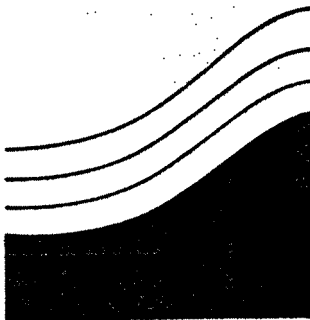




CITY OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL PROTECTION
 OFFICE OF LEGAL COUNSEL
 2353 MUNICIPAL BUILDING, NEW YORK, N.Y. 10007

(212) 669-8450

HARVEY W. SCHULTZ
 Commissioner

RICHARD BOWERS
 General Counsel

Jared I. Roberts, Esq.
 Associate General Counsel
 National Railroad Passenger Corp.
 400 North Capitol Street, N.W.
 Washington, D.C. 20001

RECEIVED
 D.E.P./BUREAU OF SEWERS
 NOV - 3 1988
 DIVISION OF
 SEWER REGULATION
 AND CONTROL

Re: Amtrak Sewer in the vicinity of
 11th Avenue and West 33rd Street,
 Manhattan

Dear Mr. Roberts:

Enclosed is an original copy of our agreement concerning the above
 referenced sewer which has been executed by Commissioner Harvey W. Schultz.

Again, thank you for all your cooperation in concluding this matter.

Sincerely,

Frank Schiano

Frank Schiano
 Assistant Counsel

cc: Bowers
 DiMartino ✓
 Farag

OFFICE OF THE
 GENERAL COUNSEL
 BUREAU OF SEWERS

1988 NOV - 1 AM 10:41

ENVIRONMENTAL PROTECTION

National Railroad Passenger Corporation, 400 North Capitol Street, N.W., Washington, D.C. 20001 Telephone (202) 383-3000



October 24, 1988

Frank Schiano, Esquire
Assistant Counsel
Department of Environmental Protection
2353 Municipal Building
New York, N.Y. 10007

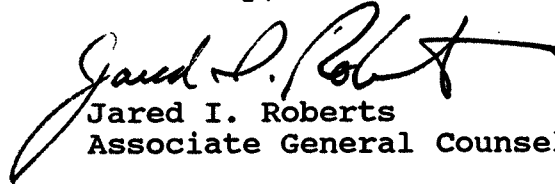
Re: Amtrak Sewer in vicinity of 11th Avenue
and West 33rd Street, Manhattan

Dear Mr. Schiano:

Thank you for your letter dated September 19, 1988. I have revised the draft agreement, incorporating your changes along with some others that I do not believe should be controversial. A black-lined copy showing all changes from my last draft is enclosed, along with two original Agreements, both of which have been executed by Amtrak. If acceptable to DEP, would you have the originals executed by Commissioner Schultz, and then return one of them to me for Amtrak's records.

Thank you.

Sincerely,


Jared I. Roberts
Associate General Counsel

Enc-3
egc

AN EQUAL OPPORTUNITY EMPLOYER

AGREEMENT REGARDING
AMTRAK SEWER CONSTRUCTION IN THE
VICINITY OF 11TH AVENUE AND
WEST 33RD STREET, BOROUGH OF MANHATTAN

THIS AGREEMENT made as of the 20th day of October, 1988, by and between National Railroad Passenger Corporation ("Amtrak"), a District of Columbia corporation, having an office at 400 North Capitol Street, N.W., Washington, D.C. 20001, and City of New York, Department of Environmental Protection ("DEP"), having an office at 2353 Municipal Building, New York, New York 10007.

WHEREAS, Amtrak owns certain rail properties (the "Line") which run from approximately 11th Avenue and West 33rd Street in the Borough of Manhattan, City, County and State of New York, north to Spuyten Duyvil in Bronx County, City and State of New York; and

WHEREAS, Amtrak intends to rehabilitate the Line for rail passenger service and to construct a rail tunnel (the "Tunnel") so as to connect the Line to Pennsylvania Station in the Borough of Manhattan; and

WHEREAS, in order to construct the Tunnel in the vicinity of 11th Avenue and West 33rd Street, Amtrak must lower the alignment of an existing sewer line by constructing a dual siphon sewer and related facilities (collectively the "New Sewer"); and

WHEREAS, DEP has reviewed and approved Amtrak's plans with respect to construction of the New Sewer; and

WHEREAS, in 1929, in connection with a realignment of the Line intended in part to remove railroad tracks from City streets, The City of New York and the then owner of the Line, The New York Central Railroad Company ("NYCRR"), entered into a Conveyance dated July 2, 1929 (the "1929 Conveyance") pursuant to which certain lands, rights and easements were conveyed to the City and to NYCRR; and

WHEREAS, the 1929 Conveyance, at page 230 thereof, provided that the City would have the right to occupy and use any street underneath or over NYCRR's realigned tracks and structures, in any manner which does not interfere with or endanger NYCRR's occupation or use of such tracks and structures; and

WHEREAS, because the New Sewer is to be located below the Tunnel and below portions of 11th Avenue and West 33rd Street, DEP has the right, pursuant to the 1929 Conveyance, to enter onto Amtrak's right-of-way at such location to perform DEP's maintenance and other obligations under this Agreement, provided that such performance does not interfere with or endanger Amtrak's occupation or use of its tracks and structures; and

WHEREAS, Amtrak and DEP intend hereby to set forth their agreement with respect to the payment for construction of the New Sewer and with respect to the continuing responsibilities of each following such construction.

NOW THEREFORE, for and in consideration of the respective agreements of the parties contained herein and other good

and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, Amtrak and DEP agree as follows:

1. DEP Approval of Amtrak Construction Plans. DEP has approved Amtrak's plans for construction of the New Sewer. Such approval was contained in a letter dated February 22, 1988, from Mr. Magdi Farag of DEP, a copy of which letter (without enclosures) is attached hereto as Exhibit A.

2. Amtrak to Pay For Construction of New Sewer. Amtrak shall bear all costs of constructing the New Sewer, which work shall be performed in connection with Amtrak's construction of the Tunnel. The New Sewer shall not be put into use until DEP has certified in writing to Amtrak that construction of the New Sewer has been satisfactorily completed.

3. Indemnification by Amtrak. Amtrak agrees to indemnify and save harmless DEP and the City of New York from and against any and all liability for injuries or death to any person, and for loss of, damage to, or destruction of any property, arising out of the sole negligence of Amtrak, its employees, agents or contractors, in constructing the New Sewer.

4. Responsibilities After Construction of New Sewer. Upon certification by DEP that construction of the New Sewer has been satisfactorily completed, the following shall pertain for so long as Amtrak owns and operates the Line:

a. All costs associated with the maintenance, repair, replacement or reconstruction of the New Sewer, or installation of new equipment, shall be the sole responsibility

of DEP, except as otherwise specifically set forth below. Any such work shall be performed by DEP so as not to interfere with or endanger Amtrak's occupation or use of the Line.

b. In the event that Amtrak provides flagging or track monitoring in connection with any maintenance or repair of the New Sewer, Amtrak shall bear the cost of such flagging or track monitoring. If the work being performed on the New Sewer extends beyond maintenance or repair, such as replacement, reconstruction, or the installation of new equipment, DEP shall reimburse Amtrak for the cost of any flagging or track monitoring provided by Amtrak.

c. At least twenty (20) days in advance of performing any non-emergency work in, on, or around the New Sewer, DEP shall submit its plans for review and written approval to Amtrak's Deputy Chief Engineer, 2000 Market Street, Philadelphia, PA 19103, or to such other representative as may be designated by Amtrak in writing. No such non-emergency work shall be performed by or on behalf of DEP without such prior written approval, which approval shall not be unreasonably withheld or delayed. DEP acknowledges that because of train schedules on the Line, it may be necessary to schedule non-emergency work at times that are set by Amtrak in order to minimize or eliminate interference with train operations.

d. In the event that DEP performs emergency work in, on, or around the New Sewer it shall, as soon as possible, give telephone notice to the office of Amtrak's Assistant Chief Dispatcher at (212) 560-7465, 7466, 7467 or 7468 (or to such

other telephone number as may be designated by Amtrak in writing), and shall thereafter, upon request of Amtrak, submit plans or other documents describing the work performed.

e. Amtrak shall provide vehicular access for DEP to the vicinity of the New Sewer by way of a non-public maintenance road or otherwise. Amtrak may, at its option, provide DEP with a key to the gate leading to such maintenance road, keep such a key at Pennsylvania Station or other twenty-four (24) hour a day facility where it can be made readily available to DEP, or make other provision(s) that will assure access to DEP twenty-four (24) hours a day, seven (7) days a week. Notwithstanding the foregoing, Amtrak shall remain obligated to make access to the New Sewer available at all times to DEP.

f. With the exception of routine maintenance, inspection and repair of the Tunnel, and of the track and other material and equipment located therein, Amtrak shall perform no construction work within a forty-six (46) foot wide corridor centered about the New Sewer without the prior written approval of DEP, which approval shall not be unreasonably withheld or delayed.

5. Applicable Law. Pursuant to the terms of 45 U.S.C. § 546(d), this Agreement shall be governed by the laws of the District of Columbia.

6. Amendment. This Agreement may be amended only by an instrument in writing signed by both parties.

7. Assignment. This Agreement may not be assigned by either party without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

8. Successors and Assigns. The provisions of this Agreement, including but not limited to those addressing DEP access to the New Sewer, shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

9. Entire Agreement. This Agreement constitutes the entire agreement between the parties as to the scope and subject matter of this Agreement. All prior discussions and understandings concerning such scope and subject matter are superseded by this Agreement.

10. Sole Benefit. This Agreement is intended solely for the benefit of the parties and is not intended to create any other beneficiaries.

11. Severability. If any provision of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby.

12. Execution. This Agreement may be executed in several counterparts, each of which shall be deemed an original.

13. No Property Interest. This Agreement shall not be construed as granting to DEP any right of possession, estate, title or interest whatsoever in the Line, the Tunnel, the maintenance road, or any part of the Line, the Tunnel, or the maintenance road.

IN WITNESS WHEREOF, Amtrak and DEP have executed this Agreement as of the day and year first above written.

WITNESS

Francis S. Schano

CITY OF NEW YORK,
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

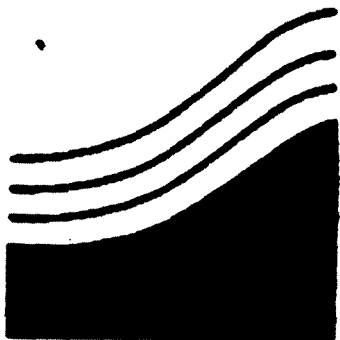
By: [Signature]
Harvey W. Schultz - Commissioner

WITNESS

[Signature]

NATIONAL RAILROAD PASSENGER
CORPORATION

By: [Signature]
R. D. Johnson
Deputy Chief Engineer



**CITY OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL PROTECTION**
2385 MUNICIPAL BUILDING, NEW YORK, N.Y. 10007 (212) 606-6200

HARVEY W. SCHULTZ
Commissioner

February 22, 1988

Yalcin M. Tarhan
Acting Project Engineer
Parsons Brinckerhoff Quade & Douglas, Inc.
One Penn Plaza
New York, NY 10119

RE: Westside Connection Project, North Access Tunnel from W. 33rd Street to W. 38th Street, Borough of Manhattan

Dear Mr. Tarhan:

This is in reply to your letter dated February 10, 1988 with which you submitted three (3) sets of final plans for the above referenced project. The submitted plans have been reviewed and are hereby approved. A set of plans, stamped "Approved" is enclosed herewith for your records.

It is advised that the incoming pipe into pressure relief manhole as shown on drawing No. C-21 be bent 90° downwards.

The agreement between Amtrak and this department is presently being finalized and should be completed prior to the start of construction.

Please advise Mr. Carlton Hinds, P.E., Chief, Private and Other Agencies Inspection Section, Bureau of Sewers, 40 Worth Street, New York, NY 10013, Telephone # (212) 566-6032, at least fifteen (15) days before commencing construction. After completion of work, submit one (1) set of as-built drawings on three (3) mils mylar for our records.

Very truly yours,

MAGDI FARAG, P.E., CHIEF
Division of Sewer Regulations &
Control, Bureau of Sewers

EXHIBIT "A"