

Southern Pacific Company, )  
Central Pacific Railway Company, )  
to ) Lease.  
State of Nevada. )

RESOLUTION.

WJEREAS this department has made application to the Southern Pacific Company and the Central Pacific Railway Company, a corporation, for a lease covering the construction of an overhead crossing over the tracks of the Southern Pacific Railway Company at or near Shoshone Point, in Eureka County, Nevada, and

WHEREAS such a lease has been prepared in triplicate by the said railroad companies and forwarded to this department for execution

NOW, THEREFORE, BE IT RESOLVED that the Chairman of the Board of Directors be, and is hereby authorized to execute such lease for and on behalf of the Department of Highways of the State of Nevada.

I here by certify that the above and foregoing is a full, true and correct copy of the resolution adopted by the Board of Directors of the Department of Highways of the State of Nevada at a special meeting held on September 14th, 1923.

(Seal)

Floyd O. Booe  
Secretary.

THIS LEASE, made and entered into this 14th day of September 1923, by and between SOUTHERN PACIFIC COMPANY, a corporation, and CENTRAL PACIFIC RAILWAY COMPANY, a corporation, herein collectively called "Lessor", and STATE OF NEVADA, herein called "Lessee",

WITNESSETH:

1. That for and in consideration of the covenants and agreements herein contained Lessor hereby leases unto Lessee, and Lessee hereby hires and takes from Lessor the following described real property of Lessor situate, lying and being in the County of Eureka, State of Nevada, for the sole purpose of constructing, maintaining and using over and across the tracks and property of Lessor as a public highway a reinforced concrete bridge in the location and in strict conformance with the plans and specifications marked Exhibits A, B and C hereto attached and made a part hereof, said plans and specifications entitled "Shoshone, Nevada-Overhead Crossing of Nevada State Highway"; said property being bounded and particularly described as follows, to-wit:

A portion of the SW $\frac{1}{4}$  of Section 26, Township 33 North, Range 48 East, Mount Diablo Base and Meridian. Beginning at the point of interesection of the center line of the proposed State Highway at Highway Engineer's Station "R" 205 plus 39.33 and the southerly right of way line of said Railway Company, said point being distant 200 feet southerly measured at right angles from the center line of said Railway Company's main track at Engineer's Station 1128 plus 88.28 as now existing, and distant 1274.6 feet measured along a line having a bearing of North 8 $^{\circ}$ 12 $\frac{1}{2}$ ' East from the Southwest corner of Section 26; thence south-westerly measured along said southerly right of way line on a curve concave to the left and having a radius of 4383.69 feet (whose tangent at last mentioned point bears South 78 $^{\circ}$ 53' West) a distance of 50.37 feet to a point; thence northerly along a curve concave to the left, having a radius of 156.68 feet (whose tangent at last mentioned point bears North 1 $^{\circ}$ 54' West) a distance of 12.85 feet to a point; thence North 6 $^{\circ}$ 36' West (tangent to last described curve at last mentioned point) a distance of 52.07 feet to a point; thence South 83 $^{\circ}$ 24' West a distance of 25.0 feet to a point; thence North 6 $^{\circ}$ 36' West a distance of 183.34 feet to a point; thence on a curve concave to the right, having a radius of 320.00 feet, (whose tangent at last mentioned point is the last described course) a distance of 305.74 feet to a point in the northerly right of way line of said Railway Company, said point being 300.0 feet northerly measured at right angles to the said center line of said Railway Company's main track at Engineer's Station 1129 plus 81.61, as now existing, and distant 54.66 feet measured north-westerly at right angles from the center line of the proposed State Highway at Engineer's Station "R" 210 plus 31.92; thence northeasterly along said northerly right of way line of said Railway Company on a curve concave to the right and having a radius of 4883.69 feet, (whose tangent at last mentioned point bears North 80 $^{\circ}$ 03' East) a distance of 247.90 feet to a point; said point being distant 300 feet measured northerly at right angles from the said center line of said Railway Company's main track at Engineer's Station 1132 plus 14.28 as now existing, and distant 30.90 feet measured southerly at right angles from the center line of the proposed State Highway at Engineer's Station "R" 212 plus 63.31; thence southwesterly along a curve concave to the left and having a radius of 234.63 feet, (whose tangent at last mentioned point bears South 82 $^{\circ}$ 57 $\frac{1}{2}$ ' West) a distance of 360.41 feet to a point; thence South 6 $^{\circ}$ 36' East (tangent to last described curve at last mentioned point) a distance of 217.70 feet to a point; thence South 83 $^{\circ}$ 24' West a distance of 25.00 feet to a point; thence South 6 $^{\circ}$ 36' East a distance of 52.07 feet to a point; thence along a curve concave to the right, having a radius of 256.68 feet (whose tangent at last mentioned point is the last described course) a distance of 4.93 feet to a point in the southerly right of way line of said Railway Company; thence in a southwesterly direction along said southerly right of way line on a curve concave to the left having a radius of 4383.69 feet, (whose tangent at last mentioned point bears South 79 $^{\circ}$ 32 $\frac{1}{2}$ ' West) a distance of 50.37 feet more or less to the point of beginning.

Said piece or parcel of land for Public Highway containing 1.68 acres more or less.

Reserving, however, unto the Lessor and its successors in interest or ownership the right to use and maintain its entire railroad right of way in performance of its public duty as a common carrier, and the right to construct, maintain, use and operate, on the present or other grade, existing or additional railroad tracks and appurtenances thereto, including water and fuel pipe line and conduits, and telegraph, telephone, signal, power and other electric lines, upon, along and across any or any parts of said land above described.

2. This lease shall take effect as of the day and year first herein written and shall be and remain in full force and effect during the corporate existence of the Central Pacific Railway Company, not to exceed, however, the term of ninety-nine (99) years.

3. As a consideration for this lease, the Lessee agrees to pay in advance to the Lessor a rental of Five (5) Dollars per annum; to assume all taxes and assessments levied upon the leased premises during the continuance of this lease; to keep the leased premises free from combustible materials; to plant no trees or shrubbery without the previous written consent of the Lessor, and to erect no structure thereon except said reinforced concrete bridge for highway purposes; to put nothing upon the lease premises which might obstruct or interfere with the view; to provide such culverts, bridges and other structures as may be necessary to properly care for the drainage from said premises and the underlying and adjoining right of way of the Lessor; and to hold the Lessor harmless from any and all damages to said structure on said leased premises arising from fire caused directly or indirectly by sparks of fire emitted from the engines or trains of the Lessor; and to further hold the Lessor harmless from any damages to the highway upon the leased premises which may result from the construction of drainage ditches or waterways by the Lessor.

4. All the work of construction and maintenance of said bridge, including the approaches thereto and supports thereof, shall be done by the Lessee at its sole cost and expense except as herein other provided and to the satisfaction of the Lessor, the Lessee furnishing all labor, material, tools and implements and performing the necessary work of excavation for said bridge, installing, maintaining (and removing upon completion of work) necessary falsework, performing the work of constructing said abutments, wing walls, center piers and floor system, all in accordance with said detailed drawings and specifications marked Exhibits A, B, and C.

5. In the event that any work upon or in connection with said bridge to be done upon the right of way and property of Lessor is to be let to contractors by the Lessee, Lessor hereby reserves the right to approve or disapprove the contract prices submitted by such contractors and no bids of such contractors shall be accepted until approved by Lessor; such contractors shall be subject to approval of the Lessor as to their responsibility and ability to perform the work over and across the tracks and property of the Lessor; provided, however, Lessor shall signify its approval or disapproval of contractors and prices selected by Lessee within ten (10) days from date of receipt of notice by Lessor from Lessee. If Lessor fails to so signify within said ten (10) days, Lessee may award contract to contractors named in such notice at the prices therein stipulated. No work shall be commenced until such contractors shall have first entered into a written agreement with the Lessor satisfactory to it and indemnifying Lessor from and against any and all claims, demands, loss, damage and liability growing out of the performance of the work to be done by such contractors, and such contractors shall furnish, at no expense to Lessor, a good and sufficient bond in the amount of Five Thousand (5,000) Dollars of a reliable surety company, in form and satisfactory to Lessor, guaranteeing the true and full performance of all the terms, conditions and stipulations contained in said agreement to be entered into with Lessor by said contractors, as herein this paragraph provided.



6. Said bridge shall be constructed and maintained by the Lessee so as to provide at all times a vertical clearance of not less than twenty-two (22) feet between the tops of rails in the tracks of Lessor and the bottom of the lowest beams, girders or floor system of said bridge, and a horizontal clearance of not less than eight (8) feet six (6) inches on each side of the center line of the nearest tract now or hereafter existing.

7. Lessor shall furnish such inspectors, watchmen or flagmen as it may deem necessary to safeguard the movements of its trains and property and to supervise the prosecution of work and if Lessor finds it necessary to alter or change the location of any signal, telephone, telegraph or other wire lines upon its right of way to provide necessary clearance for said bridge or highway, all expense incurred in connection therewith and for such inspectors, watchmen or flagmen shall be deemed and considered a part of the cost of constructing said bridge and be apportioned between Lessor and Lessee as hereinafter provided.

8. All work contemplated by this agreement shall be done in a good and workmanlike manner to the satisfaction of Lessor and each portion thereof shall be promptly commenced and diligently prosecuted in its logical order and sequence and shall be done at such times and in such manner as not to interfere with the operations of Lessor.

9. All expenses incurred by the Lessee and Lessor in connection with the construction of said bridge, and which are herein defined as being chargeable to the cost thereof, shall be the actual amounts paid by the State to its contractors, inspectors, watchmen and engineering forces for such portion of said work as contemplated by said Exhibits A, B and C, and shall include the actual amounts expended or incurred by Lessor in connection with labor and material used, furnished or expended in the performance of that portion of the work done by Lessor, plus ten (10) per cent to be added to all such items of labor and material to cover supervision, accounting and use of tools, and plus commercial tariff freight rates as published and in effect on all material delivered at the job.

10. At the close of each month during the progress of the construction work, settlement shall be promptly made between the Lessee and Lessor whereby sixty-six and two-thirds ( $66\frac{2}{3}$ ) per cent of all of such expenditures for the construction of said bridge, including changes or relocation of wire lines and cost of inspectors, watchmen or flagmen shall be borne and paid by the Lessee; the remaining thirty-three and one-third ( $33\frac{1}{3}$ ) per cent thereof shall be borne and paid by Lessor.

11. The books, papers, records and accounts of the parties hereto insofar as they relate to the items of expense for labor and material or are in any way connected with the work herein contemplated to be paid for by the parties hereto shall at all reasonable times be open to the inspection of the agents and representatives of the other party hereto required herein to participate in such expense.

12. Lessee shall at its expense keep said bridge in good condition and repaired as long as the same shall be maintained on said leased premises.

13. The Lessor reserves the right to take possession of all or any portion of the leased premises whenever the use thereof may become necessary or expedient in the judgment of the Lessor for railroad purposes; provided, however, that in the event the Lessor elects to take possession of all or any portion of said leased premises in accordance with this resolution it shall give the Lessee six (6) months' notice of its intention so to do, and shall, at its option, provide at its expense the necessary land for and reestablish, or pay to the Lessee the cost of such land and expense for re-establishing said overhead bridge and highway in as good condition as it was in at the time of taking possession thereof.

14. The Lessee shall not at any time use or permit the use by others of said leased premises for railroad or traction purposes, or use or permit the said premises to be used for any purpose except the usual and ordinary purposes incident to maintenance and use of said overhead bridge for a street or highway

15. This lease is subject to all outstanding superior rights, (including those in favor of telegraph and telephone companies and leases to abutting property owners and others) and the right of renewals and extensions of the same; and it is understood that nothing in this lease contained shall be construed as a covenant to put the Lessee into possession or to protect the Lessee in the peaceable possession of said premises.

16. No special assessments forestablishing or improving said overhead bridge or the highway located upon the leased premises are to be made against the underlying or adjacent right of way of the Lessor, and the Lessee agrees to protect the Lessor against and save it harmless from such special assessments.

17. For the purpose of protecting the reversionary interests of the Lessor against the assertion of adverse rights, the Lessee agrees to prevent encroachments upon the leased premises, and to this end will, at its own expense, take all necessary action, including as far as practicable the building of its ditches on and the borrowing of earth from the outer margin of said leased premises.

18. If the Lessee should breach or fail to keep any of the covenants or conditions hereof, or fail to perform such covenants or conditions, or to remedy the same for thirty (30) days after written notice of such failure or breach on the part of the Lessee, given by the Lessor to Lessee, then this Lease shall immediately cease and determine.

19. Nonuser of the leased premises by Lessee for highway purposes continuing at any time during the term hereof for a period of eighteen (18) months shall, at the option of the Lessor, work a termination of this lease and of all rights of the Lessee hereunder, and nonuser by the Lessee of a portion of said leased premises continuing for a like period shall, at the option of the Lessor, work a termination of all rights and interests of the Lessee with respect to such portion.

20. This lease is not to be assigned, nor is any portion of the leased premises to be sublet, without the written consent of the Lessor. The Lessee will surrender peaceable possession of said premises at the expiration of this lease.

21. Except as herein otherwise provided, all covenants and agreements herein contained are made by the parties hereto for and shall be binding upon themselves and their successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in triplicate by their respective officers thereunto duly authorized the day and year first herein written.

(Seal of Southern Pacific Company)

SOUTHERN PACIFIC COMPANY,

By J.H. Dyer  
General Manager.  
Attest G.S. King  
Assistant Secretary.

(Seal of Central Pacific Ry. Co.)

CENTRAL PACIFIC RAILWAY COMPANY,

By E.O. McCormick  
Vice President  
Attest: G.S. King  
Secretary.

Description Correct:

Otis Weeks

Division Engineer

Recommended:

(Signed) W.L. Hack

Superintendent.

Approved:

Engineer Maintenance of Way & Structures.

Signed) B.L. Burckhalter

Asst. General Manager.

Form Correct:

Contract Attorney

Form Approved:

Vice Pres. & Chief Counsel.

STATE OF NEVADA,  
By James M. Leonard  
Chairman, Board of Directors of the  
Department of Highways.

By Geo. W. Borden  
State Highway Engineer.

Countersigned  
T.O. Edwards  
Auditor.  
Per J.R. Daly.

NOTARIAL ACKNOWLEDGEMENT  
SOUTHERN PACIFIC COMPANY  
CENTRAL PACIFIC RAILWAY COMPANY.

STATE OF CALIFORNIA, )  
 ) ss.  
 CITY AND COUNTY OF SAN FRANCISCO.)

On this 18th day of October 1923, before me Frank Harvey, a Notary Public, in and for said City and County of San Francisco, State of California, personally appeared J.H.DYER, known to me to be the GENERAL MANAGER of SOUTHERN PACIFIC COMPANY, E.O.McCORMICK, known to me to be the VICE PRESIDENT of CENTRAL PACIFIC RAILWAY COMPANY and G.L. King, known to me to be the ASSISTANT SECRETARY of SOUTHERN PACIFIC COMPANY and SECRETARY of CENTRAL PACIFIC RAILWAY COMPANY, the corporations that executed the within instrument; and each of them acknowledged to me that such corporations executed the same.

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

(Notarial Seal)

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

STATE OF NEVADA, )  
 ) ss.  
 COUNTY OF ORMSBY.)

On this 14th day of September, A.D., 1923, personally appeared before me, FLOYD O. BOOE, a Notary Public in and for the County of Ormsby, JAMES M. LEONARD, known to me to be the Chairman of the Board of Directors of the Department of Highways of the State of Nevada, and GEO. W.BORDEN, known to me to be the State Highway Engineer of the Department of Highways of the State of Nevada, that executed the foregoing instrument, and upon oath did depose that they are the officers of said Department of Highways of the State of Nevada as above designated; that they are acquainted with the seal of said Department of Highways of the State of Nevada and that the seal affixed to said instrument is the seal of said Department of Highways of the State of Nevada; that the signatures to said instrument were made by officers of said Department of Highways of the State of Nevada as indicated after said signatures; and that the said Department of Highways of the State of Nevada executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned.

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

(Notarial Seal)

Floyd O. Booe  
 Notary Public in and for the County  
 of Ormsby, State of Nevada.  
 Notary Public in and for Ormsby County,  
 My Commission Expires April 17th, 1926.

Recorded at the request of State Hwy. Engineer Nov.2, A.D. 1923 At 30 minutes past 9 A.M.

Peter Merialdo---RECORDER.