

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**THE COMMITTEE OF 100 ON THE)
FEDERAL CITY)**

Plaintiff)

v.)

) Case No. 1:14-01903 CRC

**ANTHONY FOXX, Secretary of)
Transportation, et al.)**

Defendants)

)

EXHIBIT 3 TO PLAINTIFF'S FIRST SUBPOENA ON CSX TRANSPORTATION



CSX
CORPORATION

Louis E. Renjel, Jr.
Vice President
Strategic Infrastructure Initiatives

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September 27, 2012

Mr. Allen Lew
City Administrator
District of Columbia
John A Wilson Building
1350 Pennsylvania Avenue NW
Washington, DC 20004

Dear Mr. Lew:

We are pleased to provide you the enclosed draft 11th Street Bridge and Virginia Avenue Tunnel Projects Joint Cooperation and Development Agreement. We have given considerable thought to this agreement to make sure that it reflects our shared commitment to prompt and efficient action and a collaborative approach to these important infrastructure projects.

In preparing this draft, we have attempted to create a complete roadmap for accomplishing our mutual goals. We understand that this agreement will have input and support from all corners of the District of Columbia government, as it has from throughout CSXT. As you will see, we have divided the Virginia Avenue Tunnel Project and the action items for each of the District and CSXT into five phases based on the planning (including NEPA process), permitting and construction of the tunnel project:

Phase 1 Prior to Execution of Agreement (i.e., before December 2012)

Execution by CSXT and the District of a preliminary engineering agreement for the remainder of the 11th Street Bridge Project ✓

CSXT and the District agree upon and attach a complete list of permits and approvals that will be required from any District or federal agency for the Virginia Avenue Tunnel Project and the schedule for the granting of those permits and approvals

CSXT and the District agree upon and attach a complete list of all fees and charges to be paid by CSXT to the District in connection with the Virginia Avenue Tunnel Project

Confirmation that all 2010 MOA obligations have been satisfied

District grants to CSXT any ancillary property rights in and around Virginia Avenue needed for the reconstructed tunnel

- Phase 2** **NEPA Review Period (Approximately January 1- March 31, 2013)**
- CSXT elects whether to extend the Virginia Avenue Tunnel to 12th Street
- CSXT executes First Source and CBE Agreements
- Phase 3** **Initial Permitting (Approximately April 1 - August 1, 2013)** ✓
- CSXT and the District execute a State-Railroad Agreement for the remainder of the 11th Street Bridge Project
- CSXT, the District and DC WASA each fund 1/3 of the cost of lining the 11th Street SE sewer
- Phase 4** **Construction of Virginia Avenue Tunnel Project (Approximately August 2, 2013 -August 2, 2016)**
- CSXT grants to the District the Parkside Pedestrian Bridge easement
- CSXT grants to the District the Anacostia Pedestrian Bridge (East) easement
- Phase 5** **After Completion of Construction of Virginia Avenue Tunnel**
- CSXT and District together seek authority to abandon Shepherds Branch and enter into a Trails Use Agreement

In addition, at the beginning of the agreement, we have provided that the District will confirm CSXT's easement rights in and around Virginia Avenue.

Further, the agreement includes a section setting forth the process by which contributions made by CSXT under the 2010 MOA and this agreement will be credited against fees and other charges the District will charge in connection with the Virginia Avenue Tunnel Project.

We have also assumed at the outset, as it set forth in Phase 1 and attached Exhibit A to the draft agreement, that all outstanding deliverables and obligations under the 2010 Memorandum of Agreement between CSXT and the District will be fully performed before we execute this new agreement or incur any additional expenditures associated with the 11th Street

Bridge Project. We understand that both (i) the dispositions of ancillary property rights around Virginia Avenue and the Franklin Bridge easement contemplated by the 2010 MOA and (ii) the

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mechanism for crediting CSXT contributions to the District require DC Council approval. We also understand that to obtain DC Council approval during this calendar year, which is needed to allow execution of the agreement by CSXT and the District this year, a resolution will need to be submitted to the DC Council no later than October 30, 2012.

We look forward to working with you to finalize the agreement.

Very truly yours,

A handwritten signature in cursive script that reads "Louis E. Renjel".

Louis E. Renjel

Cc: Mr. Victor Hoskins, Deputy Mayor – Planning and Economic Development, District of Columbia
Mr. Terry Bellamy, Director – D.C. Department of Transportation

Attachment