

SP

149988

EXHIBIT "A"

Supplemental to  
Deed Audit No. 58249

RELMIS: PA-769.2-R(N)

THIS SUPPLEMENTAL AGREEMENT, made this 6<sup>th</sup> day of May,  
1980, by and between SOUTHERN PACIFIC TRANSPORTATION COMPANY, a Delaware  
corporation, herein termed "Railroad," and CITY OF PORTLAND, a municipal  
corporation of the State of Oregon, address: City Hall, Portland, Oregon,  
herein termed "Grantee;"

RECITALS:

By indenture dated June 23, 1977, Railroad granted  
to Grantee the right to construct, reconstruct, maintain  
and use a ten (10) inch sewer pipeline, hereinafter termed  
"structure," in, upon, along, across and through the right  
of way and tunnel of Railroad, at or near Elk Rock, in the  
County of Clackamas, State of Oregon, extending longitudinally  
along Railroad's property between Mile Post 769.05 and Mile  
Post 769.37, in the locations more particularly shown or de-  
scribed in said indenture.

It is desired by this instrument to extend the time in  
which Grantee is to commence construction of said structure.

AGREEMENT:

1. Section 5 of said indenture is hereby amended to read as follows:

"5. The rights herein granted to Grantee shall lapse  
and become void if the construction of said structure upon  
said property is not commenced on or before the 23rd day of  
June, 1981."

2. Section 7 of said indenture is hereby amended to read as follows:

"7. As part consideration, Grantee agrees to pay Rail-  
road an amount equal to 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 com-  
menced on or before the 23rd day of June, 1981."

3. Except as herein otherwise provided, all of the terms, covenants and conditions contained in said indenture shall be and remain in full force and effect.

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

SOUTHERN PACIFIC TRANSPORTATION  
COMPANY,

BY W. J. Donald  
(Title) Assistant Manager  
Contract Dept.

CITY OF PORTLAND,

By \_\_\_\_\_  
Commissioner of Public Works

By \_\_\_\_\_  
Auditor

ORDINANCE NO.

149988

An Ordinance authorizing the City of Portland to enter into a Supplemental Agreement with Southern Pacific Transportation Company extending the time in which the City is to commence construction of a 10 inch sewer pipeline in, upon, along, across and through the right of way and tunnel of the railroad at or near Elk Rock, to June 23, 1981, and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. By agreement dated June 23, 1977, Southern Pacific Transportation Company granted the City the right to construct, reconstruct, maintain and use a 10 inch sewer pipeline in, upon, along, across and through the right of way and tunnel of the railroad at or near Elk Rock, with the provision that in the event construction by the City had not commenced within one year, the rights granted would terminate.
2. That because of funding problems, the work was not commenced within the one year period allowed.
3. That funds for the sewer construction are now available and the City is now going forward with the project, and it is necessary to modify the agreement to extend the time in which construction is commenced to June 23, 1981.
4. That such extension is acceptable to Southern Pacific Transportation Company and a Supplemental Agreement granting to the City an extension of time to June 23, 1981 should now be authorized.

NOW, THEREFORE, the Council directs:

- a. The Commissioner of Public Works and Auditor are authorized to execute two copies of a Supplemental Agreement approved as to form by the City Attorney, one copy to be delivered to Southern Pacific Transportation Company, 800 Pacific Building, Portland, Oregon 97204, ATTN: Oglesby H. Young, General Solicitor, said Supplemental Agreement providing the City an extension of time to June 23, 1981 to commence construction of the Elk Rock sewer pipeline along the right of way and through the Elk Rock tunnel of Southern Pacific Transportation Company, said Supplemental Agreement to be substantially in accordance with Exhibit "A" attached to the original only of this Ordinance, and by this reference made a part thereof.



Calendar No. 2488

# ORDINANCE No. 149988

## Title

An Ordinance authorizing the City of Portland to enter into a Supplemental Agreement with Southern Pacific Transportation Company extending the time in which the City is to commence construction of a 10 inch sewer pipeline in, upon, along, across and through the right of way and tunnel of the railroad at or near Elk Rock, to June 23, 1981, and declaring an emergency.

### THE COMMISSIONERS VOTED AS FOLLOWS:

	Yeas	Nays
Ivancie	1	
Jordan	1	
Lindberg	1	
Schwab	1	
McCready	1	

### FOUR-FIFTHS CALENDAR

Ivancie	
Jordan	
Lindberg	
Schwab	
McCready	

Filed JUL 3 1980

GEORGE YERKOVICH  
Auditor of the CITY OF PORTLAND

By Gordon Case Deputy

INTRODUCED BY

COMMISSIONER MIKE LINDBERG

NOTED BY THE COMMISSIONER

Affairs

Finance and  
Administration

Safety

Utilities

Works

ML / UZ

BUREAU APPROVAL

Bureau:

Sanitary Engineering

Prepared By:

Date:

Carl Short

7/1/80

Budget Impact Review:

☐ Completed

☒ Not required

Bureau Head:

Joe P. Niehuser

NOTED BY

City Attorney

City Auditor

City Engineer

APPROVED:

John M. Lang, P.E.

BY: