

**GRANT PARTICIPATION AND  
REIMBURSEMENT AGREEMENT FOR  
CONSTRUCTION OF SUPPLEMENTAL SAFETY IMPROVEMENTS  
AT SELECTED RAILROAD CROSSINGS IN THE CITY OF  
DELRAY BEACH, FLORIDA**

**THIS AGREEMENT** is made as of \_\_\_\_\_, 2020, by and between **Virgin Trains USA Florida LLC**, a Delaware limited liability company, an address of which is 161 NW 6<sup>th</sup> Street, Suite 900, Miami, Florida 33136 (“**VTUSAF**”), and the **City of Delray Beach**, a municipal corporation and political subdivision of the State of Florida, existing under the laws of the State of Florida, an address of which is 100 NW 1<sup>st</sup> Avenue, Delray Beach, Florida 33444 (“**CITY**”).

**WHEREAS**, VTUSAF has been awarded with a grant under the Federal Railroad Administration’s (“**FRA**”) Consolidated Rail Infrastructure and Safety Improvements Program (the “**CRISI Grant**”) which will provide funding for supplemental safety improvements at certain strategically identified crossings along VTUSAF’s rail corridor, all as more particularly specified in an agreement between FRA and VTUSAF (the “**Grant Agreement**”).

**WHEREAS**, CITY desires to provide funding as a local match for the CRISI Grant to improve railroad safety through such supplemental safety improvements along VTUSAF’s rail corridor within the City of Delray Beach, which use of funds will serve a legitimate public and municipal purpose.

**NOW, THEREFORE**, for and in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, VTUSAF and CITY hereby agree as follows:

1. VTUSAF shall use the funds provided by CITY pursuant to this Agreement solely as a local match in VTUSAF’s program to improve railroad safety through supplemental safety improvements (the “**Improvements**”) at railroad crossings along VTUSAF’s rail corridor within the boundaries of CITY pursuant to the CRISI Grant, as set forth in attached **Exhibit A**.

2. Within ninety (90) days after the completion of Improvements at a railroad crossing within the boundaries of CITY, VTUSAF will provide CITY with an invoice detailing the Improvements at such crossing, and CITY agrees to reimburse VTUSAF twenty percent (20%) of the cost incurred in connection with the design and construction of such Improvements within thirty (30) days following CITY’s receipt of such invoice; provided, however, that the total amount that CITY will pay VTUSAF pursuant to this Agreement shall not exceed the total aggregate sum of \$46,000.77 (“**Maximum City Participation**”).

3. CITY may audit the books, records, and accounts of VTUSAF that are related to this Agreement. VTUSAF shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement. VTUSAF shall preserve and make available, at reasonable times for examination and audit by CITY all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required

retention period of the Florida public records law (Chapter 119, Florida Statutes) and corresponding retention schedules, or for a minimum of three (3) years after expiration or termination of this Agreement, whichever is longer. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida public records law is determined by CITY to be applicable to VTUSAF records, VTUSAF shall comply with all requirements thereof.

**4. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CITY OF DELRAY BEACH, CITY CLERK, 100 N.W. 1<sup>ST</sup> AVE., DELRAY BEACH FLORIDA. THE CITY CLERK'S OFFICE MAY BE CONTACTED BY PHONE AT 561-243-7050 OR VIA EMAIL AT CITYCLERK@MYDELRAYBEACH.COM.**

a. Contractor shall comply with public records laws, specifically to:

- i. Keep and maintain public records required by the City to perform the service.
- ii. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Florida Statute or as otherwise provided by law.
- iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Contractor does not transfer the records to the City.
- iv. Upon completion of the Agreement, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.
- v. If the Contractor does not comply with this section, the City shall enforce the contract provisions in accordance with the contract and may unilaterally cancel this contract in accordance with state law.

5. This Agreement shall constitute the entire agreement between CITY and VTUSAF for the use of funds received pursuant to this Agreement, and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the CITY and VTUSAF with respect to this Agreement. No prior written or contemporaneous oral promises or representations shall be binding. This Agreement shall not be amended except by written instrument signed by both parties.

IN WITNESS WHEREOF, CITY and VTUSAF execute this Agreement as follows:

ATTEST:

**City of Delray Beach**

\_\_\_\_\_  
Katerri Johnson, City Clerk

By:\_\_\_\_\_  
Shelly Petrolia, Mayor

WITNESSES:

**Virgin Trains USA Florida LLC**

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

By:\_\_\_\_\_  
Patrick Goddard, President

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

## **EXHIBIT A**

### I. PROJECT:

#### Type of Crossing Improvement:

- 3 delineators & striping
- 1 exit gate

### II. BREAKDOWN BY CROSSING:

City	Crossing	Edge Markings and Striping	Centerline Delineators	100' Raised Median West Side	Exit Gates (Both Sides)	Exit Gates (SE)	Exit Gates (NW)	Active Signs	Blended Total (incl. PM + Design)
DELRAY BEACH	[272489A] MP 316.31; NE 4th St.; Delray Beach	X			X				\$ 191,685.28
DELRAY BEACH	[272869G] MP 316.96; SE 1st St.; Delray Beach	X							\$ 19,399.28
DELRAY BEACH	[272498Y] MP 319.36; Lindell Blvd.; Delray Beach	X							\$ 18,919.28
									\$ 230,003.84

### III. TOTAL PROJECT COST: \$230,003.84