

**Capitol Quarter  
Community Association**

September 17, 2013

Parsons Brinckerhoff  
Attn: Virginia Avenue Tunnel Project  
1401 K Street NW, Suite 701  
Washington, DC 20005

RE: Comments on the Virginia Avenue Tunnel Draft Environmental Impact Statement

The Capitol Quarter Community Association (Homeowners' Association) Board of Directors (HOA) submits this letter on behalf of the residents of the first phase of the Capitol Quarter neighborhood in response to the Draft Environmental Impact Statement (DEIS). We incorporate by reference the statements and concerns noted in our previous filings in this document. Also, in addition to the HOA's concerns, several Capitol Quarter residents are likely to submit additional comments given the extent of concern among our community.

By this point, you are aware of the demographics and location of the Capitol Quarter community, including the extreme impact that any build alternative will have upon our ability to live in our homes.<sup>1</sup> This comment on the DEIS will address four primary areas: (1) the alternatives chosen for inclusion in the DEIS; (2) specific concerns about the build alternatives presented; (3) additional information requested and needed; (4) additional mitigation and community benefits in the event construction were to proceed; and (5) withdrawal of the current VAT DEIS and issuance of a Supplemental Environmental Impact Statement (SEIS) or a new DEIS that addresses the concerns outlined in this comment.

**I. The Alternatives Chosen for the DEIS**

A. We Continue to Support a No Build Option

We continue to believe that a no build option should be chosen. Any build option will pose extreme environmental, health, safety, traffic, and construction concerns that we have previously identified. This project as proposed cannot proceed without significant

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<sup>1</sup> We do not believe, however, that the Limits of Disturbance (LOD) identified in the report is procedurally or substantively proper. The entire Capitol Quarter community will be severely impacted by the construction and should be included within the LOD area. As one specific instance of the LOD's severe and undue limitations, we note that the triangle park at 4<sup>th</sup> and Virginia SE (Reservation 122), although only feet from construction, was not included in the LOD.

environmental, traffic, and human impact, and we thus urge that the no build option be chosen as the preferred alternative.<sup>2</sup>

The DEIS sets forth eight criteria for the project, which guide the alternative selection process (page 3-4). None of these eight criteria, however, include resident safety or minimizing disruption to residents as a project goal. The failure to include these factors among the guiding project principles is a significant oversight. All of these criteria are slanted towards an intensive construction project geared solely towards the needs of CSX's business and not for the needs of residents of the District of Columbia. We urge that resident safety and minimizing resident disruption be included as guiding project criteria and, if they are not, we request a full and detailed explanation as to the reasons for not doing so.

We also note that the DEIS is internally inconsistent when discussing the non-business rationales for building a new tunnel. Specifically, in section 3.1, the DEIS claims that the tunnel project needs to go forward because, "given its 100-year plus age, the tunnel could require emergency or unplanned repairs at some point in the future to maintain commercial freight movements and protect the safety of railroad personnel and the public." As the sole evidence supporting this claim, the DEIS cites a 1985 incident in which part of the tunnel apparently collapsed. However, in discussing the purpose and need for the project in section 2.1.3, the DEIS notes that "overall structure [of the tunnel] is in relatively good shape" and only vaguely gestures toward visible wear and tear and now-obsolete construction methods as posing imminent problems. More importantly, the DEIS specifically disclaims both any danger of collapse and the relevance of the 1985 incident, stating "the tunnel is in no danger of collapsing in part due to tunnel reinforcements and reconstruction made in late 1985 and early 1986." Accordingly, the only specific evidence cited by the Draft EIS to support the possibility of imminent tunnel collapse, the 1985 incident, is discredited by the DEIS itself.

In the absence of specific evidence, the DEIS in section 2.1.3 relies solely on conjecture, asserting that "a major structural deficiency could materialize over the next few decades, possibly due to the continued aging of the tunnel's masonry structure." The direct discussion of the no build option in section 3.1 is no better, adding only that "the tunnel would eventually require rehabilitation or replacement, which may occur under an unplanned condition, and possibly at a time when the surrounding neighborhood is more fully developed with increased traffic as a result." Not only are these arguments entirely speculative, but they are so vague as to be applicable to all the alternatives. "[A] major

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<sup>2</sup> We note that page 2-2 of the DEIS states that queues entering the western end of the Virginia Avenue Tunnel could cause delays in passenger rail service if trains were to be lined up towards the Long Bridge and the tracks that proceed to Union Station. The DEIS does not state, however, whether this has ever happened or the frequency of such occurrences and does not give projections of such delays if there were increased rail traffic. Such conjecture cannot demonstrate a purpose and need of the project. We request answers and facts on this important point.

structural deficiency could materialize over the next few decades" in a rebuilt tunnel, and a rebuilt tunnel would similarly "eventually require rehabilitation or replacement, which may occur under an unplanned condition." In sum, what little evidence the DEIS provides in section 3-1 to discount the no-build option is contradicted by the report itself. Thus, the DEIS has not shown a demonstrable purpose and need for the project.

B. A Rerouting Alternative Should Have Been Included in the DEIS

At least one rerouting option should have been selected for further review in the EIS process. The DEIS's reasons for removing these concepts from further consideration are not well-explained nor particularly convincing and do not satisfy NEPA requirements.

For instance, the discussion beginning on page 2-7 of the DEIS states that it is not feasible to stop train service as CSX does not own the other tracks needed for rerouting. This section, however, does not address the feasibility of sharing or renting tracks owned by other carriers. This section also states that common carrier obligations require CSX to continue train operations. What the section fails to acknowledge, however, is that common carrier obligations cannot be demanded if there is a physical impossibility to such requested service, such as a repair or expansion of the tunnel. Thus, any alleged common carrier obligations cannot form the basis for exclusion of a rerouting alternative.

Additionally, page 3-17 of the DEIS simply states that rerouting is not possible because a two-year rerouting agreement with Norfolk Southern "would be very difficult," but fails to explain why. The DEIS does not state the costs for any such rerouting. It does not state the degree of difficulty of obtaining a rerouting agreement. It does not state whether any such rerouting agreement has ever occurred. And it does not state whether CSX has approached Norfolk Southern about the possibility of such a rerouting arrangement. (It also fails to acknowledge that Norfolk Southern would also have a common carrier obligation and that the Surface Transportation Board can, and has, ordered temporary rerouting.) Without even these minimal explanations, the validity of removing this option is at question. We thus request that these questions be answered and analyzed in detail.

A combination of the earlier rerouting options should be included in the EIS process to allow for a full public examination of the options. Specifically, we urge that a combination (and variation) of concepts 7A, 7B, and 11 either be considered or that the NEPA agencies provide factual, documentary evidence of the basis for their exclusion as reasonable alternatives. During construction, trains could be rerouted through Union Station (7A), could be rerouted on existing rail lines (7B), and could be rerouted on existing lines in conjunction with the use of truck traffic only during the limited period of time that the tunnel is being rebuilt (a variation of 11, as that option only concerned permanent rerouting).

Because no rerouting alternative was included in the DEIS, the NEPA process will not reveal whether simply rebuilding the tunnel without having to also build a temporary track

might result in an environmentally superior approach or a much shorter period of construction. If that were true, then the claims that the overall environment, or the overall movement of freight, would suffer from rerouting might be exaggerated. For instance, if an option were chosen that would only reroute traffic during construction, and that option might shorten the construction period by a year or more, then that option might best satisfy the needs of all interested stakeholders. At a minimum, these alternatives certainly warranted inclusion in the DEIS.

## **II. Build Alternatives Presented in the DEIS**

Although we continue to urge that a no build option is in the best interest of the District of Columbia and the residents affected by this project, at this stage of the process we would like to address concerns we have with the three build alternatives presented in the DEIS.

### **A. Trains Should Not Run in an Open Trench**

As we have mentioned previously, out of the build alternatives presented, we believe that trains should not be allowed to run in an open trench during construction. We do not see any way that residents can possibly live in their homes while trains are running in trenches night and day for three years within feet of their front doors. Among other things, we are deeply concerned with issues such as air quality, air contaminants, hazardous materials, transportation of harmful material during construction, safety in case of accident or derailment, safety during construction (including continued emergency access to homes), noise impacts, health impacts from vermin or insects during construction, structural impacts upon our homes, utility disruptions, the impact of construction lighting, traffic impacts, pedestrian safety, security and terrorism impacts, the impact and encroachment on private property and public space, and the impact on residents' ability to sleep or reasonably inhabit their homes during construction. We believe there is no way, given the facts that have been presented to us in the DEIS, that these impacts can be adequately addressed for concepts that involve trains in open trenches.

Alternative Three involves rebuilding the current tunnel and building a single track tunnel to the south of the existing tunnel. As we stated in our filing last year, between the two bad choices of trains running in an open trench and Concept Five (now Alternative Three), we have no choice but to believe that this is the least noxious build option presented to us.

In stating that this alternative is the least bad choice presented to us, we note that we are deeply concerned with the vibrations and potential safety impacts as a result of a new train tunnel running, with increased double-stacked traffic, closer to our homes, as would be the case under this alternative. We believe that the final EIS should require state-of-the-art construction methods and materials and that any construction plans or vibration studies should be independently evaluated by an expert of our choosing that would be paid for by CSX as part of the NEPA process. We also note that the DEIS has not adequately addressed

the potential long-term impacts upon residences of this alternative and believe that NEPA procedural requirements have not been satisfied in this regard.

However if Alternative Three, or any build alternative is chosen, CSX should be required to reroute as much of its train traffic as possible during the construction period. Our understanding is that, at a minimum, two trains per day may be rerouted through Union Station on CSX lines and an additional one-third of CSX capacity may be rerouted onto the Norfolk Southern lines. The NEPA agencies should mandate that CSX contract for at least this much rerouting during construction. Doing so would achieve at least some reduction of the environmental impact to the construction site itself and also would provide a financial incentive for CSX to complete the project in as timely a manner as possible.

Additionally, we are extremely concerned about the long time periods for any construction alternative and ask that the time periods be substantially reduced. The shortest period of construction mentioned in the DEIS was for 30-42 months, a very long time period for such a disruptive project to a residential community. At a previous public meeting, when asked what could be done to shorten the construction time period, a CSX representative stated that the time period could be dramatically shortened if more money were spent on crews and equipment. Even though we mentioned this in previous public comments, the DEIS does not conduct a cost-benefit analysis for what steps could be taken to reduce the construction time frame. We emphatically ask that the final EIS require additional funds to be expended (including significant fines to be set aside for community improvements if CSX does not meet construction milestones throughout the process) and, as a result, provide for dramatically shortened time periods for all concepts.

If the goals of this project are to reduce environmental impact from increased freight and facilitate interstate commerce, as CSX has stated, then those objectives will be reached more rapidly if the construction period is shortened. Additionally, we as homeowners and individuals would be willing to consider enduring the possibility of greater construction annoyances for a reduced period of time, creating a net benefit for all parties involved. Thus, we strongly request that any construction concept be limited to no more than a 12-18 month time frame while recognizing that invasive construction must still be limited in hours as residents still need to live and sleep in their homes.

#### B. Right of Way

We do not believe that CSX has a valid right of way to complete construction of any of the build alternatives. In our view, it is clear that the 1901 statute allowing for construction of the tunnel only contemplated the running of temporary tracks for the limited period of time allowed for construction of the original tunnel. CSX has not pointed the public to precedent or statutory language that would allow it to build a new set of temporary tracks or that would allow it to expand the tunnel past its original footprint, especially since the

build alternatives contemplate a new tunnel anywhere from 7-25 feet south of the existing tunnel.<sup>3</sup>

We have repeatedly requested additional information about how any decision concerning the right of way will be made and how the public will be compensated for any taking or encroachment. We repeat our previous calls for answers to the following questions: (1) if additional right of way is needed, who would grant the right of way?; (2) on what grounds will that decision be made and will there be opportunities for public input before the decision?; (3) is there a process for appeal?; and (4) in what way(s) would the city and its residents benefit in return for any grant of right of way?. In sum, we strongly want transparency and an opportunity to comment before any final right of way decision is made. We also believe that the public should be appropriately compensated for any additional right of way given for this project.

### **III. Additional Information Needed**

Throughout the NEPA process, we have asked many questions about construction techniques, mitigation, and process, most of which have still not been answered in the DEIS. We reiterate our call for answers to those questions and additionally pose new questions raised by the DEIS in four categories: process, construction, traffic and parking, and safety.

#### **A. Process**

We strongly request additional information about the timing envisioned by the NEPA agencies, particularly regarding when the final EIS and the Record of Decision can be expected to be completed. We also believe that if any new piece of information is revealed in the final EIS or if the final EIS changes any assumptions or uses any additional study or report not in the DEIS, then an additional opportunity for public comment and review should be allowed. We believe that an ongoing dialogue is appropriate and needed and that failure to do so will be violative of NEPA procedural requirements.

We also request information about the permitting process to be conducted after the NEPA process is complete. We ask for opportunity for public comment and dialogue before any construction or traffic permits are actually issued.

The report fails to satisfy NEPA's procedural requirements, as it does not include all relevant information, such as the map identifying the street trees referenced in the Appendix H document and Appendix E to the Appendix J02 report (see page 5-3 of this appendix). We believe these should be provided and that the comment period is insufficient for adequate public comment without these relied-upon, but not-provided, pieces of information.

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<sup>3</sup> The statement on page 3-5 of the DEIS that any new tunnel would only be located on CSX-owned or public property has not been adequately proven in the DEIS.

As to process, after the years of work that have been put into the evaluation and assessment to date, there are still a large number of unanswered questions, factual inaccuracies, and inconsistencies in the DEIS. As a result of these inconsistencies and inaccuracies, we believe that the NEPA agencies should address the flawed studies and re-do the analysis in the DEIS or issue a SEIS, based upon the concerns noted in this comment, in order to satisfy NEPA procedural requirements and to allow the public to provide meaningful input

## B. Construction

We have numerous questions about the construction process not addressed in the DEIS and thus will address them serially below.

First, the DEIS (page 1-7) states that Reservation 122 (the triangle park at 4<sup>th</sup> and Virginia/I) will not be part of the Limits of Disturbance (LOD). Please provide more information about how residents can still obtain access to the park and about steps taken to minimize tree and landscaping damage to this important community resource.

Second, page 3-28 states that the area west of 2<sup>nd</sup> Street will be a single two-track portal rather than two single track portals, thus necessitating an open trench during construction. The DEIS, however, fails to explain why this is necessary or beneficial. The DEIS also fails to explain what precautions can be taken to minimize the significant disruptions that will result from open trench construction in an area extremely close to homes.<sup>4</sup>

Third, the DEIS states that Saturday construction will require a permit (page 3-52). It does not state, however, the criteria that will be used for awarding the permit, whether there will be any limits placed on such construction, and how Saturday or weekend construction would affect project timing. Similarly, the DEIS states that construction noise is “usually” limited to daylight hours, but provides no further explanation as to those hours or what is meant by the “usually” qualifier. These important questions should be answered.

Fourth, as mentioned above, the DEIS should have explained in detail and conducted a cost/benefit analysis of what steps could be taken to shorten the time frame of construction under any build alternative.

Fifth, we request an accounting of other mitigation measures that are available but that were not included in the DEIS as “reasonable and feasible” mitigation measures.

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<sup>4</sup> At a minimum, we believe that train traffic should be forced to travel at a slow speed in the open trench portion, rather than the maximum 25 mph speed noted on page 5-63 of the DEIS.

Sixth, although the DEIS states that certain homes would be offered pre-construction inspection (page 5-36), it does not state what homes would qualify and what the inspection would entail. We request an explanation and believe that any homes in the block surrounding Virginia/1/3<sup>rd</sup>/4<sup>th</sup> and any homes along the 400 block of I Street should qualify, at a minimum.<sup>5</sup>

Seventh, we request that the final EIS provide substantially more details about the rodent control program conclusorily mentioned in the DEIS (page 5-44), including how the program will be operated and monitored, and the types of chemicals, controls, and remediation taken and the area treated, as rodents tend to travel.

Eighth, we request more detail regarding the overall time of construction occurring in front of the homes on Virginia Avenue. In previous comments, we have advocated for a “zippering” approach in which construction begins at the east end of Virginia avenue, working its way to the west and then back again, thus causing the least amount of disruption to residences. The build alternatives in the DEIS seem to take the exact opposite approach. We request a detailed explanation and cost-benefit analysis for a zippering approach to construction and why it was not included in the DEIS.

Ninth, we request more information about the impact of the VAT construction on the many infants and school-age children in the neighborhood and the fact that the Van Ness Elementary School (located at 5<sup>th</sup> and L Streets SE, only a few blocks from the LOD) will reopen in 2015. Currently, many children leave this neighborhood to attend school elsewhere, with many crossing Virginia Avenue on foot. We request explanation about the construction impact upon children and parents and future Van Ness students, and believe that by failing to consider the school’s presence, the DEIS does not satisfy NEPA requirements.

Tenth, we request specific explanation that CSX and the NEPA agencies have engaged with the utility providers, such as Pepco, Washington Gas, DC Water, Verizon, and Comcast, all of which will have serious disruptions under any build alternative. It is not clear that the utilities have even been notified about the project and, if they have, their views need to be expressed specifically in the DEIS. Once they are consulted and their views are included, we request another opportunity for the public to comment on these data points.

Finally, the vibration study (Appendix F, page v) states that detailed construction activities and types of equipment are not available at this time so that the overall vibration levels from the construction phase cannot be predicted. However, several pages later (Appendix F, page 21), the vibration study states that there will be no structural vibration

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<sup>5</sup> We also strongly believe that homeowners should be provided with additional protections: (1) homeowners should be able to have an inspector of their choosing; (2) inspection reports should be made available promptly and publicly; (3) there must be an adequate appeals process; (4) all inspections should be paid for by CSX; and (5) all of these issues must be resolved before any construction permits are issued.



impacts during construction from any build alternative. We ask you to read these two sentences together and explain to us how both of them can be accurate.<sup>6</sup> These statements demonstrate flaws in the conclusions reached as a result of the vibration study.<sup>7</sup> We believe the vibration study should be conducted again once this clarification and any additional information are provided.

### C. Traffic and Parking

We request additional information concerning several traffic and parking issues. First, the Maintenance of Traffic (MOT) plan contains significant errors and incorrect assumptions and does not satisfy NEPA requirements (see Appendix J01, 5-5.) The traffic management plan study states that traffic around Nationals games is not impacted because the LOD is not near Nationals Park at South Capitol and M Street SE. This is simply incorrect. Even a casual observation of game traffic along 3<sup>rd</sup> Street SE demonstrates that Nationals games have a significant impact upon ordinary traffic operations.

Second, the MOT plan also fails to take into account rush hour traffic plans. Again, casual observations show that traffic on 3<sup>rd</sup> Street SE attempting to get on the freeway is backed up significantly on regular work days -- yet the plan does not take this fact into account. Traffic northbound on 5<sup>th</sup> Street SE is also problematic during rush hours and after games (and will be worse when 5<sup>th</sup> Street is converted into two-way operation) – yet the plan does not take this fact into account. And traffic exiting I-695 to get onto 8<sup>th</sup> Street SE and the new I-295 exit frequently backs up Virginia Avenue and can “block the box” on 5<sup>th</sup> Street SE – but yet again the plan does not take this fact into account. And when a day game and rush hour coincide, traffic already becomes unbearable and will undoubtedly cause serious harm to commuters and residents during any VAT construction.

Third, the MOT plan also fails as to its timing conclusions. The study anticipates a schedule of construction starting in the third quarter of 2013, which will not happen based upon the current NEPA timing. Thus, its claims of no impact regarding the temporary closures of the north/south streets (because they will allegedly take place during the baseball offseason) are completely erroneous. We urge that the MOT be conducted again, taking into account both Nationals Park and rush hour traffic activity, and that an additional opportunity for public comment be provided after the new analysis is complete.

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<sup>6</sup> If one of these statements is not accurate, then we believe an immediate correction should be made, the vibration study should be completed again accurately, and an additional opportunity for public comment based upon an accurate study should be allowed. Any other course of action would not satisfy NEPA procedural requirements.

<sup>7</sup> We also note that page 23 of Appendix F states that there will not be plaster cracks from any individual piece of equipment, but also states that can vary depending on soil composition and building type. Again, this statement is inconsistent, states nothing, and cannot form the basis for a NEPA impact analysis without much more detail.

Fourth, the DEIS also is wholly incorrect as to the parking impacts. Page 5-77 states that it is “conceivable that some residents may use two-hour parking on Virginia Avenue.” Some of our Capitol Quarter residents do in fact use Virginia Avenue parking as they either do not have garages or have more than one car. We request that this portion of the traffic study be conducted again, that a new opportunity for public comment be provided, and that, as described below, mitigation be provided to those residents.

Fifth, we request information as to how Capitol Quarter residents will be able to access their driveway and garages during the temporary closures of 3<sup>rd</sup> and 4<sup>th</sup> Streets (see Appendix J01, page 4-7).

Finally, we note that the list of residents identified on page A-17 of Appendix J01 is completely inaccurate as it does not include all affected residents. For instance, those on the 300 block of I Street who access their driveways from Virginia Avenue will certainly be affected but are not listed. We request that this list be updated and that additional public comment be provided once that has been done.

#### D. Safety

The DEIS does not state whether the appropriate emergency authorities (fire, police, and ambulance) have been in consultation with or have approved of the emergency access plans. We request additional information on this point and an opportunity to respond to any comments. Additionally, the DEIS does not state whether, even if the alleys are accessible through the makeshift entrances, how emergency vehicles will be able to access the front of homes, especially along Virginia Avenue. We likewise request additional information on this point. And, finally, we also note that there are many infants and children under the age of five living on Virginia Avenue. The DEIS does not adequately take their health and safety needs into account, and we request a more detailed examination and explanation of the impact upon them during any construction.

### **IV. Mitigations and Community Benefits**

If any build alternative is to be selected, it is imperative that additional mitigations be implemented to address the impacts that have already been identified in the DEIS. Similarly, certain community benefits both during and after construction should be required in the final Record of Decision to address the incalculable inconvenience, loss of enjoyment, and loss of economic value that will occur as a result of any construction. We address these areas in the following categories: (1) noise; (2) traffic and parking; (3) trees and landscaping; (4) home maintenance and security; and (5) post-construction community benefits.

## A. Noise

The noise study found in Appendix E of the DEIS demonstrates that all build alternatives will exceed the FTA noise criteria (page 2) and that noise levels could be a “nuisance” (page 18). Because of the alleged existing 70 dBA noise level on Virginia Avenue, the NEPA agencies should think creatively about ways to reduce both construction noise and the current ambient noise level, so that increases in construction noise will not cause overall levels to rise above FTA noise criteria.

We propose several items in this regard. First, the DEIS (Appendix E, page 20) states that the “noisiest” activities should be avoided from 7-8 am, but provides no further explanation. We demand a full accounting of what activities would classify as the “noisiest” and also expect a full commitment that no pre-7 am noise or activity of any kind (e.g., cleaning tools at the worksite or idling trucks) be allowed.

Second, we believe that sound barriers should be placed on the freeway. Doing so would help alleviate some of the ambient noise, which will help keep total noise levels at an acceptable threshold. We point to the attractive and clear sound barriers on the Woodrow Wilson Bridge as a model for what could be placed on I-695.<sup>8</sup> We also view that as a mitigation for the loss of the tree canopy along the freeway, which currently provides sound buffering to the neighborhood from highway traffic noise.

Third, certain specific noise-reducing actions should take place. We suggest that the truck idling time be shortened from 30 minutes to a minimal amount of time (page 5-19), that noise blankets should be mandated from the beginning of the project (page 5-29), rather than only later on if needed. We also request that each homeowner in the affected area receive certain funds to install additional window soundproofing in their homes if they choose.

Fourth, the final EIS should require that trains only run during the daytime hours to minimize noise levels during the nighttime sleeping hours.

Finally, for activities where there is a high possibility of human annoyance, in addition to these other noise mitigation activities, before the NEPA process is finalized, there should be discussion and an opportunity to comment about potential alternative living arrangements during these phases of construction.

## B. Traffic and Parking

We have already identified the clear flaws in the traffic study. To help minimize the serious impacts in traffic and parking disruption, we have several requests. We believe that

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<sup>8</sup> We also note that the original freeway plan was to include sound barriers but this part of the plan was never implemented. We urge that a commitment from DDOT for these barriers be included in the final EIS.

the final EIS should require traffic officers directing traffic 24 hours a day, 7 days a week during the temporary closures of the north/south streets. We also request that traffic officers be present during all afternoon rush hours and during all Nationals games.

To assist with the parking disruption along Virginia Avenue, we request that parking for residents and guests be provided in the surface parking lots closest to the LOD. As part of that request, we believe that the parking availability should include parking during Nationals games. (The surface lots require cars to vacate the lot prior to and during Nationals games without a separate Nationals parking permit.)

### C. Trees and Landscaping

The disruption to our landscaping and tree canopy will be significant and is irreplaceable. It is unacceptable that only 110 of the 168 trees in the LOD will be replaced after construction (page 5-43). The DEIS also acknowledges that the replacement trees along Virginia Avenue will be smaller and the neighborhood feel in Capitol Quarter will be less because of the smaller trees (page 5-53).

We thus propose several mitigations and benefits to help remedy this intolerable situation. First, all street trees should be replaced, regardless of diameter size and that the replacement trees along Virginia Avenue (and especially in front of the residences) should be mature trees and as tall as possible.<sup>9</sup> We request that the final EIS mandate size replacement.

Second, we are concerned that the root structures for the replacement trees will not be sufficient to ever achieve even close to the same height that is there now, given that the roof structure of the tunnel will only be a few feet below ground. We ask that this issue be addressed and that enhancements be made to allow sufficient growth of any replacement trees.

Third, we believe that CSX should commit to and fund a tree watering and maintenance plan post-replanting to ensure that the trees are capable of surviving and achieve their full growth potential.

Finally, we are deeply concerned about the destruction of the Capitol Quarter common area landscaping, on which we currently spend a great deal of time and money to maintain. CSX should fund the installation of a sprinkler and irrigation system (the design and installation of which should be approved by the HOA) to help maintain the common area. And we should have total approval and right of demand over the landscaping plan to be developed for Capitol Quarter (page 5-45).

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<sup>9</sup> We believe that an organization dedicated to preserving the District's tree canopy, such as the Casey Trees Foundation, should be brought in to develop and approve a plan for replacing the tree canopy to the greatest extent possible.

D. Home Maintenance and Security

We are concerned that we are still only receiving vague and utterly unsatisfying answers as regards to the claims process. The final EIS must include a detailed process for fair and prompt resolution of resolving homeowner claims that includes a neutral third party, the implementation of which should be a prerequisite for the issuance of construction permits.

We also believe that CSX should be required to pay the HOA for all homeowner HOA assessments for the Capitol Quarter community during the construction period. Doing so provides a reasonable and concrete way of compensating the HOA for the destruction of its common area property. And we would like additional payments for each month that construction is delayed beyond the project's stated end date, establishment of which should be part of the permitting process. In this way CSX will be incented to complete construction on a timely basis and the neighborhood will be rewarded for further inconvenience. We are happy to begin these discussions with CSX and the NEPA agencies at any time.<sup>10</sup>

E. Post-Construction Community Benefits

We urge CSX and the NEPA agencies to think more creatively about mitigation for our community given the impact of this project. First, we believe that since the freeway underpasses are within the LOD, that the final EIS should require that substantial improvements, with community and ANC 6D input, be made.

Second, we believe that an ANC 6D and a HOA community representative be designated for input on all post-construction design, including that of Garfield Park, Virginia Avenue,<sup>11</sup> and the Virginia Avenue Park.<sup>12</sup>

Third, we believe the final EIS should contain a commitment that DDOT, CSX, and the Architect of the Capitol will reopen that part of Virginia Avenue currently closed to vehicular

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<sup>10</sup> We also anticipate, and request, that the affected homes and their windows will be regularly cleaned for dust and other construction debris.

<sup>11</sup> As indicated on page 3-41, it appears that the slope against I-695 will be reinstalled. We request additional explanation as to why this is the case. We would hope that the unused slope could be removed and that this additional space could be used for community amenities, such as a greenway, park, or bicycle lane.

<sup>12</sup> We note that page 5-49 states that the project will fund partial construction of the Garfield Park Connector plan but it does not state which parts will be funded. We expect that the HOA should be involved as a mandatory community stakeholder for this project, along with the Friends of Garfield Park organization, and that emphasis should be placed on providing additional park connections and benefits to those individuals south of the freeway. We also note that page 5-48 states that CSX has agreed to provide some enhancements and upgraded amenities to the Virginia Avenue Park, but the DEIS does not explain what those are and whether community input has been obtained, both of which we believe should be corrected.

traffic. Turning the section of this public street west of 2<sup>nd</sup> street into a greenway or bicycle path would greatly enhance the proposals for Virginia Avenue post-construction. Similarly, we believe that decking over a greater portion of the freeway west of 2<sup>nd</sup> street to allow a more seamless connection between Garfield and Canal Parks is essential to an adequate community benefits package.

And finally, page 5-59 of the DEIS states that abandoned utilities should be removed. We believe that the two unused telephone poles on 3<sup>rd</sup> Street SE should be removed as part of this commitment.

## **V. Conclusion**

In conclusion, the HOA strongly believes that if a construction option is chosen over our objections, we should be provided with an additional closed-trench reduced-footprint option that involves temporary rerouting. We also believe it is imperative to reduce the construction time substantially for all options. We also request that the NEPA agencies re-issue the DEIS and address the many inconsistencies and inaccuracies noted in this comment. Additionally, we would like to have a more detailed and substantive discussion of community mitigation and benefits. We appreciate your consideration of our comments.

Sincerely,

The Capitol Quarter Community Association Board of Directors

CC:

Delegate Eleanor Holmes Norton

Mayor Vincent Gray

Deputy Mayor Victor Hoskins

ANC 6D

Mike Hicks, FHA

Faisal Hameed, DDOT

Jamie Henson, DDOT

DC City Council