

AGREEMENT FOR RELEASE OF RAILROAD EASEMENT

This AGREEMENT FOR RELEASE OF RAILROAD EASEMENT ("Agreement") is entered into as of the Execution Date (defined below), by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation ("UPRR"), and **CITY OF SALEM**, a municipal corporation of the State of Oregon ("City"). UPRR and the City may hereinafter be collectively referred to as the "Parties".

RECITALS:

A. By that certain Right-of-Way Deed dated September 15, 1909, and recorded on October 22, 1909 in Book 50, Page 377 of the Record of Deeds of Polk County, Oregon ("Polk County Records") ("Recorded Instrument"), Salem, Falls City & Western Railway Company, an Oregon corporation ("SFC&WRC"), was granted a perpetual right, easement and privilege of using certain real property located in Polk County, State of Oregon, for railroad and railway purposes ("Railroad Easement").

B. SFC&WRC merged with and into Southern Pacific Company, a Kentucky corporation, which merged with and into Southern Pacific Company, a Delaware corporation, which merged with and into Southern Pacific Transportation Company, a Delaware corporation, which simultaneously changed its name to Union Pacific Railroad Company, a Delaware corporation, effective February 1, 1998.

C. The Railroad Easement legally described in the Recorded Instrument encumbers real property located in Polk County, State of Oregon, now owned by the City, as generally depicted and outlined in red and identified as "RELEASE OF EASEMENT AREA" on the print dated July 6, 2022, attached hereto as **Exhibit A** and made a part hereof ("Release Property").

D. The City has requested that UPRR release and quitclaim all of UPRR's interest in and to the Railroad Easement to the City, and UPRR has agreed to release and quitclaim all of UPRR's interest in and to the Railroad Easement to the City.

E. The City acknowledges that one (1) advertising signboard and appurtenances related thereto (collectively, "Signboard") is located on the Release Property. Additionally, the City acknowledges that the Signboard is governed by that certain Master Signboard Site License Agreement dated September 30, 1997 between UPRR and Eller Media Company, now known as Clear Channel Outdoor, Inc. ("Clear Channel") ("Eller Agreement"). Upon the City's payment of the Signboard Withdrawal Fee (as defined in Section 1(b) below) at Closing (as defined in Section 1(a) below), UPRR shall withdrawal the Signboard from the Eller Agreement, as more particularly described below.

AGREEMENT:

NOW, THEREFORE, for and in consideration of the mutual covenants herein made, the Parties agree as set forth below.

Section 1. Closing.

(a) Closing. Within thirty (30) days after the Execution Date ("Closing"), the City shall pay to UPRR the sum of TWO HUNDRED TWO THOUSAND SIX HUNDRED NINETEEN AND 34/100TH DOLLARS (\$202,619.34) ("Purchase Price") for UPRR's (i) release and quitclaim of all of UPRR's interest in and to the Railroad Easement to the City, and (ii) withdrawal of the Signboard from the Eller Agreement, calculated as follows:

Fee Description	Amount
Release of Railroad Easement	\$159,619.00
Signboard Withdrawal	\$43,000.00
Purchase Price Total	\$202,619.34

(b) Signboard Withdrawal Upon Closing. UPRR shall send or cause to be sent to Clear Channel notice of withdrawal of the Signboard on the Release Property from the Eller Agreement. The notice of withdrawal will be given in accordance with the provisions of the Eller Agreement, and the withdrawal will be effective not less than thirty-five (35) days after the notice of withdrawal is sent to Clear Channel. UPRR will have no duty to enforce the obligations of Clear Channel with respect to withdrawal of the Signboard, including, without limitation, any obligations of Clear Channel to remove the Signboard after the withdrawal. The City agrees that Clear Channel will have up to thirty (30) days after the effective date of the withdrawal to perform Clear Channel's removal obligations. The Parties agree that the landowner value of the Signboard Forty-Three Thousand and No/100th Dollars (\$43,000.00) and will be folded into the Purchase Price to be paid by the City to UPRR at Closing, as outlined in Section 1(a) above.

(c) Deliverables. Not later than one (1) business day prior to Closing, UPRR shall deliver to the City an original, executed and notarized signature page to the Release and Quitclaim of Railroad Easement ("Release Instrument") in the form attached hereto as **Exhibit B** and made a part hereof.

(d) Instructions. When the City has in its possession fully executed and notarized original of the Release Instrument, the City shall deliver the Purchase Price to UPRR and as soon as possible thereafter record the Release Instrument in the Polk County Records. The City shall thereafter deliver a recorded copy of the Release Instrument to UPRR within thirty (30) days following Closing.

(e) Closing Costs. At Closing, the City shall pay the following costs:

- (i) The cost of recording the Release Instrument in the Polk County Records; and
- (ii) The cost of any documentary or other transfer taxes applicable to this transaction.

Section 2. As Is; Release.

(a) As Is. The City specifically acknowledges and agrees that the Railroad Easement is being accepted in an "AS IS" condition and "WITH ALL FAULTS" as of the Execution Date.

The City expressly acknowledges and agrees that UPRR makes no warranty as to the physical condition, tenantability, merchantability or fitness for a particular purpose of the Railroad Easement, or representations or warranties with respect to the use, condition, title, occupation or management of the Railroad Easement, or compliance with applicable statutes, laws, codes, ordinances, regulations, requirements (collectively, "Condition of the Railroad Easement"). The City shall rely exclusively on its own independent investigation and evaluation of every aspect of the Railroad Easement.

(b) Release. THE CITY HEREBY AGREES TO RELEASE UPRR, ITS AFFILIATES, THEIR EMPLOYEES, AGENTS, OFFICERS, SUCCESSORS AND ASSIGNS, FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, CAUSES OF ACTION, LEGAL OR ADMINISTRATIVE PROCEEDINGS, CLAIMS, DEMANDS, FINES, PUNITIVE DAMAGES, LOSSES, COSTS, LIABILITIES AND EXPENSES IN ANY WAY ARISING OUT OF OR CONNECTED WITH THE KNOWN OR UNKNOWN CONDITION OF THE RAILROAD EASEMENT AND THE RELEASE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE ENVIRONMENTAL CONDITION OF THE RELEASE PROPERTY OR ANY FEDERAL, STATE OR LOCAL LAW, ORDINANCE, RULE OR REGULATION APPLICABLE THERETO. THE CITY'S RELEASE SET FORTH IN THIS SECTION WITH RESPECT TO CONTAMINATION "ADJACENT TO" THE RELEASE PROPERTY RELATES ONLY TO CONTAMINATION MIGRATING FROM THE RELEASE PROPERTY AND/OR ARISING OUT OF THE CITY'S PAST ACTIVITIES ON THE RELEASE PROPERTY, ITS NEGLIGENT ACTS OR OMISSIONS, OR INTENTIONAL MISCONDUCT.

(c) Future Investigation. With respect to any existing or future environmental contamination of the soil and/or groundwater in, on or under the Release Property, from and after Closing, the City, at no cost to UPRR, agrees to be solely responsible for conducting any investigation, monitoring, remediation, removal, response or other action required by any governmental agency, court order, law or regulation or otherwise necessary to make the Release Property suitable for the City's use of the Release Property.

(d) Covenants to Run with the Release Property. The foregoing covenants and conditions shall run with the Release Property, the burdens of which will be binding on the successors and assigns of the City and the benefits of which will inure to the successors and assigns of UPRR. A breach of the foregoing covenants and conditions, or the continuance thereof, may, at the option of UPRR, its successors or assigns, be enjoined, abated, or remedied by appropriate proceedings.

Section 3. Survival of Terms.

The terms and conditions of this Agreement shall survive Closing and the delivery of and recordation of the Release Instrument and shall bind and inure to the benefit of the Parties, their successors and assigns.

Section 4. Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of this _____ day of _____, 2023 ("Execution Date").

UPRR:

**UNION PACIFIC RAILROAD COMPANY,
a Delaware corporation**

By: _____

Printed Name: _____

Title: _____

City:

**CITY OF SALEM,
a municipal corporation of the State of Oregon**

By: _____

Printed Name: _____

Title: _____

EXHIBIT A



RELEASE OF EASEMENT AREA = 2.658 AC ±

NOTE: BEFORE YOU BEGIN ANY WORK, SEE AGREEMENT FOR PUBLIC UTILITIES PROVISIONS.

EXHIBIT "A"

UNION PACIFIC RAILROAD COMPANY
 PICKNEY, POLK COUNTY, IOWA
 M.P. 722.5 - DALLAS SUB. (ABANDONED)
 MAP SP OR V-5 / S-1A
 SCALE: 1" = 200'

OFFICE OF REAL ESTATE
 OMAHA, NEBRASKA DATE: 7/5/2022
 IRM FILE: 03335-84

LEGEND:

RELEASE OF EASEMENT AREA: [Red outline symbol]

UPRICO. R/W OUTLINED: [Dotted line symbol]

CADD FILENAME	S143647_DR646.PNG
SCAN FILENAME	S143647_DR646.PNG

EXHIBIT B**FORM OF RELEASE INSTRUMENT****RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

City of Salem
350 Commercial Street NE
Salem, Oregon 97301

(Space Above for Recorder's Use Only)

3335-84

RELEASE AND QUITCLAIM OF RAILROAD EASEMENT

This RELEASE AND QUITCLAIM OF RAILROAD EASEMENT is made this _____ day of _____, 2023, by **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation ("Grantor"), to **CITY OF SALEM**, a municipal corporation of the State of Oregon ("Grantee").

RECITALS:

WHEREAS, by that certain Right-of-Way Deed dated September 15, 1909, and recorded on October 22, 1909 in Book 50, Page 377 of the Record of Deeds of Polk County, Oregon ("Polk County Records") ("Recorded Instrument"), Salem, Falls City & Western Railway Company, an Oregon corporation ("SFC&WRC"), was granted a perpetual right, easement and privilege of using certain real property located in Polk County, State of Oregon, as legally described in the Recorded Instrument, for railroad and railway purposes ("Railroad Easement").

WHEREAS, SFC&WRC merged with and into Southern Pacific Company, a Kentucky corporation, which merged with and into Southern Pacific Company, a Delaware corporation, which merged with and into Southern Pacific Transportation Company, a Delaware corporation, which simultaneously changed its name to Union Pacific Railroad Company, a Delaware corporation, effective February 1, 1998.

WHEREAS, Grantee is the current owner of the Release Property, and desires the cancellation, release and quitclaim of the Railroad Easement granted to SFC&WRC in the Recorded Instrument, and Grantor is willing that such Railroad Easement across, on, over and upon the Release Property be cancelled, released and quitclaimed to Grantee.

AGREEMENT:

NOW, THEREFORE, Grantor, in consideration of the premises and in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration to it in hand paid, the receipt of which is hereby confessed and acknowledged, for itself, its successors and assigns, does hereby REMISE, RELEASE AND QUITCLAIM to Grantee, its successors and assigns, forever, all of its right, title, interest, estate, claim and demand, both at law and in equity, which it has by reason of the Railroad Easement across, on, over and upon the Release Property.

The Railroad Easement is released and quitclaimed to Grantee subject to the following:

(a) As Is. Grantee specifically acknowledges and agrees that the Railroad Easement is being accepted in an "AS IS" condition and "WITH ALL FAULTS" as of the date of this instrument. Grantee expressly acknowledges and agrees that Grantor makes no warranty as to the physical condition, tenantability, merchantability or fitness for a particular purpose of the Railroad Easement, or representations or warranties with respect to the use, condition, title, occupation or management of the Railroad Easement, or compliance with applicable statutes, laws, codes, ordinances, regulations, requirements (collectively, "Condition of the Railroad Easement"). Grantee shall rely exclusively on its own independent investigation and evaluation of every aspect of the Railroad Easement.

(b) Release. GRANTEE HEREBY AGREES TO RELEASE GRANTOR, ITS AFFILIATES, THEIR EMPLOYEES, AGENTS, OFFICERS, SUCCESSORS AND ASSIGNS, FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, CAUSES OF ACTION, LEGAL OR ADMINISTRATIVE PROCEEDINGS, CLAIMS, DEMANDS, FINES, PUNITIVE DAMAGES, LOSSES, COSTS, LIABILITIES AND EXPENSES IN ANY WAY ARISING OUT OF OR CONNECTED WITH THE KNOWN OR UNKNOWN CONDITION OF THE RAILROAD EASEMENT AND THE RELEASE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE ENVIRONMENTAL CONDITION OF THE RELEASE PROPERTY OR ANY FEDERAL, STATE OR LOCAL LAW, ORDINANCE, RULE OR REGULATION APPLICABLE THERETO. GRANTEE'S RELEASE SET FORTH HEREIN WITH RESPECT TO CONTAMINATION "ADJACENT TO" THE RELEASE PROPERTY RELATES ONLY TO CONTAMINATION MIGRATING FROM THE RELEASE PROPERTY AND/OR ARISING OUT OF GRANTEE'S PAST ACTIVITIES ON THE RELEASE PROPERTY ITS NEGLIGENT ACTS OR OMISSIONS, OR INTENTIONAL MISCONDUCT.

(c) Future Investigation. With respect to any existing or future environmental contamination of the soil and/or groundwater in, on or under the Release Property, from and after the date of this instrument, Grantee, at no cost to Grantor, agrees to be solely responsible for conducting any investigation, monitoring, remediation, removal, response or other action required by any governmental agency, court order, law or regulation or otherwise necessary to make the Release Property suitable for Grantee's use of the Release Property.

(d) Covenants to Run with the Release Property. The foregoing covenants and conditions shall run with the Release Property, the burdens of which will be binding on the successors and assigns of Grantee and the benefits of which will inure to the successors and assigns of Grantor. A breach of the foregoing covenants and conditions, or the continuance thereof, may, at the option of Grantor, its successors or assigns, be enjoined, abated, or remedied by appropriate proceedings.

(Remainder of page intentionally left blank.)

IN WITNESS WHEREOF, Grantor and Grantee have caused this instrument to be executed as of the date set forth above.

Attest:

**UNION PACIFIC RAILROAD COMPANY,
a Delaware corporation**

Assistant Secretary

By: _____
Printed Name: Chris D. Goble
Title: Assistant Vice President – Real Estate

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

This instrument was acknowledged before me this _____ day of _____, 2023, by Chris D. Goble and _____, Assistant Vice President – Real Estate and Assistant Secretary of UNION PACIFIC RAILROAD COMPANY, a Delaware corporation, on behalf of the corporation.

WITNESS my hand and official seal.

Notary Public

(Seal)

IN WITNESS WHEREOF, Grantor and Grantee have caused this instrument to be executed as of the date set forth above.

**CITY OF SALEM,
a municipal corporation of the State of Oregon**

By: _____
Printed Name: _____
Title: _____

STATE OF OREGON)
) ss.
COUNTY OF MARION)

This instrument was acknowledged before me on _____, 2023,
by _____,
of CITY OF SALEM, a municipal corporation of the State of Oregon, on behalf of said entity.

WITNESS my hand and official seal.

Notary Public

(Seal)