

SSW/cm
4/1/63

AN ORDINANCE 31267

AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN THE CITY AND MISSOURI PACIFIC RAILROAD COMPANY WHEREIN THE RAILROAD WILL PAY THE SUM OF \$200,000.00 IN TWO INSTALLMENTS TO THE CITY AS THE RAILROAD'S CONTRIBUTION TO THE CONSTRUCTION OF THE GUADALUPE STREET GRADE SEPARATION AND FOR OTHER CONSIDERATIONS BETWEEN THE PARTIES.

* * * * *

WHEREAS, the Missouri Pacific Railroad Company, hereinafter called the "Railroad" has agreed to pay to the City of San Antonio, hereinafter called the "City", the sum of \$200,000.00, as its contribution to the construction by the City of the Guadalupe Street Grade Separation, and for other considerations as set forth in said agreement, \$100,000.00 to be paid when the construction contract therefor is awarded and this ordinance passed and approved, and the remaining \$100,000.00 upon completion of the work and closing of certain portions of El Paso and San Fernando Streets, as set forth in said agreement; and

WHEREAS, by Ordinance No. 31092, dated February 6, 1963, the construction contract for said Guadalupe Street Grade Separation was awarded to Killian-House Company and was entered into on February 15, 1963; and

WHEREAS, the Railroad has executed said agreement on its behalf; NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

1. The City Manager is authorized to execute an agreement between the City and the Railroad wherein the Railroad agrees to pay to the City the sum of \$200,000.00, in two installments as above stated, as the contribution by the Railroad to the construction of the Guadalupe Street Grade Separation and for other considerations between the parties as set forth in said agreement.

2. A copy of said agreement is attached hereto and incorporated herein for all purposes.

3. PASSED AND APPROVED this 10th day of April, 1963.

M. A. Y. O. R.
M A Y O R

ATTEST: *J. H. Sussman*
City Clerk

APPROVED AS TO FORM: *R*
City Attorney

APPROVED AS TO FUNDS: *[Signature]*
Director of Finance

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APR 10 1963

21263

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APPROVED AND ADOPTED
APR 10 1963

J. H. Inselmann
City Clerk

RECORDED

Minute Book *99* Page *37*

Ordinance Book *N/A* Page *79*

VOTE

APR 10 1963

Meeting of the City Council _____, 196__

Resolution _____

Ordinance _____ Motion by Member of Council Parker - Roberts

31263

Ord. No. _____

	Roll Call	Aye	Nay	Aye	Nay
WALTER W. McALLISTER Member of Council Pl. 1		✓			
GEORGE de la GARZA Member of Council Pl. 2		✓			
CLAUS ROHLFS Member of Council Pl. 3		✓			
JACK H. KAUFMAN Member of Council Pl. 4		✓			
WALTER C. GUNSTREAM Member of Council Pl. 5		Absent			
JOHN GATTI Member of Council Pl. 6		✓			
ROY S. PADILLA Member of Council Pl. 7		✓			
DR. GERALD PARKER Member of Council Pl. 8		✓			
ROLAND C. BREMER Member of Council Pl. 9		✓			

File with
 Mission - Paris
 File - Court costs =
 File may be under overpass

#1

SSW/cm
2/28/63

STATE OF TEXAS §
COUNTY OF BEXAR §

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the City of San Antonio, Bexar County, Texas, has decided to construct an overpass spanning railroad tracks and property of the Missouri Pacific Railroad Company located on and adjacent to Guadalupe Street, in the City of San Antonio; and,

WHEREAS, the Missouri Pacific Railroad Company has agreed to participate in the cost of construction of said overpass as hereinafter provided;

NOW THEREFORE:

WITNESS this agreement entered into by and between the City of San Antonio, hereinafter referred to as "City" and the Missouri Pacific Railroad Company, hereinafter referred to as "Railroad," to-wit:

1. In consideration of the construction by the City of an overpass on Guadalupe Street, which said overpass shall span the railroad tracks and property of the Railroad, and in further consideration of the closing by the City of portions of El Paso and San Fernando Streets as hereinafter provided for in paragraph 6, the Railroad, upon the award of the contract for construction of the overpass on Guadalupe Street, will pay to the City of San Antonio the sum of One Hundred Thousand Dollars (\$100,000.00) in cash, and after passage of an ordinance closing said hereinafter described portions of El Paso and San Fernando Streets, and the actual closing of the same pursuant thereto, the Railroad agrees to pay to the City of San Antonio an additional sum of One Hundred Thousand Dollars (\$100,000.00) in cash, the total amounts in cash to be contributed by the Railroad to equal the sum of Two Hundred Thousand Dollars (\$200,000.00) as herein provided for. Said payments shall discharge all obligations of the Railroad respecting said overpass except as expressly provided herein.

2. It is agreed and understood by the parties hereto that the overpass referred to herein shall be constructed in accordance with plans and specifications to be drawn by the City subject to the approval by the Railroad. Railroad expressly agrees to provide to the City at no cost whatsoever, an easement upon and over the right-of-way or property of the Railroad, which is necessary for right-of-way purposes in the construction of said overpass hereinabove referred to only in accordance with the plans and specifications of the City and also subject to the approval by the Railroad. It is understood and agreed that said easement will be made and given without any warranty whatsoever, either express or implied, and will specifically provide that Railroad does not grant an easement to any greater estate in said property than is owned by the Railroad. Nothing in said easement or in this agreement shall deprive the Railroad of the continuing use of its right-of-way, or interfere therewith except as may be necessary for the construction and use of said overpass.

3. It is further agreed and understood by and between the parties hereto that Guadalupe Street shall remain open at grade after completion of the overpass primarily to accommodate local traffic which would be inconvenienced by the use of the grade separation structure. The Railroad, without cost to the City, will provide necessary easement without warranty, express or implied, across its property to relocate the grade crossing and without cost to the City, will construct and maintain plank crossings and walkways across that portion of the street occupied by railroad tracks, being that area between the rails and to the ends of the ties outside the rails of each track, all in accordance with plans and specifications jointly prepared and approved by the City and Railroad. All other necessary expenses incurred by the Railroad except as is expressly provided herein in making such grade crossing usable for traffic shall be reimbursed to the Railroad.

4. The Railroad, at its sole cost, covenants and agrees to install and maintain necessary automatic signal devices at the grade railroad crossings on Guadalupe Street. When El Paso and San Fernando Streets are closed as provided herein, the existing crossing watchman system will be discontinued and will no longer be required by the City, and automatic signal safety devices will be installed by the Railroad, at its sole cost, as hereinbefore stated, at the grade crossings on Guadalupe Street substantially similar to the signal system installed at the grade crossings of the Railroad's tracks at Commerce Street.

5. The Railroad, at its sole cost, covenants and agrees to install and maintain necessary automatic signal safety devices at West Martin and Morales Streets where those streets cross its tracks. Crossing watchmen will not thereafter be required, and the existing crossing watchman system will be thereafter discontinued at these crossings.

6. The City of San Antonio expressly agrees to close the following portions of the hereinafter described streets:

That portion of El Paso Street lying and being situated from the West line of Medina Street to the East line of Salado Street.

That portion of San Fernando Street being situated from the West line of Medina Street to the East line of Salado Street.

The parties hereto agree that the portions of El Paso and San Fernando immediately above referred to shall be closed at such time as the City Council may deem it advisable, provided, however, that in any event it is agreed and understood by and between the parties that the above referred to portions of El Paso and San Fernando Streets shall be closed not later than the expiration of ten (10) days after the overpass hereinabove referred to shall have been constructed and opened for use by the general public. The City may at its cost for temporary use after notice to the Railroad reopen El Paso Street across the Railroad's tracks when the Guadalupe Street Overpass is closed

to traffic. The Railroad hereby and herewith grants to the City an easement within the existing boundaries of El Paso Street for such purpose.

7. The City hereby and herein agrees that the Railroad, without cost to the City, may lay an unlimited number of railroad tracks across Guadalupe Street situated between Medina and Salado Streets; but said privilege shall be withheld until the completion of the construction of the above referred to overpass and dedication of same to the general use of the public, provided that the City hereby agrees that the Railroad may lay additional tracks across Guadalupe Street during the construction of said overpass, which are necessary due either to the rearrangement of tracks to permit the construction of the overpass or to permit continued use of its railroad yard facilities. The Railroad, without cost to the City, will construct and maintain plank crossings and walkways across that portion of said streets occupied by railroad tracks, being that area between the rails and to the ends of the ties outside the rails of each track.

8. The City hereby agrees that after completion of the construction of said overpass that City shall thereafter maintain said overpass and the roadway areas passing thereover and the abutments, all appurtenances, and the drainage system thereto.

9. During the construction of said overpass, the Railroad hereby agrees to coordinate its operations with the construction contractor so that as little delay as possible with the progress of said construction will result. For example, no Railroad activities other than regularly scheduled trains will be left on the right-of-way of Guadalupe Street more than absolutely necessary when it will interfere with the operation of the contractor. Representatives of Railroad, Contractor and City will be responsible for coordinating this activity.

10. The parties hereto agree that the City claims ownership in fee to Guadalupe Street. However, nothing in this Agreement is intended as a determination between the parties which would deprive either the City or the Railroad of title to any property except as expressly provided herein.

EXECUTED this 15th day of April, A. D., 1963.

CITY OF SAN ANTONIO

BY:

B. J. Shelley
City Manager

MISSOURI PACIFIC RAILROAD COMPANY

BY:

J. A. [unclear]

CITY OF SAN ANTONIO

Interdepartment Correspondence Sheet

TO: FILE

FROM: Jack Shelley, City Manager

COPIES TO: _____

SUBJECT: To be attached to the Agreement between the City of San Antonio and the Missouri Pacific Railway contract on Guadalupe Street

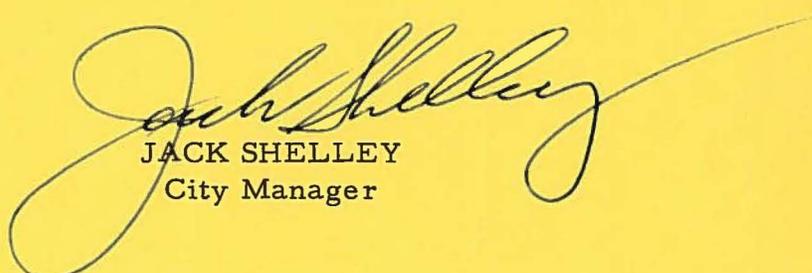
Overpass.

Date April 15, 1963

Since the contract as drawn and executed by the City of San Antonio and the Missouri Pacific Railway is not definitely clear in its statement regarding the closing of El Paso and San Fernando Streets, it is believed that this memorandum is necessary to clarify the City's position in future years.

During all final negotiations with the representatives of the Railway Company, it was verbally agreed that the City would erect temporary barricades for the closing of El Paso Street to traffic. This would permit the use of this right-of-way by the Railway Company, except when needed by the City of San Antonio. The City and the Railway Company agreed that as a safety factor, it would be necessary for the City to retain this as a street for emergency usage at such time as the Guadalupe Overpass could be out of working order due to major maintenance, or due to conditions caused by weather which would not permit its use.

In discussing this contract with Mr. Sam Wolf of the City Attorney's Office, he points out that in no manner does this instrument attempt to pass any title to El Paso or San Fernando Streets to the Railroad, but merely authorizes their use of same. In future years, the City of San Antonio may desire to erect overpasses on one or more of these streets, and any rights that they had prior to this instrument should still be the same.


JACK SHELLEY
City Manager

JS/rr