

May 13, 1909
Deed Book 515
Page 394

State of California
County of San Diego

...

Know all ... be there present that:

For and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, the receipt whereof is hereby acknowledged the South Coast Land Company a corporation of the State of California, the grantor herein, does hereby remise, release and quit claim unto the Atchison, Topeka and Santa Fe Railway Company a corporation of the State of Kansas the grantee herein, its successors and assigns, a right of way for the maintenance and operation of a railway over, along and is from that certain real property situate in the County of San Diego, State of California described as follows to wit;

A strip of land of different widths lying on each side of adjacent to and parallel with the center line of relocation of the Atchison, Topeka and Santa Fe Railway in the Town of Del Mar, San Diego County, California, said center of relocation more fully described as follows:

[Survey Information of the Parcels, here]

Page 395

Page 396

Always excepting and reserving, however the following to wit:

First: The grantor reserves and excepts a perpetual right of way across said strip of land for the purposes of opening and extending over and across the above described strip of land those certain streets running northerly and southerly as shown on the map of Del Mar made by Taylor and filed in the office of the Recorder of San Diego County, State of California on the 5th day of October 1885; the said streets shown on the aforesaid map being designated as Grand and Ocean Avenue a part which is designated on said map as Railroad Avenue. The grantor also reserves right of way for the purpose of opening a public street not to exceed fifty (50) feet in width across said strip of land at right angles thereto to be located at or near the point where Nob Avenue if produced northerly would intersect said strip.

Page 397

The grantor for itself and its successors and assignee agree that all of said streets and avenues, whether not open public streets and avenues or to be hereafter opened as aforesaid shall be opened and maintained at the grade at which said grantee shall construct and maintained at the grade at which said grantee shall construct its said railway; and no change of grade thereof shall be made excepting with the consent in

writing of the grantee.

[TG note: Exception 1 reserves the right to open and extend across the tracks the north-south streets, Grand Avenue and Ocean Avenue]

Second: The grantor reserves and excepts a perpetual right of way to use, and the right to dedicate for public use the present roadway to the width of forty (40) feet, which runs to the beach across said strip of land between 10th and 11th Streets, as said streets are shown on said map; Provided, however, that the said road shall be maintained at the grade, at which said grantee shall construct its railway. And the grantor expressly agrees that in the event of dedicating the said road for public use, it will make a formal dedication thereof according to and expressly conditioned upon the maintenance of the said road at the grade at which said grantor shall construct its said road.

[TG note: Right of way for at-grade crossing between 10th and 11th.]

Third: The grantor reserves and excepts a perpetual right of way for the building and maintenance at points to be selected by it, lying southerly from the northerly line of Block 13, as shown on said map, prolonged westerly to the Ocean of overhead crossings over and across said strip of land, and over any railroad which the grantee may construct thereon together with the necessary and proper stairways therefore to be used as passage ways to the ocean beach.

[TG note: Right of way for beach access over the tracks south of Block 13.]

B. The grantor reserves and excepts a perpetual right of way for the building and maintenance of a bridge or overhead road crossing over and across the said strip of land for the purpose of a passage way from the hotel situated on Block 21 to the power and bath houses situated on Block 14 as said blocks are shown on said map, said Block 14 being also designated on said map by the word "park".

[TG note: Right of way for access to park over the tracks at Block 14.]

Fifth: The grantor also reserves and excepts a perpetual right of way in said strip of land for the laying and maintenance of pipelines or conduits for gas and water purposes and also for telegraph, telephone and electric light and power lines.

Sixth: The grantor also reserves and excepts a perpetual right of way for the purpose of constructing and maintaining sewer pipes or other conduits under the said strip of land.

[TG note: Do any utility conduits run under the strip of land?]

Seventh: The grantor agrees that it will hold and save harmless the grantee from all liability for and injury to any person or property resulting from the failure to properly construct, maintain or operate any such overhead crossing, bridge, pipe line, sewer or conduit or resulting from the use of sewage, water, gas or electricity therein. And in case the grantee shall be made party defendant to any action for damages for any such injury, the grantor will pay all the necessary expenses occasioned thereby to the grantee including all necessary attorneys' fees.

Eighth: The grantor further agrees that the grantee shall have the right to lease such portions of the station grounds connected with the right of way hereinbefore granted as and for the purposes for which it usually uses its station grounds in the conduct of its business.

Ninth: It is agreed that the grantor shall not erect any such structure or bridge, pipeline, sewer, or other conduit or any other crossing, above or below said railway, except in accordance with reasonable plans and specifications which, as to the safety of the proposed construction shall first have been approved by the Railway Company. And it is agreed that with respect to all overhead structures the vertical clearance shall be not less than (23) feet from the top of the rail and the side clearance not less than (6) feet from the outside of the nearest rail.

And it is agreed that every such structure, crossing, pipeline, sewer or conduit shall at all times be maintained in good repair by and at the expense of said grantor; and that said Railway Company may at any time inspect any such structure, crossing, pipeline, sewer, or conduit, and after reasonable notice to grantor of any defects therein and of intent to repair or remove such structure, crossing, pipe line, sewer, or conduit, if not promptly repaired by said grantor, may repair or remove the some, or any of them, if not so promptly repaired by grantor and thereupon, recover of the grantor the expense of such repairs or removal. It is further agreed that the said grantor shall from time to time make such alteration in any structure, crossing, pipe line, sewer, or conduit as said Railway Company shall require, in order to adapt the same to any change of grade or line, or the method of operation, which said railway Company may choose to adopt including double tracking installation of side tracks , switches, or spurs or use of other power than steam; and that on failure of the grantor to make any such alteration or reasonable notice such structure crossing, pipe line, sewer or conduit or any of them may be removed by said Railway Company; but the expense of such alteration shall be reimbursed to the grantor by the Railway Company.

[TG note: With the clause above, Grantor can build structures, but they must meet certain parameters, and Grantor must take care of them.]

Tenth: It is agreed that all the covenants contained in the agreement shall be covenants running with the land and binding upon the successors in interest and assigns of the respective parties hereto; and it is agreed that all the covenants and conditions hereof shall inure to the benefit of and be binding upon the successors in interest and assigns of the respective parties hereto, the same as though they were herein particularly designated.

[TG note: With the clause above, the covenants in the agreement run with the land and bind successors.]

Provided, however, that this deed is made upon the condition that the said strip of land shall be at all times used by the grantee for the purpose of operating and maintaining, a railroad thereon, including all purposed usually or properly connected with the maintenance and operation of such railroad, and if at any time said land shall not be used for such purposes, then said right of way hereby grantee shall cease and determine after notice in writing on ninety (90) days by the grantor to the grantee, of the

grantor's election that said right of way shall cease and determine and at the expiration of said ninety (90) days the said grantor shall have no further right, title or interest in and to said right of way.

[TG note: With the clause above, the Grantor (South Coast Land Company or its successors) has 90 days to notify Grantee in writing that right of way ceases if Grantee does not use the strip of land for operating and maintaining a railroad.]

To Have and to Hold the above describe right of way, subject, however, at all times to the said reservations and exceptions, and to the conditions herein above set forth unto the grants but for the uses and purposes of a right of way for the operation and maintenance of railroad as above stated.

Page 399

In Witness Whereof the said grantor has caused there presents to be duly executed by its officers thereunto duly authorized this 20th day of December, 1910.

South Coast Land Company