

**MINUTES**  
**NVTC COMMISSION MEETING –FEBRUARY 2, 2023**  
**FIRST FLOOR LARGE CONFERENCE ROOM – 2300 WILSON BLVD.**  
**ARLINGTON, VIRGINIA**

The meeting of the Northern Virginia Transportation Commission was called to order by Chair Palchik at 7:07 p.m.

Members Present

Canek Aguirre  
Walter Alcorn  
Sarah Bagley  
Katie Cristol  
Matt de Ferranti  
Jennifer DeBruhl (Alternate, Commonwealth of Virginia) *(via electronic participation)*  
John Foust  
Libby Garvey  
Aimee S. Gilroy  
Matt Letourneau  
Jeff McKay  
Dalia Palchik  
Catherine Read  
Paul Smedberg  
David Snyder  
John C. Tuck III  
James Walkinshaw

Members Not Present

Nick Clemente  
John J. Bell *(Senator Bell absent during General Assembly Session)*  
Adam Ebbin *(Senator Ebbin absent during General Assembly Session)*  
M. David Skiles  
Mike Turner

Staff Present

Kate Mattice, Executive Director	Melissa Walker
Monique Blyther	Ronnetta Zack-Williams
Genoveva Cutrell	Aimee Perron Siebert <i>(via electronic participation)</i>
Allan Fye	Rich Dalton (VRE)
Rhonda Gilchrest	Steve MacIsaac (VRE)
Adam Hager	Joe Swartz (VRE)
Scott Kalkwarf	
Xavier Harmony	
Tenley O'Hara	
Ann McGrane	
Sophie Spiliotopoulos	
Nathan Varnell	

### Opening Remarks

Chair Palchik welcomed everyone to the February 2, 2023 NVTC meeting and noted that the meeting is being livestreamed for the public on YouTube.

Chair Palchik stated that Ms. DeBruhl is participating electronically from Richmond under the provision of a member living 60 or more miles away from the meeting location. Commission Secretary Rhonda Gilchrest confirmed an in-person quorum was present.

Chair Palchik asked the Commission to join her in a moment of silence in honor of WMATA employee Robert Cunningham who, by all accounts acted heroically and was killed on Wednesday in the line of duty. She stated that NVTC is working on a letter expressing condolences. WMATA Board Chair Paul Smedberg stated that Mr. Cunningham was a devoted Metro employee who was well regarded among his peers. A GoFundMe page is being set up for the Cunningham family. The Commission then held a moment of silence in honor of Robert Cunningham.

In response to a question from Chair Palchik, Ms. Mattice stated that NVTC did not receive any public comments this month.

### Oath of Office for New NVTC Commissioner

Chair Palchik announced that City of Fairfax Mayor Catherine Read has been appointed to NVTC to replace David Meyer, who retired in December. Chair Palchik welcomed Ms. Read and administered the ceremonial oath of office. Commissioners welcomed Ms. Read to NVTC.

### Minutes of the January 5, 2023 NVTC Meeting

Mr. de Ferranti moved, with a second by Ms. Gilroy, to approve the Minutes of the January 5, 2023 NVTC meeting. The vote in favor was cast by Commissioners Aguirre, Alcorn, Bagley, Cristol, de Ferranti, Foust, Garvey, Gilroy, McKay, Palchik, Read, Smedberg, Snyder, Tuck and Walkinshaw. The motion passed.

### Consent Agenda

Chair Palchik stated that there are four action items on the Consent Agenda:

- A. Approve the Updated 2023 Committee Roster
- B. Approve Resolution #2496: Approve the FY 2024 State Assistance Applications to DRPT
- C. Authorize the Executive Director to Award the Contract for the Northern Virginia Regional Bus Analysis

- D. Authorize the Chair to Send a Letter of Endorsement for Arlington County's Application for the U.S. Department of Transportation's Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Discretionary Grant

Mr. Alcorn moved, with a second by Ms. Cristol, to approve the Consent Agenda. The vote in favor was cast by Commissioners Aguirre, Alcorn, Bagley, Cristol, de Ferranti, Foust, Garvey, Gilroy, McKay, Palchik, Read, Smedberg, Snyder, Tuck and Walkinshaw. The motion passed.

#### Washington Metropolitan Area Transit Authority (WMATA)

Chair Palchik asked the WMATA Board members to give their report.

Report from the WMATA Board Members. . Mr. Smedberg announced that WMATA will hold public hearings on the General Manager/CEO'S Proposed FY 2024 Operating and Capital Budget and FY 2024-2029 Capital Improvement Program (CIP) and associated fare and service changes. Public hearings and related public participation activities to seek regional input from customers and stakeholders will be open from mid-February to mid-March 2023 and in April 2023 the Board anticipates adopting the FY 2024 Budget and FY 2024-2029 Capital Program.

Mr. Smedberg announced that WMATA will be holding a hybrid public hearing in Virginia on February 9 at 6:30 p.m. here at NVTC on the draft Strategic Transformation Plan (STP). The STP is a long-term strategy to direct Metro's day-to-day decision making over the next five years and beyond. The public hearing to receive feedback from customers and stakeholders on the STP opened on January 21 and will close on February 14. The WMATA Board is anticipated to adopt the plan in late February 2023. As a reminder, the adoption of a strategic plan every three years and the associated public hearing is a condition of Virginia's portion of the dedicated capital funding that was approved in 2018.

Mr. Smedberg announced that WMATA's Summer 2023 Capital Improvements and Modernization Initiatives will include outages or single tracking on portions of the Orange and Green Lines. In Virginia, the work will consist of fiber optic installation and rail replacement - replacing 40-year-old steel rail that has become significantly more susceptible to rail breaks than rail in any other part of the system. Orange Line work (West Falls Church to Vienna) will occur June 3 to July 17, 2023 and Orange/Silver Line work (Ballston to McLean/Vienna) will occur June 3 to June 26, 2023.

Mr. Smedberg stated that last month WMATA announced improved rail frequencies as more 7000-series trains are restored. He provided more details on the improvements.

Chair Palchik expressed her hope that this will be the last of shutdowns for a while. She asked for more information on additional bus replacement service to mitigate service interruptions. Mr. Smedberg stated that WMATA staff are working on this now and information will be communicated soon to the jurisdictions.

Mr. Letourneau joined the discussion at 7:25 p.m.

Mr. McKay expressed his concern that the shutdown occurs over the 4<sup>th</sup> of July holiday, which from a public relations standpoint, is problematic. Mr. Letourneau acknowledged having an outage over July 4<sup>th</sup> isn't ideal, but the good news is that the work will only impact the last three stations so there will be other parking facilities available. Mr. McKay stated that it is not a question that the work needs to be done, but a better explanation of why it's being done on one of the heaviest ridership days. He also stated that it would be helpful for the jurisdictions to be notified before shutdowns are announced. Mr. Letourneau acknowledged Mr. McKay's comment and stated that the work is necessary and safety must be the focus.

Mr. McKay also asked if the NVTC letter commenting on the WMATA FY 2024 Budget will be sent to Commissioners before it is sent to Metro. Mr. Alcorn stated that it is a timing issue and therefore the Commission concurred at last month's meeting to direct staff to work with the NVTC chair and the WMATA Committee chair to draft the letter. Ms. Mattice further explained the timing issues. Mr. McKay stated that this year is different as the WMATA Board will need to make significant policy decisions regarding the budget. Chair Palchik stated that she would be happy to work with staff and Mr. Alcorn to provide the letter electronically to Commissioners before it is sent.

Mr. Snyder stated that in regard to safety, he would like a future discussion on what is being done to prevent a reoccurrence of the shooting that just happened. Mr. Letourneau stated that the WMATA Board continues to have discussions on how to address safety concerns. One thing that will help is the unified command center that is being set up at Eisenhower Avenue. WMATA is also looking at advanced video surveillance as well as other ways to increase law enforcement presence. Mr. Smedberg stated that conversations are happening with Metro partners on integration of safety initiatives. Chair Palchik stated that the topic of safety should be added to a future WMATA Committee agenda.

Report from the Chair of the WMATA Committee. Mr. Alcorn reported that the WMATA Committee met on January 25 and talked about the committee's workplan for 2023, the upcoming shutdown, as well as the FY 2024 budget. The WMATA Committee supported staff's recommended areas of focus for the committee: Offering comments on the WMATA budget and providing guidance to NVTC staff on the update to the *Annual Report on the Performance and Condition of WMATA*; providing input and feedback on NVTC's efforts related to the WMATA Operating Funding Working Group and Role of Metrobus Study; and receiving updates and providing comments on WMATA initiatives. Committee members also expressed a strong interest in discussing and engaging early on WMATA's projected FY 2025 operating gap. Mr. Alcorn did note that after another regional meeting, General Manager Randy Clarke apologized to him and Chair Palchik for the lack of notification to the jurisdictions regarding the summer shutdown.

Mr. Alcorn reviewed the WMATA Committee's feedback on the proposed letter to Metro regarding the FY 2024 budget, which include the following themes:

- Deliver budgeted rail and bus service levels, complete the safe return of the 7000-series railcars, continue fare simplification efforts and Open the Potomac Yard Metrorail Station for full revenue service;
- Concern over flexing such a large amount of maintenance funding to the operating budget;
- Supportive of the proposed low-income fare program, but have questions about implementation, overlap with existing programs, and cost allocation to the jurisdictions;
- Looking forward to additional information from WMATA on the benefits of the Infrastructure Investment and Jobs Act on the CIP and updated projections on dedicated capital funding; and
- Encouraging progress on reducing the state of good repair backlog.

Mr. Alcorn stated that the letter will be distributed to Commissioners prior to sending it to Metro. However, there will be a quick turn-around for Commissioners to provide comments.

Chair Palchik noted that in the past NVTC recommended six structural changes, such as real estate, and she suggested those also be included in the budget letter. Mr. Alcorn stated that some of these recommendations are already included in the above-mentioned bullet points, but the rest can be added. In response to a question from Chair Palchik, Mr. Letourneau gave an overview of the proposed fare changes, including a maximum fare and a mileage rate. He noted that there is concern about the suburban rider and the increased cost to commute. Chair Palchik noted that in addition to a max fare rate, riders will also have to pay for parking. Mr. Letourneau stated that one of the complications is that some of the parking facilities have private financing. Mr. McKay stated that commuting needs to be affordable and parking fees are part of the cost. Many of the parking garages are standing empty. Mr. Alcorn asked staff to put together a map of who is responsible for financing the different parking facilities and put this issue on a future WMATA Committee agenda. Mr. Smedberg and Mr. Letourneau answered some more questions about the WMATA FY 2024 budget, including a fleet renewal plan, which will result in some savings.

Mr. Letourneau reported that he, along with Mr. Smedberg and Mr. Clarke, met with Virginia Secretary of Transportation Shep Miller, Speaker of the House Todd Gilbert and other legislators in Richmond for the purpose of explaining WMATA's long term funding needs. Mr. Walkinshaw observed that these needs are not just a regional issue, they impact the entire Commonwealth. If a solution is not found, it will be the property taxpayers who will be impacted. He is hopeful Governor Youngkin will step up and address the funding issue.

Ms. Bagley stated that it is her understanding that the FY 2025 Budget deficit is not a pandemic issue. Mr. Letourneau clarified that the pandemic accelerated the issue by a few years due to the significant drop in ridership. Mr. Smedberg stated that ridership is going up and should continue to increase after the federal government lifts the emergency mandate.

Chair Palchik stated that if Commissioners have more budget comments, to send them to staff.

### Legislative Update

Chair Palchik asked NVTC's Legislative Liaison Aimee Perron Siebert to give a General Assembly update. Ms. Perron Siebert reported that the General Assembly Session is a week away from crossover on February 7 and the governor's budget being released on Sunday. The two bills that NVTC has been watching closely are VRE and WMATA related bills (SB 1079 and HB 1496). They are now both identical bills and are moving through the House and Senate. NVTC is also tracking HB 2330, which would make it a Class 1 misdemeanor for a person to commit assault and battery against a public transportation service vehicle operator. Mr. McKay asked about SB 1106. Ms. DeBruhl stated that there is not a specific source of funding. Ms. Perron Siebert stated that transportation funds would not be used. In response to a question from Mr. Walkinshaw, Ms. Mattice provided some background on the annual transportation-focused public meeting, which is required by Virginia law. There is current legislation to add the Transportation Planning Board (TPB) to the list. She stated that currently NVTC, NVTA, DRPT, VRE and VDOT are required to conduct the public meeting, while TPB is invited to participate.

Chair Palchik asked about the bills on electronic participation. Ms. Perron Siebert stated that of the three bills introduced, SB 1351 passed the Senate, which would allow with certain exceptions, local and regional public bodies to convene 50% of their meetings as all-virtual public meetings. This would apply to NVTC.

### Commuter Choice Program

Chair Palchik stated that there is a blue item which provides Commissioners with a summary of the applications received for this round of I-395/95 Commuter Choice funding which covers FY 2024-2025. In summary, staff received 18 applications for just under \$110 million in requests. The project applications include funding to support nine bus service, three rail capital projects, one park-and-ride lot, one fleet expansion, one bus priority treatment, one TDM/transit incentive package, one request for additional VRE operations support, and funding to support one bus rapid transit (BRT) project. For this round, staff have estimated \$45 to \$48 million is available and as NVTC received \$110 million in requests, this far exceeds funding and demonstrates a continuing need for transit investment in the I-395/95 corridor.

Chair Palchik stated that with the number of applications, can the program provide partial funding for projects. Mr. Hager responded that to date no partial funding has been awarded, but it is up to the Commission as it is not prohibited. In response to a question from Ms. Gilroy, Mr. Hager explained that eight of the bus projects are seeking continuation of funding.

### Transit Technology Program

Chair Palchik stated that there is a written update on the status of the Transit Technology Program work, focusing on regional fare collection efforts and the Northern Virginia Zero-Emission Bus Strategic Plan. The Program Advisory Committee and the Commission will receive an in-depth briefing later this spring.

Ms. McGrane stated that this past month NVTC kicked off the zero-emission bus (ZEB) strategic planning process. NVTC and its consultant team are starting the discovery phase of the project, which involves working with regional partners to identify the status of all ZEB efforts in Northern Virginia. For regional fare collection, NVTC staff continue to coordinate with regional partners and WMATA on regional fare collection activities, including next generation fare collection. Staff participate in WMATA's working groups to provide input and stay up to date on new farebox and SmarTrip technologies.

Chair Palchik asked if there will be data collected following any free-fare initiatives. Ms. McGrane stated that the working group is from the whole region and they do knowledge sharing. Mr. Smedberg stated that there are a lot of challenges with zero-emission issues, including costs. WMATA General Manager Clarke is trying to accelerate Metro's program. Mr. Alcorn asked about charging issues and if places like the Pentagon will have multiple charging stations in the bus bays. Ms. McGrane stated that the strategic plan will look at these types of issues and regional opportunities.

Ms. Bagley asked if the school systems are involved in the conversations in the context of the broad use of buses and charging stations. Ms. McGrane stated that to date they have not been part of this conversation, but there is an opportunity to look at these types of issues such as co-locating charging stations. Ms. Bagley stated that the City of Alexandria is trying to avoid overlap.

Ms. Garvey expressed her concern that the region does not focus solely on electric buses as there may be other options. Mr. Letourneau stated that WMATA's plan is technology neutral for that very reason. [NVTC's zero-emission bus effort is also technology neutral.]

#### Virginia Railway Express (VRE)

Chair Palchik welcomed VRE CEO Rich Dalton and asked him to give his report, to be followed by VRE Operations Board Chair James Walkinshaw introducing the action item.

VRE CEO Report. Mr. Dalton encouraged Commissioners to read the VRE 2022 Annual Report. He reported that ridership dipped during the holidays but rebounded in January. Overall, on-time performance for January was 87%. Train congestion continues to be the main issue. He noted that the VRE action being requested will help with the congestion issues. In response to a comment from Chair Palchik about Bike to Work Day, Mr. Dalton stated that an average of 60-70 bikes are carried on trains on a daily basis. For the month of January, the total was 1,100. As part of the CEO Report, bike on trains usage will be reported moving forward.

Funding Agreement with Amtrak to Provide a Share of the Local Match Requirement for the Track 22 Rehabilitation Project at Washington Union Station. Mr. Walkinshaw reported that the VRE Operations Board recommends Commission approval of Resolution #2497, which will authorize the VRE CEO to execute a funding agreement with Amtrak to provide a share of the local match requirement for the Track 22 Rehabilitation Project at Washington Union Station. The Washington Union Station master planning process includes the Track 22 Rehabilitation

Project, which was identified as a priority project that, if accelerated, would reduce current train congestion for both Amtrak and VRE service. VRE and Amtrak staff have collaborated to identify funding sources for this project. Amtrak received a grant from the Federal Railroad Administration for 50% of the projected \$38.1 million cost of the project.

Mr. Walkinshaw stated that construction for the project was allowed to commence in 2020 once final design was completed while Amtrak and VRE staff worked to identify their respective sources for the local match. Construction is anticipated to be completed in the summer of 2023.

Mr. Walkinshaw moved, with a second by Ms. Cristol, to approve Resolution #2497. The vote in favor was cast by Commissioners Aguirre, Alcorn, Bagley, Cristol, de Ferranti, Foust, Garvey, Gilroy, Letourneau, McKay, Palchik, Read, Smedberg, Snyder, Tuck and Walkinshaw. The motion passed. (a copy of the resolution is attached.)

#### Department of Rail and Public Transportation (DRPT)

DRPT Director DeBruhl encouraged Commissioners to read the written DRPT Report. She thanked Ms. Perron Siebert and Ms. Mattice for their work down in Richmond as they advocated for important legislation on the Commonwealth Mass Transit Fund. She reported that DRPT is currently in the middle of its FY 2024 budget process. The draft Six-Year Improvement Program (SYIP) will be released in April.

Chair Palchik thanked Ms. DeBruhl for her hard work down in Richmond.

#### Executive Director Report

Ms. Mattice encouraged Commissioners to read her Executive Director Newsletter, which highlights some of NVTC's recent efforts and events including staff getting out in the community, engaging with professional colleagues and learning the latest and greatest in transit issues. She then reviewed upcoming meetings, including the next Commission meeting on March 2. She noted that a Joint Commission Working Group/Program Advisory Committee meeting is in the process of being scheduled for April.

Ms. Mattice introduced Nathan Varnell, who is NVTC's newest transit fellow. She stated that Mr. Varnell is pursuing a Master's in Public Administration and certification in Budget and Public Finance from George Washington University. He is working with the communications team on a variety of public outreach and social media projects.

Ms. Mattice also reported that she was interviewed on Transit Unplugged, a podcast focused on interviewing public transit professionals. She observed that it was fun sharing all the amazing work being done collectively here in Northern Virginia to improve the public transit network. The podcast went live on February 1 and can be found on Twitter and LinkedIn.



Finally, Ms. Mattice reported that the communications team will be honoring Transit Equity Day this coming Saturday and Black History Month all month with special social media posts that might even include the faces of some past NVTC commissioners.

The December Financial Report was provided in the written meeting materials. There were no questions from Commissioners.

### Adjournment

Without objection, Chair Palchik adjourned the meeting at 8:52 p.m.

Approved this 2<sup>nd</sup> day of March 2023.

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Dalia Palchik  
Chair

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David F. Snyder  
Secretary-Treasurer



## RESOLUTION #2496

**SUBJECT:** Approve the FY 2024 State Transit Assistance Applications to DRPT

**WHEREAS:** The Northern Virginia Transportation Commission (NVTC) wishes to obtain state and federal grants to help defray NVTC, Washington Metropolitan Area Transit Authority (WMATA), local bus systems and Virginia Railway Express (VRE) operating and capital costs.

**NOW, THEREFORE, BE IT RESOLVED** that the Northern Virginia Transportation Commission hereby authorizes the executive director, or her designee, for and on behalf of NVTC and as an agent for its members:

- 1) To execute and file applications to the Virginia Department of Rail and Public Transportation (DRPT) for grants of public transportation assistance for FY 2024 commencing July 1, 2023 in the amount of \$164.0 million in eligible local transit operating costs to defray a portion of the public transportation cost of NVTC and its members for operations;
- 2) To accept from DRPT and execute grants in such amounts as may be awarded; and
- 3) To furnish DRPT such documents and other information as may be required for processing the grant requests.

**BE IT FURTHER RESOLVED** that NVTC authorizes the executive director, or her designee, for and on behalf of NVTC and as an agent for its members:

- 1) To file applications to DRPT for grants of public transportation assistance for FY 2024 for capital expenses totaling \$75.8 million in costs to defray the costs borne by NVTC and its members for capital expenditures;
- 2) To revise the capital portion of the application to reflect refined estimates by the local governments when they become available;
- 3) To accept from DRPT and execute grants in such amounts as may be awarded; and
- 4) To furnish to DRPT such documents and other information as may be required for processing the grant request.

**BE IT FURTHER RESOLVED** that NVTC authorizes the executive director, or her designee, for and on behalf of NVTC and as an agent for its members:

- 1) To file an application to DRPT for technical assistance for FY 2024 for \$100,000 in costs with the state share provided at 50 percent;
- 2) To accept from DRPT and execute grants in such amounts as may be awarded; and
- 3) To furnish to DRPT such documents and other information as may be required for processing the grant request.

**BE IT FURTHER RESOLVED** that NVTC authorizes the executive director, or her designee, for and on behalf of NVTC and PRTC and their members:

- 1) To file FY 2024 VRE applications to DRPT in the amount of \$73.6 million in eligible operating costs and \$32.1 million in eligible state costs for capital;
- 2) To revise the application to reflect refined estimates by VRE;
- 3) To accept from DRPT and execute grants in such amounts as may be awarded; and
- 4) To furnish to DRPT such documents and other information as may be required for processing the grant request.

**BE IT FURTHER RESOLVED** that NVTC authorizes the executive director, or her designee, for and on behalf of NVTC:

- 1) To execute and file an application to the Virginia Department of Rail and Public Transportation (DRPT) for an intern grant to help support NVTC's Transit Fellows Program for FY 2024 commencing July 1, 2023 in the amount of \$50,000, with the state share provided at 80%;
- 2) To accept from DRPT and execute grants in such amounts as may be awarded; and
- 3) To furnish DRPT such documents and other information as may be required for processing the grant requests.

**BE IT FURTHER RESOLVED** that NVTC authorizes the executive director, or her designee, for and on behalf of NVTC:

- 4) To execute and file an application to the Virginia Department of Rail and Public Transportation (DRPT) for a technical assistance grant to help support NVTC's Envision Route 7 Bus Rapid Transit Planning and NEPA (National Environmental Policy Act) Analysis Project for FY 2024 commencing July 1, 2023 in the amount of \$1,000,000, with the state share provided at 50%;
- 5) To accept from DRPT and execute grants in such amounts as may be awarded; and
- 6) To furnish DRPT such documents and other information as may be required for processing the grant requests.

**BE IT FURTHER RESOLVED** that NVTC authorizes the executive director, or her designee, for and on behalf of NVTC:

- 1) To accept from DRPT and execute the grant for WMATA capital and operating purposes per Section 33.2-1526.1 of the Code of Virginia in such amounts as may be awarded; and
- 2) To furnish to DRPT such documents and other information as may be required for processing the grant request.

**BE IT FURTHER RESOLVED** that NVTC certifies that the funds for all of the above grants will be used in accordance with the requirements of Section 58.1 638.A.4 of the Code of Virginia, that NVTC will provide matching funds in the ratio required by the Act, that the records of receipts of expenditures of funds granted to NVTC may be subject to audit by DRPT and

by the State Auditor of Public Accounts, and that funds granted to NVTC for defraying the public transportation expenses of NVTC shall be used only for such purposes as authorized in the Code of Virginia.

**BE IT FURTHER RESOLVED** that NVTC authorizes the executive director, or her designee, for and on behalf of NVTC and its members, to furnish to the Transportation Planning Board, the Commonwealth Transportation Board, and other state and federal funding agencies such documents, information, assurances and certifications as may be required for pursuing the above grant requests and continuing previously awarded grants.

**BE IT FURTHER RESOLVED** that NVTC authorizes the executive director, or her designee, to amend the above-described applications at the request of NVTC's member jurisdictions to include the most recent information and project costs.

Approved this 2<sup>nd</sup> day of February 2023.



David F. Snyder  
Secretary-Treasurer



Dalia Palchik  
Chair



**RESOLUTION #2497**

**SUBJECT:** Authorize the VRE CEO to Execute a Funding Agreement with Amtrak

**WHEREAS:** The Northern Virginia Transportation Commission and the Potomac and Rappahannock Transportation Commission (the "Commissions") have a 2020 Access and Storage Agreement with Amtrak;

**WHEREAS:** VRE and Amtrak staff worked collaboratively to identify funding sources to support the proposed Track 22 Rehabilitation Project to mitigate congestion at the station;

**WHEREAS:** Amtrak received a grant from the Federal Railroad Administration (FRA) for 50% of the cost of the project, or approximately \$19.1 million;

**WHEREAS:** The FRA grant requires local matching funds from Amtrak and VRE;

**WHEREAS:** Based on the cost sharing methodology for operations at Washington Union Station developed by the Northeast Corridor Commission (NEC) in accordance with the Passenger Rail Investment and Improvement Act of 2008 (PRIIA), and agreed to by the Commissions in the 2020 Amtrak Access and Storage Agreement, Amtrak will be responsible for 66.7% (approximately \$12.7 million) of the local match and the Commissions will be responsible for 33.3% (approximately \$6.34 million) of the local match;


**WHEREAS:** Final design and construction was allowed to proceed as Amtrak and VRE staff finalized a funding plan for the local match requirement;

**WHEREAS:** The Track 22 Rehabilitation Project is scheduled to be completed in the summer of 2023; and

**WHEREAS:** The VRE Operations Board recommends the following action.

**NOW, THEREFORE, BE IT RESOLVED** that the Northern Virginia Transportation Commission hereby authorizes the VRE Chief Executive Officer to execute the Track 22 Rehabilitation Funding Agreement with Amtrak (attached) in a form approved by legal counsel.

Approved this 2<sup>nd</sup> day of February 2023.



David F. Snyder  
Secretary-Treasurer



Dalia Palchik  
Chair

**AGREEMENT BETWEEN  
NATIONAL RAILROAD PASSENGER CORPORATION  
AND  
THE NORTHERN VIRGINIA TRANSPORTATION COMMISSION AND  
POTOMAC AND RAPPAHANNOCK TRANSPORTATION COMMISSION  
FOR WASHINGTON UNION STATION TRACK 22 REHABILITATION PROJECT**

This Agreement ("Agreement"), with an effective date of \_\_\_\_\_, 2023 ("Effective Date"), is between National Railroad Passenger Corporation, a corporation organized under 49 U.S.C. §24101 *et seq.* and the laws of the District of Columbia, having its principal place of business at 1 Massachusetts Avenue N.W., Washington, DC 20001 ("Amtrak") and the Northern Virginia Transportation Commission and Potomac and Rappahannock Transportation Commission, bodies politic and corporate and political subdivisions of the Commonwealth of Virginia, established under the provisions of the Transportation District Act of 1964, as amended, and having principal places of business at 2300 Wilson Blvd Suite 230, Arlington, VA 22201, and 14700 Potomac Mills Road, Woodbridge, VA 22192, respectively (hereinafter referred to as the "Commissions"). In executing this Agreement, Amtrak is acting on its own behalf and on behalf of its subsidiary, the Washington Terminal Company. (Commissions and Amtrak are referred to, collectively, as the "Parties".)

**WHEREAS**, the Parties agreed to an Agreement for Commuter Rail Passenger Service Access to Washington Union Terminal and Station and Storage of Commuter Rail Passenger Equipment, effective July 1, 2020, as amended (hereinafter the "Access Agreement"); and,

**WHEREAS**, pursuant to Section 5.2 of the Access Agreement, the Commissions have committed to fund normalized replacement of systems and facilities at Washington Union Station as well as the enhancement of all rail system infrastructure within Washington Terminal ("Section 5.2 Payments"); and,

**WHEREAS**, under PRIIA the Northeast Corridor Infrastructure and Operations Advisory Commission ("NEC Commission") was established to develop a standardized formula for determining and allocating costs, revenues, and compensation for Northeast Corridor commuter rail passenger transportation that uses Amtrak facilities or services or that provides facilities or services to Amtrak; and,

**WHEREAS**, In September 2018, Amtrak was awarded a grant by the FRA in the total amount of \$38,074,074 for the construction of an additional revenue Track 22 and platform to serve the run through tracks at Washington Union Station and described further in Exhibit A (the "Project"); and,

**WHEREAS**, the Commissions have agreed to provide funding in the amount of \$2,429,390 for the Project in accordance with their commitment under Section 5.2 of the Access Agreement; and,

**WHEREAS**, the Commissions have agreed to provide funding in the amount of \$3,916,289 for

the Project from various grant sources in accordance with the commitment to their share of the Local Match (as defined in Section 4 below); and,

**WHEREAS**, Amtrak had progressed the design phase of the Project and will be solely responsible for managing the construction phase of the Project; and,

**WHEREAS**, the Project is of mutual benefit to both VRE and Amtrak passenger rail service.

**NOW THEREFORE**, for and in consideration of the promises and the mutual covenants herein contained, and with the intent to be legally bound hereby, the Parties agree as follows:

1. Recitals

The recitals are hereby incorporated into this Agreement as if set forth in their entirety.

2. Overview of the Project

Currently, Track 22 at Washington Union Station ("Station") is a non-revenue track that is used for engine pooling. The adjacent platform is currently used for the storage of materials. In connection with the Project, as that term is defined above, Amtrak will rehabilitate Track 22 and the platform. The track will be converted to a revenue track. The track and platform will serve the run through tracks at the Station and will include ADA compliant vertical circulation elements from the North Hangar area of the Claytor Concourse at the Station. The scope of work for the Project is more fully described in Exhibit A.

3. Services to be Performed by Amtrak and Amtrak Contractors and Consultants

The total estimated cost of the Project is \$38,074,074 of which the FRA, pursuant to that certain Cooperative Agreement No. 69A36518500210AMTDC executed by FRA and Amtrak on September 21, 2018, has agreed to contribute fifty percent (50%), i.e., \$19,037,037. The remaining \$19,037,037 represents the local match ("Local Match"). In accordance with the cost sharing methodology for operations at the Station developed by the NEC Commission, Amtrak will be responsible for 66.7% (\$12.7 million) of the Local Match and the Commissions will be responsible for 33.3% (\$6.34 million) of the Local Match.

a) Construction Management

- 1) Amtrak's Construction Manager (ACM) will assure that construction is performed according to the design shown in the final design plans, as specified in the contract documents, and to Amtrak's engineering standards.
- 2) 3<sup>rd</sup> party CM will provide necessary construction management services to coordinate, facilitate, schedule, and interface with all related construction activities to assure an optimized cost, schedule, and quality construction effort is achieved.
- 3) The PWP will be drafted by the CM with support from the ACM and will include a detailed project schedule, a detailed project budget, scope documentation, and operational phasing plan.

- 4) Amtrak shall permit the Commissions to schedule visits to the work site and review the progress of the Project upon request and in accordance with such site visit requirements as Amtrak may reasonably require not less than monthly.

b) Construction:

- 1) Amtrak will perform the following tasks: Overhead Contact System (OCS) work; track alignment including installation of new ballast, ties, and rail; signage installation; and railroad/contractor protection.
- 2) The GC, including sub-contractors, will perform the following tasks: demolition and replacement of concrete platform; construction of overhead walkway connecting platform to the Station; installation of elevator and escalators; historic existing column rehabilitation; and fire life safety items.

c) Amtrak Additional Services:

- 1) Amtrak shall perform such additional related services as may be needed in connection with the Project.

4. Funding Responsibilities

The total estimated cost of the Project is \$38,074,074 of which the FRA, pursuant to that certain Cooperative Agreement No. 69A36518500210AMTDC executed by FRA and Amtrak on September 21, 2018, has agreed to contribute fifty percent (50%), i.e., \$19,037,037. The remaining \$19,037,037 represents the local match ("Local Match"). In accordance with the cost sharing methodology for operations at the Station developed by the NEC Commission, Amtrak will be responsible for 66.7% (\$12.7 million) of the Local Match and the Commissions will be responsible for 33.3% (\$6.34 million) of the Local Match. The Commissions' share of the Local Match shall be paid in the manner and according to the schedule set forth in Exhibit B. The Commissions will pay their share of the Local Match with funding from various sources including but not limited to, funds from the Commonwealth of Virginia and other local funding sources. Neither Party shall be responsible for complying with any Project funding related requirements that apply to the other Party unless such requirements are expressly set forth in this Agreement, even if those requirements would be read into this Agreement by applicable law, regulation, rule of construction or by operation of law.

5. Billing

Amtrak will invoice the Commissions for the Commissions' share of the Local Match in the amount of \$3,916,289 upon execution of this Agreement.

Amtrak shall provide a statement of actual charges and any additional supporting documentation showing the actual costs ("Invoice Statement").

Payment of Amtrak Invoice Statement is due within thirty (30) days of receipt of invoice by the Commissions. Payment shall be made in full without deduction, setoff



or counterclaim. In the event of a dispute with the Invoice Statement with respect to the determination of actual cost, the terms of Sections 6.3 and 15 of the Access Agreement shall apply. Payment not made by the Commissions by the due date shall be subject to an interest charge at the rate of the Wall Street Journal prime rate plus 2%. Nonpayment of the invoice, not otherwise disputed, shall constitute a failure to meet material obligations pursuant to Section 13.1 of the Access Agreement in addition to any other right or remedy to which Amtrak may be entitled as a result of such breach.

Upon execution of this Agreement, Amtrak will credit Commissions' \$2,429,390 share of the Local Match against payments it has already made to Amtrak pursuant to Section 5.2 of the Access Agreement.

6. Schedule

Amtrak will endeavor to progress the completion of the Project in accordance with the Project Schedule set forth in Exhibit C. However, the Commissions acknowledge that Amtrak has other work commitments and demands that may preclude Amtrak from performing the services hereunder according to the schedule most advantageous to the Commissions. In no event shall Amtrak be liable for any costs or damages attributable to any delays.

7. Compliance with Laws

The bid packages for the construction of the Project will require contractors to perform all work in accordance with applicable federal, state and local laws.

8. Communication of Information to the Public

The Parties agree to coordinate communications and outreach to the public, media, and other stakeholders on the Project and shall keep each other informed, in advance to the extent possible, of public presentations, media requests, appearances before government agencies or officials or other instances where information about the Project and the planning work contemplated by this Agreement is proposed to be made available to people other than the Parties themselves.

9. Entire Agreement

This Agreement constitutes the entire agreement between the Parties as to the Project. All prior discussions and understandings concerning such scope and subject matter are superseded by this Agreement. This Agreement or any part hereof may not be changed, amended or modified, except by written agreement of the Parties.

10. Notices

Any request, demand, authorization, direction, notice, consent, waiver, or other document provided or permitted by this Agreement to be made, given, furnished to, or filed with one Party by another Party shall be in writing and shall be delivered by hand or by certified mail, return receipt requested or by overnight delivery service, in an envelope addressed as follows:

If to the Commissions:  
Virginia Railway Express  
1500 King Street, Suite 202  
Alexandria, VA 22314  
Attn: Rich Dalton, Chief Executive Officer

If to Amtrak:  
National Railroad Passenger Corporation  
30<sup>th</sup> Street Station  
2955 Market Street  
Philadelphia, PA 19104  
Attn: Thomas Moritz,  
Assistant Vice President, Infrastructure, Access and Investment

11. Rights and Remedies; Dispute Resolution; Governing Law
- a) No failure on the part of either Party to exercise, and no delay in exercising, any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right or remedy. The remedies of the Parties provided herein are cumulative and not exclusive of any remedies provided for by law.
  - b) Nothing in this Agreement shall be deemed to create any right in any person not a Party hereto other than permitted successors and assigns of a Party hereto, and this Agreement shall not be construed in any respect to be a contract in whole or in part for the benefit of a third party except as aforesaid.
  - c) In the event that good faith negotiation and agreement of both Parties does not resolve a claim or dispute, either Party may pursue any right or remedy available to it by law or may propose a method of alternative dispute resolution. Arbitration of a dispute may be agreed upon by the Parties; however, neither Party will be required to submit to arbitration.
  - d) This Agreement shall be governed by and construed under the laws of the District of Columbia, excluding that portion of District of Columbia law relating to the application of laws of another jurisdiction. Each Party agrees that all legal proceedings in connection with any dispute arising under or relating to this Agreement shall be brought in the United States District Court for the District of Columbia. Commissions hereby accept the jurisdiction of the United States District Court for the District of Columbia and agree to accept service of process as if they were personally served within the District of Columbia.
12. Labor Rights
- This Agreement shall not require Amtrak to contravene the provisions of any of its labor agreements. In the event of a conflict or inconsistency between this Agreement and such labor agreements, the labor agreements shall control as to such provision.

13. Authority

Each Party covenants and agrees that it has full power and authority to enter into this Agreement upon the terms and conditions as set forth herein and that the person signing on its behalf is authorized to do so.

14. Effective Date; Term

a) The Effective Date of this Agreement shall be the date when it has been signed by both Parties.

b) The term of this Agreement is for one (1) year commencing on the Effective Date hereof. The term of the Agreement shall automatically renew for consecutive one-year terms until the Project has been completed.

15. Miscellaneous

a) Ownership of the Project Improvements. Amtrak will own all of the Project improvements.

b) Maintenance of the Project Improvements. Amtrak will maintain all of the Project improvements. Maintenance costs thereof will be shared by the Parties in accordance with the Access Agreement and the Northeast Corridor Commuter and Intercity Rail Cost Allocation Policy.

**[Signatures on Next Page]**

**IN WITNESS WHEREOF**, the Parties have set their hands hereto on this Agreement as of the date first set forth above.

**NATIONAL PASSENGER RAILROAD CORPORATION**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**NORTHERN VIRGINIA TRANSPORTATION COMMISSION**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**POTOMAC AND RAPPAHANNOCK TRANSPORTATION COMMISSION**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_