



CITY OF SACRAMENTO

10

CITY MANAGER'S OFFICE
RECEIVED
MAR 11 1981

DEPARTMENT OF ENGINEERING
915 I STREET SACRAMENTO, CALIFORNIA 95814
CITY HALL ROOM 207 TELEPHONE (916) 449-5281

F/Ref.
C.C. 9502

R. H. PARKER
CITY ENGINEER
J. F. VAROZZA
ASSISTANT CITY ENGINEER

March 11, 1981

City Council
Sacramento, California

Honorable Members in Session:

SUBJECT: Resolution Authorizing Execution of Agreement Between The Western Pacific Railroad Company, The Southern Pacific Transportation Company and the City of Sacramento for Construction of two Railroad Crossings in Johnston Industrial Park No. 4

SUMMARY:

Presented herewith for approval is an agreement between the City of Sacramento, the Western Pacific Railroad Company and the Southern Pacific Transportation Company concerning the installation of two grade crossings in Johnston Industrial Park No. 4.

BACKGROUND:

The City Council has approved the tentative map for Johnston Industrial Park No. 4. Said subdivision includes two at-grade crossings of Lathrop Way with the subject Railroads' right-of-way and Drill Track No. 1. This agreement outlines the conditions for constructing the subject crossings.

FINANCIAL:

All construction costs will be at the expense of the developer. The railroad companies will be responsible for maintaining that portion of the paving within two feet of the tracks.

RECOMMENDATION:

It is recommended that the City Manager and City Clerk be authorized to execute the subject agreement by passage of the attached resolution.

Respectfully submitted,

Recommendation Approved:

Walter J. Slipe
Walter J. Slipe, City Manager

R. H. Parker
R. H. PARKER
City Engineer

APPROVED
BY THE CITY COUNCIL

MAR 17 1981

OFFICE OF THE
CITY CLERK

AC 80186

March 17, 1981
District No. 1

RHP/NDL/hma

RESOLUTION No. 81-189

Adopted by The Sacramento City Council on date of

March 17, 1981

RESOLUTION AUTHORIZING EXECUTION OF AGREEMENT
WITH THE WESTERN PACIFIC RAILROAD COMPANY AND
THE SOUTHERN PACIFIC TRANSPORTATION COMPANY
FOR CONSTRUCTION OF TWO RAILROAD CROSSINGS IN
JOHNSTON INDUSTRIAL PARK NO. 4

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

That the City Manager and City Clerk are hereby authorized and directed to execute that certain agreement between the City of Sacramento, The Western Pacific Railroad Company and The Southern Pacific Transportation Company for the construction of two railroad crossings in Johnston Industrial Park No. 4.

MAYOR

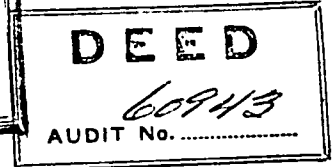
ATTEST:

CITY CLERK

APPROVED
BY THE CITY COUNCIL

MAR 17 1981

OFFICE OF THE
CITY CLERK



THIS AGREEMENT, made this 25th day of February, 1980, by and between THE WESTERN PACIFIC RAILROAD COMPANY, a corporation, and SOUTHERN PACIFIC TRANSPORTATION COMPANY, a corporation, hereinafter jointly termed "Railroad", and the CITY OF SACRAMENTO, a political subdivision of the State of California, hereinafter termed "Grantee".

W I T N E S S E T H:

WHEREAS, Railroad is operating a line of Railroad in the City of Sacramento, County of Sacramento, State of California; and

WHEREAS, Grantee desires to construct a public street with two public crossings, hereinafter termed "roadway", across Railroad's Drill Track No. 1 and right-of-way within the real property described in Exhibit "A", attached hereto and by reference made a part hereof; and

WHEREAS, Railroad is willing to grant to Grantee the right to construct and maintain said roadway across Railroad's right-of-way and track in the vicinity of Engineers Stations 21+91 and 39+25 on said Drill Track No. 1 upon the terms and conditions hereinafter contained.

NOW THEREFORE, in consideration of the premises and covenants, promises and agreements hereinafter contained to be kept, observed and performed by Grantee, Railroad, to the extent it has the right and power to do so, hereby grants to Grantee the

right to construct, improve, maintain and use a roadway upon and across Railroad's track and right-of-way located upon and across the real property described in said Exhibit "A" upon the following terms and conditions, to all of which Grantee assents, to wit:

1. The rights herein granted are expressly limited vertically and shall not extend beyond a plane parallel with and twenty (20) feet above the roadway surface as originally constructed, except that lighting fixtures and similar highway appurtenances may extend above said plane, provided that any such facilities will be removed or rearranged within thirty (30) days after notification from Railroad that such facilities interfere with Railroad's intended use of the space above said plane.

2. This grant is subject and subordinate to the prior right of Railroad to use all the property described in the performance of its duty as a common carrier, and there is reserved unto Railroad the right to construct, reconstruct, maintain, use and remove existing and future railroad, transportation, communication and pipeline facilities and appurtenances in, upon, over, under, across or along said property. In the event tracks are removed from said property, Railroad shall not be obligated to make any change in the grade of said roadway.

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

3. The rights herein granted shall lapse and become void if the construction of said roadway is not commenced within one (1) year from the date first herein written.

4. This grant shall not be construed as conveying or otherwise vesting in Grantee the right to install or to authorize the installation of any ditches, pipes, drains, sewer or underground structures, or the facilities of any telegraph, telephone or electric power lines in, upon, over, under, across or along said right-of-way, except as necessary for maintenance of said roadway. Any construction, reconstruction or relocation of such facilities shall be subject to the approval of Railroad's Chief Engineers.

5. Grantee shall obtain any necessary governmental authority to construct, improve, maintain and use said roadway. Any contractor performing work on the property herein described shall execute Railroad's standard form of Contractor's Agreement prior to commencing any work on Railroad's premises.

6. Except as herein otherwise provided, Grantee shall bear the entire expense of constructing, improving and maintaining said roadway. The crossing of said roadway over any tracks of Railroad shall be constructed and maintained at the grade of said tracks now or hereafter existing. After the construction of said roadway has been completed, Railroad shall maintain the surface of that portion of said roadway between lines two (2) feet

outside the rails of each track located thereon. Should Railroad abandon tracks leading to said roadway, Railroad may abandon its rails, ties and appurtenant materials and leave the same in place. In such event, Railroad shall not be liable for maintenance of the portion of said roadway specified above.

7. As part consideration herefor, Grantee agrees to pay Railroad an amount equal to all assessments levied by any lawful body against the property of Railroad to defray any part of the expense incurred in connection with the construction of said roadway, exclusive of automatic grade crossing protection, commenced within one (1) year from the date first herein written.

8. Grantee shall make application to the California Public Utilities Commission for creation of the said roadway and Grantee shall bear the cost of any and all grade crossing protection that may be ordered by said California Public Utilities Commission upon opening of the said crossing.

9. Should Grantee at any time abandon the use of said property or any part thereof, or fail to use the same for said purpose for a continuous period of one (1) year, the rights granted 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 hereby granted, Grantee agrees to

remove said roadway, including the paving, from said property of Railroad to restore said property as nearly as practicable to the same state and condition in which it existed prior to the construction of said roadway and to bear the expense thereof. Should Grantee in such event fail, neglect or refuse to so remove said roadway 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.

10. Railroad shall furnish all necessary labor, materials, tools and equipment and shall prepare its tracks to receive paving, including necessary change of running rail and installation of timber planking along the rails through this crossing area.

Grantee agrees to reimburse Railroad promptly upon demand for one hundred percent (100%) of the cost and expense incurred by Railroad in furnishing materials and performing the work specified in this Section 10.

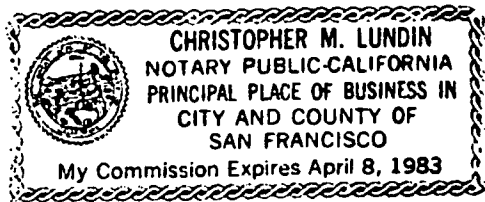
11. Grantee agrees to reimburse the holders of any license, lease or easement granted by Railroad and constructed prior to the day and year first hereinabove written, for the cost of relocation, rearrangement, reinforcement or other protection of such facilities necessitated or made necessary as a result of Grantee's proposed construction of said roadway.

12. This Agreement shall inure to the benefit of and be

binding upon the successors and assigns of the parties hereto.

STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO }

ON THIS 25th DAY OF February IN THE YEAR ONE THOUSAND NINE HUNDRED AND EIGHTY-ONE, BEFORE, ME, CHRISTOPHER M. LUNDIN (ONE MARKET PLAZA), A NOTARY PUBLIC IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, FOR THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, PERSONALLY APPEARED W. J. HONOLD KNOWN TO ME TO BE THE ASSISTANT MANAGER, CONTRACT DEPARTMENT, OF THE CORPORATION DESCRIBED IN AND THAT EXECUTED THE WITHIN INSTRUMENT, AND ALSO KNOWN TO ME TO BE THE PERSON WHO EXECUTED IT ON BEHALF OF THE CORPORATION THEREIN NAMED AND HE 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.

Christopher M. Lundin

NOTARY PUBLIC IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA

SOUTHERN PACIFIC TRANSPORTATION COMPANY

By *W. J. Honold*
Title: Assistant Manager
Contract Dept.

Attest: *[Signature]*
Assistant Secretary

CITY OF SACRAMENTO, a political subdivision of the State of California

By _____
Title: _____

Attest: _____

E. L. JOHNSON
Vice Pres. & Controller

By: *[Signature]*
SPT 6: #65 / 2/26/31

Form Approved:

Form of Execution Approved:

APPROVED

[Signature]
Asst. V.P. - MofW and Engineering

[Signature]
Attorney

APPROVED AS TO CORPORATE OWNER

[Signature]
FOR VALUATION ENGINEER

DESCRIPTION CORRECT

[Signature]
For Asst. V.P. - MofW & Engrg.

DESCRIPTION OF PROPOSED
LATHROP WAY ACROSS WESTERN PACIFIC AND
SOUTHERN PACIFIC RAILROAD TRACKS

Parcel # 2

All that portion of Section 69, as said section is shown on the "Map of Survey and Subdivision of Rancho Del Paso", recorded in the Office of the Recorder of Sacramento County in Book A of Surveys, Map No. 94, described as follows:

Beginning at a point located on the south line of the property described in the deed from the North Sacramento Land Company to Central Pacific Railway Company and Western Pacific Railroad Company recorded in Book 3489 of Official Records, Page 253 and corrected in Deed recorded in Book 3568 of Official Records, Page 628, from which the southwest corner of that certain 1.245 acre tract of land, as said tract of land is shown on the Record of Survey entitled "portion Sections 1 and 69, Rancho Del Paso", recorded in the Office of said Recorder in Book 18 of Surveys, Map No. 46, bears North 01° 45' 50" West 20.00 feet; thence from said point of beginning south 88° 14' 10" west 60.00 feet; thence north 01° 45' 50" west 20.00 feet; thence north 88° 14' 10" east 60.00 feet; thence south 01° 45' 50" east 20.00 feet to the point of beginning.

THE SPINK CORPORATION
CHECKED: _____ DATE _____

TYPING _____

TRAVERSE *3.W* _____

MAP _____

DELIVERED TO: _____

Refer this description to the company before incorporating it in any document and to the Planning Commission of the governing body for compliance with lot split ordinances.

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EXHIBIT "A"

DESCRIPTION OF PROPOSED
COMMERCE CIRCLE ACROSS WESTERN PACIFIC AND
SOUTHERN PACIFIC RAILROAD TRACKS

Parcel #1

All that portion of Section 69, as said section is shown on the "Map of Survey and Subdivision of Rancho Del Paso", recorded in the Office of the Recorder of Sacramento County in Book A of Surveys, Map No. 94, described as follows:

Beginning at a point located on the south line of the property described in the Deed from the North Sacramento Land Company to Central Pacific Railway Company and Western Pacific Railroad Company recorded in Book 3489 of Official Records, page 253 and corrected in Deed recorded in Book 3568 of Official Records, page 628, from which the southwest corner of Lot 3, as said lot is shown on the Official Plat of "Johnston Industrial Park Unit No. 5", recorded in the Office of said Recorder in Book 97 of maps, Map No. 20, bears north $06^{\circ} 49' 57''$ east 20.07 feet; thence from said point of beginning north $01^{\circ} 45' 50''$ west 20.57 feet; thence north $78^{\circ} 18' 28''$ west 59.64 feet; thence south $01^{\circ} 45' 50''$ east 20.57 feet; thence south $78^{\circ} 18' 28''$ east 59.64 feet to the point of beginning.

THE SPINK CORPORATION
CHECKED: DATE

TYPING

TRAVERSE *C. W. Buff*

MAP

DELIVERED TO:

Refer this description to title company before incorporating it in any document and to the Planning Commission of the governing body for compliance with lot split ordinances.

EXHIBIT "A"



CITY OF SACRAMENTO

OFFICE OF THE CITY CLERK

915 I STREET

CITY HALL ROOM 203

SACRAMENTO, CALIFORNIA 95814

TELEPHONE (916) 449-5426

LORRAINE MAGANA
CITY CLERK

March 18, 1981

Southern Pacific Company
401 I Street
Sacramento, CA 95814

Attention: Mr. R.J. Vincent

Gentlemen:

On March 17, 1981, the City Council adopted a resolution authorizing agreement with the Southern Pacific Transportation Company and the Western Pacific Railroad Company, for installation of two grade crossings in Johnston Industrial Park No. 4.

For your records, we are enclosing one fully executed copy of said agreement.

Sincerely,


Lorraine Magana
City Clerk

LM:sj
Encl.

cc: Engineer
Western Pacific

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CITY OF SACRAMENTO

OFFICE OF THE CITY CLERK

915 I STREET

CITY HALL ROOM 203

SACRAMENTO, CALIFORNIA 95814

TELEPHONE (916) 449-5428

LORRAINE MAGANA
CITY CLERK

March 18, 1981

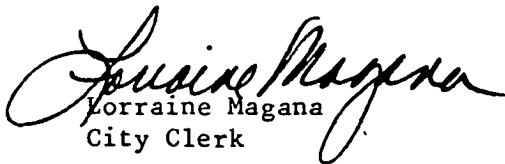
Western Pacific Railroad Company
Western Pacific Building
526 Mission Street
San Francisco, CA 94105

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Sincerely,


Lorraine Magana
City Clerk

LM:sj
Encl.

cc: Engineer
Southern Pacific

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