7 to be negotiated separately. Note to VPRA: Deeds under review and to be updated.

Exhibit N-1¹⁹

Form of Quitclaim Deed for Manassas Line

This instrument prepared by:

[●]

After recording return to:

Michael Westermann
General Counsel
Virginia Passenger Rail Authority
919 E. Main Street, Suite 2400
Richmond, VA 23219

NOTE TO CLERK:

[INSERT JURISDICTION – CITY OF ALEXANDRIA, FAIRFAX COUNTY OR PRINCE WILLIAM COUNTY]

(a) The “Property” conveyed by this deed constitutes a portion of the “Manassas Line Conveyed Property” described below, which Property is located in multiple cities and counties in the Commonwealth of Virginia. The aggregate consideration paid by Grantee for the Property, and the aggregate value of the Property, in such cities and counties is \$[●].

(b) This deed is to be recorded in the Clerk’s Office of the Circuit Court of [●], Virginia. The consideration and value which are allocable to the portion of the Property located in such [insert city or county] are set forth below.

Tax Parcel: Not Mapped/Railway Property

Consideration: [to be determined according to purchase price allocation]

Value: [to track consideration]

This Deed is exempt (i) from recordation taxes pursuant to §58.1-811.A.3 and §58.1-811.C.4 of the Code of Virginia (1950), as amended, and (ii) from the payment of Clerk’s fees pursuant to §§ 17.1-266 and 17.1-279.E.

THIS DEED, made this _____ day of September 2024 by and among F AE HOLDINGS NS, LLC, a Georgia limited liability company (hereinafter called FAE Holdings NS), VIRGINIA PASSENGER RAIL AUTHORITY, a political subdivision of the Commonwealth of Virginia, with a mailing address of 919 East Main Street, Suite 2400, Richmond, Virginia 23219 (hereinafter

¹⁹ Note to Draft: Under review the Parties.

called VPRA), and NORFOLK SOUTHERN RAILWAY COMPANY, a Virginia corporation (hereinafter called Norfolk Southern Railway);

W I T N E S S E T H:

That, for and in consideration of the sum of [●] (\$[●]) and other good and valuable consideration paid by VPRA to FAE Holdings NS, receipt of which is hereby acknowledged, FAE Holdings NS does hereby quitclaim and convey unto VPRA, and its successors, and assigns the following described Manassas Line Conveyed Property, portions of which are located in the City of Alexandria and Counties of Fairfax and Prince William, Virginia; to wit:

SEE **EXHIBIT A**, attached hereto and made a part hereof (hereinafter referenced as the “**Manassas Line Conveyed Property**”).

For purposes of this Deed, “**CRA**” shall mean the Amended and Restated Comprehensive Rail Agreement dated as of _____, 2024 between Norfolk Southern Railway and VPRA and that shall govern the conveyance, use and operation of the Manassas Line Conveyed Property as of the Effective Date of this Deed, as the CRA is amended, restated or supplemented from time to time, and capitalized terms used and not otherwise defined herein shall have the meanings ascribed in the CRA.

The foregoing conveyance is made, however, expressly subject to a) any conditions, restrictions, reservations, licenses, tenancies, leases, permits, privileges, agreements, covenants, encumbrances, trackage rights, reversionary rights, rights of re-entry, or easements, whether or not of record, and b) general real estate taxes for the year of closing and subsequent years not yet due and payable, and c) existing laws, orders and regulations, including applicable zoning laws and regulations, and d) rights of the public or any third party to use any roads, alleys, bridges, streets, streams, rivers, creeks and waterways passing under, across, through, or otherwise affecting the

Manassas Line Conveyed Property, and e) all rights reserved unto Norfolk Southern Railway (or any third party under agreement with Norfolk Southern Railway) as part of this conveyance.

FURTHER, such conveyance shall include all improvements affixed to the Manassas Line Conveyed Property and appurtenances, but expressly excludes:

(1) Any rail, other track material, ties, switches, turnouts, signal systems and other similar improvements that are not affixed to the Manassas Line Real Property, but which may be stored on the Manassas Line Conveyed Property;

(2) Any other such non-affixed personal property owned by, in the possession of, or utilized by, Norfolk Southern Railway, including without limitation locomotives, rolling stock, railroad cars, chassis, vehicles, or other moveable equipment owned by, in the possession of, or utilized by, Norfolk Southern Railway and located on the Manassas Line Conveyed Property; and

(3) Those parcels described and or depicted on **Exhibit B**, attached hereto and made a part hereof, which are specifically reserved to Norfolk Southern Railway.

FURTHER, Norfolk Southern Railway hereby reserves an exclusive, perpetual, irrevocable, assignable, divisible, licensable and transferable (in whole or in part) easement (subject to the prior written approval of VPRA, in the sole discretion of VPRA, of any such assignment, division, license, or transfer to any Person other than (i) to any Norfolk Southern Railway affiliate or Norfolk Southern Railway successor or (ii) for any license related to haulage or trackage) in, over, under, across, and upon the Manassas Line Conveyed Property for all freight railroad purposes, including Norfolk Southern Railway's continued performance of its common carrier obligations and other freight rail services and obligations pursuant to transportation agreements under 49 U.S.C. 10709 or other rights and responsibilities under the ICC Termination Act of 1995 ("**Freight Easement**"). Norfolk Southern Railway agrees that VPRA may install new

tracks or other railroad infrastructure within the Manassas Line Conveyed Property corridor; provided that any such new tracks, other railroad infrastructure or work with respect to any such improvements shall not Unreasonably Interfere with Freight Rail Operations. Any such new tracks or other railroad infrastructure shall not be subject to the Freight Easement absent VPRA's written consent or as may otherwise be required by applicable Law or order of an agency or court exercising jurisdiction. Norfolk Southern Railway agrees that if VPRA installs new tracks or other railroad infrastructure along the Manassas Line Conveyed Property at no cost to Norfolk Southern Railway, then VPRA shall be empowered to elect to make any such newly installed tracks or other railroad infrastructure available exclusively for Passenger Rail Service, provided that such exclusive use shall not Unreasonably Interfere with Freight Rail Operations. Norfolk Southern Railway agrees that VPRA may relocate the Freight Easement within the Manassas Line Conveyed Property; provided that any such relocation shall not Unreasonably Interfere with Freight Rail Operations. The rights hereby reserved pursuant to the Freight Easement are for the purpose of Norfolk Southern Railway (including, without limitation, any affiliates, parent companies, subsidiaries, successors or assigns, whether now existing or to come into existence at a future date) using the same for bridging its freight trains, connecting with other freight railroads, serving existing and future freight industries located along, adjacent to and near the Manassas Line Conveyed Property, having connections made to the Manassas Line Conveyed Property to serve existing and future industries, operating freight trains and other equipment over the Manassas Line Conveyed Property and haulage rights for freight operations over the Manassas Line Conveyed Property.

FURTHER, Norfolk Southern Railway hereby reserves an exclusive, perpetual, irrevocable, assignable, divisible, licensable and transferable easement (the "**Communications**

Easement”) over, under, across and upon the Manassas Line Conveyed Property for the purposes of constructing, accessing (ingress/egress), owning, repairing, renewing, replacing, installing, constructing, operating and maintaining existing or new communication, signal and fiber optic communications systems and appurtenant facilities and equipment and any other communication systems, including, without limitation, existing or new telecommunication and other towers (the **“Communication Facilities”**); provided that (i) the exercise of such rights with respect to any new Communication Facilities does not Unreasonably Interfere with Passenger Rail Operations, (ii) with respect to agreements for new Communication Facilities (or new agreements with respect to existing Communication Facilities) Norfolk Southern Railway will (a) use commercially reasonable efforts to include a provision that the licensee, at its cost, would remove, relocate or protect in place its Communication Facilities in the event VPRA or Norfolk Southern Railway operations or capital projects require such relocation and within [no more than 120 days] after VPRA or Norfolk Southern Railway, as applicable, provides written notice to the licensee and (b) ensure that VPRA has rights at least equivalent to Norfolk Southern Railway with respect to the future removal, relocation, or protection in place of the relevant Communication Facilities, and (iii) Norfolk Southern Railway may license rights reserved under the Communications Easement, but not assign, divide, or transfer the Communications Easement itself without the prior written consent of VPRA, which may be withheld in the sole discretion of VPRA. The exercise of such right by Norfolk Southern Railway shall not be construed to Unreasonably Interfere with Passenger Rail Operations solely on account of the location of any Communication Facilities in place at the Initial Closing Date.

FURTHER, Norfolk Southern Railway hereby reserves an exclusive, perpetual, irrevocable, assignable, divisible, licensable and transferable non-terminable billboard

easement(s) (the “**Billboard Easement**”) upon the Manassas Line Conveyed Property for any existing billboards listed on **Exhibit C** or new billboards or signboards and appurtenant facilities and equipment (including, without limitation, utility connections to service such billboards and/or signboards or appurtenant facilities) upon the Manassas Line Conveyed Property for purposes of accessing (ingress/egress), owning, repairing, renewing, replacing, installing, constructing, operating and maintaining such billboards and/or signboards and appurtenant facilities and equipment of Norfolk Southern Railway or its grantees, lessees or licensees (“**Billboard Facilities**”), provided that (i) the exercise of such rights does not Unreasonably Interfere with Passenger Rail Operations, (ii) with respect to agreements for new Billboard Facilities (or new agreements with respect to existing Billboard Facilities) Norfolk Southern Railway will (a) use commercially reasonable efforts to include a provision that the licensee, at its cost, would remove, relocate or protect in place its Billboard Facilities in the event VPRA or Norfolk Southern Railway operations or capital projects require such relocation and within [no more than 120 days] after VPRA or Norfolk Southern Railway, as applicable, provides written notice to the licensee and (b) ensure that VPRA has rights at least equivalent to Norfolk Southern Railway with respect to the future removal, relocation, or protection in place of the relevant Billboard Facilities and (iii) Norfolk Southern Railway may license any rights reserved under the Billboard Easement, but not assign, divide, or transfer the Billboard Easement itself without the prior written consent of VPRA, which may be withheld in the sole discretion of VPRA. The exercise of such right by Norfolk Southern Railway shall not be construed to Unreasonably Interfere with Passenger Rail Operations solely on account of the location of any Billboard Facilities in place at the Initial Closing Date.

FURTHER, Norfolk Southern Railway hereby reserves an exclusive, perpetual, irrevocable, assignable, divisible, licensable and transferable easement (or easements, as

applicable) (the “**Utility Easement**”) over, under, across and upon the Manassas Line Conveyed Property for the purposes of constructing, accessing (ingress/egress), owning, repairing, renewing, replacing, installing, constructing, operating and maintaining existing or new utility lines (including, without limitation, those for water, sewer, electrical, gas or telecommunication lines, which are parallel to the main tracks on the Manassas Line Conveyed Property, as well as appurtenant facilities and equipment (“**Utility Facilities**”)), provided that (i) the exercise of such rights does not Unreasonably Interfere with Passenger Rail Operations, (ii) with respect to agreements for new Utility Facilities (or new agreements with respect to existing Utility Facilities) Norfolk Southern Railway shall (a) use commercially reasonable efforts to include a provision that the licensee, at its cost, would remove, relocate or protect in place its Utility Facilities in the event VPRA or Norfolk Southern Railway operations or capital projects require such relocation and within [no more than 120 days] after VPRA or Norfolk Southern Railway, as applicable, provides written notice to the licensee and (b) ensure that VPRA has rights at least equivalent to Norfolk Southern Railway with respect to the future removal, relocation, or protection in place of the relevant Utility Facilities, and (iii) Norfolk Southern Railway may license rights reserved under the Utility Easement, but not assign, divide, or transfer the Utility Easement itself without the prior written consent of VPRA, which may be withheld in the sole discretion of VPRA.

For the purposes of this conveyance, any exercise of any rights reserved pursuant to this conveyance by Norfolk Southern Railway (including its subsidiaries, affiliates, successors, assigns, or any third parties under the direction of Norfolk Southern Railway) shall be deemed not to Unreasonably Interfere with Passenger Rail Operations if Norfolk Southern Railway can reasonably demonstrate that one or more of the following is applicable: (i) that the conditions, location, track setback and configuration of such proposed rights would meet Norfolk Southern

Railway's then-current occupancy standards for its own operating rights of way in the Commonwealth of Virginia as applied to VPRA's present or future ability to construct, maintain, or operate its planned rail lines within the applicable portion of the Manassas Line Conveyed Property, (ii) the impairment is solely on account of the location of any Communication Facilities, Billboard Facilities, or Utility Facilities in place at the Initial Closing Date or any agreements in effect at the Initial Closing Date authorizing the operation and occupation of the same, (iii) the impairment is solely on account of the terms of any applicable license agreement, lease, or other third party agreement of any agreement in effect at the Initial Closing Date, whether assigned to VPRA or reserved to Norfolk Southern Railway pursuant to the Pipe and Wire Easement Agreement, (iv) the impairment is solely on account of any renewal, modification, or replacement of any third party agreement in effect at the Initial Closing Date of any type, so long as Norfolk Southern Railway can reasonably demonstrate that the renewal, modification, or replacement does not create any new actual encroachment or actual impediment to any existing or planned projects as such planned projects are listed within the contemporaneous Transportation Improvement Program issued by the National Capital Region Transportation Planning Board.

In the event that Norfolk Southern Railway abandons any easement rights (or a specific portion thereof) reserved herein to Norfolk Southern Railway, Norfolk Southern Railway agrees that Norfolk Southern Railway will, upon request by VPRA, execute and deliver to VPRA a written release of the applicable abandoned rights (or the applicable portion of the easement area). For the purposes of this conveyance, the term "abandon" shall only be defined as Norfolk Southern Railway's written notice to VPRA that Norfolk Southern Railway intends to permanently cease use and enjoyment of the rights reserved herein (or a certain portion thereof) and the term "abandonment" shall only be defined as the completion of any regulatory or other proceedings

required to fully effect the abandonment. It is the intent of Norfolk Southern Railway and VPRA that all easement rights reserved to Norfolk Southern Railway hereunder shall be treated as separate and independent easement interests, with abandonment of one (or any portion) being only effective for the easements rights specifically referenced in any such written notice of abandonment.

FURTHER, VPRA agrees and, by acceptance of the Manassas Line Conveyed Property conveyed herein does accept, as permanent covenants running with and touching the land that (a) the Manassas Line Conveyed Property shall not be used for residential use, including without limitation homes, schools, nursing homes, recreational facilities (other than an existing recreational trail, as may be reasonably modified, or a new recreational trail that has been designed to provide protection from exposures to existing soils) and daycare centers, and (b) use of groundwater at and beneath the Manassas Line Conveyed Property for any purpose other than for investigation, monitoring, or remediation of the groundwater or for extraction in conjunction with construction or excavation activities or maintenance of subsurface utilities shall be prohibited and (c) neither VPRA, nor its operators, contractors, agents, licensees and permitted successors and assigns, except Norfolk Southern Railway and its successors and assigns or any third parties under agreement with Norfolk Southern Railway, shall use any of the Manassas Line Conveyed Property for any freight rail purposes other than for the movement of company material of VPRA, an Intercity Rail User, or VPRA contractor (including maintenance materials).

By execution of this deed, Norfolk Southern Railway agrees to the terms of this deed, and the conditions and limitations upon the Freight Easement, Communications Easement, Billboard Easement, and Utility Easement granted hereby (collectively, the “**Reserved Easements**”), provided however, that the Reserved Easements shall not apply to the Conveyed Passenger

Stations Property defined and depicted in **Exhibit D**. Further, Norfolk Southern Railway agrees that, to the extent any terms and conditions of the Reserved Easements conflict with the grant of easements contained in that certain deed from Norfolk Southern Railway to FAE Holdings NS intended to be recorded immediately prior to this deed, the terms of, and conditions and limitations upon, the Reserved Easements shall control. By acceptance of this deed, VPRA agrees to the terms and conditions stated herein.

(Signature Page to Follow)

WITNESS the following signatures and seal the day and year first above written.

By FAE HOLDINGS NS, LLC

STATE OF GEORGIA)

COUNTY OF _____)

Before me, a Notary Public in and for the said County, personally appeared _____
_____ known to me to be the person who, as _____ of Norfolk Southern Railway
Company, the corporation which executed the foregoing instrument, signed the same, and
acknowledged to me that he/she did so sign said instrument in the name and upon behalf of said
corporation as such officer; that the same is his/her free act and deed as such officer and the free
and corporate act and deed of said corporation; and that he/she was duly authorized thereunto by
its Board of Directors.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name, and affixed my
official seal, at Atlanta, Georgia, this _____ day of September, 2024.

My commission expires: _____

Notary Public

By VIRGINIA PASSENGER RAIL AUTHORITY

STATE OF VIRGINIA)

CITY OF RICHMOND)

Before me, a Notary Public in and for the said City, personally appeared _____
_____ known to me to be the person who, as [*insert title*], the entity which executed the
foregoing instrument, signed the same, and acknowledged to me that he/she did so sign said
instrument in the name and upon behalf of said corporation as such officer; that the same is his/her
free act and deed as such officer and the free and corporate act and deed of said entity.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name, and affixed my
official seal, at Richmond, Virginia, this _____ day of September, 2024.

My commission expires: _____

Notary Public

NORFOLK SOUTHERN RAILWAY COMPANY

By: _____
Kristi B. Glahn, Director, Real Estate

STATE OF GEORGIA)

COUNTY OF FULTON)

Before me, a Notary Public in and for the said County, personally appeared Kristi B. Glahn, known to me to be the person who, as Director, Real Estate of Norfolk Southern Railway Company, the corporation which executed the foregoing instrument, signed the same, and acknowledged to me that she did so sign said instrument in the name and upon behalf of said corporation as such officer; that the same is her free act and deed as such officer and the free and corporate act and deed of said corporation; and that she was duly authorized thereunto by its Board of Directors.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name, and affixed my official seal, at Atlanta, Georgia, this _____ day of September, 2024.

My commission expires: _____

Notary Public

Exhibit A to Quitclaim Deed

Manassas Line Conveyed Property Description

[The Existing Valuation Maps listed in Exhibit B-1 will be put into the proper form and added to this Exhibit A prior to Initial Closing.]

Exhibit B to Quitclaim Deed

Excluded Manassas Line Conveyed Property Parcels

None.

Exhibit C to Quitclaim Deed

List of Billboards

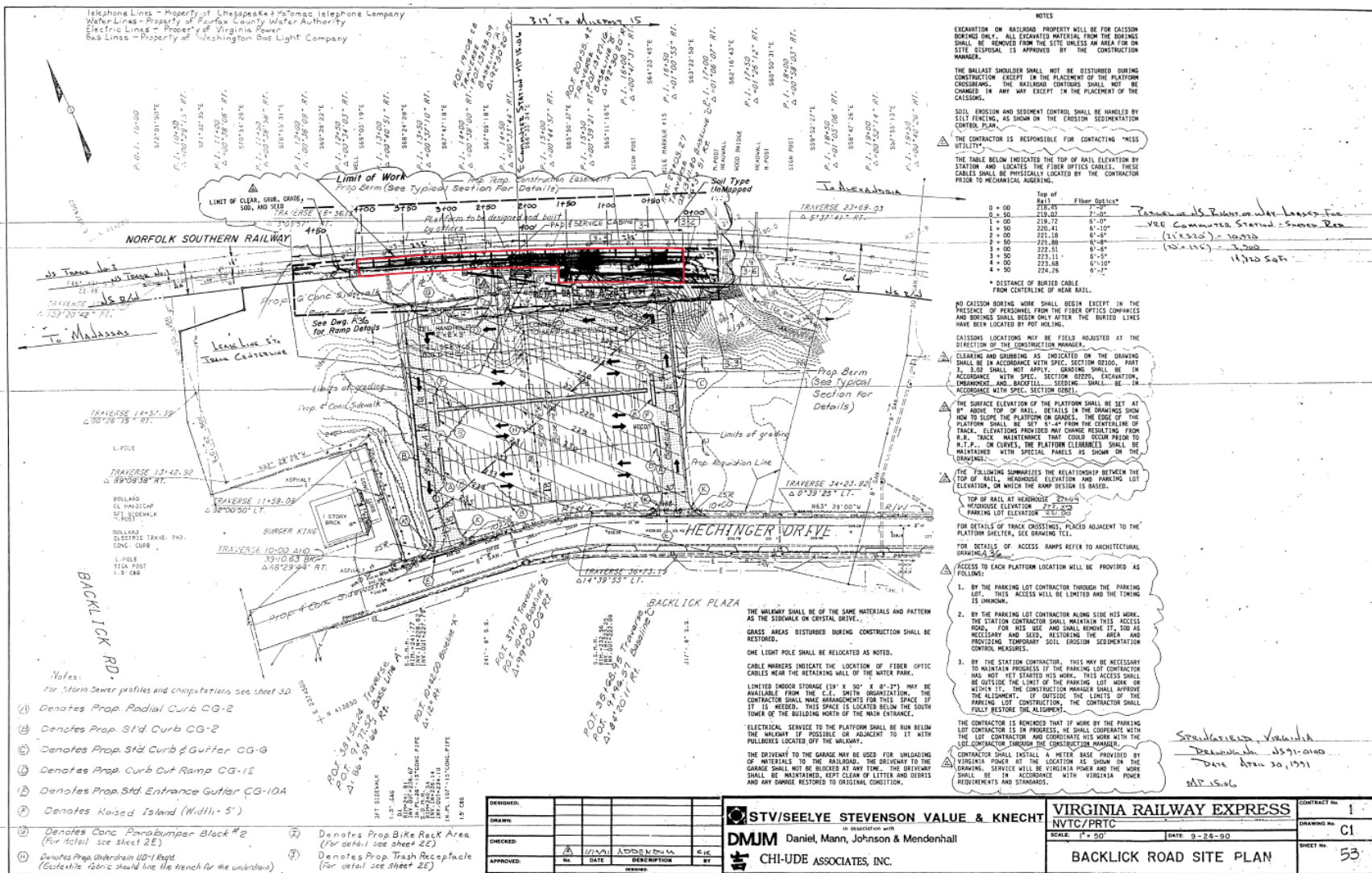
None

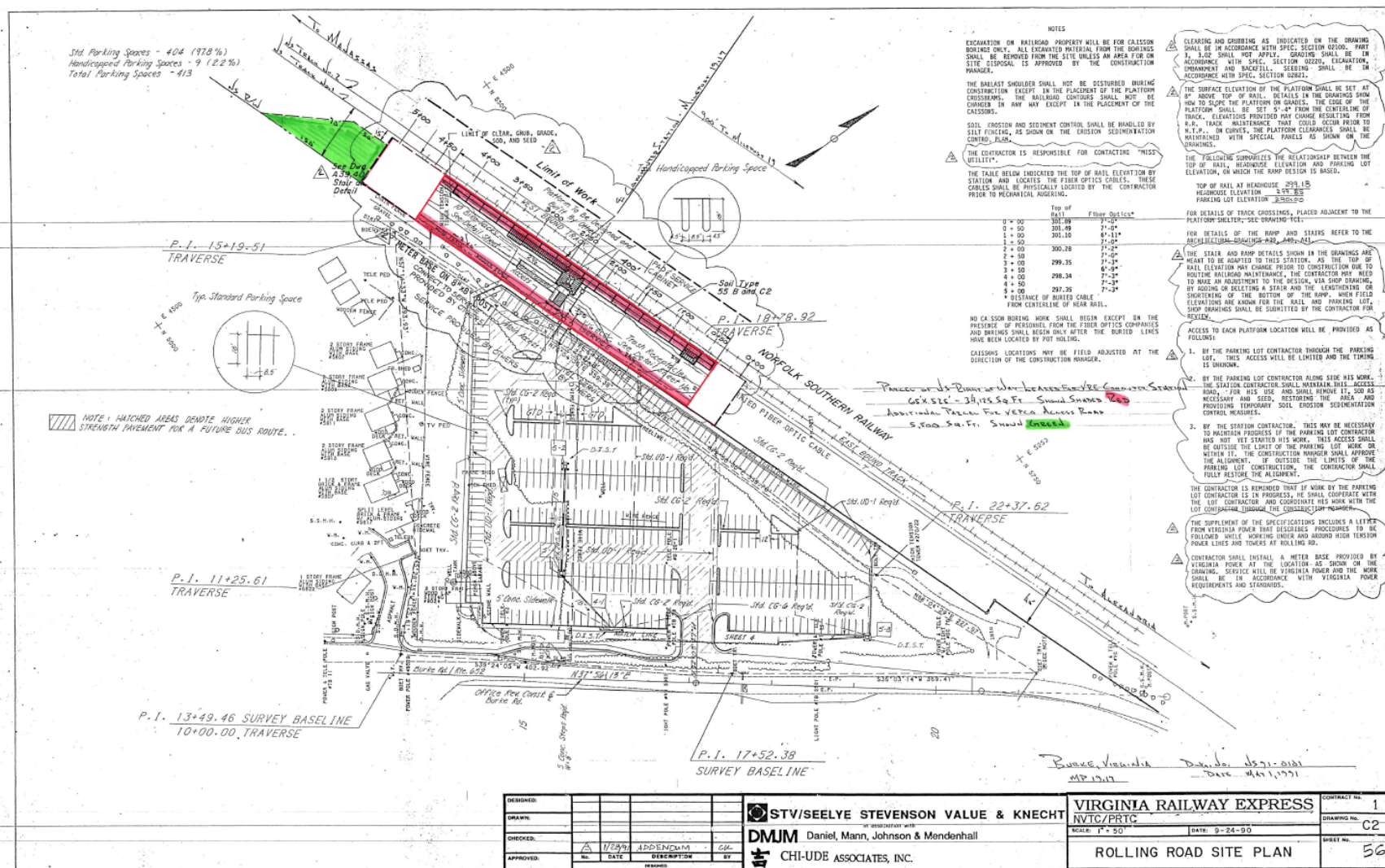
Exhibit D to Quitclaim Deed

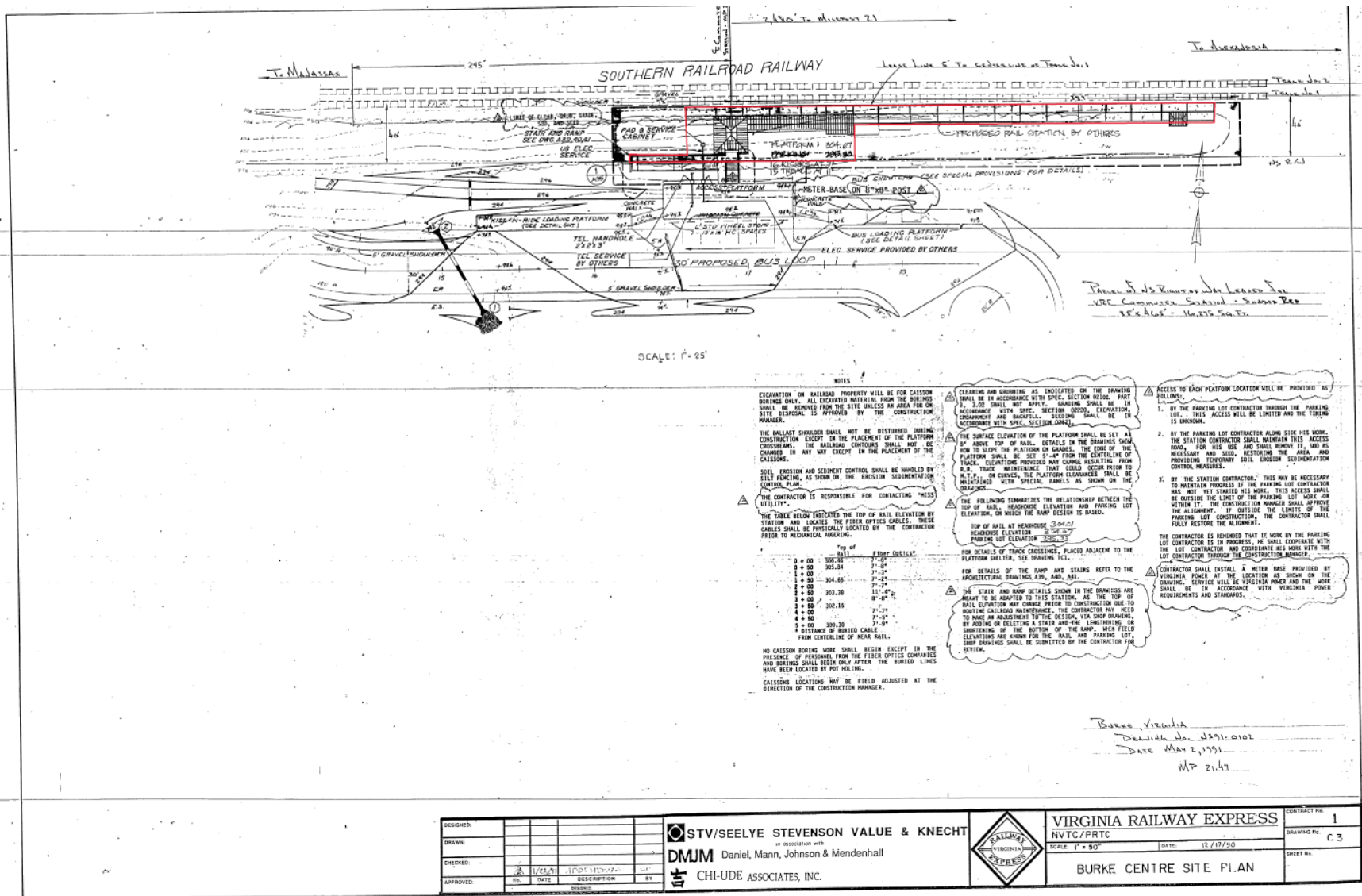
Conveyed Passenger Stations Property

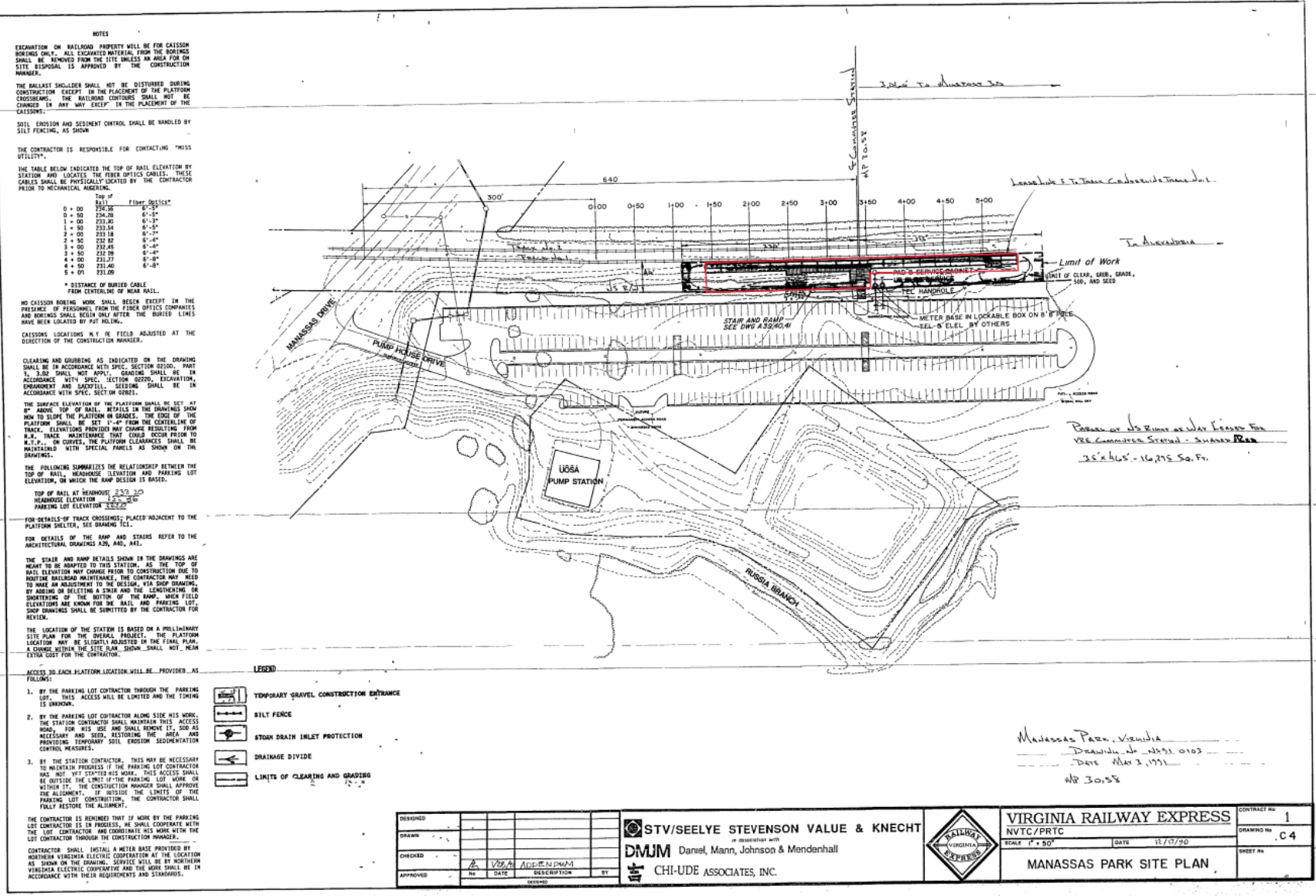
“Conveyed Passenger Stations Property” shall mean the real property that is part of the Manassas Line Conveyed Property on which the following passenger stations or platforms are situated as of the Effective Date, each of which are included within the Manassas Line Survey and further depicted in the drawings below:

- (i) Manassas Station at approximately MP 32.6;
- (ii) Manassas Park Station at approximately MP 30.4;
- (iii) Burke Centre Station at approximately MP 21.4;
- (iv) Rolling Road Station at approximately MP 19.1; and
- (v) Backlick Road Station at approximately MP 15.0.



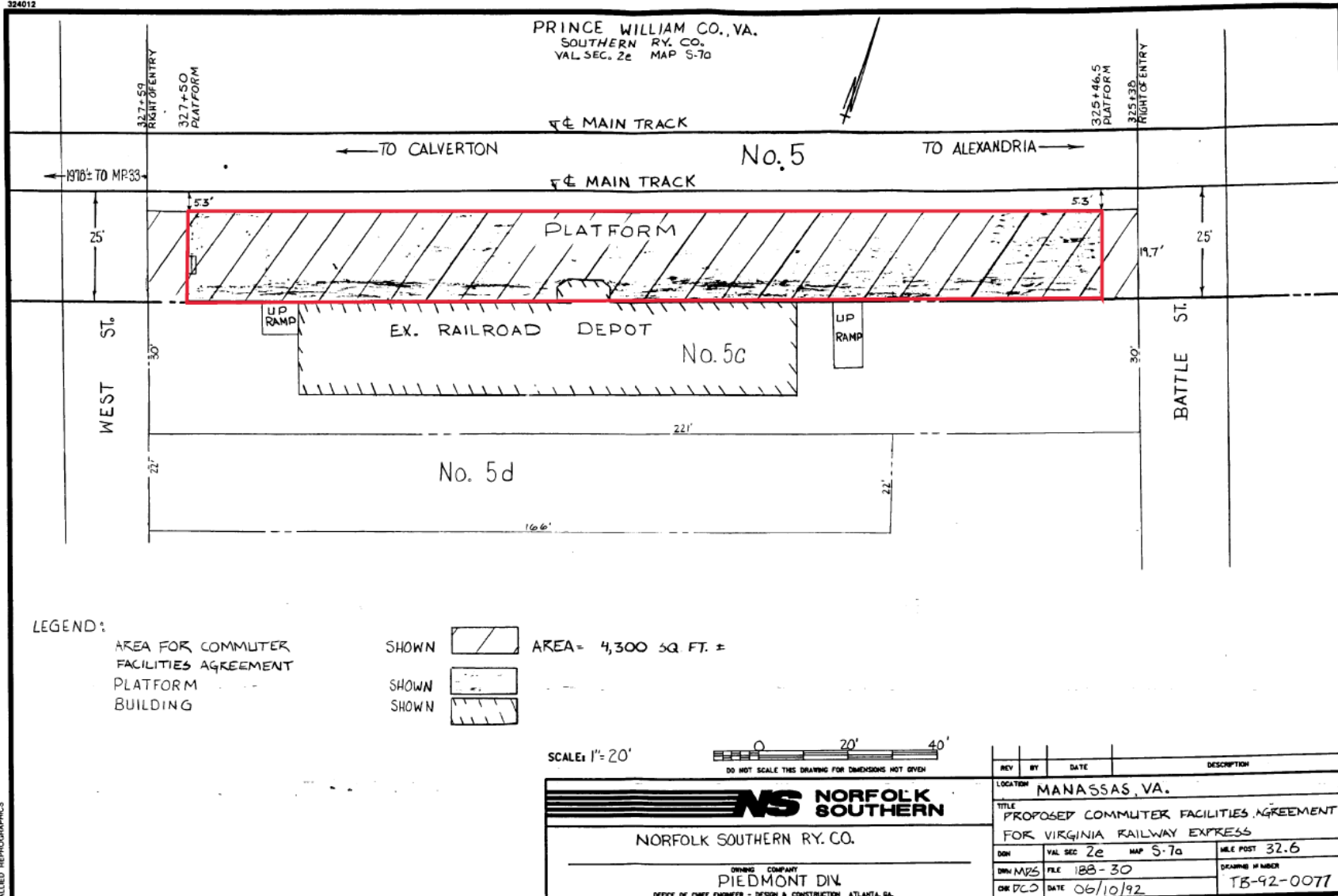






Exh. N-1-20

324012



SHEET 1 OF 1

Exh. N-1-21

Exhibit N-2

Form of Quitclaim Deed for Broad Run Corridor

[●]

Exhibit N-3

Form of Quitclaim Deed for V-Line Conveyed Property

[●]

Exhibit N-4

Form of Quitclaim Deed for Seminary Passage

[●]

Exhibit N-5

Form of Quitclaim Deed for NRV Station Parcel

[●]

Exhibit N-6

Form of Quitclaim Deed for Radford Layover Parcel

[●]

Exhibit N-7

Form of Deed of Easement for Manassas Segment

[●]

Exhibit N-8

Form of Deed of Confirmation

[●]

Exhibit O

NSR Abandonments

[Note to Draft: NSR to confirm.]

None.

Exhibit P

NSR Trackage Rights Agreements

[Note to Draft: NSR to confirm.]

None.

Exhibit Q

V-Line Abandonments

None.

Exhibit R

[Reserved]

Exhibit S

Intercity Operating Schedule

Important Notes:

1. This Exhibit includes the following Intercity Operating Schedules for Virginia state-supported Intercity Passenger Rail Service trains:

- **Version 1.0:** includes the current second Virginia state-supported Intercity Passenger Rail Service frequency between Roanoke, Virginia, and Boston, Massachusetts
- **Version 1.1:** extends the first and second Virginia state-supported Intercity Passenger Rail Service trains to the New River Valley in Virginia

2. All times, stopping patterns, and slot activation horizons listed are conceptual and may change subject to VPRA, Amtrak, and Norfolk Southern Railway approval, changes or delays to infrastructure improvement, and/or Performance Managers Committee feedback.

3. Prior to and after completion of VPRA funded construction projects, VPRA and Norfolk Southern Railway will work with Intercity Rail Users to readjust the schedules as appropriate to reflect changes to the infrastructure. VPRA and Norfolk Southern Railway will also work with Intercity Rail Users to readjust the schedules as appropriate to reflect operational efficiencies related to the fleet utilized by Amtrak.

4. NEC slots are connected to all Virginia state-supported Intercity Passenger Rail Service trains. As NEC schedules are developed for future phases, VPRA and Norfolk Southern Railway will be responsible for working cooperatively with Amtrak to ensure the Intercity Operating Schedule for Virginia state-supported Intercity Passenger Rail Service trains maintain train connectivity between Virginia and the NEC.

5. Excursion Passenger Rail Service between Roanoke and the New River Valley may be proposed by VPRA and considered by Norfolk Southern Railway in good faith.

6. VPRA reserves the right to serve all stations that are listed on the Intercity Operating Schedule, and any stations described in Section 8.1, in accordance with Section 8.1.

Version 1.0 – Washington Union Station to Roanoke, Virginia

Station	Roanoke Train #1	Roanoke Train #2
Union Station	8:05am	4:50pm
L’Enfant	---	---
Burke Centre	8:39am	5:30pm
Manassas	8:58am	5:49pm
Culpeper	9:32am	6:24pm
Charlottesville	10:31am	7:23pm
Lynchburg	11:47am	8:39pm
Roanoke	1:03pm	9:55pm
Station	Roanoke Train #1	Roanoke Train #2
Roanoke	6:20am	4:30pm
Lynchburg	7:39am	5:49pm
Charlottesville	8:53am	7:03pm
Culpeper	9:45am	7:55pm
Manassas	10:20am	8:30pm
Burke Centre	10:39am	8:49pm
L’Enfant	---	---
Union Station	11:23am	9:32pm

Note 1: Times listed between Union Station and Roanoke reflect Amtrak and Norfolk Southern Railway’s agreed upon runtimes and are subject to change prior to implementation.

Note 2: Individual slot’s stopping patterns are subject to change prior to implementation.

Version 1.1 – Washington Union Station to New River Valley

Station	Roanoke Train #1	Roanoke Train #2
Union Station	8:05am	4:50pm
L’Enfant	---	---
Burke Centre	8:39am	5:30pm
Manassas	8:58am	5:49pm
Culpeper	9:32am	6:24pm
Charlottesville	10:31am	7:23pm
Lynchburg	11:47am	8:39pm
Roanoke	1:04pm	9:56pm
New River Valley	1:58pm	10:50pm
Station	Roanoke Train #1	Roanoke Train #2
New River Valley	5:24am	3:34pm

Roanoke	6:20am	4:30pm
Lynchburg	7:39am	5:49pm
Charlottesville	8:53am	7:03pm
Culpeper	9:45am	7:55pm
Manassas	10:20am	8:30pm
Burke Centre	10:39am	8:49pm
L'Enfant	---	---
Union Station	11:23am	9:32pm

Note 1: Times listed between Union Station and Roanoke reflect Amtrak and Norfolk Southern Railway's agreed upon runtimes and are subject to change prior to implementation.

Note 2: Individual slot's stopping patterns are subject to change prior to implementation.

Note 3: Roanoke – New River Valley times are calculated based on anticipated passenger speeds based off Norfolk Southern Railway's freight rail speeds in this territory.

Exhibit T

Nokesville-Calverton Double Track Project

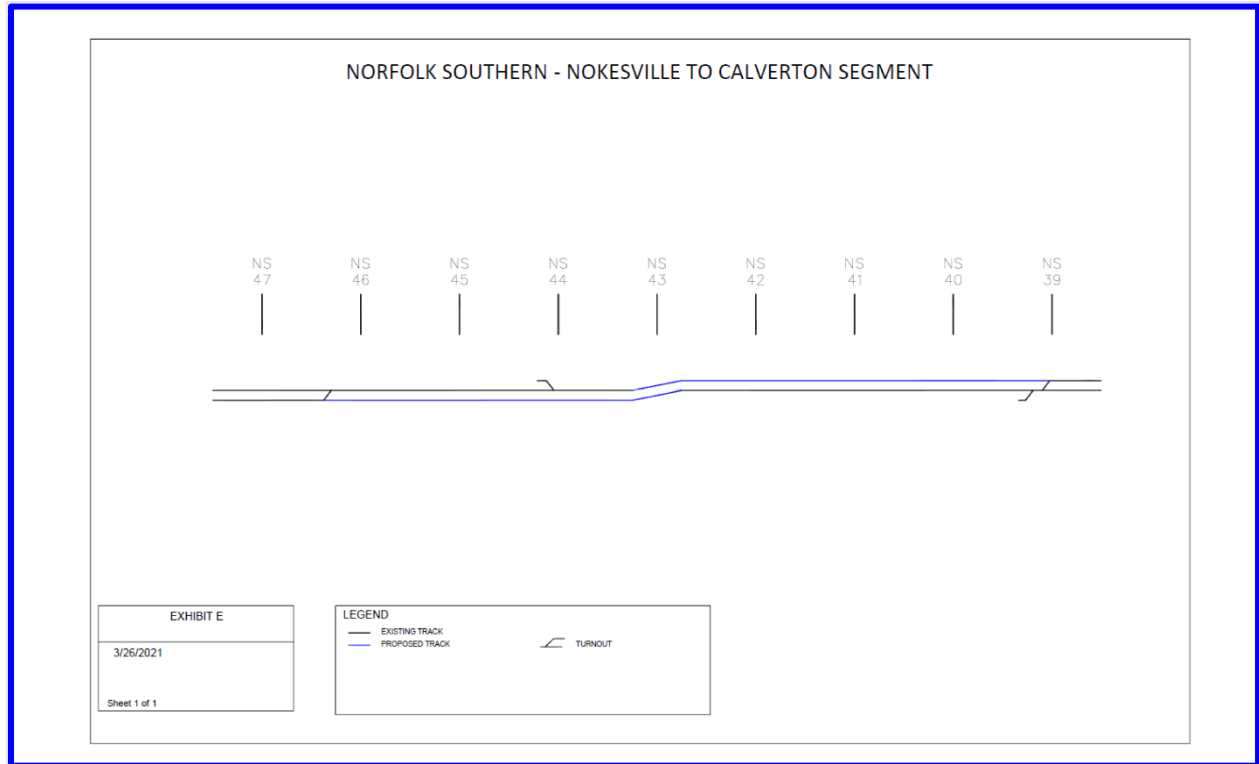


Exhibit U

Liability Insurance Requirements for VPRA Contractors

- A. Construction Contractors – The requirements below are intended to provide protection to the parties under contracts issued by VPRA for construction services along the Purchased Line.

1. Limits of Liability Insurance

Construction Crossing Active ROW	\$10M/\$20M
Construction Adjacent to Active ROW	\$10M/\$20M
Construction Not Impacting Active ROW	\$10M/\$20M

2. Norfolk Southern Railway included as an Additional Insured
3. Contractor and its insurer waive right of recovery/subrogation against Norfolk Southern Railway
4. No exclusion for contractual liability to railroads
5. Cross liability of insureds and severability of interests of insureds
6. Contractor coverage is primary and non-contributory with respect to coverage carried by additional insureds

- B. Maintenance Contractors – The requirements below are intended to provide protection to the parties under contracts issued by VPRA for maintenance services along the Purchased Line.

1. Limits of Insurance

Maintenance Within the ROW	\$10M/\$20M
Maintenance Outside of ROW	\$2M/\$2M

2. Norfolk Southern Railway included as an Additional Insured
3. Contractor and its insurer waive right of recovery/subrogation against Norfolk Southern Railway
4. No exclusion for contractual liability to railroads
5. Cross liability of insureds and severability of interests of insureds
6. Contractor coverage is primary and non-contributory with respect to coverage carried by additional insureds

Exhibit V

Proposed Site of Bedford Amtrak Station at Macon Street between MP 229 and 230

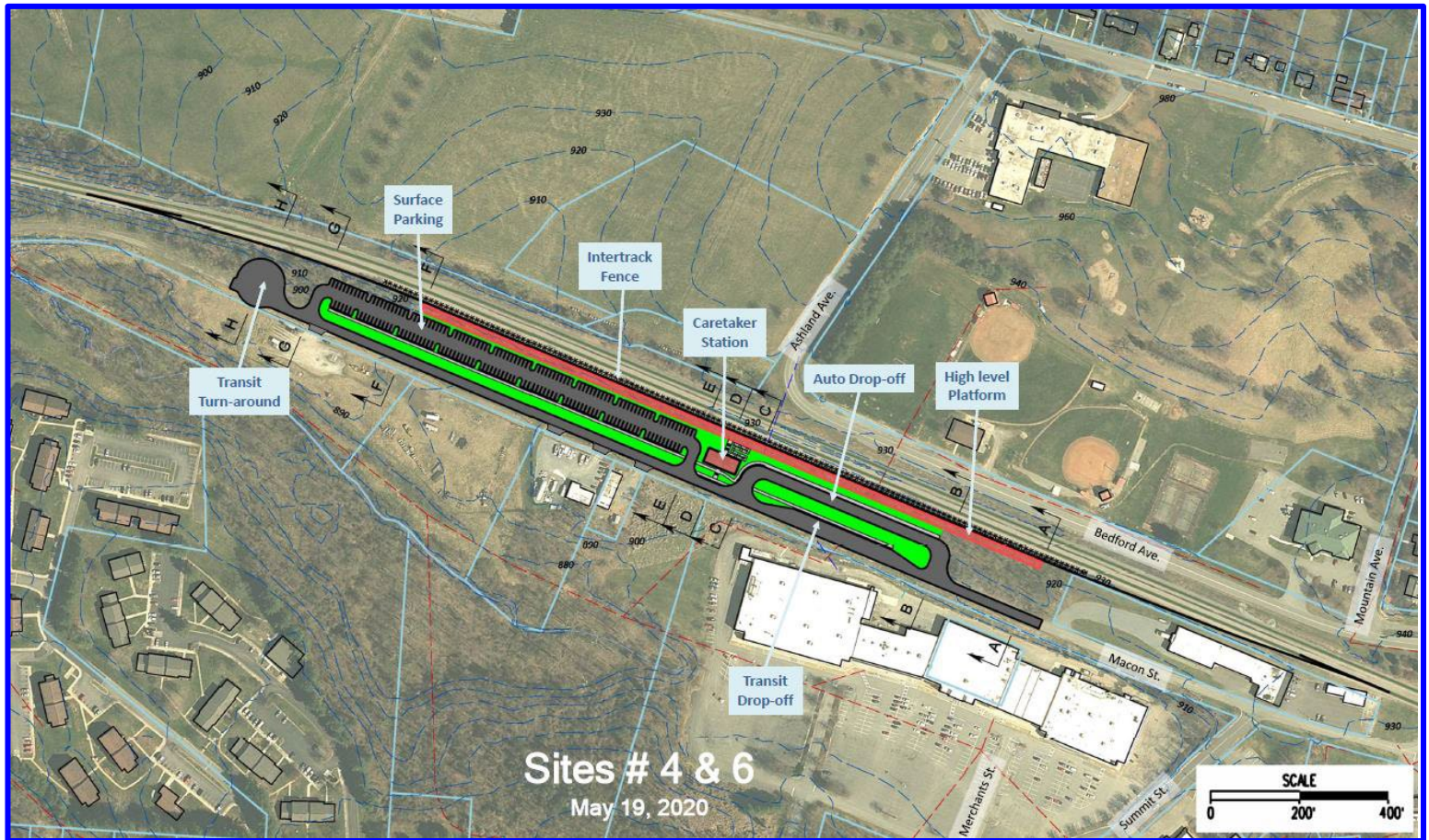


Exhibit W

Liability Provisions to be Included in any Contract with and Applicable to Future Intercity Rail Users other than Amtrak

Section 1. *[INTERCITY RAIL USER]* shall indemnify and save harmless the Norfolk Southern Railway Indemnified Parties, irrespective of any negligence or fault of Norfolk Southern Railway, its employees, agents or servants, or howsoever the same shall occur or be caused, from any and all liability for injuries to or death of any *[INTERCITY RAIL USER]* employee and for the loss of, damage to, or destruction to his or her property; but it is expressly understood and agreed that any labor furnished by Norfolk Southern Railway for and on behalf of *[INTERCITY RAIL USER]* under any provision of this Future Intercity Rail User Contract shall not be regarded for the purposes of this Section [1] as employees of *[INTERCITY RAIL USER]*.

Section 2. *[INTERCITY RAIL USER]* agrees to indemnify and save harmless the Norfolk Southern Railway Indemnified Parties, irrespective of any negligence or fault of Norfolk Southern Railway, its employees, agents, or servants, or howsoever the same shall occur or be caused, from any and all liability for injuries to or death of, or property damage to (i) any person (other than an employee or agent of Norfolk Southern Railway in the course of his employment or agency, except when such employee or agent is a fare-paying passenger of *[INTERCITY RAIL USER]*) who is on a train (including private cars but excluding business cars of Norfolk Southern Railway) operated by or for the account of *[INTERCITY RAIL USER]*, (ii) any person (other than an employee or agent of Norfolk Southern Railway in the course of his or her employment or agency, except when such employee or agent is a fare-paying passenger of *[INTERCITY RAIL USER]*) at or adjacent to a passenger station used by *[INTERCITY RAIL USER]* who is there in connection with the passenger rail service for the purpose of boarding or detraining from a *[INTERCITY RAIL USER]* Train, meeting a *[INTERCITY RAIL USER]* Train, purchasing a ticket, making a reservation, or obtaining information about *[INTERCITY RAIL USER]*'s service or conducting business with *[INTERCITY RAIL USER]* (including a vendor from whom *[INTERCITY RAIL USER]* receives compensation) or passengers riding on a *[INTERCITY RAIL USER]* Train, or (iii) any person at or adjacent to a passenger station who is providing local transportation to or accompanying a person described in (ii) above; or (iv) any person described in the next two sentences; provided however, that Norfolk Southern Railway shall indemnify *[INTERCITY RAIL USER]* for injury to, death of, or damage to any person, other than an employee of *[INTERCITY RAIL USER]*, who is struck by improperly secured equipment or cargo of a Norfolk Southern Railway train operated on tracks at or adjacent to a passenger station. At stations that are used by *[INTERCITY RAIL USER]* and that are not used by Norfolk Southern Railway or by tenants of Norfolk Southern Railway, *[INTERCITY RAIL USER]* agrees to indemnify and hold harmless the Norfolk Southern Railway Indemnified Parties for injury to or death of, or property damage, to all persons other than Norfolk Southern Railway employees or agents for whom the *[INTERCITY RAIL USER]* is not responsible pursuant to (ii) above and persons accompanying or doing business with such Norfolk Southern Railway Employees or agents. At stations used jointly by Norfolk Southern Railway and *[INTERCITY RAIL USER]*, or in which Norfolk Southern Railway leases space to third parties, *[INTERCITY RAIL USER]* agrees to indemnify and hold harmless the Norfolk Southern Railway Indemnified Parties for injury to or death of, or property damage to person who are at the station for a purpose directly related to *[INTERCITY RAIL USER]*'s use of the station (including person dealing with a lessee of VPRA and/or an Intercity Rail User in that station), and including but not limited to those

described in (i), (ii) or (iii), above, but excluding employees or agents of Norfolk Southern Railway in the course of their employment or agency, except when such employee or agent is a fare-paying passenger of [INTERCITY RAIL USER].

Section 3. [INTERCITY RAIL USER] agrees to indemnify and hold harmless the Norfolk Southern Railway Indemnified Parties, irrespective of any negligence or fault of Norfolk Southern Railway, its employees, agents or servants, or howsoever the same shall occur or be caused, from any and all liability for, loss of, damage to or destruction of any locomotive, passenger car or any other property or equipment owned by, leased to, used by or otherwise in control, custody or possession of [INTERCITY RAIL USER]. [INTERCITY RAIL USER] agrees to indemnify and hold harmless, irrespective of any negligence or fault of the Norfolk Southern Railway Indemnified Parties, its employees, agents, or servants, or howsoever the same shall occur or be caused, for the cost (including any related fines or penalties) of clean-up of fuel oil which Norfolk Southern Railway demonstrates was spilled on Norfolk Southern Railway property from a [INTERCITY RAIL USER] locomotive or fuel oil spilled by [INTERCITY RAIL USER] or a contractor thereof while fueling a [INTERCITY RAIL USER] locomotive. [INTERCITY RAIL USER] further agrees to indemnify and hold harmless the Norfolk Southern Railway Indemnified Parties, irrespective of any negligence or fault of Norfolk Southern Railway, its employees, agents or servants, or howsoever the same shall occur or be caused, from any and all liability for, loss of, or damage to property of third parties caused by fuel oil spilled by [INTERCITY RAIL USER] or a contractor thereof while fueling a [INTERCITY RAIL USER] locomotive.

Section 4. [INTERCITY RAIL USER] agrees to indemnify and hold harmless the Norfolk Southern Railway Indemnified Parties, irrespective of any negligence or fault of Norfolk Southern Railway, its employees, agents and servants or howsoever the same shall occur or be caused, from any and all liability for injury to or death of any person and for loss of, damage to, or destruction of any property, other than persons and property for which Norfolk Southern Railway is responsible under Section 5 hereof, if such injury, death, loss, damage, or destruction arises from or relates to (i) a collision of a vehicle or a person with a [INTERCITY RAIL USER] Train, or (ii) a collision of a derailed [INTERCITY RAIL USER] Train or any part thereof with any person, property, or object on or off the right-of-way.

Section 5. Norfolk Southern Railway shall indemnify and save harmless VPRA and [INTERCITY RAIL USER], irrespective of any negligence or fault of VPRA and/or [INTERCITY RAIL USER], their respective agents, employees or servants, or howsoever the same shall occur or be caused, from any and all liability for injury to or death of any employee or employees of Norfolk Southern Railway (other than those employees traveling as passengers described in Section 2 or a Norfolk Southern Railway employee who is struck by a [INTERCITY RAIL USER] Train or a as set forth in Section 4), and for loss of, damage to or destruction of any property or equipment owned by, leased to, used by, or otherwise in control, custody, or possession of Norfolk Southern Railway or its employees described above (including Norfolk Southern Railway cars operated in a [INTERCITY RAIL USER] Train), other than Norfolk Southern Railway property described in Section 3 hereof on which fuel oil has been spilled, which arises from activities conducted by or for the account of [INTERCITY RAIL USER] pursuant to this Future Intercity Rail User Contract.

Section 6. Norfolk Southern Railway shall indemnify and save harmless [INTERCITY RAIL USER], irrespective of any negligence or fault of [INTERCITY RAIL USER], their respective

employees, agents or servants, or howsoever the same shall occur or be caused, from any and all liability for injury to or death of any person or persons (other than those persons, employees or passengers for which [INTERCITY RAIL USER] are responsible as provided for in Sections 1, 2, and 3 hereof) and from any and all liability for loss, damage or destruction to any property (other than property for which VPRA or [INTERCITY RAIL USER] are responsible as provided in Sections 1, 2, and 3 hereof) which arises from activities conducted by or for the account of Norfolk Southern Railway pursuant to this Future Intercity Rail User Contract.

Section 7. In case suit shall at any time be brought against [INTERCITY RAIL USER] or any of the Norfolk Southern Railway Indemnified Parties asserting liability against which one agrees to indemnify and/or indemnify and save harmless the party sued, the indemnifying party shall, at its own cost and expense and without any cost or expense whatsoever to the party sued, defend such suit and indemnify and save harmless the party sued against all costs and expenses thereof and promptly pay or cause to be paid any final judgment recovered against the party sued; provided, however, that the party being sued shall promptly upon the bringing of any such suit against it give notice to the indemnifying party and thereafter provide all such information as may from time to time be requested. Each party shall furnish to the other all such non-privileged information relating to claims made for injuries, deaths, losses, damage or destruction of the type covered by these Sections [1 to 7] as such other party may from time to time reasonably request. Each party shall cooperate fully in the defense of claims for which the other party is responsible pursuant to these Sections [1 to 7] with respect to activities conducted pursuant to this Future Intercity Rail User Contract, including furnishing witnesses, documents, and other relevant information requested by the responsible party.

Section 8. NORFOLK SOUTHERN RAILWAY AND [INTERCITY RAIL USER] INTEND, THAT WHERE ONE PARTY IS TO INDEMNIFY THE OTHER FOR OPERATIONS PURSUANT TO THIS FUTURE INTERCITY RAIL USER CONTRACT, SUCH INDEMNITY SHALL APPLY IRRESPECTIVE OF ANY NEGLIGENCE OR FAULT OF THE INDEMNIFIED PARTY AND WITHOUT REGARD TO STRICT LIABILITY OF THE INDEMNIFIED PARTY.

Section 9. [INTERCITY RAIL USER] shall have the legal ability, and agrees to comply, with, among other requirements, the indemnity requirements set forth in this Future Intercity Rail User Contract between Norfolk Southern Railway and the Virginia Passenger Rail Authority dated [●].

Section 10. [INTERCITY RAIL USER] shall have liability insurance in an amount not less than the minimum amount prescribed in the Norfolk Southern – Amtrak Off-Corridor Agreement. The Parties acknowledge and agree that, as of the Execution Date, that amount is determined by Federal law, specifically 49 U.S. Code Section 28103. [INTERCITY RAIL USER] shall use commercially reasonable efforts to cause their insurance carriers to add Norfolk Southern Railway as an additional insured on all general liability policies covering [INTERCITY RAIL USER]'s operations on the Purchased Line. [INTERCITY RAIL USER] will require that Norfolk Southern Railway be added as an additional insured with [INTERCITY RAIL USER] with respect to operations by any third party utilizing [INTERCITY RAIL USER]'s services provided over the Purchased Line if [INTERCITY RAIL USER] requires that insurance be provided for it by such third party.

Section 11. If at any time such [*INTERCITY RAIL USER*] fails to maintain the required insurance coverage, Norfolk Southern Railway shall have the right to immediately suspend the right of such [*INTERCITY RAIL USER*] to operate the applicable Passenger Rail Service, until such time that the default is fully cured. [*INTERCITY RAIL USER*] agrees that money damages alone would not be a sufficient remedy for a breach of Sections 10 and 11 by [*INTERCITY RAIL USER*] and, accordingly, that Norfolk Southern Railway shall be entitled to seek, in addition to any other remedies at law or in equity otherwise available to it, specific performance and injunctive relief as a remedy for any such breach, including, without limitation, the right to have the operating rights of [*INTERCITY RAIL USER*] suspended.

Exhibit W-1

Liability Provisions to be Included in any Contract with and Applicable to Future Commuter Rail Users other than VRE

Section 1. [*COMMUTER RAIL USER*] shall indemnify and save harmless the Norfolk Southern Railway Indemnified Parties, irrespective of any negligence or fault of Norfolk Southern Railway, its employees, agents or servants, or howsoever the same shall occur or be caused, from any and all liability for injuries to or death of any [*COMMUTER RAIL USER*] employee and for the loss of, damage to, or destruction to his or her property; but it is expressly understood and agreed that any labor furnished by Norfolk Southern Railway for and on behalf of [*COMMUTER RAIL USER*] under any provision of this Future Commuter Rail User Contract shall not be regarded for the purposes of this Section [1] as employees of [*COMMUTER RAIL USER*].

Section 2. [*COMMUTER RAIL USER*] agrees to indemnify and save harmless the Norfolk Southern Railway Indemnified Parties, irrespective of any negligence or fault of Norfolk Southern Railway, its employees, agents, or servants, or howsoever the same shall occur or be caused, from any and all liability for injuries to or death of, or property damage to (i) any person (other than an employee or agent of Norfolk Southern Railway in the course of his employment or agency, except when such employee or agent is a fare-paying passenger of [*COMMUTER RAIL USER*]) who is on a train (including private cars but excluding business cars of Norfolk Southern Railway) operated by or for the account of [*COMMUTER RAIL USER*], (ii) any person (other than an employee or agent of Norfolk Southern Railway in the course of his or her employment or agency, except when such employee or agent is a fare-paying passenger of [*COMMUTER RAIL USER*]) at or adjacent to a passenger station used by [*COMMUTER RAIL USER*] who is there in connection with the passenger rail service for the purpose of boarding or detraining from a [*COMMUTER RAIL USER*] Train, meeting a [*COMMUTER RAIL USER*] Train, purchasing a ticket, making a reservation, or obtaining information about [*COMMUTER RAIL USER*]'s service or conducting business with [*COMMUTER RAIL USER*] (including a vendor from whom [*COMMUTER RAIL USER*] receives compensation) or passengers riding on a [*COMMUTER RAIL USER*] Train, or (iii) any person at or adjacent to a passenger station who is providing local transportation to or accompanying a person described in (ii) above; or (iv) any person described in the next two sentences; provided however, that Norfolk Southern Railway shall indemnify [*COMMUTER RAIL USER*] for injury to, death of, or damage to any person, other than an employee of [*COMMUTER RAIL USER*], who is struck by improperly secured equipment or cargo of a Norfolk Southern Railway train operated on tracks at or adjacent to a passenger station. At stations that are used by [*COMMUTER RAIL USER*] and that are not used by Norfolk Southern Railway or by tenants of Norfolk Southern Railway, [*COMMUTER RAIL USER*] agrees to indemnify and hold harmless the Norfolk Southern Railway Indemnified Parties for injury to or death of, or property damage, to all persons other than Norfolk Southern Railway employees or agents for whom the [*COMMUTER RAIL USER*] is not responsible pursuant to (ii) above and persons accompanying or doing business with such Norfolk Southern Railway Employees or agents. At stations used jointly by Norfolk Southern Railway and [*COMMUTER RAIL USER*], or in which Norfolk Southern Railway leases space to third parties, [*COMMUTER RAIL USER*] agrees to indemnify and hold harmless the Norfolk Southern Railway Indemnified Parties for injury to or death of, or property damage to person who are at the station for a purpose directly related to [*COMMUTER RAIL USER*]'s use of the station (including person dealing with a lessee of VPRA and/or a

COMMUTER RAIL USER in that station), and including but not limited to those described in (i), (ii) or (iii), above, but excluding employees or agents of Norfolk Southern Railway in the course of their employment or agency, except when such employee or agent is a fare-paying passenger of [*COMMUTER RAIL USER*].

Section 3. [*COMMUTER RAIL USER*] agrees to indemnify and hold harmless the Norfolk Southern Railway Indemnified Parties, irrespective of any negligence or fault of Norfolk Southern Railway, its employees, agents or servants, or howsoever the same shall occur or be caused, from any and all liability for, loss of, damage to or destruction of any locomotive, passenger car or any other property or equipment owned by, leased to, used by or otherwise in control, custody or possession of [*COMMUTER RAIL USER*]. [*COMMUTER RAIL USER*] agrees to indemnify and hold harmless, irrespective of any negligence or fault of the Norfolk Southern Railway Indemnified Parties, its employees, agents, or servants, or howsoever the same shall occur or be caused, for the cost (including any related fines or penalties) of clean-up of fuel oil which Norfolk Southern Railway demonstrates was spilled on Norfolk Southern Railway property from a [*COMMUTER RAIL USER*] locomotive or fuel oil spilled by [*COMMUTER RAIL USER*] or a contractor thereof while fueling a [*COMMUTER RAIL USER*] locomotive. [*COMMUTER RAIL USER*] further agrees to indemnify and hold harmless the Norfolk Southern Railway Indemnified Parties, irrespective of any negligence or fault of Norfolk Southern Railway, its employees, agents or servants, or howsoever the same shall occur or be caused, from any and all liability for, loss of, or damage to property of third parties caused by fuel oil spilled by [*COMMUTER RAIL USER*] or a contractor thereof while fueling a [*COMMUTER RAIL USER*] locomotive.

Section 4. [*COMMUTER RAIL USER*] agrees to indemnify and hold harmless the Norfolk Southern Railway Indemnified Parties, irrespective of any negligence or fault of Norfolk Southern Railway, its employees, agents and servants or howsoever the same shall occur or be caused, from any and all liability for injury to or death of any person and for loss of, damage to, or destruction of any property, other than persons and property for which Norfolk Southern Railway is responsible under Section 5 hereof, if such injury, death, loss, damage, or destruction arises from or relates to (i) a collision of a vehicle or a person with a [*COMMUTER RAIL USER*] Train, or (ii) a collision of a derailed [*COMMUTER RAIL USER*] Train or any part thereof with any person, property, or object on or off the right-of-way.

Section 5. Norfolk Southern Railway shall indemnify and save harmless VPRA and [*COMMUTER RAIL USER*], irrespective of any negligence or fault of VPRA and/or [*COMMUTER RAIL USER*], their respective agents, employees or servants, or howsoever the same shall occur or be caused, from any and all liability for injury to or death of any employee or employees of Norfolk Southern Railway (other than those employees traveling as passengers described in Section 2 or a Norfolk Southern Railway employee who is struck by a [*COMMUTER RAIL USER*] Train or a as set forth in Section 4), and for loss of, damage to or destruction of any property or equipment owned by, leased to, used by, or otherwise in control, custody, or possession of Norfolk Southern Railway or its employees described above (including Norfolk Southern Railway cars operated in a [*COMMUTER RAIL USER*] Train), other than Norfolk Southern Railway property described in Section 3 hereof on which fuel oil has been spilled, which arises from activities conducted by or for the account of [*COMMUTER RAIL USER*] pursuant to this Future Commuter Rail User Contract.

Section 6. Norfolk Southern Railway shall indemnify and save harmless [*COMMUTER RAIL USER*], irrespective of any negligence or fault of [*COMMUTER RAIL USER*], their respective employees, agents or servants, or howsoever the same shall occur or be caused, from any and all liability for injury to or death of any person or persons (other than those persons, employees or passengers for which [*COMMUTER RAIL USER*] are responsible as provided for in Sections 1, 2, and 3 hereof) and from any and all liability for loss, damage or destruction to any property (other than property for which VPRA or [*COMMUTER RAIL USER*] are responsible as provided in Sections 1, 2, and 3 hereof) which arises from activities conducted by or for the account of Norfolk Southern Railway pursuant to this Future Commuter Rail User Contract.

Section 7. In case suit shall at any time be brought against [*COMMUTER RAIL USER*] or any of the Norfolk Southern Railway Indemnified Parties asserting liability against which one agrees to indemnify and/or indemnify and save harmless the party sued, the indemnifying party shall, at its own cost and expense and without any cost or expense whatsoever to the party sued, defend such suit and indemnify and save harmless the party sued against all costs and expenses thereof and promptly pay or cause to be paid any final judgment recovered against the party sued; provided, however, that the party being sued shall promptly upon the bringing of any such suit against it give notice to the indemnifying party and thereafter provide all such information as may from time to time be requested. Each party shall furnish to the other all such non-privileged information relating to claims made for injuries, deaths, losses, damage or destruction of the type covered by these Sections [1 to 7] as such other party may from time to time reasonably request. Each party shall cooperate fully in the defense of claims for which the other party is responsible pursuant to these Sections [1 to 7] with respect to activities conducted pursuant to this Future Commuter Rail User Contract, including furnishing witnesses, documents, and other relevant information requested by the responsible party.

Section 8. NORFOLK SOUTHERN RAILWAY AND [*COMMUTER RAIL USER*] INTEND, THAT WHERE ONE PARTY IS TO INDEMNIFY THE OTHER FOR OPERATIONS PURSUANT TO THIS FUTURE COMMUTER RAIL USER CONTRACT, SUCH INDEMNITY SHALL APPLY IRRESPECTIVE OF ANY NEGLIGENCE OR FAULT OF THE INDEMNIFIED PARTY AND WITHOUT REGARD TO STRICT LIABILITY OF THE INDEMNIFIED PARTY.

Section 9. [*COMMUTER RAIL USER*] shall have the legal ability, and agrees to comply, with, among other requirements, the indemnity requirements set forth in this Future Commuter Rail User Contract between Norfolk Southern Railway and the Virginia Passenger Rail Authority dated [●].

Section 10. [*COMMUTER RAIL USER*] shall have liability insurance in an amount not less than the minimum amount prescribed in the Norfolk Southern – Amtrak Off-Corridor Agreement. The Parties acknowledge and agree that, as of the Execution Date, that amount is determined by Federal law, specifically 49 U.S. Code Section 28103. [*COMMUTER RAIL USER*] shall use commercially reasonable efforts to cause their insurance carriers to add Norfolk Southern Railway as an additional insured on all general liability policies covering [*COMMUTER RAIL USER*]'s operations on the Purchased Line. [*COMMUTER RAIL USER*] will require that Norfolk Southern Railway be added as an additional insured with [*COMMUTER RAIL USER*] with respect to operations by any third party utilizing [*COMMUTER RAIL USER*]'s services provided over the

Purchased Line if [*COMMUTER RAIL USER*] requires that insurance be provided for it by such third party.

Section 11. If at any time such [*COMMUTER RAIL USER*] fails to maintain the required insurance coverage, Norfolk Southern Railway shall have the right to immediately suspend the right of such [*COMMUTER RAIL USER*] to operate the applicable Passenger Rail Service, until such time that the default is fully cured. [*COMMUTER RAIL USER*] agrees that money damages alone would not be a sufficient remedy for a breach of Sections 10 and 11 by [*COMMUTER RAIL USER*] and, accordingly, that Norfolk Southern Railway shall be entitled to seek, in addition to any other remedies at law or in equity otherwise available to it, specific performance and injunctive relief as a remedy for any such breach, including, without limitation, the right to have the operating rights of [*COMMUTER RAIL USER*] suspended.

Exhibit X

Roanoke Easement Area Improvements²⁰

²⁰ Note to NSR: Under review by VPRA.

General Conceptual Plans (Not Final Construction Plans)

ROANOKE YARD EXISTING CONDITIONS

ROANOKE YARD PROPOSED CONDITIONS

LEGEND

EXISTING TRACKS / TURNOUTS ——— #15
PROPOSED TRACKS / TURNOUTS ——— #16
EXISTING TRACKS / TURNOUTS ——— #17
PROPOSED TRACKS / TURNOUTS ——— #18

TRACK LIST

DESIGN SPECIFICATIONS - CP PARK STREET (24th St. to CP WB (24th St.))

EXISTING Conditions

PROPOSED Conditions

24th STREET

25th STREET

26th STREET

27th STREET

28th STREET

29th STREET

30th STREET

31st STREET

32nd STREET

33rd STREET

34th STREET

35th STREET

36th STREET

37th STREET

38th STREET

39th STREET

40th STREET

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42nd STREET

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166th STREET

167th STREET

168th STREET

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170th STREET

171st STREET

172nd STREET

173rd STREET

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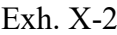
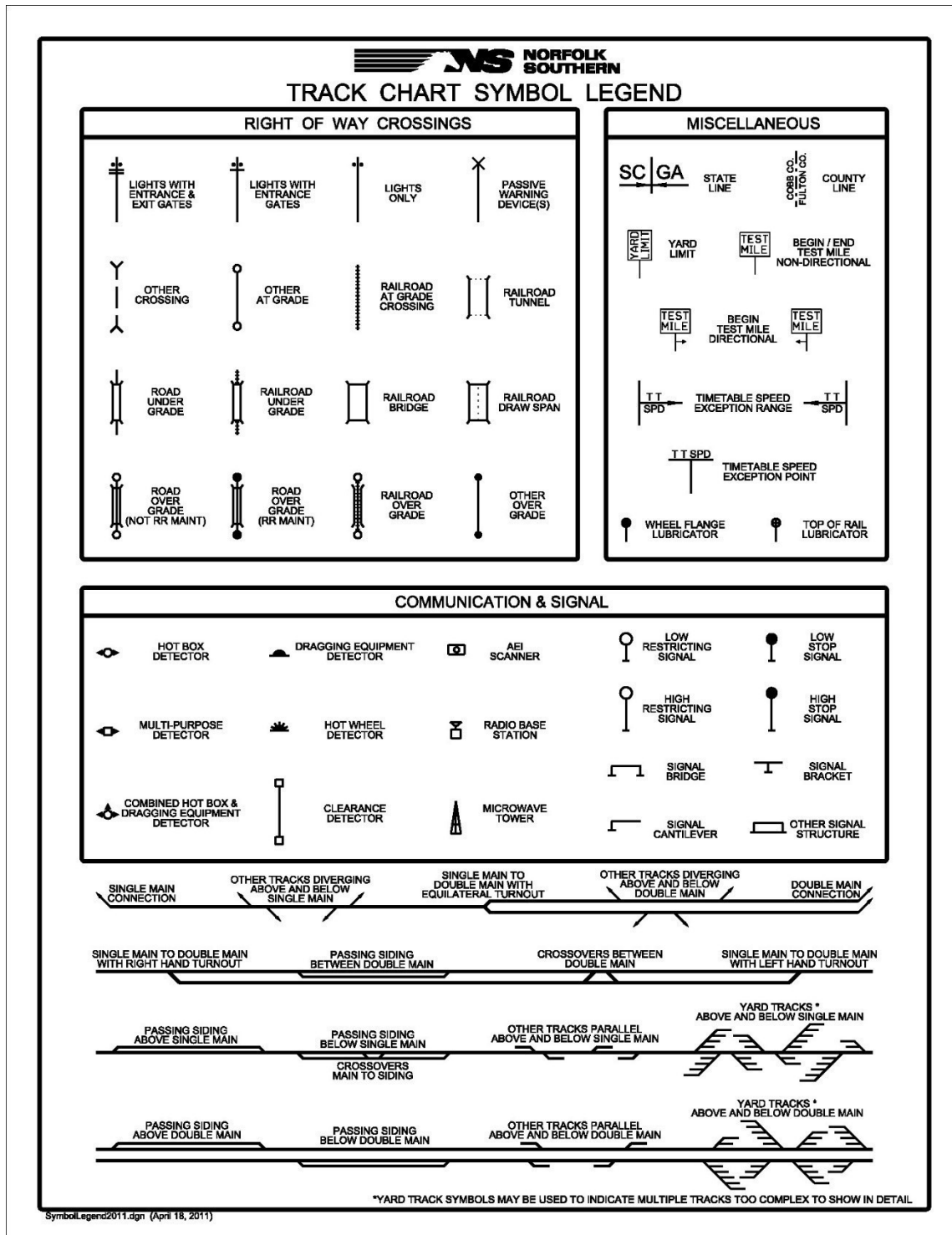
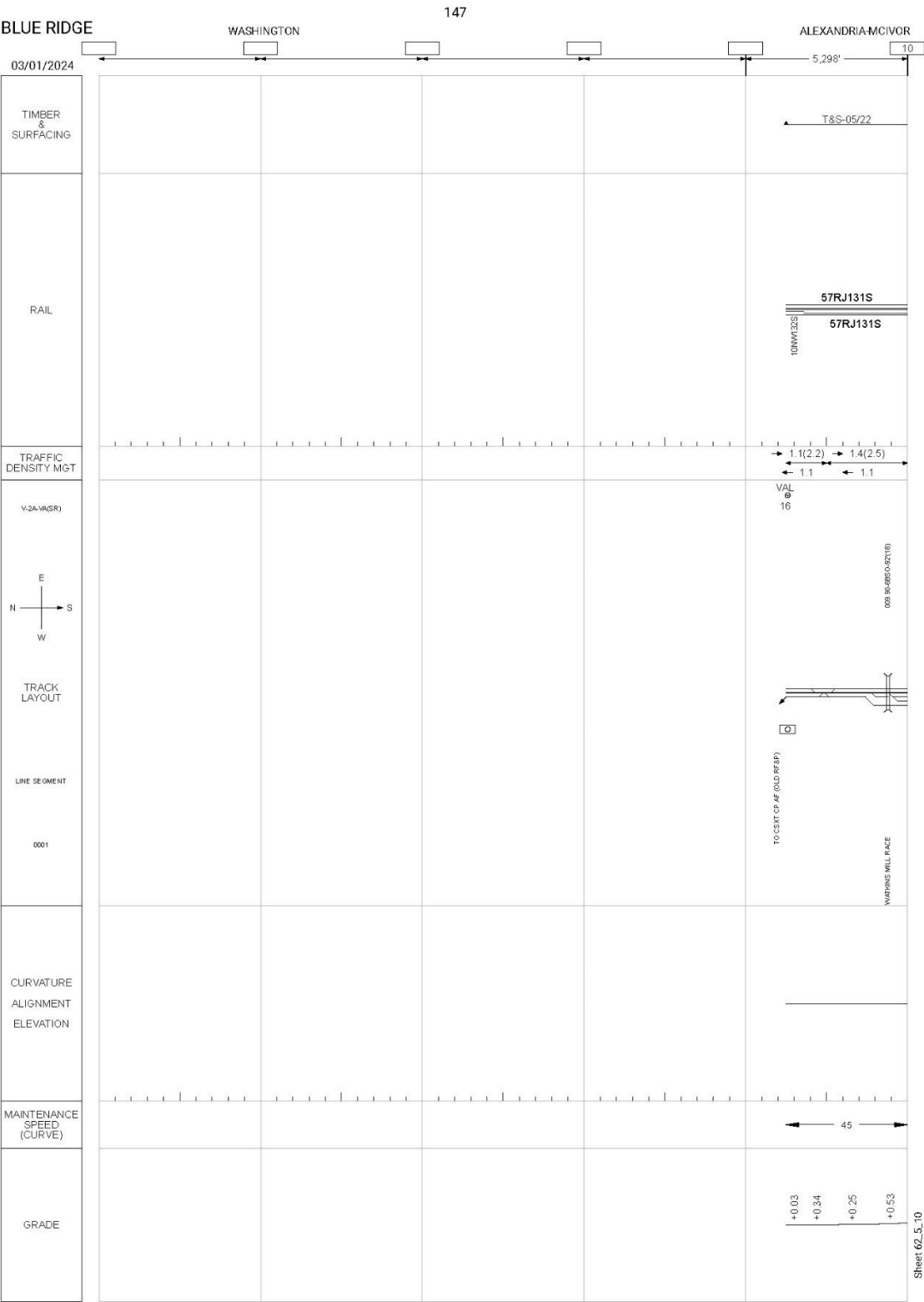


Exhibit Y

Level of Utility





General Reference Only - Not for Operational Purposes

ALEXANDRIA-MCIVOR



Exh. Y-3

Diagram illustrating a horizontal line with points 15 through 20. The distances between the points are:




- 15 to 16: 5,268'
- 16 to 17: 5,459'
- 17 to 18: 5,117'
- 18 to 19: 5,288'
- 19 to 20: 5,328'

		T&S-05/22		
		T&S-05/22		

	73NWF132S		72NWF132S	57N	72NWF132S
	73NWF132S		90NWF132P 72NWF132S	90NWF132P	72NWF132S
	86NWF132S		67NWF132S		
63NWF132S	63NWF132S		63NWF132S	73NWF132S	73NWF132S
86NWF132S	63NWF132S		63NWF132S		73NWF132S

[illegible]

SPRINGFIELD 15	RAVEN 17	(RAVENS WORTH) 18	BURKE 20
-------------------	-------------	----------------------	-------------

01514	
01555	
01600-0601(X)(3)	<p>WY GALLINER CO</p>
01716	
01870	
01870	
01900-0601(X)(3)	<p>WY ROLLING ROAD STA</p>
01900-0601(X)(3)	<p>BURKE HOUSE TRAIL</p>

[illegible][illegible]

BLACHLOF RO	ACCOTIN ONE	ACCOTIN PAR	ROLLING RO G3	WALUNIV (TR)
2.6L 1.3L 2.6L 1.8S	2.0R ●	4.0R	4.0L	3.0L 2.2R

[illegible]

Profile view showing elevation changes. The profile line starts at an elevation of 107, rises to 108, then drops to 99, 12, 94, 92, 100, 83, and finally 47. The horizontal axis is marked with stationing values: (50), (50), (55), (55), and 20.

Sheet 62_15_20

Exh. Y-4

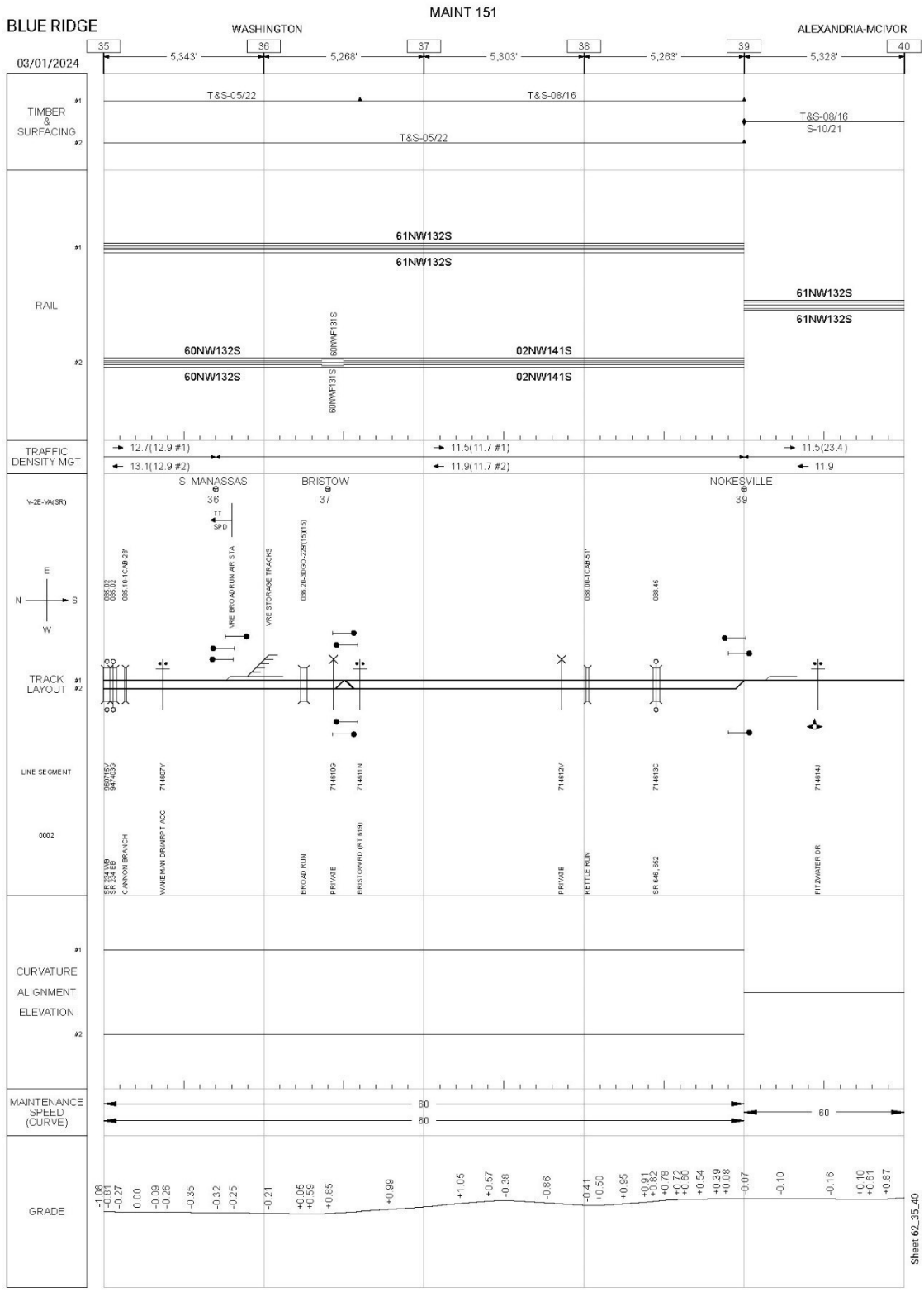
ALEXANDRIA-MCIVOR



Exh. Y-6



Exh. Y-7



General Reference Only - Not for Operational Purposes

Explanation of Graphic Display Conventions

Top Margin -

- 1) Date shown represents when drawing was prepared, sheet number, and Operating Division name.
- 2) Header items correspond to: District, Line Name, and From-To Station names.

Milepost Data Band -

- 1) Current milepost designation with prefix or suffix.
- 2) Distance between milepost markers in feet.

Maintenance Section -

The T&S date is displayed above each main and the surfacing date is displayed below each main. Surfacing date is suppressed when prior to T&S date. Vertical tick-marks above or below each main show break points for T&S and/or surfacing. To avoid confusion with the year 2000 (or 00) any T&S or Surfacing record with a date of 1940 or earlier is displayed as year 1940 (or 40).

Rail Section -

Data displayed above the graphic for each main represents the left rail and data displayed below the graphic for each main represents the right rail (viewed in increasing milepost direction). Representation gives year laid, rail type, rail weight, and premium (P), intermediate (I), or standard (S) rail. Rail graphic change indicates break point in data values. Rail type codes are shown in Table 1. To avoid confusion with the year 2000 (or 00) any rail with a laid date of 1940 or earlier is displayed as the year 1940 (or 40). Two asterisks (**) in the year laid area indicate an unknown rail laid date.

Traffic Density Section -

Annual density displayed in millions of gross tons rounded to tenths. Note this results in density less than 50,000 tons being rounded to zero. Direction of traffic is shown with arrows. Density by track is also shown with track identification.

Track Layout Section -

- 1) Left hand margin gives valuation map I.D., track timetable direction (compass rose), line segment reporting number, and former Conrail RDBR number as applicable.
- 2) Station names and locations are displayed at topmost position in the track layout section (immediately below the traffic density section). Those stations shown in bold print only are timetable stations and those station names which are enclosed in parentheses are non-timetable (reporting) stations. The value shown below the station name is typically an operating station code.
- 3) Territory markers (test miles, yard limits, state lines, county/incorporated lines) are generally displayed in the area just below the station names. However, on occasion, test miles are displayed below the track line in order to alleviate print congestion problems on some pages.
- 4) Bridge technical specifications are displayed in the top center area between the station names and the track layout. This specification is Bridge number (in milepost format), number of spans, structure construction, and length of structure. For highway overpasses with any railroad maintenance responsibility, the display convention will show maintenance codes for the Deck, Super-structure, and Sub-structure. See Table 2 for explanation of structure construction and maintenance codes. For open deck bridges, tie replacement dates (year) are provided in parentheses following the bridge technical specifications. Single main track with one redecking date is displayed as (XX). If two dates are available they are displayed as (XX,XX). If three or more dates are available, they are displayed as a range (XX-XX) with the first year being the earliest date and the second year being the latest date. This same convention applies to multiple main tracks with the first set of () containing track 1 data, the second set of () containing track 2 data, the third set of () etc. If page space limitations do not allow the dates to be displayed after the bridge specifications these dates are displayed in any space available adjacent to the specifications.
- 5) Signals, signal structures, AEI scanners, microwave towers, radio base stations, and the various types of wayside detectors are displayed on the appropriate side of the track and in the area just above or just below the track diagram.
- 6) The track diagram for main line, side tracks, crossovers, leads, and yard track, including types of turnouts between single main and double main territory is displayed in the center of the track layout section. The heavy lines represent main tracks and their crossovers and switches. The lighter weight lines represent side and other tracks. Connections with other lines are typically indicated by a milepost equation (see item 8) or the identity of the connecting line (for example, "Begin Coastal Division" or "To CSXT"). Details of this display are limited to switches on main track and adjacent track. In some cases, yard track symbols are used to indicate the presence of multiple tracks too complex to show in detail. Also shown in this area are the graphic symbols for the various grade crossing types, clearance detectors, overpasses, underpasses, bridges, tunnels, and other overhead structures. The common names (street, highway, river) associated with these graphic symbols are displayed at the bottom of the track layout section. Note: For railroad crossings at grade, the display convention, when available, is: Owning Road, Crossing Type, Angle, and Maintaining Road. Crossing types are:

SM	-	Solid Manganese
MI	-	Manganese Insert
RB	-	Rail Bolted
XO	-	Double Crossover
MP	-	Movable Point
FB	-	Flange Bearing

- 7) The AAR number (DOT number) for each road crossing is displayed in the band which runs just below the track layout display and just above the common name display at the bottom of the track section. This DOT number consists of seven characters (six numbers and a letter) and lines up with the graphic symbol on the track line and its common name at the bottom.
- 8) Other information which may be displayed in the track layout section includes:
 - Industry names associated with various switches and sidings.
 - Milepost equations show where two (or more) different lines connect with each other. The format for this display is milepost Junction Point (on the line being displayed) = milepost Junction Point (on the line which is connecting at this point). Note: The = symbol indicates that the lines connect directly, and the / symbol indicates that the lines connect indirectly through a yard or side track.

Alignment Section -

- 1) Graphic representation is given for curve direction, length, and super-elevation for each main.
- 2) Curvature is specified to tenths of a degree above each main along with left/right indication (based on ascending milepost direction). Super-elevation is specified in inches.
- 3) Location of wheel flange and top of rail lubricators is given along mains.

Maintenance Speed Section

The rail-highway train speed where defined is displayed instead of freight train speed. The System Timetable defines maximum authorized speed for freight trains as 50 mph except where Tons per Operative Brake is defined for freight train speed on specific line segments. No conditional speed restrictions (speed restrictions that do not apply to all parts of all trains) are displayed in this section. The locations of these and other miscellaneous speed restrictions are indicated "T T SPD" (Timetable Speed) symbols in the Track Layout section.

Curve speed restrictions are shown within parentheses under the specific curves to which they apply. The speed shown in parentheses follows the same convention as described above.

All speeds displayed are based on current Timetables or Operation Bulletins in effect at time of publication.

Grade Section -

Grade shown is based on ascending milepost direction.

TABLE 1**RAIL TYPE CODES**

N	New Rail	R	Relay Rail
W	Welded Rail	J	Jointed Rail
F	Field Welded Rail	S	Standard Non-Hardened Rail
P	Premium Head Hardened Rail	I	Intermediate Head Hardened Rail

TABLE 2**BRIDGE TYPE CODES****Type of Bridge Structure**

BS = Beam Span
 BA = Brick Arch
 CA = Concrete Arch
 CB = Concrete Box
 CS = Concrete Span
 DG = Deck Plate Girder
 DT = Deck Truss
 LT = Long Trough
 MA = Masonry Arch
 MP = Multi-Plate
 MS = Mixed Span
 OT = Orthotropic
 RT = Rail Top
 SA = Structural Plate Arch
 SB = Stone Box
 SCP = Steel Casing Pipe
 TG = Through Plate Girder
 TLP = Tunnel Liner Pipe
 TT = Through Truss
 WT = Timber (Wood) Trestle

Deck Construction

O = Open Deck
 B = Ballast Deck
 C = Combination
 D = Direct Fix

Highway Overpass Maintenance Responsibility Codes
 (Deck, Super-structure, Sub-structure)

A = Authority, parkway, or community	C = City or town
H = Joint NS and state (R&S)	F = Foreign RR
I = Joint NS and other RR (R&F)	R = NS
J = Joint NS and county (R&U)	S = State
K = Joint NS and township (R&T)	T = Township
L = Joint NS and city or town (R&C)	U = County
O = Maintained entirely by others	X = Unknown

Exhibit Z-1

VRE Weekday Service Schedule

[Attached]

Exhibit Z-2

VRE Saturday Service Schedule

[Attached]

Exhibit AA

Christiansburg-Radford Deadhead Movements

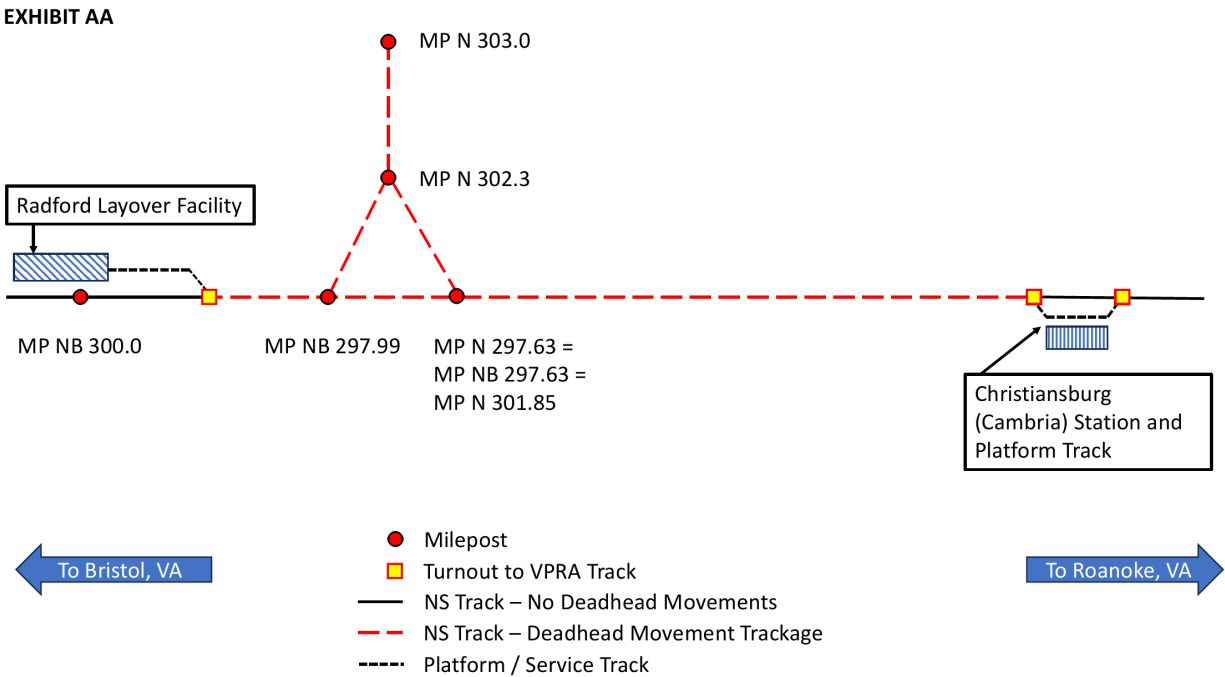


Exhibit BB

Form of Capital Maintenance Plans

[●]²¹

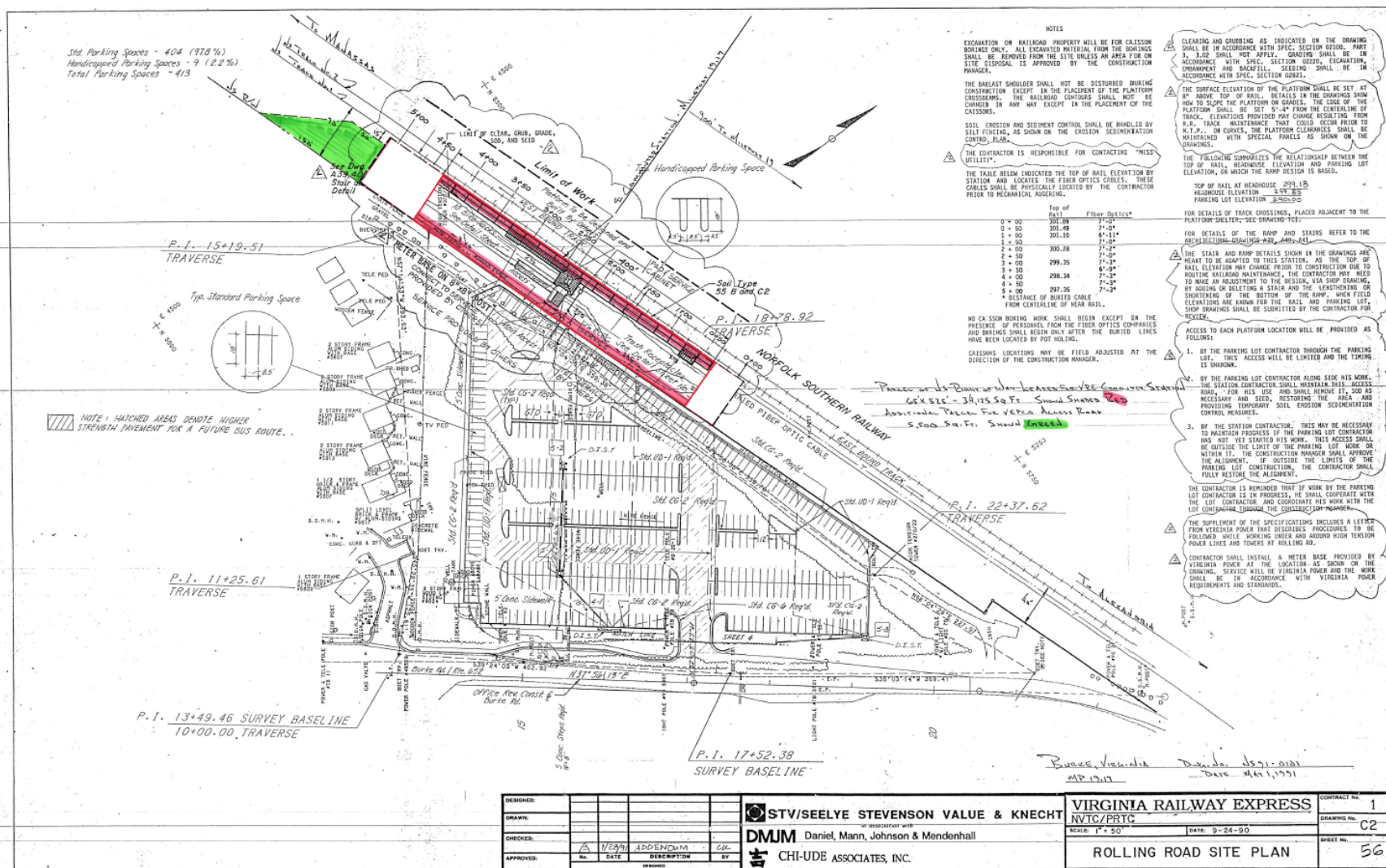
²¹ Note to Draft: Under review by technical teams.

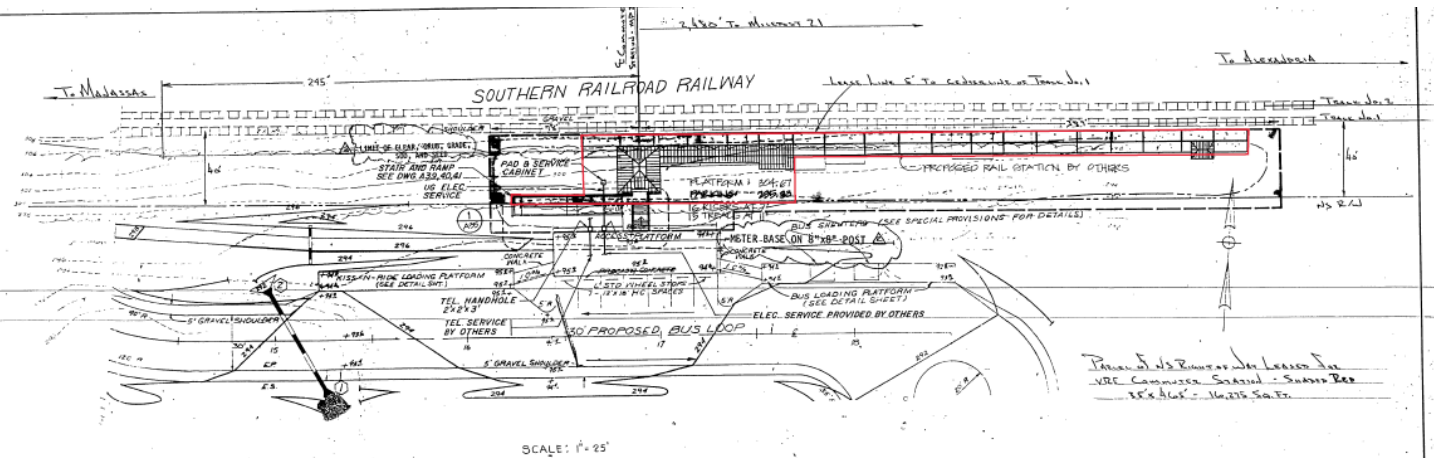
Exhibit CC

Conveyed Passenger Stations Property

“Conveyed Passenger Stations Property” shall mean the real property that is part of the Manassas Line Conveyed Property on which the following passenger stations or platforms are situated as of the Effective Date, each of which are included within the Manassas Line Survey and further depicted in the drawings below:

- (i) Manassas Station at approximately MP 32.6;
- (ii) Manassas Park Station at approximately MP 30.4;
- (iii) Burke Centre Station at approximately MP 21.4;
- (iv) Rolling Road Station at approximately MP 19.1; and
- (v) Backlick Road Station at approximately MP 15.0.





NOTES

EXCAVATION ON RAILROAD PROPERTY WILL BE FOR CAISSON BORING ONLY. ALL EXCAVATED MATERIAL FROM THE BORINGS SHALL BE REMOVED FROM THE SITE UNLESS AN AREA FOR ON SITE DISPOSAL IS APPROVED BY THE CONSTRUCTION MANAGER.

THE BALLAST SHEDDING SHALL NOT BE DISTURBED DURING CONSTRUCTION EXCEPT IN THE PLACEMENT OF THE PLATFORM CROSSING. THE RAILROAD CONTIGUOUS SHALL NOT BE CHANGED IN ANY WAY EXCEPT IN THE PLACEMENT OF THE CAISSONS.

SOIL EROSION AND SEDIMENT CONTROL SHALL BE HANDLED BY SILT FENCING, AS SHOWN ON THE EROSION SEDIMENTATION CONTROL PLAN.

THE CONTRACTOR IS RESPONSIBLE FOR CONTACTING "MISS UTILITY".

THE TABLE BELOW INDICATES THE TOP OF RAIL ELEVATION BY STATION AND LOCATES THE FIBER OPTICS CABLES. THESE CABLES SHALL BE PHYSICALLY LOCATED BY THE CONTRACTOR PRIOR TO MECHANICAL LAYOUT.

Top of Rail	Fiber Optics
0+00	200.35
0+05	203.84
1+00	204.65
2+00	203.36
3+00	202.55
4+00	200.30
5+00	200.30

NO CAISSON BORING WORK SHALL BEGIN EXCEPT IN THE PRESENCE OF PERSONNEL FROM THE FIBER OPTICS COMPANIES AND BORINGS SHALL BEGIN ONLY AFTER THE BORING LINES HAVE BEEN LOCATED BY POT HOLEING.

CAISSON LOCATIONS MAY BE FIELD ADJUSTED AT THE DISCRETION OF THE CONSTRUCTION MANAGER.

CLEARING AND GRUBBING AS INDICATED ON THE GRADING SHALL BE IN ACCORDANCE WITH SPEC. SECTION 2000, PART 2. 2.02 SHALL NOT APPLY. GRADING SHALL BE IN ACCORDANCE WITH SPEC. SECTION 2000, EXCAVATION, EMBANKMENT AND BACKFILL. ELEVATION SHALL BE IN ACCORDANCE WITH SPEC. SECTION 2000.

THE SURFACE ELEVATION OF THE PLATFORM SHALL BE SET AS 8" ABOVE TOP OF RAIL. DETAILS IN THE DRAWINGS SHOW HOW TO SLOPE THE PLATFORM OR GRABES. THE CHISEL OF THE PLATFORM SHALL BE SET 5'-4" FROM THE CENTERLINE OF TRACK. ELEVATIONS PROVIDED MAY CHANGE RESULTING FROM R.A. TRACK MAINTENANCE THAT COULD OCCUR PRIOR TO R.A. ON GRABES. THE PLATFORM CLEARANCES SHALL BE MAINTAINED WITH SPECIAL PANELS AS SHOWN ON THE DRAWINGS.

THE FOLLOWING SUMMARIZES THE RELATIONSHIP BETWEEN THE TOP OF RAIL, HEADHOUSE ELEVATION AND PARKING LOT ELEVATION, ON WHICH THE RAMP DESIGN IS BASED.

TOP OF RAIL AT HEADHOUSE 200.35
HEADHOUSE ELEVATION 202.55
PARKING LOT ELEVATION 203.36

FOR DETAILS OF TRACK CROSSINGS, PLACES ADJACENT TO THE PLATFORM SHELTER, SEE DRAWING T-1.

FOR DETAILS OF THE RAMP AND STAIRS REFER TO THE ARCHITECTURAL DRAWINGS A-20, AND A-21.

THE STAIR AND RAMP DETAILS SHOWN IN THE DRAWINGS ARE MEANT TO BE ADAPTED TO THIS STATION. AS THE TOP OF RAIL ELEVATION MAY CHANGE PRIOR TO CONSTRUCTION ONE TO ROUTINE LANDSCAPE MAINTENANCE, THE CONTRACTOR MAY NEED TO MAKE AN ADJUSTMENT TO THE DESIGN, FOR STAIR DRIVING, BY ADJUSTING OR SELECTING A STAIR AND/OR LENGTHENING OR SHORTENING OF THE BOTTOM OF THE RAMP. WHEN FIELD ELEVATIONS ARE KNOWN FOR THE RAIL AND PARKING LOT STAIR DRAWINGS SHALL BE SUBMITTED BY THE CONTRACTOR FOR REVIEW.

ACCESS TO EACH PLATFORM LOCATION WILL BE PROVIDED AS FOLLOWS:

- BY THE PARKING LOT CONTRACTOR ALONG SIDE HIS WORK. THE STATION CONTRACTOR SHALL MAINTAIN THIS ACCESS ROAD, FOR HIS USE AND SHALL MAINTAIN IT AS NECESSARY AND GOOD, RESTORING THE AREA AND PROVIDING TEMPORARY SOIL EROSION SEDIMENTATION CONTROL MEASURES.
- BY THE STATION CONTRACTOR. THIS MAY BE NECESSARY TO MAINTAIN PROGRESS IF THE PARKING LOT CONTRACTOR HAS NOT YET STARTED HIS WORK. THIS ACCESS SHALL BE OUTSIDE THE LIMITS OF THE PARKING LOT WORK. UP WITHIN IT, THE CONSTRUCTION MANAGER SHALL APPROVE THE ALIGNMENT. IF OUTSIDE THE LIMITS OF THE PARKING LOT CONSTRUCTION, THE CONTRACTOR SHALL FULLY RESTORE THE ALIGNMENT.

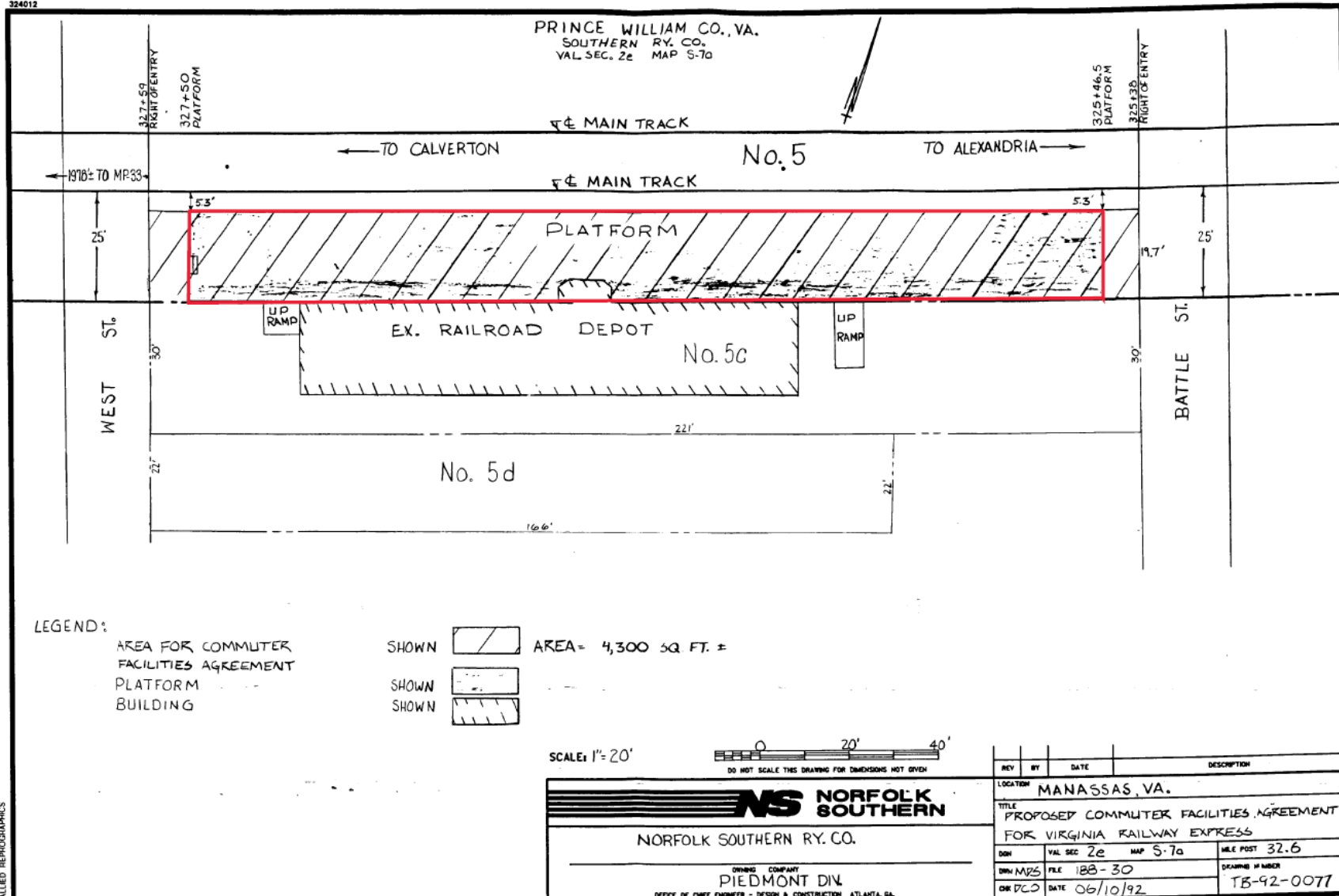
THE CONTRACTOR IS REMOVED THAT IF WORK BY THE PARKING LOT CONTRACTOR IS IN PROGRESS, HE SHALL COOPERATE WITH THE LOT CONTRACTOR AND COORDINATE HIS WORK WITH THE LOT CONTRACTOR THROUGH THE CONSTRUCTION MANAGER.

CONTRACTOR SHALL INSTALL A METER BASE PROVIDED BY VIRGINIA POWER AT THE LOCATION AS SHOWN ON THE DRAWING. SERVICE WILL BE VIRGINIA POWER AND THE WORK SHALL BE IN ACCORDANCE WITH VIRGINIA POWER REQUIREMENTS AND STANDARDS.

Burke, Virginia
 Drawn by J. J. Johnson
 Date May 2, 1991
 MJP 21.43

DESIGNED		STV/SEELYE STEVENSON VALUE & KNECHT DMJM Daniel, Mann, Johnson & Mendenhall CHI-UDE ASSOCIATES, INC.	VIRGINIA RAILWAY EXPRESS NRTC/PRTC SCALE 1" = 50' DATE 12/19/90 BURKE CENTRE SITE PLAN	CONTRACT NO.	1
DRAWN				DRAWING NO.	C.3
CHECKED				SHEET NO.	
APPROVED					

324012



SHEET 1 OF 1

Exh. CC-6

Exhibit DD

Radford Layover Access Route

