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BEFORE THE  
SURFACE TRANSPORTATION BOARD  
DOCKET NO. FD 36496

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APPLICATION OF THE NATIONAL RAILROAD PASSENGER CORP.  
UNDER 49 U.S.C. § 24308(e) – CSX TRANSPORTATION, INC. AND  
NORFOLK SOUTHERN CORPORATION

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**JOINT STATUS REPORT**

The National Railroad Passenger Corp. (“Amtrak”), CSX Transportation, Inc. (“CSX”), Norfolk Southern Railway Company (“NS”), and the Alabama State Port Authority and its rail common carrier operating division, Terminal Railway Alabama State Docks (the “Port”) (collectively, the “Parties”), provide this joint status report to the Surface Transportation Board (the “Board”) in accordance with the Board’s order of February 26, 2024. That order directed the Parties to provide information, including relevant dates, regarding the status of: (1) the Consolidated Rail Infrastructure and Safety Improvements (“CRISI”) Grant Agreement; (2) environmental review for the Mobile Station Track Project; (3) environmental review for the CRISI Grant Agreement Projects; and (4) negotiations with the City of Mobile.

The Parties have been working, and continue to work, diligently, cooperatively, and in good faith toward implementation of all terms and conditions of the settlement agreement. The Parties share the Board’s interest in the prompt resolution of this matter and the restoration of Amtrak service to the Gulf Coast region. The Parties hereby provide the following information as requested by the Board.

(1) Status of the CRISI Grant Agreement – The CRISI Grant Agreement includes both “General Terms and Conditions” and “Project Specific Terms and Conditions.” Significant

progress is being made with respect to both and Amtrak expects the CRISI Grant Agreement to be finalized by May 2024 and ready for presentation to the other Parties.

First, as to the General Term and Conditions, as the Parties previously reported, the Federal Railroad Administration (“FRA”) introduced new Terms and Conditions for all discretionary grant programs in December 2023. These are different Terms and Conditions than those that have appeared in prior Amtrak discretionary grants. These new Terms and Conditions will apply not only to this particular CRISI Grant Agreement, but to the entire portfolio of Amtrak’s discretionary grant agreements. Accordingly, Amtrak and the FRA have been in regular contact to discuss various issues with respect to the new Terms and Conditions. As just one example, the new Terms and Conditions state that prior FRA written approval is required for all leases, licenses, and deeds at locations where work is being funded by a discretionary grant agreement. Given the potential for this to become a very cumbersome requirement, Amtrak is discussing this issue with the FRA. As another example, under the new Terms and Conditions, it appears that Amtrak must get written certifications from all procurement offerors regarding tax delinquencies and previous felony convictions, which may not be practical for all transactions.

While Amtrak and the FRA have reached agreement on the majority of the new Terms and Conditions, there are still some issues that Amtrak and the FRA are working to resolve. Amtrak and the FRA are in regular contact by email and have bi-weekly calls, as well as additional working sessions. For example, during the week of February 19, 2024, Amtrak and the FRA held two three-hour working sessions to address various issues relating to the General Terms and Conditions that will be a part of the CRISI Grant Agreement. Amtrak expects to have the General Terms and Conditions finalized by May 2024.

Second, with respect to the Project Specific Terms and Conditions, Amtrak, CSX, NS, and the Port have been working closely together to confirm the final content, which will include project

scope (statement of work), schedule, and budget for each of the infrastructure projects detailed in the CRISI Grant. Amtrak is working to confirm scope and schedule with CSX and NS and has incorporated their direct inputs into the Project Specific Terms and Conditions. Two aspects of the Project Specific Terms and Conditions remain to be confirmed. First, for the Mississippi Grade Crossings Project, Amtrak has recently learned that some of the included crossings have already received upgrades and no longer need to be addressed with funding from the CRISI Grant. Amtrak is therefore working with the Mississippi Department of Transportation to identify alternative crossings and will update the Project Specific Terms and Conditions content accordingly. Second, for the Virginia Street Lead Project, Amtrak is confirming with the Port (in conjunction with CSX) the final project scope and responsibilities. Amtrak has ensured that only content that the other relevant Parties have approved is included in the Project Specific Terms and Conditions that will be submitted to the FRA. On completion, the Project Specific Terms and Conditions document will be sent to FRA for review and acceptance. The Parties expect that they will finalize the Project Specific Terms and Conditions in March 2024.

As the Parties previously reported to the Board, dismissal of this proceeding will occur after execution of the CRISI Grant Agreement. Consent of all Parties to this proceeding is required prior to execution of the CRISI Grant Agreement.

(2) Environmental Review for the Mobile Station Track Project – Environmental review for the Mobile Station Track Project must be completed before the construction of the Mobile Station Track may commence, and as previously reported to the Board, this construction is a requirement before the commencement of passenger operations. In September 2023, Amtrak identified that the Mobile Station Track Project would require a Categorical Exclusion (“CE”) worksheet and a State Historic Preservation Office (“SHPO”) consultation. Amtrak then initiated the process to hire an environmental consultant through Amtrak’s NEPA/Section 106

Department's request for proposal. Proposals were received and reviewed in October 2023 and a contractor was then selected. Amtrak issued a notice to proceed to the selected contractor on November 13, 2023. The contractor initiated the environmental background evaluation and completed the fieldwork for wetlands and cultural resources as soon as the contract was established.

NEPA documentation and environmental review typically does not start until 30% design plans are complete because design plans must identify the footprint of disturbance and proposed condition in order to document potential impacts. The 30% design plans for the Mobile Project were finalized by Amtrak and CSX in mid-January 2024. On January 18, 2024, Amtrak provided the FRA with an update via email on the NEPA/Section 106 schedule and preliminary background information and a project description for the Mobile Project. Amtrak sent a first draft of the CE worksheet to the FRA on February 2, 2024. The FRA provided comments on the CE worksheet on February 8, 2024. Amtrak sent a revised CE worksheet to the FRA on March 12, 2024. Amtrak expects approval of its request for a CE by April 26, 2024.

As to Section 106, Amtrak sent the first draft of the Section 106 required materials to the FRA on February 2, 2024. The FRA provided comments on February 9, 2024. Amtrak sent a revised Section 106 draft to the FRA on February 14, 2024, and on the same date, the FRA responded that it had no further comments on the draft. There are no known National Register eligible or listed historic properties within the Project's Area of Potential Effects. However, it was determined that the Project has the potential to affect historic properties. After applying the criteria for adverse effect pursuant to 36 CFR Part 800.5(a)(1) and (2), and in consideration of the high archaeological sensitivity of the Project site and the inability to perform preconstruction testing, it was determined there would be a finding of Conditional No Adverse Effect conditioned upon implementing archaeological monitoring and an Unanticipated Discoveries Plan during

construction. Alabama's SHPO concurrence is expected on or before April 8, 2024. Upon concurrence, Amtrak will implement the plan and provide a monitoring report upon completion. Ongoing consultation with the SHPO, Tribal Historic Preservation Offices ("THPOs"), and consulting parties will be carried out as needed. It is anticipated that a monitoring report will be sent for review in Fall 2024.

As to the Coastal Zone Management Act, a letter from the FRA was submitted on February 22, 2024 to the Alabama Coastal Zone Management Program ("CZMP") with the FRA's negative determination. The Alabama CZMP has 60 days from the receipt of the letter to concur with or object to the negative determination or to request an extension. Alabama's concurrence will be presumed if Alabama's response is not received by FRA on the 60th day from receipt of this determination.

(3) Environmental Review for the CRISI Grant Agreement Projects – While environmental review for the CRISI Grant Agreement Projects is not an explicit prerequisite for the commencement of passenger operations, each party to the settlement agreement has the right to withhold their consent to the CRISI Grant Agreement until environmental review for the CRISI Grant Agreement Projects is complete.<sup>1</sup> The CRISI Grant Application included the cost of environmental review for the projects detailed in that application, and because Amtrak received full funding from FRA, the environmental review cost is covered by, and included in the scope of work for, the CRISI Grant Agreement. The FRA has provided Amtrak with pre-approval authority for the incurrence of costs for the procurement and engagement of a contractor and/or in-house staff to begin to develop environmental review documentation for the CRISI Grant Agreement

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<sup>1</sup> While the Parties agreed as part of the settlement agreement that passenger service could start before the CRISI Grant Agreement Projects are constructed, the CRISI Grant Agreement Projects will help deliver a passenger scheduled trip time of 3 hours and 23 minutes and preserve freight service fluidity.

Projects, consistent with the NEPA Class of Action determined by the FRA. Pursuant to this pre-approval authority, Amtrak and CSX have commenced weekly project team meetings to advance preliminary design work and environmental review for the CRISI Grant Agreement Projects to be constructed on CSX.

(4) Negotiations with Mobile – Negotiations between Amtrak and the City of Mobile are continuing to move forward. Amtrak first met with personnel from the Mayor’s Office on October 8, 2021. Amtrak then provided the City with specific information about the property needed for the layover track on March 16, 2022. The parties had a face-to face meeting on March 22, 2022 to review property boundaries, and a follow-up call on May 17, 2022, to discuss a construction laydown site on City property. Representatives of Amtrak and the City continued to have regular discussions through 2022 regarding the layover track, as well as temporary and permanent station designs. In February 2023, Amtrak shared a concept plan with the City showing a two-phased development plan and requesting feedback. Amtrak then provided the City with a draft easement agreement for the layover track and temporary boarding platform site in Mobile. Subsequently, Amtrak, CSX, and City representatives conducted a walking tour of the layover track and station area. Working with CSX, Amtrak provided revised design plans to the City on September 8, 2023. The City conducted some follow-up investigation and inspection of the site, focusing on the impact of the layover track construction on current City infrastructure, and on September 19, 2023, provided Amtrak with feedback on the revised design. On November 3, 2023, the City provided its feedback on Amtrak’s draft easement agreement. Since that time, representatives of Amtrak and the City have had multiple meetings, email exchanges, and phone calls to resolve issues related to the land use agreement, including the in-person meeting that Amtrak previously reported took place in December 2023. Amtrak believes these discussions and exchanges have been productive and that the parties are close to reaching a resolution of their

remaining issues. Representatives of Amtrak and the City recently held an in-person meeting in Mobile on February 29, 2024 to discuss next steps, which included the Mayor's Chief of Staff, the City Attorney, the Director of Communications and Governmental Affairs, and the Interim Executive Director of Public Works. Amtrak has provided the City of Mobile with an estimate of operating costs for the Gulf Coast Service. Amtrak has explained that the only financial support required from the City of Mobile is for the first three years of the service at a total of \$3.048 million, which is the same amount the City of Mobile already approved in 2020. Amtrak has explained that the City would not be obligated to financially support the ongoing service beyond the first three years of the service or beyond the \$3.048 million already approved. The Mobile City Council must approve both the land use agreement and the funding agreement between the City and Amtrak.<sup>2</sup> Amtrak is hopeful that the City Council will schedule a vote to approve those agreements in April or May 2024.

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WHEREFORE, per the Board's order, if the Parties have not notified the Board that their settlement has been fully implemented and requested dismissal of this proceeding by May 1, 2024, and if the Board has not otherwise ordered additional actions, the Parties will file an additional joint status report on that date that includes an update on the information described above.

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<sup>2</sup> The Board's February 26, 2024 order states that "according to the Parties, before Gulf Coast Service can commence, Amtrak must also negotiate an operating agreement with Mobile." Order at 1 (Feb. 26, 2024). However, Amtrak does not believe that an operating agreement between Amtrak and Mobile is required. Accordingly, Amtrak and Mobile are negotiating a funding agreement.

March 15, 2024

Respectfully submitted:

/s/ Jessica Ring Amunson

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**CERTIFICATE OF SERVICE**

I, Jessica Ring Amunson, certify that I have this day served copies of this document upon all parties of record in this proceeding by use of the service list, consistent with 49 C.F.R. § 1104.12.

*/s/ Jessica Ring Amunson* \_\_\_\_\_  
Jessica Ring Amunson

March 15, 2024