



## Memorandum

DATE: October 9, 2018

TO: Board of Directors

FROM: Jim Derwinski, Executive Director/CEO *JMD*

SUBJECT: Lake County Pilot & Shared Capital Agreement 3P

### **RECOMMENDATION**

Board action is requested to give the CEO authority to enter into a two-year Public-Private Partnership (3P) pilot agreement, related ancillary capital funding agreements, and any amendments thereto for: (a) additional morning and evening service on Metra's Milwaukee District North Line ("MD-N") and (b) shared capital expenses for the installation of universal crossovers in Lake Forest. Attached is the partnership agreement in substantial form for the two year pilot.

### **BACKGROUND**

At the April 2018 Metra Board Meeting, Lake County Partners, Lake Forest and business leaders from the Illinois Tri-State Tollway Corridor in Lake County addressed the Metra board during public comment to request additional reverse commute service from the Lake Forest Metra station in the evening. They explained their need to recruit and retain high quality talent living in Chicago would be enhanced if additional reverse commuting options were provided along Metra's Milwaukee District North Line between Chicago and the businesses. In addition to the request for reverse commute service, they acknowledged that additional operating and capital funding would be needed to implement their request and pledged to work cooperatively to secure funding. Following the Board meeting a number of working sessions were held between Metra staff, Lake County Partners, Lake Forest and business leaders from the Illinois Tri-State Tollway Corridor in Lake County.

The result of those meetings is the development of a Public-Private Partnership (3P) to increase reverse commute service and reliability on the MD-N through: (a) pilot program to gauge ridership potential of increased reverse commute services; (b) data sharing to determine demand for service increases; and (c) shared investment of capital for universal crossovers to improve reliability and sustain increased service. Given the lack of adequate data to determine if increased reverse commute service can generate sufficient ridership to be sustainable, implementing a pilot program of up to two years, will help determine the ability of the increased service. The pilot program will test the reverse commute market and provide evidence that the substantial investments in both capital (tracks, signals, switches, locomotives and railcars) and operating expenses (labor and fuel), would or would not be warranted.

The additional service for the pilot program will cost \$700,000 annually and Lake County Partners, a 501(c)3 economic development corporation affiliated with Lake County businesses and units of local government ("LCP"), will contribute one-half of the service cost or \$350,000 annually. The installation of a universal crossover is estimated to cost \$4.75 million. Under this agreement the parties will use reasonable efforts to obtain the capital funding as follows: \$2.75 million from LCP, \$1 million from local or other government bodies, and \$1 million from Metra.

Prior to Metra installing the universal crossovers, a number of conditions must be met, including Metra securing funding for its costs. After Metra installs the crossovers, there is an opportunity to extend current service to Lake Forest with existing trains if there is sufficient ridership demand to sustain this service.

### **FISCAL IMPACT**

The estimated cost to Metra for the two-year service pilot program is one-half the operating costs of \$700,000 annually (or \$350,000 annually for up to two years). The remainder comes from other government bodies or 3Ps. Staff proposes using repurposed RTA Innovation, Coordination, and Enhancement (ICE) funds to cover this expense. If the additional service generates enough revenue to support the \$700,000 annual cost, service would become permanent and Metra would assume all operating expenses going forward after the pilot program.

Metra's estimated capital cost for the installation of the universal crossovers is \$1 million, approximately 21% of the total project cost of \$4.75 million. The remainder comes from other government bodies or 3Ps. Staff proposes to include this project as part of the 2019 Capital Program. Provided that Metra can obtain local capital contributions from LCP and others, Metra is committed to installing universal crossovers north of Lake Forest, Illinois, to increase service and service reliability should the pilot program demonstrate sufficient ridership to support this service. Once installed, Metra will assume all responsibility for the operations and maintenance of the universal crossovers.

The total cost of a two-year service pilot (\$1.4 million) and installation of the universal crossovers (\$4.75 million) is \$6.1 million (\$1.4 million operating and \$4.75 million capital). Metra's maximum share would be \$700,000 (operating) for the two-year service pilot and \$1 million (capital) for the universal crossovers.

### **ATTACHMENTS**

#### **A. Public-Private Partnership Agreement with LCP**

Prepared by Sue-Ann Rosen, General Counsel  
John Milano, Deputy Executive Director - Administration  
Lynnette Ciavarella, Senior Division Director, Strategic Capital Planning

**PILOT & SHARED CAPITAL AGREEMENT WITH  
LAKE COUNTY PARTNERS  
FOR COMMUTER RAIL IMPROVEMENTS ON THE  
MILWAUKEE DISTRICT NORTH LINE**

**THIS PUBLIC-PRIVATE PARTNERSHIP AGREEMENT (“Agreement”)** made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Lake County Partners, a 501(c)3 economic development corporation affiliated with Lake County businesses and units of local government (“**LCP**”), and the Commuter Rail Division of the Regional Transportation Authority, a division of an Illinois municipal corporation and the Northeast Illinois Regional Commuter Railroad Corporation, a public corporation (together, “**Metra**”).

**RECITALS:**

A. The parties to this Agreement intend to work together to investigate the viability of increased service on the Milwaukee District North Line (“**MD-N**”) through a pilot program utilizing a modified train schedule.

B. If the pilot program indicates that the additional service has both a positive impact on Metra commuter use and satisfaction, safety, reliability, and is economically feasible, then improvements to the MD-N tracks will be required to increase reliability of the service, maintain additional runs and, possibly, additional trains.

C. The parties to this Agreement want to allocate the various terms, conditions and responsibilities necessary to make this effort a success.

**AGREEMENT**

**The parties therefore agree as follows:**

1. **Organization of Agreement.** Initially this endeavor is planned to be accomplished in three distinct parts or phases as follows:

- a. **Phase 1 - Interim Schedule Pilot.** Implementing a schedule with expanded service on the MD-N, allocating the additional costs of the operation of the expanded schedule, and evaluating commuter use, safety, reliability, satisfaction and cost effectiveness of running additional service on the MD-N.
- b. **Phase 2 – Capital Improvements Required.** The parties acknowledge that the commuter service on the MD-N, as currently structured, is at virtual physical capacity and is limited for various reasons. Additional capacity options and reliability will be possible with, at a minimum, the installation of universal crossovers near Lake Forest, which means connecting parallel rail tracks thus allowing a train on one track to cross over to the other track from either direction (“**Crossover Project**”). As of this writing, the estimated cost of the Crossover Project is \$4.75 million, LCP—without creating an obligation— has tentatively

pledged \$2.75 million for Phase 2. Metra—without creating an obligation— has tentatively pledged \$1.0 million for Phase 2. The Crossover Project will require added funding from other economic partner or partners. If the Phase 1 findings lead the parties to undertake Phase 2, the details of the funding of the Crossover Project and the responsibilities of the several parties will be documented in a **Phase 2 Funding Agreement** that will be attached hereto as **Exhibit A**, following its development, negotiation and acceptance by the parties involved. While the installation of universal crossovers does not guarantee additional services, it will increase the schedule reliability of the existing and Phase 1 service and is necessary to sustain future commuter service and service enhancements. The parties agree that Phase 2 is dependent on funding and will not begin, nor will costs accrue, until the parties agree that it is fully funded. Nothing contained herein is intended to or shall obligate the parties to enter into a Phase 2 Funding Agreement absent consent of the parties.

- c. **Phase 3 - Schedule after Universal Crossovers.** The installation of universal crossovers could lead to even more trains or more scheduled stops than those proposed for the Phase 1 evaluation. Metra will optimize the schedule of service on the MD-N following the successful completion of the Crossover Project. A sample of a possible schedule that supplements the Phase 1 schedule with additional service filling in more gaps and would not require additional rolling stock is attached as **Exhibit B**.

## 2. **Phase 1--Interim Schedule Pilot. (January 1, 2019 through December 31, 2019)**

- a. **New Modified Schedule.** Starting on or before January 21, 2019 and subject to Metra receiving approval from any required parties and any unforeseen events outside of Metra's control, Metra will publish a revised train schedule showing additional service in Lake County on the MD-N as shown, tentatively, on the **Phase 1 Schedule**, attached as **Exhibit C**. Metra shall provide at least 30 days' notice to LCP of minor schedule changes to permit timely changes to bus schedules. Major changes involving reductions or additions in the number of additional trains on the Interim Schedule will require an amendment to this Agreement.
- b. **Costs.** The additional morning and evening service on the MD-N pursuant to the Phase 1 Schedule is estimated to cost \$700,000 annually. LCP agrees to contribute one-half or \$350,000 annually; provided, however, that this contribution obligation is expressly contingent upon LCP receiving donations and contributions from its members and corporate partners, including any Lake County unit of local government, in an amount sufficient to fund \$350,000 on an annual basis. The parties hereto agreed and acknowledge that LCP is merely acting as an intermediary between its members and corporate partners and Metra with regard to the funding and contribution obligations set forth herein. In no event shall LCP being liable for making, or be obligated to make, contributions absent from its own funds. LCP agrees that commencing with the month of January 2019, Metra will invoice LCP

each month in the amount of \$29,200. Metra may elect to submit quarterly \$87,500 invoices instead of monthly invoices. It will be LCP's responsibility to collect any sub-contributions from its members and corporate partners, including any participating Lake County unit of local government; provided, however, that LCP does not and cannot guarantee or otherwise promise that its members and corporate partners will contribute sufficient funds. For simplicity, Metra will be seeking one fixed and recurring payment.

- c. **Term.** The initial period of this pilot program shall run from January 21, 2019 through January 20, 2020 with an option to continue to a 2<sup>nd</sup> year under the same or similar terms mutually agreed to by the parties. The parties shall endeavor to reach an understanding as to the exercise of the 2<sup>nd</sup> year option by October 31, 2019. If the 2<sup>nd</sup> year option is exercised, the pilot can be further extended at its conclusion upon the mutual agreement of the parties and on a month-to-month basis.
- d. **Option.** The parties shall endeavor to reach an understanding as to the exercise of the 2<sup>nd</sup> year option by October 31, 2019. If the 2<sup>nd</sup> year option is exercised, the pilot can be further extended at its conclusion upon the mutual agreement of the parties and on a month-to-month basis. Within the 4<sup>th</sup> quarter of the 1<sup>st</sup> year pilot, Metra shall perform an interim accounting of the revenue and expenses for the 1<sup>st</sup> year of the pilot program (not including any revenue and expenses related to any 2018 service offerings). If, in Metra's commercially reasonable discretion, the 1<sup>st</sup> year farebox revenue resulting from increased ridership along with LCP's revenue contributions (if any) clearly exceeded the pilot expenses incurred by Metra ("net ridership gain" after accounting for any Union Pacific North Line losses), Metra shall reduce the regular invoice for 2<sup>nd</sup> year to reflect any increased farebox revenue projection.
- e. **Data needed.** The parties acknowledge that gathering detailed commuter data from passengers is difficult and critical for measuring success. Each party will continue with their efforts to collect and share commuter-related data involving the Milwaukee North and Union Pacific North Lines. Each party will keep the data confidential to the same extent they keep their other data confidential. Metra and LCP shall meet no less frequently than each calendar quarter to review the data regarding ridership, revenue and expenses, LCP's receipt of sub-contributions from its members and corporate partners, and such related information. Metra shall provide LCP with an interim accounting of revenue and expenses on a quarterly basis.
- f. **Joint Marketing.** Within 30 days of executing this agreement, the parties will establish a committee and jointly work on a marketing plan to promote the benefits of the additional service through their respective paid and earned media outlets. One suggestion is to name the extra service the "Lake County Limited."

- i. Using their own resources, the parties will, at a minimum:
  - 1. Issue press releases following a Metra Board presentation about the service;
  - 2. Consider hosting an inaugural event at one of the Lake County Stations and invite local and regional business and political leaders and media;
  - 3. Post and provide advertising at the stations impacted by the change along the MD-N through Metra's special bulletins and public service announcements;
  - 4. Promote the new services on its web pages, MD-N emailing lists, employee email lists, Lake County's web site, mailings to Lake County Board member's constituents, village newsletters, and social media channels, like twitter;
  - 5. Work with corporations to host events in Lake County corporate lobbies to inform employees how to take the new service; and
  - 6. Such other events as the committee deems practical.

g. **Measurement of Goals.** Service performance will be generally measured based on the following two criteria:

- i. A net increase of 148,300 annual trips based on an average fare of \$4.72. This average fare is based on ticket sales of all fare zone combinations between fare zones A and F during the January-July 2018 period on the MD-N, as these are the riders that would primarily benefit from this service change. This equates to needing approximately 600 additional weekday trips (300 individual people making round trips) to cover the cost, based on the 255 weekday service days in 2018. These are new trips on Metra's system (after considering adverse impacts, if any, on the Union Pacific North Line). The parties acknowledge that it will be difficult to meet or exceed the new trip totals during the first year of the pilot, and obtaining just 50% of those new riders in the first year is a good aspirational goal; and
- ii. Increased Fare box revenues from the net new riders to meet or exceed the estimated annual \$700,000 cost attributed to operate this new additional service.

- iii. Each party shall share data with the other related to the Phase 1 pilot.
- h. **Evaluation.** Service Performance will be reviewed at least quarterly by the parties to determine progress towards reaching the service performance goals, using the above factors and such other performance factors as may be available during the pilot. If targets are not met within the two-year timeframe, parties will determine if the service should be discontinued or if additional operating expenses should be provided to Metra to sustain the service for future years. Should the targets be met prior to the established timeline, the parties may agree to discontinue the operating assistance. (see Section 2d above)
- i. **Phase 2 Determination.** The parties, upon evaluating the findings of Phase 1, or at some time prior to its final evaluation will decide whether or not and/or when to move on to Phase 2.
- j. **Effective of Agreement Contingent.** The effectiveness of this Agreement is expressly contingent upon Metra receiving approval from any required parties.
- k. **Termination.** While each party is committed to the completion of the pilot, it is recognized that either party may cancel this Agreement by providing the other 60 days' prior written notice. Notice is required to provide proper notice to Metra's union employees and to assist passengers with making changes to their commuting patterns. Metra needs more than 30 days of notice because passengers purchase monthly tickets starting the 20<sup>th</sup> of the prior month and ample notification is required. In the event of a termination of this Agreement prior to the end of a calendar month, LCP's contribution obligations, subject to the conditions set forth herein, shall be pro-rated accordingly.
- l. **Counterparts.** This Agreement may be simultaneously executed in counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument.
- m. **Notices.** All notices, demands, elections, and other instruments required or permitted to be given or made by either party upon the other under the terms of this Agreement or any statute shall be in writing. Such communications shall be deemed to have been sufficiently served if sent by certified or registered mail with proper postage prepaid, hand delivered or by regular mail by the sending party at the respective addresses shown below, or to such other party or address as either party may from time to time furnish to the other in writing. Such notices, demands, elections and other instruments shall be considered delivered to recipient on the second business day after deposit in the U.S. Mail, or on the day of delivery if hand delivered.



- i. Notices to Metra shall be sent to:

Metra  
547 W. Jackson Boulevard  
Chicago, Illinois 60661  
Attn: General Counsel  
Phone: 312-322-6684

- ii. Notices to Lake County Partners shall be sent to:

Lake County Partners  
100 Tri-State International Drive  
Suite 122  
Lincolnshire, IL 60069  
Attn: Kevin Considine  
Phone: 847-597-1226

- n. **Authority.** Each person signing this Agreement represents and warrants that he or she is duly authorized to act on behalf of his/her respective party and has legal capacity to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

**THIS AGREEMENT** is entered into between the parties as of the later date of the signatures below.

**LAKE COUNTY PARTNERS:**

**METRA:**

By: \_\_\_\_\_

By: \_\_\_\_\_  
James M. Derwinski, CEO/Executive Director

\_\_\_\_\_  
(please print name and title)

Date signed: \_\_\_\_\_

Date signed: \_\_\_\_\_



**Exhibit A**

**Phase 2 Funding Agreement**

to be attached following its development, negotiation, and acceptance if Phase 2 is opted for

## **Exhibit B**

### **Possible Post Cross-Overs Schedule**

## **Exhibit C**

### **Tentative Phase 1 Schedule**