

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

<b>THE COMMITTEE OF 100 ON THE</b>	)
<b>FEDERAL CITY</b>	)
<b>Plaintiff</b>	)
<b>v.</b>	)
	)
<b>ANTHONY FOXX, Secretary of</b>	)
<b>Transportation, et al.</b>	)
	)
<b>Defendants</b>	)
	)

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**PLAINTIFF’S MOTION FOR A PRELIMINARY INJUNCTION**

**EXHIBIT 17**



# DISTRICT DEPARTMENT OF TRANSPORTATION

## PUBLIC RIGHT-OF-WAY OCCUPANCY PERMIT



**Inspections/Enforcement: (202) 645-7050**

**Date:** MARCH 30, 2014

**Permit No.** PA-LTO-CSX-VA Ave Tunnel ROW 2

**Permittee:** CSX TRANSPORTATION, INC.

**Address:** UNDER VIRGINIA AVE SE GENERALLY BETWEEN 2<sup>ND</sup> ST SE AND 12<sup>TH</sup> ST SE, WASHINGTON, DC AND AT-GRADE TO THE EAST OF 12<sup>TH</sup> ST SE- AS MORE PARTICULARLY SHOWN ON EXHIBIT A OF THE TERMS AND CONDITIONS ATTACHED HERETO

*Pursuant to the approval by the District Department of Transportation ("DDOT" or "Department") on December 21, 2012, permission is hereby granted to CSX TRANSPORTATION, INC. ("CSXT" or "Permittee"), subject to the terms of this Permit including, without limitation the Terms and Conditions attached to this Permit, to use and occupy exclusively a portion of the Public Right of Way located under Virginia Avenue, SE generally from 2<sup>nd</sup> Street, SE to 12<sup>th</sup> Street, SE, and located under Virginia Avenue, SE and at-grade as applicable to the east of 12<sup>th</sup> Street, SE, the location and dimensions of which are more particularly shown in Exhibit A of the Terms and Conditions as shall be amended as described in the Terms and Conditions hereunto annexed and made a part hereof (collectively, the "Virginia Ave Tunnel ROW") where Permittee will occupy the Virginia Ave Tunnel ROW with a tunnel, railroad tracks and related appurtenances for railroad purposes.*

**Occupancy Times and Days:** 24 hours a day, 7 days a week

**Occupancy Period:** The date hereof through the duration of the Virginia Avenue Tunnel Reconstruction Improvements (defined in the Terms and Conditions) in the Virginia Avenue Tunnel ROW being used for railroad purposes

**Compensation:** \$10.00 for exclusive occupancy of the Virginia Ave Tunnel ROW during the Occupancy Period

- The Permittee and DDOT shall be bound by all terms listed herein, as well as the Terms and Conditions attached to this Permit.
- No deviation from the Terms and Conditions that supplement this Permit shall be allowed without prior permission from DDOT as provided for in the Terms and Conditions attached to this Permit.
- The Permittee agrees to occupy the public right-of-way only to the extent as set forth in this Permit and the Terms and Conditions attached to this Permit.
- Upon termination of this Permit, the Permittee shall suspend all occupancy of the public right-of-way and all activities authorized in the public right-of-way under this Permit except for that occupancy and those activities authorized under other permits, DCMR, the District of Columbia Code, or applicable federal laws.

**NAME AND TITLE OF DDOT APPROVER:**

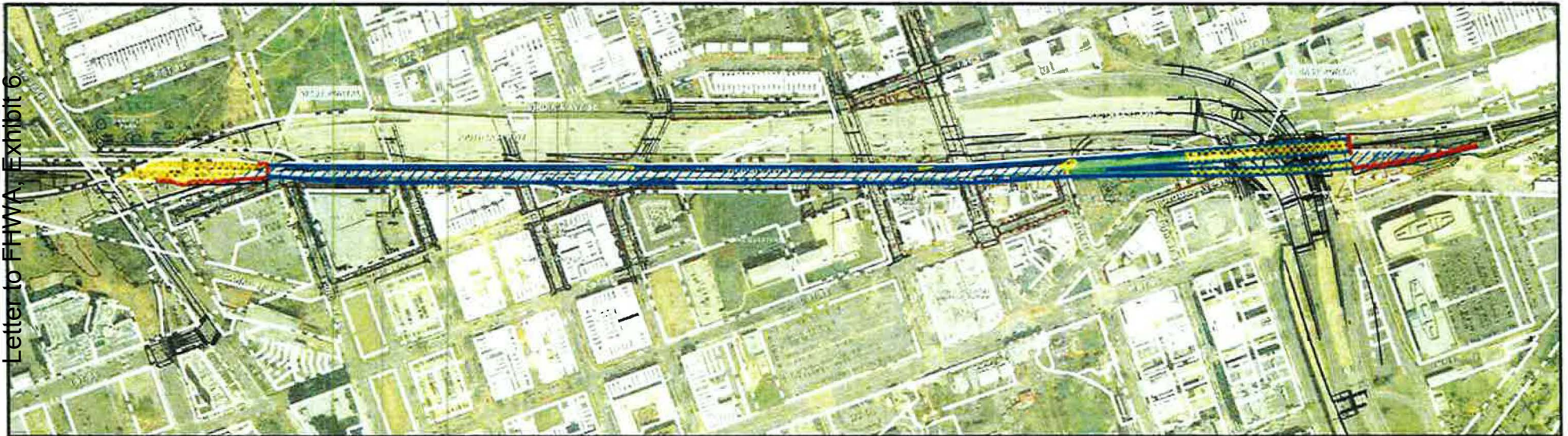
MATTHEW J MARCOU, DEPUTY ASSOCIATE DIRECTOR, PUBLIC SPACE REGULATION ADMINISTRATION

**SIGNATURE:**

**DATE:**

04/30/14

EXHIBIT A  
TO  
DDOT PUBLIC RIGHT OF WAY  
OCCUPANCY PERMIT  
PERMIT # \_\_\_\_\_  
DATED \_\_\_\_\_



**ACKNOWLEDGED**

DDOT \_\_\_\_\_

CSX \_\_\_\_\_

DECEMBER 21, 2012





**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT OF TRANSPORTATION  
WASHINGTON, D.C.**

**FIRST AMENDMENT TO TERMS AND CONDITIONS  
FOR THE  
PUBLIC RIGHT OF WAY OCCUPANCY PERMIT  
FOR  
CSX TRANSPORTATION, INC.**

**RECITALS**

**WHEREAS**, District Department of Transportation ("DDOT") issued a certain Permit to CSX Transportation, Inc. (CSXT) dated December 21, 2012 (Permit No. PA-LTO-CSX-VA Ave Tunnel ROW) which consisted of the Permit cover page ("Cover"), those Terms and Conditions for the Public Way Occupancy Permit for CSX Transportation, Inc. ("Terms and Conditions") and Exhibit A thereto (collectively the Cover, the Terms and Conditions and Exhibit A are the "Permit"); and

**WHEREAS**, CSXT and DDOT agree that certain clarifications need to be made to the Cover so that it is consistent with the Terms and Conditions and Exhibit A thereto, as it was always the intention of the parties that the Permit cover both the below grade space between 2<sup>nd</sup> and 12<sup>th</sup> Streets, S.E. and certain at grade areas east of 12<sup>th</sup> Street, S.E., all as shown on Exhibit A.

**NOW, THEREFORE**, the parties agree (i) to make such modifications to the Permit cover page as shown on Exhibit B and (ii) that the Permit shall include the new cover page, the Terms and Conditions, Exhibit A and this First Amendment.

1. This First Amendment amends certain terms and conditions of the Permit simply to clarify the Cover and make it harmonious with the Terms and Conditions and Exhibit A. All other terms and conditions of the Permit that are not modified by this First Amendment shall remain in full force and effect. Hereafter, the Cover, modified as provided in Exhibit B, the Terms and Conditions, as modified by this First Amendment, and Exhibit A shall constitute the entire Permit.
2. Counterparts. This First Amendment may be executed in counterparts, which shall have the full force and effect of an original document.
3. Recitals. The recitals are incorporated by reference.

**IN WITNESS WHEREOF**, the undersigned has caused these presents to be executed on the date specified below.

**CSX TRANSPORTATION, INC.**

By: \_\_\_\_\_

Name: Louis E. Renje

Title: Vice President - Strategic Infrastructure

**DISTRICT OF COLUMBIA,  
by the District of Columbia Department of Transportation**

By: \_\_\_\_\_

Name:

Title:

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT OF TRANSPORTATION  
WASHINGTON, D.C.**

**FIRST AMENDMENT TO TERMS AND CONDITIONS  
FOR THE  
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**WHEREAS**, CSXT and DDOT agree that certain clarifications need to be made to the Cover so that it is consistent with the Terms and Conditions and Exhibit A thereto, as it was always the intention of the parties that the Permit cover both the below grade space between 2<sup>nd</sup> and 12<sup>th</sup> Streets, S.E. and certain at grade areas east of 12<sup>th</sup> Street, S.E., all as shown on Exhibit A.

**NOW, THEREFORE**, the parties agree (i) to make such modifications to the Permit cover page as shown on Exhibit B and (ii) that the Permit shall include the new cover page, the Terms and Conditions, Exhibit A and this First Amendment.

1. This First Amendment amends certain terms and conditions of the Permit simply to clarify the Cover and make it harmonious with the Terms and Conditions and Exhibit A. All other terms and conditions of the Permit that are not modified by this First Amendment shall remain in full force and effect. Hereafter, the Cover, modified as provided in Exhibit B, the Terms and Conditions, as modified by this First Amendment, and Exhibit A shall constitute the entire Permit.

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**CSX TRANSPORTATION, INC.**

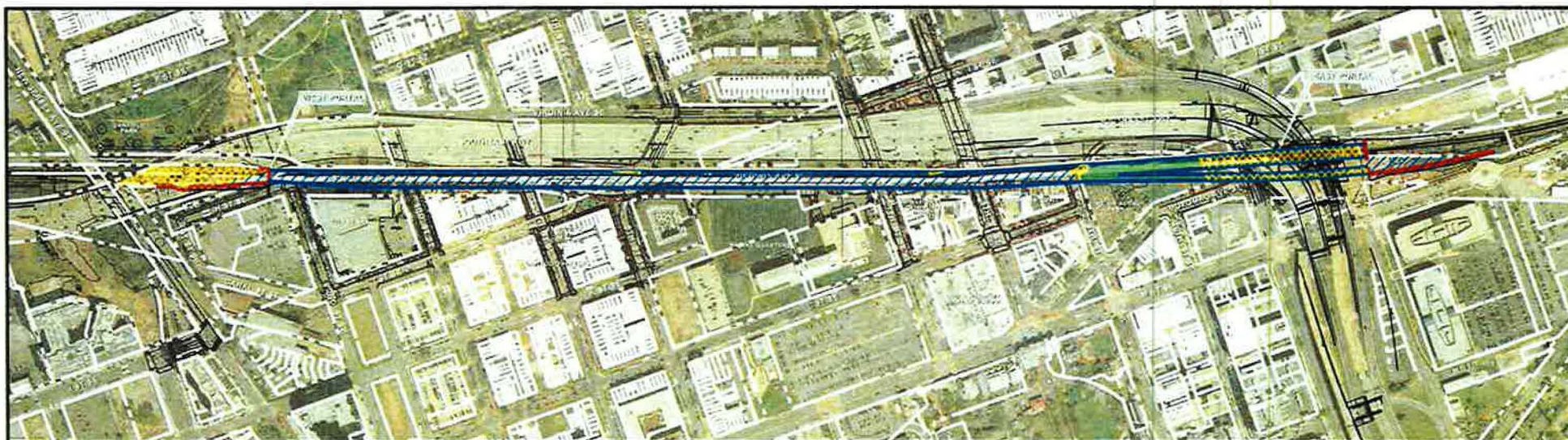
By: \_\_\_\_\_  
Name:  
Title:

**DISTRICT OF COLUMBIA,  
by the District of Columbia Department of Transportation**

By:   
Name:  
Title:



EXHIBIT A  
TO  
DDOT PUBLIC RIGHT OF WAY  
OCCUPANCY PERMIT  
PERMIT # \_\_\_\_\_  
DATED \_\_\_\_\_



Letter to FHWA, Exhibit 6

ACKNOWLEDGED  
DDOT \_\_\_\_\_  
CSX \_\_\_\_\_  
DECEMBER 21, 2012

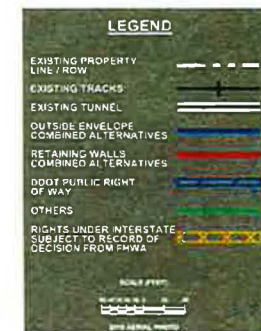


EXHIBIT B

Address shall read: Under Virginia Avenue SE Generally Between 2<sup>nd</sup> Street SE and 12<sup>th</sup> ST SE, Washington DC and at-grade to the east of 12<sup>th</sup> Street, SE -As more particularly shown on Exhibit A of the Terms and Conditions attached hereto.

Pursuant to the approval by the District Department of Transportation (“DDOT” or “Department”) on December 21, 2012, permission is hereby granted to **CSX TRANSPORTATION, INC.** (“CSXT” or “Permittee”), subject to the terms of this Permit including, without limitation the Terms and Conditions attached to this Permit, to use and occupy exclusively a portion of the Public Right of Way located under Virginia Avenue, SE generally from 2<sup>nd</sup> Street, SE to 12<sup>th</sup> Street, SE, and located under Virginia Avenue, SE and at-grade as applicable to the east of 12<sup>th</sup> Street, SE, the location and dimensions of which are more particularly shown in Exhibit A of the Terms and Conditions as shall be amended as described in the Terms and Conditions hereunto annexed and made a part hereof (collectively, the “**Virginia Ave Tunnel ROW**”) where Permittee will occupy the Virginia Ave Tunnel ROW with a tunnel, railroad tracks and related appurtenances for railroad purposes.