

BK: 2024 PG: 1177
Recorded: 5/30/2024 at 10:16:06.0 AM
Pages 12
County Recording Fee: \$62.00
Iowa E-Filing Fee: \$3.00
Combined Fee: \$65.00
Revenue Tax: \$0.00
BRANDY L. MACUMBER, RECORDER
Madison County, Iowa

Prepared by, and after recording, return to:
Chapman and Cutler LLP
320 South Canal Street
Chicago, Illinois 60606
Attention: James R. Nelson
Telephone: (312) 845-3498

For Legal Description, see page 10

Previously recorded documents: Original Mortgage: Book 2016, Page 281
First Amendment: Book 2020, Page 1655
Second Amendment: Book 2024, Page 565

THIS MORTGAGE SECURES FUTURE ADVANCES AND VARIABLE RATES OF INTEREST

THIRD AMENDMENT TO OPEN-END MORTGAGE, ASSIGNMENT OF
RENTS AND LEASES AND FIXTURE FILING

Dated as of May 29, 2024

FROM

IOWA INTERSTATE RAILROAD, LLC

TO

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, in its capacity as collateral trustee

Debtor: Iowa Interstate Railroad, LLC
203 2nd Street SE, Suite 500
Cedar Rapids, Iowa 52401

Secured Party: U.S. Bank Trust Company, National Association, as Trustee
60 Livingston Avenue
St. Paul, Minnesota 55107
Attn: Iowa Interstate Railroad Administrator

Third Amendment to Open-End Mortgage, Assignment of Rents and Leases and Fixture Filing

This Third Amendment to Open-End Mortgage, Assignment of Rents and Leases and Fixture Filing (the “**Third Amendment**”) is dated as of May 29, 2024, from Iowa Interstate Railroad, LLC, a Delaware limited liability company (formerly known as Iowa Interstate Railroad, Ltd., a Delaware corporation) with a mailing address at 203 2nd Street SE, Suite 500, Cedar Rapids, Iowa 52401 (“**Mortgagor**”), to U.S. Bank Trust Company, National Association, a national banking association (as successor in interest to U.S. Bank National Association, a national banking association (“**Original Mortgagee**”)), with a mailing address at West End Flats, 60 Livingston Avenue, St. Paul, Minnesota 55107, Attention: Iowa Interstate Railroad Administrator, in its capacity as collateral trustee for the Secured Parties from time to time (together with its successors and assigns and any co-trustees in such capacity, the “**Trustee**” or “**Mortgagee**”). Capitalized terms used herein have the meanings specified in the Trust Indenture (as such is hereinafter defined) unless otherwise defined herein.

WITNESSETH THAT:

WHEREAS, the Mortgagor heretofore executed and delivered to Original Mortgagee that certain Open-End Mortgage, Assignment of Rents and Leases and Fixture Filing dated as of February 2, 2016 (the “**Original Mortgage**”) encumbering the Property described in Schedule I attached hereto, which Original Mortgage was recorded in the land records of Madison County, Iowa (the “**Recording Office**”) on February 3, 2016 at Book 2016, Page 281;

WHEREAS, the Original Mortgage was amended by that certain First Amendment to Open-End Mortgage, Assignment and Rents and Leases and Fixture Filing dated as of May 14, 2020 and recorded in the Recording Office on May 15, 2020 at Book 2020, Page 1655 (the “**First Amendment**”);

WHEREAS, pursuant to that certain Assignment and Assumption Agreement dated as of January 28, 2022 between Original Mortgagee, as assignor, and Mortgagee, as assignee (the “**Assignment**”), all of Original Mortgagee’s right, title and interest as mortgagee and trustee under the Original Mortgage, as amended by the First Amendment, was assigned to and assumed by Mortgagee;

WHEREAS, the Original Mortgage was further amended by that certain Second Amendment to Open-End Mortgage, Assignment and Rents and Leases and Fixture Filing dated as of March 12, 2024 and recorded in the Recording Office on March 18, 2024 at Book 2024, Page 565 (the “**Second Amendment**,” and together with the Original Mortgage, and First Amendment the “**Mortgage**”);

WHEREAS, the Mortgage secures, among other things, the full and punctual payment and performance when due, whether at stated maturity, by acceleration or otherwise, of all Secured Obligations (as defined in the Mortgage) now or from time to time owing to the Secured Parties (as defined in the Mortgage);

WHEREAS, the Mortgagor, the Trustee and the then existing Secured Parties heretofore entered into that certain Collateral Trust Indenture and Security Agreement dated as of February 2, 2016 (as amended, restated, supplemented or otherwise modified from time to time, the “**Trust Indenture**”) whereby the Mortgagor granted to the Trustee certain collateral for the benefit of the Secured Parties;

WHEREAS, the Mortgage contemplates that the Mortgagor may incur certain additional Indebtedness, on a secured basis (referred to in the Mortgage as “**Other Secured Loans**”), issued to one or more lenders or other Persons (each such lender or other Person which executes a Joinder to the Trust Indenture is referred to in the Mortgage as an “**Other Secured Party**”, and collectively, all such Persons are referred to as the “**Other Secured Parties**”);

WHEREAS, concurrently herewith, the Mortgagor has entered into that certain Note Purchase Agreement dated as of even date herewith (as amended, restated, supplemented or otherwise modified from time to time, the “**2024 Note Purchase Agreement**”), among the Mortgagor and the purchasers named in Schedule A thereto (collectively, the “**2024 Purchasers**”), pursuant to which the Mortgagor is, among other things, selling to the 2024 Purchasers and the 2024 Purchasers are purchasing from the Mortgagor, the Mortgagor’s 6.10% Senior Secured Notes due April 14, 2028 in the aggregate principal amount of \$60,000,000 (collectively, the “**2024 Notes**”);

WHEREAS, pursuant to the terms of the Trust Indenture, each of the 2024 Purchasers has executed a Joinder to the Trust Indenture and thereby (without any further action required), among other things, (i) each of the 2024 Purchasers has become an “Other Secured Lender” and a “Secured Party” for purposes of the Trust Indenture, (ii) each of the 2024 Purchasers has become an “Other Secured Party” and a “Secured Party” under the Mortgage, (iii) the obligations of the Mortgagor under the 2024 Notes, 2024 Note Purchase Agreement and each related Operative Agreement have become “Secured Obligations” under the Mortgage, and (iv) the 2024 Note Purchase Agreement has become an Other Secured Loan Agreement under the Mortgage;

WHEREAS, it is a condition to the agreement of the 2024 Purchasers to purchase the 2024 Notes that this Third Amendment shall have been executed and delivered by the Mortgagor and Mortgagee in order to, among other things, increase the amount of the Secured Obligations under the Mortgage; and

WHEREAS, all requirements of law have been fully complied with and all other acts and things necessary to make this Third Amendment a valid, legal and binding instrument according to its terms for the purposes herein expressed have been done or performed.

NOW THEREFORE, the Mortgagor and the Mortgagee, in consideration the above recitals incorporated herein and of other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, do hereby agree as follows:

SECTION 1. AMENDMENTS.

From and after the date hereof, the following terms and provisions of the Mortgage shall be amended as set forth herein, and the Mortgage shall be deemed to mean the Mortgage as amended by this Third Amendment:

Section 1.1. The second paragraph following Granting Clause IX in the Mortgage (which paragraph begins “It is expressly understood...”) is amended by deleting such paragraph in its entirety and replacing it with the following:

“It is expressly understood and agreed that the Secured Obligations will in no event exceed two hundred percent (200%) of (i) \$200,000,000.00 plus (ii) the total interest which may hereafter accrue under the Operative Agreements on such amount plus (iii) any fees, costs, expenses or other amounts which may be payable hereunder.”

Section 1.2. (i) The references to “Note Purchase Agreement” in Section 8 (Insurance) and Section 17 (No Transfer) of the Mortgage shall be and include collective references to the 2016 Note Purchase Agreement, the 2020 Note Purchase Agreement, the 2024 Note Purchase Agreement, and each other Other Secured Loan Agreement from time to time, and (ii) the Note Purchase Agreement section references in Section 8 and Section 17 of the Mortgage shall be and include collective references to the equivalent substantive section in the 2016 Note Purchase Agreement and in each other Other Secured Loan Agreement from time to time, if an equivalent section exists therein.

Section 1.3. For clarity, all references in the Mortgage to “Secured Obligations” shall additionally include any and all principal, interest (including any default interest and whether arising before or after the filing of a petition in bankruptcy and whether or not allowed), Make-Whole Amount, premium, breakage costs, indemnity obligations, fees and other indebtedness, obligations and liabilities of the Mortgagor to the Holders of the 2024 Notes issued from time to time under the terms of the 2024 Note Purchase Agreement, in each case arising in connection with the 2024 Note Purchase Agreement and the 2024 Notes and the other related Operative Agreements to which the Mortgagor is a party and whether now existing or hereafter arising (and whether arising before or after the filing of a petition in bankruptcy), due or to become due, direct or indirect, absolute or contingent, and howsoever evidenced, held or acquired.

Section 1.4. The first paragraph following subsection (c) of Section 48 of the Mortgage (which paragraph begins “NOTICE: This Mortgage secures...”) is amended by deleting such paragraph in its entirety and replacing it with the following:

Section 48 shall be revised to delete the NOTICE: This Mortgage secures credit in the amount of \$400,000,000. Loans and advances up to this amount, together with interest, are senior to indebtedness to other creditors under subsequently recorded or filed mortgages and liens.

SECTION 2. ASSIGNMENT.

Each of Original Mortgagee and Mortgagee hereby executes and delivers this Third Amendment for purposes of confirming the assignment of the Mortgage as of January 28, 2022 pursuant to the Assignment.

SECTION 3. MISCELLANEOUS.

Section 3.1. This Third Amendment shall be construed in connection with and as part of the Mortgage, and except as modified and expressly amended by this Third Amendment, all terms, conditions and covenants contained in the Mortgage are hereby ratified and confirmed and shall be and remain in full force and effect, and the Mortgagor hereby reaffirms all covenants and agreements contained in the Mortgage, each and all of which shall be applicable to all of the indebtedness secured by the Mortgage. Without limiting the foregoing, the Mortgagor hereby agrees that, notwithstanding the execution and delivery of this Third Amendment, all rights and remedies of the Mortgagee under the Mortgage, all obligations of the Mortgagor thereunder, and the lien and security interest granted and provided for thereby are and as amended hereby shall remain in full force and effect for the benefit and security of all the indebtedness thereby secured.

Section 3.2. Any and all notices, requests, certificates and other instruments executed and delivered after the execution and delivery of this Third Amendment may refer to the Mortgage without making specific reference to this Third Amendment but nevertheless all such references shall include this Third Amendment unless the context otherwise requires.

Section 3.3. The descriptive headings of the various Sections or parts of this Third Amendment are for convenience only and shall not affect the meaning or construction of any of the provisions hereof.

Section 3.4. This Third Amendment shall be governed by and construed in accordance with the law of the jurisdiction where the Property is located.

Section 3.5. The execution hereof shall constitute a contract between Mortgagor and Mortgagee for the uses and purposes hereinabove set forth, and this Third Amendment may be executed in any number of counterparts, each executed counterpart constituting an original, but all together only one agreement.

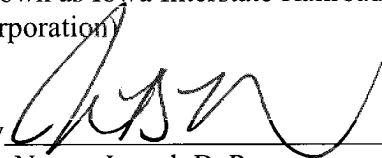
Section 3.6. All of the rights, protections, immunities and indemnities granted to the Trustee in the Trust Indenture shall apply hereto as if set forth herein.

[Signatures appear on the next page.]

IN WITNESS WHEREOF, the Mortgagor has caused this Third Amendment to be signed and sealed the day and year first above written.

IOWA INTERSTATE RAILROAD, LLC,
a Delaware limited liability company (formerly
known as Iowa Interstate Railroad, Ltd., a Delaware
corporation)

By




Name: Joseph B. Parsons

Title: President and CEO

Original Mortgagee:

U.S. BANK NATIONAL ASSOCIATION,
a national banking association

By 
Name: Brandon Bonfig
Title: Vice President

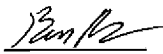
ACKNOWLEDGMENT

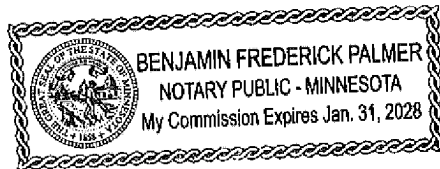
STATE OF MINNESOTA)
)
COUNTY OF RAMSEY)

On May 29, 2024 before me, Benjamin Frederick Palmer, personally appeared Brandon Bonfig who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity as Vice President of U.S. Bank National Association, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Minnesota that the foregoing paragraph is true and correct.

WITNESS my hand and official seal,

Signature:  (Seal)



Mortgagee/Trustee:

U.S. BANK TRUST COMPANY, NATIONAL
ASSOCIATION,
a national banking association

By 
Name: Brandon Bonfig
Title: Vice President

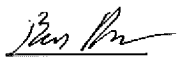
ACKNOWLEDGMENT

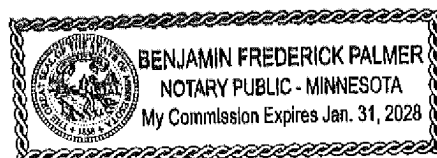
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I certify under PENALTY OF PERJURY under the laws of the State of Minnesota that the foregoing paragraph is true and correct.

WITNESS my hand and official seal,

Signature:  (Seal)



SCHEDULE I
LEGAL DESCRIPTION

[attached hereto]

SCHEDULE I

LEGAL DESCRIPTION

Being a description of parcels of land and strips of land of varying widths constituting a continuous line of railroad property:

SECTION FIVE

W. Des Moines to Council Bluffs, Iowa

Dallas and Madison Counties, Iowa

Thence westerly through Sections 25, 26, 27, 28, 29 and 30, Township 78 North, Range 26 West of the 5th P.M., Dallas County; thence westerly through Sections 25, 26, 27, 22, 21, 20, 29 and 30, Township 78 North, Range 27 West of the 5th P.M., Dallas County; thence southerly through Sections 25 and 36, Township 78 North, Range 28 West of the 5th P.M., Dallas County; thence westerly through Sections 1, 2, 3, 4, 5 and 6 (Excluding all that part of the Southwest Quarter of said Section 4 lying southerly of a line fifty feet southerly of and parallel to said main track centerline), Township 77 North, Range 28 West of the 5th P.M., Madison County; thence westerly through Sections 1, 2, 3 and 4, Township 77 North, Range 29 West of the 5th P.M., Madison County; thence westerly through Sections 33, 32 and 31, Township 78 North, Range 29 West of the 5th P.M., Dallas County.

AND, INCLUDING THE FOLLOWING PARCELS:

Being particular descriptions of certain parcels already described in general terms above and not within any exclusion to the Property conveyed:

MADISON COUNTY, IOWA

Earlham, Iowa

Parcel 29: The Point of Beginning being on the west line of Section 6 and on a line twenty feet southerly of and parallel to the centerline of Grantor's main track; thence southeasterly along said line southerly of said main track centerline to the westerly line of Chestnut Street extended northerly; thence southerly along said street line to a line fifty feet southerly of and parallel to said main track centerline; thence northwesterly along the last line intersected to a line fifty-three feet easterly of and parallel to the easterly line of Locust Street; thence southerly along the last line intersected approximately one hundred fifty feet to the northerly line of Lot 11, Block 16; thence westerly along said lot line to said easterly line of Locust Street; thence northerly along said street line to a line one hundred fifty feet southerly of and parallel to said main track centerline; thence westerly along the last line intersected to the westerly line of Locust Street; thence northerly along said street line to said line fifty feet southerly of said track centerline; thence westerly along the last line intersected to said west line of Section 6; thence northerly along said

west line to the Point of Beginning; all in the Southwest Quarter of the Southwest Quarter of Section 6, Township 77 North, Range 28 West of the Fifth Principal Meridian.

Parcel 30: All of Grantor's interest in the South Half of the Southeast Quarter of the Southwest Quarter lying northerly of a line twenty-five feet northerly of and parallel to the centerline of Grantor's main track, lying easterly of the easterly line of Sycamore Street and westerly of the westerly line of Maple Street; Township 77 North, Range 28 West of the Fifth Principal Meridian.