

**AGREEMENT ON PERFORMANCE PAYMENT
FOR OPERATION OF CAPITOL CORRIDOR TRAINS
DATED: December 1, 2003**

This Agreement is among the Capitol Corridor Joint Powers Authority (CCJPA), Union Pacific Railroad Company (UP), and the National Railroad Passenger Corporation (Amtrak).

WHEREAS, the CCJPA has contracted with Amtrak to operate the intercity rail passenger trains identified in Table 1 to Exhibit A, Incentive Arrangement for Operation of Capitol Corridor Trains, attached hereto (the Capitol Corridor Trains);

WHEREAS, Amtrak and UP are parties to an agreement dated January 1, 2000 (the Operating Agreement), which covers the operation of Amtrak Trains (as such term is defined in the Operating Agreement) on routes on various different parts of UP's rail system, including the operation of the Capitol Corridor Trains;

WHEREAS, the Operating Agreement contains provisions for incentives and penalties in connection with the operation of Amtrak Trains on UP rail lines; and


WHEREAS, the parties jointly desire to terminate the application of the normal incentives and penalty arrangement under the Operating Agreement to the Capitol Corridor Trains and establish a new performance payment arrangement with respect to the Capitol Corridor Trains;

NOW THEREFORE, the parties agree, effective December 1, 2003, that (1) Appendix V of the Operating Agreement shall cease to apply to the Capitol Corridor

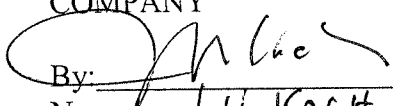
Trains and (2) incentive compensation with respect to the Capitol Corridor Trains operated pursuant to the Operating Agreement shall be governed exclusively by the provisions of the document entitled " Incentive Arrangement for Operation of Capitol Corridor Trains", which is attached to this Agreement as Exhibit A. This Agreement may be terminated on 60 days' prior written notice from any party to the other two parties. Effective upon any such termination, Appendix V of the Operating Agreement shall once again apply to the Capitol Corridor Trains.

IN WITNESS WHEREOF, the parties have executed this Agreement with respect to performance payments for the Capitol Corridor Trains by signature of their duly authorized representatives as set forth below:

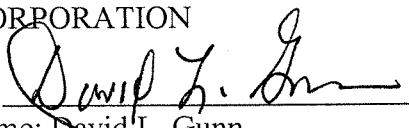
CAPITOL CORRIDOR JOINT
POWERS AUTHORITY

By: 
Name: EUGENE K. SKORODOWSKI
Title: MANAGING DIRECTOR
Date: 1/12/04

UNION PACIFIC RAILROAD
COMPANY

By: 
Name: J. H. COCHT
Title: UP- TRANSP.
Date: 1/16/04

NATIONAL RAILROAD PASSENGER
CORPORATION

By: 
Name: David L. Gunn
Title: President and Chief Executive Officer
Date: 1/7/04

INCENTIVE ARRANGEMENT
FOR OPERATION OF CAPITOL CORRIDOR TRAINS

Performance payments for the operation of the Capitol Corridor Trains will be paid to UP by Amtrak on behalf of the Capitol Corridor Joint Powers Authority ("CCJPA") for any month during which the Capitol Corridor Trains attain an on-time performance of 92% or greater. For the purpose of this Incentive Arrangement, only the trains specified in Table 1 of this Incentive Arrangement are deemed Capitol Corridor Trains.

A. Performance Calculation.

An on-time performance percentage pursuant to this Incentive Arrangement will be calculated during each calendar month by dividing the number of trips that Capitol Corridor Trains arrive on time during such month by the number of trips Capitol Corridor Trains operated during such month. In making this calculation, the following conditions will apply as applicable:

1. Except as otherwise provided in this Part A, a trip is considered on-time if the train completes its trip in its scheduled running time or less as specified in Table 1 of this Incentive Arrangement, plus any one or more of the following:
 - (a) A basic tolerance of 5 minutes.
 - (b) The amount of time a train departs late from its Origin except where the delay in departing the point of Origin is due to actions or inactions of Union Pacific.
 - (c) The net amount of time by which the actual total station dwell times exceed the total Allowed Station Dwell Time for the trip as specified in Table 2 of this Incentive Arrangement (e.g. If at three stations Allowed Scheduled Dwell Time is exceeded by 2 minutes each and at one station actual dwell is less than Allowed Scheduled Dwell Time by 1 minute, total extra tolerance is $2+2+2-1=5$).
 - (d) The amount of time a train is delayed due to the operation of an Amtrak Special Train (as such term is defined in the Operating Agreement).
 - (e) The amount of time resulting from special stops to entrain or detrain passengers at locations other than regularly scheduled station stops which are expressly requested by authorized Amtrak personnel.
 - (f) The amount of time a train is held out of stations due to station tracks being occupied by other Amtrak Trains.
 - (g) The amount of time by which the sum of the following delays in a trip exceeds 10 minutes (or 6 minutes for trains between Oakland and San Jose):
 - (1) The amount of time a train is delayed due to equipment failure of an Amtrak car or locomotive, including failures found by wayside detectors.
 - (2) The amount of delay in excess of 10" caused by wayside detectors when no defective condition is found.

- (3) The amount of time a train is delayed due to a sick or disruptive passenger at a location other than a scheduled station stop.
- (4) The amount of time a train is delayed by the opening of a moveable bridge.
- (5) The amount of time lost exchanging passengers, crew, or supplies between Amtrak Trains en route.
- (6) The amount of time lost due to a freight-only qualified engineer operating the train at freight train speeds.
- (7) The amount of time delayed due to the engineer copying mandatory directives as defined in Rule 2.14 of the General Code of Operating Rules, Fourth Edition and amendments thereto.
- (8) At locations other than station stops, the amount of time expended in picking up a locomotive or car.
- (9) The amount of time a train was delayed en route due to joint UP/Amtrak Uniform Efficiency Testing or UP testing performed in a reasonable manner once every 90 days per engineer in accordance with FRA rules.
- (10) The amount of time a train is delayed (or held out of the area) between mileposts 44.0 and 51.4 near San Jose because of the operation of Caltrain commuter service.

For purposes of Items (b) through (g) above, any time lost due to causes attributable to the UP shall be excluded.

There will be no other allowable delays or tolerance in determining whether a train is on time or late.

2. Construction Work for CCJPA Account & Track Improvement Program Work

In order to facilitate construction work being carried out by UP for the CCJPA or for Track Improvement Program work funded by CCJPA, if the parties agree in a specific situation, UP and CCJPA may negotiate relief under separate terms and conditions for the duration of CCJPA funded work. Alternately, UP may receive up to 30 minutes additional tolerance for a train in return for a reduction in the incentive rates for the train. It is understood by UP and CCJPA that this additional tolerance purchase provision shall not be an addition to negotiated relief terms of this agreement.

For projects where the parties agree, the added tolerance may be purchased in the increments shown below for the corresponding percentage reduction in incentive rates:

<u>Additional Tolerance (Minutes)</u>	<u>Percentage Reduction in Incentive Rates</u>
5	10%
10	20%
15	25%
20	30%
25	40%
30	50%

UP will inform CCJPA's Managing Director in writing at least 10 business days in advance, specifying the additional tolerance requested and the period for which it is to be effective. Upon approval of the request by CCJPA, which approval shall not unreasonably be withheld, the percentage reduction in the incentive rates shall be applied on a prorated basis to reflect the number of days in a month the additional tolerance is effective.

3. Trips Not Counted.

Trips of a train encountering the following situations shall not be counted in the statistics used in calculating incentives pursuant to this Incentive Arrangement:

- (a) A trip terminated, detoured, re-routed or annulled because of conditions which UP does not have ability to control.
- (b) A train that is late for reasons stated below, provided the train would not otherwise have been late had the occurrence stated below not occurred:
 - (1) A train has struck a pedestrian or vehicle or is blocked by a vehicle or pedestrian; or
 - (2) The train is blocked by fire hoses, emergency vehicles or held by civil authorities; or
 - (3) The train is delayed due to extraordinary weather conditions or natural disasters, floods, earthquakes, or high winds requiring special precautions, etc., that significantly disrupt operation on Rail Lines of UP; or
 - (4) A train arrives late due to being delayed by another Amtrak Train experiencing delays described Items (1) through (3) of this Paragraph (b); or
 - (5) The train is delayed by more than 10 minutes due to acts of vandalism on the Rail Lines of UP which require the train to stop or be operated at reduced speed for a portion of its trip.

4. For purposes of this Incentive Arrangement, delays will be determined on the basis of reports made by train and engine crews, Amtrak Arrow reports, CAD, UP Digicon or TCS, pulse tapes, or event recorders.

B. Calculation of Performance Payments.

If the percentage of on-time performance of the Capitol Corridor Trains (the "On-Time Percentage") in a month is in a Percentage Range indicated below:

1. if the On-Time Percentage was not in that range or higher in the previous month, the Performance Payment to UP shall be the amount per train mile operated by Capitol Corridor Trains in the month in Column B corresponding to that Percentage Range; or
2. if the previous month's On-Time Percentage was also in that range or a range representing a higher On-Time Percentage, the Performance Payment to UP shall be the amount per train mile operated by Capitol Corridor trains in the month in Column C corresponding to the Percentage Range for the month.

Column A	Column B	Column C
Percentage Range	Rate per TM	Rate per TM
0% - 91.9%	\$0.00	\$0.00
92.0% - 95.9%	\$1.25	\$1.88
96.0% - 100%	\$1.88	\$2.50

C. Remittance of Performance Payments.

Performance payments calculated pursuant to this Incentive Arrangement shall be billed to Amtrak separately from any other amounts payable pursuant to the Operating Agreement. Following the conclusion of each calendar month, UP shall submit a Statement of Charges calculated pursuant to this Incentive Arrangement and in a form reasonably requested by Amtrak to:

Senior Director Contract Administration
National Railroad Passenger Corporation
60b Massachusetts Avenue, N.E. Room 3E-105
Washington, DC 20002

With a duplicate copy sent simultaneously to:

Managing Director
Capitol Corridor Joint Powers Authority
1000 Broadway, Suite 604
Oakland, California 94607-4039

Amtrak shall make payment to UP on behalf of CCJPA for the earned Performance Incentive in accordance with terms of the Operating Agreement, and such payment on behalf of CCJPA due UP shall be made by check or wire transfer to:

First Bank of Nebraska
ABA No. 104000029

For the account of :

Union Pacific Railroad Company
1416 Dodge Street (MC 9060)
Omaha, NE 68179

Amtrak shall have the responsibility to guarantee payment to UP provided such funds for UP has been paid to Amtrak for this purpose by CCJPA under this Incentive Arrangement.

Notwithstanding the provisions of Appendix V, Item D of the Operating Agreement, penalties payable pursuant to Appendix V of the Operating Agreement may not be deducted from amounts payable pursuant to this Incentive Arrangement.

D. Scheduled Times

Table 1 of this Incentive Arrangement contains the data to be used to calculate on time performance and incentives pursuant to the provisions of this Incentive Arrangement. The Scheduled Departure and Arrival times are equivalent to those published in Amtrak's Public Timetable on the effective date of this Incentive Arrangement. When the parties change the schedule times in Amtrak's Public Timetable, Table 1 shall be changed to reflect such new published schedule times. Except as expressly set forth to the contrary in this Incentive Arrangement, the principles set forth in Appendix V, Section E of the Operating Agreement shall be utilized to establish schedule times.

The parties agree to implement schedule times for all Amtrak Trains operated for the CCJPA to conform to the requirements established in any capital agreements between UP, CCJPA and other governmental authorities or Amtrak for improvement of UP's Rail Lines as soon as the Rail Line conditions permit such implementation and as they may, from time to time, be amended.

Capitol Corridor Trains
INCENTIVE ARRANGEMENT, TABLE 1
Schedule Times and Mileage

Trains	Origin	Destination	Actual(Pure) Running Time	Recovery Time	Allowed Station Dwell	Scheduled Running Time	Footnote	Train Miles Per Trip
All	Oakland JLS	Sacramento	98	21	11	130		90
All	Sacramento	Oakland JLS	102	17	11	130		90
All except 542	San Jose	Sacramento	154	29	17	200	(1)	134
542	San Jose	Sacramento	154	39	17	210	(1) (2)	134
All	Sacramento	San Jose	158	26	16	200	(1)	134
All	Oakland JLS	Auburn	147	21	17	185		125
All	Auburn	Oakland	157	21	17	195		125
All	San Jose	Auburn	203	30	22	255	(1)	169
All	Oakland	San Jose	56	21	3	80	(3)	44

This Table 1 specifies the applicable Pure Running time, Scheduled Running Time and Station Dwell Times to be used for the calculations provided for in this Incentive Arrangement. The data is accurate on the effective date of this Incentive Arrangement and may be changed from time to time in accordance with the provisions of this Incentive Arrangement, Item D.

Footnotes:

1. Includes 5 minutes additional recovery time to accommodate CCJPA funded construction work between Oakland-San Jose which will be removed when the construction is complete.
2. Train #542 includes an additional 10 minutes recovery time between San Jose and Oakland to allow for a 10" earlier than needed departure from San Jose to avoid conflict with other train departures. This time will be removed when the earlier departure is no longer needed.
3. Includes 10 minutes additional recovery time to accommodate CCJPA funded construction work between Oakland-San Jose which will be removed when the construction is complete.

Capitol Corridor Trains
INCENTIVE ARRANGEMENT, Table 2
Station Dwell Times

	All Trains with intermediate Stops at listed Stations
Rocklin	1
Roseville	2
Sacramento	3
Davis	2
Suisun-Fairfield	2
Martinez	2
Richmond	2
Berkeley	1
Emeryville	2
Oakland	2
Hayward	1
Fremont-Centerville	1
Santa Clara	1