

DEED OF GROUND LEASE AND PARKING GARAGE AGREEMENT

THIS DEED OF GROUND LEASE AND PARKING GARAGE AGREEMENT (this "Ground Lease") is made and entered into as of the ____ day of _____, 2022 (the "Effective Date"), by and between the ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF MANASSAS PARK, VIRGINIA, its successors and assigns (the "EDA"), as Lessor; the POTOMAC AND RAPPAHANNOCK TRANSPORTATION COMMISSION, its successors and assigns (the "PRTC"), and the NORTHERN VIRGINIA TRANSPORTATION COMMISSION, its successors and assigns (the "NVTC") (together, the "Commissions"), together known and hereinafter referred to as the VIRGINIA RAILWAY EXPRESS, its successors and assigns (the "VRE"), as Lessee; and the CITY OF MANASSAS PARK, VIRGINIA, its successors and assigns (the "City").

RECITALS:

R-1. The EDA is the owner of certain real property situate in Manassas Park, Virginia, known as Lot 5-1, CONNER CENTER, Blooms Court (the "Property"), with tax map number 24-3-5-1, as created by that certain Deed of Boundary Line Adjustment recorded as Instrument No. 202008030065196, and as duly platted and shown on the plat attached thereto, incorporated therein by reference, and recorded as Instrument No. 202008030065197, having acquired the Property by Special Warranty Deed recorded as Instrument No. _____, all among the land records of Prince William County, Virginia (the "Land Records").

R-2. The City and the VRE are parties to that certain Agreement for Design, Construction, Operation, Use, and Maintenance of Parking Garage and Conveyance of Expansion Parking Lot at Manassas Park Virginia Railway Express Station dated November 5, 2021 (the "Parking Agreement"), a copy of which is attached hereto as Exhibit A and incorporated herein by reference.

R-3. The EDA and the VRE desire to enter into a ground lease for the Property to allow for the construction, operation, and maintenance of the Garage (as defined therein and below) to provide parking for commuter rail patrons and non-commuter rail patrons, as contemplated by the Parking Agreement and as provided herein.

R-4. The EDA and the City desire for the City to serve as its agent for the purpose of administering this Ground Lease.

R-5. The City joins in this Ground Lease to acknowledge, affirm, and agree to its rights, responsibilities, and obligations, as specified in the Parking Agreement and as set forth herein.

NOW, THEREFORE, for and in consideration of foregoing recitals, each of which is hereby incorporated into this Ground Lease as if set forth herein in its entirety, the rights, responsibilities, and obligations specified in the Parking Agreement and in this Ground Lease, including the rentals herein agreed to be paid by the VRE and other respective covenants to be performed by the parties, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the EDA, the VRE, and the City hereby agree as follows:

1. **LEASE OF PROPERTY.** The EDA hereby demises and leases unto the VRE, and the VRE hereby takes and accepts from the EDA, the Property, on which the VRE will, in collaboration with the

City, as provided for in the Parking Agreement, design and construct a structured parking garage (the "Garage") with three levels at and above grade with approximately 544 parking spaces primarily for the VRE's use (the "VRE Parking Levels") and one level below grade with approximately 191 parking spaces primarily for the City's use (the "City Parking Level"). The lease of the Property and the operation, use, and maintenance of the Garage shall be in accordance with the terms and conditions set forth in the Parking Agreement and herein. In the event of conflict between the provisions of the Parking Agreement and this Ground Lease, the terms of this Ground Lease shall prevail.

2. GROUND LEASE TERM. The EDA shall lease to the VRE and the VRE shall lease from the EDA the Property for a term commencing on the Effective Date first above written and continuing for as long as the VRE uses the Garage for commuter rail patron parking. During such term, the VRE shall have access to the Property on all days of the year and at all times. If the VRE either (i) determines that it no longer requires use of the Property for commuter rail patron parking and provides written notice to the EDA and the City of the same, or (ii) does not use the Garage for commuter rail patron parking for a period of one year, then the term of this Ground Lease shall automatically expire and this Ground Lease shall be deemed to have been terminated as of the date of such expiration and will thereafter have no further force and/or effect, except for those provisions that by definition necessarily survive the termination of this Ground Lease.

3. RENT. The VRE shall pay to the EDA rent in the amount of One Dollar (\$1.00) per annum, commencing on the Effective Date and payable in arrears annually within ten (10) calendar days following the anniversary of the Effective Date. If this Ground Lease is terminated the rent due will be prorated.

4. CITY AS EDA'S AGENT. The City shall serve as the EDA's agent for purposes of administering this Ground Lease, acting on behalf of the EDA in preserving, defending, and performing the EDA's rights, responsibilities, and obligations as set forth herein. The EDA further authorizes the City to exercise its rights and discharge its responsibilities under the Parking Agreement as such relates to the Property.

5. GARAGE OPERATIONS AND MAINTENANCE.

(a) The VRE shall be responsible for design and construction of the Garage in accordance with the terms providing for such in the Parking Agreement.

(b) The VRE shall be responsible for all maintenance of the VRE Parking Levels except as otherwise provided herein and in the Parking Agreement. The VRE shall be responsible for the operation of the VRE Parking Levels during VRE Service Hours (defined below), including payment of all utilities therefor. For purposes of this Ground Lease, "VRE Service Hours" is defined as the period, on those days VRE commuter rail service is operated at the VRE's commuter rail station at Manassas Park, beginning when the first VRE train commences commuter rail service on the Norfolk Southern railroad right-of-way and ending when the last VRE train ceases such commuter rail service. Snow removal from the VRE Parking Levels during VRE Service Hours will be the responsibility and at the cost of the VRE. Snow removal outside of VRE Service Hours may be provided at the City's cost upon prior arrangement with the VRE. The City's Police Department will provide additional periodic patrol of the VRE Parking Levels as requested by the VRE. The VRE reserves the right to close all or a portion of the VRE Parking Levels for purposes of maintenance and repair, including outside VRE Service Hours, and shall provide the EDA and the City with not less than 30 days' advance notice thereof.

(c) Maintenance of the City Parking Level shall be performed by the VRE as part of overall Garage maintenance, with the City paying the VRE for its pro rata share of such maintenance as hereafter provided. The City shall be responsible for the operation and use of the City Parking Level, including payment of all utilities therefor and the designation of all or a portion of the parking spaces on the City Parking Level for use as determined by the City.

(d) The VRE and the City shall each be responsible for providing clean-up of the Property as required due to the use of the Garage by the invitees, patrons, employees, officers, or agents of the VRE and the City, respectively.

(e) Parking on the VRE Parking Levels will be primarily for the use of commuter rail patrons during VRE Service Hours. Outside of VRE Service Hours and on days with no VRE service the VRE Parking Levels may be used for public parking by the City.

(f) The VRE may take reasonable measures to ensure that commuter rail patrons are given the first priority for use of the VRE Parking Levels during VRE Service Hours.

(g) At such time as the daily parking occupancy on the VRE Parking Levels regularly exceeds 90% during VRE Service Hours on average over a twenty-eight (28) day period, the VRE and the City will jointly conduct a survey using agreed upon methodology to determine the proportion of parking spaces being used by commuter rail patrons and non-commuter rail patrons on the VRE Parking Levels and the City Parking Level during VRE Service Hours. The VRE and the City will thereafter conduct an annual survey using agreed upon methodology to determine the proportion of commuter rail patrons and non-commuter rail patrons using the VRE Parking Levels and the City Parking Level.

i. If any survey shows that more than twenty percent (20%) of the spaces in the VRE Parking Levels are being used by non-commuter rail patrons during VRE Service Hours, the costs of maintenance and operation of the Garage will be apportioned between the VRE and the City based on the use of commuter rail patrons and non-commuter rail patrons as determined by the survey.

ii. If any survey shows that more than twenty percent (20%) of the spaces in the City Parking Level are being used by commuter rail patrons during VRE Service Hours, the costs of maintenance and operation of the City Parking Level will be apportioned between the VRE and the City based on the use of commuter rail patrons and non-commuter rail patrons as determined by the survey.

iii. The City and the VRE will agree upon signage to be installed during initial construction of the Garage and thereafter, including signs to discourage, but not prohibit, non-commuter rail patron use of the VRE Parking Levels and commuter rail patron use of the City Parking Level during VRE Service Hours.

6. SURRENDER UPON TERMINATION; OWNERSHIP OF IMPROVEMENTS.

Upon the termination of this Ground Lease:

(a) The VRE shall forthwith surrender and deliver the Property to the EDA and shall place the EDA in quiet and peaceable possession of the same; and

(b) The City shall acquire ownership of all improvements constructed on the Property, including the Garage, at no additional cost, subject to the requirement that the City will thereafter use the Garage in accordance with the conditions imposed by each grant funding entity that

provided funds to design and construct the Garage. The VRE shall take all actions necessary to convey ownership of such improvements to the City.

7. LIENS. The EDA, the VRE, and the City shall not permit to be created or to remain undischarged any lien, encumbrance or charge arising out of any work of any contractor, mechanic, laborer or materialman that might be or become a lien or encumbrance or charge upon the Property or any part thereof. If any lien on account of an alleged debt of the EDA, the VRE, or the City is filed against the Property or any part thereof, the party against whom the debt is alleged shall, within thirty (30) days after written notice of the filing thereof is received, cause, or commence to cause and diligently pursue thereafter, the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction, or otherwise. If such party fails to cause, or commence to cause and diligently pursue thereafter, such lien to be discharged within the period aforesaid, then, in addition to any other right or remedy provided herein, the other parties may, but shall not be obligated to, discharge the same either by paying the amounts claimed to be due or by procuring the discharge of such lien by deposit or by bonding proceedings. Any amount so paid and all costs and expenses incurred in connection therewith, together with interest thereon from the respective dates of the payment or incurring of the cost and expense shall constitute an obligation of the party against whom the debt was alleged and shall be paid by such party to the other(s) on demand.

8. ASSIGNMENT AND SUBLETTING. No party shall transfer or assign this Ground Lease, any interest in this Ground Lease, or any portion thereof, or sublet the Property or any portion thereof without first obtaining the written consent of the other parties. Any attempted transfer, assignment or subletting, including any involuntary transfers or assignments by operation of law, without such consent shall be void and confer no rights upon any third party. Consent by a party to one transfer, assignment or subletting shall not operate as a waiver of its approval rights as to any future transfer, assignment or subletting, and this Section shall continue to apply to any transferee, assignee or subtenant. No transfer, assignment or subletting shall relieve the transferring party of its liability for the full performance of all of the terms, agreements, covenants and conditions of this Ground Lease; provided, however, that the parties agree to proceed against the party then in possession prior to demanding performance by any prior transferor.

9. INSURANCE.

(a) The VRE shall procure and maintain, at its expense, general liability insurance against claims for bodily injury, death, and property damage and loss occurring within the Property or arising out of the use thereof by the VRE or its agents, employees, officers or invitees, visitors, and guests. The VRE shall provide a certificate of insurance from its insurance company evidencing general liability insurance with limits not less than Two Million Dollars (\$2,000,000.00) for bodily injury to or death of all persons and for property damage or loss in any one occurrence, which coverage may be met by umbrella insurance. The VRE may satisfy the foregoing requirements through use of its Commuter Rail Liability Insurance Plan administered by the Commonwealth of Virginia's Division of Risk Management.

(b) The EDA and the City shall be listed as additional insureds on all insurance policies, and copy(ies) of the endorsement(s) listing the EDA and the City as additional insureds shall be attached to each certificate of insurance.

(c) The City shall carry and maintain general liability insurance against claims for bodily injury, death, and property damage and loss occurring within the Property or arising out of the use

thereof by the City or its agents, employees, officers or invitees, visitors, and guests in limits it reasonably deems appropriate (but in no event less than the limits required of the VRE pursuant to this Section). The EDA shall be a named insured under, and therefore covered by, the City's insurance policy.

(d) The VRE shall be listed as an additional insured on all insurance policies, and a copy of the endorsement listing the VRE as an additional insured shall be attached to each certificate of insurance.

10. CASUALTY DAMAGE. If the Property, or any part thereof, shall be damaged by fire or other casualty, the VRE shall give prompt written notice thereof to the EDA and the City. In case the Garage shall be so damaged that substantial alteration or reconstruction shall, in the VRE's reasonable opinion, be required, the parties shall meet and confer on whether substantial alteration or reconstruction of the Garage should occur and how. In the event the parties are unable to reach agreement on a plan to complete the substantial alteration or reconstruction within one hundred and twenty (120) days following the determination that such alteration or reconstruction is required, the VRE may, at its option, terminate this Ground Lease by notifying the EDA and the City, in writing, of such termination.

11. CLAIMS. Neither the EDA, the VRE, nor the City will be responsible for claims arising out of another party's use of the Property, including the Garage. The foregoing will not, however, be construed as a waiver by the EDA, the VRE, or the City of any defenses, legal or statutory, that the EDA, the VRE, or the City can use in response to claims being asserted against them.

12. DISPUTE RESOLUTION. In the event of a disagreement concerning the provisions of this Ground Lease or regarding the maintenance, use, or operation of the Garage generally, the parties shall use their best efforts to reach a mutually agreed resolution of the disagreement. As necessary, the disagreement shall be brought to the VRE Chief Executive Office, the EDA Chairman, and/or the City Manager, as appropriate, for discussion and resolution.

13. DEFAULT. The failure of any party to perform its obligations hereunder in accordance with the terms of this Ground Lease or the Parking Agreement shall constitute a default, and in the event of such, the non-defaulting party may, after the provision of not less than 30 days' notice and an opportunity to cure, the period for such cure being reasonable under the circumstances, and assuming the failure to perform is not the subject of ongoing efforts of dispute resolution, bring an action in a court of competent jurisdiction to enforce the defaulting party's obligations.

14. "AS IS" CONDITION. The VRE shall accept the Property in its "as is" condition as of the Effective Date and the EDA and the City shall have no obligation whatsoever to perform any alterations, additions, or improvements thereto on account of this Ground Lease, except as otherwise provided in the Parking Agreement or this Ground Lease.

15. NOTICE.

(a) Notice and other correspondence provided for or required by this Ground Lease will be deemed received (i) upon actual receipt, (ii) on the same day if hand-delivered or sent via fax or email, or (iii) the following day if sent using overnight mail, as follows:

To the EDA: EDA of Manassas Park
 One Park Center Court
 Manassas Park, VA 20111

Attention: Mark Botros, Chairman
Fax Number: (703) 335-0053
Email: m.botros@manassasparkva.gov

With a Copy to: City of Manassas Park
One Park Center Court
Manassas Park, VA 20111
Attention: Dean Crowhurst, EDA Attorney
Fax Number: (703) 335-0053
Email: d.crowhurst@manassasparkva.gov

To the VRE: Virginia Railway Express
1500 King Street, Suite 202
Alexandria, VA 22314
Attention: Rich Dalton, Chief Executive Officer
Fax Number: (240) 497-6700
Email: rdalton@vre.org

With a Copy to: Virginia Railway Express
1500 King Street, Suite 202
Alexandria, VA 22314
Attention: Stephen A. MacIsaac, General Counsel
Fax Number: (240) 497-6700
Email: smacisaac@vre.org

To the City: City of Manassas Park
One Park Center Court
Manassas Park, VA 20111
Attention: Laszlo Palko, City Manager
Fax Number: (703) 335-0053
Email: l.palko@manassasparkva.gov

With a Copy to: City of Manassas Park
One Park Center Court
Manassas Park, VA 20111
Attention: Dean Crowhurst, City Attorney
Fax Number: (703) 335-0053
Email: d.crowhurst@manassasparkva.gov

(b) Any party shall have the right from time to time, upon at least ten (10) days' prior written notice thereof, to change their respective addressees, physical addresses, fax numbers, and email addresses. Rejection or refusal to accept or the inability to deliver because of changed address of which no notice was timely given shall be deemed to be receipt of the notice or other correspondence.

16. MISCELLANEOUS.

(a) The EDA hereby represents, warrants and covenants and agrees that, at the time of the execution and delivery of this Ground Lease, it: (i) is the owner of the Property and has not received

any written notice of any claim or demand contesting or impairing its interests in the Property; and (ii) has the full right, power and authority to enter into this Ground Lease and thereby to lease the Property to the VRE.

(b) This Ground Lease shall be binding upon and inure to the benefit of and be enforceable by the respective successors and permitted assigns of the parties hereto. Time is declared to be of the essence of this Ground Lease. No third party beneficiary rights are created by this Ground Lease.

(c) The Section headings contained in this Ground Lease are for purposes of reference only and shall not limit or define the meaning of any of the terms or provisions hereof.

(d) This Ground Lease may be amended only by an instrument in writing signed by all parties. All approvals required hereunder shall also be in writing.

(e) This Ground Lease shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

(f) If any provision of this Ground Lease is found by a court of competent jurisdiction to be in violation of any applicable law, and such court declares such provision to be unlawful, void, illegal, or unenforceable, such provision shall be modified to make it lawful, valid, legal, and enforceable, or, if such modification is not possible, severable, with the remainder of this Ground Lease to continue in full force and effect.

(g) The failure of the VRE, the EDA, or the City to insist upon or enforce any of its rights hereunder shall not constitute a waiver thereof.

(h) In the event any party is prevented from meeting its obligations hereunder, through no fault of its own, because of circumstances beyond its control, including, but not limited to, acts of God, strikes, and governmental and other approvals, then that party shall be excused from meeting its obligations for the pendency of those circumstances.

(i) This Ground Lease constitutes the final expression of, and contains the entire agreement between, the VRE, the EDA, and the City with respect to the subject matter hereof and shall not be amended except by a written instrument executed on behalf of the EDA, the VRE, and the City.

(j) This Ground Lease may be executed in multiple counterparts, which, taken together, shall constitute one and the same instrument, any of which may be deemed the original Ground Lease.

(k) Whenever anything is to be done or performed by the VRE, the EDA, or the City pursuant to this Ground Lease, unless otherwise expressly provided to the contrary, it shall be done or performed at the sole cost and expense of the VRE, the EDA, or the City, as the case may be.

(l) If and to the extent required under applicable laws to make this Ground Lease effective, this Ground Lease shall constitute a deed of lease executed under seal. This Ground Lease shall not be recorded among the Land Records without the mutual written consent of the VRE, the EDA, and the City. A memorandum of this Ground Lease approved by and signed on behalf of the VRE, the EDA, and the City may be recorded among the Land Records by any party.

[Signature pages follow]

IN WITNESS WHEREOF, the parties hereto have executed these presents as of the day and year first above written.

ECONOMIC DEVELOPMENT AUTHORITY OF MANASSAS
PARK, VIRGINIA

By: _____
Mark Botros, Chairman

COMMONWEALTH OF VIRGINIA
CITY OF MANASSAS PARK, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 2022,
by Mark Botros, as Chairman of the Economic Development Authority of Manassas Park, Virginia.

Notary Public

My Commission Expires: _____

APPROVED AS TO FORM

Dean H. Crowhurst, EDA Attorney

POTOMAC AND RAPPAHANNOCK TRANSPORTATION
COMMISSION and NORTHERN VIRGINIA
TRANSPORTATION COMMISSION, together, the
VIRGINIA RAILWAY EXPRESS

By: _____
Rich Dalton, VRE Chief Executive Officer

COMMONWEALTH OF VIRGINIA
CITY OF ALEXANDRIA, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 2022,
by Rich Dalton, as Chief Executive Officer of the Virginia Railway Express.

Notary Public

My Commission Expires: _____

APPROVED AS TO FORM

Stephen A. MacIsaac, General Counsel

CITY OF MANASSAS PARK, VIRGINIA

By: _____
Jeanette Rishell, Mayor

COMMONWEALTH OF VIRGINIA
CITY OF MANASSAS PARK, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 2022,
by Jeanette Rishell, as Mayor of the City of Manassas Park, Virginia.

Notary Public

My Commission Expires: _____

APPROVED AS TO FORM

Dean H. Crowhurst, City Attorney

EXHIBIT A

PARKING AGREEMENT