

2100 482

by and between SOUTHERN PACIFIC COMPANY, a corporation of the State of Delaware, herein termed "Railroad," and CITY OF RIVERSIDE, a municipal corporation of the State of California, herein termed "Grantee";

WITNESSETH:

1. Railroad, for and in consideration of the sum of Fifty (50) Dollars to be paid to Railroad by Grantee, and in further consideration of the faithful performance by Grantee of all the terms, covenants and conditions herein contained, hereby grants to Grantee the right to construct, reconstruct, maintain and operate a 12-inch cast iron water pipe line, hereinafter termed "structure," beneath the following described real property:

A strip of land, 10 feet in width, situate in the northeast quarter of Section 24, Township 2 South, Range 5 West, San Bernardino Base and Meridian, County of Riverside, State of California, lying equally 5.0 feet on each side of the following described center line:

southeasterly line of land (50 feet wide) of the Southern Pacific Company with a line parallel with and distant 12 feet westerly, measured at right angles, from the east line of said Section 24; thence northerly along said parallel line, 64.28 feet to a point in the northwesterly line of said Company's land.

The side lines of the above described parcel of land terminate in said southeasterly and northwesterly lines of said Southern Pacific Company's land.

Said strip of land contains an area of 643 square feet, more or less.

The location of the above described parcel of land is shown in yellow tint on the print of Railroad's Division Drawing B-3288, Sheet No. 1 of 1, Revised February 12, 1959, hereto attached and made a part hereof.

Said structure shall be constructed and maintained in accordance with the specifications indicated on the print of Drawing C.S. 1711, also attached and made a part hereof.

2. This grant is made subject and subordinate to the prior and superior rights and easements of Railroad, its successors and assigns, to use all the property described herein in the performance of its duty as a common carrier, and, for that purpose, there is reserved unto Railroad, its successors and assigns, the right (consistent with the rights herein granted) to construct, reconstruct, maintain and use existing and future railroad tracks, facilities and appurtenances and existing and future transportation, communication and pipe line facilities and appurtenances in, upon, over, under, across and along said property.

3. This grant is made subject to all licenses, leases, easements, restrictions, conditions, covenants, encumbrances, liens and claims of title which may affect said property and the word GRANT as used herein shall not be construed as a covenant against the existence of any thereof.

4. The rights herein granted to Grantee shall lapse and become void if the construction of said structure upon said property is not commenced within one (1) year from the date first herein written.

5. Grantee shall bear the entire cost and expense of constructing, reconstructing and maintaining said structure upon said property. Grantee agrees that all work upon or in connection with said structure shall be done at such times and in such manner as not to interfere in any way whatsoever with the operations of Railroad. The plans for and the construction of said structure shall be subject to the approval of Railroad.

Grantee agrees to reimburse Railroad for the cost and expense to Railroad of furnishing any materials or performing any labor in connection with the construction, reconstruction, maintenance and removal of said structure, including, but not limited to, the installation and removal of such falsework and other protection beneath or along Railroad's tracks, and the furnishing of such watchmen, flagmen and inspectors as Railroad deems

In the event Railroad shall at any time so require, Grantee, at Grantee's expense, shall reconstruct or alter said structure or make changes in the location thereof upon receipt of written notice from Railroad so to do.

6. Grantee agrees to reimburse Railroad for any and all assessments which may be levied by order of any authorized, lawful body against the property of Railroad (and which may have been paid by Railroad) to defray any part of the cost or expense incurred in connection with the construction of said structure upon said property commenced within one (1) year from the date first herein written.

7. Grantee, its agents and employees, shall have the privilege of entry on said property for the purpose of constructing, reconstructing, maintaining or altering said structure. Grantee agrees to keep said property in a good and safe condition free from waste, so far as affected by Grantee's operations, to the satisfaction of Railroad. If Grantee fails to keep said property in a good and safe condition free from waste, then Railroad may perform the necessary work at the expense of Grantee which expense Grantee agrees to pay to Railroad upon demand.

8. All the work to be done upon or adjacent to the tracks and property of Railroad should be let to a contractor by Grantee, such work shall not be begun until such contractor shall have first entered into an agreement with the railroad company which operates on said property, satisfactory to said company and indemnifying Railroad from and against all claims, liability, cost and expense growing out of the performance of the work to be done by such contractor.

Such contractor shall furnish, at the option of and without expense to Railroad, a reliable surety bond in an amount and in a form satisfactory to said company guaranteeing the faithful performance of

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all the terms, covenants and conditions contained in said agreement, and a certified copy of a policy of Public Liability and Property Damage Insurance, within limits specified by, and in a form satisfactory to, said Company, covering the contractual liability assumed by contractor in said agreement to be entered into with said Company by such contractor.

9. Grantee shall assume all risk of damage to said structure and appurtenances, and to any other property of Grantee, or any property under the control or custody of Grantee, while upon or near the property of Railroad, caused by or contributed to in any way by the construction, operation, maintenance or presence of Railroad's line of railroad at the above mentioned location.

Grantee agrees to indemnify and save harmless Railroad, its officers, employees, agents, successors and assigns from all claims, liability, cost and expense, howsoever same may be caused, including reasonable attorney's fees, for loss of or damage to property and for injuries to or deaths of persons arising out of the construction, reconstruction, maintenance, presence or use of said structure, regardless of any negligence or alleged negligence on the part of Railroad employees.

10. Should Grantee, its successors or assigns, at any time abandon the use of said property or any part thereof, or fail at any time to use the same for the purpose contemplated herein for a continuous period of one (1) year, the right hereby given shall cease to the extent of the use so abandoned or discontinued, and Railroad shall at once have the right, in addition to but not in qualification of the rights hereinabove reserved, to resume exclusive possession of said property, or the part thereof the use of which is so discontinued or abandoned.

Upon termination of the rights and privileges hereby granted, Grantee, at its own cost and expense, agrees to remove said structure from said property and restore said property as nearly as practicable to the same state and condition in which it existed prior to the construction of said structure. Should Grantee in such event fail, neglect or refuse to remove said structure and restore said property, such removal and restoration may be performed by Railroad at the expense of Grantee, which expense Grantee agrees to pay to Railroad upon demand.

11. This indenture shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, as of the day and year first herein written, in duplicate

APPROVED AS TO DESCRIPTION

*[Signature]*

SOUTHERN PACIFIC COMPANY,

By *[Signature]*  
(Title) General Manager

STATE OF CALIFORNIA,  
City and County of San Francisco

14<sup>th</sup> day of May

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On this day of the year One Thousand Nine Hundred and Fifty *thirteen* W. D. Lamprecht and T. S. Ryan, known to me to be the General Manager and Assistant Secretary, respectively, of the corporation described in and that executed the within instrument, and also known to me to be the persons who executed it on behalf of the corporation therein named and they acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in the City and County of San Francisco, the day and year in this certificate first above written.

*[Signature]*

Notary Public in and for the City and County of San Francisco, State of California.

Regular meeting of the Mayor and City Council of the City of Riverside,  
held in the Council Chamber, City Hall, on Tuesday, April 14, 1959, at  
9:00 o'clock A. M.

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Present: Mayor Dales, presiding; Councilmen Backstrand, Bergin, Bonnett,  
Johnson, O'Neill, Smutz and Voris; City Manager Hunter, City Attorney  
Deegan, and City Clerk Strohecker.

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It was moved by Councilman Johnson, seconded by Councilman Bergin, and  
duly carried, that the Mayor and City Clerk do, and they are hereby,  
authorized to execute the Indenture by and between the Southern Pacific  
Company and the City of Riverside, granting permission to install a 12-inch  
cast iron water main across and beneath the Company's property on Chicago  
Avenue.

This motion carried by the following vote:

Ayes: Councilmen Backstrand, Bergin, Bonnett, Johnson, O'Neill, Smutz  
and Voris.

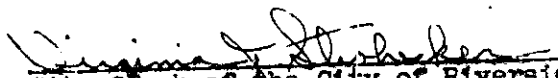
Noes: None.

Absent: None.

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Certified to be a full, true and correct copy  
of the Minute Order entered on Tuesday,  
April 14, 1959, in Book 44, Page 375 of the  
Minutes of the City Council of the City of  
Riverside.

April 21, 1959

  
City Clerk of the City of Riverside.

Recorded 6/26/1959.  
BR 2499 pg. 482 O.R.