



COMMONWEALTH of VIRGINIA

Virginia Passenger Rail Authority

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Tiffany Robinson
Chairperson

RESOLUTION OF THE VIRGINIA PASSENGER RAIL AUTHORITY BOARD

August 26, 2025

MOTION

Made By: John Delandro Seconded By: Charles Payne

Action: Motion approved, unanimously

Title: Authority to Execute Project Addendum for Potomac Creek Third Track South (Siding A) Project

WHEREAS, on March 26, 2021, the Virginia Passenger Rail Authority ("VPRA") and CSX Transportation, Inc. ("CSXT") entered into a comprehensive rail agreement (the "CRA"); and

WHEREAS, the CRA contemplates a program of rail improvement projects between Richmond and Washington, D.C., some of which projects will be led by CSXT and some of which will be led by VPRA; and

WHEREAS, for each rail improvement project, the CRA contemplates CSXT and VPRA entering into a specific "project addendum" prior to the start of construction; and

WHEREAS, the parties have sufficiently advanced the Potomac Creek Third Track South (Siding A) Project (which constitutes approximately four (4) miles of new third track between mileposts CFP 65.2 and CFP 61.3) to the point where they are ready to enter into the corresponding project addendum and to begin construction activities shortly thereafter; and

WHEREAS, pursuant to Table 2 of § 3.4.1 of the VPRA BYLAWS, the Board now desires to authorize the VPRA Executive Director to execute such project addendum.

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

EXHIBIT A

[SEE ATTACHED DRAFT]

####

Project Addendum

Virginia Passenger Rail Authority
CSX Transportation, Inc.

Potomac Creek Third Track South (Siding A) (R10B)
[August 26,2025]



1	Definitions; Project Description; Roles; Changes	3
1.1	Definitions	3
1.2	General Description of Project	4
1.3	VPRA Role	6
1.4	CSXT Role.....	9
1.5	Changes to Scope	12
2	Funding Requirements.....	12
2.1	Federal Funding Partners	12
2.2	Audit	12
3	Project Costs; Notices to Proceed; Contractors; Payment.....	13
3.1	Project Cost Control Amounts	13
3.2	Notices to Proceed.....	13
3.3	CSXT Use of Contractors.....	13
3.4	Payment	14
4	Work Schedule	14
4.1	Work Schedule and Work Windows	14
4.2	Changes to Work Schedule	15
5	Project Reviews	15
5.1	Meetings	15
6	Person in Charge	15
6.1	VPRA Designated Representative	15
6.2	CSXT Designated Representative	15
7	Maintenance of Project Records	15
8	Governing Documents and Order of Precedence.....	15
9	Insurance Requirements	15
10	Timely Resolution of Non-Conforming Work	16

1 DEFINITIONS; PROJECT DESCRIPTION; ROLES; CHANGES

1.1 Definitions

Capitalized terms not defined herein will have the meanings assigned to those terms within the Master Construction Agreement (CSXT). In addition, the following terms shall have the respective meanings set forth below.

- 1.1.1 **"100% Plans"** means, collectively, the documents titled *CSX Transportation, Inc. Stafford County, Virginia Potomac Creek Third Track South (Siding A) Central Zone – Northeast Region RF&P Subdivision MP 60.7 to MP 65.2, Track-Civil Plans Level 4*, dated January 9, 2025.
- 1.1.2 **"Comprehensive Rail Agreement"** means the *Comprehensive Rail Agreement* between the parties dated March 26, 2021.
- 1.1.3 **"Construction Contingency Threshold"** means, with respect to the Project, \$1,000,000.
- 1.1.4 **"CSXT"** means CSX Transportation, Inc., a Virginia corporation.
- 1.1.5 **"DBE"** means a certified disadvantaged business enterprise, as defined under 49 CFR Part 26.
- 1.1.6 **"Early Work"** means any and all construction activities undertaken prior to CSXT's issuance of a notice to proceed to its construction Contractor for the Project (e.g., without limitation, early materials procurement, construction phasing workshops, vegetation clearing, and utility relocation work) undertaken for the Project and incorporated as Early Work under this Project Addendum.
- 1.1.7 **"FRA"** means the Federal Railroad Administration.
- 1.1.8 **"Leeland Road Bridge Reconstruction"** means the reconstruction of the Leeland Road overpass required by the Project improvements.
- 1.1.9 **"Master Construction Agreement (CSXT)"** means the *Master Construction Agreement (CSXT)* between the parties dated March 31, 2021.
- 1.1.10 **"Performance Managers Committee"** means the committee of the same name established under Article 12 of the *Joint Operating and Maintenance Agreement* between the parties dated March 26, 2021.

- 1.1.11 **"Project"** means the Potomac Creek Third Track South (Siding A) Project, which constitutes approximately four (4) miles of new third track between milepost CFP 65.2 and milepost CFP 61.3 as defined by the 100% Plans, which 100% Plans will continue to be refined and revised as the Project design is finalized.
- 1.1.12 **"Project Addendum"** means this project addendum.
- 1.1.13 **"Project Cost Control Amounts"** means collectively, the Estimated Project Cost, Construction Contingency Reserve, and the Maximum Not To Exceed Amount for the Project, each as defined within the Master Construction Agreement (CSXT).
- 1.1.14 **"Project PAN"** means the *Project Authorization Notice* between the parties for the Potomac Creek Third Track South (Siding A) Project dated November 10, 2022. For clarity, the Project PAN governs, *inter alia*, the engineering phase of the Project.
- 1.1.15 **"SWaM"** means a business entity that has been certified as a small, women-owned, and/or minority-owned business by the Virginia Department of Small Business and Supplier Diversity, and as those terms are defined under Va. Code § 2.2-1604.
- 1.1.16 **"VDOT"** means the Virginia Department of Transportation.
- 1.1.17 **"VPRA"** means the Virginia Passenger Rail Authority, a political subdivision of the Commonwealth of Virginia.
- 1.1.18 **"VRE"** means the commuter rail services known as the Virginia Railway Express.
- 1.1.19 **"Work"** means all tasks, duties, obligations, services, requirements, and activities of whatever kind or nature, express or implied, direct or incidental, to be performed, and all items tangible and intangible, to be provided by CSXT respecting the Project, including but not limited to the administration of the Project and furnishing of labor, materials, supplies, and equipment associated with such Project.

1.2 General Description of Project

The parties to this Project Addendum are CSXT and VPRA. This Project Addendum is entered into pursuant to (i) the Comprehensive Rail Agreement and (ii) § 3.3 of the Master Construction Agreement (CSXT).¹

This Project Addendum follows the Project PAN and covers the construction-related services that are required to achieve Final Completion with respect to the Project, but does not cover the engineering and other efforts already covered by the Project PAN.

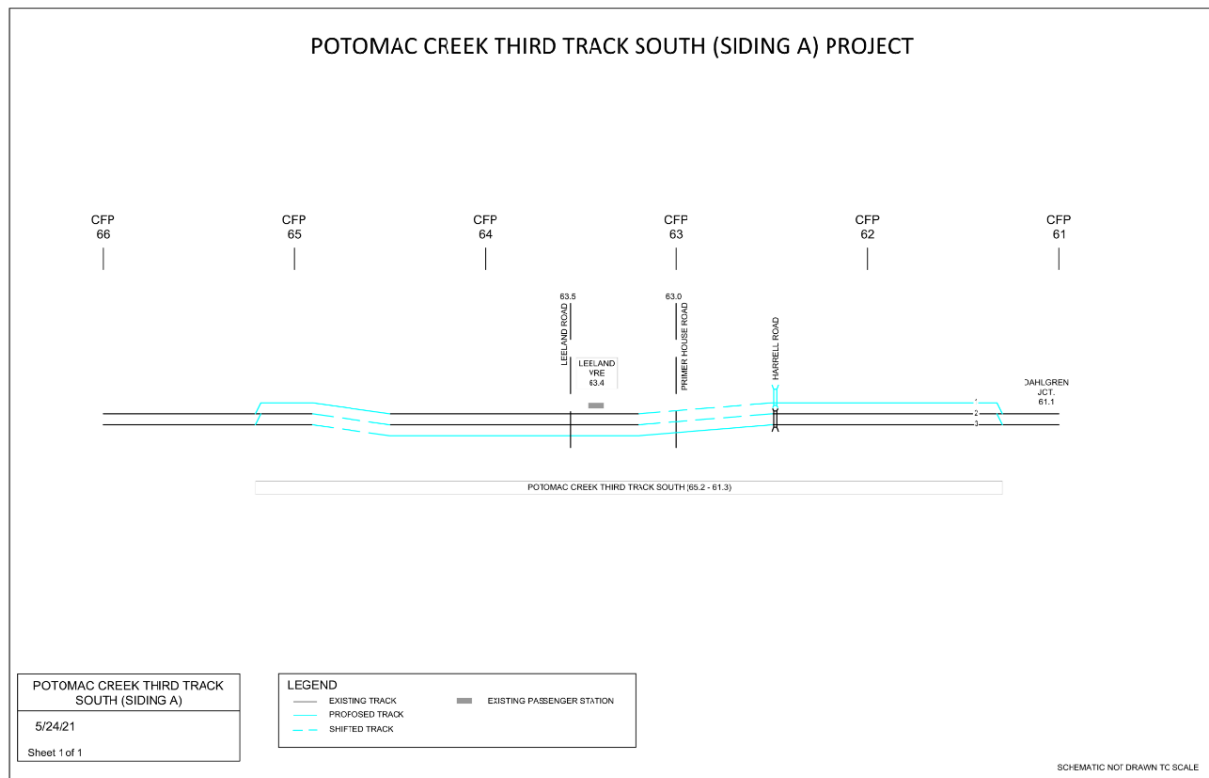
The Project consists of adding approximately four miles of third track between milepost CFP 65.2 and milepost CFP 61.3.

Due to the existing environmental conditions, the Project is subject to permitting through federal, state, and local entities as part of the final design for the Project.

The Project design work will continue to be refined and revised under the Project PAN as such design work is completed. A track one-line schematic depicting the Project based on the 100% Plans is included below.

¹ CSXT's original counterparty under both agreements was the Virginia Department of Rail and Public Transportation. However, the agreements were assigned to the VPRA by agreement dated June 28, 2021. Thus, the Parties to this Project Addendum are VPRA and CSXT.

Figure 1



1.3 VPRA Role

1.3.1 VPRA-Led Activities. VPRA will lead the following Project activities with input and support from CSXT:

- 1.3.1.1 Right-of-way – VPRA will lead all right-of-way acquisition activities;
- 1.3.1.2 Project management plan – VPRA will maintain and update a Project management plan;
- 1.3.1.3 Project risk register – VPRA will maintain and update a Project risk register and lead Project risk workshops;
- 1.3.1.4 Budget – after receiving competitive bids for the Work to be performed by a Contractor, but prior to entering into any contract with a Contractor relating to the Project, CSXT shall deliver to VPRA a construction cost estimate as required under § 9.1 of the Master Construction Agreement (CSXT), and the parties will follow the reconciliation process provided for in that section to develop the Estimated Project Cost;

- 1.3.1.5 Utility coordination and relocations – VPRA will lead all coordination and relocations for the Stafford County-owned water and sanitary sewer facilities necessary for the Project. VPRA will coordinate with CSXT for all other utility coordination and relocation efforts undertaken by CSXT in accordance with § 1.4.1.4 below;
- 1.3.1.6 Work Schedule – in accordance with § 5.2 of the Master Construction Agreement (CSXT), VPRA will review a CSXT-proposed construction schedule (inclusive of proposed Work Windows), and collaborate with CSXT to establish a baseline Work Schedule, and thereafter VPRA will review each monthly Work Schedule update provided by CSXT during the life of the Project;
- 1.3.1.7 Master Work Schedule – VPRA will develop and maintain a Master Work Schedule in accordance with § 5.2 (a) of the Master Construction Agreement (CSXT), will update Work Schedules for VPRA scope elements, and will import the baseline Work Schedule and each CSXT-provided monthly Work Schedule update into the Master Work Schedule; and
- 1.3.1.8 VPRA will lead coordination with:
 - 1.3.1.8.1 FRA with respect to NEPA clearances and other project requirements;
 - 1.3.1.8.2 VRE with respect to VRE service impacts and Leeland Road Station Project property acquisitions and construction scheduling and sequencing coordination;
 - 1.3.1.8.3 Amtrak with respect to design reviews by Amtrak and coordination for signal modifications;
 - 1.3.1.8.4 VDOT and CSXT with respect to Leeland Road Bridge Reconstruction and its associated adjacent road impacts, and VDOT-sourced Project funding; and
 - 1.3.1.8.5 Stafford County with respect to water and sanitary sewer relocations, and general government relations/communications.
- 1.3.1.9 The parties will collaborate in good faith to develop an optimal and mutually-agreeable plan for Project soil disposal.

- 1.3.2 VPRA Construction-Related Support Activities. CSXT will lead the construction of the Project, with VPRA supporting CSXT with the following construction-related Project activities:
- 1.3.2.1 permitting – See **ATTACHMENT A** (*Permitting Plan*) for each party's Project permitting responsibilities, provided that, if any of the permits contemplated by such attachments are not deemed necessary for the Project according to the relevant permitting entity, then neither party shall be responsible to obtain and maintain such unnecessary permits;
 - 1.3.2.2 environmental mitigations – VPRA will lead efforts to ensure that CSXT and its Contractor incorporate all environmental mitigation requirements related to the Project;
 - 1.3.2.3 compliance support – as part of its efforts under § 9.3(b) of the Master Construction Agreement (CSXT), and subject to that agreement, VPRA will assist CSXT in complying with requirements imposed by Funding Partners that are required by the Master Construction Agreement (CSXT);
 - 1.3.2.4 site access – subject to § 4.2 of the Master Construction Agreement (CSXT), VPRA will have access to the Project site for the purposes set forth in § 4.2 of the Master Construction Agreement (CSXT), specifically including (without limitation) that:
 - 1.3.2.4.1 VPRA will perform field visits to confirm compliance with environmental commitments established in the applicable NEPA Documents and to compare field conditions to CSXT's documentation relating to environmental controls during the life of construction,
 - 1.3.2.4.2 subject to and in accordance with § 4.2 of the Master Construction Agreement (CSXT), and to avoid the need for repetitive notice for those VPRA employees, consultants, and Contractors who regularly observe and monitor the Work, VPRA may coordinate and provide reasonable notice to CSXT for site access as follows: VPRA will provide a list of those individuals who will regularly be on site observing and monitoring the Work to the CSXT Designated Representative. The CSXT Designated Representative will meet and coordinate with those individuals prior to access being permitted to ensure that all safety and security requirements are adhered to while on site;
 - 1.3.2.5 monthly meetings – VPRA will participate in at least monthly Project review meetings (pursuant to § 7.1 of the Master Construction Agreement (CSXT));

- 1.3.2.6 long lead materials – VPRA will assist CSXT to identify long lead time materials;
 - 1.3.2.7 prevailing wage reviews – VPRA may conduct periodic reviews with respect to Davis Bacon requirements to the extent required by law;
 - 1.3.2.8 quality assurance – VPRA may opt to (but has no duty to) review/audit any quality records provided by CSXT under an approved quality assurance plan;
 - 1.3.2.9 Contractor requests for information – if requested by CSXT, VPRA will support CSXT in its response to Contractors' requests for information;
 - 1.3.2.10 as-built plans – VPRA will support CSXT with review of the Contractor prepared as-built drawings and construction documents;
 - 1.3.2.11 communications – VPRA will work with CSXT to develop a written communications plan, inclusive of organizational charts and points of contact, that will be utilized for communication among key individuals and organizations during construction; and
 - 1.3.2.12 service planning and service interruption notices – VPRA will participate in Performance Managers Committee meetings and coordinate with Amtrak and the VRE commissions to communicate all service interruptions arising from the Project to public passengers.
- 1.3.3 Rights under Master Construction Agreement (CSXT). This § 1.3 (*VPRA Role*) is meant to supplement the rights and duties of VPRA under the Master Construction Agreement (CSXT), but nothing in this § 1.3 (*VPRA Role*) shall alter such rights and duties.

1.4 CSXT Role

- 1.4.1 CSXT-Led Activities. Except for items allocated to VPRA under the Master Construction Agreement (CSXT) or § 1.3 (*VPRA Role*) of this Project Addendum, CSXT is responsible for all Work identified within the scope of Work and included in the construction cost estimate, to achieve Final Completion of the Project. Absent a letter of no prejudice issued by an authorized VPRA employee, CSXT shall not proceed with any portions of the Work until VPRA has issued a corresponding written notice to proceed. CSXT's role includes:

- 1.4.1.1 permitting – see **ATTACHMENT A** (*Permitting Plan*) for each party's Project permitting responsibilities, provided that, if any of the permits contemplated by such attachments are not deemed necessary for the Project according to the relevant permitting entity, then neither party shall be responsible to obtain and maintain such unnecessary permits;
- 1.4.1.2 risk register support – CSXT will reasonably cooperate with VPRA to identify risks associated with construction in connection with the risk register, as developed, maintained, and updated in accordance with § 1.3.1.3, provide input to VPRA in advance of risk workshops, and participate in risk workshops;
- 1.4.1.3 Project safety – CSXT will be responsible for site access and work health and safety policies and procedures;
- 1.4.1.4 utility coordination and relocations – CSXT shall lead all utility coordination and relocations necessary for the Project except for those related to Stafford County water and sanitary sewer relocations led by VPRA pursuant to § 1.3.1.5 of this Project Addendum which CSX will coordinate with VPRA on; financial responsibility for any utility relocation costs will be handled in accordance with the Comprehensive Rail Agreement², with CSXT coordinating the initial outreach with utility providers;
- 1.4.1.5 Work Schedule – in accordance with § 5.2 of the Master Construction Agreement (CSXT), CSXT will deliver to VPRA a proposed construction schedule, inclusive of proposed Work Windows, and collaborate with VPRA to establish a finalized, baseline Work Schedule. Once the parties agree on a finalized baseline Work Schedule, CSXT shall provide to VPRA the finalized baseline Work Schedule together with a Project billing forecast. The project billing forecast will be provided for information only and is intended to aid VPRA in understanding the timing of project expenditures and, thus, project billing. After delivery of the finalized baseline Work Schedule, as part of the Project Evaluation Reports, CSXT will deliver to VPRA monthly Work Schedule updates during the life of the Project;

² VPRA entered into a *Master Utility Coordination Agreement* with Centurylink Communications, LLC (also referred to as "Lumen") dated September 16, 2024. Under this agreement, VPRA will pay Lumen's relocation costs as a Project expense. Accordingly, VPRA will reimburse CSXT under this Project Addendum for any such relocation activities performed by CSXT or its contractors. For any such work self-performed by Lumen, VPRA will reimburse Lumen directly under the *Master Utility Coordination Agreement*.

- 1.4.1.6 look-ahead schedules – CSXT will provide to VPRA any look-ahead schedules provided to CSXT by its Contractor(s);
- 1.4.1.7 flagging – CSXT will coordinate and supply all flagging resources, subject to availability;
- 1.4.1.8 CSXT-led construction-specific activities:
 - 1.4.1.8.1 quality – CSXT shall develop, or cause to be developed, a construction quality assurance and quality control plan for the Project, and shall ensure all Work has undergone quality review in accordance with such plan, and that all Work meets the Applicable Project Standards;
 - 1.4.1.8.2 reporting – CSXT will provide VPRA monthly Project evaluation reports as required under § 7.2 of the Master Construction Agreement (CSXT);
 - 1.4.1.8.3 summary information – to the extent VPRA requests more frequent reporting than monthly, then CSXT may provide such reports without obligation, and to the extent provided, such reports will be at VPRA's cost;
 - 1.4.1.8.4 as-builts – CSXT will prepare and provide as-built drawings and construction documents to VPRA for review and for record keeping purposes;
- 1.4.1.9 CSXT will perform the following adjacent project coordination:
 - 1.4.1.9.1 CSXT will coordinate with VPRA and the VRE commissions for the Leeland Road Station Project (to the extent that project is advanced concurrently with the Project);
 - 1.4.1.9.2 CSXT will coordinate with VPRA on the Leeland Road Bridge Reconstruction project;
- 1.4.1.10 communications – CSXT will work with VPRA to develop a written communications plan, inclusive of organizational charts and points of contact, that will be utilized for communication among key individuals and organizations during construction;

- 1.4.1.11 CSXT will require its Contractor(s) to report DBE usage to VPRA monthly using the form attached as **ATTACHMENT B** (*Monthly DBE Participation Report*); and
- 1.4.1.12 CSXT will require its Contractor(s) to report SWAM usage to VPRA monthly, and may use (but is not required to use) the form attached as **ATTACHMENT E** (*Monthly Small and Diverse Business Utilization Report*) for VPRA's own internal tracking purposes; and
- 1.4.1.13 service planning and service interruption notices – CSXT will participate in Performance Managers Committee meetings and will submit requests for any required passenger rail service interruptions or slow orders in accordance with the protocols established by the Performance Managers Committee.

1.4.2 **Rights under Master Construction Agreement (CSXT)**. This § 1.4 (CSXT Role) is meant to supplement the rights and duties of CSXT under the Master Construction Agreement (CSXT), but nothing in this § 1.4 (CSXT Role) shall alter such rights and duties.

1.5 Changes to Scope

Changes to the scope will be completed in accordance with §§ 4.4 and 4.5 of the Master Construction Agreement (CSXT). Modifications expected to exceed the Construction Contingency Threshold are subject to the prior approval of VPRA in accordance with § 8.1(c) of the Master Construction Agreement (CSXT).

2 FUNDING REQUIREMENTS

2.1 Federal Funding Partners

VPRA anticipates receiving funding assistance from Amtrak for the Project. Accordingly, The parties agree that **ATTACHMENT F** (*National Railroad Passenger Corporation (Amtrak) Supplementary General Provisions for Construction Contracts*) is incorporated into this Project Addendum, and CSXT will comply with such attachment to the extent required by federal law, and incorporate the requirements of such attachment into any applicable third-party agreements. If CSXT is not reimbursed for Work performed under this Project Addendum, or otherwise incurs an adverse impact, due to an alleged failure to comply with any provision of **ATTACHMENT F** (*National Railroad Passenger Corporation (Amtrak) Supplementary General Provisions for Construction Contracts*), then CSXT reserves the right to challenge such provision as being outside the scope of the requirements of federal law. If CSXT is successful in this challenge, CSXT will not be contractually bound to adhere to such provision.

2.2 Audit

All work on the Project shall be performed and audited in accordance with 2 C.F.R. parts 200 and 1201.

3 PROJECT COSTS; NOTICES TO PROCEED; CONTRACTORS; PAYMENT

3.1 Project Cost Control Amounts

The parties acknowledge and agree that, for the purpose of supporting Early Work and right-of-way acquisition work, they are entering into this Project Addendum before final design for the Project has been completed, and before establishing the Project Cost Control Amounts. However, in accordance with §§ 8.1, 9.1, and 9.2 of the Master Construction Agreement (CSXT), the Project Cost Control Amounts will be established by the parties at or near the completion of the design work for the Project. CSXT's right to payment will not be prejudiced by performance of any Work prior to final design or establishing the Project Cost Control Amounts. Upon CSXT's receipt of firm construction pricing from its Contractor(s), the parties will meet and confer, and work together in good faith to establish such amounts and, once established, will amend this Project Addendum with the form attached hereto as **ATTACHMENT C** (*Project Cost Control Amounts*) to include such amounts. For clarity, VPRA may establish a VPRA-controlled contingency reserve fund with respect to the Project to be funded independently of any agreement with CSXT by VPRA and applied by VPRA in its sole discretion; such VPRA-controlled contingency reserve fund will be separate and apart from the Construction Contingency Reserve established as part of the Maximum Not To Exceed Amount under § 8.1(a) of the Master Construction Agreement (CSXT). Notwithstanding anything to the contrary contained in this Project Addendum, CSXT shall not be required to perform any obligation under this Project Addendum other than any Early Work and support for right-of-way acquisition work until the Project Cost Control Amounts have been agreed and added to **ATTACHMENT C** (*Project Cost Control Amounts*) accordingly.

3.2 Notices to Proceed

As Project status and conditions allow, VPRA will issue written notices to proceed with respect to portions or all of the Work to CSXT as follows:

- 3.2.1 one or more Early Work notices to proceed authorizing CSXT to undertake specifically-defined Early Work, with a corresponding compensation cap for the authorized Early Work; and
- 3.2.2 a construction notice to proceed authorizing CSXT to undertake any and all portions of the Work not yet underway.

In accordance with § 5.1 of the Master Construction Agreement (CSXT), CSXT shall commence the relevant Work within thirty (30) days after delivery of any notice to proceed by VPRA, provided that all other requirements of § 5.1 are also met, with the parties to agree upon an amount in lieu of the EPC for any notices to proceed delivered by VPRA prior to the establishment of the EPC.

3.3 CSXT Use of Contractors

- 3.3.1 In accordance with § 9.3(b) of the Master Construction Agreement (CSXT), at least thirty (30) days prior to publication, CSXT shall provide to VPRA for review and comment any solicitation document used to hire a Contractor to perform Work. In each case, the parties will work in good faith to establish a corresponding Maximum Bid Amount, as required by §§ 9.3(b) and (c) of the Master Construction Agreement (CSXT). Among other provisions and in accordance with § 5.4 of the Master Construction Agreement (CSXT), CSXT shall include liquidated damages for Contractor's failure to complete the applicable Work by the Final Completion deadline in accordance with the applicable Work Schedule.
- 3.3.2 Procurements to be undertaken by CSXT must comply with the Master Construction Agreement (CSXT).
- 3.3.3 Unless otherwise approved by VPRA, CSXT shall require its Contractor(s) to defend, indemnify, and hold harmless VPRA in accordance with § 24.1 of the Master Construction Agreement (CSXT).
- 3.3.4 In accordance with § 9.4 of the Master Construction Agreement (CSXT), CSXT shall require payment and performance bonds with penal sums set at 100% of the value of the bonded contract. Such bonds shall name VPRA as an additional obligee.

3.4 Payment

CSXT will submit and VPRA will pay invoices for Project Costs in accordance with § 14 of the Master Construction Agreement (CSXT). CSXT will submit invoices using CSXT's standard public project invoice form. VPRA may require CSXT to submit invoices (using CSXT's standard public project invoice form) related to the Project electronically through its vendor portal. CSXT Self-Performed Work shall be invoiced at the contemporaneous fully-burdened labor rates paid by CSXT for each individual CSXT employee providing labor on the Project. At any time during the Project, within five (5) business days after a request from VPRA, CSXT shall provide supporting documentation demonstrating the contemporaneous fully-burdened labor rates paid by CSXT to CSXT forces for the CSXT Self-Performed Work.

4 WORK SCHEDULE

4.1 Work Schedule and Work Windows

The Work Schedule and Work Windows will be developed and agreed by the parties in accordance with §§ 1.3 (*VPRA Role*) and 1.4 (*CSXT Role*) of this Project Addendum, and § 5.2(b) of the Master Construction Agreement (CSXT).

4.2 Changes to Work Schedule

Changes to the Work Schedule will be completed in accordance with § 5.2(d) of the Master Construction Agreement (CSXT).

5 PROJECT REVIEWS

5.1 Meetings

The parties' Designated Representatives and other required parties will hold Project review meetings in accordance with § 7.1 of the Master Construction Agreement (CSXT). These meetings will be held at least monthly and (depending on the contemporaneous ongoing Project activities) shall be held at more frequent intervals if requested by VPRA.

6 PERSON IN CHARGE

6.1 VPRA Designated Representative

Jon Griffin, PE
919 E. Main Street
Suite 2400
Richmond, VA 23219
Jon.Griffin@vpva.virginia.gov

6.2 CSXT Designated Representative

Brett Sanders
Director – Mid-Atlantic Construction
3601 Eisenhower Ave., Suite 600
Alexandria, VA 22304
Brett_Sanders@csx.com

7 MAINTENANCE OF PROJECT RECORDS

CSXT shall maintain records and data and provide VPRA access to such records and data in accordance with § 16.9 of the Master Construction Agreement (CSXT). In addition, CSXT shall include in its contracts with any Contractors (of any tier) undertaking Work pursuant to this Project Addendum an obligation by the Contractor to equally maintain any such records and data, which will be subject to access by CSXT, and which may in turn be provided to VPRA.

8 GOVERNING DOCUMENTS AND ORDER OF PRECEDENCE

Conflicts between Contract Documents will be resolved in accordance with § 2.2 of the Master Construction Agreement (CSXT).

9 INSURANCE REQUIREMENTS

CSXT shall require its Contractor(s) performing Work pursuant to this Project Addendum to obtain and maintain at least the insurance coverage types and amounts set forth in **ATTACHMENT D** (*Insurance Requirements*) to this Project Addendum.

10 TIMELY RESOLUTION OF NON-CONFORMING WORK

Upon observing, inspecting, or monitoring the Work, either party may initiate a written report noting any Work that it contends does not conform to the Applicable Project Standards or other Project requirements. If VPRA initiates such a report, it shall provide such report first to CSXT for review and CSXT will provide such report to its relevant Contractor(s) or relevant CSXT staff. The parties will use commercially reasonable efforts to either (i) remedy any non-compliant Work within 21 calendar days after its discovery and report, or (ii) if the circumstances are such that a remedy cannot be effected within 21 calendar days, then within 21 calendar days after its discovery and report, develop and implement a plan to remedy the non-conforming work as soon as practicable.

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IN WITNESS WHEREOF, this Project Addendum has been executed the day and year set out below, on the part of VPRA and CSXT by authority duly given.

**VIRGINIA PASSENGER RAIL
AUTHORITY**

CSX TRANSPORTATION, INC.

BY: _____

BY: _____

NAME: _____

NAME: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

Remainder of this page intentionally left blank

ATTACHMENT A
PERMITTING PLAN
[SEE ATTACHED]

Siding A
Environmental and Construction Permits

Permit Name	Agency	Permit/Approval	Party Responsible to Obtain	Party Preparing Materials
Agency Coordination and Permits				
JPA	USACE, VDEQ, VMRC	Prepare a Joint Permit Application (JPA) to be submitted to USACE, DEQ, and VMRC.	CSXT	CSXT, VPRA
VDEQ VWP 401 Permit	VDEQ	Obtain separate Section 401 of the Clean Water Act permits (Water Quality Certification) for construction/operations which may result in any discharge to navigable waters.	CSXT	CSXT, VPRA
USACE 404 Permit	USACE	Obtain separate Section 404 of the Clean Water Act permits dredge and fill materials in Waters of the U.S. (WOTUS)	CSXT	CSXT, VPRA
VPDES Construction General Permit (CGP)	VDEQ	Obtain a Section 402 of the Clean Water Act permit (National Pollution Discharge Elimination System (NPDES))	CSXT	VPRA
VMRC Permit	VMRC	Obtain Subaqueous Lands permit and Subaqueous Bottoms Permit from VMRC	CSXT	CSXT
Phase II (General) MS4 Permit	VDEQ	Obtain an MS4 Permit—Small Municipal Separate Storm Sewer Systems	CSXT	VPRA
Demolition Permit	Stafford County	Obtain a demolition permit.	CSXT	CSXT, VPRA
Offsite Material Disposal	VDEQ	Obtain any necessary permits and haulage rights to move material to a suitable disposal site or landfill	CSXT (contractor)	CSXT
Detour Permit - Leeland Road	Stafford County VDOT	Obtain a detour permit.	VPRA	VPRA
Detour Permit - Harrel Road	Stafford County VDOT	Obtain a detour permit.	CSXT Contractor	VPRA, CSXT
Construction staging with VRE	VRE	permission to store and stage material in the VRE parking lot	CSXT Contractor	VPRA, CSXT
Right of Entry (ROE) - Private Landowners	Private landholders	Process to obtain right of entry onto private lands adjacent to the project	VPRA	VPRA
Right of Entry (ROE) - CSXT ROW	CSXT	Obtain ROE from CSXT as required to support (XXX)	CSXT, VPRA, MBI, RINA	CSXT, VPRA
Environmental Protection				
Submit JD	USACE, VDEQ, VMRC	As part of the JPA process, VPRA will submit a formal jurisdictional determination to the USACE.	CSXT	CSXT, VPRA
Phase I (Individual) MS4 Permit	VDEQ	Obtain an MS4 Permit—Large and Medium Municipal Separate Storm Sewer System	CSXT	VPRA
NEPA Re-Evaluation Checklist	FRA	As a part of the NEPA re-evaluation process, communication will occur with the following agencies, including but not limited to, VDEQ, VDWR, USFWS, VDHR, FHWA, and FRA, regarding environmental constraints including but not limited to threatened and endangered species, noise and vibration, cultural resources, and section 4(f) properties. Supplemental NEPA re-evaluations may be needed as design advances.	VPRA	VPRA
Noise and Vibration	FRA / FTA	HMMH to perform study and obtain clearance for potential operational and construction Noise and Vibration impacts to surrounding resources based on FRA / FTA regulations. To be incorporated into NEPA Re-Evaluation.	VPRA	VPRA
Section 106 (Cultural Resources)	VDHR	Dovetail to finalize cultural resource report for Siding A and submit to VDHR for concurrence on impacts. To be incorporated into NEPA Re-Evaluation.	VPRA	VPRA
CLOMR/LOMR	FEMA	Obtain floodplain development permit including a no-rise/impact certification for each regulated floodplain/floodway and/or non-encroachment area crossing or a submittal for a CLOMR per 44 CFR Section 65.12.	VPRA	VPRA

ATTACHMENT B

MONTHLY DBE PARTICIPATION REPORT

[SEE ATTACHED FORM]



MONTHLY DBE PARTICIPATION REPORT

For Internal Use:

Reviewed by, _____

Dated: _____

Contract Id. No.:

Check Here if Final Report [☐]

Contractor/Consultant:	Reporting Period (Month/Year):	Report No.:
Contact:	Email:	Phone:

All Contractors making payments to DBE subcontractors/subconsultants/suppliers, regardless of their tier, are required to complete and submit this form each time payments are made to a DBE subcontractors/subconsultant/supplier during the previous thirty-day payment period of the Contract.

NAME OF CERTIFIED DBE FIRM (Subcontractor/Subconsultant/Supplier)	DBE FIRM'S FEDERAL TAX ID NUMBER	DATE OF PAYMENT (To DBE)	AMOUNT PAID THIS MONTH (To DBE)	AMOUNT PAID TO DATE (To DBE)	ACTUAL DBE UTILIZATION TO DATE (%)	DBE UTILIZATION AS LISTED ON FORM PD 50B (%)

I certify that contracts have been executed with the above firms, amounts listed are accurate and payments were made in accordance with contractual obligations. Cancelled checks and/or supporting information will be on file for inspection or audit.

Signature	Title
Date	

ATTACHMENT C
PROJECT COST CONTROL AMOUNTS

Defined Term	Value
Estimated Project Costs	[to be developed at or near final design pursuant to § 9.1 of the Master Construction Agreement (CSXT)]
(CSXT) Construction Contingency Reserve	[to be developed at or near final design pursuant to § 8.1 of the Master Construction Agreement (CSXT)]
Maximum Not To Exceed Amount	[to be developed at or near final design pursuant to § 8.1 of the Master Construction Agreement (CSXT)]

ATTACHMENT D
INSURANCE REQUIREMENTS

[SEE ATTACHED]

INSURANCE REQUIREMENTS

I. Insurance Policies:

Contractor, to the extent performing work on or about CSX's property, shall procure and maintain the following insurance policies and all required insurances shall contain a waiver of subrogation provision in favor of VPRA and CSX:

1. Commercial General Liability coverage at their sole cost and expense with limits of not less than \$5,000,000 in combined single limits for bodily injury and/or property damage per occurrence, and such policies shall name CSX and VPRA each as an additional named insured. The policy shall include endorsement ISO CG 24 17 evidencing that coverage is provided for work within 50 feet of a railroad. If such endorsement is not included, railroad protective liability insurance must be provided as described in item 4 below.
2. Statutory Worker's Compensation and Employers Liability Insurance with limits of not less than \$1,000,000, which insurance must contain a waiver of subrogation against CSX and its affiliates (if permitted by state law).
3. Commercial automobile liability insurance with limits of not less than \$1,000,000 combined single limit for bodily injury and/or property damage per occurrence, and such policies shall name CSX and VPRA each as an additional named insured. The policy shall include endorsement ISO CA 20 70 evidencing that coverage is provided for work within 50 feet of a railroad. If such endorsement is not included, railroad protective liability insurance must be provided as described in item 4 below.
4. Railroad protective liability insurance with limits of not less than \$5,000,000 combined single limit for bodily injury and/or property damage per occurrence and an aggregate annual limit of \$10,000,000, which insurance shall satisfy the following additional requirements:
 - a. The Railroad Protective Insurance Policy must be on the ISO/RIMA Form of Railroad Protective Insurance - Insurance Services Office (ISO) Form CG 00 35.
 - b. CSX Transportation must be the named insured on the Railroad Protective Insurance Policy.
 - c. Name and Address of Contractor must appear on the Declarations page.
 - d. Description of operations must appear on the Declarations page and must match the Project description.
 - e. Authorized endorsements must include the Pollution Exclusion Amendment - CG 28 31, unless using form CG 00 35 version 96 and later.
 - f. Authorized endorsements may include:
 - (i). Broad Form Nuclear Exclusion - IL 00 21
 - (ii). 30-day Advance Notice of Non-renewal or cancellation
 - (iii). Required State Cancellation Endorsement
 - (iv). Quick Reference or Index - CUil 240

g. Authorized endorsements may not include:

- (i). A Pollution Exclusion Endorsement except CG 28 31
- (ii). A Punitive or Exemplary Damages Exclusion
- (iii). A "Common Policy Conditions" Endorsement
- (iv). Any endorsement that is not named in Section 4 (e) or (t) above.
- (v). Policies that contain any type of deductible

5. All insurance companies must be A. M. Best rated A- and Class VII or better.

6. The CSX OP number or CSX contract number, as applicable, must appear on each Declarations page and/or certificates of insurance.

7. Such additional or different insurance as CSX may require, which for the purposes of the Alexandria Fourth Track Project shall include:

a. **Umbrella/Excess Liability Insurance** in excess of the underlying limits noted above-mentioned policies in the amount of \$15,000,000 per occurrence and in the aggregate. Such policy(ies) shall be written on a "following form" basis, without any gaps in the limits of coverage and be at least as broad as and follow the form of underlying primary coverages required herein. VPRA shall be named as an additional insured on a primary, non-contributory basis. Such insurance shall be maintained for five (5) years after final

acceptance and final payment for the work.

b. **Contractor's Pollution Liability Insurance** shall be required of any entity that is undertaking construction work, including any utility relocation, test boring, or digging test pits. Such coverage shall have a minimum limit of \$2,000,000 per claim and in the aggregate and need not be project-specific. Such coverage shall indemnify for bodily injury, property damage, cleanup/remediation costs or other amounts which the entity undertaking the work, its employees, or agents, or its subcontractors are legally obligated to pay arising out of such activities, including any transit and/or disposal of non-owned disposal sites. VPRA shall be named as and additional insured on a primary, non-contributory basis.

II. Additional Terms:

1. Contractor must submit the original Railroad Protective Liability policy, Certificates of Insurance and all notices and correspondence regarding the insurance policies to:

Insurance Department CSX
Transportation, Inc. 500 Water Street, C-
907 Jacksonville, FL 32202

insurancedocuments@csx.com

2. Contractor may not begin work on the Project until it has received CSX's written approval of the required insurance.

ATTACHMENT E
MONTHLY SMALL AND DIVERSE BUSINESS UTILIZATION REPORT
[SEE ATTACHED FORM]



MONTHLY SMALL AND DIVERSE BUSINESS UTILIZATION REPORT

Project

Reporting Period (M/Y)

Prime Contractor Name

Contact Name

Date Submitted

Phone Number

Email

Subcontractor Name	Tax ID No.	Description of Work Provided	Payments to Qualifying Small Businesses (1)	Payments to other DSBSD/MWAA Certified Firms (2)	Payments to other small or diverse businesses not certified by DSBSD or MWAA (3) [OPTIONAL]	TOTALS

Attach additional pages if necessary

I certify that contracts have been executed with the above firms, amounts listed are accurate and payments were made in accordance with contractual obligations. Cancelled checks and/or supporting information will be on file for inspection or audit.

Signature

Title

Notes:

- (1) Denotes firms which are certified as a "small businesses," by the Department of Small Business and Supplier Diversity (DSBSD) and which are identified in Section B of the approved Small Business and Diverse Subcontracting Plan (Form PD 60)
- (2) Denotes firms which are not certified as a "small business," by DSBSD but which hold other certifications or status from either DSBSD or the Metropolitan Washington Airports Authority (MWAA) (i.e., women-owned (W), minority-owned (M), service disabled veteran-owned (SDV), or disadvantaged business enterprise (DBE)). Please include classification code along with payment information.
- (3) Denotes firms which are not certified by DSBSD or MWAA, but which are otherwise certified as a small or diverse business by another certifying body. Please include a description of the certification along with payment information.

ATTACHMENT F

NATIONAL RAILROAD PASSENGER CORPORATION
(AMTRAK)

SUPPLEMENTARY GENERAL PROVISIONS
FOR CONSTRUCTION CONTRACTS

[SEE ATTACHED]



**NATIONAL RAILROAD PASSENGER CORPORATION
(AMTRAK)**

**SUPPLEMENTARY GENERAL PROVISIONS
FOR CONSTRUCTION CONTRACTS**

1.0 Davis-Bacon Act.

1.1 For construction contracts in excess of \$2,000, Contractor shall comply with the Davis-Bacon Act, as amended (40 U.S.C. 3141-3144 and 3146-3148), as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). All laborers and mechanics employed or working upon the site of the Work shall be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted under the Copeland Act (18 U.S.C. 874 and 40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3)), the full amount of wages due at time of payment computed at wage rates not less than the aggregate of the basic hourly rates and the rates of payments, contributions, or costs for any fringe benefits contained in the appropriate wage determination decision of the Secretary of Labor which is incorporated into the Contract by reference and made a part hereof, regardless of any contractual relationship which may be alleged to exist between Contractor or the subcontractor and such laborers and mechanics. A copy of such wage determination decision shall be kept posted by Contractor at the site of the Work in a prominent and accessible place where it can be easily seen by the workers. The term "laborers and mechanics" shall be deemed to include apprentices and trainees not covered by an approved program.

1.2 The wage determination decision of the Secretary of Labor specifies the minimum hourly rates of wages that shall be paid to laborers and mechanics employed or working directly upon the site of the Work. The rates have been determined by the Secretary of Labor in accordance with the provisions of the Davis-Bacon Act, as amended, to be the prevailing rates for the corresponding classes of laborers and mechanics employed on contracts of a similar character in the locality where this Work is to be performed.

1.3 The wage determination decision of the Secretary of Labor is for the purpose of setting forth the minimum hourly wage rates required to be paid during the life of the Contract and is not to be accepted as a guarantee, warranty or representation as to the wage rates indicated therein. While the wage rates given in the decision are the Contract minimum rates,

it is the responsibility of Contractor to inform itself as to local labor conditions such as the prevailing wage rates, the length of the workday and workweek, overtime compensation, health and welfare contributions, available labor supply, and prospective changes or adjustments of wage rates. Contractor shall abide by and conform to all applicable laws, Executive Orders, rules, regulations and orders of Federal agencies authorized to pass upon and determine wage rates. Under no circumstances shall any mistake in complying with the appropriate wage determination decision of the Secretary of Labor and in the wage rates set forth therein entitle Contractor to cancellation of the Contract or to an increase in the Contract Sum or other additional payment or recovery.

1.4 Contractor may discharge its obligation under this Section to workers in any classification for which the wage determination decision contains:

1.4.1 Only a basic hourly rate of pay, by making payment at not less than such basic hourly rate, except as otherwise provided in the Copeland Act Regulations (29 CFR Part 3); or

1.4.2 Both a basic hourly rate of pay and fringe benefits payments, by making payment in cash, by irrevocably making contributions pursuant to a fund, plan, or program for, and/or by assuming an enforceable commitment to bear the cost of, bona fide fringe benefits contemplated by the Davis-Bacon Act, or by any combination thereof. Contributions made, or costs assumed, on other than a weekly basis shall be considered as having been constructively made or assumed during a weekly period to the extent that they apply to such period. Where a fringe benefit is expressed in a wage determination in any manner other than as an hourly rate and Contractor pays a cash equivalent or provides an alternative fringe benefit, it shall furnish information with its payrolls showing how it determined that the cost incurred to make the cash payment or to provide the alternative fringe benefit is equal to the cost of the wage determination fringe benefit. In any case where Contractor provides a fringe benefit different from any contained in the appropriate wage determination it shall similarly show how it arrived at the hourly rate shown therefor. In the event of disagreement between or among the interested parties as to an equivalent of any fringe benefit, the Contracting Official shall submit the question, together with its recommendation, to the Secretary of Labor for final determination.

1.5 The assumption of an enforceable

commitment to bear the cost of fringe benefits, or the provision of any fringe benefits not expressly listed in 3141(2)(B) of the Davis-Bacon Act or in the wage determination decision forming a part of the Contract may be considered as payment of wages only with the approval of the Secretary of Labor pursuant to a written request by Contractor. The Secretary of Labor may require Contractor to set aside assets, in a separate account, to meet its obligations under any unfunded plan or program pursuant to U.S.C. 3141(2)(B)(i).

1.6 The Contracting Official shall require that any class of laborers or mechanics, including apprentices and trainees, which is not listed in the wage determination decision and which is to be employed under the Contract shall be classified or reclassified in conformance with the wage determination decision and shall report the action taken to the Secretary of Labor. If the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers or mechanics, including apprentices and trainees to be used, the Contracting Official shall submit the question, together with his/her recommendation, to the Secretary of Labor for final determination. Apprentices and trainees may be added under this Section only where they are employed pursuant to an apprenticeship or trainee program.

1.7 As set forth in 40 U.S.C. 3143, in the event it is found by the Contracting Official that any laborer or mechanic, including apprentices and trainees, employed by Contractor or any subcontractor directly on the site of the Work covered by this Contract has been or is being paid at a rate of wages less than the rate of wages required by this Section, the Contracting Official may (a) by written notice to Contractor terminate its right to proceed with the Work, or such part of the Work as to which there has been a failure to pay said required wages, and/or (b) prosecute the Work to completion by contract or otherwise, whereupon Contractor and its sureties shall be liable to Amtrak for any excess costs occasioned Amtrak thereby.

1.8 The foregoing requirements of this Section and the requirements of the Davis-Bacon Act as amended (40 U.S.C. 3141-3144 and 3146-3148) shall be deemed to have been complied with for Work performed under this Contract by employees of railroads operating under collective bargaining agreements subject to the provisions of the Railway Labor Act (45 U.S.C. 151 *et seq.*).

1.9 The rights and remedies of Amtrak provided in this Section are in addition to any other rights and remedies provided under this Contract.

2.0 Contract Work Hours And Safety Standards Act – Overtime Compensation.

2.1 For all contracts that involve the employment

of mechanics or laborers and are in excess of \$100,000, Contractor must include a provision for compliance with sections 3702 and 3704 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 *et seq.*), as supplemented by Department of Labor regulations (29 CFR Part 5).

2.2 Under 40 U.S.C. 3702, no contractor or subcontractor contracting for any part of the Work which may require or involve the employment of laborers or mechanics shall require or permit any such laborers or mechanics in any workweek in which the individual is employed on such Work to work in excess of forty (40) hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than 1 1/2 times the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek.

2.3 In the event of any violation of the provisions set forth in Section 2.2 hereof, Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions set forth in Section 2.2 hereof in the sum of twenty-five dollars (\$25) for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty (40) hours without payment of the overtime wages required by 40 U.S.C. 3702.

2.4 The Contracting Official shall, upon his or her own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld, from any moneys payable on account of Work performed by Contractor or subcontractor under any such contract or any other Federal Contract with the same Prime Contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same Prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions set forth in Section 2.3 hereof.

2.5 Contractor shall comply with Section 3704 of the Contract Work Hours and Safety Standards Act, which provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

3.0 Payroll And Basic Records.

3.1 Contractor shall maintain payrolls and basic

records relating thereto for all employees, laborers and mechanics, including apprentices, trainees, watchmen, and guards working at the site of the Work during the course of the Work and for a period of three (3) years after final payment under the Contract. Such records shall contain the name, address and social security number of each such employee, his/her correct classification, rate of pay (including rates of contributing for, or costs assumed to provide, fringe benefits), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever Contractor has obtained approval from the Secretary of Labor as provided in Section 1.5 hereof, it shall maintain records which show the commitment, its approval, written communication of the plan or program to the laborers or mechanics affected, and the costs anticipated or incurred under the plan or program.

3.2 Contractor shall submit weekly a copy of all payrolls to the Contracting Official. The first submission of copies of Contractor's payrolls shall include a copy of the complete appropriate wage rate decisions. Contractor shall be responsible for the submission of copies of payrolls of all subcontractors. The copy shall be accompanied by a "Statement of Compliance" signed by Contractor indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor, and that the classifications set forth for each laborer or mechanic, including apprentices and trainees, conform with the Work it performed. Submission of the weekly "Statement of Compliance" required under this Contract and the Copeland Regulations of the Secretary of Labor (29 CFR Part 3) shall satisfy the requirement for submission of the above statement. Contractor shall submit also a copy of any approval by the Secretary of Labor with respect to fringe benefits, which is required by Section 1.5 hereof. Contractor, its subcontractors at all tiers employing apprentices or trainees under approved programs shall include a notation on the first weekly certified payrolls submitted to the Contracting Official that their employment is pursuant to an approved program and shall identify the program.

3.3 Contractor or subcontractor shall make the records required under this Section available for inspection, copying and transcription by authorized representatives of the Contracting Official, the Department of Labor, and authorized representatives of the Federal Railroad Administration (FRA), U.S. Department of Transportation and the Comptroller General and shall permit such representatives to interview employees during working hours on the job.

3.4 The foregoing requirements of this Section shall be deemed to have been complied with for Work performed under this Contract by employees of railroads operating under collective bargaining

agreements subject to the provisions of the Railway Labor Act (45 U.S.C. 151 *et seq.*).

3.5 Contractor shall insert in each subcontract the provisions set forth in Sections 3.1 – 3.3 hereof and also a provision requiring the subcontractors to include these provisions in any subsubcontracts. Contractor shall be responsible for compliance by each subcontractor or subsubcontractor with the provisions set forth in Sections 3.1 through 3.3 hereof.

4.0 Compliance With Copeland Regulations.

Contractor shall comply with the requirements of the Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 3145) as supplemented in Department of Labor Regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States"). The Act provides that each contractor or subcontractor must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

5.0 Record Retention And Access.

5.1 Contractor shall retain all financial records, supporting documents, statistical records and all other Contractor records pertinent to this Contract for a period of three years after contract closeout as set forth in 2 CFR 200.333 – 200.337.

5.2 Authorized representatives of the FRA, Inspectors General, and the Comptroller General of the United States, shall have access to and the right to examine, audit and copy any of Contractor's directly pertinent books, documents, papers, or other records involving transactions related to this Contract as long as the records are retained.

5.3 In cases where litigation, a claim, or an audit is initiated prior to the expiration of the three-year period, records must be retained until completion of the action and resolution of the issues or the end of the three-year period, whichever is later.

5.4 In accordance with the May 2013 Executive Order on Making Open and Machine Readable the New Default for Government Information, the Contractor shall, whenever practicable, collect, transmit, and store Contract-related information in open and machine readable formats rather than in closed formats or on paper.

6.0 Cargo Preference - Use Of United States Flag Vessels.

Contractor agrees to comply with 46 U.S.C. 1241(b) and regulations issued thereunder (46 CFR Part 381, "Cargo Preference --U.S.- Flag Vessels"), to the extent valid and applicable, as follows:

6.1 To utilize privately owned United States-flag

commercial vessels to ship at least fifty percent (50%) of the gross tonnage involved under the Contract (computed separately for dry bulk carriers, dry cargo liners, and tankers) whenever shipping any equipment, materials or commodities pursuant to this Contract to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels;

6.2 To furnish within twenty (20) days following the date of loading for shipments originating within the United States or within thirty (30) working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in Section 6.1 above to Amtrak (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of Cargo Preference and Domestic Trade,, Maritime Administration, 1200 New Jersey Avenue, SE, Washington, D.C. 20590, marked with appropriate identification; and

6.3 To insert the substance of the provisions of this Section in all subcontracts issued pursuant to this Contract.

7.0 Byrd Anti-Lobbying Amendment.

Contractors that apply or bid for an award exceeding \$100,000, shall file the required certification at 49 CFR Part 20, "New Restrictions on Lobbying", which is attached hereto as Appendix A. Each tier contractor shall certify to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier contractor shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures shall be forwarded from tier to tier up to Amtrak.

8.0 Debarment And Suspension. For contracts that exceed \$250,000, Contractor shall certify to Amtrak that Contractor is not listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with OMB guidelines at 2 CFR Part 180 that implement Executive Orders 12549 and 12689, "Debarment and Suspension". SAM exclusions contain the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractor shall comply and cause its subcontractors and all lower tier subcontractors to comply with U.S. DOT regulations, 2 CFR Part 180

and 2 CFR Part 1200, "Nonprocurement Suspension and Debarment". Contractor shall execute the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion", set forth in Appendix B. Contractor agrees to obtain the same such certification on debarment and suspension from its subcontractors and lower tier subcontractors.

9.0 Equal Employment Opportunity.

Contractor shall comply and shall cause its subcontractors and lower tier subcontractors to comply with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." The equal opportunity clause provided under 41 CFR 60-1.4(b) is hereby incorporated by reference. Contractor agrees that such provision applies to any contract that meets the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 and agrees that it will comply with such provision. Contractor shall prohibit discrimination based on race, color, religion, national origin, sex (including gender identity), disability, or age.

10.0 Participation By Small Business Concerns Owned And Controlled By Socially And Economically Disadvantaged Individuals.

Contractor is encouraged to utilize small business concerns owned and controlled by socially and economically disadvantaged individuals (as that term is defined in 49 CFR Part 26) in carrying out activities funded under this Contract.

11.0 Rights In Intangible Property.

11.1 Definition. Intangible property, as defined herein means property having no physical existence, such as trademarks, copyrights, patents and property applications.

11.2 Title to Intangible Property. Intangible property acquired or created in the performance of this Contract vests in Amtrak upon acquisition or creation, as applicable. The requirements of this Section 11.0 shall apply only to intellectual property acquired or created under a planning, experimental, developmental or research grant or contract.

11.3 Copyright. Amtrak may copyright any work that is subject to copyright and was created or for which ownership was acquired under this Contract. For any work acquired or created under a planning, experimental, developmental, or research grant or contract, Contractor agrees that the Federal Railroad Administration has reserved a royalty-free, nonexclusive and irrevocable right to reproduce,

publish or otherwise use the work for Federal purposes and to authorize others to do so for Federal Government purposes.

11.4 Patents. The following provisions will apply to patents under this Contract:

11.4.1 If the Contract involves the performance of experimental, developmental, or research work, the rights of the Federal Government and Amtrak shall be in accordance with 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the Federal Railroad Administration (FRA).

11.4.2 If any invention, improvement, or discovery of Contractor or any of its subcontractors is conceived or first actually reduced to practice in the course of or under a planning, experimental, developmental, or research grant or contract, Contractor agrees to grant Amtrak and the Federal Railroad Administration, a royalty-free, nonexclusive, and irrevocable license to use and to authorize others to use the patented device or process for Federal Government purposes.

11.5 Research Data. For any research data (as defined in 2 CFR Part 200.315(e)) acquired under this Contract, the Federal Railroad Administration has a right to:

11.5.1 Obtain, reproduce, publish, or otherwise use the research data produced under this Agreement for Federal Government Purposes; and

11.5.2 Authorize others to receive, reproduce, publish, or otherwise use such research data for Federal Government purposes.

11.6 The rights of the Federal Government and Amtrak shall be preserved in any contract for the performance of experimental, developmental or research work funded by an FRA grant, in accordance with 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by FRA.

12.0 Environmental Compliance.

12.1 In addition to the requirements set forth in the General Provisions, if the Contract amount exceeds \$150,000, Contractor shall comply and shall cause its subcontractors at every tier to comply with the following provisions, as modified from time to time, all of which are incorporated herein by reference: the Clean Air Act, 42 U.S.C. 7401 *et seq.*, and the Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*, and all standards, orders or regulations issued thereunder. 12.2 Where applicable, Contractor shall comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 *et seq.*) and the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 *et seq.*)

13.0 Domestic Buying Preference/Buy American Act.

13.1 In accordance with Amtrak's Domestic Buying Preference requirements at 49 U.S.C. 24305(f), Amtrak shall only buy, and accordingly, Contractor shall only supply (a) unmanufactured articles materials, and supplies mined or produced in the United States; or (b) manufactured articles, material, and supplies manufactured in the United States substantially from articles, materials, and supplies mined, produced or manufactured in the United States. For purposes of this provision, substantially means that more than 55% of all components by cost must be domestic. This Section 13.1 shall apply only when the cost of those articles, material, or supplies bought or supplied to Amtrak by Contractor is at least \$1,000,000.

13.2 When complying with Section 13.1, Contractor shall comply with the domestic preference requirements of the Build America, Buy America Act (BABA) § 70914, Pub. L. No. 117-58, div. G, tit. IX, subtit. A, 135 Stat. 429, 1298 (2021), as implemented by OMB, USDOT, and FRA.

13.3 In accordance with 2 C.F.R. §200.322, as appropriate and to the extent consistent with law, Contractor shall, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subcontracts and purchase orders for work or products under this Contract.

(a) For purposes of this Section 13.3:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

14.0 Flood Insurance Requirements. Contractor shall comply, if applicable, with flood insurance purchase requirements of section 102(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4601 *et seq.* (P.L.93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.

15.0 Application To Lower-Tier Subcontractors.

15.1 Contractor shall insert in each subcontract the provisions set forth in these Supplementary General Provisions and also a provision requiring the subcontractors to include these provisions in any lower tier subcontracts. Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the provisions set forth herein. Contractor shall also include in each subcontract that exceeds \$250,000, and cause its subcontractors to include in each lower tier subcontract that exceeds \$250,000 the following:

15.1.1 Provisions that allow for administrative, contractual or legal remedies in instances in which a contractor or subcontractor violates or breaches contract terms; and

15.1.2 Provisions requiring: (i) a bid guarantee from each bidder equivalent to five percent of the bid price; (ii) a performance bond for 100 percent of the contract price; and (iii) a payment bond for 100 percent of the contract price; the bonds shall be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR Part 223, "Surety Companies Doing Business with the United States".

16.0 Contract Termination Provisions. All subcontracts in excess of \$10,000 shall address termination for cause and termination for convenience, including the manner by which termination will be effected and the basis for settlement.

17.0 Americans With Disabilities Act. Contractor will comply and cause its subcontractors and lower tier subcontractors to comply with the requirements of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. 12101 *et seq.*), the Rehabilitation Act of 1973, as amended (29 U.S.C. 794 *et seq.*) and the implementing Department of Transportation regulations at 49 CFR Parts 27, 37 and 38.

18.0 Allowable Costs. Contractor's expenditures will be reimbursed only if they conform with Federal cost principles as set forth in Federal Acquisition Regulation, 48 CFR Chapter I, Subpart 31.2, "Contracts with Commercial Organizations," which is

incorporated herein by reference. If any costs are disallowed, as determined by an audit by Amtrak or the Federal Government, Contractor agrees to reimburse Amtrak for such disallowed costs within sixty (60) days of notice to Contractor of the determination of disallowance.

19.0 Drug-Free Work Place. Contractor agrees to comply with U.S. DOT regulations, "Government-wide Requirements for Drug-Free Workplace (Grants)", 49 CFR Part 32, and FRA regulations, "Control of Alcohol and Drug Use", 49 CFR Part 219.

20.0 Capital Acquisition. The FY 2016 Appropriations Act requires Amtrak to include a statement in any contract for a capital acquisition that exceeds \$10,000,000 in life cycle costs that funding for the acquisition is subject to the availability of funds appropriated by Congress in an Appropriations Act, even though Amtrak is not subject to the Anti-Deficiency Act, does not receive appropriations directly from Congress, and possesses other sources of revenue that may fund the capital acquisition.

21.0 Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment. Contractor shall provide no equipment, services, or systems under the Contract that causes Amtrak to be in violation of 2 CFR §200.216 (Prohibition on certain telecommunications and video surveillance services or equipment). As of the effective date of 2 CFR §200.216, companies that may be implicated by this provision are: Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities). Contractor shall include this provision in all subcontracts it issues.

22.0 Application of Federal Laws and Regulations. Contractor understands that Federal laws, regulations, policies, and related administrative practices may be modified from time to time. Contractor agrees that the most recent of such Federal requirements will govern this Contract at any particular time, except if there is sufficient evidence in this Contract of a contrary intent.



**APPENDIX A TO SUPPLEMENTARY GENERAL PROVISIONS
FOR
CONSTRUCTION CONTRACTS**

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Offeror/Contractor:

Name of Company

Date

Signature of authorized representative: _____

Title: _____



**APPENDIX B TO SUPPLEMENTARY GENERAL PROVISIONS
FOR
CONSTRUCTION CONTRACTS**

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND
VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS**

1. The prospective lower tier participant (offeror/prospective contractor) certifies, by submission of this offer or proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant (offeror/prospective contractor) is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this offer or proposal.

Offeror/Contractor:

Name of Company

Signature of authorized representative:

Title: _____

Date: _____