

CONSTRUCTION AGREEMENT

This Agreement is made as of _____, by and between CSX TRANSPORTATION, INC., a Virginia corporation with its principal place of business in Jacksonville, Florida ("CSXT"), the **Metropolitan Government of Nashville and Davidson County**, a body corporate and politic under the laws of the State of Tennessee ("Agency"), and **Nashville Phase II Property Holder LLC**, a limited liability company in the State of Tennessee ("Developer").

EXPLANATORY STATEMENT

1. Developer proposes to construct, or to cause to be constructed, the Proposed Quiet Zone and Roadway Improvements at Chestnut Street and 4th Ave in Nashville, Davidson County, TN, MP 00J-1.29, 00J-1.83, DOT# 340948F, 340949M, Nashville Zone, Nashville Terminal Subdivision (the "Project").

2. Developer has obtained, or will obtain, all authorizations, permits and approvals from all local, state and federal governmental agencies (including Agency) and their respective governing bodies and regulatory agencies necessary to proceed with the Project and to appropriate all funds necessary to construct and maintain the Project.

3. Upon completion of the Project and Agency's inspection and acceptance of the Project, consisting of all of its permanent aspects of the Project, including its piers, abutments, framework, deck, approaches, supports, roadway, sidewalks, lighting, railings, curbing, landscaping and all incidental or appurtenant improvements, Agency shall accept from Developer, by dedication and/or warranty deed, title to the Project and shall assume all maintenance obligations with respect to the Project as more particularly described by this Agreement.

4. It is the purpose of this Agreement to provide for the terms and conditions upon which the Project may proceed.

NOW, THEREFORE, in consideration of the foregoing Explanatory Statement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, it is agreed as follows:

1. PROJECT PLANS AND SPECIFICATIONS

1.1 Preparation and Approval. Pursuant to Exhibit A, all plans, specifications and drawings necessary or appropriate to the design and construction of the Project shall be prepared, at Developer's sole cost and expense, by Developer or CSXT or their respective consultants or contractors. Project plans, specifications and drawings prepared by or on behalf of Developer shall be subject, at CSXT's election, to the review and approval of CSXT and Agency. Such plans, specifications and drawings, whether in original or amended form, as prepared or approved by CSXT and Agency, are referred to as the "Plans". Upon the approval of CSXT and Agency, the Plans shall be incorporated and

deemed a part of this Agreement. Plans submitted for approval by CSXT and Agency as of the date of this Agreement are set forth in Exhibit B to this Agreement.

1.2 Effect of CSXT Approval or Preparation of Plans. By its review, approval or preparation of Plans pursuant to this Agreement, CSXT signifies only that such Plans and improvements constructed in accordance with the Plans satisfy CSXT's then existing requirements. CSXT expressly disclaims all other representations and warranties in connection with such Plans, including, but not limited to, the integrity, suitability or fitness for the purposes of Developer, Agency or any other persons of such Plans or improvements constructed in accordance with the Plans.

1.3 Compliance with Plans. The Project shall be constructed in accordance with the Plans. Modifications to the Plans will be permitted only with the approval of CSXT and Agency.

2. ALLOCATION AND CONDUCT OF WORK

Work in connection with the Project shall be allocated and conducted as follows:

2.1 CSXT Work. Subject to timely payment by Developer to CSXT of Reimbursable Expenses (as provided by Section 4), CSXT shall provide, or cause to be provided through its consultants and subcontractors, the services as set forth by Exhibit A to this Agreement. Developer agrees that CSXT shall provide all services that CSXT deems necessary or appropriate (whether or not specified by Exhibit A) to preserve and maintain its property and operations, without impairment or liability exposure of any kind, and in compliance with all applicable federal, state and local regulations and CSXT's contractual obligations, including, but not limited to, CSXT's existing or proposed third party agreements and collective bargaining agreements.

2.2 Developer Work. Developer shall perform, or cause to be performed, all work as set forth by Exhibit A, at Developer's sole cost and expense.

2.3 Conduct of Work.

2.3.1 By CSXT. CSXT shall commence its work under this Agreement following: (i) delivery to CSXT of a notice to proceed from Developer; (ii) payment of Reimbursable Expenses (as provided by Section 4.1) as required by CSXT prior to the commencement of work by CSXT; (iii) issuance of all permits, approvals and authorizations necessary or appropriate for such work; and (iv) delivery of the performance bonds and the Letter of Credit required by Section 5; and (v) CSXT's approval of insurance required by Section 9. CSXT's initiation of any work under this Agreement, including, but not limited to, the issuance of purchase orders or bids for materials or services, shall constitute commencement of work for the purposes of this Section.

2.3.2 By Developer. Neither Developer nor its contractors ("Contractors" or "Contractor") shall commence any work on CSXT property, unless and until: (i) approval by CSXT and Agency of Plans for such work pursuant to Section 1; (ii) CSXT's approval of insurance required by Section 9; (iii) issuance of all permits, approvals and authorizations necessary or appropriate to such work; (iv) payment to CSXT of all Reimbursable Expenses required prior to commencement of such work pursuant to Section 4.1; (v) in the case of work to be performed by Contractor, such Contractor executes and delivers to CSXT the acknowledgment required by Section 3; and (vi) delivery of the performance bonds required by Section 5.

2.3.3 Completion of Work. The parties intend that all work by CSXT or on or over CSXT property shall be concluded by **December 31, 2025**. Failure to do so for any reason shall not constitute a default by CSXT.

3. SPECIAL PROVISIONS

Developer shall observe and abide by, and shall require its Contractors ("Contractors") to observe and abide by, the terms, conditions and provisions set forth in Exhibit C to this Agreement (the "Special Provisions"). To the extent that Developer performs Project work itself, Developer shall be deemed a Contractor for purposes of this Agreement. Developer further agrees that, prior to the commencement of Project work by any third party Contractor, such Contractor shall execute and deliver to CSXT Schedule I to this Agreement to acknowledge Contractor's agreement to observe and abide by the terms and conditions of this Agreement.

4. COST OF PROJECT AND REIMBURSEMENT PROCEDURES

4.1 Reimbursable Expenses. Developer shall reimburse CSXT for all costs and expenses incurred by CSXT in connection with the Project, including, without limitation but not limited to, (1) all out of pocket expenses, (2) travel and lodging expenses, (3) telephone, facsimile, and mailing expenses, (4) costs for tools, equipment, materials and supplies, (5) sums paid to CSXT's consultants and subcontractors, and (6) CSXT labor in connection with the Project, together with the overhead percentages and additives established by CSXT (collectively, "Reimbursable Expenses"). Reimbursable Expenses shall also include expenses incurred by CSXT prior to the date of this Agreement to the extent identified by the Estimate provided pursuant to Section 4.2.

4.2 Estimate. CSXT has estimated the total Reimbursable Expenses for the Project as shown on Exhibit D (the "Estimate", as amended or revised). However, the parties acknowledge and agree that actual Reimbursable Expenses may exceed or differ from those set forth in the Estimate, and Developer shall reimburse CSXT for all such Reimbursable Expenses. In the event CSXT anticipates that actual Reimbursable Expenses for the Project may exceed such Estimate, it shall provide Developer with the revised estimate of the total Reimbursable Expenses, together with a revised Payment Schedule (as defined by Section 4.3.1), for Developer's approval. CSXT may elect, by delivery of notice to Developer, to immediately cease all further work on the Project, until Developer provides such approval and confirmation. Upon Developer's approval of the revised estimate, such revised estimate shall be deemed to be the new Estimate.

4.3 Payment Terms. It is the understanding and mutual intent of the parties that CSXT shall obtain payment in advance of its incurrence of Reimbursable Expenses. Accordingly, the parties agree as follows:

4.3.1 Payment Schedule. Developer shall pay CSXT for Reimbursable Expenses as set forth in the Payment Schedule as shown on Exhibit E (the "Payment Schedule", as revised from time to time pursuant to Section 4.2).

4.3.2 Final Invoice and Reconciliation. Following the completion of the Project, CSXT shall submit to Developer a final invoice that reconciles the total Reimbursable Expenses incurred by CSXT against the total payments received from Developer. Developer shall pay to CSXT the amount by which Reimbursable Expenses exceed total payments, as shown by the final invoice, within thirty (30) days following delivery of such invoice to Developer. In the event that the payments received by CSXT from Developer exceed the Reimbursable Expenses, CSXT shall remit such excess to Developer.

4.3.3 Default Remedies. In the event that Developer fails to pay CSXT any sums due CSXT under this Agreement: (i) Developer shall pay CSXT interest at the lesser of 1.0% per month or the maximum rate of interest permitted by applicable law on the delinquent amount until paid in full; and (ii) CSXT may elect, by delivery of notice to Developer: (A) to immediately cease all further work on the Project, unless and until Developer pays the entire delinquent sum, together with accrued interest; and/or (B) to terminate this Agreement.

4.3.4 Delivery of Invoices and CSXT Payment Address. All invoices from CSXT shall be delivered to Developer in accordance with Section 17 of this Agreement. All payments by Developer to CSXT shall be made by certified check and mailed to the following address or such other address as designated by CSXT's notice to Developer.

CSX Transportation, Inc.
PO Box 530192
Atlanta, GA 30353-0192

4.4 Effect of Termination. Developer's obligation to pay CSXT Reimbursable Expenses through the effective date of any termination of this Agreement in accordance with Section 4 shall survive.

4.5 Agency's Expenses. CSXT shall bear no responsibility or liability to Agency for payment of any costs or expenses owed or due Agency from Developer.

5. DEVELOPER'S ASSURANCES

Upon the execution and delivery of this Agreement, Developer shall provide to CSXT the following:

5.1 Performance Bond. Developer shall provide to CSXT and Agency performance and maintenance bonds, in form and substance and from a surety acceptable to CSXT and Agency, or such other security acceptable to CSXT and Agency, to secure performance of Developer's obligations under this Agreement, including performance of work to be performed by Developer or its Contractors and the maintenance of the Project following its completion until Project is dedicated and conveyed to Agency in accordance with Section 13.

5.2 No Liens. Developer shall not permit or create any liens upon or security interest in the Project or CSXT's property. Developer's failure to promptly discharge and release any such lien or security interest shall constitute a default by Developer under this Agreement. In such case, in addition to its other remedies pursuant to this Agreement, CSXT shall be entitled (but not required) to obtain the discharge and release of such lien or security interest, at the sole cost and expense of Developer.

5.3 Letter of Credit. Developer shall obtain and maintain, until the acceptance and dedication of the Project to Agency in accordance with Section 13.1, to secure the satisfaction of all of its obligations under Section 4, 5, 8.1, 8.3 and 13.1 of this Agreement, an irrevocable unconditional letter of credit for the benefit of CSXT, in form and substance acceptable to CSXT (the "Letter of Credit"). CSXT shall be entitled to draw upon the Letter of Credit, in whole or in part, in the event that: (i) Developer has failed to observe or perform such obligations; or (ii) for any reason within one year from the date of completion of the Project Developer has failed to assign and convey the Project to Agency, or Agency has failed to accept such assignment and conveyance in accordance with Section 13.1.

5.4 Contract Warranties. Developer shall obtain from its Contractor warranties as to its work and materials with respect to the Project, copies of which have been furnished to Agency and CSXT, which Developer shall enforce, and shall accrue to the benefit of, and may be enforced by Agency and/or CSXT.

5.5 Default Remedies. In the event that any of the performance bonds or other security required by this Section shall expire, terminate or otherwise become unenforceable or invalid in any respect, or there shall occur an event of default, CSXT shall be entitled, by delivery of notice to Developer to terminate this Agreement and/or terminate or suspend performance of all work on the Project by CSXT and by Developer and its Contractors on CSXT property.

6. EASEMENTS AND LICENSES

6.1 Developer Obligation. Developer shall acquire all necessary licenses, permits and easements required for the Project.

6.2 Temporary Construction Licenses. Insofar as it has the right to do so, CSXT hereby grants Developer a nonexclusive license to access CSXT's property, to the extent necessary for the construction of the Project (excluding ingress or egress over public grade crossings), along such routes and upon such terms as may be defined and imposed by CSXT or its authorized representative, and such temporary construction easements as may be designated on the Plans approved by CSXT and Agency.

6.3 Permanent Easements. Insofar as it has the right to do so, CSXT shall grant, without warranty to Developer, easement (the "Easement") for the use and maintenance of the Project as set forth in Section 10.1 wholly or partly on CSXT property as shown on the Plans approved by CSXT, if any, on terms and conditions and at a price acceptable to CSXT, Agency and Developer. Upon request by CSXT, Developer shall furnish to CSXT descriptions and plat plans for the Easement.

7. PERMITS

At its sole cost and expense, Developer shall procure all permits and approvals required by any federal, state, or local governments or governmental agencies for the construction, maintenance and use of the Project, copies of which shall be provided to CSXT and Agency.

8. TERMINATION OF PROJECT OR AGREEMENT

8.1 By Developer. For any reason, Developer may, at its sole remedy, terminate this Agreement and the Project, by delivery of notice to CSXT. Developer acknowledges and agrees that, in the event of the actual, purported or alleged breach of this Agreement by CSXT, Developer's sole remedy is termination of this Agreement, and Developer shall not pursue either specific performance or recovery of direct, indirect, consequential, incidental or punitive damages. Regardless of the reason for such termination, Developer shall reimburse CSXT for all costs and expenses incurred by CSXT pursuant to this Agreement, including costs incurred in stopping work and returning CSXT property to its original condition.

8.2 BY CSXT. In addition to the rights and remedies available to CSXT under this Agreement, CSXT may terminate this Agreement by delivery of notice to Developer and Agency in the event that Developer or its Contractors fail to observe or perform any of their obligations under this Agreement, and such failure continues more than ten (10) business days following delivery of notice of such failure by CSXT to Developer.

8.3 Consequences of Termination. If the Agreement is terminated by a party pursuant to this Section or any other provision of this Agreement, the parties understand that it may be impractical for them to immediately stop the Work. Accordingly, they agree that, in such instance a party may continue to perform Work until it has reached a point where it may reasonably and safely suspend the Work. Developer shall reimburse CSXT pursuant to this Agreement for the Work performed, plus all costs reasonably incurred by CSXT to discontinue the Work and protect the Work upon full suspension of the same, the cost of returning CSXT's property to its former condition, and all other costs of CSXT incurred as a result of the Project up to the time of full suspension of the Work. Termination of this Agreement or Work on the Project, for any reason, shall not diminish or reduce Developer's obligation to pay CSXT for Reimbursable Expenses incurred in accordance with this Agreement. In the event of the termination of this Agreement or the Work for any reason, CSXT's only remaining obligation to Developer shall be to refund to Developer payments made to CSXT in excess of Reimbursable Expenses in accordance with Section 4.

9. INSURANCE

In addition to the insurance that Developer requires its Contractor to have, Developer shall acquire or require its Contractor to acquire insurance in compliance with CSXT's insurance requirements attached to this Agreement as Exhibit F. Neither Developer nor Contractor shall commence work on the Project until such policy or policies have been submitted to and approved in writing by CSXT's Risk Management Department. If Developer shall fail for any reason to maintain such insurance, CSXT shall be entitled, by delivery of notice to Developer to terminate this Agreement and/or terminate or suspend performance of all work on the Project by CSXT and by Developer and its Contractors on CSXT property.

10. OWNERSHIP, MAINTENANCE AND ALTERATIONS

10.1 Ownership and Maintenance. Unless and until Agency accepts the Project in accordance with Section 13, Developer shall own and without costs to CSXT, maintain, repair, replace and renew the Project. In the event Developer fails to do so after reasonable notice from CSXT (no more than ninety (90) days, unless an emergency condition exists or is imminent in the opinion of CSXT, that requires immediate action), CSXT may perform such maintenance and repair, at the sole cost and expense of Developer. Developer shall notify CSXT of all maintenance and repair activities to be undertaken on, over or within fifty (50) feet of CSXT's right-of-way and enter into such flagging and protective services agreements, as CSXT may require, to ensure the safe and efficient operation of its rail service and Developer's maintenance activities, at Developer's sole cost and expense. Following Agency's acceptance of the Project in accordance with Section 13, Agency shall own the Project and abide by the foregoing provisions applicable to Developer.

10.2 Alterations. Neither Agency nor Developer shall undertake any alteration, modification or expansion of the Project, without the prior approval of CSXT, which may be withheld for any reason, and the execution of such agreements as CSXT may require. For the purposes of this Section 10.2, an alteration, modification or expansion of the Project consists of changes to the dimensions of the Project within the bounds of CSXT's property or right-of-way, or air space over such Property or right-of-way, including, without limitation, vertical and horizontal clearances, changes affecting the useful life, use or capacity of the Project or any of its components.

10.3 No Use Prior to Agency's Acceptance. Agency and Developer acknowledge and agree that the Project shall not be opened to pedestrian or vehicular traffic other than for use by Developer or its Agents, and Developer shall barricade and post signage acceptable to CSXT and Agency to prevent

such use of the Project by other than Developer and its Agents, at Developer's sole cost and expense, until Developer has assigned, conveyed and dedicated to Agency, and Agency has accepted such assignment, conveyance and dedication of the Project, in accordance with Section 13.

10.4 Cessation of Use. Upon abandonment of the use of the Project and subject to the dedication and conveyance of the Project to Agency in accordance with Section 13.1, the Agency shall be responsible for removal of the Project, at its sole cost and expense and shall reimburse CSXT for all costs and expense incurred by CSXT in connection with such removal.

10.5 Permanent Easement. The Easement granted by CSXT pursuant to Section 6.3 shall incorporate the foregoing provisions and such other covenants and restrictions as CSXT may require to implement the provisions of this Section 10.

11. INDEMNIFICATION

11.1 Generally. To the maximum extent permitted by applicable law, Developer and its Contractors shall indemnify, defend, and hold CSXT and its affiliates harmless from and against all claims, demands, payments, suits, actions, judgments, settlements, and damages of every nature, degree, and kind (including direct, indirect, consequential, incidental, and punitive damages), for any injury to or death to any person(s) (including, but not limited to the employees of CSXT, CSXT's affiliates, Agency, Developer, its Contractors or their respective agents or representatives), for the loss of or damage to any property whatsoever (including but not limited to property owned by or in the care, custody, or control of CSXT, CSXT's affiliates, Agency, Developer its Contractors or their respective agents or representatives) and environmental damages and any related remediation brought or recovered against CSXT and its affiliates), arising directly or indirectly from the negligence, recklessness or intentional wrongful misconduct of the Contractors, Developer, Agency and their respective agents, employees, invitees, contractors, or its contractors' agents, employees or invitees in the performance of work in connection with the Project or activities incidental thereto, or from their presence on or about CSXT's property. The foregoing indemnification obligation shall not be limited to the insurance coverage required by this Agreement, except to the extent required by law or otherwise expressly provided by this Agreement.

11.2 Compliance with Laws. Developer and its Contractors shall comply, and shall require its Contractors to comply, with any federal, state, or local laws, statutes, codes, ordinances, rules, and regulations applicable to its construction and maintenance of the Project. Developer and its Contractors shall indemnify, defend, and hold CSXT and its affiliates harmless with respect to any fines, penalties, liabilities, or other consequences arising from breaches of this Section.

11.3 CSXT Affiliates. For the purpose of this Section 11, CSXT's affiliates include CSX Corporation and all entities, directly or indirectly, owned or controlled by or under common control of CSXT or CSX Corporation and their respective officers, directors, employees and agents.

11.4 Notice of Incidents. Developer and its Contractor shall notify CSXT promptly of any loss, damage, injury or death arising out of or in connection with the Project work.

11.5 Survival. The provisions of this Section 11 shall survive the termination or expiration of this Agreement, for any reason.

12. INDEPENDENT CONTRACTOR

The parties agree that neither Developer nor its Contractors shall be deemed either agents or independent contractors of CSXT. Except as otherwise provided by this Agreement, CSXT shall exercise

no control whatsoever over the employment, discharge, compensation of, or services rendered by Developer or Developer's Contractor, or the construction practices, procedures, and professional judgment employed by Developer or its Contractor to complete the Project. Notwithstanding the foregoing, this Section 12 shall in no way affect the absolute authority of CSXT to prohibit Developer or its Contractor or anyone from entering CSXT's property, or to require the removal of any person from its property, if it determines, in its sole discretion, that such person is not acting in a safe manner or that actual or potential hazards in, on or about the Project exist.

13. PUBLIC DEDICATION OF PROJECT

13.1 Dedication and Conveyance. Upon completion of the Project, Developer shall deliver notice of completion to CSXT and Agency. Agency and CSXT shall promptly inspect the Project and notify Developer and the other party of its acceptance of the Project or its determination that the Project requires further work to comply with the Plans. If either Agency or CSXT notify Developer of its determination that such work is required, Developer shall promptly perform such work and notify CSXT and Agency upon completion of such work. Upon the completion of the Project in accordance with the Plans, to the satisfaction of CSXT and Agency, Developer shall assign, dedicate and convey to Agency, and Agency shall accept such assignment, dedication and conveyance of clear and merchantable title to all of Developer's right, title and interest in or to the Project and Developer's obligations under Section 10 of this Agreement and the Easement, by written instrument acceptable in form and substance to CSXT and Agency. In the event that such assignment, conveyance, and dedication is not completed by **December 31, 2020**, CSXT shall, subject to its written approval of an extension of this date, be permitted to terminate this Agreement pursuant to Section 8 and to require the removal of the Project within CSXT right-of-way in accordance with Section 8.3.

13.2 Termination of Developer Assurances. Upon the execution and delivery of all documents necessary to accomplish the assignment, conveyance and dedication by Developer to Agency pursuant to Section 13.1, CSXT shall release Developer from its obligations under this Agreement (including all performance bonds), and Guarantors of its obligations under the Guaranty Agreement.

14. COMPLETE UNDERSTANDING

This Agreement embodies the entire understanding of the parties, may not be waived or modified except in a writing signed by authorized representatives of all parties, and supersedes all prior or contemporaneous written or oral understandings, agreements or negotiations regarding its subject matter. In the event of any inconsistency between this Agreement and the Exhibits, the more specific terms of the Exhibits shall be deemed controlling.

15. WAIVER

If any party fails to enforce its respective rights under this Agreement, or fails to insist upon the performance of the other party's obligations hereunder, such failure shall not be construed as a permanent waiver of any rights or obligations in this Agreement.

16. ASSIGNMENT

CSXT may assign this Agreement and all rights and obligations herein to a successor in interest, parent company, affiliate, or future affiliate. Upon assignment of this Agreement by CSXT and the assumption of CSXT's assignee of CSXT's obligations under this Agreement, CSXT shall have no further obligation under this Agreement. Developer shall not assign its rights or obligations under this Agreement without CSXT's prior written approval, which approval may be withheld for any reason.

17. NOTICES.

All notices, consents and approvals required or permitted by this Agreement shall be in writing and shall be deemed delivered upon personal delivery, upon the expiration of three (3) days following mailing by first class U.S. mail, or upon the next business day following mailing by a nationally recognized overnight carrier, to the parties at the addresses set forth below, or such other addresses as either party may designate by delivery of prior notice to the other parties:

If to CSXT:	CSX Transportation, Inc. 500 Water Street, J-301 Jacksonville, Florida 32202 Attention: Tony Bellamy
If to Developer:	Nashville Phase II Property Holder LLC 133 N Jefferson St Chicago IL 60661 Attention: Brandon Johnson
If to Agency	Metro Nashville Public Works Department 750 South 5 th Street Nashville, Tennessee 37206 Attention: Jeffrey Hammond

18. SEVERABILITY


The parties agree that if any part, term or provision of this Agreement is held to be illegal, unenforceable or in conflict with any applicable federal, state, or local law or regulation, such part, term or provision shall be severable, with the remainder of the Agreement remaining valid and enforceable.

19. APPLICABLE LAW

This Agreement shall be governed by the laws of the State of **Tennessee**, exclusive of its choice of law rules. The parties further agree that the venue of all legal and equitable proceedings related to disputes under this Agreement shall be situated in Duval County, Florida, and the parties agree to submit to the personal jurisdiction of any State or Federal court situated in Jacksonville, Florida.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in triplicate, each by their duly authorized representatives as of the date of this Agreement.

Nashville Phase II Property Holder LLC

By: 

Name: Benjamin Weprin

Title: Authorized Signatory

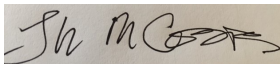
APPROVED AS TO
AVAILABILITY OF FUNDS:

Kelly Flannery
Director of Finance

**METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON
COUNTY**

By: _____
John Cooper
Metropolitan Mayor

APPROVED AS TO FORM ^{AND}
LEGALITY:



Metropolitan Attorney

CSX TRANSPORTATION, INC.

By: _____
Tony Bellamy
Director Project Management – Public
Projects

EXHIBIT A
ALLOCATION OF WORK

Subject to Section 2.1, work to be performed in connection with the Project is allocated as follows:

- A. Developer shall let by contract to its Contractors:
 - 1. Roadway improvements per approved plans
- B. CSXT shall perform or cause to be performed:
 - 1. Signal Warning system upgrades per approved plans
 - 2. Construction monitoring, inspection, periodic field reviews, flagging and other protective services.
 - 3. Any other services specifically identified by the Agreement.

EXHIBIT B

PLANS AND SPECIFICATIONS

Plans, Specifications and Drawings:

As of the date of this Agreement, the attached plans, specifications and drawings have been developed :

EXHIBIT C

CSXT SPECIAL PROVISIONS

DEFINITIONS:

As used in these Special Provisions, all capitalized terms shall have the meanings ascribed to them by the Agreement, and the following terms shall have the meanings ascribed to them below:

"CSXT" shall mean CSX Transportation, Inc., its successors and assigns.

"Agreement" shall mean the Agreement among CSXT, Agency, and Developer dated as of _____, as amended from time to time.

"Developer" shall mean **Nashville Phase II Property Holder LLC**.

"Contractor" shall have the meaning ascribed to such term by the Agreement.

"Work" shall mean the Project as described in the Agreement.

I. AUTHORITY OF CSXT ENGINEER

The authorized representative of CSXT ("CSXT Representative") shall have final authority in all matters affecting the safe maintenance of CSXT operations and CSXT property, and his or her approval shall be obtained by the Developer or its Contractor for methods of construction to avoid interference with CSXT operations and CSXT property and all other matters contemplated by the Agreement and these Special Provisions.

II. INTERFERENCE WITH CSXT OPERATIONS

- A. Developer or its Contractor shall arrange and conduct its work so that there will be no interference with CSXT operations, including train, signal, telephone and telegraphic services, or damage to CSXT's property, or to poles, wires, and other facilities of tenants on CSXT's Property or right-of-way. Developer or its Contractor shall store materials so as to prevent trespassers from causing damage to trains, or CSXT Property. Whenever Work is likely to affect the operations or safety of trains, the method of doing such Work shall first be submitted to the CSXT Representative for approval, but such approval shall not relieve Developer or its Contractor from liability in connection with such Work.
- B. If conditions arising from or in connection with the Project require that immediate and unusual provisions be made to protect train operation or CSXT's property, Developer or its Contractor shall make such provision. If the CSXT Representative determines that such provision is insufficient, CSXT may, at the expense of Developer or its Contractor, require or provide such provision as may be deemed necessary, or cause the Work to cease immediately.

III. NOTICE OF STARTING WORK. Developer or its Contractor shall not commence any work on CSXT Property or rights-of-way until it has complied with the following conditions:

- A. Notify CSXT in writing of the date that it intends to commence Work on the Project. Such notice must be received by CSXT at least ten business days in advance of the date

Developer or its Contractor proposes to begin Work on CSXT property. The notice must refer to this Agreement by date. If flagging service is required, such notice shall be submitted at least thirty (30) business days in advance of the date scheduled to commence the Work.

- B. Obtain authorization from the CSXT Representative to begin Work on CSXT property, such authorization to include an outline of specific conditions with which it must comply.
- C. Obtain from CSXT the names, addresses and telephone numbers of CSXT's personnel who must receive notice under provisions in the Agreement. Where more than one individual is designated, the area of responsibility of each shall be specified.

IV. WORK FOR THE BENEFIT OF THE CONTRACTOR

- A. No temporary or permanent changes to wire lines or other facilities (other than third party fiber optic cable transmission systems) on CSXT property that are considered necessary to the Work are anticipated or shown on the Plans. If any such changes are, or become, necessary in the opinion of CSXT or Developer, such changes will be covered by appropriate revisions to the Plans and by preparation of a force account estimate. Such force account estimate may be initiated by either CSXT or Developer, but must be approved by both CSXT and Developer. Developer or Contractor shall be responsible for arranging for the relocation of the third party fiber optic cable transmission systems, at no cost or expense to CSXT.
- B. Should Developer or its Contractor desire any changes in addition to the above, then it shall make separate arrangements with CSXT for such changes to be accomplished at the Developer or Contractor's expense.

V. HAUL ACROSS RAILROAD

- A. If Developer or its Contractor desires access across CSXT property or tracks at other than an existing and open public road crossing in or incident to construction of the Project, the Developer or Contractor must first obtain the permission of CSXT and shall execute a license agreement or right of entry satisfactory to CSXT, wherein Developer or Contractor agrees to bear all costs and liabilities related to such access.
- B. Developer and Contractor shall not cross CSXT's property and tracks with vehicles or equipment of any kind or character, except at such crossing or crossings as may be permitted pursuant to this section.

VI. COOPERATION AND DELAYS

- A. The Developer or its Contractor shall arrange a schedule with CSXT for accomplishing stage construction involving work by CSXT. In arranging its schedule, the Developer or the Contractor shall ascertain, from CSXT, the lead time required for assembling crews and materials and shall make due allowance therefor
- B. Developer or its Contractor may not charge any costs or submit any claims against CSXT for hindrance or delay caused by railroad traffic; work done by CSXT or other delay incident to or necessary for safe maintenance of railroad traffic; or for any delays due to compliance with these Special Provisions.

- C. Developer and its Contractor shall cooperate with others participating in the construction of the Project to the end that all work may be carried on to the best advantage.
- D. Developer and its Contractor understand and agree that CSXT does not assume any responsibility for work performed by others in connection the Project. Developer and its Contractor further understand and agree that they shall have no claim whatsoever against CSXT for any inconvenience, delay or additional cost incurred by Developer or its Contractor on account of operations by others.

VII. STORAGE OF MATERIALS AND EQUIPMENT

Developer and its Contractor shall not store their materials or equipment on CSXT's property or where they may potentially interfere with CSXT's operations, unless Developer or Contractor has received CSXT Representative's prior written permission. Developer and its Contractor understand and agree that CSXT will not be liable for any damage to such materials and equipment from any cause and that CSXT may move, or require Developer or its Contractor to move, such material and equipment at Developer's or its Contractor's sole expense. To minimize the possibility of damage to the railroad tracks resulting from the unauthorized use of equipment, all grading or other construction equipment that is left parked near the tracks unattended by watchmen shall be immobilized to the extent feasible so that it cannot be moved by unauthorized persons.

VIII. CONSTRUCTION PROCEDURES

A. General

- 1. Construction work on CSXT property shall be subject to CSXT's inspection and approval.
- 2. Construction work on CSXT property shall be in accord with CSXT's written outline of specific conditions and with these Special Provisions.
- 3. Contractor shall observe the terms and rules of the CSXT Safe Way manual, which Developer and Contractor shall be required to obtain from CSXT, and in accord with any other instructions furnished by CSXT or CSXT's Representative.

B. Blasting

- 1. Developer or its Contractor shall obtain CSXT Representative's and Developer Representative's prior written approval for use of explosives on or adjacent to CSXT property. If permission for use of explosives is granted, Developer or its Contractor must comply with the following:
 - a. Blasting shall be done with light charges under the direct supervision of a responsible officer or employee of Developer or its Contractor.
 - b. Electric detonating fuses shall not be used because of the possibility of premature explosions resulting from operation of two-way train radios.
 - c. No blasting shall be done without the presence of an authorized representative of CSXT. At least 10 days' advance notice to CSXT

Representative is required to arrange for the presence of an authorized CSXT representative and any flagging that CSXT may require.

- d. Developer or its Contractor must have at the Project site adequate equipment, labor and materials, and allow sufficient time, to (i) clean up (at Developer's expense) debris resulting from the blasting without any delay to trains; and (ii) correct (at Developer's expense) any track misalignment or other damage to CSXT's property resulting from the blasting, as directed by CSXT Representative, without delay to trains. If Developer's or its Contractor's actions result in delay of any trains, including Amtrak passenger trains, Developer shall bear the entire cost thereof.
- e. Developer and its Contractor shall not store explosives on CSXT property.

2. CSXT Representative will:

- a. Determine the approximate location of trains and advise Developer or its Contractor of the approximate amount of time available for the blasting operation and clean-up.
- b. Have the authority to order discontinuance of blasting if, in his or her opinion, blasting is too hazardous or is not in accord with these Special Provisions.

IX. MAINTENANCE OF DITCHES ADJACENT TO CSXT TRACKS

Developer or its Contractor shall maintain all ditches and drainage structures free of silt or other obstructions that may result from their operations. Developer or its Contractor shall provide erosion control measures during construction and use methods that accord with applicable state standard specifications for road and Project construction, including either (1) silt fence; (2) hay or straw barrier; (3) berm or temporary ditches; (4) sediment basin; (5) aggregate checks; and (6) channel lining. All such maintenance and repair of damages due to Developer's or its Contractor's operations shall be performed at Developer's expense.

X. FLAGGING / INSPECTION SERVICE

- A. CSXT has sole authority to determine the need for flagging required to protect its operations and property. In general, flagging protection will be required whenever the Developer or its Contractor or its equipment are, or are likely to be, working within fifty (50) feet of live track or other track clearances specified by CSXT, or over tracks.
- B. Developer shall reimburse CSXT directly for all costs of flagging that is required on account of construction within CSXT property shown in the Plans, or that is covered by an approved plan revision, supplemental agreement or change order.
- C. Developer or its Contractor shall give a minimum of 10 days' advance notice to CSXT Representative for anticipated need for flagging service. No work shall be undertaken until the flag person(s) is/are at the job site. If it is necessary for CSXT to advertise a

flagging job for bid, it may take up to 90-days to obtain this service, and CSXT shall not be liable for the cost of delays attributable to obtaining such service.

- D. CSXT shall have the right to assign an individual to the site of the Project to perform inspection service whenever, in the opinion of CSXT Representative, such inspection may be necessary. Developer shall reimburse CSXT for the costs incurred by CSXT for such inspection service. Inspection service shall not relieve Developer or its Contractor from liability for its Work.
- E. CSXT shall render invoices for, and Developer shall pay for, the actual pay rate of the flagpersons and inspectors used, plus standard additives, whether that amount is above or below the rate provided in the Estimate. If the rate of pay that is to be used for inspector or flagging service is changed before the work is started or during the progress of the work, whether by law or agreement between CSXT and its employees, or if the tax rates on labor are changed, bills will be rendered by CSXT and paid by Developer using the new rates. Developer and its Contractor shall perform their operations that require flagging protection or inspection service in such a manner and sequence that the cost of such will be as economical as possible.

XI. UTILITY FACILITIES ON CSXT PROPERTY

Developer shall arrange, upon approval from CSXT, to have any utility facilities on or over CSXT Property changed as may be necessary to provide clearances for the proposed trackage.

XII. CLEAN-UP

Developer or its Contractor, upon completion of the Project, shall remove from CSXT's Property any temporary grade crossings, any temporary erosion control measures used to control drainage, all machinery, equipment, surplus materials, falsework, rubbish, or temporary buildings belonging to Developer or its Contractor. Developer or its Contractor, upon completion of the Project, shall leave CSXT Property in neat condition, satisfactory to CSXT Representative.

XIII. FAILURE TO COMPLY

If Developer or its Contractor violate or fail to comply with any of the requirements of these Special Provisions, (a) CSXT may require Developer and/or its Contractor to vacate CSXT Property; and (b) CSXT may withhold monies due Developer and/or Contractor; (c) CSXT may require Developer to withhold monies due Contractor; and (d) CSXT may cure such failure and the Developer shall reimburse CSXT for the cost of curing such failure.

EXHIBIT D

**INITIAL ESTIMATE
ATTACHED**

ACCT. CODE: 709 - TN0682

Form Revision
09/25/20

ESTIMATE SUBJECT TO REVISION AFTER:	11/16/2021	340949M /
CITY: Nashville	COUNTY: Davidson	DOT NO.: 340948F
DESCRIPTION:	Chestnut St - Installation of constant warning, 20 amp charger and internal event recorder.	STATE: TN
	4th Ave S - Installation of constant warning, new roadway gate in NW quad, realign gate in NE quad	00J 1.29
ZONE: Nashville	SUB-DIV: Nashville Terminal	MILE POST: 00J 1.83
AGENCY PROJECT NUMBER:		

PRELIMINARY ENGINEERING:

212	Contracted & Administrative Engineering Services - STV	\$	-
212	Contracted & Administrative Engineering Services - CSXT	\$	-
	Subtotal	\$	-

CONSTRUCTION ENGINEERING/INSPECTION:

212	Contracted & Administrative Engineering Services - STV	\$	20,000
212	Contracted & Administrative Engineering Services - CSXT	\$	2,000
212	Contracted & Administrative Engineering Services - signals	\$	6,500
	Subtotal	\$	28,500

FLAGGING SERVICE: (Contract Labor)

70	Labor (Conductor-Flagman)	0	Days @	\$ 350.00	\$	-
50	Labor (Foreman/Inspector)	10	Days @	\$ 504.00	\$	5,040
70	Additive	187.00%	(Transportation Department)		\$	-
50	Additive	222.00%	(Engineering Department)		\$	11,189
	Subtotal				\$	16,229

SIGNAL & COMMUNICATIONS WORK:

\$ 360,725

TRACK WORK:

\$ -

PROJECT SUBTOTAL:

\$ 405,454

900 **CONTINGENCIES:** 10.00%

\$ 40,545

PROJECT TOTAL:

\$ 445,999

CURRENT AUTHORIZED BUDGET:

\$ -

DIVISION OF COST:

Agency	100.00%	\$	445,999
Railroad	0.00%	\$	-

NOTE: Estimate is based on FULL CROSSING CLOSURE during work by Railroad Forces.

This estimate has been prepared based on site conditions, anticipated work duration periods, material prices, labor rates, manpower and resource availability, and other factors known as of the date prepared. The actual cost for CSXT work may differ based upon the agency's requirements, their contractor's work procedures, and/or other conditions that become apparent once construction commences or during the progress of the work.

Office of Chief Engineer Public Projects-Jacksonville, Florida

Estimated prepared by: Vmatts

Approved by: CTA CSXT Public Project Group

DATE: 11/16/20 REVISED: 01/00/00 DATE: 11/16/20

EXHIBIT E

PAYMENT SCHEDULE

Upon execution of this Agreement, Developer will deposit with CSXT a sum equal to the Reimbursable Expenses, as shown by the Initial Estimate. If CSXT anticipates that it may incur Reimbursable Expenses in excess of the deposited amount, CSXT will request an additional deposit equal to the then remaining Reimbursable Expenses which CSXT then estimates that it will incur. CSXT shall request such additional deposit by delivery of invoices to Developer. Developer shall make such additional deposit within 30 days following delivery of an invoice to Developer.

EXHIBIT F

INSURANCE REQUIREMENTS

I. Insurance Policies:

Developer and Contractor, if and to the extent that either is performing work on or about CSXT's property, shall procure and maintain the following insurance policies:

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 CSXT as a named insured.
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 CSXT and its affiliates.
3. Business 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 CSXT as an additional named insured.
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 named as the named insured on the Railroad Protective Insurance Policy.
 - c. Name and Address of Contractor and Developer must be shown on the Declarations page.
 - d. Description of operations must appear on the Declarations page and must match the Project description, including project or contract identification numbers.
 - 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 - CL/IL 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 (f) or (g) 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 Declaration page and /or certificates of insurance.
 7. Such additional or different insurance as CSXT may require.

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:

Insurancedocuments@csx.com

And

Victoria.matts@stvinc.com

2. Neither Developer nor Contractor may begin work on the Project until it has received CSXT's written approval of the required insurance policies.

SCHEDULE I

CONTRACTOR'S ACCEPTANCE

To and for the benefit of CSX Transportation, Inc. ("CSXT") and to induce CSXT to permit Contractor on or about CSXT's property for the purposes of performing work in accordance with the Agreement dated [DATE], by and between the **Metro Nashville Public Works Department, Nashville Phase II Property Holder LLC** and CSXT, Contractor hereby agrees to abide by and perform all applicable terms of the Agreement, including, but not limited to Exhibits C and F to the Agreement, and Sections 3, 9 and 11 of the Agreement.

Contractor: _____

By: _____

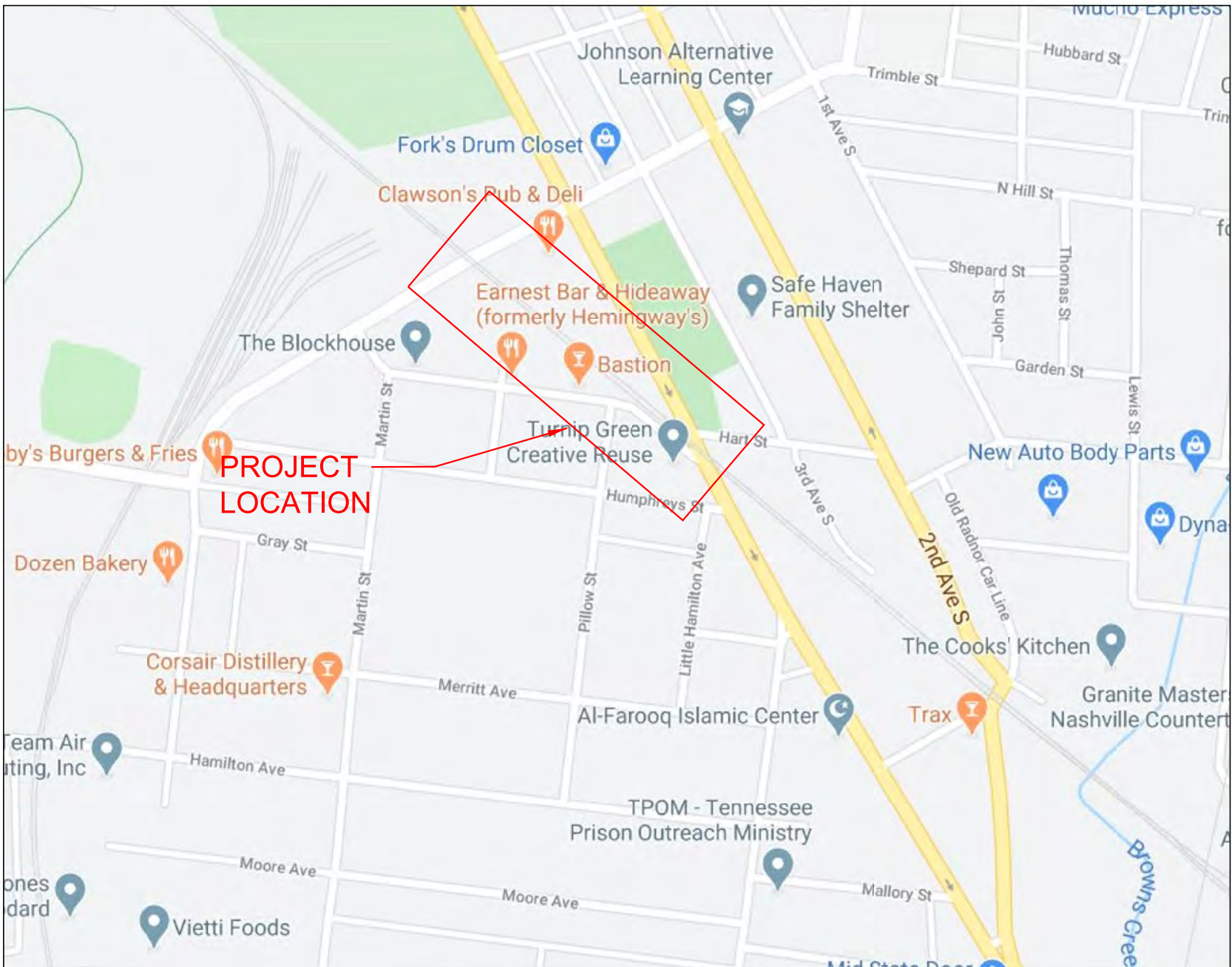
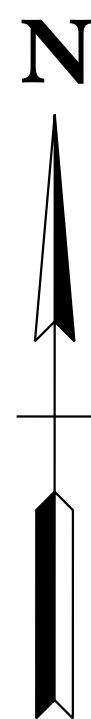
Name: _____

Title: _____

Date: _____

BENTOBX RAILROAD QUIET ZONE PLAN

NASHVILLE, TN



LOCATION MAP
NOT TO SCALE

FILE NO.	1700708
DATE:	07/10/20
DESIGNED BY:	BJT
DRAWN BY:	JDE
CHECKED BY:	BJT

REVISION BLOCK	
DATE:	



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METROPOLITAN GOVERNMENT
OF NASHVILLE & DAVIDSON COUNTY, TENNESSEE
PUBLIC WORKS DEPARTMENT
ENGINEERING DIVISION

**BENTOBX RAILROAD
QUIET ZONE**

TITLE SHEET

SCALE: N.T.S.

SHEET 1

FILE NO.	1700708
DATE:	07/10/20
DESIGNED BY:	BJT
DRAWN BY:	JDE
CHECKED BY:	BJT

REVISION BLOCK	
DATE:	



METROPOLITAN GOVERNMENT
OF NASHVILLE & DAVIDSON COUNTY, TENNESSEE
PUBLIC WORKS DEPARTMENT
ENGINEERING DIVISION

BENTOBX RAILROAD
QUIET ZONE

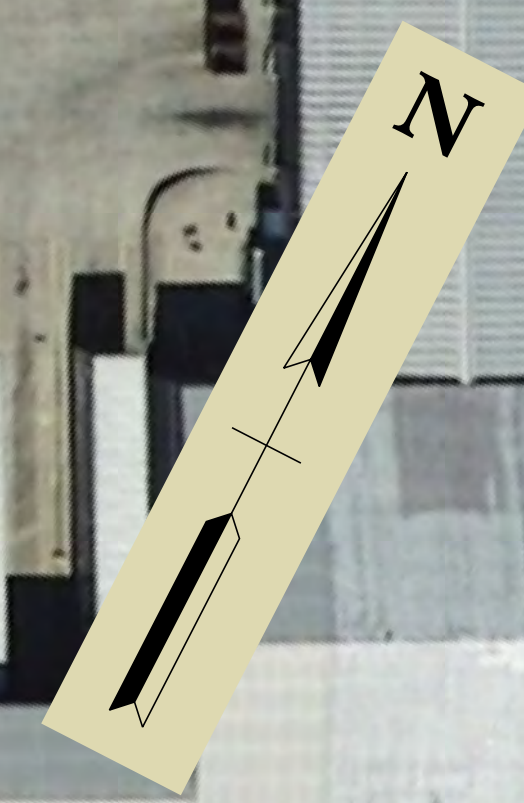
4TH AVENUE SOUTH
CROSSING PLAN



LEGEND

- PROPOSED STREET SIGN
- ⚡ FLASHING WARNING LIGHTS (TO BE INSTALLED BY RAILROAD)





CHESNUT STREET

W10-1
36" DIA.



W10-9
30"x30"

CSX TO CLOSE
CUT-THROUGH
DRIVEWAY



W10-1
36" DIA.



W10-9
30"x30"

LEGEND

• PROPOSED STREET SIGN



FILE NO.	1700708
DATE:	07/10/20
DESIGNED BY:	BJT
DRAWN BY:	JDE
CHECKED BY:	BJT

REVISION BLOCK	
DATE:	



METROPOLITAN GOVERNMENT
OF NASHVILLE & DAVIDSON COUNTY, TENNESSEE
PUBLIC WORKS DEPARTMENT
ENGINEERING DIVISION

BENTOBX RAILROAD
QUIET ZONE

CHESTNUT STREET
CROSSING PLAN

FILE NO.	1700708
DATE:	07/10/20
DESIGNED BY:	BJT
DRAWN BY:	JDE
CHECKED BY:	BJT

REVISION BLOCK

DATE:		



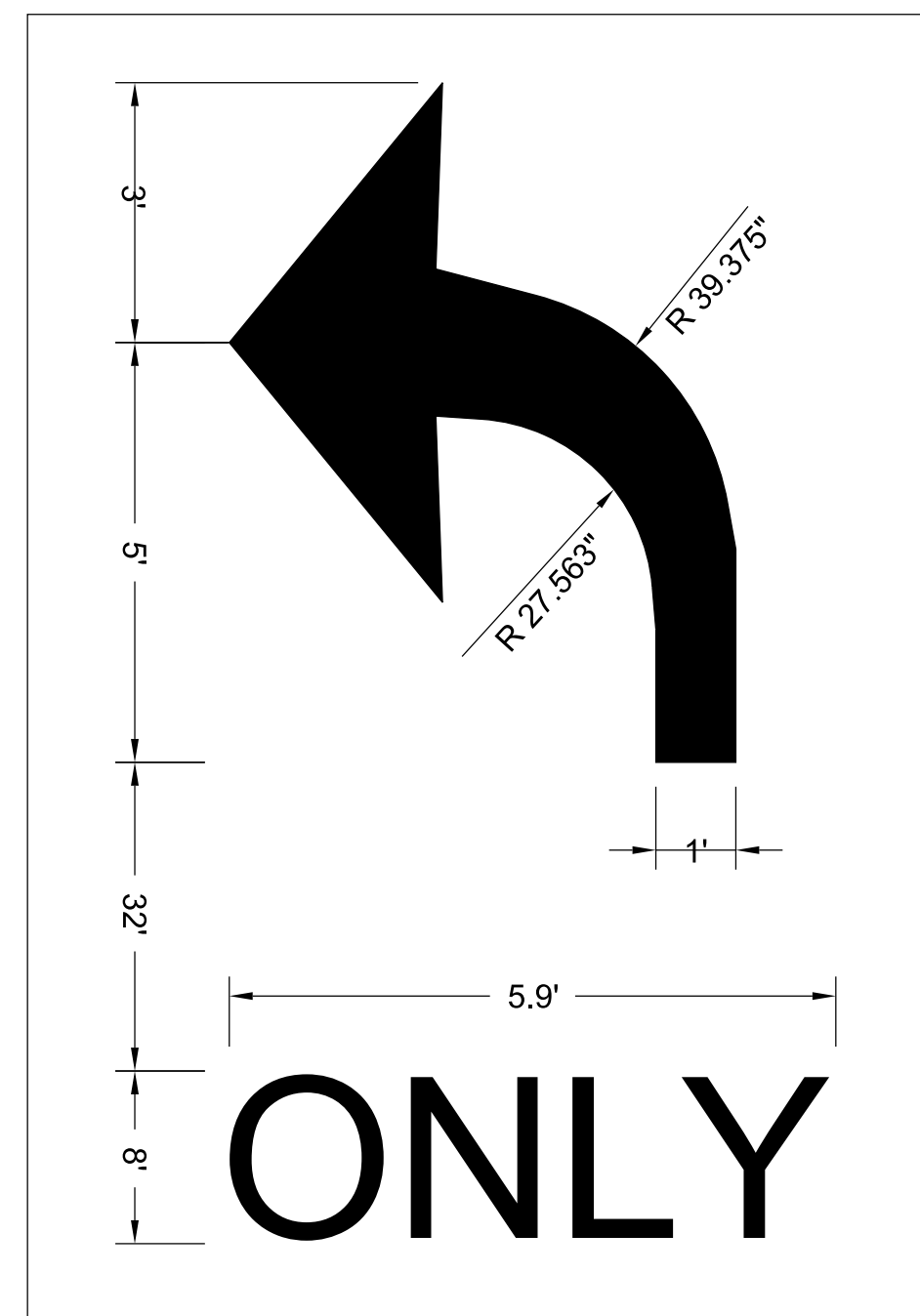
METROPOLITAN GOVERNMENT
OF NASHVILLE & DAVIDSON COUNTY, TENNESSEE
PUBLIC WORKS DEPARTMENT
ENGINEERING DIVISION

BENTOBX RAILROAD
QUIET ZONE

NOTES AND QUANTITIES

GENERAL NOTES

1. ALL CONSTRUCTION, EQUIPMENT, AND INSTALLATION PROCEDURES SHALL COMPLY WITH THE TENNESSEE DEPARTMENT OF TRANSPORTATION (TDOT) STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION DATED JAN. 1, 2015.
2. THE CONTRACTOR SHALL SUBMIT A MATERIALS LIST TO METRO DEPARTMENT OF PUBLIC WORKS FOR REVIEW AND APPROVAL PRIOR TO START OF CONSTRUCTION (CHIP KNAUF, MDPW, 615-880-2443).
3. ALL DESIGN AND CONSTRUCTION ACTIVITIES SHALL BE IN FULL COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA) 2010 STANDARDS FOR ACCESSIBLE DESIGN AS HAS BEEN ADOPTED BY METRO DEPARTMENT OF PUBLIC WORKS.
4. CONTRACTOR SHALL FIELD VERIFY ALL DIMENSIONS AND QUANTITIES.
5. CONTRACTOR TO PROVIDE ALL REQUIRED MDPW PERMITS, FLAGMEN, TRAFFIC CONTROL, AND OTHER MEASURES AS DEEMED NECESSARY AND APPROPRIATE TO PROTECT BOTH VEHICULAR AND PEDESTRIAN/BIKE TRAFFIC.
6. ALL SIGNS AND PAVEMENT MARKINGS SHALL COMPLY WITH THE CURRENT EDITION OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES.
7. PAVEMENT MARKING ARROWS AND PAVEMENT MARKING WORD "ONLY" SHALL COMPLY WITH THE CURRENT EDITION OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES.



STANDARD ARROW AND WORD
PAVEMENT MARKINGS
N.T.S.

ESTIMATED ROADWAY QUANTITIES

ITEM NO.	DESCRIPTION	UNIT	QUANTITY
712-08.06	UNIFORMED POLICE OFFICER	HOURL	80
713-02.14	FLEXIBLE REFLECTIVE DELINEATOR (WHITE)	EACH	12
(1) 713-16.21	SIGNS (36" X 36" ALUMINUM FLAT SHEET)	EACH	7
(2) 713-16.21	SIGNS (36" X 36" ALUMINUM FLAT SHEET)	EACH	7
713-16.21	SIGNS (30" X 36" ALUMINUM FLAT SHEET)	EACH	1
717-01	MOBILIZATION	L.S.	1
730-03-N	PULL BOX (TYPE B TRAFFIC) 730-N	EACH	3
730-12.03	CONDUIT 3" DIAMETER (PVC)	L.F.	155
730-12.14	CONDUIT 3" DIAMETER (JACK & BORE)	L.F.	210
730-26.07	FLASHING WARNING BEACON	EACH	4

ESTIMATED PAVEMENT MARKING QUANTITIES

ITEM NO.	DESCRIPTION	UNIT	QUANTITY
(3) 716-02.05	PLASTIC PAVEMENT MARKING (STOP LINE)	L.F.	40
(3) 716-02.06	PLASTIC PAVEMENT MARKING (TURN LANE ARROW)	EACH	2
(3) 716-03.01	PLASTIC WORD PAVEMENT MARKING (ONLY)	EACH	1

FOOTNOTES:

- (1) ITEM IS FOR RAILROAD SIGN (W10-1, 36" DIA.)
- (2) ITEM IS FOR "NO TRAIN HORN" SIGN (W10-9, 30" X 30").
- (3) THE CONTRACTOR MAY ELECT TO SUBSTITUTE PREFORMED PLASTIC FOR THERMOPLASTIC. PREFORMED PLASTIC SHALL BE PAID FOR AT THE SAME UNIT PRICE AS BID FOR THERMOPLASTIC.