

220285

# HOGAN & HARTSON

Hogan & Hartson LLP  
Columbia Square  
555 Thirteenth Street, NW  
Washington, DC 20004  
+1.202.637.5600 Tel  
+1.202.637.5910 Fax

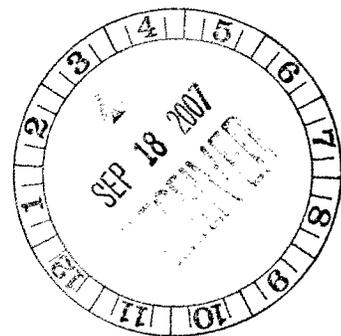
[www.hhlaw.com](http://www.hhlaw.com)

September 18, 2007

George W. Mayo, Jr.  
Partner  
(202) 637-5679  
gwmayo@hhlaw.com

BY HAND

The Honorable Vernon A. Williams  
Secretary  
Surface Transportation Board  
395 E Street, SW  
Washington, D.C. 20024



Re: STB Finance Docket No. 35063  
Michigan Central Railway, LLC  
- Acquisition and Operation Exemption -  
Lines of Norfolk Southern Railway Company

Dear Secretary Williams:

Enclosed for filing in the above-referenced proceeding are an original and ten copies of the following: Comments of National Railroad Passenger Corporation. Also enclosed are three computer discs, each containing an electronic copy of the filing.

If you have any questions or I can be of any assistance, please let me know.

Respectfully,

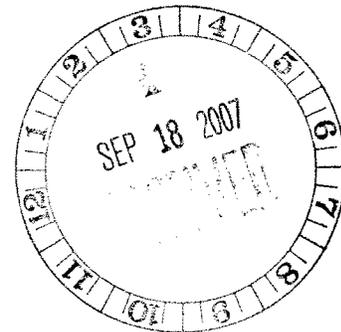
George W. Mayo, Jr.

ENTERED  
Office of Proceedings  
SEP 18 2007  
Part of  
Public Record

Enclosures

BEFORE THE  
SURFACE TRANSPORTATION BOARD

---



FINANCE DOCKET NO. 35063

MICHIGAN CENTRAL RAILWAY, LLC  
– ACQUISITION AND OPERATION EXEMPTION –  
LINES OF NORFOLK SOUTHERN RAILWAY COMPANY

---

**COMMENTS OF  
NATIONAL RAILROAD PASSENGER CORPORATION**

George W. Mayo, Jr.  
R. Latane Montague  
HOGAN & HARTSON LLP  
555 Thirteenth Street, NW  
Washington, DC 20004-1109  
Telephone: (202) 637-5600

Eleanor D. Acheson  
Jared I. Roberts  
NATIONAL RAILROAD PASSENGER  
CORPORATION  
60 Massachusetts Avenue, NE  
Washington, DC 20002  
Telephone: (202) 906-3812

COUNSEL FOR NATIONAL RAILROAD  
PASSENGER CORPORATION

Dated: September 18, 2007

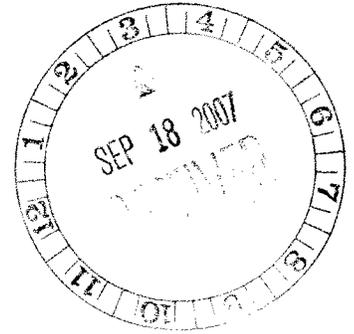
**ENTERED**  
Office of Proceedings

SEP 18 2007

Part of  
Public Record

BEFORE THE  
SURFACE TRANSPORTATION BOARD

---



FINANCE DOCKET NO. 35063

MICHIGAN CENTRAL RAILWAY, LLC  
– ACQUISITION AND OPERATION EXEMPTION –  
LINES OF NORFOLK SOUTHERN RAILWAY COMPANY

---

**COMMENTS OF  
NATIONAL RAILROAD PASSENGER CORPORATION**

National Railroad Passenger Corporation (“Amtrak”) hereby submits its comments on the petition of Michigan Central Railway, LLC (“MCRW”) to exempt its acquisition and operation of certain railroad lines of Norfolk Southern Railway Company (“NS”) in Michigan and Indiana. As explained below, Amtrak supports the proposed transaction, so long as any Board exemption of the transaction is conditioned upon MCRW consummating and adhering to certain agreements it has reached with Amtrak. Amtrak is authorized to state that MCRW joins in this requested condition.

**I. AMTRAK IS DIRECTLY AFFECTED BY THE PROPOSED TRANSACTION**

Amtrak has a very direct interest in the proposed transaction. Under its current operating agreement with NS, Amtrak conducts passenger rail operations over the NS line between Kalamazoo and Ypsilanti, Michigan (the “Kalamazoo-Ypsilanti line”), the principal line

MCRW proposes to acquire under the exemption sought in this proceeding.<sup>1</sup> Pursuant to that operating agreement, NS commits as a general rule (with certain segment-specific exceptions) to maintain the line to support Class 4 Amtrak operating speeds, a commitment it and its predecessor, Consolidated Rail Corporation (“Conrail”), have met for many years. It is imperative that if MCRW is to become the successor owner of the Kalamazoo-Ypsilanti line, the line continue to be maintained at the Class 4 standards necessary to support Amtrak’s current service over the line.

The Kalamazoo-Ypsilanti line is approximately 115.3 miles long, and is a key part of the routing Amtrak uses for its “Wolverine” passenger trains moving between Chicago and Detroit/Pontiac. Amtrak currently operates six trains a day (three trains each way) over the line; during the period August, 2006-July, 2007, Amtrak carried over 450,000 passengers in its “Wolverine” service utilizing the line. Amtrak also operates two trains a day (one train each way) over the Kalamazoo to Battle Creek, Michigan segment of the line, in connection with its “Blue Water” service between Chicago and Port Huron, Michigan. This service, which is funded primarily by the State of Michigan, carried over 128,000 passengers during the August, 2006-July, 2007 period.

The Kalamazoo-Ypsilanti line connects to the Amtrak-owned line between Porter, Indiana and Kalamazoo, Michigan (the “Porter-Kalamazoo line”), which is approximately 95 miles in length. This line was acquired by Amtrak in 1976 and 1981.

---

<sup>1</sup> Pursuant to a decision served by the Board on August 8, 2007 in two related proceedings – Watco Companies, Inc., and Watco Transportation Services, Inc. – Continuance in Control Exemption – Michigan Central Railway, LLC, STB Finance Docket No. 35064, and Norfolk Southern Railway Company – Trackage Rights Exemption – Michigan Central Railway, LLC, STB Finance Docket No. 35065) – the Board (without objection by the parties filing the exemption notices) ruled that the exemptions at issue in those proceedings would not become effective until the Board ruled on the MCRW petition for exemption at issue in this proceeding.

Amtrak's Chicago-Detroit route, comprised primarily of the Porter-Kalamazoo and Kalamazoo-Ypsilanti lines, is a federally designated high-speed rail corridor. It was part of the first high-speed rail corridor designated by the U.S. Department of Transportation ("DOT") in 1992, and is the only U.S. rail line outside of the Northeast Corridor on which passenger trains operate above 90 mph.

Since 1991, DOT, the State of Michigan, Amtrak, local communities and private entities have invested nearly \$50 million to upgrade the Porter-Kalamazoo line for higher speed operations. These investments have funded improvements, including the installation of a newly developed positive train control system called ITCS (for Incremental Train Control System), that have enabled Amtrak to increase speeds to a maximum of 95 mph over the portion of the line between Niles, Michigan and Kalamazoo. Working with the Federal Railroad Administration and the state, Amtrak plans to increase speeds on this segment to a maximum of 110 mph in 2008, and ultimately to increase maximum speeds to 110 mph on the entire Porter-Kalamazoo line. DOT has recently awarded additional funding for grade crossing improvements to facilitate high-speed rail operations on the line.

Any failure by MCRW to maintain the Kalamazoo-Ypsilanti line to current Class 4 standards would result in a reduction of Amtrak operating speeds over the line, and this in turn would materially harm the quality and competitiveness of Amtrak service. Further, it would erode the public benefits achieved as a result of the federal, state and other investments in the connecting Porter-Kalamazoo line owned by Amtrak. The ability to operate high-speed rail service over the Porter-Kalamazoo line is of little value if current Class 4/79 mph speeds cannot be maintained over the connecting Kalamazoo-Ypsilanti line.

Because of the critical importance of the Kalamazoo-Ypsilanti line to Amtrak's passenger operations, Amtrak has engaged in negotiations with MCRW to obtain additional assurances that MCRW – as the proposed owner and operator of the line – will fulfill its representations that it will maintain the Kalamazoo-Ypsilanti line to no less than the current Class 4 standards required by Amtrak. As discussed below, Amtrak has reached certain agreements with MCRW which afford the assurances it requires.

**II. AMTRAK HAS REACHED CERTAIN AGREEMENTS WITH MCRW INTENDED TO ENSURE THAT THE KALAMAZOO-YPSILANTI LINE WILL BE MAINTAINED TO NO LESS THAN CURRENT CLASS 4 STANDARDS**

Amtrak has reached certain agreements with MCRW that are intended to ensure that the Kalamazoo-Ypsilanti line is maintained to no less than current Class 4 standards. The following is a summary of the principal elements of those agreements:<sup>2</sup>

- MCRW will take assignment from NS of NS's obligations and rights under its operating agreement with Amtrak with respect to the Kalamazoo-Ypsilanti line.
- The term of the assigned operating agreement will be extended.
- The operating agreement between MCRW and Amtrak will provide that:
  - MCRW will maintain and operate the Kalamazoo-Ypsilanti line in compliance with the operating agreement, and will ensure that the monthly average minutes of delay per trip incurred by Amtrak trains during a month due to temporary speed restrictions caused by track-related defects ("Slow

---

<sup>2</sup> This summary is not intended to capture all the elements of the agreements between MCRW and Amtrak; neither does it modify or amend the agreements in any respect. In all instances, the agreements speak for themselves. Appended as Exhibit 1 of these Comments is a copy of "Agreement No. 1 Between National Railroad Passenger Corporation (Amtrak) and Michigan Central Railway, LLC (MCRW)," and appended as Exhibit 2 is a copy of "Agreement and Consent to Assignment" by and among Amtrak, MCRW, and NS.

It should be noted that the agreements all assume that MCRW will commence operations over the Kalamazoo-Ypsilanti line on March 1, 2008 (the "Commencement Date"). Any change in this Commencement Date will result in changes in related dates in the agreements.

Order Minutes”) shall be no greater than the average Slow Order Minutes set forth in an exhibit to the agreement (subject to certain future adjustments).

- MCRW will expend no less than \$2.5 million annually to perform track, signal, and related maintenance work on the Kalamazoo-Ypsilanti line as described in an exhibit to the agreement for each of the first three years following the Commencement Date, and no less than \$2 million annually for such purposes for the subsequent two years, all subject to verification at the reasonable request of Amtrak.
- MCRW will expend no less than \$11.5 million on capital projects involving track, signals, and related facilities on the Kalamazoo-Ypsilanti line within five years following the Commencement Date, subject to verification at the request of Amtrak.
- MCRW will perform all of the capital projects set forth in an exhibit to the agreement during the time frames shown in the exhibit, subject to verification at the request of Amtrak.
- MCRW shall at its sole expense, on a schedule specified in the agreement (but in no event later than the date of initiation of operations by MCRW), deliver to Amtrak an irrevocable letter of credit (“LOC”) for the benefit of Amtrak as security for MCRW performance under and compliance with the obligations summarized above. The agreement specifies the procedure under which Amtrak may draw down upon the LOC.

Amtrak believes that the foregoing agreements provide reasonable assurances that MCRW will maintain the Kalamazoo-Ypsilanti line to the Class 4 standards required to support Amtrak’s continued passenger service over the line.

**III. THE BOARD SHOULD CONDITION ANY EXEMPTION OF THE PROPOSED TRANSACTION UPON CONSUMMATION AND ADHERENCE TO THE AGREEMENTS BETWEEN AMTRAK AND MCRW**

---

In light of the agreements reached with MCRW, Amtrak supports the proposed transaction at issue in this proceeding, with the single caveat that consummation and adherence to these agreements should be made a condition of any Board exemption of the proposed transaction. Amtrak is authorized to represent that MCRW joins in this condition request.

It has been the Board's "longstanding policy . . . to encourage the private resolution of disputes through voluntary negotiations between all interested parties wherever possible." United States Department of Energy v. Baltimore & Ohio R.R., STB Finance Docket No. 38302S, 2005 WL 1810374, at \*5 (STB served Aug. 2, 2005); accord, e.g., Chelsea Property Owners – Abandonment – Portion of Consolidated Rail Corp.'s West 30<sup>th</sup> Street Secondary Track in New York, NY, STB Docket No. AB-167 (Sub-No. 1094)A, at \*2 (STB served Mar. 15, 2004).

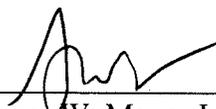
Further, the Board has regularly imposed "the terms of [a] settlement agreement as a condition" to its approval of a transaction before it. See, e.g., Canadian National Ry. – Control – Duluth, Missabe and Iron Range Ry., Bessemer & Lake Erie R.R., and Pittsburgh & Conneaut Dock Co., STB Finance Docket No. 34424, 2003 WL 761305, at \*12 & 19 (STB served Apr. 9, 2004) (requiring that the applicants "adhere to the terms of the CN-BNSF settlement agreement"); New England Central R.R. – Acquisition & Operation Exemption – Lines between East Alburgh, VT and New London, CT, Finance Docket No. 32432, 1994 WL 698768, at \*2, 8 & n. 19, & 24 (ICC served Dec. 9, 1994) (conditioning line acquisition exemption on the acquiring entity assuming the selling entity's obligations under the operating agreement governing Amtrak's right to conduct passenger train operations over the subject line, where the acquiring entity had agreed to assume the operating agreement).

Here, Amtrak and MCRW have reached certain agreements that resolve potential disputes between them related to the proposed line sale transaction at issue in this proceeding. In addition, they have agreed that the Board should condition its exemption of the proposed transaction upon consummation and adherence to these agreements. In this setting, the Board should impose the condition requested by the parties.

**CONCLUSION**

For the reasons set forth above, Amtrak supports the requested exemption of the proposed transaction, subject to the Board conditioning its exemption upon consummation and adherence to the above-described agreements reached between Amtrak and MCRW.

Respectively submitted,



---

George W. Mayo, Jr.  
R. Latane Montague  
HOGAN & HARTSON LLP  
555 Thirteenth Street, NW  
Washington, DC 20004-1109  
Telephone: (202) 637-5600

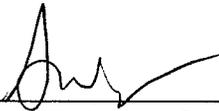
Eleanor D. Acheson  
Jared I. Roberts  
NATIONAL RAILROAD PASSENGER  
CORPORATION  
60 Massachusetts Avenue, NE  
Washington, DC 20002  
Telephone: (202) 906-3812

COUNSEL FOR NATIONAL RAILROAD  
PASSENGER CORPORATION

Dated: September 18, 2007

## CERTIFICATE OF SERVICE

I hereby certify this 18<sup>th</sup> day of September, 2007, that I have caused the foregoing Comments of National Railroad Passenger Corporation to be served by first-class mail, postage pre-paid, on all parties of record in STB Finance Docket No. 35063.



---

George W. Mayo, Jr.

# **EXHIBIT 1**

Execution Copy

**AGREEMENT NO. 1**  
**Between**  
**NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK)**  
**And**  
**MICHIGAN CENTRAL RAILWAY, LLC (MCRW)**

**THIS AGREEMENT** dated as of September 18, 2007, is by and between National Railroad Passenger Corporation, a District of Columbia corporation having offices at 60 Massachusetts Avenue, N.E., Washington, DC 20002 (hereinafter "Amtrak"), and Michigan Central Railway, LLC, a Delaware limited liability company having offices at 315 W. 3<sup>rd</sup> Street, Pittsburg, KS 66762 (hereinafter "MCRW").

**WHEREAS**, on or about March 1, 2008, MCRW plans to commence operation and maintenance of a rail line between Kalamazoo, MI and Ypsilanti, MI (hereinafter the "MCRW Rail Line") presently operated and maintained by Norfolk Southern Railway Company (hereinafter "NSR") and used by Amtrak pursuant to the Amended and Restated Off-Corridor Operating Agreement between NSR and Amtrak dated February 1, 2006 (the "NSR Agreement"); and

**WHEREAS**, the actual date of commencement of such operations by MCRW is hereinafter referred to as the "Commencement Date"; and

**WHEREAS**, on or prior to the Commencement Date, NSR will have specifically assigned to MCRW NSR's rights and obligations under the NSR Agreement, but only with respect to the MCRW Rail Line (hereinafter the "Assigned Agreement"); and

**WHEREAS**, MCRW and Amtrak desire that following the Commencement Date Intercity Rail Passenger Service, as defined in the NSR Agreement, shall continue to

operate on the MCRW Rail Line at no less than the speeds, frequencies, and performance required in the NSR Agreement, and

**WHEREAS**, following the Commencement Date MCRW and Amtrak will collaborate to discuss strategies in an attempt to facilitate increases in speeds, frequencies, and performance of Intercity Rail Passenger Service on the MCRW Rail Line, subject to sustainable and reasonable economic benefit to the parties.

**NOW THEREFORE**, Amtrak and MCRW agree as follows:

Section 1. Effective on the Commencement Date, MCRW hereby specifically assumes the Assigned Agreement.

Section 2. Effective on the Commencement Date, the Assigned Agreement shall be amended as follows:

(A) In “Section 8.8: Term”, the date “January 1, 2009” shall be changed to “October 31, 2013”.

(B) Add a new Section 4.4 as follows:

“Section 4.4. Kalamazoo to Ypsilanti Rail Line

(a) MCRW and Amtrak acknowledge that effective on or about March 1, 2008, the Rail Line between Kalamazoo, MI (MP 143.26) and Ypsilanti, MI (MP 28.0) (hereinafter the “MCRW Rail Line”) will be operated by Michigan Central Railway, LLC (“MCRW”). The actual date of commencement of such operations by MCRW is hereinafter referred to as the “Commencement Date.”

(b) MCRW specifically agrees and commits that:

- (1) The MCRW Rail Line will be maintained and operated in compliance with this Agreement in all respects, particularly Section 4.2 and Appendix II, and such that the average minutes of delay per trip incurred by Amtrak trains during a month due to temporary speed restrictions caused by track related defects, other than those caused by events of Force Majeure (hereinafter “Monthly Average Slow Order Minutes”) shall be no greater than the average minutes of delay for the corresponding month as shown in Exhibit A. Calculation of the Monthly Average Slow Order Minutes shall be based on MCRW Bulletin Orders, which shall be provided by MCRW upon Amtrak’s request, and on the slow order calculation table attached as Exhibit B; and
- (2) During each of the first three years following the Commencement Date, MCRW will expend no less than \$2.5 million on the performance of track, signal, and related maintenance work on the MCRW Rail Line; and that during each of the subsequent two years MCRW will expend no less than \$2.0 million on the performance of track, signal, and related maintenance work on the MCRW Rail Line; and
- (3) In addition to the expenditures called for in Subsection 4.4(b)(2) above, within the immediate 5 years following the Commencement Date, MCRW will expend no less than \$11,500,000 on capital projects, including those projects shown in Exhibit C, on the MCRW Rail Line; and
- (4) During the time frames shown in Exhibit C, MCRW will perform all of the capital projects shown in Exhibit C; and

- (5) MCRW's performance of work and expenditure of funds under Subsections 4.4(b)(1), 4.4(b)(2), 4.4(b)(3), and 4.4(b)(4) above shall be subject to verification and audit at the request of Amtrak; and
- (6) Starting in Year 4 after the Commencement Date, the level of expenditures called for under Subsection 4.4(b)(2) and 4.4(b)(3) shall be subject to annual review by Amtrak and MCRW. The parties acknowledge that it is their intent that the review shall be performed in good faith and in a manner designed to satisfy the obligations set forth in Subsections 4.4(b)(1) and 4.4(b)(4) to maintain the level of utility of the MCRW Rail Line in the most cost effective and efficient manner possible; provided, however, that absent agreement of the parties there shall be no modification of these Subsections.

(C) Add a new Section 4.5 as follows:

"Section 4.5. Letters of Credit

(1) As a condition precedent of MCRW's operation of the MCRW Rail Line, MCRW shall at its sole expense deliver to Amtrak an irrevocable stand-by letter of credit ("LOC") for the benefit of Amtrak as security for MCRW's performance under and compliance with the terms of Subsections 4.4(b)(1), 4.4(b)(2), 4.4(b)(3) and 4.4(b)(4) above. The LOC shall be issued and delivered to Amtrak on or before the Commencement Date and shall remain in effect for sixty-eight (68) consecutive months after the Commencement Date. The LOC (and any replacement LOC) shall be in a form substantially similar to the form attached hereto as Exhibit D, but otherwise in conformance with the terms and conditions of this Agreement, and shall be issued by a commercial bank with an office or

branch in the United States, having a long-term credit rating of at least “Aa3” by Moody’s or “A” by Standard & Poor’s. Should the issuing bank’s long-term credit rating fall below either of these levels during the term of the LOC, then at Amtrak’s option MCRW shall cause a replacement LOC to be issued by a bank having a long-term credit rating of at least these levels.

(2) If MCRW fails to comply with any of the provisions of Subsections 4.4(b)(1), 4.4(b)(2), 4.4(b)(3) or 4.4(b)(4) above, Amtrak may send written notice of such failure or noncompliance (“Failure to Comply Notice”) to the MCRW and Watco representatives listed in Section 8.5. MCRW will have 30 days to cure such failure or noncompliance from its receipt of such notice. If MCRW believes that effecting a cure will require more than 30 days, it shall so notify the Amtrak representative listed in Section 8.5 in writing, and Amtrak may in its reasonable discretion extend the time to cure beyond 30 days, such extension not to exceed 180 days from MCRW’s receipt of Amtrak’s Failure to Comply Notice. If MCRW disagrees with Amtrak’s decision, MCRW’s time to cure shall be 90 days, unless Amtrak’s and MCRW’s Chief Engineers jointly agree to a different time, such time not to exceed 180 days from MCRW’s receipt of Amtrak’s Failure to Comply Notice.

(3) If MCRW fails to cure within the designated time, Amtrak may, in addition to any other remedy available under this Agreement or at law or in equity, draw from the LOC, an amount reasonably necessary to effect a cure, in accordance with the LOC’s terms. Amtrak shall provide the MCRW a copy of any draw (“Draw Notice”) immediately upon the issuance of the same. MCRW shall

immediately provide its full cooperation in curing such failure(s) or noncompliance, including but not limited to providing such access to the MCRW Rail Line as may be requested by Amtrak or its contractors for purposes of curing the failure(s) or noncompliance. Any monies drawn by Amtrak from the applicable LOC must be used solely for the purpose of curing the failure(s) or noncompliance that are alleged to have occurred under this Agreement. If requested by MCRW, Amtrak will allow MCRW to audit the use of any such funds by Amtrak. Any monies drawn from the LOC by Amtrak for purposes of curing a failure(s) or noncompliance that are not utilized by Amtrak shall be returned to MCRW within 10 business days of the completion of the cure by Amtrak. If there are no unused funds, then Amtrak will provide a written certification that there are no unused funds.

(4) The LOC shall cover each of the first five years following the Commencement Date, each hereinafter referred to as an "Operating Year." The LOC will permit, for each Operating Year, a draw or draws, in whole or in part, against the maximum amount available listed for that Operating Year in accordance with the Letter of Credit Table below. Draw Notices must be submitted to the issuer of the LOC within eight (8) months following the end of the relevant Operating Year (October 31, 2009 for a Draw Notice relating to the first Operating Year; October 31, 2010 for a Draw Notice relating to the second Operating Year, and so on), in order to accommodate the timing for a Failure to Comply Notice and any applicable cure periods. The aggregate of all draws for any one Operating Year may not exceed the maximum amount available listed for that Operating Year.

Amounts available for draw with regard to one Operating Year may not be used for other Operating Years.

**Letter of Credit Table**

Dates in this Table assume a Commencement Date of March 1, 2008. If the actual Commencement Date is other than March 1, 2008, all dates related to the Commencement Date in this Table, in the LOC, and the October 31, 2013 date in Section 8.8 shall be adjusted accordingly.

<b><u>Operating Year</u></b>	<b><u>Corresponding LOC Coverage Period During Which LOC Draw Right is in Effect</u></b>	<b><u>LOC Draw Amount Not to Exceed Per Year</u></b>
Year 1: Mar 1, 2008 – Feb 28, 2009	Mar 1, 2008 – Oct. 31, 2009	\$3 million
Year 2: Mar 1, 2009 – Feb 28, 2010	Mar 1, 2009 - Oct 31, 2010	\$3 million
Year 3: Mar 1, 2010 – Feb 28, 2011	Mar 1, 2010 – Oct 31, 2011	\$3 million
Year 4: Mar 1, 2011 – Feb 29, 2012	Mar 1, 2011 - Oct 31, 2012	\$2 million
Year 5: Mar 1, 2012 – Feb 28, 2013	Mar 1, 2012 – Oct 31, 2013	\$1 million

Section 3. MCRW personnel will participate in Amtrak track geometry car inspections on the MCRW Rail Line.

Section 4. For the duration of the Assigned Agreement as amended by Section 2 above, the freight trackage rights on Amtrak’s Michigan Line, to the extent they apply to the line of railroad between Milepost MH 145.06 near Kalamazoo, MI and Milepost MH 222.8 at the Michigan-Indiana State Line shall be exclusive to MCRW, until Oct. 31, 2013.

Section 5. Any claim or controversy between Amtrak and MCRW concerning the interpretation, application, or implementation of this Agreement or the Assigned

Agreement shall be resolved pursuant to the provisions of Article VI of the Assigned Agreement.

Section 6. MCRW and Amtrak shall jointly request the Surface Transportation Board to require implementation of this Agreement as a condition of its approval of the transaction proposed in MCRW's Petition for Exemption filed July 13, 2007 (Finance Docket 35063).

IN WITNESS WHEREOF, Amtrak and MCRW have caused this Agreement to be executed by their respective representatives in multiple counterparts as of the date first above written.

NATIONAL RAILROAD PASSENGER CORPORATION

By:   
Title: CEO

MICHIGAN CENTRAL RAILWAY, LLC

By:   
Title: EVF-CEO

Approved as to Form:

By:   
Title: Sr. Assoc. Gen. Counsel

**Exhibit A**

Average Minutes of Slow Order Delay per Amtrak Train Trip

## Exhibit A

### Monthly Average Slow Order Limit

Minutes per Amtrak Train Trip

Month	Kalamazoo - Battle Creek (Gord)	Battle Creek (Baron) - Ypsilanti
Jan	1	2
Feb	1	2
Mar	1	2
Apr	1	2
May	1	3
Jun	1	5
Jul	1	6
Aug	1	6
Sep	1	6
Oct	1	4
Nov	1	7
Dec	1	6

**Exhibit B**  
Slow Order Minutes Calculation Table



**Exhibit C**  
Capital Projects for MCRW Rail Line

Exhibit C -- Capital Work Performed on MCRW Rail Line

Year (Defined in Letter of Credit Table in Section 4.6)	Work	Station	Mp	Mp	Miles	No. of Ties Needed Per Project	Number of Cars of Ballast per Mile	Total carloads of Ballast	Number of Ties per Mile	Units
1	Signals *									\$ 575,280
1	Surface *				37					
1	Ballast				37		2.1	77		
1	Ties		28	63	35	29,750			850	
1	Curve Rail Replacement				2.0					
1	Crossings (complete replacement)									115 feet
Year										
2	Ties		63	102	39	33,150			850	
2	Signals *									\$ 575,280
2	Bridges *									\$ 250,000
2	Surface *				39					
2	Ballast				39		2.5	98		
2	Ties		72.8	78.5	6	2,280			400	
2	Ties		116.3	120	3	1,280			400	
2	Curve Rail Replacement				1.0					153 feet
2	Crossings (complete replacement)									6 days
2	Rail Grinding									\$ 150,000
2	Turnouts *									
Year										
3	Ties		102	143	39	33,150			850	
3	Signals *									\$ 575,280
3	Bridges *									\$ 200,000
3	Surface *				39					
3	Ballast				39		2.4	95		
3	Ties		121.3	124.4	3	1,240			400	
3	Ties		140	143	3	1,280			400	
3	Curve Rail Replacement				1.2					77 feet
3	Crossings (complete replacement)									
Year										
4	Spot ties				1.3	1,079			850	
4	Signals *									\$ 575,280
4	Bridges *									\$ 150,000
4	Surface *				1.3					
4	Ballast				1.3		1.6	2		
Year										
5	Spot ties				1.3	1,079			850	
5	Bridges *									\$ 100,000
5	Surface *				1.3					
5	Ballast				1.3		1.6	2		
Annual Average Cap Ex Costs per mile for Michigan Main (130 miles)										\$ 16,700

\* Notes  
 Surface - All project surfacing will be out of face including turnouts and crossings  
 Turnouts - Change components as necessary to insure adequate operation of turnouts  
 Signals - Upgrade Micro code with Electro code  
 Bridges - Miscellaneous head wall and wing wall work

**Exhibit D**  
Form of Letter of Credit

Harris N.A. or Bank of Montreal, Chicago, IL (Letterhead)

OUR IRREVOCABLE STANDBY LETTER OF CREDIT (LOC) NUMBER \_\_\_\_\_

ISSUE DATE:

EFFECTIVE DATE:

BENEFICIARY: National Railroad Passenger Corporation (Amtrak)

APPLICANT: Michigan Central Railway, LLC (MCRW)

AMOUNT: USD 12,000,000.

EXPIRY DATE: 10.31.2013

WE HEREBY ISSUE IN YOUR FAVOR OUR IRREVOCABLE STANDBY LETTER OF CREDIT ("LETTER OF CREDIT" OR "LOC") FOR AN AMOUNT OF USD TWELVE MILLION (USD 12,000,000) IN FAVOUR OF THE BENEFICIARY, WHICH IS AVAILABLE AGAINST YOUR DRAFT DRAWN AT SIGHT ON US ACCOMPANIED BY THE FOLLOWING, AND AS PER THE TERMS AND CONDITIONS MENTIONED BELOW:

1. THE ORIGINAL LETTER OF CREDIT. IN THE EVENT OF ANY PARTIAL DRAW PRIOR TO ITS EXPIRY, THIS ORIGINAL STANDBY LETTER OF CREDIT WILL BE RETURNED TO THE BENEFICIARY AFTER ENDORSEMENT.
2. A STATEMENT ("DRAW NOTICE") PURPORTEDLY SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK) SPECIFYING THE AMOUNT CLAIMED FOR FAILURE TO COMPLY WITH THE TERMS AND CONDITIONS OF THE ASSIGNED AGREEMENT (AS DEFINED IN AND AMENDED BY AGREEMENT NO. 1 BETWEEN NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK) AND MICHIGAN CENTRAL RAILWAY, LLC (MCRW) DATED AS OF SEPTEMBER 18, 2007) AND HENCE AMTRAK IS DRAWING UNDER LOC NO-----.

THIS LETTER OF CREDIT IS AVAILABLE FOR DRAWINGS, AS PER THE FOLLOWING TERMS AND CONDITIONS:

ANY DRAW UNDER THIS LOC WITH RESPECT TO A PARTICULAR DRAW YEAR MUST BE FOR AN AMOUNT NOT EXCEEDING IN THE AGGREGATE THE AMOUNTS MENTIONED HEREIN, AND PRESENTED WITHIN THE PERIODS SPECIFIED BELOW:

- DRAW YEAR 1 – DRAW NOTICES PRESENTED BETWEEN 03.01.2008 AND 10.31.2009 WITH RESPECT TO FAILURE TO COMPLY ARISING DURING OPERATING YEAR 1 - UP TO A TOTAL OF USD 3 MILLION ONLY
- DRAW YEAR 2 – DRAW NOTICES PRESENTED BETWEEN 03.01.2009 AND 10.31.2010 WITH RESPECT TO FAILURE TO COMPLY ARISING DURING OPERATING YEAR 2 – UP TO A TOTAL OF USD 3 MILLION ONLY
- DRAW YEAR 3 – DRAW NOTICES PRESENTED BETWEEN 03.01.2010 AND 10.31.2011 WITH RESPECT TO FAILURE TO COMPLY ARISING DURING OPERATING YEAR 3 - UP TO A TOTAL OF USD 3 MILLION ONLY
- DRAW YEAR 4 – DRAW NOTICES PRESENTED BETWEEN 03.01.2011 AND 10.31.2012 WITH RESPECT TO FAILURE TO COMPLY ARISING DURING OPERATING YEAR 4 – UP TO A TOTAL OF USD 2 MILLION ONLY
- DRAW YEAR 5 – DRAW NOTICES PRESENTED BETWEEN 03.01.2012 AND 10.31.2013 WITH RESPECT TO FAILURE TO COMPLY ARISING DURING OPERATING YEAR 5 - UP TO A TOTAL OF USD 1 MILLION ONLY.

THERE MAY BE MORE THAN ONE DRAW FOR EACH DRAW YEAR, BUT THE TOTAL OF ALL DRAWS FOR THAT DRAW YEAR MAY NOT EXCEED THE TOTAL ASSOCIATED WITH THAT DRAW YEAR AS SET FORTH IN THE ABOVE PARAGRAPH. IF A DRAW IS NOT MADE IN ANY YEAR, THE LETTER OF CREDIT CEASES TO BE AVAILABLE FOR THAT AMOUNT.

DRAFTS DRAWN UNDER THIS LETTER OF CREDIT MUST BE PRESENTED TOGETHER WITH THE ACCOMPANYING DOCUMENTATION AT OUR OFFICE AT 111 WEST MONROE STREET, 17<sup>TH</sup> FLOOR WEST CHICAGO ILLINOIS 60603. ATTN: STANDBY LETTER OF CREDIT UNIT NOT LATER THAN 10.31.2013, BUT WITHIN THE PERIODS AS SPECIFIED ABOVE.

THIS LETTER OF CREDIT WILL BE AUTOMATICALLY REDUCED WITHOUT ANY AMENDMENT AS PER THE FOLLOWING SCHEDULE:

<u>DATE</u>	<u>REDUCED BY</u>	<u>AMOUNT AVAILABLE</u>
November 1, 2009	USD 3,000,000	USD9,000,000
November 1, 2010	USD 3,000,000	USD6,000,000
November 1, 2011	USD 3,000,000	USD3,000,000
November 1, 2012	USD 2,000,000	USD1,000,000

ALL DRAFTS MUST BE MARKED "DRAWN UNDER HARRIS N.A. OR BANK OF MONTREAL, CHICAGO, ILLINOIS LETTER OF CREDIT NUMBER \_\_\_\_\_ DATED \_\_\_\_\_"

WE HEREBY AGREE WITH YOU THAT ALL PRESENTATIONS MADE UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS LETTER OF CREDIT WILL BE DULY HONORED.

THIS LETTER OF CREDIT IS SUBJECT TO INTERNATIONAL STANDBY PRACTICES ISP 98 (PUBLICATION 590).

## **EXHIBIT 2**

Execution Copy

## AGREEMENT AND CONSENT TO ASSIGNMENT

This AGREEMENT (this "Agreement") is dated as of the 18th day of September, 2007 by and among National Railroad Passenger Corporation, a corporation organized under Part C of Subtitle V of Title 49 of the United States Code (formerly the Rail Passenger Service Act) and the laws of the District of Columbia, having offices at 60 Massachusetts Avenue, N.E., Washington, DC 20002 (hereafter referred to as "Amtrak"); Michigan Central Railway, LLC, a Delaware limited liability company having offices at 315 W. 3<sup>rd</sup> Street, Pittsburg, KS 66762 (hereinafter "Michigan Central" or "Assignee"); and Norfolk Southern Railway Company, a Virginia corporation having offices at Three Commercial Place, Norfolk, VA 23510 (hereafter referred to as "NSR" or "Assignor");

### RECITALS:

WHEREAS, pursuant to an Agreement of Purchase dated March 31, 1976 and a Memorandum of Understanding dated October 30, 1980, Consolidated Rail Corporation ("Conrail") conveyed to the National Railroad Passenger Corporation ("Amtrak") certain real property interests and appurtenances in the States of Michigan and Indiana that comprise a line of railroad between Milepost MH 145.06 at or near Kalamazoo, MI and Milepost 240.58 near Porter, IN, subject to certain reservations, exceptions and easements (collectively referred to herein as "Easements"),

WHEREAS, NSR has succeeded to Conrail's right, title and interests in the Easements;

WHEREAS, by assignment to NSR, NSR is the lessor and Amtrak is the lessee of a line of railroad between Milepost MH 143.26 and Milepost MH 145.06 at or near Kalamazoo, MI, under a lease from Conrail to Amtrak effective April 1, 1995, as it may have been amended from time to time ("the Kalamazoo, MI Track Lease"),

WHEREAS, by assignment to NSR, NSR and Amtrak are parties to a Maintenance Agreement, dated March 1, 1995, between Conrail and Amtrak, that pertains to the line of railroad that is the subject of the Kalamazoo, MI Track Lease, as it may have been amended from time to time (the "Maintenance Agreement");

WHEREAS, by assignment to NSR, NSR and Amtrak are parties to that certain trackage rights agreement, effective as of April 1, 1976, as it has been amended from time to time (the "Michigan Line Trackage Rights Agreement"), that provides the terms and conditions for NSR's use of and operation over Amtrak's line of railroad between approximately Milepost MH 145.06 near Kalamazoo, MI and Milepost 240.58 near Porter, IN, including that segment of line between Milepost MH 145.06 at or near

Kalamazoo, MI and Milepost 222.8 at the Michigan-Indiana State Line;

WHEREAS, by assignment to NSR, NSR and Amtrak are parties to the Agreement for Installation and Connection of Private Sidetracks Servicing Conrail Industries Along Amtrak Right of Way dated April 25, 1980, effective May 19, 1976, as amended ("Sidetrack Agreement");

WHEREAS, NSR and Amtrak are parties to that certain Amended and Restated Off-Corridor Operating Agreement between Norfolk Southern Railway Company ("NSR") and National Railroad Passenger Corporation ("Amtrak"), dated February 1, 2006, as amended (the "Off-Corridor Agreement"), that provides the terms and conditions for the use by Amtrak of NSR's lines of railroad, including that line of railroad between approximately Milepost MH 28.0 near Ypsilanti (Willow Run), MI and Milepost MH 145.06 near Kalamazoo, MI;

WHEREAS, on the terms and subject to the conditions set forth in a Transaction Agreement between NSR and Assignee in which NSR shall have certain limited rights and economic interests but in which NSR shall have no day-to-day control and which shall be managed independently by its own management, NSR has agreed to assign to Assignee all of NSR's right, title, interest, responsibilities and duties in, to and under the Kalamazoo, MI Track Lease and the Maintenance Agreement and to assign to Assignee, in part, Assignor's right, title, interest, responsibilities and duties in, to and under the Easements, the Michigan Line Trackage Rights Agreement, the Sidetrack Agreement and the Off-Corridor Agreement, to the extent further described below, upon receiving consent from Amtrak for such assignments;

WHEREAS, Assignee shall become a participating railroad and agrees to be governed by the terms of the National Railroad Passenger Corporation Arbitration Agreement dated April 16, 1971 among Amtrak and certain other railroads, as amended, as it is incorporated by reference in certain agreements to be assigned to Assignee, and

WHEREAS, Amtrak is willing to consent to the assignment of the named Easements, leases and agreements to Assignee, in whole or in part, as further provided for in this Agreement; and

NOW THEREFORE, for and in consideration of the premises, the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

Section 1. Consent to Assignment. As of the Effective Date set forth in Section 2 below, Amtrak consents to the assignment by NSR to Assignee, its successors and permitted assigns, of (a) all of NSR's right, title, interest, responsibilities and duties in, to

and under (i) the Kalamazoo, MI Track Lease and (ii) the Maintenance Agreement and (b) that part of NSR's right, title, interest, responsibilities and duties, in, to and under (i) the Easements to the extent they apply to the line of railroad between Milepost MH 145.06 near Kalamazoo, MI and Milepost MH 222.8 at the Michigan-Indiana State Line; (ii) the Michigan Line Trackage Rights Agreement to the extent it applies to the line of railroad between Milepost MH 145.06 near Kalamazoo, MI and Milepost MH 222.8 at the Michigan-Indiana State Line; (iii) the Sidetrack Agreement to the extent it applies to the line of railroad between Milepost MH 143.26 near Kalamazoo, MI and Milepost MH 222.8 at the Michigan-Indiana State Line; and (iv) the Off-Corridor Agreement to the extent it applies to the Assignee's lines in general and to the line of railroad between Milepost MH 28.0 near Ypsilanti (Willow Run), MI and Milepost MH 145.06 near Kalamazoo, MI in particular, except to the extent provided for in this Agreement.

Section 2. Effective Date. The assignments and assumptions consented to herein shall be effective upon the occurrence of all of the following. After all of the following have occurred, the subsequent commencement of operations of Michigan Central shall be the "Commencement Date":

- a. The Agreement No. 1 Between National Railroad Passenger Corporation (Amtrak) and Michigan Central Railway, LLC (MCRW), dated as of September 18, 2007, has been fully executed; and
- b. A valid irrevocable Letter of Credit as described in Section 4.5 of Agreement No. 1 Between National Railroad Passenger Corporation (Amtrak) and Michigan Central Railway, LLC (MCRW), dated as of September 18, 2007, is delivered to Amtrak on or before the Commencement Date; and
- c. The United States Surface Transportation Board has granted the exemption requested in STB Finance Docket Number 35063 subject to the conditions requested by Amtrak and Michigan Central; and
- d. All terms of the NSR-Michigan Central Assignment and Assumption Agreement conform to this Agreement.

Section 3. Allocation of Duties; Effect of the Assignment and Assumption. (a) All of NSR's right, title, interest, responsibilities and duties under (i) the Kalamazoo, MI Track Lease and (ii) the Maintenance Agreement and (b) that part of NSR's rights, title, interests, responsibilities and duties, in, to and under (i) the Easements to the extent they apply to the line of railroad between Milepost MH 145.06 near Kalamazoo, MI and Milepost MH 222.8 at the Michigan-Indiana State Line; (ii) the Michigan Line Trackage Rights Agreement to the extent it applies to the line of railroad between Milepost MH 145.06 near Kalamazoo, MI and Milepost MH 222.8 at the Michigan-Indiana State Line, (iii) the Sidetrack Agreement to the extent it applies to the line of railroad between Milepost MH 143.26 near Kalamazoo, MI and Milepost MH 222.8 at the Michigan-Indiana State Line; and (iv) the Off-Corridor Agreement to the extent it applies to the Assignee's lines in general and to the line of railroad between Milepost MH 28.0 near

Ypsilanti (Willow Run), MI and Milepost MH 145.06 near Kalamazoo, MI in particular, except to the extent specifically provided for below, (A) accruing prior to the Commencement Date shall continue to be the right, title, interest, responsibilities and duties of NSR and (B) accruing after the Commencement Date shall be the right, title, interest, responsibilities and duties of Assignee, except as may be specifically provided for below.

Section 4. Allocation of Delay Minutes and Maximum Penalty Minutes. After the Commencement Date, the delay threshold minutes and maximum penalty minutes in Appendix V, Table 1 of the Off-Corridor Agreement for Amtrak Trains 350, 351, 352, 353, 354, 355, 364 and 365 shall be allocated between NSR's Off-Corridor Agreement and Assignee's Off-Corridor Agreement, as assigned, as follows:

Train	Direction	Current Minutes		NSR Minutes		Michigan Central Minutes	
		Threshold	Penalty	After Assignment		After Assignment	
				Maximum	Maximum	Maximum	Maximum
350	Eastbound	16	45	6	16	10	29
351	Westbound	15	42	6	15	9	27
352	Eastbound	21	59	10	28	11	31
353	Westbound	16	45	6	16	10	29
354	Eastbound	10	28	4	11	6	17
355	Westbound	17	48	8	23	9	25
364	Eastbound	6	17	4	11	2	6
365	Westbound	6	17	4	11	2	6

Section 5. No Assignment of Certain Appendix IV Item 11 Payments; Separate Handling. NSR will not assign to Assignee any part of the monthly payment by Amtrak to NSR for General Administration Personnel and Transportation Supervision under Item 11 of Appendix IV of the Off-Corridor Agreement with respect to Trains 350, 351, 352, 353, 354, 355, 364 and 365 or any Amtrak Train that replaces those trains over the same or shorter distance. To the extent Assignee shall receive a payment for its costs of the type covered by Item 11 of Appendix IV of the Off-Corridor Agreement with respect to Trains 350, 351, 352, 353, 354, 355, 364 and 365 or replacement Amtrak Trains that do not increase the number of Amtrak Trains or the mileage of Amtrak Trains operating on Assignee's line, and to the extent NSR shall allocate to Assignee any part of the amount of Amtrak's payment to NSR under Item 11 of the Off-Corridor Agreement, NSR and Assignee shall enter into a separate agreement concerning such allocation. As a consequence, Amtrak shall not be required to pay Assignee a separate amount for General Administration Personnel and Transportation Supervision with respect to General Administrative Personnel and Transportation Supervision for the operation between Milepost MH 28.0 near Ypsilanti (Willow Run), MI and Milepost MH

145.06 near Kalamazoo, MI of Amtrak Trains 350, 351, 352, 353, 354, 355, 364 and 365 or any Amtrak Train that replaces those trains and that does not increase the number of Amtrak Trains or the mileage of Amtrak Trains operating on the Assignee's lines.

Section 6. No Assignment of Appendix VII Claims Service Agreement. NSR will not assign to Assignee any part of the Claims Service Agreement in Appendix VII of the Off-Corridor Agreement, which previous to February 1, 2006 was a separate agreement that has been included in the Off-Corridor Agreement for administrative convenience of NSR and Amtrak and not because it was an integral part of a "Basic Agreement." NSR will not assign to Assignee the corresponding reference in Item 22 of Appendix IV of the Off-Corridor Agreement to payments under the Claims Service Agreement. Assignee and Amtrak shall make a separate agreement or arrangement for claims service or claims handling with respect to claims related to or arising from Amtrak's Intercity Rail Passenger Service over Assignee's lines of railroad under the partially assigned Off-Corridor Agreement, if Amtrak and Assignee wish to enter into an agreement with respect to claims service or claims handling.

Section 7. Future Handling; Notification. Except to the extent specifically provided for in this Agreement, Amtrak shall handle all matters and further agreements concerning the lines to be operated by Assignee with the Assignee after the Commencement Date. Until Amtrak is notified in writing of a change in Assignee's notification party or address, for purposes of Section 8. 5 of the Off-Corridor Agreement and provisions of other agreements with respect to notification, Assignees notify party and address shall be:

President  
Michigan Central Railway, LLC  
315 W. 3rd Street  
Pittsburg, Kansas 66762

with a copy to:

Mr. Ed McKechnie  
Chief Commercial Officer  
Watco Transportation Services, Inc.  
315 West 3rd Street  
Pittsburg, Kansas 66762

with a copy to:

Mr. Craig Richey  
General Counsel  
Watco Transportation Services, Inc.  
315 West 3rd Street  
Pittsburg, Kansas 66762

Section 8. NSR Services or Operations on or Over Michigan Line Subject to Assignment. NSR may provide services to Assignee under arms-length contracts. NSR may operate over Assignee's lines (excluding the Amtrak owned lines between MP 145.06 and MP 222.08) after the Commencement Date on an emergency or detour basis or under retained trackage rights from Assignee.

Section 9. Kalamazoo, MI Track Lease. The Kalamazoo, MI Track Lease is hereby extended concurrently with the extension of the term of Assignee's Off-Corridor Agreement, as amended, as provided in numbered paragraph 6 of the Kalamazoo, MI Track Lease.

Section 10. Further Assignments of Any Subsequently Identified Real Property Leases or Agreements. If there remains in effect any lease or agreement from NSR or its predecessors to Amtrak for use of specifically identified real property along or adjacent to the lines that subject to the assignments and that also shall be leased, conveyed or otherwise transferred to Assignee, Amtrak consents to the assignment of such leases or agreements by NSR to Assignee effective upon written notification to Amtrak of the continuing existence of the lease or agreement and of NSR's assignment of its rights, responsibilities, interests and duties under the lease or agreement to Assignee.

Section 11. Return of Lines Subject to Assignments to NSR. If after the Commencement Date, all or any part of the lines or the interests therein that are subject to the assignments and assumptions of Easements, leases or agreements identified in this Agreement are returned to or reclaimed by NSR, Assignee is required immediately to reconvey the assigned Easements for the subject line segments to NSR. Assignee is also required to assign back the interests in the leases and agreements covered by the Assignment and Assumption Agreement to NSR, in whole or in part as required due to the return or reclaim of the all or any part of the lines or the interests therein by NSR, effective upon written notice from NSR to Assignee that NSR is resuming possession or operation over the line or any part thereof without the need for further assignment or agreement by the parties. Upon such resumption of possession, NSR will assume Assignee's rights, duties, and obligations under the Assignee's Off-Corridor Agreement, as amended. Amtrak consents to such possible future return, reclaim or re-assignment of the Easements or interests in the leases or agreements to NSR upon NSR's written notice to Amtrak without requirement for further agreement or consideration.

Section 12. Headings; Governing Law. The section headings herein are for convenience only and shall not affect the construction hereof. This Agreement shall be construed in accordance with and governed by the laws of the District of Columbia

Section 13. Severability. If any part of this Agreement is determined by a court, governmental agency or arbitration panel with jurisdiction to be invalid, illegal or unenforceable, such determination shall not affect the validity, legality or enforceability of any other part of this agreement and the remaining parts of this Agreement shall remain in effect and shall be enforced as if such invalid, illegal or unenforceable part were not contained herein. It is the intention of the parties that only the words determined to be invalid, illegal or unenforceable be stricken from the Agreement unless further words must be stricken to give the remaining provision meaning and to adhere as much as possible to the intent of the parties.

Section 14. Waiver, Amendment. Any waiver of any term of this Agreement must be in a writing signed by an authorized representative of the party making the waiver and shall apply only to the instance of waiver identified in the writing. Unless otherwise provided for herein, this Agreement may be amended or modified only in a writing signed by an authorized representative of each party.

Section 15. Successors and Assigns; No Third Party Beneficiaries. This Agreement shall be binding upon and inure solely to the benefit of each party hereto and their respective successors and permitted assigns, and nothing in this Agreement, express or implied, is intended to confer or shall confer upon any other party or person any rights, interests, benefits or remedies of any nature whatsoever under or by reason of this Agreement except to the extent Assignee Michigan Central Railway, LLC is permitted to assume the agreements to be assigned to it by NSR as provided for in this Agreement, subject to the provisions of those agreements on further assignment and except to the extent provided for return of the lines or Easements, leases or agreements to NSR in Section 11 of this Agreement.

Section 16. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

Section 17. Dispute Resolution. Any claim or controversy among the parties concerning the interpretation, application, or implementation of this Agreement shall be resolved pursuant to the provisions of Article VI of the Off-Corridor Agreement as relates to NSR and the Assignee's Off-Corridor Agreement as amended as relates to Michigan Central.

**(SIGNATURES ON FOLLOWING PAGE)**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

NORFOLK SOUTHERN RAILWAY COMPANY

\_\_\_\_\_  
By:  
Name:  
Title:

MICHIGAN CENTRAL RAILWAY, LLC

*A.E. McKechnie*  
\_\_\_\_\_  
By: *A.E. McKechnie*  
Name: *A.E. McKechnie*  
Title: *EVPCO*

NATIONAL RAILROAD PASSENGER CORPORATION  
(AMTRAK)

Approved as to Form

*David I. Roberts* *Alex Korman*  
\_\_\_\_\_  
By: *David I. Roberts* By: *Alex Korman*  
Name: *David I. Roberts* Name: *Alex Korman*  
Title: *Sr. Assoc Gen. Counsel* Title: *CEO*

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

NORFOLK SOUTHERN RAILWAY COMPANY

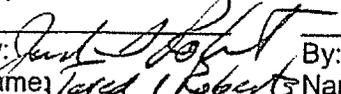
By:   
Name: DANIEL M. MAZUR  
Title: VICE PRESIDENT

MICHIGAN CENTRAL RAILWAY, LLC

By: \_\_\_\_\_  
Name:  
Title:

NATIONAL RAILROAD PASSENGER CORPORATION  
(AMTRAK)

Approved as to Form

By:   
Name: Jared I. Roberts  
Title: Sr. Assoc. Gen Counsel

By: \_\_\_\_\_  
Name:  
Title: