

**FIRST AMENDMENT TO
TERMINAL TRACKS AND PLATFORMS
OPERATING AGREEMENT FOR UNION DEPOT, ST. PAUL, MN**

This **FIRST AMENDMENT TO TERMINAL TRACKS AND PLATFORMS OPERATING AGREEMENT** (“First Amendment”) is made this ____ day of March, 2024 (the “Effective Date”), and is by and between the **Ramsey County Regional Railroad Authority**, a political subdivision of the State of Minnesota organized pursuant to Minnesota Statutes, Chapter 398A (“RCRRA”), and **National Railroad Passenger Corporation**, a corporation under the laws of the District of Columbia (“Amtrak”).

RECITALS

1. RCRRA and Amtrak are parties to that certain Terminal Tracks and Platforms Operating Agreement for Union Depot, St. Paul, MN, executed on November 29, 2013, and effective as of May 7, 2014 (the “Original Operating Agreement”);
2. RCRRA and Amtrak are also parties to that certain Station Lease Agreement effective as of December 16, 2013, which agreement commenced on April 14, 2014 (the “Original Lease”);
3. RCRRA and Amtrak are also parties to that certain First Amendment to Lease Agreement effective as of August 18, 2015 (the “First Amendment to Lease”);
4. Amtrak is intending to add a second round-trip train per day to Union Depot for which Amtrak has requested that RCRRA provide space to layover such train at Union Depot overnight beginning on or about March 2024; and
5. RCRRA and Amtrak agree to amend the Original Operating Agreement as outlined in this First Amendment.

NOW THEREFORE, in consideration of the foregoing Recitals and the mutual promises in this First Amendment, and other good and valuable consideration the sufficiency of which is hereby acknowledged, RCRRA and Amtrak agree as follows:

1. Definitions of the Original Operating Agreement are amended or deleted as follows:
 - a. **“RCRRA Special Train”** (or “RCRRA Special Trains”) shall mean any train, other than an Amtrak Train, permitted by RCRRA to operate to the Terminal Tracks and Platforms. The parties intend that excursion trains operated by the Friends of 261 (as distinguished from excursion trains operated by Amtrak on behalf of the Friends of 261), special trains operated by the Canadian Pacific Kansas City Limited (e.g., holiday train), Union Pacific Railroad, or BNSF will operate only if each is a RCRRA Special Train.

- b. **“Intercity Passenger Rail Service”** means passenger rail service whose ridership consists of passengers traveling between two or more metropolitan areas and includes any and all uses and purposes incidental to such intercity passenger railroad operations.

2. **Recitals.** The Recitals set forth above are true and correct and are incorporated into this First Amendment.

3. **Amendment.** The term “Operating Agreement” or “Agreement” as used in this First Amendment shall mean the Original Operating Agreement as amended by this First Amendment. All bold original text, capitalized terms and terms as defined in Section 1 of the Original Operating Agreement that are not otherwise defined in this First Amendment shall have the same meaning as set forth in the Original Operating Agreement.

4. **Commencement Date of First Amendment.** The Commencement Date of this First Amendment is the Effective Date first written above, and is the date on which all rights and obligations, as amended by this First Amendment, of RCRRA and Amtrak become effective.

5. **Replacing Exhibit A.** **Exhibit A** of the Original Operating Agreement, depicting the site plan of Union Depot, as defined in the Original Operating Agreement, is replaced in its entirety with a new **Exhibit A**, which is attached to this First Amendment.

6. **Amending Section 2 of the Original Operating Agreement.** Section 2.C. is removed. Sections 2.A. and 2.B. of the Original Operating Agreement are amended to read as follows:

- a. Amtrak shall have the right to use the Terminal Tracks and Platforms for Intercity Passenger Rail Service, including but not limited to rail passenger and baggage loading and unloading and related servicing of Amtrak Trains. Amtrak and RCRRA acknowledge that RCRRA shall have the non-transferrable, non-assignable right to permit the operation of RCRRA Special Trains to and from the Terminal Tracks and Platforms; provided, that RCRRA shall provide Amtrak at least thirty (30) days’ advance written notice of any planned RCRRA Special Train operations.
- b. RCRRA will take all reasonable measures with respect to RCRRA’s obligations set forth in this Agreement and in any related agreements between RCRRA and others with respect to the Terminal Tracks and Platforms serving Union Depot to ensure that all Amtrak Trains are able to operate over the Terminal Tracks and Platforms as expeditiously as possible consistent with safe operating practice. RCRRA shall ensure that Amtrak Trains are given preference over all other trains operating to or from the Terminal Tracks and Platforms.

7. **Amending Section 6 of the Original Operating Agreement, Risk of Liability.**

- a. Section 6.D. of the Original Operating Agreement is amended by adding the following:

“Amtrak shall indemnify and hold RCRRA harmless, irrespective of any negligence or fault of RCRRA, its employees, agents or servants, for the cost (including any related fines or penalties) of cleanup or repair to RCRRA property which RCRRA demonstrates was required solely as a direct result of work performed by Amtrak or an Amtrak contractor while servicing an Amtrak Train stored on RCRRA property. Amtrak further agrees to indemnify and save harmless RCRRA, irrespective of any negligence or fault of RCRRA, its employees, agents or servants, from any and all liability for, loss of, or damage to property of third parties (excluding the owner or operator of a RCRRA Special Train) which RCRRA demonstrates was caused solely by Amtrak’s employees, agents or contractors while servicing an Amtrak Train on RCRRA property.”

- b. The Third Paragraph of Section 6.F. of the Original Operating Agreement is amended to read as follows:

“RCRRA’s indemnification obligations under this Subsection 6.F are not limited to the amount of Required Insurance. Notwithstanding any other provision in this Agreement to the contrary, RCRRA shall indemnify and hold harmless Amtrak, irrespective of any negligence or fault of Amtrak, its employees, agents or servants, from any and all liability, loss, damage or injury of any nature to persons or to property (including attorney’s fees, costs and expenses) arising or emanating, in whole or in part from acts, accidents, or other occurrences of Third Parties or RCRRA Special Trains.”

8. **Amending Section 7 of the Original Operating Agreement, Insurance.**

- a. Section 7.A.b. of the Original Operating Agreement is amended to read as follows:

“The Required Insurance shall be maintained continuously with a combined single limit for bodily injury and property damage liability of not less than Fifty Million Dollars (\$50,000,000) each occurrence with aggregate limits of not less than Fifty Million Dollars (\$50,000,000), and with a self-insured retention not to exceed Two Million Dollars (\$2,000,000) each occurrence. RCRRA shall be responsible for paying all liability within the deductible as if first dollar insurance coverage had been purchased and maintained by RCRRA and with no contribution by Amtrak.”

- b. Section 7.F of the Original Operating Agreement is amended by adding the following Subsection 7.F.5:

“5. Effective on the one-year anniversary of the Effective Date of the First Amendment, Section 7.F of the Original Operating Agreement will be deemed amended to remove the Third Party Claims Administration Fund requirements in

their entirety; provided (1) RCRRA shall first certify to Amtrak in writing that no Third Party Claims have been filed against RCRRA during the period from the Effective Date of the First Amendment and the one-year anniversary, and (2) Amtrak has received no Third Party Claims during such period. At that time, any remaining Funds shall be returned by check or wired funds, as directed by RCRRA within 60 calendar days.”

- c. Section 7.G. of the Original Operating Agreement is amended to read as follows:

“Except as otherwise set forth in the last paragraph of **Subsection 7.A**, in the event that RCRRA or its contractors or subcontractors fails to maintain the Required Insurance with all applicable enhancements and provisions, Amtrak may upon written notice to RCRRA suspend service at Union Depot and RCRRA shall promptly provide evidence that the Required Insurance is maintained, or has been obtained; and if RCRRA does not promptly provide such evidence, cease service at Union Depot and RCRRA shall be responsible to Amtrak for all costs and any and all damages that Amtrak incurs or suffers as a result of such termination and/or failure to maintain the Required Insurance or to provide evidence that the Required Insurance is being maintained, including but not limited to, claims that would have been paid by the Required Insurance, any other obligations of RCRRA under this Agreement, and all costs that Amtrak incurs in relocating its train operations to another location, tracks or station. Amtrak may, at its sole option, offset amounts due Amtrak pursuant to this **Subsection 7.G** against any amounts otherwise due RCRRA.”

9. **Amending Section 12 of the Original Operating Agreement, Notice.**

Section 12 of the Original Operating Agreement is amended to strike the address for Lessor, replace it with the following address:

Ramsey County Regional Railroad Authority
ATTN: Director of Ramsey County Property Management
121 Seventh Place East, Suite 2200
St. Paul, MN 55101

With a copy to:

Ramsey County Regional Railroad Authority
250 Ramsey County Courthouse
15 West Kellogg Boulevard
St. Paul, MN 55102

10. **Status of the Original Operating Agreement.** Except as amended in this First Amendment, all other terms and conditions of the Original Operating Agreement remain in full force and effect.

11. **Signatures/Execution.** Each person executing this First Amendment on behalf of a party hereto represents and warrants that such person is duly and validly authorized to do so on

behalf of such party, with full right and authority to execute this First Amendment and to bind such party with respect to all of its obligations hereunder. This First Amendment may be executed in counterparts, each of which will be deemed an original, but all of which taken together will constitute but one and the same instrument. The parties agree that the electronic signature of a party to this First Amendment will be as valid as an original signature of such party and will be effective to bind such party to this First Amendment. Any party's failure to produce the original signature of any electronically transmitted signature will not affect the enforceability of this First Amendment. The parties further agree that any future amendment to the Original Operating Agreement containing, or to which there is affixed, an electronic signature will be deemed (i) to be "written" or "in writing," (ii) to have been signed, and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. For purposes thereof, "electronic signature" also means a manually signed original signature that is transmitted by any electronic means, including without limitation a facsimile version of an original signature or an electronically scanned and transmitted version (e.g., via PDF) of an original signature.

IN WITNESS WHEREOF, the parties have executed this First Amendment to Operating Agreement effective on the date first written above.

RAMSEY COUNTY REGIONAL RAILROAD AUTHORITY	NATIONAL RAILROAD PASSENGER CORPORATION
Rafael E. Ortega Chair <i>Approval recommended:</i> Jean R. Krueger, Director Ramsey County Property Management <i>Approved as to form:</i> Assistant Ramsey County Attorney	NAME TITLE

Exhibit A

Site Plan for Union Depot

