

Lessee's original

FORM 2209-A

C. D. No. 52168

C. S. 1-62-54

"N" L. D. No. 3895

Audit No.

No.

# LEASE

**Date.** THIS AGREEMENT, made and entered into this 4th day of October, 1971

**Parties.** by and between LOS ANGELES & SALT LAKE RAILROAD COMPANY  
 a corporation of the State of Utah and its lessee, UNION PACIFIC RAILROAD COMPANY, a corporation of the State of Utah (hereinafter collectively called "Lessor"), parties of the first part, and CITY OF CALIENTE, a municipal corporation of the State of Nevada

(hereinafter called "Lessee"), party of the second part, WITNESSETH:

**Lease.** Section 1. The Lessor, for and in consideration of the covenants and payments hereinafter mentioned to be performed and made by the Lessee, hereby agrees to lease and let and does hereby lease and let unto the Lessee for a term beginning

**Term.** on the 1st day of December, 1970, and extending to and including the 30th day of November, 1980, unless sooner terminated as herein provided, the portion of the premises

**Location.** of the Lessor containing 2.194 acres

Lincoln County, Nevada in yellow of Caliente, dated September 16, 1970 in yellow on Exhibit "A", shown hereto attached and hereby made a part hereof: RESERVING, however, to the Lessor the right to place and maintain at prominent places on the leased premises signs advertising Union Pacific Railroad.

**Improvements.** It is agreed that no improvements placed upon the leased premises by the Lessee shall become a part of the realty.

**Rental.** Section 2. The Lessee agrees to pay to the Lessor for the use of said premises rental at the rate of One and no/100ths Dollars (\$1.00) ~~per~~ no/100ths for the term hereof, payable in advance. Acceptance of said rental in advance by the Lessor shall not act as a waiver of its right to terminate this lease as hereinafter provided.

**Taxes.** The Lessee further agrees to pay, before the same shall become delinquent, all taxes levied during the life of this lease upon the leased premises and upon any buildings and improvements thereon, or to reimburse the Lessor for sums paid by the Lessor for such taxes, except taxes levied upon the leased premises as a component part of the railroad property of the Lessor in the state as a whole.

**Assessments.** If, during the life of this lease, any street or other improvement, whether consisting of new construction, maintenance, repairs, renewals, or reconstruction, shall be made, the whole or any portion of the cost of which is assessed against or is fairly assessable to the leased premises, the Lessee agrees to pay in addition to the other payments herein provided for — eight (8%) percent

(a) ~~XXXXXXX~~ per annum on the amount so assessed against or assignable to the said premises when expenditures by the Lessor for such improvements are properly chargeable to capital account under the accounting rules of the Interstate Commerce Commission current at the time;

(b) the entire amount so assessed against or assignable to the said premises when expenditures for such improvements are not properly chargeable to capital account under said accounting rules.

**Use of Leased Premises.** Section 3. The Lessee covenants that the leased premises shall not be used for any other purpose than for city offices

**Abandonment.** the Lessee abandons the leased premises, the Lessor may enter upon and take possession of the same, and that a nonuser for the purpose mentioned continuing for thirty days shall be sufficient and conclusive evidence of such abandonment.

**Lessee Not to Sublet or Assign.** Section 4. The Lessee agrees not to let or sublet the leased premises, in whole or in part, or to assign this lease without the consent in writing of the Lessor, and it is agreed that any transfer or assignment of this lease, whether voluntary, by operation of law or otherwise, without such consent in writing, shall be absolutely void and, at the option of the Lessor, shall terminate this lease.

**Use for Unlawful Purposes Prohibited. Indemnity.** Section 5. It is especially covenanted and agreed that the use of the leased premises or any part thereof for any unlawful or immoral purposes whatsoever is expressly prohibited; that the Lessee shall hold harmless the Lessor and the leased premises from any and all liens, fines, damages, penalties, forfeitures or judgments in any manner accruing by reason of the use or occupation of said premises by the Lessee; and that the Lessee shall at all times protect the Lessor and the leased premises from all injury, damage or loss by reason of the occupation of the leased premises by the Lessee, or from any cause whatsoever growing out of said Lessee's use thereof.

Care of Premises and Improvements

Section 6. The Lessee hereby covenants and agrees that any and all buildings erected upon the leased premises shall be painted by the Lessee a color satisfactory to the Lessor, and shall at all times be kept in good repair; that the roof of each such building shall be of fire-resistive material; that when such buildings are without solid foundations the openings between the ground and the floor thereof shall be covered with fire-resistive material; that the leased premises shall during the continuance of this lease be kept by the Lessee in a neat and tidy condition and free from all straw, rubbish, or other material which would tend to increase the risk of fire, or give the leased premises an untidy appearance; that none of the buildings or other structures erected on said premises shall be used for displaying circus posters or any signs or advertisements other than such notices and signs as may be connected with the business of the Lessee, and that such signs and notices shall be neat and shall be properly maintained. In the event any building or other improvement not belonging to the Lessor on the leased premises is damaged or destroyed by fire, storm or other casualty the Lessee shall, within thirty days after such happening, remove all debris and rubbish resulting therefrom; and if the Lessee fails so to do the Lessor may cover the leased premises and remove such debris and rubbish, and the Lessee agrees to reimburse the Lessor, within thirty days after bill rendered, for the expense so incurred.

Liens

Section 7. The Lessee shall, when due and before any lien shall attach to the leased premises if the same may lawfully be asserted, pay all charges for water, gas, light and power furnished, and for rental or use of sewer facilities serving the leased premises, and fully pay for all materials joined or affixed to said premises, and shall pay in full all persons who perform labor upon said premises, and shall not permit or suffer any mechanic's or materialman's or other lien of any kind or nature to be enforced against said premises for any work done or materials furnished thereon at the instance or request or on behalf of the Lessee; and the Lessee agrees to indemnify and hold harmless the Lessor and its property from and against any and all liens, claims, demands, costs and expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed, or materials or other things furnished.

Clearances

Section 8. No building, platform or other structure shall be erected or maintained and no material or obstruction of any kind or character shall be placed, piled, stored, stacked or maintained closer than eight (8) feet six (6) inches to the center line of the nearest track of the Lessor: PROVIDED, however, that in the case of platforms not higher than four (4) feet above the top of the rail a minimum clearance of seven (7) feet three (3) inches from the center line of the nearest track of the Lessor will be permitted; and PROVIDED further that along and adjacent to and for one car length beyond those portions of track having a curvature greater than ten (10) degrees, the clearances hereinbefore provided shall, with reference to platforms four (4) feet or less in height, be increased horizontally six (6) inches, and with reference to all buildings, platforms, structures and other obstructions greater than four (4) feet in height shall be increased horizontally one (1) foot; and PROVIDED further that if by statute or order of competent public authority greater clearances shall be required than those provided for in this Section 8, then the Lessee shall strictly comply with such statute or order. All doors, windows or gates shall be of the sliding type or shall open toward the inside of the building or enclosure when such building or enclosure is so located that the said doors, windows or gates if opening outward, would, when opened, impair the clearances in this section prescribed.

Explosives and Inflammables

Section 9. It is further agreed that no gunpowder, gasoline, dynamite, or other explosives or inflammable material shall be stored or kept upon the leased premises. Nothing herein contained, however, shall prevent the storage of oil or gasoline upon the leased premises when the purpose for which the same are to be used, as indicated by Section 3 hereof, contemplates such storage; nor the storage of oil or gasoline where same are used by the Lessee for fuel in the business carried on by the Lessee on the leased premises, and are stored in quantities reasonable for such purposes: PROVIDED, however, that in all of said excepted cases, the Lessee shall strictly comply with all statutory and municipal regulations relating to the storage of such commodities.

No Construction by Lessee Over or Under Tracks

Section 10. The Lessee shall not locate or permit the location or erection of any poles upon the property of the Lessor, nor of any beams, pipes, wires, structures or other obstruction over or under any tracks of the Lessor without the consent of the Lessor.

Liability of Lessee for Breach

Section 11. The Lessee shall be liable for any and all injury or damage to persons or property, of whatsoever nature or kind, arising out of or contributed to by any breach in whole or in part of any covenant of this agreement.

No Other Railroad to Use Tracks

Section 12. No railroad company other than the Lessor shall be allowed to use any track owned or built by the Lessor now or hereafter upon or extending to any part of the leased premises without the permission in writing of the Lessee.

Fire Damage Release

Section 13. It is understood by the parties hereto that the leased premises are in dangerous proximity to the tracks of the Lessor, and that by reason thereof there will be constant danger of injury and damage by fire, and the Lessee accepts this lease subject to such danger.

It is therefore agreed, as one of the material considerations for this lease and without which the same would not be granted by the Lessor, that the Lessee assumes all risk of loss or destruction of or damage to buildings or contents on the leased premises, and of or to other property brought thereon by the Lessee or by any other person with the knowledge or consent of the Lessee, and of or to property in proximity to the leased premises when connected with or incidental to the occupation thereof, and any incidental loss or injury to the business of the Lessee, where such loss, damage, destruction or injury is occasioned by fire caused by, or resulting from, the operation of the railroad of the Lessor, whether such fire be the result of defective engines, or of negligence on the part of the Lessee or of negligence or misconduct on the part of any officer, servant or employee of the Lessor, or otherwise, and the Lessee hereby agrees to indemnify and hold harmless the Lessor from and against all liability, causes of action, claims, or demands which any person may hereafter assert, have, claim or claim to have, arising out of or by reason of any such loss, damage, destruction or injury, including any claim, cause of action or demand which any insurer of such buildings or other property may at any time assert, or undertake to assert, against the Lessee.

Water Damage Release

Section 14. The Lessee hereby releases the Lessor from all liability for damage by water to the leased premises or to property thereon belonging to or in the custody or control of the Lessee, including buildings and contents, regardless of whether such damage be caused or contributed to by the position, location, construction or condition of the railroad, road-bed, tracks, bridges, dikes, ditches or other structures of the Lessor.

Termination  
of Default.

Section 15. It is further agreed that the breach of any covenant, stipulation or condition herein contained to be kept and performed by the Lessee, shall, at the option of the Lessor, forthwith work a termination of this lease, and all rights of the Lessee hereunder; that no notice of such termination or declaration of forfeiture shall be required, and the Lessor may at once re-enter upon the leased premises and repossess itself thereof and remove all persons therefrom or may report to an action of forcible entry and detainer, or any other action to recover the same. A waiver by the Lessor of the breach by the Lessee of any covenant or condition of this lease shall not impair the right of the Lessor to avail itself of any subsequent breach thereof.

Termination  
by Notice.

Section 16. This lease may be terminated by written notice given <sup>one year</sup> either the Lessor or the Lessee to the other party on any date in such notice stated, not less, however, than ~~SIXTY DAYS~~ subsequent to the date on which such notice shall be given. Said notice may be given to the Lessor by serving the Lessor personally or by putting a copy thereof on the outside of any door in any building upon the leased premises or by mailing said notice, postage prepaid, to the Lessor at the last address known to the Lessor. Said notice may be given to the Lessee by mailing the same, postage prepaid, to the office of the General Manager of the District of the Lessor in which the leased premises are located. Upon such termination and vacation of the premises by the Lessee, the Lessor shall refund to the Lessee on a pro rata basis any unearned rental paid in advance.

Vacation of  
Premises.

Removal of  
Lessee's  
Property.

Section 17. The Lessee covenants and agrees to vacate and surrender the quiet and peaceable possession of the leased premises upon the termination of this lease hereunder. Within thirty days after such termination the Lessee shall (a) remove from the premises, at the expense of the Lessee, all structures and other property not belonging to the Lessor; and (b) without limiting the generality of the foregoing, the removal of foundations of such structures, the filling of all excavations, and pits and the removal of all debris and rubbish, all at the Lessee's expense, failing in which the Lessor may perform the work and the Lessee shall reimburse the Lessor for the cost thereof within thirty days after bill rendered.

In the case of the Lessee's failure to remove said structures and other property the same shall, upon the expiration of said thirty days after the termination of this lease, become and thereafter remain the property of the Lessor; and if within said thirty days after the expiration of such thirty-day period the Lessee elects to and does remove, or cause to be removed, said structures and other property from the leased premises and the market value thereof on removal or of the material therefrom does not equal the cost of such removal plus the cost of restoring the surface of the ground as aforesaid, then the Lessee shall reimburse the Lessor for the deficit within thirty days after bill rendered.

Special  
Provisions.

Successors  
and Assigns.

Section 18. Subject to the provisions of Section 4 hereof, this agreement shall be binding upon and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the day and year first herein written.

LOS ANGELES & SALT LAKE RAILROAD COMPANY  
UNION PACIFIC RAILROAD COMPANY

Witness: Methomas

By: [Signature]  
President

CITY OF CALIENTE

Witness: [Signature]  
City Clerk

By: [Signature]  
Mayor



RESOLUTION

WHEREAS, there was presented to the City Council, of the City of Caliente, Lincoln County, Nevada, Agreement No. NLD 3895, covering lease of land upon which Depot stands. Also NLD 3895-1 Bill of sale covering donation of the building known as the Union Pacific Railroad Depot to the City of Caliente, and

WHEREAS, these agreements were duly considered and accepted by the said Council,

THEREFORE BE IT RESOLVED, by the City Council of Caliente Nevada, that these agreements be approved and that the Mayor and City Clerk of said City, be authorized and directed to execute same for and on behalf of the City of Caliente, Lincoln County, Nevada.

PASSED AND ADOPTED this 19 day of February by the following vote of Council. <sup>(1971)</sup>

Nays: None.

Ayes:

Absent: None.

/s/ Grover C. Dils  
Councilman

Approved: C. L. Harding  
C. L. Harding Mayor

/s/ Arnold E. Bond

/s/ Harold V. Thompson

Attest: Inez C. Thomas  
Inez C. Thomas, City Clerk

No. 52661  
FILED AND RECORDED AT REQUEST OF  
CITY OF CALIENTE  
MAR 5 1973  
AT \_\_\_\_\_ MINUTES PAST \_\_\_\_\_ O'CLOCK  
\_\_\_\_\_ M IN BOOK 7 OF OFFICIAL  
RECORDS, PAGE 1-5 LINCOLN  
COUNTY, NEVADA.  
Reinhold P. ...  
COUNTY RECORDER