

AMENDMENT NO. 1
TO
TERM SHEET AGREEMENT

This Amendment No. 1 ("Amendment No. 1") to the Term Sheet Agreement (dated December 21, 2012), is entered into as of the ~~29th~~ day of October, 2013, by and between CSX Transportation, Inc. ("CSXT") and the District of Columbia, acting by and through the Department of Transportation ("DDOT") pursuant to D.C. Official Code §§ 50-921.02, 50-921.04(1)(B), 50-921.04(4)(A), 50-921.05 (2013), by and through the undersigned, to further describe the Virginia Avenue Tunnel Project ("VAT Project") and Shepherds Branch project described in Sections 4 and 6(a)(v), respectively, of the Term Sheet Agreement.

I. VIRGINIA AVENUE TUNNEL PROJECT

- A. **Waiver of Public Inconvenience Fee.** Pursuant to D.C. Mun. Regs. Tit. 24, § 225.9(c) (2013), DDOT agrees to grant a waiver of the public inconvenience fee ("PIF") to CSXT for the Limits of Disturbance ("LOD") associated with the Construction Public Space Permit on Virginia Avenue, SE between 2nd and 4th Streets, SE and between 8th and 9th Streets, SE (all as shown in Exhibit A), which is a local street according to DDOT's records and whose temporary closing will not prohibit vehicular or pedestrian access to any private property.
- B. **Payment of Public Inconvenience Fee.** CSXT shall pay the PIF for the Construction Public Space Permit for the VAT Project associated with the LOD that extend outside of the area described above in Section I(A), if and as applicable.

II. SHEPHERDS BRANCH

- A. **Grant of Temporary Access Permit.**
1. CSXT and DDOT are, contemporaneously with this Amendment No. 1, executing a permit ("CSXT Permit") in the form attached hereto as Exhibit B for DDOT's immediate access to CSXT's Shepherds Branch Right of Way, as described therein ("SB ROW").
 2. If DDOT desires to make improvements to the SB ROW or any portion thereof during the terms of the CSXT Permit, DDOT and CSXT shall enter into good faith negotiations regarding the same.
- B. **Acquisition of the SB ROW.**
1. **DDOT shall have a one (1) time option (the "Option") to acquire the SB ROW for transportation purposes and/or trail use through the National Trails System Act in accordance with terms and conditions that may be agreed upon by CSXT and DDOT.** Any sale of Property Segment 2 (as defined in the CSXT

Permit) shall be subject to any required approvals from the party with the requisite authority over Bolling AFM (Joint Base Anacostia-Bolling) military facility, if applicable.

2. **DDOT may exercise the Option by notifying CSXT in writing (“Offer Notice”) no later than the expiration or termination of the CSXT Permit that DDOT desires to exercise the Option.** The Offer Notice shall include a proposed price for the SB ROW based on an appraisal obtained by DDOT based on assumptions and scope agreed to by CSXT and DDOT prior to the appraisal being undertaken to the extent permitted by applicable law and DDOT’s Right of Way Manual (“ROW Manual”). Upon CSXT’s receipt of the Offer Notice, the parties shall use commercially reasonable efforts and negotiate in good faith to reach agreement on mutually agreeable terms for DDOT’s acquisition of the SB ROW to the extent permitted by applicable law and the ROW Manual. For purposes of clarification, CSXT shall not be obligated to agree to the purchase price proposed by DDOT (whether based on the appraisal described above or not) or to convey the SB ROW, and DDOT shall not be obligated to acquire the SB ROW, unless and until the parties have reached terms for such transaction agreeable to each party in its sole discretion. DDOT’s Option right shall terminate, if timely exercised, if conveyance of the SB ROW has not taken place within one year after the date DDOT delivers the Offer Notice to CSXT or such other time upon which the parties mutually agree.

3. To the extent required for the acquisition of the SB ROW, in connection with the exercise by DDOT of the Option, CSXT shall use commercially reasonable efforts to obtain STB Approval (defined below) and such conveyance shall be subject to STB’s Public Use or Trails Conditions, if applicable.

4. To the extent required for acquisition of the SB ROW, DDOT shall use commercially reasonable efforts to obtain approvals from the Federal Transit Authority, Federal Highway Administration, D.C. Council, or other oversight entity, as applicable.

5. To the extent permitted by the National Environmental Policy Act (“NEPA”) and DDOT’s ROW Manual, either party shall have the right to disclose the existence of the Option.

6. DDOT acknowledges that CSXT previously provided DDOT with copies of the restrictive covenants that CSXT customarily requires to be recorded with any documents transferring title in real property by CSXT to a third party and expects that such covenants, subject to the outcome of certain environmental testing of the SB ROW being undertaken by DDOT pursuant to the CSXT Permit, would be recorded against the SB ROW if CSXT conveys the same to DDOT pursuant to the Option.

7. Closing under the Option shall not occur unless the following conditions has been satisfied, the same being a precondition to CSXT's obligation to convey the SB ROW to DDOT: (i) CSXT shall have received a final non-appealable order from the Surface Transportation Board ("STB") approving CSXT's abandonment and/or trails use through the National Trails System Act of the SB ROW and/or the entire Shepherds Branch rail line, as applicable, or such other approval from STB with respect to the transaction, as is mutually acceptable to the parties ("STB Approval"); and (ii) CSXT shall have obtained from the District of Columbia the necessary permits and approvals needed from any agency of the District of Columbia to commence and construct the VAT Project in accordance with the build alternative, if any, determined to be the acceptable alternative pursuant to the Record of Decision issued in connection with the Environmental Impact Statement being undertaken pursuant to NEPA as of the date hereof. Notwithstanding the foregoing, such permits shall be obtained only after submission of appropriate applications and compliance with all applicable ordinances, regulations and statutes associated therewith.

8. CSXT and the CA have agreed to address the following matters as soon as possible, but in all events on or before closing under the Option: (i) Permits and approvals (other than the Construction Public Space Permit) for construction of the Virginia Avenue Tunnel Project; (ii) First Source and CBE agreements. The CA is joining this Amendment No. 1 only as pertains to this Section II(B)(8).

III. OTHER

- A. Capitalized Terms. Capitalized terms used but not defined in this Amendment No. 1 shall have the same meaning as defined in the Term Sheet Agreement.
- B. Full Force and Effect. Except as modified by this Amendment No. 1, the Term Sheet Agreement remains in full force and effect in accordance with its terms.

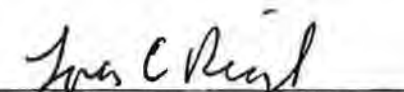
[Signatures on Following Page]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 1 as of the date first written above.

DISTRICT OF COLUMBIA, by and through the
District Department of Transportation

By: 
Name: Terry Bellamy
Title: Director

CSX TRANSPORTATION, INC.

By: 
Name: Louis E. Renjel, Jr.
Title: Vice-President

AGREED – ONLY AS TO SECTION II(B)(8):

DISTRICT OF COLUMBIA, by and through the Office
Of the City Administrator

By: 
Name: Allen Y. Lew
Title: City Administrator