

EXHIBIT A

THIS INDENTURE, made this _____ day of _____, 1967, by and between SOUTHERN PACIFIC COMPANY, a corporation of the State of Delaware, herein termed "Railroad", and CITY OF PORTLAND, a municipal corporation of the State of Oregon, herein termed "Grantee";

WITNESSETH:

1. Railroad hereby grants to Grantee subject to the reservations, covenants and conditions herein contained, the right to construct, reconstruct, maintain and operate a 15-inch sewer pipe line, hereinafter termed "structure", beneath the tracks of property of Railroad at or near Haig, in the County of Multnomah, State of Oregon, crossing the center line of said tracks at Engineer's Station 91+48, in the location indicated in red on the print of Railroad's Oregon Division Drawing L-816-A, dated May 2, 1967, attached and made a part hereof.

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2. This grant is made subject and subordinate to the prior and continuing right and obligation 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 pipeline 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 or reconstruction of said structure shall be subject to the approval of Railroad. Grantee agrees to give Railroad five (5) days' written notice prior to commencement of any work of construction or reconstruction.

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 necessary.

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. As part consideration, Grantee agrees to pay Railroad 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 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 and making necessary repairs to said structure. Grantee agrees to keep said property and said structure in 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 and said structure 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. In the event any work upon or in connection with said structure or its appurtenances, 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 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.

Insofar as it lawfully may, 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 fees, for loss of or damage to property and for injuries to or deaths of persons arising out of the construction, reconstruction, maintenance, presence, use or removal of said structure, regardless of any negligence or alleged negligence on the part of Railroad employees.

The word "Railroad" as used in this Section 9 shall be construed to include, in addition to Railroad, the successors, assigns and affiliated companies of Railroad and any other railroad company that may be lawfully operating upon and over the tracks crossing said structure and the officers and employees thereof.

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 in duplicate as of the day and year first herein written.

CITY OF PORTLAND

SOUTHERN PACIFIC COMPANY

By _____
Mayor

By _____
(Title)

Wm A. Bowser -
Commissioner of Public Works

Attest _____
Assistant Secretary

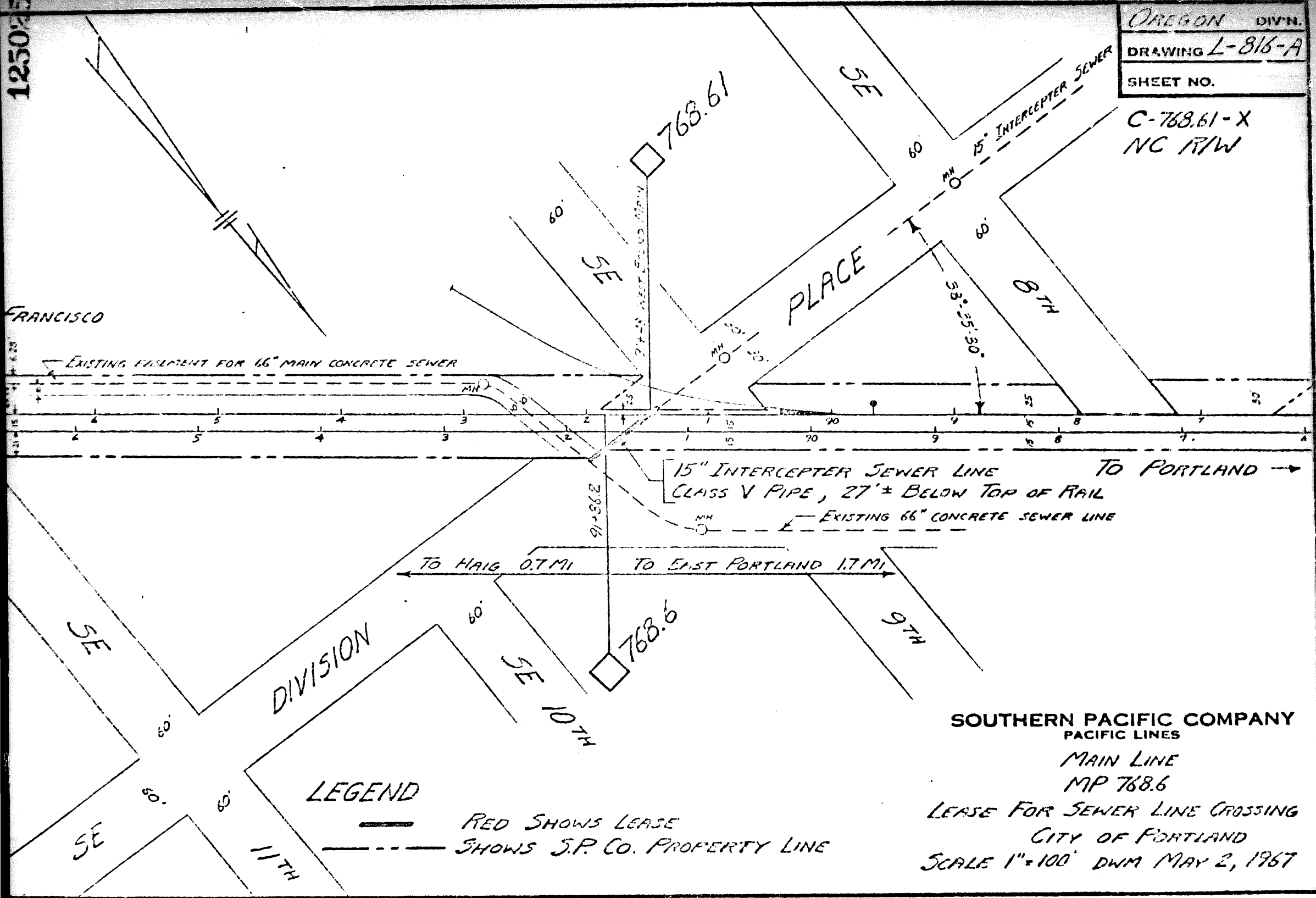
Attest: _____
City Auditor

125025

OREGON DIVN.
DRAWING L-816-A
SHEET NO.

C-768.61-X
NC R/W

FRANCISCO



LEGEND

- RED SHOWS LEASE
- - - SHOWS S.P. CO. PROPERTY LINE

SOUTHERN PACIFIC COMPANY
PACIFIC LINES
MAIN LINE
MP 768.6

LEASE FOR SEWER LINE CROSSING
CITY OF PORTLAND
SCALE 1"=100' DWM MAY 2, 1967

DRAWER

ORDINANCE No. 125025

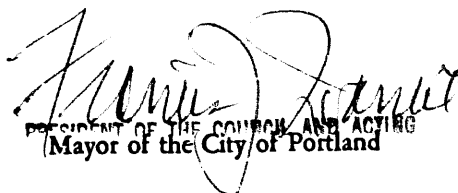
An Ordinance authorizing execution of an agreement with Southern Pacific Company granting the City the right to place a sewer pipeline under their tracks at SE Division Place near SE 9th Avenue, and declaring an emergency.

The City of Portland ordains:

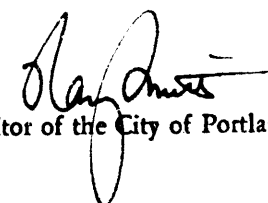
Section 1. The Council finds that the City needs a permit from Southern Pacific Company for the location of a sewer pipeline under the company's trackage at SE Division Place near SE 9th Avenue; that Southern Pacific Company is willing to grant said permit to the City and has executed an indenture to that effect subject to the acceptance by the City of certain terms and conditions therein contained; that said terms and conditions are reasonable and said agreement should be executed; now, therefore, the Mayor and Commissioner of Public Works are authorized and directed to execute and the City Auditor is authorized and directed to attest an agreement with Southern Pacific Company for said sewer line permit substantially in accordance with the form of agreement attached to the original only of this ordinance, marked "Exhibit A," and by this reference hereby made a part of this ordinance.

Section 2. Inasmuch as this ordinance is necessary for the immediate preservation of the public, health, peace and safety of the City of Portland in this: In order that there may be no delay in obtaining the right to proceed with the construction of the sewer under the tracks of the railroad; therefore, an emergency hereby is declared to exist and this ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council, JUL 20 1967


PRESIDENT OF THE COUNCIL AND ACTING
Mayor of the City of Portland

Attest:


Auditor of the City of Portland

Calendar No. 3023

ORDINANCE No. 125025

Title

An Ordinance authorizing execution of an agreement with Southern Pacific Company granting the City the right to place a sewer pipeline under their tracks at SE Division Place near SE 9th Avenue, and declaring an emergency.

THE COMMISSIONERS VOTED AS FOLLOWS:		
	Yeas	Nays
Bowes	1	
Earl	1	
Grayson	1	
Ivancie	1	
Schrunk	1	

FOUR-FIFTHS CALENDAR	
Bowes	WAB
Earl	SWER
Grayson	WAB
Ivancie	SWER
Schrunk	

INTRODUCED BY

Commissioner Bowes

DRAWN BY

AGB:jw

Date July 14, 1967

NOTED BY THE COMMISSIONER

Affairs

Finance and Administration

Safety

Utilities

Works WAB

City Attorney

WAB

NOTED FOR CITY AUDITOR

R. C. H.

MC

APPROVED

Date

By

City Engineer

Date

By

Filed JUL 19 1967

RAY SMITH

Auditor of the CITY OF PORTLAND

By

Robert Kyle

Deputy