

FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208

Phone: (312) 252-1500
Fax: (312) 252-2400
www.fletcher-sippel.com

ROBERT A. WIMBISH

(312) 252-1504
rwimbish@fletcher-sippel.com

January 19, 2021

301495

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E. Street S.W., Room 1034
Washington, DC 20423-0001

ENTERED
Office of Proceedings
January 19, 2021
Part of
Public Record

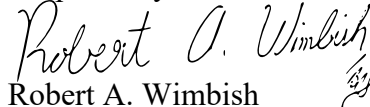
Re: **FD 36332**
National Railroad Passenger Corporation — Petition
for Proceeding under 49 U.S.C. § 24903(c)(2)

Dear Ms. Brown:

Attached for filing in the above-captioned proceeding on behalf of the National Railroad Passenger Corporation (“Amtrak”) and the Commuter Rail Division of the Regional Transportation Authority and the Northeast Illinois Regional Commuter Railroad Corporation (collectively “Metra”) is a **Joint Stipulation**, dated January 19, 2021.

Counsel for Amtrak has authorized this filing on its behalf. Please feel free to contact me should any questions arise regarding this matter.

Respectfully submitted,



Robert A. Wimbish
Attorney for Metra

RAW:bs

Attachment

cc: All Parties of Record

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36332

NATIONAL RAILROAD PASSENGER CORPORATION —
PETITION FOR PROCEEDING UNDER 49 U.S.C. § 24903(c)(2)

JOINT STIPULATION

Neil K. Gilman
Perie Reiko Koyama
Hunton Andrews Kurth LLP
2200 Pennsylvania Avenue, N.W.
Washington, DC 20037
ngilman@HuntonAK.com
pkoyama@HuntonAK.com
(202) 955-1500

Thomas R. Waskom
Hunton Andrews Kurth LLP
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, VA 23219
twaskom@HuntonAK.com
(804) 788-8200

**ATTORNEYS FOR NATIONAL RAILROAD
PASSENGER CORPORATION**

Robert A. Wimbish
Thomas J. Litwiler
Thomas J. Healey
Bradon J. Smith
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606
(312) 252-1500

**ATTORNEYS FOR
COMMUTER RAIL DIVISION OF THE
REGIONAL TRANSPORTATION
AUTHORITY AND NORTHEAST
ILLINOIS REGIONAL COMMUTER
RAILROAD CORPORATION**

Dated: January 19, 2021

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36332

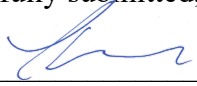
NATIONAL RAILROAD PASSENGER CORPORATION — PETITION FOR PROCEEDING
PURSUANT TO 49 U.S.C. § 24903(c)(2)

STIPULATION REGARDING ISSUES FOR DETERMINATION

Petitioner National Railroad Passenger Corporation (“Amtrak”) and Respondents the Northeast Illinois Regional Commuter Railroad Corporation and the Commuter Rail Division of the Regional Transportation Authority (collectively, “Metra”) (Amtrak and Metra, collectively, the “Parties”) hereby stipulate the document appended hereto contains terms that would govern Metra’s use of Chicago Union Station, in addition to the compensation terms that the Surface Transportation Board (the “Board”) will prescribe pursuant to 49 U.S.C. § 24903(c)(2).

WHEREFORE, the Parties submit the foregoing joint stipulation.

Respectfully submitted,

By: 

Neil Gilman

Perie Reiko Koyama

Hunton Andrews Kurth LLP
2200 Pennsylvania Avenue, N.W.
Washington, DC 20037
ngilman@HuntonAK.com
pkoyama@HuntonAK.com
(202) 955-1500

Thomas R. Waskom

Hunton Andrews Kurth LLP
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, VA 23219
twaskom@HuntonAK.com
(804) 788-8200

**ATTORNEYS FOR THE
NATIONAL RAILROAD
PASSENGER CORPORATION**

By: 

Robert A. Wimbish

Thomas J. Litwiler

Thomas J. Healey

Bradon J. Smith

Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606
(312) 252-1500

**ATTORNEYS FOR THE
COMMUTER RAIL DIVISION
OF THE REGIONAL
TRANSPORTATION
AUTHORITY AND
NORTHEAST ILLINOIS
REGIONAL COMMUTER
RAILROAD CORPORATION**

Dated: January 19, 2021

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36332

NATIONAL RAILROAD PASSENGER CORPORATION —
PETITION FOR PROCEEDING UNDER 49 U.S.C. § 24903(c)(2)

JOINT STIPULATION APPENDIX

Dated: January 19, 2021

THIS AGREEMENT (“Agreement”) is made and entered into as of this first day of May 2019, by and between the National Railroad Passenger Corporation (hereinafter “Amtrak”), a corporation organized under federal law and the laws of the District of Columbia and having its principal place of business at 1 Massachusetts Avenue, NW, Washington, DC 20001, and the Commuter Rail Division of the Regional Transportation Authority (“CRD”) an Illinois unit of government having offices at 547 W. Jackson Boulevard, Chicago, IL 60661, and the Northeast Illinois Regional Commuter Railroad Corporation, an Illinois public corporation (CRD and Northeast Illinois Regional Commuter Railroad Corporation collectively, “Metra”);

WHEREAS, Metra under the Regional Transportation Authority Act (70 ILCS 3615) is authorized to enter into agreements to obtain transportation services; and

WHEREAS, Metra and Amtrak, by and through its predecessor, the Chicago Union Station Company, are parties to a certain Agreement dated May 1, 1984 (the “1984 Agreement”), which has governed Metra access to and use of Amtrak’s Chicago Union Station (“CUS”) for the operation of Metra Commuter Rail Service; and

WHEREAS, CRD and Amtrak, by and through its predecessor, the Chicago Union Station Company, are parties to a certain Fixed Facility Agreement dated October 1, 1985 as amended (the “1985 Fixed Facility Agreement”), for the purpose of improving CUS by performing track modernization and renewal, improvement of signaling, installation of standby facilities and various other improvements; and

WHEREAS, Metra has requested Amtrak to continue to provide, and Amtrak is willing to continue providing, access to and use of CUS for compensation, and to provide dispatching services, ground power, police and security services and such other services as may be agreed

upon by the Parties, that are associated with Metra's access to and use of CUS for the operation of Metra Commuter Rail Service under the terms set forth herein; and

WHEREAS, under 49 USC §§ 24903 and 24319(g) cross-subsidization of commuter rail passenger, intercity passenger, and rail freight transportation is prohibited; and

WHEREAS, the Parties acknowledge the importance of providing a safe, efficient, reliable service for the benefit of Metra Commuter Rail Service passengers ("Metra Customers") in accordance with the terms of this Agreement; and

NOW THEREFORE, in consideration of the mutual promises and undertakings and of the compensation set forth herein, the Parties hereto agree as follows:

1. **Definitions.**

1.1. [Intentionally omitted]

1.2. [Intentionally omitted]

1.3. "Amtrak" shall have the meaning set forth in the first paragraph above of this Agreement.

1.4. [Intentionally omitted]

1.5. "Contract Services" shall mean Amtrak ground power, training, Dispatching Feed, and such other additional services as may be agreed upon by the Parties under this Agreement, other than those elements that comprise the Base CUS Usage Fee, Test Trains, Special Trains, Extra Moves, or the Recapitalization Program.

1.6. "Contract Year" shall mean the period beginning on October 1 of a calendar year and continuing through and including September 30 of the following calendar year, other than for the initial Contract Year which represents a period beginning May 1, 2019 and ending September 30, 2020.

1.7. “CUS” shall mean the real property and improvements known as Chicago Union Station having an address at 210 S. Canal Street, Chicago, IL, including the track, switches, interlockings, signals, platforms, systems, station concourse and headhouse, and all other infrastructure used by Metra Commuter Rail Service, as further described and depicted in Exhibit A.

1.8. “CUS Station Facility Capital Investment Plan” shall have the meaning set forth in Section 7.3.

1.9 “Dispatching Feed” shall have the meaning set forth in Section 6.3.

1.10. “Equipment” shall mean the rolling stock used to support the operation of Metra Commuter Rail Service, including locomotives and passenger cars.

1.11. “Extra Move” shall mean any Metra consist that is operated outside of the normal operating schedule that supports Metra Commuter Rail Service for the purpose of (i) Equipment replacement due to a mechanical defect, including yard moves, or (ii) qualifying Metra’s third-party contractors.

1.12. “FELA” shall mean the Federal Employers Liability Act, 45 U.S.C. §51, et seq.

1.13. “FRA” shall mean the Federal Railroad Administration.

1.14. “FTA” shall mean the Federal Transit Administration.

1.15. [Intentionally omitted]

1.16 “Material Service Disruption” shall mean a circumstance where the Service Disruption Plan is invoked.

1.17. “Metra Commuter Rail Service” shall mean the commuter rail service operated by any rail carrier into CUS under contract with Metra.

1.18. “Party” shall refer to either Amtrak or Metra.

- 1.19. “Parties” shall refer to Amtrak and Metra.
- 1.20. “Recapitalization Program” shall have the meaning set forth in Section 7.
- 1.21. [Intentionally omitted]
- 1.22. [Intentionally omitted]
- 1.23. “Special Train” shall mean any Metra train that is operated outside of the normal operating schedule, is not associated with a scheduled train number, and is not a Test Train or an Extra Move. A “Special Train” is typically associated with an event (e.g., the Ravinia special train).
- 1.24. “Test Train” shall mean any Metra train that is operated outside of the normal operating schedule for the purpose of evaluating equipment clearances and performance.
- 1.25. “Unit(s)” shall mean a locomotive(s) and/or passenger car(s) used in the provision of Metra Commuter Rail Service.

2. **Access to Chicago Union Station.**

2.1 **Access for Metra Commuter Rail Service.** Subject to the provisions of Section 21, Metra, its contractors and agents responsible for the operation of Metra Commuter Rail Service to the extent specified in this Agreement are entitled to enter upon and use CUS as may be necessary to enable Metra, its contractors and agents, to perform their duties with respect to the operation of Metra Commuter Rail Service. These activities shall be considered part of Metra Commuter Rail Service for the purposes of the allocation of liability under Section [Liability]

2.1.1. **Metra Personnel.** Metra shall provide Amtrak with a list of employees, contractors, and agents assigned to oversee or operate Metra Commuter Rail

Service at CUS (“Metra Personnel”). Except as otherwise required in Section 2.1.2.1, Metra shall provide appropriate training for all Metra Personnel.

2.1.2. **Operations Support.** Amtrak acknowledges that Metra has agreements and may, during the term of this Agreement, enter into agreements, with third parties to operate trains as part of Metra Commuter Rail Service. Metra shall be solely responsible that train-operating personnel are qualified, where necessary, to operate on CUS territory.

2.1.2.1. **Training Services.** Upon reasonable advance request from Metra, Amtrak will provide pilots and training as necessary for operation, and qualification to operate, within CUS, and will assist Metra and Metra Personnel with such training, including by allowing reasonable access to CUS to permit timely completion of training, at Metra’s sole expense. Compensation for such pilots and training shall be in accordance with [Training Costs].

2.1.2.2. **Right to Exclude.** Amtrak may, for cause, require that any Metra or third-party contractor employee providing Metra Commuter Rail Service be prohibited or removed from performance of such services at CUS, so long as such removal is permitted under applicable collective bargaining agreements.

2.1.3. **Non-Metra Personnel.** Metra may permit third party contractors or consultants (“Non-Metra Personnel”) to enter CUS to conduct inspections, studies, surveys and investigations related to Metra Commuter Rail Service and/or this Agreement. If such entry requires access to the platform and track level of

CUS, then Amtrak shall receive reasonable notice of such access, and Non-Metra Personnel shall be required to execute Amtrak's then-current "Permit to Enter Upon Property."

2.1.4. **Metra Equipment**. Metra Personnel may engage in minor repairs and maintenance of Equipment at CUS, including, but not limited to headlight replacement, door motors repair, windshield wiper servicing, diesel engine and GPS adjustments, communications equipment repair or replacement, brake shoe replacement, FRA Part 238 inspections, coach cleaning, refuse removal, and similar work, provided such maintenance and upkeep does not unreasonably interfere with Amtrak operations.

2.1.5 **Equipment Procurement**. Metra shall provide the Equipment necessary for Metra Commuter Rail Service. In order to ensure safe, reliable operations, Amtrak shall have the right of review and comment on the interoperability specifications for any new or overhauled equipment that Metra proposes to operate at CUS upon receipt of notice from Metra that Metra is initiating a procurement. In reviewing such proposed specifications, Amtrak must advise Metra of any issues which Amtrak identified that may adversely affect the ability of the equipment to be operated at CUS pursuant to this Agreement. In the event a federal, state or local law or regulation is enacted or promulgated after the effective date of this Agreement that requires modifications or upgrades to the Equipment operated by Metra Commuter Rail Service, Metra shall be solely responsible for complying with such legal or regulatory requirements.

2.2. Nothing in this Agreement shall preclude Amtrak from permitting third parties to use any portion of CUS, provided such use does not interfere with the contractual rights granted to Metra hereunder. Any areas within CUS that are used exclusively by Metra shall not be used by third parties without Metra's consent, provided that Amtrak and its designees shall have reasonable access to Metra's exclusively used space to provide any services required under this Agreement.

2.3. [Intentionally omitted]

2.4 [Intentionally omitted]

2.5. Amtrak shall maintain CUS rail infrastructure to the FRA Class I track standard between the north limits of CP Canal (MP 0.57) to the south limits of CP Harrison (MP 0.25) and to the FRA Class II track standard between the south limits of CP Harrison (MP 0.25) to the south limits of CP Roosevelt (MP 0.74) and shall permit Metra trains to operate at the maximum authorized speed for the applicable track class as much as reasonably possible.

3. **[Intentionally omitted]**

4. **Planning and Service Level Changes.**

4.1. Metra shall at all times have the right to increase its service levels from the Reduced Schedule to restore some or all trains under the Standard Schedule with 30 days advance written notice to Amtrak of each such schedule increase. Amtrak may require that the times for Metra trains returning to the Standard Schedule be adjusted to avoid track capacity conflicts so long as the total Metra peak and non-peak trains are not reduced from the number under the Standard Schedule.

4.2 [Intentionally Omitted]

4.3. Metra may reduce the number of its trains operating to and from CUS after providing notice to Amtrak.

5. **Dispatching.**

5.1. Amtrak shall dispatch Metra Commuter Rail Service trains operating in and out of CUS. Amtrak dispatchers shall take all reasonable steps to permit Metra Commuter Rail Service, Amtrak intercity service, and freight rail service to operate on time, safely and reliably.

5.2. On a monthly basis, the Parties will meet to review on time performance, dispatching performance and service disruptions. These meetings will include the Amtrak Superintendent of Operations and the Metra Superintendent of Operations.

6. [Intentionally omitted]

7. [Intentionally omitted]

8. **Emergency Disruptions at CUS.**

8.1. **Notification.** In the event of a disruption of Metra Commuter Rail Service or a condition that may result in a disruption of Metra Commuter Rail Service, or if it is necessary to annul a Metra Commuter Rail Service train Amtrak shall immediately contact Metra's Terminal Manager or designee to notify Metra of the potential or actual disruptions. For the purpose of ensuring a systematic approach to such disruptions, within 60 days of execution of this Agreement, Amtrak shall prepare for Metra's review and approval (which approval shall not unreasonably be withheld) an emergency communications protocol, which shall guide the actions and determine the required communications upon the occurrence of such a disruption.

8.2 [Intentionally Omitted]

8.3 [Intentionally Omitted]

9. **Special Trains and Test Trains.**

Metra may submit requests for operation of Special Trains and Test trains. Unless otherwise agreed, such request shall be made in writing ten (10) days prior to the date a Special Train is to operate and thirty (30) days prior to the date a Test Train is to operate. In the case of a Metra request for a Special Train where time does not permit ten (10) days notice, Amtrak will endeavor in good faith to accommodate Special Trains upon shorter notice consistent with past practice. Amtrak shall make every reasonable effort to permit operation of Special Trains and Test Trains, provided that the operation thereof shall not unreasonably interfere with existing operations of intercity passenger service. Metra will pay Amtrak the costs incident to such operation in accordance with Section 12.2 of this Agreement.

10. [Intentionally omitted]

11. [Intentionally omitted]

12. **Compensation.**

Metra may operate up to 111,497 trains (scheduled revenue and deadheads) in and out of CUS annually. For the initial Contract Year, it is understood that the monthly amount of \$_____ will apply to each month in the initial Contract Year (May 1, 2019- September 30, 2020).

12.1. [Intentionally omitted]

12.1.1.1. The Base CUS Usage Fee may be recalculated during the term stated in Section 17.1 to reflect changes in Amtrak and Metra's relative service levels or use of CUS. Either party may initiate such a recalculation in its sole discretion (the "Recalculation Request") at any time after the Board decision on compensation becomes final, except that neither party may initiate a recalculation

within 12 full calendar months of the completion of a prior recalculation or the execution of this Agreement. All recalculations shall be based on the prior 12 full calendar months preceding the Recalculation Request (the “Lookback Period”). The parties shall provide the figures required for the recalculation to one another within 30 days of the Recalculation Request together with all supporting documentation (the “Recalculation Data”). The Requesting Party shall complete the recalculation (the “Recalculated Base CUS Usage Fee”) and provide the Recalculated Base CUS Usage Fee to the other party within 15 days of its receipt of the Recalculation Data, pursuant to Section 24. The non-requesting party shall have 30 days (“Review Period”) in which to object to the Recalculated Base CUS Usage Fee. Failure to timely object shall be deemed acceptance. The Recalculated Base CUS Usage Fee shall become effective on the first day of the month following acceptance, and thereafter shall be deemed to be the Base CUS Usage Fee for purposes of this Agreement. Recalculation will not affect the schedule for Cost and Price Changes under Section 12.10.

12.1.1.2. The Recalculated Base CUS Usage Fee will be the sum of reallocation of Metra’s share of the four costs categories identified in Section 12.1. The portion of the Base CUS Usage Fee associated with each of the four cost categories shall be recalculated separately. This process will not include any recalculation of total costs for any of the four cost categories. For purposes of Section 12.1, total CUS Maintenance of Way costs subject to allocation are deemed to be \$3,932,284.72, as of January 1, 2020, and total CUS Dispatching costs subject to allocation are deemed to be \$2,399,360.17 as of January 1, 2020.

The parties agree that the total CUS Station Operations and Maintenance costs and total CUS Policing costs determined by the Board, after the Board renders a final decision regarding those costs and the decision becomes final and non-appealable, shall be adopted and incorporated into this Agreement.

12.1.1.3. Metra's share of Maintenance of Way costs will be reallocated based on Metra's revised relative share of total train movements during the Lookback Period.

The reallocation is represented by the following formula:

A = Metra train count

B = Amtrak train count

MT% = Metra Train Count %

Formula for Metra Train Count %: $A/(A+B) = MT\%$

Metra Maintenance of Way costs = (MT%) * (Maintenance of Way costs, inflation-adjusted for the then-current year)

12.1.1.4. Metra's share of Dispatching costs will be reallocated based on Metra's revised relative share of total train movements during the Lookback Period.

Dispatching costs shall be calculated based on the following formula: (MT%) * (Dispatching costs, inflation-adjusted for the then-current year)

12.1.1.5. Metra's Station Operations and Maintenance costs are based on Metra's allocated share of CUS square footage ("Metra Square Footage %") as determined by the Board. Metra Square Footage % is calculated using the following formula: $((\text{Metra sole use square footage}) + (\text{Common benefit square footage} \times \text{Allocation Factor})) / (\text{total CUS square footage})$. The "Allocation Factor" is defined as an

equal weighting of Metra's relative share of total train movements and Metra's relative share of passenger ridership at CUS, based on the combined total of Amtrak and Metra boardings and alightings at CUS during the Lookback Period. To ascertain then- current Metra and Amtrak passenger ridership at CUS, the parties will utilize (i) Amtrak daily conductor counts prepared in the ordinary course of business for passenger trips beginning or ending at CUS during the Lookback Period, and (ii) Metra monthly passenger ridership reports, prepared in the ordinary course of business, regarding ridership for those lines terminating at CUS adjusted to account for riders boarding after or alighting before CUS. The recalculation of the Allocation Factor is expressed in the following formulas:

$C = \text{Metra passenger count}$

$D = \text{Amtrak passenger count}$

$MP\% = \text{Metra passenger count percentage}$

$M\% = \text{Allocation Factor}$

Formula for Metra passenger count percentage share: $C / (C+D) = MP\%$ ($MT\% + MP\%$) / 2 = $M\%$

Formula for Metra Station Operations and Maintenance Costs:

(Metra Square Footage %) * (Station Operations and Maintenance costs, inflation-adjusted for the then-current year)

The square footage allocation determined by the Board, after the Board renders a final decision on the issue and the decision becomes final and non-appealable, shall be adopted and incorporated into this Agreement and not subject to revision or recalculation.,

12.1.1.6. Metra's share of Policing costs will be reallocated based on [the factor determined by the Board to be appropriate].

12.1.1.7. If the parties are not able to agree to the Recalculated Base CUS Usage Fee, the Parties will address the dispute consistent with the Dispute Resolution procedures of this Agreement. The final determination or agreement of the Recalculated Base CUS Usage Fee will be retroactive to the first day of the month following the end of the Review Period. In no other event will a Recalculated Base CUS Usage Fee be retroactive.

12.2. **Compensation for Special Trains, Test Trains and Extra Moves.** Metra shall pay Amtrak a rate per train operated for CUS access for Special Trains, Test Trains and Extra Moves ("Extra Trains"). The rate for Special Trains, Test Trains and Extra Moves shall be derived by dividing the then-current Base CUS Usage Fee established in Section 12.1 by the base allowable trains of 111,497 per Contract Year. Invoices for Extra Trains under this section shall document the date of each train.

12.3 [Intentionally Omitted]

12.4. **Training Costs.** Metra shall pay Amtrak for the training or other related services provided to Metra or its third-party contract employees pursuant to, 2.1.2.1. For those services, Metra shall pay the cost charged by Amtrak to third-party contractors for the same or substantially-similar training or other related services. If there are no substantially-similar training or other related services provided by Amtrak to third-party contractors, Metra shall pay the actual cost, as adjusted per Amtrak's overhead additive as prescribed by the Surface Transportation Board (see **Exhibit C**). If the Surface Transportation Board does not prescribe a specific overhead additive, the parties shall

address the appropriate overhead additive through the dispute resolution process in Section 18.

12.5 [Intentionally Omitted]

12.6 [Intentionally Omitted]

12.7. **Additional Services.** Should Metra and Amtrak agree for Amtrak to provide additional services to Metra not otherwise specifically identified in this Agreement, then Metra shall pay Amtrak for the actual cost of such additional services rendered, plus Amtrak's overhead additive as prescribed by the Surface Transportation Board. If the Surface Transportation Board does not prescribe a specific overhead additive, the parties shall address the appropriate overhead additive through the dispute resolution process in Section 18.

12.8. **Payment Terms.** Payments of invoices pursuant to this Agreement are due within thirty (30) days of invoice receipt. Payments not made by the due date shall be subject to an interest charge of one percent (1%) per month. Payments shall be made in full without setoff or counterclaim.

12.9. **Prorated Contract Years.** In the event this Agreement terminates with one or more months remaining in the Contract Year, the annual costs specified in this Section 12 shall be prorated based on the number of days in the Contract Year the Agreement was effective.

12.10. [Intentionally omitted]

13. [Intentionally omitted]

14. [Intentionally omitted]

15. [Intentionally omitted]

16. **Records and Reports.**

16.1. **Amtrak Records.** Upon request of Metra, Amtrak will maintain and make available, to the extent practicable, such additional financial, accounting, and operational records as may be required to enable Metra to monitor and/or to comply with the reporting requirements of any governmental entity having regulatory or financial responsibility with respect to Metra Commuter Rail Service. Upon written request, these records shall be provided to Metra solely in order to respond to a request from a funding or auditing agency (i.e. FRA, FTA) except to the extent prohibited by law or labor agreements.

16.2. **Accident Reports and Audits by Other Agencies.** Upon written request, each Party shall provide copies to the other Party of all non-privileged accident reports and other incident reports involving damage or injury to persons or property, including Equipment, involving operation of Metra Commuter Rail Service in CUS. Upon written request, each Party shall provide the other with copies of any audits, reports or filings, unless privileged, made to the Federal Railroad Administration or any other federal regulatory agency pertaining to the operation of Metra Commuter Rail Service in CUS.

16.3. Upon thirty (30) days' advance written request, either party shall provide to the other the following:

- System Safety Program Plan and updates, as pertaining to operations at Chicago Union Station; and
- Reports containing information required under 49 CFR 225 for incidents at Chicago Union Station involving Metra equipment, personnel, and passengers.

17. **Term and Termination.**

17.1. **Term of Agreement.** The term of this Agreement shall be May 1, 2019 through September 30, 2029. This Agreement may be extended for an additional ten (10) year period.

17.2 [Intentionally Omitted]

17.3 [Intentionally omitted]

18. [Intentionally omitted]

19. **Force Majeure.**

Either party will be excused from performance of any of its obligations hereunder, to the extent performance is prevented by any event beyond the party's reasonable control, which shall include, without limitation, any act, omission, order, rule, or regulation of any federal, state, or local government body, agent or instrumentality, pandemic, act of the public enemy, civil unrest, work stoppage, accident, act of God, natural disaster, or severe weather. If an event covered by this Section prevents a party from making a timely payment required by the Agreement, the payment will be due 30 days after the original due date.

20. **Compliance with Laws.**

Except to the extent preempted by Federal law, the parties shall: (a) comply with all applicable federal, state and local laws, rules and regulations and ordinances applicable to the performance of its obligations under this Agreement and; (b) obtain and maintain all required permits, licenses, registrations, and shall comply with all then-current applicable health, safety, and environmental statutes, rules or regulations.

21. **Non-Violation of Labor Agreements.**

Nothing contained in this Agreement will require either party to violate any term or condition of any applicable labor agreement. Neither party will be in default of this Agreement by reason of any act or failure to act required by such agreements. If either party invokes this section, it shall provide the other party a copy of the labor agreement containing the term or condition prohibiting the party from performing the service or taking the action at issue. Such labor agreements will be provided on a confidential basis, and the receiving party shall not disclose such labor agreements or their terms to the public or any other entity. The receiving party shall not use such labor agreements for any purpose other than confirming under this section that the other party is unable to provide a service or take an action.

22. [Intentionally omitted]

23.1 [Intentionally omitted]

23.2 *Performance Review.* Metra may request a joint performance review of Amtrak services, either related to overall service or to specific incidents. Amtrak will make reasonable efforts to accommodate Metra's request and to participate in the joint performance review.

23.3 [Intentionally omitted]

23.4 [Intentionally omitted]

24. **Notices.**

Any request, demand, authorization, direction, notice, consent, waiver, or other document provided or permitted by this Agreement to be made upon, given or furnished to, or filed with one Party by the other Party will be in writing and, will be delivered by hand or by deposit in the mails of the United States, postage prepaid in an envelope addressed as follows:

If to Amtrak:

Assistant Vice President – Infrastructure Access and Investment
National Railroad Passenger Corporation
30th Street Station, 30th and Market Streets
Philadelphia PA 19104

With Copies to:

AVP Transportation North-Central
National Railroad Passenger Corporation
500 West Jackson Boulevard
Chicago, IL 60661

General Counsel
National Railroad Passenger Corporation
1 Massachusetts Avenue, NW
Washington, DC 20001

If to Metra:

General Counsel
Metra
547 W. Jackson Blvd.
Chicago, IL 60661

With Copies to:

Director of Real Estate
Railroad Contract Management
Metra
547 W. Jackson Blvd.
Chicago, IL 60661

Either Party may change the address for receipt of notice by notifying the other Party in writing of such change.

25. [Intentionally omitted]

26. **Exclusive Venue.**

Except as provided in Section [Dispute Resolution], all legal proceedings arising under this Agreement shall be adjudicated exclusively in the United States District Court for the Northern District of Illinois.

27. **Severability.**

If any term, covenant, condition, or provision (or part thereof) of this Agreement is determined to be invalid, illegal or unenforceable, such determination shall not affect the validity, legality or enforceability of any other part and the remaining parts shall be enforced as if such invalid, illegal or unenforceable part was not contained herein.

28. **Entire Agreement.**

No oral statement or prior written matter will have any force or effect with respect to Metra's use of CUS for operation of Metra Commuter Rail Service or the Contract Services provided hereunder. The Parties hereby acknowledge that they are not relying on any representations or agreements other than those contained in this Agreement. This Agreement will not be modified except in writing subscribed to by both Parties.

[Signatures appear on the following page.]