

SHARED USE AGREEMENT
(SAUGUS LINE)

between

Southern Pacific Transportation
Company

and

Los Angeles County Transportation Commission

December 16, 1992

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SHARED USE AGREEMENT
(SAUGUS LINE)

THIS SHARED USE AGREEMENT (this "Agreement") dated December 16, 1992, is entered into by SOUTHERN PACIFIC TRANSPORTATION COMPANY, a Delaware corporation (the "Railroad"), and LOS ANGELES COUNTY TRANSPORTATION COMMISSION (the "Commission").

ARTICLE I
DEFINITIONS

The following capitalized terms are used in this Agreement with the following meanings:

Section 1.1 AAR. Association of American Railroads.

Section 1.2 ABS. Automatic Block Signal System, a series of consecutive blocks governed by block signals actuated by a train, engine or by certain conditions affecting the use of the block. The physical signal system includes the wayside block signals, electronic coded track circuits, vital relays, underground cable, poleline, cases, houses, and other necessary signal apparatus.

Section 1.3 Alhambra-Bridge 5 Segment. The portion of the Saugus Line between and including Alhambra Junction and Bridge 5.

Section 1.4 Alhambra-CRI Segment. The portion of the Saugus Line between and including Alhambra Junction and the Commuter Rail Interlocker.

Section 1.5 Alhambra Junction. The junction located at MP 482.05 at the intersection of the Railroad's Alhambra line and the Commission's East Bank line, including all Crossovers at present and future locations in the vicinity thereof (the present location of such Crossovers being as indicated on Exhibit 1.5 attached hereto).

Section 1.6 Alhambra-Santa Clarita Segment. The portion of the Saugus Line between and including Alhambra Junction and Santa Clarita.

Section 1.7 Amtrak. The National Railroad Passenger Corporation, acting on its own behalf in intercity rail service, including any statutory successor (other than the Commission) performing similar functions.

Section 1.8 Amtrak Service. Intercity rail passenger service or Section 403(b) Service operated by Amtrak on Amtrak Trains, including services provided by Amtrak at passenger

stations, but excluding services provided by Amtrak as Operator for the Commission.

Section 1.9 Amtrak Train. Any Train operated by Amtrak to provide intercity rail passenger service or Section 403(b) Service operated by Amtrak, but shall not include any Commission Train, even if Amtrak is the Operator of such Commission Train.

Section 1.10 Bridge 5. The signal bridge over the Saugus Line located at MP 481.10.

Section 1.11 Bridge 5-Santa Clarita Segment. The portion of the Saugus Line between and including Bridge 5 and Santa Clarita.

Section 1.12 Burbank-Alhambra Segment. The portion of the Saugus Line between and including Burbank Junction and Alhambra Junction.

Section 1.13 Burbank Junction. The junction located at MP 471.6, including all Crossovers at present and future locations in the vicinity thereof (the present location of such Crossovers being as indicated on Exhibit 1.13 attached hereto).

Section 1.14 Burbank Siding. The siding adjacent to the Saugus Line between MP 470.1 and MP 471.8.

Section 1.15 Changeover Date. Each date upon which the Commission assumes responsibility for the dispatching and maintenance of a portion of the Santa Clarita-Palmdale Segment, as set forth in Sections 4.2 and 5.2. The Changeover Date with respect to any portion of the Santa Clarita-Palmdale Segment shall be the earliest of (i) the date on which the Commission elects to assume sole responsibility for dispatching and maintenance of such portion the Santa Clarita-Palmdale Segment, as specified in a written notice of such election delivered to Railroad at least 60 days prior to the date specified in the notice as the Changeover Date, (ii) the date the Commission commences construction of any Shared Use Facility on such portion of the Santa Clarita-Palmdale Segment, or (iii) the date the Commission commences scheduled Commission Rail Service on any Shared Use Facility on such portion of the Santa Clarita-Palmdale Segment. The Commission may not assume responsibility for dispatching any portion of the Santa Clarita-Palmdale Segment without also assuming responsibility for the maintenance of such portion, nor may the Commission assume responsibility for maintaining any portion of the Santa Clarita-Palmdale Segment without also assuming responsibility for the dispatching of such portion. Each successive Changeover Date shall apply to a portion of the Santa Clarita-Palmdale Segment that is contiguous with a portion of the Saugus Line for which the Commission

already has assumed responsibility for dispatching and maintenance.

Section 1.16 Commission. The Commission and any permitted successor or assign of the Commission.

Section 1.17 Commission Rail Service. The operation of Trains, authorized by the Commission, which are used solely to provide rail passenger service, and any other operation related solely to rail passenger service activities, and Non-Revenue Equipment of the Commission; provided however, the term "Commission Rail Service" shall not include Amtrak Service.

Section 1.18 Commission Train. Any Train operated by or on behalf of the Commission performing Commission Rail Service, but not including any Amtrak Train.

Section 1.19 Commuter Rail Interlocker. The junction, including power operated double Crossovers, to be constructed by the Commission at approximately MP 479.71, as shown on Exhibit 1.19 attached hereto.

Section 1.20 Crossing Warning System. A system which provides a visual and audible warning to vehicular traffic when a train or engine approaches the highway crossing from either direction. The system includes all flashing light signals, gate mechanisms, bells, and all of the control equipment including track circuits, constant warning devices, relays, cases, houses, underground cable, poleline, and other necessary signal apparatus.

Section 1.21 Crossover. Any track connection between two adjacent main line Tracks or Track that crosses or provides access across a main line Track or Tracks or provides a connection or access between two or more main line Tracks, including Interlockers.

Section 1.22 CTC. Centralized Traffic Control, a bi-directional block signal system under which train movements are authorized by block signal indications with the absolute signals and power switches controlled by the dispatcher from a remote console. The physical signal system includes the wayside block signals, power operated switch machines, electronic coded track circuits, vital relays, and underground cable which provide vital control of the signals and power switch machines, non-vital supervisory field code units, cases, houses, and other necessary signal apparatus, the dispatcher control console with its computers, and all of the communication modems and microwave equipment that is used to link the dispatcher console to the wayside signal system.

Section 1.23 Customary Additives. Elements of cost customarily charged by railroads to one another and added to

billings that generally are calculated as a percentage of direct labor costs, are intended to compensate for paid holidays, vacation and personal leave days, health and welfare benefits, payroll taxes, personal liability and property damage, compensation insurance, and administrative and supervisory expenses that include direct and general overhead and are subject to periodic changes depending upon industry practices. As an example, 1989 amounts are shown on Exhibit 1.23 attached hereto.

Section 1.24 Dayton Bridge. The bridge over the Los Angeles River located at MP 480.73.

Section 1.25 Dayton Tower. The concrete building of that name located on Parcel B of Taylor Yard adjacent to the Saugus Line at MP 480.70.

Section 1.26 East Bank Agreement. That certain Agreement dated March 7, 1942 by and among Los Angeles & Salt Lake Railroad Company and its lessee, Union Pacific Railroad Company, and Southern Pacific Railroad Company and its lessee, Southern Pacific Company.

Section 1.27 FRA. Federal Railroad Administration.

Section 1.28 Freight Train. Any Train performing Rail Freight Service, but excluding any Railroad Special Train.

Section 1.29 General Orders. A document or documents issued from time to time to notify employees of the Railroad as to additions to and modifications of the Railroad's operating rules and applicable Railroad Timetable.

Section 1.30 Glendale Siding. The siding on the south side of Track No. 2 of the Saugus Line between MP 478.07 and MP 476.84, as the same may be extended or reduced pursuant to Section 2.13.

Section 1.31 ICC. Interstate Commerce Commission.

Section 1.32 Intercity Service. Any passenger railroad service which does not have both its origination point and its destination point within the Counties of Los Angeles, Orange, Riverside, San Bernardino and Ventura, State of California.

Section 1.33 Interlockers. A Signal System at a Crossover that includes an arrangement of signal appliances so interconnected that their movements must automatically succeed each other in proper sequence.

Section 1.34 Lancaster. MP 405.50 on the Railroad's Bakersfield Line.

Section 1.35 LAUPT. Los Angeles Union Passenger Terminal (MP 482.8).

Section 1.36 LAUPT Bridge. The bridge over the Los Angeles River at MP 482.58 and the connecting Tracks described on Exhibit 2.2(i) attached hereto.

Section 1.37 Materials Additives. Elements of cost customarily charged by railroads to one another and added to any and all materials costs that generally are calculated as a percentage of direct costs, are intended to compensate for store, purchasing and handling expenses, sales or use taxes, foreignline freight, and on-line freight and are subject to periodic changes depending upon industry practices. As an example, 1989 amounts are shown on Exhibit 1.37 attached hereto.

Section 1.38 Mission Tower. The dispatching and control tower of that name situated west of the Los Angeles River in the southwesterly angle of the crossing of the tracks of The Atchison, Topeka and Santa Fe Railway Company westerly of the Los Angeles Rives and shown on Exhibit 1.38 attached hereto.

Section 1.39 Mission Tower Agreement. That certain Agreement dated September 30, 1943 by and among The Atchison, Topeka and Santa Fe Railway Company, Southern Pacific Railroad Company and its lessee Southern Pacific Company, Los Angeles & Salt Lake Railroad Company and its lessee Union Pacific Railroad Company, and the Los Angeles Union Passenger Terminal.

Section 1.40 Non-Revenue Equipment. Freight locomotives, maintenance of way equipment and freight cars that are either empty or loaded only with maintenance of way equipment or material and equipment transported over the Shared Use Facilities for the internal use of either party, including rails, ties, ballast and other track materials and signal and bridge materials and supplies.

Section 1.41 NRPC Agreement. The National Railroad Passenger Corporation Agreement dated April 16, 1971, as amended from time to time.

Section 1.42 Operator. Any person, firm, corporation or other legal entity utilized by the Commission or the Railroad to operate on its behalf and for its account in conducting operations on the Shared Use Facilities.

Section 1.43 Palmdale Junction. The clear point of the junction switch located at MP 414.42 as indicated on Exhibit 1.43 attached hereto.

Section 1.44 Palmdale-Lancaster Segments. The Commission's Palmdale to Lancaster Segment shall be the strip of land 40 feet wide purchased by the Commission from the Railroad

as of the date hereof between Palmdale Junction and Lancaster. The Railroad's Palmdale to Lancaster Segment shall be the Railroad's main line between Palmdale Junction and Lancaster.

Section 1.45 Peak Commuter Period or Peak Commuter Periods. The period from 5:00 a.m. to 9:00 a.m. and the period from 4:00 p.m. to 9:00 p.m., in each case Pacific Daylight Time or Pacific Standard Time, as applicable.

Section 1.46 Rail Freight Service. The operation of (i) Trains which consist solely of locomotives or locomotives with freight cars, whether loaded or empty, which are used to provide local rail freight service or overhead rail freight service, (ii) Non-Revenue Equipment of the Railroad, and (iii) any other related freight service activity, such as loading, unloading, repositioning of freight locomotives or freight cars, inspection or weighing of freight cars, maintenance or rehabilitation of tracks or any rail equipment or facilities on the Shared Use Facilities that are used for such service.

Section 1.47 Railroad. The Railroad and any permitted successor or assign of the Railroad.

Section 1.48 Railroad's Agreed Annual Share. Defined in Section 5.3 of this Agreement.

Section 1.49 Railroad Special Trains. Freight customer Trains, board of directors Trains, employee excursion Trains, or Trains with government officials (including business cars at the end of Freight Trains) operated by the Railroad on a non-revenue basis.

Section 1.50 Railroad Timetable. The numbered and dated publication of the Railroad however then designated and then currently in effect at any point in time on or after the date of execution of this Agreement that contains instructions relating to the movement of Trains, engines or equipment and other essential information related thereto. The current version of such publication as of the date of execution of this Agreement is Pacific Region Timetable No. 1, dated October 25, 1992 and Southwest Region Timetable No. 1, dated October 25, 1992.

Section 1.51 Right-of-Way. All real property and real property rights owned by the Commission in Los Angeles County making up a contiguous rail right-of-way from and including the Alhambra Junction north to and including Palmdale Junction.

Section 1.52 Santa Clarita. MP 448.55 on the Saugus Line.

Section 1.53 Santa Clarita-Palmdale Segment. The portion of the Saugus Line between and including Santa Clarita and Palmdale Junction.

Section 1.54 Saugus Line. The Shared Use Tracks between and including the Alhambra Junction and Palmdale Junction, excluding the Glendale Siding.

Section 1.55 Section 403(b) Service. Service provided by Amtrak pursuant to Section 403(b) of the Rail Passenger Service Act of 1970, as amended (45 U.S.C. § 563(b)).

Section 1.56 Shared Use Facilities. The Shared Use Tracks, all improvements relating thereto, all improvements used in rail service located within the Right-of-Way as of the date of execution of this Agreement, all bridges and Signal Systems for any of the foregoing, the LAUPT Bridge, and all other Tracks and other facilities constructed pursuant to any provisions of this Agreement except, unless otherwise agreed to in the future by the Commission and the Railroad, all passenger stations, passenger loading platforms and layover facilities hereafter constructed by the Commission. The Shared Use Facilities shall not include the Glendale Siding and the yard, industrial, switching and storage tracks identified in Exhibit 1.56 attached hereto.

Section 1.57 Shared Use Tracks. All existing main line Tracks, Crossovers and passing sidings between and including the Alhambra Junction and Palmdale Junction, excluding the Glendale Siding; and future main line Tracks, Crossovers and passing sidings constructed over the term of this Agreement pursuant to Sections 2.3, 2.4, 2.5 and 2.7.

Section 1.58 Signal System. A system that includes all of the wayside block signals and other signal equipment required for either CTC or ABS and all of the Crossing Warning Systems installed at road related grade crossings.

Section 1.59 Taylor Yard. The railyard located along the east bank of the Los Angeles River extending generally from Riverside Drive at its southern end to Fletcher Drive at its northern end.

Section 1.60 Tracks. Track structure and all appurtenances thereto, including rail and fastenings, switches and frogs complete, bumpers, ties, ballast, roadbed, embankment, signals, bridges, trestles, culverts or any other structures or things necessary for support of and entering into construction thereof, and, if any portion thereof is located in a thoroughfare, pavement, crossing planks and other similar materials or facilities used in lieu of pavement or other street surfacing material at vehicular crossings of tracks, culverts, drainage facilities, crossing warning devices, and any and all work required by lawful authority in connection with

construction, renewal, maintenance and operation of said track structures and all appurtenances thereof.

Section 1.61 Trains. A locomotive unit or car, or more than one such unit or car coupled, with or without cars, which are at any time used on the Shared Use Facilities. Any reference herein to any Trains or equipment of or used by a party shall include Trains or equipment of or used by such party's Operator.

Section 1.62 Tunnels. The Saugus Line Tunnels (No. 18, 19, and 25) and all tracks lying within said tunnels and between Tunnels 18 and 19. The west end of Tunnel 18 is located at MP 436.74 and the east end of Tunnel 19 is located at MP 437.56. The west end of Tunnel 25 is located at MP 454.82 and the east end is located at MP 456.57.

Section 1.63 Ventura Shared Use Agreement. The Shared Use Agreement (Ventura Line) dated the date hereof among the Railroad, the Commission and the Ventura County Transportation Commission.

ARTICLE II SHARED USE FACILITIES

Section 2.1 Statement of Purpose. The intent of the parties in entering into this Agreement is to set forth their respective rights and obligations concerning operation of the Saugus Line after its acquisition by the Commission, to provide for efficient and timely Commission Rail Service and Amtrak Service both now and in the future, and to preserve the Railroad's Rail Freight Service both now and in the future on a service-competitive basis.

Section 2.2 Access and Use.

(a) Subject to the terms hereof, Railroad reserves from the interests sold by Railroad to the Commission by deeds of even date herewith and the Commission confirms unto Railroad an easement and trackage rights on and over the Shared Use Facilities to provide Rail Freight Service as set forth herein. The Railroad retains any and all duties, responsibility and obligations arising under the Interstate Commerce Act which require Railroad to serve its existing and any future rail shippers, it being understood and agreed that nothing set forth herein or in said deeds or easement shall obligate or require the Commission to assume, adopt or acquire any duties, liabilities, responsibilities or obligations to provide any Rail Freight Service whatsoever to any of Railroad's current or future shippers. Nothing in this Agreement shall be construed as granting or reserving to the Railroad any interest or right in the Right-of-Way other than the rights expressly provided herein.

The Commission reserves the right to use the Right-of-Way for any purpose other than providing freight service (except for the operation of Commission Non-Revenue Equipment), provided that such use does not interfere with the Railroad's ability to provide service-competitive Rail Freight Service.

(b) During the Peak Commuter Periods the Railroad shall have no right to use any portion of the Shared Use Facilities which has a single main line Track, except for the following which shall be scheduled and dispatched as provided in Article IV of this Agreement:

- (i) The Railroad's Freight Trains shall have the right to follow the last scheduled peak direction Commission Train during each Peak Commuter Period so long as such Freight Train will be in the clear at least 10 minutes prior to a meet.
- (ii) The Railroad's overhead Freight Trains moving in the predominant direction of Commission Rail Service that enter the Shared Use Facilities before the start of a Peak Commuter Period shall have the right to complete their moves through the Shared Use Facilities so long as such Freight Trains (A) maintain normal operating speed sufficient to prevent delay of the Commission Trains following such Freight Trains, and (B) will be in the clear at least 10 minutes prior to a meet.
- (iii) In addition to those Trains permitted by clauses (i) and (ii) above, the following overhead Freight Trains moving in the predominant direction of Commission Rail Service during a Peak Commuter Period shall have the right to use the Shared Use Facilities during such Peak Commuter Period, provided such Trains have sufficient power to permit them to maintain a normal operating speed sufficient to prevent delay of the Commission Trains following such Freight Trains, and provided further they will not unreasonably interfere with scheduled Commission Rail Service:
 - (1) Trains scheduled for arrival at the Shared Use Facilities before the beginning of a Peak Commuter Period, but which arrive late, may use the Shared Use Facilities during that Peak Commuter Period, except that only one such late

Train shall be permitted on the Saugus Line during each Peak Commuter Period.

- (2) During the years 1997 through 1999, in addition to the late Trains permitted by clause (1) above, the Railroad shall be permitted to schedule one Train (subject to the Commission's reasonable consent as to time) on the Saugus Line during each Peak Commuter Period.
- (3) During the year 2000 and thereafter, in addition to the late Trains permitted by clause (1) above, the Railroad shall be permitted to schedule two Trains on the Saugus Line (subject to the Commission's reasonable consent as to times) during each Peak Commuter Period.
- (4) After the year 2003, in addition to the late Trains permitted by clause (1) above and the scheduled Trains permitted by clause (3) above, the Commission shall negotiate with the Railroad to permit the scheduling of more Freight Trains during the Peak Commuter Periods as a need therefor is demonstrated, and if the parties cannot agree on such additional schedules, the matter shall be submitted to arbitration in accordance with Article VIII.

The Railroad shall pay to the Commission a penalty, as set forth on Exhibit 2.2(b) attached hereto, if the additional use of the Shared Use Facilities by the Railroad during the Peak Commuter Periods contemplated by this clause (iii) cause delays in scheduled Commission Rail Service.

(c) At times other than the Peak Commuter Periods, the Railroad shall have the right to use any portion of the Shared Use Facilities which has a single main line Track for Freight Trains scheduled in accordance with Section 4.1(b), subject to the dispatching priorities contained in Article IV .

(d) Any portion of the Shared Use Facilities which now or in the future has two or more main line Tracks shall be operated as follows: (i) the Commission and the Railroad both shall have the shared use at all times of all main line Tracks constituting that portion of the Saugus Line having two or more main line Tracks and the related Shared Use Facilities and (ii) the Commission and the Railroad both shall have the shared use at all times of any Crossovers and Tunnels within or contiguous to

any portion of the Saugus Line having two or more main line Tracks, subject in the case of each of (i) and (ii) to the dispatching priorities contained in Article IV and provided that, during the Peak Commuter Periods, the Railroad may not conduct local freight service (which does not include the movement of locomotive without cars to or from Taylor Yard) except for the following: (i) time sensitive Trains to and from the General Motors auto plant located at GEMCO yard or any successor plant at the same location, and (ii) other local Freight Trains that do not, in the reasonable judgment of the Commission, delay scheduled Commuter Rail Service.

(e) The Railroad's employees, agents and designees shall have access to the Shared Use Facilities in connection with the Railroad's Rail Freight Service; provided however, this right of access shall not be deemed to require the Commission to take any actions or expend any funds to enable such persons to exercise such right of access, and provided further, such access shall not unreasonably interfere with Commission Rail Service.

(f) The Commission agrees that the Railroad has and shall have the exclusive right to use existing and future Shared Use Facilities for Rail Freight Service; provided however, that the Commission may move Non-Revenue Equipment of the Commission between the Commission's non-contiguous line segments.

(g) The Peak Commuter Periods shall not apply to the Saugus Line on days when the Commission does not have scheduled operations on that line during Peak Commuter Periods or to any portion of the Saugus Line on which the Commission is not conducting scheduled operations. The Commission may commence scheduled operations on all or any portion of the Saugus Line during what would be the Peak Commuter Periods of any day but for the application of the preceding sentence. On such commencement of such scheduled operations, the Peak Commuter Periods shall apply to the Saugus Line or such portion thereof on such day.

(h) The Railroad or any Operator designated by the Railroad shall have the right to use the existing and future Shared Use Facilities only for Rail Freight Service and Railroad Special Trains. The Commission shall use, or permit the use of, the Shared Use Facilities only for Commission Rail Service, Amtrak Service and the Railroad's Rail Freight Service.

(i) The Commission grants the Railroad trackage rights on and over and continued access to and use of the LAUPT Bridge and connecting Tracks described on Exhibit 2.2(i) attached hereto, to provide Rail Freight Service to Capitol Milling Company, for access to and from the Railroad's Cornfield Yard and for Railroad Special Train access to LAUPT. The management, operation and maintenance of such LAUPT Bridge and Track shall at all times be under the direction and control of the Commission or its Operator and the movement of trains, cars and locomotives

over and along such Tracks shall at all times be subject to the reasonable direction and control of the Commission. At the Commission's sole option, the Commission may elect to provide to the Railroad on a temporary or permanent basis alternative trackage rights of comparable utility in order for the Railroad to provide Rail Freight Service to Capitol Milling Company, to have access to and from the Railroad's Cornfield Yard and to have Railroad Special Train access to LAUPT. In the event such permanent alternative trackage rights are provided to the Railroad, the Railroad's trackage rights on and over the LAUPT Bridge and connecting Tracks described on Exhibit 2.2(i) shall terminate. In the event such temporary alternative trackage rights are provided to the Railroad, the Railroad's trackage rights on and over the LAUPT Bridge and connecting Tracks described on Exhibit 2.2(i) shall be suspended during such time as such alternative trackage rights are provided. The Railroad's trackage rights described herein to provide Rail Freight Service to Capitol Milling shall terminate at such time as the Railroad is no longer providing Rail Freight Service to Capitol Milling Company. The Railroad's trackage rights described herein for access to and from the Railroad's Cornfield Yard shall terminate at such time as the Railroad is no longer using Cornfield Yard.

(j) There shall be no Intercity Service north of Burbank Junction, except as may be required by law.

(k) Railroad Special Trains may be operated on the Saugus line only at times other than Peak Commuter Periods and subject to scheduling and operating times reasonably acceptable to the Commission and which do not interfere with Commission Rail Service.

Section 2.3 Construction and Use in the Right-of-Way.

(a) The Commission shall have the right to remove, relocate or modify any existing improvements lying within the Right-of-Way so long as such removal, relocation or modification does not unreasonably interfere with the Railroad's Rail Freight Service. Upon at least 30 days' notice from the Commission to the Railroad, the Commission may remove at its cost and expense any industrial track switch not used for a period of 15 months if such removal would not violate any legal obligation of the Railroad, provided that the Commission shall not remove any such switch if the Railroad shall elect in writing to pay to the Commission an annual maintenance fee in the amount of \$2,500 for each such switch during the period such switch is out of use. For the purposes of the preceding sentence, a switch for which the Railroad has elected to pay the annual maintenance fee shall be deemed to continue to be out of use unless and until such time as the Railroad shall have transported at least 10 freight cars across such switch in a 12 month period. Such maintenance fee shall be in addition to all other amounts payable by the Railroad

to the Commission hereunder and shall be adjusted for inflation in accordance with the methodology of Section 5.3(c).

(b) Neither the Commission, its successors or assigns, nor its designated Operator shall at any time use the Right-of-Way to move any freight or provide any freight services or for any other freight purposes except for the limited purpose of moving Non-Revenue Equipment of the Commission between the Commission's non-contiguous line segments.

(c) The Railroad shall have the right to require the Commission to construct at grade Crossovers at the Railroad's sole cost and expense subject to the prior written approval of the Commission, which approval shall not be unreasonably withheld, to cross the Right-of-Way and the Commission's Palmdale-Lancaster Segment to provide Rail Freight Service to the Railroad's existing and future freight customers at existing and future sites and to use other rail facilities existing as of the date of execution of this Agreement. Approval by the Commission shall not be deemed to have been unreasonably withheld if the proposed improvements would conflict with the then existing or planned use of the Right-of-Way or the Commission's Palmdale-Lancaster Segment by the Commission unless the Railroad is required by applicable law to construct the improvements. In that event, the Commission, at the sole cost and expense of the Railroad, shall construct that portion of the improvements located within the Right-of-Way or the Commission's Palmdale-Lancaster Segment, and the Railroad shall operate its Rail Freight Service on such improvements, in a manner that minimizes interference with the then existing or planned use of the Shared Use Facilities or the Commission's Palmdale-Lancaster Segment by the Commission. In addition to all other amounts payable by the Railroad to the Commission hereunder, the Railroad shall pay to the Commission an annual fee in the amount of \$2,500 for each Crossover located within the Right-of-Way or the Commission's Palmdale-Lancaster Segment constructed pursuant to this Section 2.3(c). Such fee shall be adjusted for inflation in accordance with the methodology of Section 5.3(c).

(d) The Railroad shall have the right to require the Commission to construct trackage on the Right-of-Way to connect sidings or main line Tracks and thereby complete or lengthen multiple main line tracked segments of the Saugus Line at the Railroad's sole cost and expense and subject to prior written approval by the Commission, which approval shall not be unreasonably withheld. Approval by the Commission shall not be deemed to have been unreasonably withheld if the proposed improvements would conflict with the then existing or planned use of the Right-of-Way by the Commission unless the Railroad is required by applicable law to construct the improvements. In that event, the Commission, at the sole cost and expense of the Railroad, shall construct that portion of the improvements located within the Right-of-Way in a manner that minimizes

interference with the then existing or planned use of the Shared Use Facilities by the Commission. Any such trackage shall be constructed to the same maximum grade and standards of utility as the multiple main line tracked segments to be completed or lengthened.

Section 2.4 Commission's Additions and Improvements.

The Commission agrees to pay for the following additions and improvements (which have been determined to be important to existing intercity service by the LOSSAN 2 report), which shall be completed by the Railroad within 60 days after the execution of this Agreement:

- (i) Bi-directional signalization and adjustment of existing automatic warning devices for the Main Tracks No. 1 and No. 2 between Burbank Junction and the Commuter Rail Interlocker.
- (ii) CTC between Burbank Jct. and the Commuter Rail Interlocker.
- (iii) Universal (double reversing) Crossover at the Commuter Rail Interlocker and a single Crossover at Glendale (MP 476.4).

Section 2.5 Additional Improvements.

The Commission shall permit additional improvements to the Shared Use Facilities reasonably requested by the Railroad and approved by the Commission, which approval shall not be unreasonably withheld. Approval by the Commission shall not be deemed to have been unreasonably withheld if the proposed improvements would conflict with the then existing or planned use of the Right-of-Way by the Commission, unless the Railroad is required by applicable law to construct the improvements. In that event, the Commission, at the sole cost and expense of the Railroad, shall construct that portion of the improvements located within the Right-of-Way in a manner that does not unreasonably interfere with the then existing or planned use of the Shared Use Facilities by the Commission.

Section 2.6 Contractors and Personnel.

The Commission or its Operator shall use its own contractors to construct any of the additions and improvements provided for in this Agreement. The Commission shall promptly complete the additions and improvements and their construction shall not unreasonably interfere with the Railroad's Rail Freight Service. The Commission shall provide necessary flagmen and other personnel to assure safe operation of rail facilities in connection with such construction. The Railroad shall pay the full cost of any person required under the immediately preceding sentence in connection with the construction of any additions or betterments constructed at the expense of the Railroad, and any

of its own personnel or additional personnel designated by the Railroad which it elects to have present during construction (whether or not such construction is performed at the expense of the Railroad). The Commission shall require its contractors to maintain insurance in accordance with the Commission's customary requirements for contractors working on its rail lines. The Railroad shall be named as an additional insured on each such insurance policy.

Section 2.7 Joint Projects. The Commission and the Railroad shall cooperate in all future road grade separation projects for the Shared Use Facilities. The Railroad shall contribute to the non-federal or state share of each such project in proportion to its percentage of total train movements on the subject crossing measured during the 90-day period ending on the date the grade separation is approved for construction, except that the Railroad shall not be required to contribute toward, and the Commission shall pay all of the cost imposed upon the Railroad for, any future road grade separation projects which (i) would not be required if the Commission were not conducting Commission Rail Service on the Shared Use Facilities or (ii) are initiated or proposed by the Commission.

Section 2.8 Location of Passenger Facilities.

(a) The construction and operation of the Commission's passenger loading facilities shall not unreasonably interfere with the Railroad's Rail Freight Service.

(b) The Commission shall be solely responsible for the design and construction of passenger stations, platforms and other passenger facilities, and the Railroad shall bear no responsibility, nor have rights of approval or oversight, for the design or construction of such facilities. The Commission will design and construct its passenger loading facilities in accordance with then current AAR standards.

Section 2.9 Removal of Improvements. Except as provided in Section 2.3(a), any addition or improvement on the Shared Use Facilities constructed after the date hereof that is owned or funded by the Railroad may not be removed by the Commission without the Railroad's approval and, upon removal, its re-use or salvage value shall remain solely with the Railroad. With respect to any additions or improvements jointly owned by the Railroad and the Commission, the re-use or salvage value shall be allocated between the Railroad and the Commission in accordance with their ownership interests. Removal costs shall be borne by the party owning the additions or improvements, except as provided in Section 2.3(a).

Section 2.10 Ownership.

(a) The Commission shall own all Shared Use Facilities existing at the date of execution of this Agreement.

(b) The Commission shall own all future improvements located on the Right-of-Way that are constructed or installed at the Commission's sole cost and expense.

(c) The Railroad shall own all future improvements that are constructed at the sole cost and expense of the Railroad.

(d) The ownership of any future improvements funded jointly by the Commission and the Railroad shall be as mutually agreed to by them.

Section 2.11 Mission Tower. The Railroad agrees to convey to the Commission all of the Railroad's right, title and interest in and to Mission Tower upon the completion of construction by the Commission of (i) Tracks from the LAUPT to the Commuter Rail Interlocker (west of the existing Tracks connecting such points) and (ii) a new bridge over the Los Angeles River. The Railroad shall promptly thereafter execute and record any and all such documents as shall be required to effectuate such conveyance. Notwithstanding the termination of the Mission Tower Agreement as between the parties hereto, the Commission and the Railroad agree as follows:

(a) The Railroad shall pay to the Commission an amount equal to the share of the maintenance costs which the Railroad would have been required to pay under Article VIII, Section 3 of the Mission Tower Agreement had it not been so terminated. At the request of either party, the number of Units (as defined in the Mission Tower Agreement) owned by each of the parties shall be reviewed annually to redetermine the proper allocation of such costs in accordance with the provisions of subparagraph (b) of such Article VIII, Section 3.

(b) Within 30 days following the date of this Agreement, the parties shall determine the total and respective parties' Train movements through the Mission Tower control area during a consecutive seven day period. Until such time as the Commission relocates the dispatching of the Mission Tower control area to a centralized dispatching facility, the Railroad shall pay to the Commission a percentage of the dispatching costs for the Mission Tower control area equal to the Railroad's percentage of total Train movements as determined under the preceding sentence. At the request of either party, the relative percentages shall be redetermined annually in accordance with the methodology of the first sentence of this subparagraph (b).

(c) After such time as the Commission relocates the dispatching of the Mission Tower control area to a centralized dispatching facility, the Railroad shall pay to the Commission for the dispatching of the Mission Tower control area an amount equal to the Railroad's fair share of such dispatching costs taking into account the other amounts that the Railroad is paying to the Commission for dispatching, personnel and services, provided that the amount required to be paid by the Railroad under this subparagraph (c) shall in no event exceed the amount which the Railroad was required to pay under subparagraph (b) immediately prior to such relocation.

Section 2.12 Dayton Tower. On or before May 1, 1993, the Railroad shall vacate Dayton Tower.

Section 2.13 Glendale Siding. The Railroad shall maintain the Tracks on the Glendale Siding and install split point derails for both ends of the Glendale Siding. The Railroad may extend the southern terminus of the Glendale Siding by up to approximately 5,000 feet to MP 479.02, and, upon notice by the Railroad to the Commission, the Railroad shall construct, at the Railroad's sole cost and expense, such extension of the Glendale Siding on the portions of the Right-of-Way that may be affected by such southerly extension of the Glendale Siding. Such extension shall be located and constructed in such a way as to minimize interference with the existing or planned use for the Right of Way and Shared Use Facilities by the Commission. On and after the fifth anniversary hereof, upon not less than one year's prior written notice by the Commission to the Railroad that abandonment of all or a specified portion of the approximately 2,000 feet of the Glendale Siding north of MP 477.32 is required in connection with the Commission's planned light rail operations and related facilities, the Railroad shall promptly abandon its use of such portion, with the result that the Glendale Siding shall be not less than approximately 9,000 feet long (from MP 477.32 to MP 479.02). In connection with such abandonment, the Commission at its cost and expense (i) shall during such period reconnect the unabandoned portion of the Glendale Siding to the Shared Use Tracks, and (ii) shall have the right, but not the duty, to remove the abandoned portion of the Glendale Siding.

Section 2.14 Crew and Equipment Changes; Parking. The Railroad may not conduct any crew and equipment changes for its Trains (other than "step on-step off" crew changes which do not interfere with Commission Rail Service) on either (i) any portion of the Saugus Line that has only one main line Track (other than any portion of the Santa Clarita-Palmdale Segment for which a Changeover Date has not occurred), or (ii) the Alhambra-CRI Segment. The Railroad may not park any of its Trains on any main line Track.

ARTICLE III
OPERATIONS

Section 3.1 General.

(a) Subject to the provisions of Article IV regarding scheduling and dispatching and Article V regarding maintenance and repair, the Commission shall have exclusive control over the operation of the Shared Use Facilities and shall operate the Shared Use Facilities in a safe, reliable and on-time manner and in a manner that minimizes disruption of the Railroad's Rail Freight Service scheduled in accordance with Section 4.1.

(b) The Commission shall provide to the Railroad normal performance and incident reports and such other information and reports as the Railroad may reasonably request.

(c) The Railroad and the Commission (directly or through its Operator) each shall be responsible for providing and operating its own Trains on the Shared Use Facilities.

Section 3.2 Personnel.

(a) The Commission shall maintain or cause its Operator to maintain an adequate and experienced staff to operate, maintain and repair the Shared Use Facilities required to be operated or maintained by it and to operate the Commission's Trains that use the Shared Use Facilities in accordance with the Commission's obligations under this Agreement.

(b) The Railroad shall maintain an adequate and experienced staff sufficient to operate, maintain and repair the Shared Use Facilities required to be operated or maintained by it and to operate the Railroad's Trains that use the Shared Use Facilities in accordance with the Railroad's obligations under this Agreement. Such staff shall demonstrate to the Commission's reasonable satisfaction that they have sufficient knowledge of the Commission's rules and procedures for operations on the Shared Use Facilities and, to the extent legally required, shall meet FRA requirements.

(c) At the Railroad's sole cost and expense, the Commission shall provide to such staff of the Railroad and the Railroad's Operator such training as is necessary regarding Commission's rules and procedures for operations on the Shared Use Facilities.

Section 3.3 Operator. The Commission's rights with respect to use of the Shared Use Facilities may be exercised through an Operator acting as a contractor pursuant to a written agreement between the Commission and the Operator. Any such Operator shall be obligated to comply with all the provisions of

this Agreement, including Articles II, III and IV regarding the exercise of such rights to use of the Shared Use Facilities, and the Commission shall remain responsible for such compliance. The Railroad's rights with respect to the Shared Use Facilities may be exercised through the Railroad or through a single Operator acting as a contractor pursuant to a written agreement between the Railroad and the Operator, provided that the Railroad's rights may not be exercised by both the Railroad and an Operator. The Railroad shall consult with the Commission not less than 45 days in advance regarding the designation of an Operator. Any such Operator shall be a financially and operationally capable party, and at the Commission's request, the Railroad shall provide reasonable evidence to the Commission that the proposed Operator is financially and operationally capable. Any Operator of the Railroad also shall be obligated to comply with all of the provisions of this Agreement, including Articles II, III and IV regarding the exercise of the Railroad's rights to use of the Shared Use Facilities, and the Railroad shall remain responsible for such compliance.

Section 3.4 Operating Equipment.

(a) Neither the Commission nor the Railroad shall have any responsibility for inspecting, maintaining, servicing or repairing any locomotives, hi-rail vehicles, passenger cars, freight cars and other equipment used by the other party or its Operator on the Shared Use Facilities, but all such equipment shall at all times comply with applicable FRA, AAR, federal, state, and local requirements and with the Commission's reasonable standards for locomotives and cars permitted to operate over the Commission's Tracks, which standards of the Commission shall be identified and specified in writing to the Railroad.

(b) All Trains used by the Commission or the Railroad or their respective Operators on the Shared Use Facilities shall comply with the provisions of the Federal Locomotive Inspection Act and the Federal Safety Appliance Acts and with all regulations adopted pursuant to either. Each of the Commission and the Railroad and their respective Operators also shall comply with any other applicable laws, regulations or rules, state or federal, covering the operation, condition, inspection or safety of the Trains operated by it on the Shared Use Facilities.

Section 3.5 Operating Standards.

(a) The Commission and the Railroad shall operate their respective Trains on the Shared Use Facilities in compliance at all times with the reasonable rules, regulations, instructions and orders published by the Commission from time to time, provided such rules, regulations, instructions and orders must be consistent with the terms of this Agreement. Each of the Commission and the Railroad and all personnel of either

(including personnel of their respective Operators) who are present on their respective Trains using the Shared Use Facilities at any time shall comply fully with all applicable laws, regulations or rules, including licensing, whether federal, state or local, covering the operation, maintenance, condition, inspection, testing or safety of their respective Trains or of personnel employed in the maintenance and operation of any of their respective Trains, including the U.S. Department of Transportation regulations on the control of alcohol and drug use. The Railroad may (i) adopt supplemental rules applicable to its operations on the Shared Use Facilities to the extent that such rules do not otherwise conflict with the provisions of this Section 3.5(a) and (ii) request modification of the applicable rules, regulations, instructions and orders of the Commission, which modifications may be made from time to time by the mutual agreement of the parties hereto.

(b) The printing and distributing of new timetables, timetable supplements or other related publications by the Commission shall be at the Commission's sole cost and expense. The printing and distributing of new Railroad Timetables, timetable supplements or other related publications by the Railroad shall be at the Railroad's sole cost and expense.

(c) Each of the Commission and the Railroad, at its sole cost and expense, shall obtain, install and maintain in all locomotives and hi-rail vehicles used by it or its Operator on the Shared Use Facilities such communication equipment as is necessary to allow its Trains to communicate with dispatching and signaling facilities for the Shared Use Facilities. The party in control of dispatching under the terms of this Agreement at any time may not adopt, except by mutual agreement with the other party, new communication systems or Signal Systems for use on the Shared Use Facilities which theretofore have not been adopted generally in the railroad industry.

(d) The Commission shall, at least three days in advance or as soon as otherwise practicable, notify the Railroad of any investigation or hearing concerning the violation of any rule, regulation, order or instructions of the Commission by any of the employees of the Railroad or its Operator. Such investigation or hearing may be attended by any official of the Railroad or of its Operator designated by the Railroad, and any such investigation or hearing shall be conducted in accordance with any applicable collective bargaining agreement. The Railroad shall pay the Commission, within 30 days after receipt of bills therefor, the reasonable cost of such investigation or hearing, for which the Commission may contract with a third party to perform any or all of the investigation or hearing transcription activities with the Railroad to pay all costs and expense related thereto.

(e) The Commission shall have the right to exclude from the Shared Use Facilities any employee of the Railroad or its Operator determined to be in violation of the Commission's reasonable rules, regulations, orders or instructions which are in conformity with the provisions of this Agreement. The Railroad shall indemnify, defend and hold harmless the Commission, its affiliates and its and their respective officers, agents and employees from and against any and all claims, liabilities and expenses resulting from such exclusion. If such disciplinary action is appealed by an employee of the Railroad or its Operator to any tribunal lawfully created to adjudicate such cases, and if the decision of such board or tribunal sustains the employee's position, then such employee shall not thereafter be barred from service on the Shared Use Facilities by reason of such occurrence.

Section 3.6 Emergency Operations.

(a) If, by any reason of mechanical failure or for any other cause, the Trains or any locomotives, hi-rail vehicles, passenger cars or freight cars of the Commission or the Railroad or their respective Operators become stalled or disabled on the Shared Use Tracks and are unable to proceed, or fail to maintain the speed required of Trains to meet normal schedules, or if in emergencies crippled or otherwise defective equipment is set out from any such Trains onto the Shared Use Tracks, then the party whose Trains or items of equipment are involved in the incident shall be responsible for furnishing motive power or such other assistance as may be necessary to haul, help or push such equipment or Trains, or to properly move the disabled equipment. By mutual agreement of the parties or upon receipt of reasonable notice from the other party that the response of the party whose Trains or items of equipment are involved in the incident has not been adequate relative to the scheduled uses of the Shared Use Tracks, such other party may render such assistance as may reasonably be required in light of such scheduled uses, and the party whose Trains or items of equipment are involved in the incident shall reimburse the other party, within 30 days after receipt of the bill therefor, for the cost and expense of rendering any such assistance. The costs and expense of services referenced above in this paragraph (a), including loss of, damage to or destruction of any property whatsoever and injury to or death of any person or persons whomsoever resulting therefrom, shall be paid by the party whose Trains or items of equipment are involved in the incident.

(b) If it becomes necessary to make repairs to crippled or defective Trains or related equipment of the Commission or the Railroad or their respective Operators in order to move it from the Shared Use Tracks, such work shall be the responsibility of the party whose Trains or items of equipment are involved in the incident. By mutual agreement of the parties or upon receipt of reasonable notice from the other party that

the efforts of the party whose Trains or items of equipment are involved in the incident to make the repairs are not adequate in light of the scheduled uses of the Shared Use Tracks, such other party may take control of the repairs. If the repairs are performed by the other party, then the party whose Trains or items of equipment are involved in the incident shall reimburse the other party for the cost thereof, within 30 days after receipt of the bill therefor, at the then current AAR dollar rate for labor charges found in the Office Manual of the AAR Interchange Rules.

(c) Whenever the Commission's or the Railroad's Trains on the Shared Use Tracks require rerailling, wrecking service or wrecking train service, the party whose Train is involved shall be responsible for performing such service. Upon mutual agreement of the parties or upon receipt of reasonable notice from the other party that the response whose Train is involved in the incident is not adequate in light of the scheduled uses of the Shared Use Tracks, the other party may take control of such rerailling, wrecking service or wrecking train service as may be required. Whichever party has responsibility for maintenance and repair of the affected Shared Use Tracks under the terms of Article V shall make such repairs to and restoration of the Shared Use Tracks as may be required. The cost and expense of services referenced above in this paragraph (c), including loss of, damage to or destruction of any property whatsoever and injury to or death of any person or persons whomsoever resulting therefrom, shall be paid by the party whose Train is involved in the incident. All equipment and salvage from the same shall be promptly picked up by the party whose Train is involved in the incident or such party's Operator or delivered to the party whose Train is involved in the incident or such party's Operator by the other party, and all costs and expenses, including Customary Additives therefor, incurred by the other party shall likewise be paid to the other party by the party whose Train is involved in the incident. All costs and expenses to be borne under this Section 3.6(c) by the party whose Train is involved in the incident shall be paid within 30 days after receipt of the bills therefor.

Section 3.7 Regulatory Approvals. Each of the Commission and the Railroad shall obtain and maintain all such regulatory approvals as may be required for the conduct of their respective operations on the Shared Use Facilities.

Section 3.8 Claims Handling. Except as otherwise provided in Article VII, the Commission and the Railroad shall each have exclusive responsibility for the provision of claims handling service in connection with any aspect of its operations on the Shared Use Facilities, and in no event shall either or its Operator assert any right to require the other or any of the other's affiliates to provide, or bear any of the costs and expenses arising from, such operations.

Section 3.9 Railroad Police. The Commission and the Railroad shall have exclusive responsibility for the provision of the services of railroad police or law enforcement personnel in connection with their respective operations on the Shared Use Facilities, and in no event shall either or its Operator assert any right to require the other or any of the other's affiliates to provide, or bear any of the costs and expenses arising from, such services.

ARTICLE IV
SCHEDULING AND DISPATCHING

Section 4.1 Scheduling.

(a) The Commission shall determine the schedule of Commission Trains and shall provide such schedules, and any changes thereto, in a timely manner to the Railroad; provided however that the Commission shall not schedule Commission Trains that would unreasonably interfere with the Railroad's Rail Freight Service during times which are not Peak Commuter Periods. As used in this Section 4.1(b), a proposed Commission schedule shall be deemed to unreasonably interfere with the Railroad's Rail Freight Service if such use by the Commission would materially affect the Railroad's ability to provide service-competitive freight service, including time sensitive service, to existing and future customers and to increase its Rail Freight Service to the extent its market will permit. The Railroad shall have the burden of proving that a proposed Commission schedule has materially affected or will materially affect the Railroad's ability to provide service-competitive freight service, including time sensitive service, to existing and future customers or to increase its Rail Freight Service to the extent its market will permit.

(b) The Railroad shall determine the schedule of Freight Trains during Peak Commuter Periods, subject to the limitations of Section 2.2(b) and 2.2(d). The Railroad shall determine the schedule of Freight Trains at all times other than the Peak Commuter Periods, subject to the approval of the Commission, which approval shall not be unreasonably withheld or delayed. As used in this Section 4.1(b), the Commission's refusal to approve a proposed schedule shall be deemed to be unreasonable if such refusal would materially affect the Railroad's ability to provide service-competitive freight service, including time sensitive service, to existing and future customers and to increase its Rail Freight Service to the extent its market will permit. The Railroad shall have the burden of proving that a refusal by the Commission has materially affected or will materially affect the Railroad's ability to provide service-competitive freight service, including time sensitive service, to existing and future customers or to increase its Rail Freight Service to the extent its market will permit.

(c) The Railroad shall determine the schedule of Railroad Special Trains subject to the limitations of Section 2.2(k).

Section 4.2 Dispatching.

(a) The Commission shall at all times have exclusive control over dispatching the Alhambra-Bridge 5 Segment. From and after such time as the Commission reconfigures its signal and radio systems and notifies the Railroad that the Commission is operationally capable of dispatching, the Commission shall have exclusive control over dispatching the Bridge 5-Santa Clarita Segment and the Glendale Siding. The Railroad shall dispatch the Bridge 5-Santa Clarita Segment and the Glendale Siding until such time, and shall dispatch each portion of the Santa Clarita-Palmdale Segment until the Changeover Date applicable thereto. On each such Changeover Date, the Commission shall assume dispatching over the applicable portion of the Santa Clarita-Palmdale Segment.

(b) Dispatching shall be consistent with the schedules determined in accordance with Section 4.1; provided, that the following priorities shall apply:

- (i) As between Commission Trains and intercity passenger Trains, the provisions of Exhibit 4.2(b) attached hereto shall govern.
- (ii) Commission Trains scheduled in accordance with Section 4.1 and operating in revenue service, and Amtrak Trains operating in revenue service, shall be accorded absolute preference and priority over Freight Trains.
- (iii) Empty Commission Trains and Railroad's locomotives not attached to any cars shall receive appropriate priority in order to be in position for the next scheduled revenue assignments of such Trains or locomotives or crews or equipment thereon.
- (iv) Notwithstanding the priorities established by (ii) and (iii) above, Freight Trains shall at no time be required to wait for Commission Trains for more than 15 minutes (A) prior to crossing at Burbank Junction, at the Commuter Rail Interlocker or at other Crossovers within a portion of the Shared Use Facilities that has two or more main line Tracks, or (B) prior to entering Tunnels within or contiguous to a portion of the Shared Use Facilities that has two or more main line Tracks.

- (v) Solely with respect to the Alhambra-CRI Segment, and except for the time periods described in clause (vi) below, the following priorities shall apply in lieu of the priorities set forth in clauses (ii) through (iv) above:
- (1) Commission Trains scheduled in accordance with Section 4.1 and operating in revenue service, and Amtrak Trains operating in revenue service, shall be accorded absolute preference and priority over Freight Trains.
 - (2) Commission Trains not in revenue service shall receive appropriate priority in order to be in position for the next scheduled revenue assignments of such Trains or crews or equipment thereon.
 - (3) Notwithstanding the priorities established by clauses (1) and (2) above, Freight Trains shall at no time be required to wait for Commission Trains for more than 15 minutes prior to being permitted to enter, cross or proceed on the Alhambra-CRI Segment, unless a different priority is required from time to time to relieve congestion at LAUPT; and provided that after completion of the improvements described in clause (vi) below the normal routing of scheduled Commission Trains shall be on such improvements and on the west bank of the Los Angeles River.
 - (4) Freight Trains shall have absolute preference and priority over equipment of the Commission utilizing the Shared Use Tracks to access the Commission's maintenance facility on Parcel B of Taylor Yard and maintenance of way equipment of the Commission and shall not be held or delayed for such equipment, unless a different priority is required from time to time to relieve congestion at LAUPT.
 - (5) Locomotives not attached to any cars shall be accorded "first come, first serve" priority with the Commission Trains in revenue service.

(vi) Solely with respect to the Alhambra-CRI Segment for the period from the date that the Dayton Bridge is removed (which date is estimated to be March 1993) to the date that the Commission completes construction of (x) Tracks from LAUPT to the Commuter Rail Interlocker west of the existing Tracks connecting such points and (y) a new bridge over the Los Angeles River (which date is expected to be August 1993), the following priorities shall apply in lieu of the priorities set forth in clauses (ii) through (v) above:

- (1) Commission Trains scheduled in accordance with Section 4.1 and operating in revenue service, and Amtrak Trains operating in revenue service, shall be accorded absolute preference and priority over Freight Trains.
- (2) Commission Trains not in revenue service shall receive appropriate priority in order to be in position for the next scheduled revenue assignments of such Trains or crews or equipment thereon.
- (3) Notwithstanding the priorities established by clauses (1) and (2) above, (A) at times other than Peak Commuter Periods, Freight Trains shall at no time be required to wait for Commission Trains for more than 15 minutes prior to being permitted to enter, cross or proceed on the Alhambra-CRI Segment, and (B) during Peak Commuter Periods, locomotives not attached to any cars shall at no time be required to wait for Commission Trains for more than 30 minutes prior to being permitted to enter, cross or proceed on the Alhambra-CRI Segment, unless a different priority is required from time to time to relieve congestion at LAUPT.
- (4) During periods other than Peak Commuter Periods, Freight Trains shall have absolute preference and priority over equipment of the Commission utilizing the Shared Use Tracks to access the Commission's maintenance facility on Parcel B of Taylor Yard and maintenance of way equipment of the Commission and

shall not be held or delayed for such equipment, unless a different priority is required from time to time to relieve congestion at LAUPT.

- (5) During periods other than Peak Commuter Periods, Locomotives not attached to any cars shall be accorded "first come, first serve" priority with the Commission Trains in revenue service.

(c) The Commission shall provide employees of the Railroad or its Operator with reasonable access to dispatching facilities to allow monitoring of the dispatching of Trains on the Shared Use Facilities.

(d) The Railroad, at no cost, expense or liability to the Commission, shall negotiate appropriate labor agreements with its employees relating to the termination of dispatching by the Railroad.

(e) Either party providing dispatching over the Saugus Line shall provide such service 24 hours per day, seven days per week.

(f) From and after the date the Commission commences dispatching of the Alhambra-Santa Clarita Segment pursuant to Section 4.2(a), the Railroad shall pay to the Commission the amount of \$83,683 per year for the Commission's dispatching of the Railroad's Trains on the Alhambra-Santa Clarita Segment. In addition, from and after each Changeover Date, the Railroad shall pay to the Commission for dispatching of the Railroad's Trains the amount of \$2,498 per year for each mile of the portion of the Santa Clarita-Palmdale Segment for which the Commission has assumed responsibility on such Changeover Date. All of the amounts described above shall be prorated on a daily basis for any period of time less than a year, and all such amounts shall be paid by the Railroad to the Commission in equal monthly installments.

(g) Disputes over dispatching shall be addressed initially by the appropriate senior officers of each party and, if necessary, shall be resolved by arbitration pursuant to Article VIII. If the arbitrator(s) determine that there has been a material and continuing breach of the dispatching provisions of this Article IV by the party providing dispatching, they may provide for dispatching by the other party or alternating dispatching duties between the parties (if these measures are practicable), or undertake any other reasonable measures to ensure compliance with these dispatching requirements. In connection with any such change in dispatching duties as may be ordered by the arbitrator(s), the arbitrator(s) shall equitably

adjust the provisions of this Agreement relating to the payment for dispatching services.

ARTICLE V
MAINTENANCE AND REPAIR

Section 5.1 Maintenance Standards. Unless otherwise agreed by the parties hereto, existing Shared Use Tracks shall be maintained at such level as to allow continued operation for existing types of service in existence on the date of execution of this Agreement at the train speeds shown in the applicable Railroad Timetable and applicable General Orders that are effective on the date of the execution of this Agreement and attached hereto as Exhibit 5.1. Unless otherwise agreed by the parties hereto, future Shared Use Tracks shall be maintained at such level as to allow continued operation at the same train speeds as those of the adjacent Shared Use Tracks. All other Shared Use Facilities shall be maintained and repaired to keep them in a safe and reliable condition and at least at the levels of utility, maintenance and repair existing on the date of execution of this Agreement. Repair and maintenance shall be done in a manner that minimizes disruptions to operations of both the Commission and the Railroad; provided, that night maintenance shall not normally be required.

Section 5.2 Maintenance Responsibilities.

(a) The Commission shall have the exclusive control over the maintenance and repair of, and shall maintain and repair the Shared Use Facilities on, the Alhambra-Santa Clarita Segment immediately following the effective date of this Agreement; provided that the Railroad shall make its maintenance crews available during a transition period of 15 days following such effective date to provide for an orderly transition of maintenance responsibilities. The Railroad shall have exclusive control over the maintenance and repair of, and shall maintain and repair the Shared Use Facilities on each portion of the Santa Clarita-Palmdale Segment until the Changeover Date applicable thereto. On each such Changeover Date, the Commission shall assume exclusive control over the maintenance and repair of, and shall maintain and repair, the Shared Use Facilities on the applicable portion of the Santa Clarita-Palmdale Segment; provided that the Railroad shall make its maintenance crews available during a transition period of 15 days following each such Changeover Date to provide for an orderly transition of maintenance responsibilities.

(b) If at any time the Commission shall discontinue commuter service on a portion of the Shared Use Facilities for a period of three months or more, then the Railroad shall have the right to assume all maintenance and repair of such portion of the Shared Use Facilities upon at least 60 days' prior written notice

to the Commission. In such case the Railroad's Agreed Annual Share (as defined in subsection 5.3(a)) shall be equitably adjusted based upon the provisions of Section 5.3 and the methodology of Exhibit 5.2(b). Upon any such assumption, the Commission shall be relieved of its maintenance and repair obligations on such portion of the Saugus Line. At such time as the Commission resumes Commission Rail Service on such portion of the Saugus Line, the Commission, upon 30 days prior written notice to the Railroad, may assume maintenance responsibilities over such portion of the Saugus Line upon the resumption of its operations. The Railroad's Agreed Annual Share shall be readjusted to reflect the Commission's assumption of such maintenance responsibilities.

(c) All disputes as to the fulfillment of the other parties' maintenance and repair obligations as set forth in this section 5.2 shall be submitted to arbitration pursuant to Article VIII, and the remedies of damages and specific performance shall be available therein.

Section 5.3 Cost and Expense.

(a) Until the first Changeover Date, the Railroad's Agreed Annual Share shall be \$728,425 (subject to adjustments specified in paragraphs (c) and (d) of this Section 5.3), which is the sum of two components: (i) the "Car-Mile Component" in the amount of \$568,162 subject to adjustments for inflation and car volume as such adjustments are specified in paragraphs (c) and (d) of this Section 5.3, and (ii) the "Route-Mile Component" in the amount of \$160,263, subject to adjustments for inflation as such adjustments are specified in paragraph (c) of this Section 5.3.

* Upon the occurrence of a Changeover Date covering less than all of the Santa Clarita-Palmdale Segment, the Railroad's Agreed Annual Share shall be increased by an amount equal to \$20,478 per mile (subject to adjustments specified in paragraphs (c) and (d) of this Section 5.3), which is the sum of two components: (i) the "Car-Mile Component" in the amount of \$16,683 per mile, subject to adjustments for inflation and car volume as such adjustments are specified in paragraphs (c) and (d) of this Section 5.3, and (ii) the "Route-Mile Component" in the amount of \$3,795 per mile, subject to adjustments for inflation as such adjustments are specified in paragraph (c) of this Section 5.3.

After the final Changeover Date with respect to all portions of the Santa Clarita-Palmdale Segment, the Railroad's Agreed Annual Share for the Saugus Line shall be \$1,450,273 (\$728,425 for the Alhambra-Santa Clarita Segment and \$721,848 for the Santa Clarita-Palmdale Segment, subject to adjustments specified in paragraphs (c) and (d) of this Section 5.3), which is the sum of two components: (i) the "Car-Mile Component" in the amount of \$1,156,236 (\$568,162 for the Alhambra-Santa Clarita

Segment and \$588,074 for the Santa Clarita-Palmdale Segment), subject to adjustments for inflation and car volume as such adjustments are specified in paragraphs (c) and (d) of this Section 5.3, and (ii) the "Route-Mile Component" in the amount of \$294,037 (\$160,263 for the Alhambra-Santa Clarita Segment and \$133,774 for the Santa Clarita-Palmdale Segment), subject to adjustments for inflation as such adjustments are specified in paragraph (c) of this Section 5.3.

All adjustment required due to any Changeover Date shall become effective on and as of such Changeover Date.

The Railroad's Agreed Annual Share shall constitute its total required contribution for the maintenance, repair and enhancement of the portion of the Shared Use Facilities maintained by the Commission, including capital projects thereon and additions and betterments thereto, except for the costs, fees and expenses described in paragraph (b) of this Section 5.3. The maintenance, repair and enhancement expenses referred to in this paragraph (a) of Section 5.3 shall include both expensed and capitalized items, and maintenance, repair and enhancement expenses and other items charged against the Railroad's Agreed Annual Share for work performed on the Shared Use Facilities by the Commission also shall include Customary Additives and Materials Additives. The Commission shall be responsible for all costs and expenses incurred by it for maintenance, repair and enhancement of the Shared Use Facilities in excess of the Railroad's Agreed Annual Share, except as described in paragraph (b) of this Section 5.3. For example, if the Railroad's Agreed Annual Share for a given year was \$728,425 and maintenance, repair and enhancement expenses, including capital projects and additions and betterments (excluding expenses described in paragraph (b) of this Section 5.3), incurred by the Commission during that year, plus Customary Additives and Materials Additives, totalled \$1,000,000, the Commission would be responsible for \$271,575.

The Railroad shall contribute the Railroad's Agreed Annual Share for the Shared Use Facilities on a monthly basis so long as this Agreement is in force. The Commission shall send the Railroad a monthly statement that sets forth the maintenance, repair and enhancement expenses incurred by the Commission during the prior month and a cumulative total for such expenses incurred during the year up to the end of such month.

(b) Except as provided in this paragraph (b), capital projects and production programs on the Shared Use Facilities, including additions and betterments to the Shared Use Facilities, shall be paid for by the Commission. The Railroad shall pay the Commission, and there shall be no credit against the Railroad's Agreed Annual Share, for (i) any capital projects on the Shared Use Facilities (including additions and betterments to the Shared Use Facilities) initiated by the Railroad, or (ii) any other item

the cost of which this Agreement expressly provides for the Railroad to pay or share. In addition to the Railroad's Agreed Annual Share, the Railroad shall be required to pay (i) the full maintenance costs of all Shared Use Facilities owned by it and any improvements constructed at the request of the Railroad pursuant to Sections 2.3(c), 2.3(d) and 2.4., (ii) all costs for the maintenance of the improvements described in clauses (i), (ii) and (iii) of Section 2.4 until the date that all such improvements are completed to the satisfaction of the Commission, (iii) the annual maintenance fee for industrial track switches not used for 15 months and not permitted to be removed by the Commission, as more particularly set forth in Section 2.3(a), prorated as appropriate, (iv) the annual fee for Crossovers installed by the Commission at the Railroad's request pursuant to Section 2.3(c), as more particularly set forth in Section 2.3(c), prorated as appropriate, and (v) the dispatching and maintenance costs provided for in Section 2.11. The amounts specified in clauses (i), (iii), (iv) and (v) immediately above shall be paid to the Commission in equal monthly installments together with the installments of the Railroad's Agreed Annual Share as provided in Section 5.3(f).

(c) The Railroad's Agreed Annual Share shall be adjusted upward or downward annually in accordance with the final "Materials Prices, Wage Rates and Supplements Combined (excluding fuel) Index" (the "Index") included in the final Annual Indexes for Charge-Out Prices and Wage Rates (1977=100) issued by the AAR (the "AAR Railroad Cost Indexes"). Adjustment of each of the components of the Railroad's Agreed Annual Share shall be made by multiplying each by the ratio of the Index figure for a particular calendar year relative to the Index figure for calendar year 1990; provided, that such adjustments shall be made to the nearest cent. By way of example and assuming no Changeover Date has occurred, if "A" is the Index figure for calendar year 1990 and "B" is the Index figure for calendar year 1993, then the adjustments required by this Section 5.3(c) would be determined as follows:

- (1) $\$ 568,162 \times B/A =$ The Car-Mile Component of the Railroad's Agreed Annual Share as adjusted per Section 5.3(c) for calendar year 1994.
- (2) $\$ 160,263 \times B/A =$ The Route-Mile Component of the Railroad's Agreed Annual Share as adjusted per Section 5.3(c) for calendar year 1994.

If the base for the Index shall be changed from the year 1977, appropriate revision shall be made in the base (established as herein provided) for the calendar year 1990. If the AAR or any successor organization discontinues publication of the AAR Railroad Cost Indexes, an appropriate substitute for determining

the percentage of increase or decrease shall be negotiated by the parties hereto. In the absence of agreement, the matter will be arbitrated in the manner prescribed in Article VIII of this Agreement.

(d) The Car-Mile Component shall be adjusted annually to reflect changes in the Railroad's traffic on the Shared Use Facilities (including the traffic of the Railroad and its Operator and any purchaser, assignee, transferee, lessee or delegee of the Railroad pursuant to Section 6.2) measured by aggregate car-miles. The Car-Mile Component shall be adjusted separately for the Alhambra-Santa Clarita Segment and the Santa Clarita-Palmdale Segment. References in this Section 5.3 to adjustments under this paragraph (d) shall include adjustments to both the Car-Mile Component for the Alhambra-Santa Clarita Segment and the Car-Mile Component for that portion of the Santa Clarita-Palmdale Segment for which a Changeover Date has occurred.

The Railroad's aggregate car-miles for Trains operated on the Alhambra-Santa Clarita Segment for the fourth quarter of 1990 shall be the "Base Car-Miles" for the Alhambra-Santa Clarita Segment. The car-miles adjustment shall be applied to increase or decrease the original Car-Mile Component for the Alhambra-Santa Clarita Segment of \$568,162 (adjusted for inflation as specified in paragraph (c) of this Section 5.3) for the adjustment year based on the ratio of the Railroad's aggregate car-miles for Trains operated on the Alhambra-Santa Clarita Segment during the fourth quarter of the adjustment year, including the aggregate car-miles attributable to Trains operated by any purchaser, assignee, transferee, lessee or delegee of the Railroad pursuant to Section 6.2, to the Base Car-Miles for the Alhambra-Santa Clarita Segment.

The Railroad's aggregate car-miles for Trains operated on the Santa Clarita-Palmdale Segment for the fourth quarter of 1990 shall be the "Base Car-Miles" for the Santa Clarita-Palmdale Segment. The car-miles adjustment shall be applied to increase or decrease the original Car-Mile Component for the Santa Clarita-Palmdale Segment of \$588,074 (\$16,683 per mile) (adjusted for inflation as specified in paragraph (c) of this Section 5.3) for the adjustment year based on the ratio of the Railroad's aggregate car-miles for Trains operated on the Santa Clarita-Palmdale Segment during the fourth quarter of the adjustment year, including the aggregate car-miles attributable to Trains operated by any purchaser, assignee, transferee, lessee or delegee of the Railroad pursuant to Section 6.2, to the Base Car-Miles for the Santa Clarita-Palmdale Segment.

For purposes of this Section 5.3, a "car-mile" shall mean one railroad car or locomotive traveling one route-mile. Thus, a locomotive and nine railroad cars traveling over 5 route-miles would result in an aggregate of 50 car-miles. Within

45 days after the end of each adjustment year, the Railroad shall deliver to the Commission a certified statement of aggregate car-miles for the fourth quarter of the adjustment year computed in accordance with the provisions of this Section 5.3(d).

By way of illustrating the adjustment required by this paragraph (d), if (i) the Index figure for 1990 was 100; (ii) the Index figure for 1993 was 110; (iii) the Base Car-Miles were 100,000 car-miles and (iv) the car-miles of the Railroad in the fourth quarter of 1993 aggregated to 110,000 car-miles, then the Car-Mile Component for 1994 (assuming that no Changeover Date has occurred) would be:

$\$568,162 \times (110/100) \times (110,000/100,000)$, or $\$687,476$

(e) The Railroad's Agreed Annual Share for any year shall be the sum of the Car-Mile Component, as adjusted for any Changeover Date pursuant to paragraph (a) of this Section 5.3 and as further adjusted for that year pursuant to paragraphs (c) and (d) of this Section 5.3, and the Route-Mile Component, as adjusted for any Changeover Date pursuant to paragraph (a) of this Section 5.3 and as further adjusted for that year pursuant to paragraph (c) of this Section 5.3.

(f) The Railroad shall pay its Agreed Annual Share directly to the Commission in equal monthly installments.

ARTICLE VI ASSIGNMENTS, TENANTS AND SALES

Section 6.1 Commission.

(a) The Commission may sell all or any portion of its interest in the Shared Use Facilities, and the Commission may assign, lease, transfer or otherwise delegate any of its rights and duties hereunder in connection with a sale of its interest in the Saugus Line or otherwise, without securing the consent of the Railroad if such sale, assignment, lease, transfer or delegation is to a single financially and operationally capable party with the power to perform its obligations under the indemnity provisions hereof, provided such party takes such interest subject to all of the Railroad's rights hereunder. A proposed purchaser, assignee, lessee, transferee or delegee shall not be considered financially and operationally capable if it is unable to procure and maintain the insurance required to be maintained by the Commission hereunder. The Commission shall give the Railroad at least 45 days' prior written notice of any such sale, assignment, lease, transfer or delegation and, at the Railroad's request, the Commission shall provide reasonable evidence that any purchaser, assignee, or delegee is financially and operationally capable. Any sale, assignment, lease, transfer or delegation other than to a financially and operationally capable

purchaser, assignee lessee, transferee or delegee shall require the written consent of the Railroad. The Southern California Regional Rail Authority is a permitted assignee, lessee, transferee or delegee provided that LACTC shall remain liable for its indemnity obligations hereunder in connection with any such assignment, lease, transfer or delegation. In connection with any sale by the Commission of its interest in all or any portion of the Shared Use Facilities, the Commission may retain the right to continue to use the Shared Use Facilities, as long as such sale does not add an additional rail user of the Shared Use Facilities.

(b) In no event shall any purchaser, lessee, transferee or delegee of any of the Commission's interests in the Right of Way and Shared Use Facilities or assignee of any of the Commission's rights and duties hereunder be permitted to use the Shared Use Facilities to provide Rail Freight Service.

(c) Any purchaser, assignee, lessee, transferee or delegee of the Commission shall execute an agreement, reasonably satisfactory to the Railroad, pursuant to which such purchaser, assignee, lessee, transferee or delegee agrees to be bound by all the provisions hereof.

Section 6.2 Railroad.

(a) The Railroad may sell, assign, lease, transfer or otherwise delegate all (but not less than all) of its rights and duties hereunder without securing the consent of the Commission if such sale, lease, transfer, assignment or delegation is to (i) a single financially and operationally capable party approved by the Commission, which approval shall not be unreasonably withheld (provided that a proposed purchaser, assignee, lessee, transferee or delegee shall not be considered financially and operationally capable if it is unable to procure and maintain the insurance required to be maintained by the Railroad hereunder) or (ii) a single Class 1 Railroad. The Railroad shall give the Commission at least 45 days' prior written notice of any such sale, assignment, lease, transfer or delegation and, at the Commission's request, the Railroad shall provide reasonable evidence that any such purchaser, assignee, lessee, transferee or delegee other than a Class 1 Railroad is a financially and operationally capable party. Any sale, assignment, lease, transfer or delegation other than to a purchaser, lessee, transferee, assignee or delegee described in the first sentence of the Section 6.2(a) shall require the written consent of the Commission. Any sale, assignment, lease, transfer or delegation of the Railroad's rights in the Shared Use Facilities shall be subject to the rights of the Commission under this Agreement. In no event shall the purchaser, assignee, lessee, transferee or delegee of any of the Railroad's rights and duties hereunder be permitted to use the Shared Use Facilities to provide rail passenger service.

(b) The Railroad shall not permit any other person or entity to use the Shared Use Facilities except (i) the Railroad's Operator designated in accordance with Section 3.3, or (ii) pursuant to a transaction permitted under Section 6.2(a).

(c) Any purchaser, assignee, lessee, transferee or delegee of the Railroad shall execute an agreement, reasonably satisfactory to the Commission, pursuant to which such purchaser, assignee, lessee, transferee or delegee agrees to be bound by all the provisions hereof.

(d) Notwithstanding any other provision of this Section 6.2, if the Railroad sells, leases or otherwise disposes of all (but not less than all) of either its freight or Intercity rights on the Ventura Line (as defined in the Ventura Shared Use Agreement) to (i) a financially and operationally capable party or parties approved by the Commission, which approval shall not be unreasonably withheld (provided that a proposed purchaser, assignee, lessee, transferee or delegee shall not be considered financially and operationally capable if it is unable to provide and maintain the insurance required to be maintained by the Railroad hereunder) or (ii) a Class 1 Railroad, such party or parties (each a "New Ventura Owner") shall have the right to use the Burbank-Alhambra Segment upon and subject to the following terms and conditions:

- (i) The New Ventura Owner shall have executed and delivered to the Commission a written agreement in form and substance reasonably acceptable to the Commission whereby the New Ventura Owner assumes and agrees to be bound by the provisions of this Agreement applicable to its operation on the Burbank-Alhambra Segment.
- (ii) The New Ventura Owner may use the Burbank-Alhambra Segment only for a purpose for which the Railroad would be permitted to use the Burbank-Alhambra Segment pursuant to this Agreement if the Railroad itself were conducting the activities of New Ventura Owner; provided, however, that if the sale, lease or disposition is of Intercity rights, the New Ventura Owner may operate over the Burbank-Alhambra Segment for that purpose.
- (iii) The New Ventura Owner's use of the Burbank-Alhambra Segment shall be subject to all of the provisions of this Agreement. References in this Agreement to the Railroad shall be deemed to be references to the New Ventura Owner to the extent necessary to implement the provisions of this Section 6.2(d);

provided, however, that if the sale, lease or disposition is of Intercity rights, the New Ventura Owner may operate over the Burbank-Alhambra Segment for that purpose.

- (iv) The permitted use of the Burbank-Alhambra Segment by the New Ventura Owner shall not relieve Railroad of any of its obligations hereunder. The sale, lease or other disposition solely of the Railroad's Intercity rights to a New Ventura Owner shall not deprive the Railroad of its right to provide Rail Freight Service on the Burbank-Alhambra Segment. The sale, lease or other disposition solely of the Railroad's Rail Freight Service rights to a New Ventura Owner shall not deprive the Railroad of its right to provide Intercity service on the Burbank-Alhambra Segment.

Railroad may only sell, lease or otherwise dispose of its Intercity rights to a single party and its freight rights to a single party.

Section 6.3 Right of First Offer.

(a) Subject to the exemptions or limitations set forth in subsections 6.3(b) and (c), if the Commission proposes to sell all or any portion of the Right of Way to any person other than a financially and operationally capable governmental agency, the Commission shall provide notice to Railroad of such intention to sell (the "Notice"). The Notice shall set forth a description of the property to be sold and the terms and conditions under which the Commission is willing to sell such property. The Railroad shall have the option to purchase the property described in the Notice upon the terms and conditions described in the Notice. Railroad's option shall be exercisable only in writing received by the Commission within 45 days after Railroad's receipt of the Notice. Railroad's exercise of the option shall state Railroad's agreement to be bound by the terms and conditions specified in the Notice. If Railroad fails to exercise its option as provided above in the prescribed 45-day period, Commission shall have the right to sell the property described in the Notice on terms and conditions substantially as described in the Notice. If thereafter, Commission attempts to sell such property on terms and conditions substantially less favorable to the Commission from those described in the Notice, Railroad shall be entitled to an additional 15-day option to purchase the property exercisable in accordance with the provisions specified above. Railroad's failure to exercise its purchase option for any portion of the Right of Way shall not constitute a waiver of such option for the sale by Commission of any other portion of the Right of Way.

(b) Notwithstanding the provisions of Section 6.3(a), the Commission may sell to any party without triggering the Railroad's right of first offer any portion of the Right of Way not located within 25 feet of any Track, as long as such property is not required for the Railroad to conduct Rail Freight Service.

(c) If the provisions of Section 6.3(a) are subject to the laws or rules sometimes referred to as the rule against perpetuities or the rule prohibiting unreasonable restraints on alienation, such provision shall continue and remain in full force and effect only for a period of 21 years following the death of the last survivor of the now living descendants of Philip F. Anschutz of Denver, Colorado, or until this Agreement is terminated as hereinafter provided, whichever first occurs.

ARTICLE VII LIABILITY AGREEMENT

Section 7.1 Assumption of Responsibility.

(a) Except as otherwise provided in Section 3.6(c), each of the parties hereto shall assume, bear and pay all the liabilities allocated to it as the responsible party under the terms of this Article VII. For purposes of this Article VII, the term "liability" shall include all loss, damage, cost, expense (including costs of investigation and attorney's fees and expenses at arbitration, trial or appeal and without institution of arbitration or suit), liability, claims and demands of whatever kind or nature arising out of an incident described in the applicable provision of this Article VII. Except as otherwise expressly provided in Sections 7.2(b), 7.2(d), 7.2(e) and 7.4, the responsibility for liabilities undertaken by each party under this Article VII is without respect to fault, failure, negligence, misconduct, malfeasance or misfeasance of any party or its employees, agents or servants.

(b) All costs and expenses incurred in connection with the investigation, adjustment and defense of any claim or suit shall be included as part of the liability for which responsibility is assumed under the terms of this Article VII, including salaries or wages and associated benefits of, and out-of-pocket expenses incurred by or with respect to, employees of either party engaged directly in such work and a reasonable amount of allocated salaries and wages of employees providing support services to the employees so engaged directly in such work.

Section 7.2 Allocation of Responsibilities.

(a) Liability for personal injury (including bodily injury and death) to, or property damage suffered by, an invitee of either party shall be the responsibility of and borne and paid

solely by that party regardless of the cause of such loss or the fault of either party or whose Train was involved, except as specifically provided in paragraph (b) of this Section 7.2 and Section 7.4 below. For purposes of this paragraph, and without limitation, consultants and contractors of a party and any person who is on a Train operated by or for the account of a party (other than an employee of a party engaged in performing duties for that party) shall be deemed to be an invitee of that party. All persons at or adjacent to a passenger station or loading platform shall be deemed to be invitees of the Commission (other than employees, contractors and consultants, including employees of such contractor, of the Railroad or of any tenant or Operator of the Railroad engaged in performing duties for the Railroad or for any such tenant or Operator of the Railroad). Other than Amtrak, any trackage tenant of either party shall be deemed to be bound by the provisions of this Article VII; provided, that if it is determined for any reason that such tenant is not so bound, such tenant shall be deemed to be an invitee of that party.

(b) After the Commission shall have incurred aggregate liability in an amount equal to \$25.0 million for injury to or damage suffered by its invitees for incidents occurring in any one calendar year, the Railroad shall bear a share of that portion of the aggregate liability to the Commission's invitees for that year that is in excess of \$25.0 million in proportion to the Railroad's relative degree of fault, if any; provided, that the Railroad shall not bear liability to the Commission's invitees in an amount in excess of \$125.0 million for incidents occurring in such calendar year. In computing the \$25.0 million base amount payable by the Commission prior to any participation by the Railroad, there shall be excluded any liabilities incurred due to the Excluded Conduct (defined below in Section 7.4(a)) of the Commission. After the Railroad shall have incurred aggregate liability in an amount equal to \$25.0 million for injury to or damage suffered by its invitees for incidents occurring in any one calendar year, the Commission shall bear a share of that portion of the aggregate liability to the Railroad's invitees for that year that is in excess of \$25.0 million in proportion to the Commission's relative degree of fault, if any; provided, that the Commission shall not bear liability to the Railroad's invitees in an amount in excess of \$125.0 million for incidents occurring in such calendar year. In computing the \$25.0 million base amount payable by the Railroad prior to any participation by the Commission, there shall be excluded any liabilities incurred due to the Excluded Conduct of the Railroad. Liability shall be deemed incurred on the date of the incident giving rise to such liability regardless of the date on which liability is paid or established. The determination of the relative fault of the parties in any proceeding establishing the liability shall be binding on the parties.

(c) Liability for personal injury (including bodily injury and death) to, or property damage suffered by, persons

other than invitees of either the Commission or the Railroad and casualty losses to property owned by the Commission and/or the Railroad shall be the responsibility of and borne and paid by the parties as follows regardless of the cause of such loss or the fault of either party except as provided in paragraphs (d) and (e) of this Section 7.2 and Section 7.4 below:

(i) Loss to equipment and other personal property owned by the Commission shall be the responsibility of the Commission and borne by it.

(ii) Loss to equipment and other personal property owned by and freight transported by the Railroad shall be the responsibility of the Railroad and borne by it.

(iii) Loss to the Shared Use Facilities and property jointly owned by the Commission and the Railroad shall be the responsibility of and borne (A) totally by the single party whose Train was involved in the incident giving rise to the loss, and (B) equally by the parties if no Train was involved in the incident or Trains of both parties were involved.

(iv) Liability for personal injury (including bodily injury and death) to, or property damage suffered by, any employee of either party which occurs during the course of employment or while traveling to or from employment (an "employee") shall be the responsibility of and borne solely by the party employing such employee.

(v) Liability for personal injury (including bodily injury and death) to, or property damage suffered by, any person who is not an employee or invitee of either party (including persons using vehicular and pedestrian crossings and trespassers) shall be the responsibility of and borne (A) totally by the party whose Train was involved in such loss if the Train of only one party was involved, and (B) equally by the parties if no Train was involved in the incident.

(d) Liability for personal injury (including bodily injury and death) to, or property damage suffered by, a person who is not an employee or invitee of either party shall be the responsibility of and borne by both parties in proportion to their relative degrees of fault if Trains of both parties were involved in the incident giving rise to such injury or damage.

(e) Liability due to the release of hazardous materials shall be the responsibility of and borne by the party who transported the hazardous materials unless Trains of both parties were involved, in which case the parties shall bear the loss or liability in proportion to their relative degrees of fault.

(f) For purposes of calculating the \$25,000,000 and \$125,000,000 limits set forth in this Section 7.2, liability relating to the Saugus Line shall be aggregated with liability relating to the Ventura Line in any calendar year. As used herein, "Ventura Line" shall have the meaning given to such term in the Ventura Shared Use Agreement.

Section 7.3 Insurance.

(a) The Commission and the Railroad shall each maintain general liability insurance in the amount of at least \$100,000,000 per occurrence and shall either include all of their respective Operators and tenants (other than Amtrak) as insureds under their respective policies or furnish evidence of separate insurance of the same amount and type for each Operator or tenant (other than Amtrak). Insurance shall be placed with a company or companies authorized to conduct business in California. The Commission and the Railroad (and an Operator or tenant if such Operator or tenant demonstrates to the reasonable satisfaction of the Commission and the Railroad sufficient financial capacity) may self insure to a level not to exceed \$10.0 million.

(b) The general liability insurance required by Section 7.3(a) shall provide coverage for personal injury, bodily injury, death and property damage with respect to all operations of the Railroad, the Commission, Operators and tenants, respectively. Such insurance shall include blanket contractual coverage, including coverage for written, oral and implied contracts and specific coverage for the indemnity provisions set forth in this Article VII. Each policy of general liability insurance obtained by the Commission and the Railroad shall name the other as an additional insured with respect to any liability to be borne by the party obtaining such insurance pursuant to the provisions of this Article VII.

(c) For any claims arising out of activities, products or operations resulting from or related to this Agreement, the insurance obtained pursuant to Section 7.3(a) shall be primary with respect to the obligation under this Agreement of the party obtaining the insurance and with respect to the interests of all parties added as additional insureds. Any other insurance maintained by an additional insured shall be excess of this coverage herein defined as primary and shall not contribute with it.

(d) Unless otherwise agreed by the Commission and the Railroad, the insurance required by Section 7.3(a) shall be maintained by each of the parties specified therein for the full term of this Agreement and shall not be permitted to expire or be canceled or materially changed except upon 60 days' notice to the other parties. Each insurance policy required by Section 7.3(a) shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or

limits except after 60 days' prior written notice has been given to all insureds.

(e) Each of the Commission and the Railroad shall cause its and/or its Operator's and tenant's (other than Amtrak's) insurers to provide the other with certificates of insurance and endorsements evidencing the provisions specified above in this Section 7.3 prior to commencement of operations on the Shared Use Facilities under this Agreement.

(f) A failure of any party to maintain the insurance required by this Section 7.3 shall not relieve such party of any of its liabilities or obligations under this Agreement.

Section 7.4 Limitations on Indemnification.

(a) The provisions of this paragraph (a) shall apply notwithstanding the provisions of Section 7.2 above. "Excluded Conduct" shall mean (i) an entire failure of care or the exercise of so slight a degree of care as to raise a presumption that there was a conscious indifference to the things and welfare of others, (ii) conduct constituting a reckless or wanton disregard of the probable results of such conduct, (iii) wilful misconduct, or (iv) conduct which would permit the award of exemplary or punitive damages. Neither party shall be indemnified for any loss or liability resulting from its own Excluded Conduct, and in any such case such party shall be responsible for and bear loss or liability in proportion to its relative degree of fault and such party shall be responsible for and bear all exemplary or punitive damages, if any, resulting from its Excluded Conduct. If any of the provisions of Section 7.2 would otherwise indemnify a party against liability, loss or damage that would be prohibited by or unenforceable under the laws of the State of California (including a determination that indemnification under the circumstances involved is against the public policy of the state), the indemnity provided by such provision shall be deemed to be limited to and operative only to the maximum extent permitted by law. Without limitation, if it is determined that any law or public policy of the State of California prohibits the indemnification of a party for its own sole negligence in any instance covered by the provisions of Section 7.2, those provisions shall be deemed to exclude indemnification for such party's sole negligence but to permit full indemnification, as specified in Section 7.2, if both parties were negligent. In the case of any liability, loss or damage for which the provisions of this paragraph (a) would prevent the indemnification of a party, such party shall be responsible for and bear such liability, loss or damage.

(b) Notwithstanding Section 7.2 above, the Railroad and the Commission shall bear liability in proportion to their relative degrees of fault in connection with an accident involving one of the Railroad's Trains while using (i) the Shared

Use Tracks to follow the last scheduled peak direction commuter train during a Peak Commuter Period as provided in Section 2.2(b)(i), or (ii) the Shared Use Tracks during a Peak Commuter Period as provided in Section 2.2(b)(iii), but in the case of either clause (i) or clause (ii) above only if the Railroad's use of the Shared Use Tracks involved in the incident at those times would not have been permitted but for the provisions of Section 2.2(b)(i) or Section 2.2(b)(iii).

Section 7.5 Scope of Indemnification. In any case where a party is required under the provisions of this Article VII to bear a loss or liability, it shall pay, satisfy and discharge such liability and all judgments that may be rendered by reason thereof and all costs, charges and expenses incident thereto, and such party shall forever indemnify, defend and hold harmless the other party and its commissioners, directors, officers, agents, employees, shareholders, parent corporation and affiliated companies or governmental entities from, against and with respect to any and all liabilities which arise out of or result from the incident giving rise thereto. If a party asserts that the other was guilty of Excluded Conduct and denies liability for indemnification of the other party based thereon, the party asserting such Excluded Conduct shall have the burden of proof in establishing such conduct. It is the intent of the parties that the indemnification provisions of this Article VII shall apply to both the passive negligence and the active negligence of an indemnified party.

Section 7.6 Procedure.

(a) If any claim or demand shall be asserted by any person against an indemnified party under this Article VII, the indemnified party shall, within 30 days after notice of such claim or demand, cause written notice thereof to be given to the indemnifying party, provided that failure to notify the indemnifying party shall not relieve the indemnifying party from any liability which it may have to the indemnified party under this Article VII, except to the extent that the rights of the indemnifying party are in fact prejudiced by such failure. If any such claim or demand shall be brought against the indemnified party and it shall have given notice thereof to the indemnifying party, the indemnifying party shall have the right, at its own expense, to control (including the selection of counsel reasonably satisfactory to the indemnified party) or to participate in the defense of, negotiate or settle, any such claim or demand, and the parties hereto agree to cooperate fully with each other in connection with any such defense, negotiation or settlement. In any event, the indemnified party shall not make any settlement of any claims which might give rise to liability on the part of the indemnifying party under this Article VII without the prior written consent of the indemnifying party, which consent shall not be unreasonably withheld. If any claim or demand relates to a matter for which the parties, under

the terms of Section 7.2, are to share liability equally or in proportion to their relative degrees of fault, each party shall be entitled to select its own counsel and defend itself against the claim at its own expense, and neither party shall make any settlement of any such claims without the prior written consent of the other party, which consent shall not be unreasonably withheld.

(b) Subject to the provisions of Section 7.6(a), on each occasion that the indemnified party shall be entitled to indemnification or reimbursement under this Article VII, the indemnifying party shall, at each such time, promptly pay the amount of such indemnification or reimbursement. If the indemnified party shall be entitled to indemnification under this Article VII, and the indemnifying party shall not elect to control any legal proceeding in connection therewith, the indemnifying party shall pay to the indemnified party an amount equal to the indemnified party's reasonable legal fees and other costs and expenses arising as a result of such proceeding.

(c) Any dispute between the parties as to the right to indemnification or the amount to which it is entitled pursuant to such right with respect to any matter shall be submitted to arbitration pursuant to Article VIII.

Section 7.7 Tenants and Operators. Any new tenant or Operator on the Shared Use Facilities shall agree to be bound by the provisions of this Article VII unless otherwise agreed by the Railroad and the Commission. The parties will use reasonable efforts to extend the benefits of existing Amtrak indemnities to the Commission.

Section 7.8 Dollar Amount Adjustments. Each of the dollar amounts set forth in Section 7.2(b) and Section 7.3(a) above shall be adjusted annually and every three years, respectively, for changes in the Consumer Price Index, but shall not be reduced below their initial levels. As used in this Section 7.8, the term "Consumer Price Index" shall mean the United States Department of Labor's Bureau of Labor Statistics' Consumer Price Index, All Urban Wage Earners and Clerical Workers, All Items, for the Los Angeles area (1967=100). If the base year for the Consumer Price Index is changed from 1967, the Consumer Price Index shall be converted in accordance with the conversion factor published by the United States Department of Labor's Bureau of Labor Statistics. If the Consumer Price Index is discontinued or revised, such other governmental index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Consumer Price Index had not been discontinued or revised.

ARTICLE VIII
ARBITRATION

Section 8.1 Arbitrable Matters.

(a) If any dispute arises between the Commission and the Railroad as to their respective rights and obligations under this Agreement, including failure to reach mutual agreement as to any matters set forth in this Agreement as being subject to the mutual agreement of the parties, and they cannot resolve the dispute within 30 days after it arises, then either may submit the dispute to arbitration under the Commercial Arbitration Rules of the American Arbitration Association as provided in this Article VIII. In the case of monetary disputes relating to amounts billed for the payment of operating, maintenance or capital costs and expenses under the terms of this Agreement, the party from whom a payment is allegedly owing shall make such payment notwithstanding such dispute and may submit the dispute to arbitration under this Article VIII only by seeking a refund through such arbitration.

(b) If either of the Commission or the Railroad (the "non-defaulting party") considers the other (the "defaulting party") to be in default with respect to any of its obligations under this Agreement, the non-defaulting party shall give the defaulting party written notice of the alleged default and 30 days from the date of the notice to cure such default (unless such default is not reasonably curable within such 30 day period, in which event the defaulting party must commence to cure such default within such 30 day period and must diligently prosecute such cure). If the defaulting party fails, refuses or neglects to cure the default (or to commence cure of the default in the case of a default which is not reasonably curable within 30 days and thereafter diligently prosecute such cure) within such time to the satisfaction of the non-defaulting party, the aggrieved party shall have the right to (i) cure the default, and charge the costs and expenses thereof to the defaulting party; provided however, that in emergency situations, the non-defaulting party, immediately and in a reasonable manner, may act to cure the default or mitigate losses, or (ii) submit the matter to arbitration pursuant to the procedures set forth in this Article VIII.

(c) Arbitration in accordance with the procedures set forth in this Article VIII shall be the only available recourse for any disputes or defaults arising with respect to the respective rights and obligations of the Commission and the Railroad under this Agreement.

Section 8.2 Submission to Arbitration. The party entitled to submit any arbitrable matter to arbitration under the terms Section 8.1 (the "demanding party") shall do so by delivering written notice of its desire to submit a matter to

arbitration to the other party (the "noticed party"). Such written notice shall state the question or questions to be submitted for decision or award by arbitration.

Section 8.3 Appointment of Arbitration Board. The written notice provided pursuant to Section 8.2 also shall name the arbitrator selected by the demanding party. The noticed party shall have 20 days after receipt of said notice to select its arbitrator and provide written notice thereof to the demanding party. If the noticed party fails to select an arbitrator, such arbitrator may be appointed by the Chief Judge (or acting Chief Judge) of the United States District Court for the District of Columbia (the "Chief Judge") upon application of either party after ten days' written notice to the other party. The two arbitrators so chosen shall select a third arbitrator or, if they fail to agree on a third arbitrator, the third arbitrator may be appointed by the Chief Judge in the manner set forth above. The three arbitrators so chosen shall comprise the arbitration board.

Section 8.4 Arbitration Procedures. The arbitration board constituted pursuant to Section 8.3 shall set the date, time and place for each hearing, shall give to each of the parties at least ten days' prior written notice of the date, time and place of the initial hearing and shall proceed without delay to hear and determine the matters in dispute. The parties may offer such evidence as is relevant and material to the dispute and shall produce such evidence as the arbitration board may deem necessary to an understanding and determination of the dispute. The books and papers of the parties hereto, so far as they relate to matters submitted to arbitration, shall be open to the investigation of the arbitration board. The arbitration board or other person authorized by law to subpoena witnesses or documents may do so upon the request of any party. The award shall be made promptly by the arbitration board and, unless otherwise agreed by the parties or specified by law, no later than 30 days from the date of closing the hearing. Each of the parties hereto may be represented by counsel or other authorized representative at any hearing. The party intending to be so represented shall notify the arbitration board and the other party of the name and address of the representative at least three days prior to the date set for the hearing.

Section 8.5 Compliance with Decisions.

(a) Any award of an arbitration board made in accordance with Section 8.4 shall be final and binding upon the parties to such arbitration, and each party shall immediately make such changes in the conduct of such party's business or such payment as restitution, as the case may be, as in and by such award may be required.

(b) The parties agree that the arbitration board's award may be entered with any court having jurisdiction and the award may then be enforced as between the parties, without further evidentiary proceedings, the same as if entered by the court at the conclusion of a judicial proceeding in which no appeal was taken.

Section 8.6 Available Remedies. With respect to any decision rendered pursuant to Section 8.4 that determines that the noticed party is in default with respect to any of its obligations under this Agreement, actual damages, specific performance and the penalties set forth on Exhibit 2.2(b) attached hereto shall be the only remedies that the arbitration board has authority to grant. In no event shall the arbitration board have the authority to award exemplary or punitive damages. In addition, with respect to any dispute regarding dispatching, the arbitrators shall have the right to award dispatching responsibilities to the other party in accordance with Section 4.2(g).

Section 8.7 Costs and Expenses. Each party shall pay the compensation required and costs and expenses incurred by the member of the arbitration board selected by it or on its behalf and the fees, costs and expenses for its counsel, witnesses and exhibits. The compensation required and the costs and expenses incurred by the third member of the arbitration board shall be shared equally by the parties.

ARTICLE IX TERM

Section 9.1 Commencement and Termination. This Agreement shall become effective on the date of this Agreement and shall continue in effect for the applicable portions of the Saugus Line in perpetuity, unless and until terminated in accordance with the provisions of this Section 9.1.

If the Railroad shall not have used the Shared Use Facilities associated with the Saugus Line or any substantial contiguous portion thereof for a period of five years, then at the Commission's request, the Railroad shall promptly notify the Commission in writing and seek authority from the ICC to either abandon or transfer the Railroad's Rail Freight Service on the Saugus Line or such substantial contiguous portion thereof. Upon the approval of the ICC, the Railroad shall consent to the termination of this Agreement as to the Shared Use Facilities associated with the Saugus Line or such substantial contiguous portion thereof. In addition to the foregoing, the Railroad may at any time seek ICC approval or exemption of the Railroad's abandonment of Rail Freight Service upon any portion of the Saugus Line.

Immediately upon the effective date of any ICC approval or exemption of the Railroad's abandonment of Rail Freight Service over a portion of the Saugus Line, this Agreement shall terminate as to the abandoned portion of the Saugus Line. Upon any such termination, (i) the amounts to be paid by the Railroad to the Commission for dispatching pursuant to Section 4.2(f) shall be adjusted based upon the percentage of the route miles of the Saugus Line originally subject to this Agreement as to which this Agreement has been terminated, and the amounts paid by the Railroad to the Commission for maintenance pursuant to Section 5.3 shall be equitably adjusted based upon the provisions of Section 5.3 and the methodology of Exhibit 5.2(b).

Section 9.2 No Termination by Commission; Remedies. The Commission shall have no right to terminate this Agreement. In case of breach of this Agreement by Railroad, the Commission's sole remedies shall be (a) to seek monetary damages, or (b) to seek specific performance of the terms of this Agreement in accordance with the provisions of Article VIII. In case of breach of this Agreement by the Commission, the Railroad sole remedies shall be (a) to seek monetary damages or (b) to seek specific performance of the terms of this Agreement in accordance with the provisions of Article VIII. Each party acknowledges that specific performance of this Agreement in accordance with the provisions of Article VIII is an appropriate remedy because this Agreement cannot be terminated except as set forth in Section 9.1.

Section 9.3 Removal of Improvements. Upon any termination of the Shared Use Agreement, the Railroad shall, at its sole cost and expense, remove any improvements to such line or contiguous portion owned by the Railroad from the property of the Commission.

ARTICLE X BREACHES AND DEFAULT

Section 10.1 Costs of Enforcement. In any action to enforce this Agreement and/or any of its terms, to collect damages as a result of a breach of its provisions, or to collect any indemnity provided for herein, the prevailing party also shall be entitled to collect all its reasonable costs in such action, including the costs of investigation, settlement, expert witnesses and reasonable attorneys' fees and costs, together with all additional costs incurred in enforcing or collecting any judgment rendered.

Section 10.2 Penalties and Fines. If any failure on the part of any party to perform in accordance with this Agreement shall result in a governmental fine, penalty, cost or charge being imposed or assessed on or against the other party, such other party shall give prompt notice to the non-complying

party, and the non-performing party shall promptly reimburse, defend and indemnify the other party for such fine, penalty, cost or charge and all expenses and reasonable attorneys' fees incurred in connection therewith.

ARTICLE XI
MISCELLANEOUS

Section 11.1 Force Majeure. Neither party shall be liable to the other in damages nor shall a default be deemed to have occurred, and each party shall be excused from performance of any of its obligations hereunder, except obligations involving the payment hereunder of money to the other party or to a third party, during the time when such non-performance is occasioned by fire, earthquake, flood, explosion, wreck, casualty, strike, unavoidable accident, riot, insurrection, civil disturbance, act of public enemy, embargo, war, act of God, inability to obtain labor, materials or supplies, or any other similar cause beyond the party's reasonable control; provided, that if either party suffers a work stoppage due to a labor dispute, such party shall make such reasonable efforts, if practicable, to staff its operations so as to minimize disruptions with the Train service on the Shared Use Facilities provided by the other party.

Section 11.2 Property Taxes.

(a) To the extent any real property taxes are payable with respect to any portion of the Right-of-Way or any Shared Use Facility by reason of the Railroad's use thereof, the Railroad shall pay such real property taxes prior to delinquency and shall protect, defend, indemnify and hold the Commission harmless from and against any and all liability, loss, cost, damage or expense (including reasonable attorneys' fees) the Commission may sustain or incur on account of any such real property taxes.

(b) To the extent that any real property taxes are payable with respect to any Shared Use Facility owned or used by the Commission by reason of its use by the Commission or its Operator or the Commission becoming a taxable entity, the Commission shall pay such real property taxes prior to delinquency and shall protect, defend, indemnify and hold the Railroad harmless from and against any and all liability, loss, cost, damage or expense (including, without limitation, reasonable attorneys' fees) the Railroad may sustain or incur on account of any in such real property taxes.

Section 11.3 Billing.

(a) Billing shall be accomplished on the basis of data contained in a billing form mutually agreed to by the parties. Such billing forms shall contain sufficient detail to permit computation of payments to be made under this Agreement. Unless

otherwise specifically provided herein, billing shall be prepared in accordance with the schedules of Customary Additives, Materials Additives, material prices and equipment rental rates as agreed upon by the Chief Accounting Officers of the parties hereto from time to time. The Railroad shall pay to the Commission at the Office of the Treasurer of the Commission or at such other location as the Commission may from time to time designate, all the compensation and charges of every name and nature which in and by this Agreement the Railroad is required to pay in lawful money of the United States within 30 days after the rendition of bills therefor. Any amounts not paid within such 30 day period shall bear interest at a rate equal to the lesser of the prime rate of Bank of America plus 2% and the maximum rate permitted by law until paid. Bills shall contain a statement of the amount due on account of the expenses incurred and services rendered during the billing period.

(b) Errors or disputed items in any bill shall not be deemed a valid excuse for delaying payment in full subject to the right to seek a refund through arbitration pursuant to Article VIII; provided, no exception to any bill shall be honored, recognized or considered if filed after the expiration of three years from the last day of the calendar month during which the bill is rendered and no bill shall be rendered later than three years (i) after the last day of the calendar month in which the expense covered thereby is incurred, or (ii) after the amount is settled and/or the liability is established if in connection with a project for which a roadway completion report is required or in the case of claims disputed as to amounts of liability. This provision shall not limit the retroactive adjustment of billing made pursuant to exception taken to original accounting by or under authority of the Interstate Commerce Commission or retroactive adjustment of wage rates and settlement of wage claims.

(c) So much of the books, accounts and records of each party hereto as are related to the subject matter of this Agreement shall at all reasonable times be open to inspection by the authorized representatives and agents of the parties hereto.

(d) Should any payment become payable by the Commission to the Railroad under this Agreement, the provisions of paragraphs (a) through (c) of this Section 11.3 shall apply with the Railroad as the billing party and the Commission as the paying party, and payments by the Commission to the Railroad shall be made at such location as the Railroad may from time to time designate.

Section 11.4 Considered Actions. All references in this Agreement to actions that may or shall be "considered" or "investigated" by both or either of the parties hereto shall not be interpreted as creating a binding obligation of either party to take such action.

Section 11.5 Preferences. Except as hereafter determined by the mutual agreement of the Commission and the Railroad, neither of them nor their respective Operators shall seek in any administrative, legislative or judicial proceeding or otherwise to obtain preferences in the use of the Shared Use Facilities in excess of those provided to it, or seek to diminish such preferences provided to the other, under Articles II and IV. Notwithstanding the provisions of Article VIII, the Commission and the Railroad shall have recourse to the courts or any governmental agency having jurisdiction in the event of a violation of this Section 11.5, and, in addition to any available remedies for damages, the remedy of specific enforcement shall be available with respect thereto.

Section 11.6 Amendment or Waiver. Modifications or amendments to the scope, terms and conditions of this Agreement may be considered annually at the request of either party. No provision of this Agreement shall be altered, amended, modified, revoked or waived except by an instrument in writing signed by the party to be charged with such alteration, amendment, modification, revocation or waiver.

Section 11.7 Headings. The article and section headings in this Agreement are for convenience only and shall not be used in its interpretation or considered part of this Agreement.

Section 11.8 Notices. All notices and other communications under this Agreement shall be in writing and shall be deemed to have been duly given (i) on the date of delivery, if delivered personally on the party to whom notice is given, or if made by telecopy directed to the party to whom notice is to be given at the telecopy number listed below, or (ii) on receipt, if mailed to the party to whom notice is to be given by registered or certified mail, return receipt requested, postage prepaid and properly addressed as follows:

To the Railroad:

Southern Pacific Transportation Company
1515 Arapahoe Street
Denver, Colorado 80202
Attention: Mr. Glenn P. Michael
Vice President-Operations
Telecopy No.: 303-595-2015

and

Southern Pacific Transportation Company
One Market Plaza
San Francisco, California 94105
Attention: Cannon Y. Harvey, Esq.
Vice President and General Counsel
Telecopy No.: 415-495-5436

with a copy to:

Holme Roberts & Owen
1700 Lincoln, Suite 4100
Denver, Colorado 80203
Attention: G. Kevin Conwick, Esq.
Telecopy No.: 303-866-0200

To the Commission:

Los Angeles County Transportation Commission
818 West Seventh Street, Suite 1100
Los Angeles, California 90017
Attention: Mr. Neil Peterson,
Mr. Richard Stanger and
Mr. James Wiley
Telecopy No.: 213-236-9504

with a copy to:

Dewey Ballantine
333 South Hope Street
Los Angeles, California 90071
Attention: Alan Wayte
Telecopy No.: 213-625-0562

Section 11.9 Memorandum of Agreement. The parties shall cause a memorandum of this Agreement in the form attached hereto as Exhibit 11.9 to be recorded in the real property records of Los Angeles County, California.

Section 11.10 Superseding Agreement. This Agreement supersedes, and renders null and void, the Shared Use Agreement (Saugus and Ventura Lines) dated April 18, 1991 between the Railroad and the Commission as it applies to the Saugus Line, except with respect to obligations or other matters arising prior to the date hereof. This Agreement also supersedes, and renders null and void the following agreements, except with respect to obligations or other matters arising prior to the date hereof: (i) the Temporary Shared Use Agreement (Taylor Yard) dated October 26, 1992 between the Railroad and the Commission except for the obligations of the Commission under Section 2.5 thereof, (ii) as between the parties hereto, the Mission Tower Agreement and (iii) the East Bank Agreement to the extent that agreement relates to that portion of the Saugus Line between and including Alhambra Junction and Bridge 5.

Section 11.11 Survivability. Articles VII and VIII shall survive termination of this Agreement as to matters arising from events occurring prior to termination, and any and all obligations to make payments in respect of costs incurred at or prior to the date of termination shall survive termination of this Agreement.

Section 11.12 Interpretation. As used herein, the word "including" shall mean "including without limitation."

IN WITNESS WHEREOF, the parties to this Agreement have duly executed it on this 16th day of December, 1992.

THE RAILROAD:

SOUTHERN PACIFIC
TRANSPORTATION COMPANY,
a Delaware corporation

By: 

Name: S. D. STEEL

Title: Vice-President

THE COMMISSION:

LOS ANGELES COUNTY
TRANSPORTATION COMMISSION

By: 

Name: Neil Peterson

Title: Executive Director

EXHIBIT 1.5

LOS ANGELES UNION PASSENGER TERMINAL

NO SCALE

482.30

CORNFIELD YARD (SPT)

MISSION TOWER
482.2

TO DAYTON AVE TOWER

← TO REDONDO JCT

MIDWAY YARD (SCRR)

LOS

ANGELES

SCRR BRIDGE

LAUPT BRIDGE

RIVER

PASADENA JCT.

ALHAMBRA JCT.
482.05

TO S.F.

SCRR

← TO RIVERSIDE

EAST BANK JCT.
481.9

TO PASADENA
SCRR

TAYLOR JCT.
482.8

481

SCRR TO EL MONTE

TO YUMA

SOUTHERN PACIFIC LINES

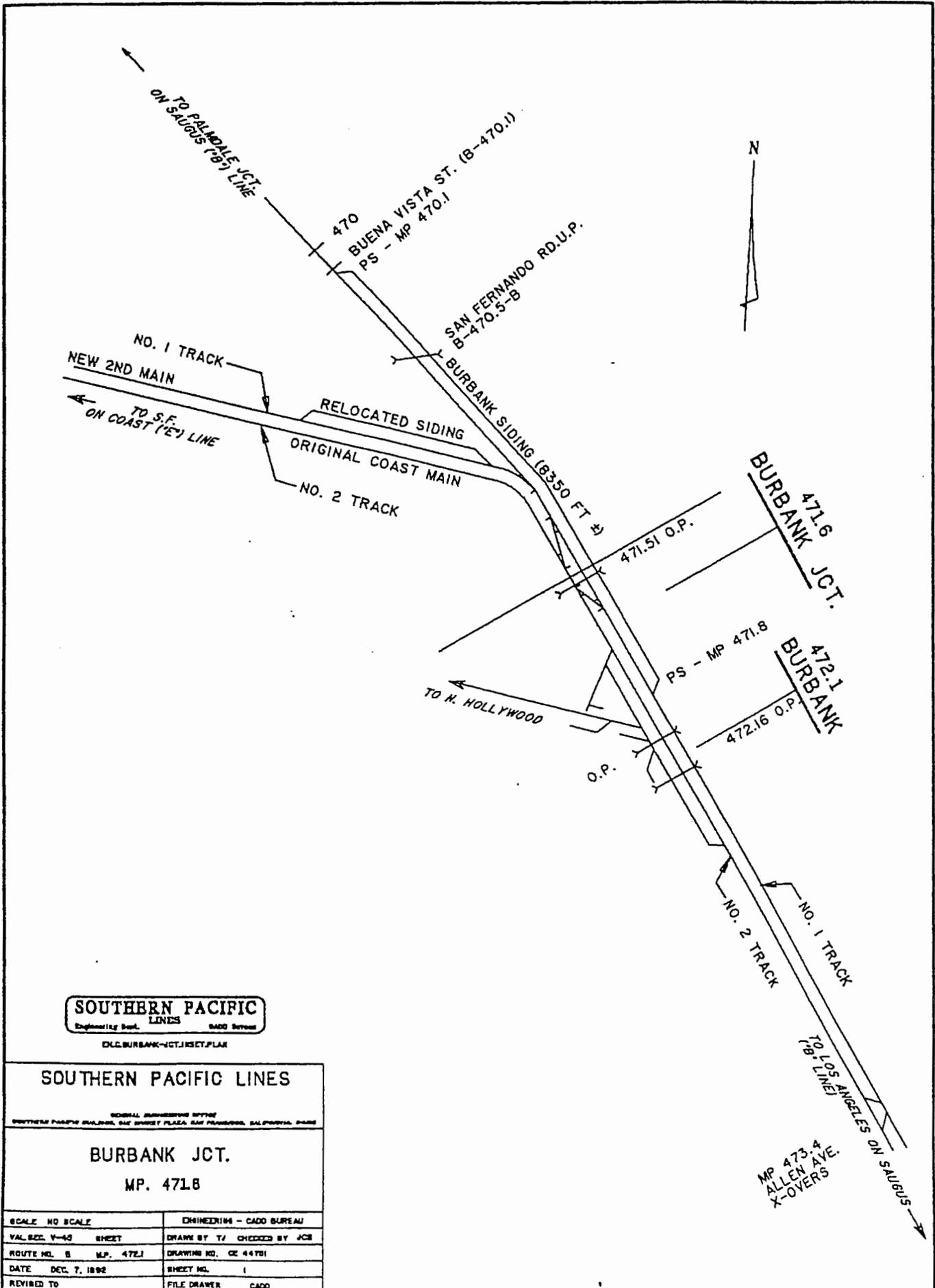
FEDERAL ENGINEERING OFFICE
SOUTHERN PACIFIC BUILDING ONE MARKET PLAZA SAN FRANCISCO CALIFORNIA 94104

ALHAMBRA JUNCTION
MP. 482.05

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ROUTE NO. 8	M.P. 482	DRAWING NO. CE 44700
DATE	DEC. 7, 1992	SHEET NO. 1
REVISED TO		FILE DRAWER CADD

SOUTHERN PACIFIC
LINES
Engineering Dept. 1992
CE & ALHAMBRA AREA

EXHIBIT 1.13



SOUTHERN PACIFIC
LINES
Engineering Dept. 6400 Street

DWG. BURBANK-JCT. 11527.PLAN

SOUTHERN PACIFIC LINES

GENERAL ENGINEERING OFFICE
SOUTHERN PACIFIC BUILDING, ONE MARKET PLAZA, SAN FRANCISCO, CALIFORNIA, U.S.A.

BURBANK JCT.

MP. 471.6

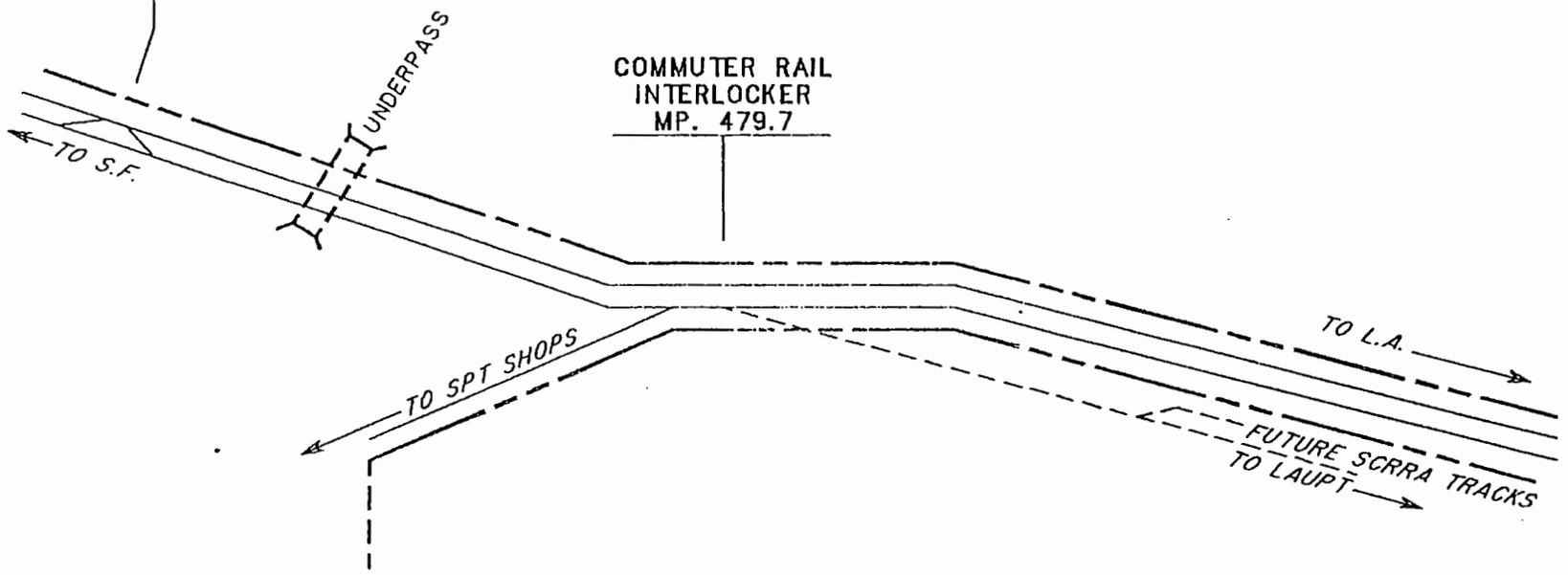
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EXHIBIT 1.19

UNIVERSAL
CROSSOVER
MP. 479.3

N
NO SCALE

COMMUTER RAIL
INTERLOCKER
MP. 479.7



SOUTHERN PACIFIC LINES

GENERAL ENGINEERING DIVISION
SOUTHERN PACIFIC BUILDING, ONE MARKET PLAZA, SAN FRANCISCO, CALIFORNIA, 94104

COMMUTER RAIL
INTERLOCKER
MP. 479.7

SCALE	NO SCALE	ENGINEERING - CADD BUREAU
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DATE	DEC. 7, 1992	SHEET NO.
		FILE DRAWER CAG05

SOUTHERN PACIFIC
LINES
Engineering Dept. ROAD DIVISION
EN C 103-ANNEX 13 YARD

28

EXHIBIT 1.23

RAILROAD CUSTOMARY ADDITIVES FOR THE YEAR 1989

<u>MAINT. OF WAY - AGREEMENT</u>	<u>PERCENT</u>	<u>BASE</u>	<u>AMOUNT</u>
ACTUAL LABOR (straight and overtime)		\$100.00	
VACATIONS	7.36%	\$100.00	7.36
PAID HOLIDAYS	4.30%	\$100.00	4.30
PERSONAL LEAVE DAYS	0.69%	\$100.00	0.69
PAYROLL TAXES	29.12%	\$112.35	32.72
HEALTH AND WELFARE	18.12%	\$100.00	18.12
SUPV. ADMIN. & USE OF TOOLS*	38.07%	\$100.00	<u>38.07</u>
			101.26
COMPENSATION INSURANCE	3.00%	\$100.00	3.00
PERSONAL LIABILITY AND PROPERTY DAMAGE (PL&PD)	1.00%	\$100.00	<u>1.00</u>
			105.26

* Supervision Administration and Use of Tools shall include the following:

Supervision shall mean the officers who do not charge their time to individual projects but who are directly supervising the labor being performed (i.e. Roadmasters and various supervisors).

Administration shall mean the salaries of District Engineers, Construction Engineers, etc. associated with the Engineering Department.

Use of tools shall mean the use of Railroad owned small tools (including, but not limited to, wrenches, mauls, claw bars) used but not charged for individually.

EXHIBIT 1.37

RAILROAD MATERIALS ADDITIVES FOR THE YEAR 1989

	<u>PERCENT</u>
STORE EXPENSE*	13%
FOREIGN LINE FREIGHT	6%
ON-LINE FREIGHT	\$.0375 per net ton miles
PURCHASING EXPENSE	1%
HANDLING EXPENSE**	5% FHWA
SALES AND USE TAX	(as governed by specific city and state)

* Store Expense shall be added to other track material and non-track material handled by Railroad that is not a direct vouchered item.

** Handling Expense shall be a charge for Federal Highway Administration ("FHWA") projects covering all material used on the project.

EXHIBIT 1.38

LOS ANGELES UNION PASSENGER TERMINAL

NO SCALE



482.30

MISSION
TOWER
482.2

CORNFIELD YARD (SPT)

← TO REDONDO JCT

TO DAYTON AVE TOWER →

LOS ANGELES

SCRRRA BRIDGE

LAUPT BRIDGE

MIDWAY YARD (SCRRRA)

PASADENA JCT.

ALHAMBRA JCT.
482.05

RIVER

TO S.F. →

SCRRRA
← TO RIVERSIDE

EAST BANK JCT.
481.9

TAYLOR JCT.
482.8

TO PASADENA
SCRRRA
481

SCRRRA TO EL MONTE →

TO YUMA →

SOUTHERN PACIFIC LINES

GENERAL ENGINEERING OFFICE
SOUTHERN PACIFIC RAILROAD ONE MARKET PLAZA SAN FRANCISCO, CALIFORNIA 94104

MISSION TOWER

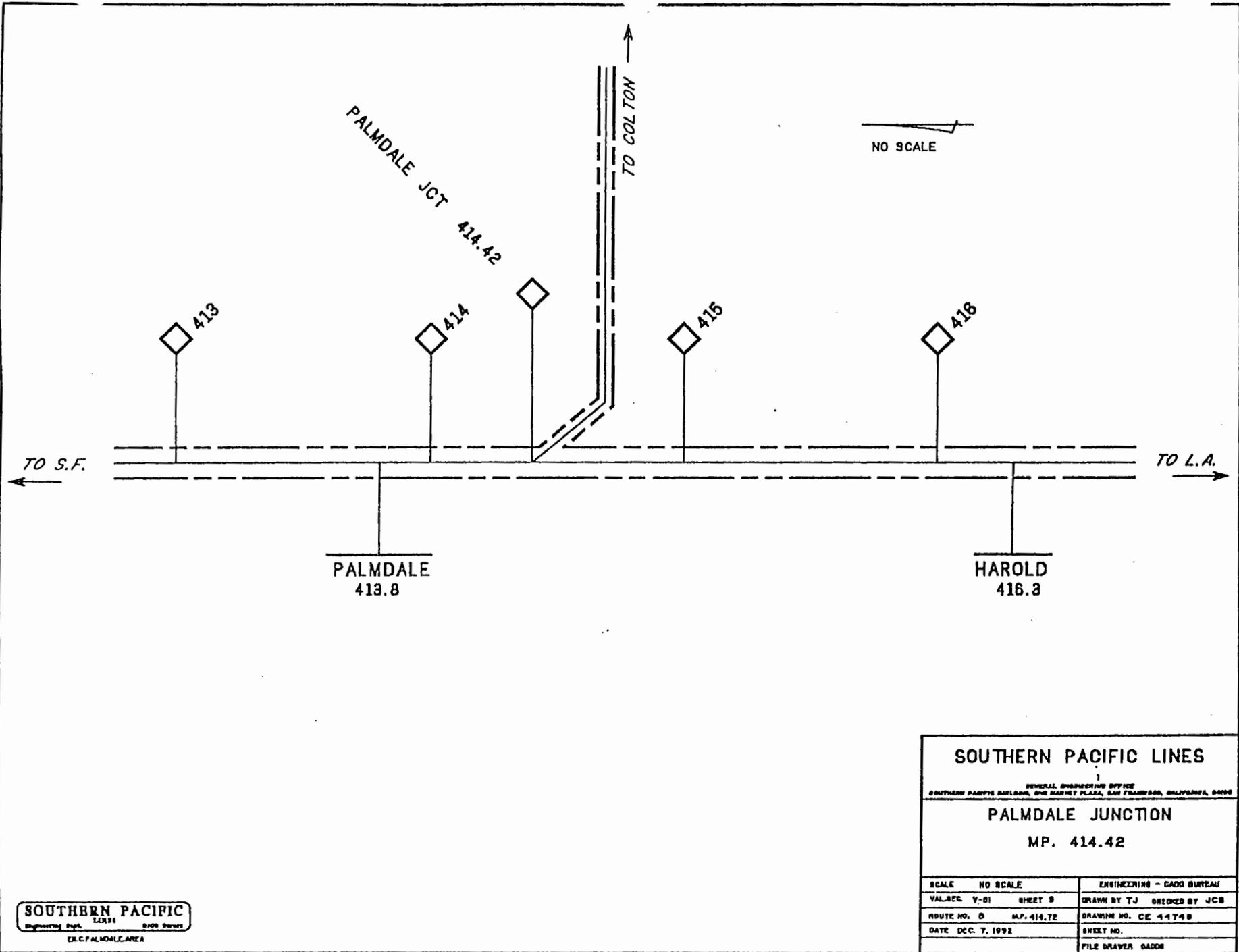
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SOUTHERN PACIFIC

ENGINEERING DEPT. CIVIL DIVISION

ENC. ALHAMBRA AREA

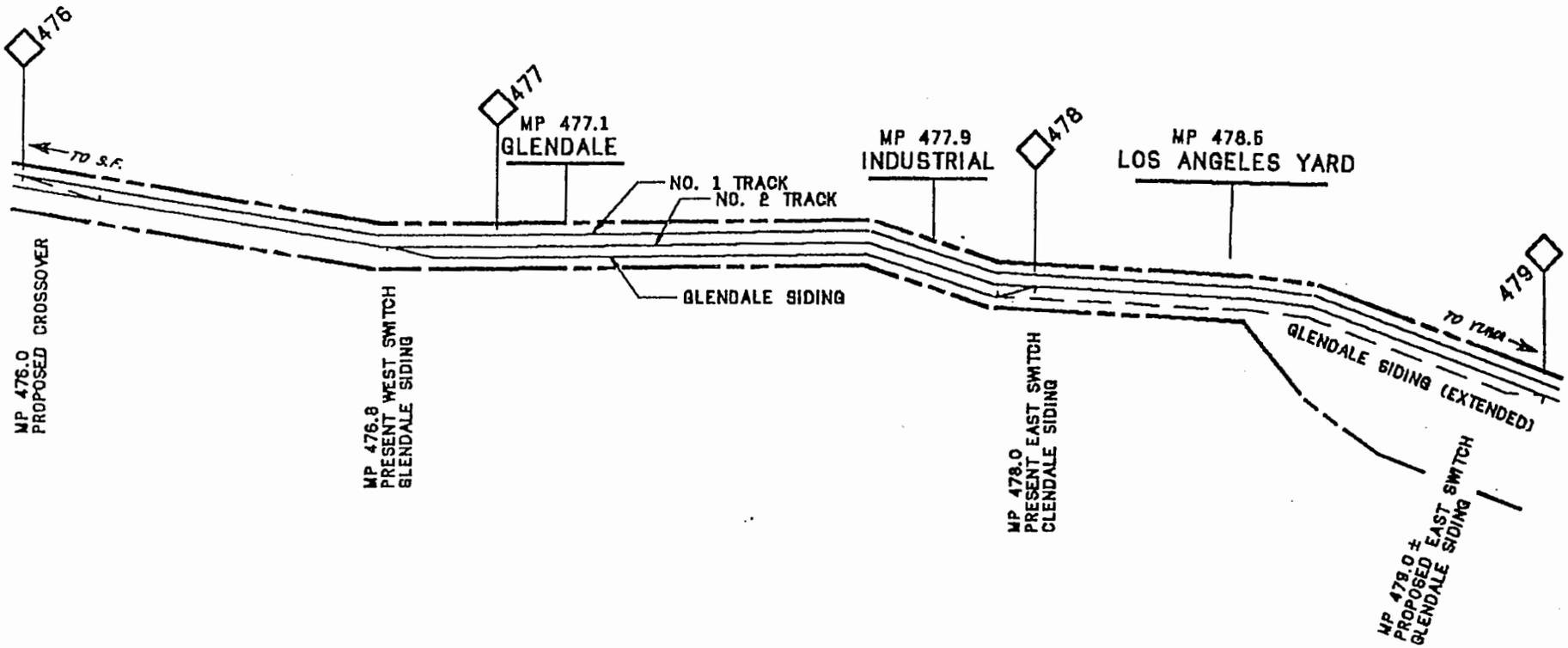
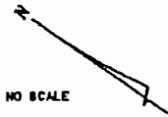
EXHIBIT 1.43



SOUTHERN PACIFIC
 LINES
 Engineering Dept. 2408 Street
 EX-CPALMDALEAREA

SOUTHERN PACIFIC LINES			
<small>GENERAL ENGINEERING OFFICE SOUTHERN PACIFIC BUILDING, ONE MARKET PLACE, SAN FRANCISCO, CALIFORNIA, 94102</small>			
PALMDALE JUNCTION			
MP. 414.42			
SCALE	NO SCALE	ENGINEERING - CADD BUREAU	
VAL. REC.	V-81	SHEET 8	DRAWN BY TJ CHECKED BY JCB
ROUTE NO.	8	MP. 414.42	DRAWING NO. CE 44748
DATE	DEC. 7, 1932	SHEET NO.	
		FILE DRAWER 6408	

EXHIBIT 1.56



SOUTHERN PACIFIC LINES

REGIONAL ENGINEERING OFFICE
SOUTHERN PACIFIC BUILDING, ONE MARKET PLACE, SAN FRANCISCO, CALIFORNIA, 94104

LOS ANGELES

LOCATION OF GLENDALE SIDING

SCALE	NO SCALE	ENGINEERING - CADD BUREAU
VAL. SEC. V-33	SHEET 1	DRAWN BY TJ CHECKED BY JCS
ROUTE NO. B	M.P. 476-479	DRAWING NO. CE 44782
DATE	DEC. 7, 1962	SHEET NO. 1
REVISED TO		FILE DRAWER CADD

SOUTHERN PACIFIC
Engineering Dept. 173223 3462 Service
 EXCLOSURE-YARD

EXHIBIT 2.2(b)

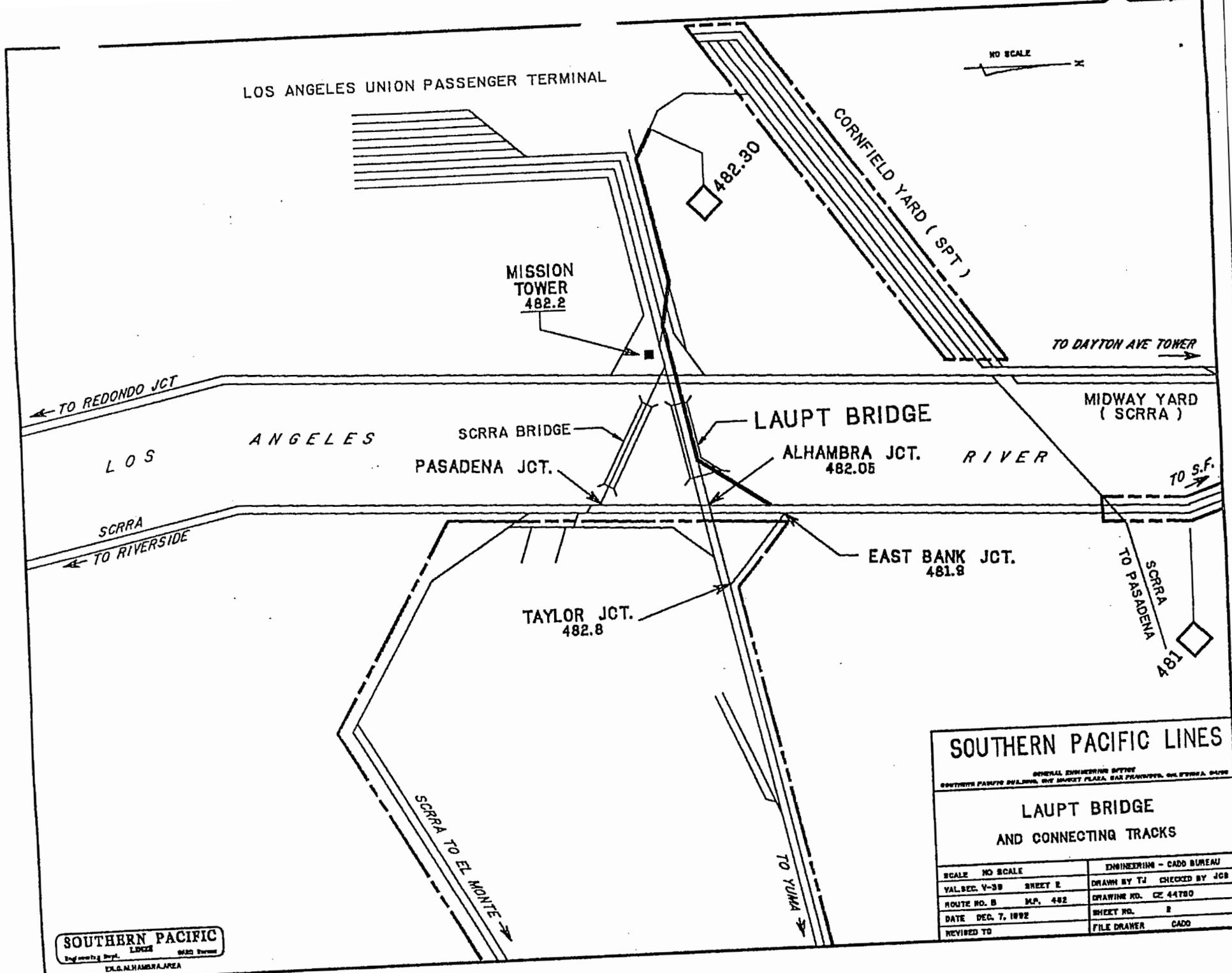
PENALTIES FOR DELAYS

The Railroad shall pay to the Commission penalties, as specified below, for each time that a freight train moving in the predominant direction of Commuter Service during a Peak Commuter Period that would not have been permitted to do so at that time but for the provisions of Section 2.2(b)(iii) is the sole and proximate cause of a delay, as indicated below, in arriving at the final destination of a scheduled Commuter Train moving in the predominant direction of Commuter Service during a Peak Commuter Period.

Number of Minutes of Delay Caused Solely by Railroad's Train

<u>equal to or more than</u>	<u>but less than</u>	<u>Penalty per Late Commuter Train</u>
0	10	\$ -0-
10	15	200
15	20	400
20	25	600
25	30	800
30	any delay over 30	1,000

EXHIBIT 2.2(i)



SOUTHERN PACIFIC LINES

GENERAL ENGINEERING OFFICE
SOUTHERN PACIFIC BUILDING, ONE MARKET PLAZA, SAN FRANCISCO, CALIFORNIA, U.S.A.

**LAUPT BRIDGE
AND CONNECTING TRACKS**

SCALE NO SCALE	ENGINEERING - CADD BUREAU
VAL. DEC. V-39	SHEET E
ROUTE NO. B	M.P. 482
DATE DEC. 7, 1892	DRAWING NO. CE 44780
REVISED TO	SHEET NO. E
	FILE DRAWER CADD

SOUTHERN PACIFIC
 L. RICE
 ENGINEERING DEPT.
 D.L.G. HAMBRAJARA

EXHIBIT 4.2 (b)



May 7, 1992

Mr. Richard Stanger
Executive Director
Southern California Regional Rail
Authority
818 West Seventh Street
Los Angeles, California 90017

RE: Relative Operating Priorities of Amtrak and
SCRRA Trains

Dear Mr. Stanger:

The purpose of this letter is to set forth the agreement of the parties concerning operating priorities and the impact on incentive/penalty performance arrangements governing Amtrak trains operated on rail lines over which SCRRA commuter trains are also operated; provided, however, that it does not govern operations of trains for the benefit of either Amtrak or SCRRA within the rail yard at Los Angeles Union Passenger Terminal ("LAUPT"), which is governed by a separate agreement between the parties.

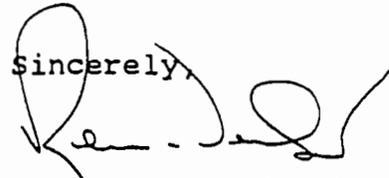
Amtrak and SCRRA agree that trains of either party operating toward LAUPT in the morning peak hours (i.e., 6:00 a.m. to 9:00 a.m.) and away from LAUPT in the afternoon peak hours (i.e., 4:30 p.m. to 7:00 p.m.) shall be given preference over trains operating in the opposite direction. When trains are operating in opposing directions in periods other than the peak hours identified in the preceding sentence and one train is operating later than its scheduled time, the train that is operating on-time shall be given preference. When trains of both parties are operating in the same direction at any time, the trains will be handled in the order presented without regard to whether they are operating on-time or late.

Amtrak agrees that it will undertake to amend the performance incentive/penalty provisions of its operating agreements with freight railroads to the extent they apply to operation of Amtrak trains on rail lines owned or formerly owned by such freight railroads that are still operated or maintained by such freight railroads. The purpose of the amendments will be to provide the freight railroad relief in measuring on-time performance for delays to Amtrak trains 1) as a result of the preference accorded pursuant to the first sentence of the preceding paragraph, 2) as a result of an Amtrak train being required to operate behind a commuter train operating in the same direction in the morning or afternoon peak hours because it was operating more

Mr. Richard Stanger
SCRRA
Page 2

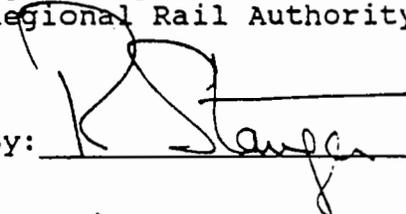
than five minutes later than its scheduled time and the commuter train was operating within five minutes of its scheduled time, or 3) as a result of a commuter train being given preference pursuant to the second sentence of the preceding paragraph, but only if the Amtrak train that was operating late had not been delayed by actions of the contracting freight railroad.

If the provisions set forth above accurately describe your understanding of the agreement between Amtrak and SCRRA with respect to operating priorities and freight railroad performance arrangements, please have the extra copy of this letter signed on behalf of SCRRA in the space provided below, and return one copy to me.

Sincerely,


Robert C. VanderClute

Agreed by Southern California
Regional Rail Authority

By:  _____

Title: EXECUTIVE DIRECTOR

EXHIBIT 5.1



PACIFIC REGION TIMETABLE

1

EFFECTIVE SUNDAY, OCTOBER 25, 1992
AT 12:01 A.M.

G. P. MICHAEL
Vice President - Operations

L. L. PHIPPS
General Manager

MOJAVE DISTRICT

speed, the train must be STOPPED and sufficient hand brakes set to prevent movement. The train must not proceed until additional dynamic braking is obtained, tonnage reduced, or retainers on all cars placed in operative position. The train must not proceed except as instructed by a Manager-Crew Development and Performance or other proper authority. Refer to Rule 919 for retainer use instructions.

WESTWARD ↓		STATIONS	↑ EASTWARD	
Station Numbers	Siding Feet	Saugus Line		Mile Post
20965		BURBANK JCT		471.3
18290	8000	BRIGHTON	C	470.7
.....		CP BRIGHTON	T	470.1
18280		SUN VALLEY	C	467.9
18275	3070	PACOIMA	D	463.4
		SAN FERNANDO (Metrolink)	T	460.9
18265	6050	SYLMAR	C	459.2
18250	5040	SAUGUS		450.6
.....	SANTA CLARITA	A	448.7
18240		HUMPHREYS	B	443.1 443.0
18235	4990	LANG	S	438.8 438.6
18225	6090	RAVENNA		429.0
18215		PARIS	DT	425.0
18210		VINCENT	DTC ABS	420.5
18155		PALMDALE JCT	CTC	414.4
(56.9) (Route B)				

Lone Pine Branch

...		END OF BRANCH	Y	431.7
17955		SEARLES	TY	428.4
17935		CANTIL	D	402.5
17930		CHAFFEE	T	380.8
17900		MOJAVE	C QT	379.5 380.7
(52.2) (Route BAM)				

MAXIMUM AUTHORIZED SPEED FOR TRAINS

BETWEEN		SAUGUS LINE		ALL TRAINS	
PALMDALE JCT and BURBANK JCT					
	PSGR	FRT		PSGR	FRT
414.4 and 417.3	50	50	457.2 and 459.0	40	40
417.3 and 427.0	30	30	459.0 and 471.0	60	50
427.0 and 450.0	25	25	471.0 and 471.5	50	35
450.0 and 454.8	40	40	471.5 to No. 1 Track	50	40
454.8 and 456.3	25	25	471.5 Turnout to		
456.3 and 457.2	30	30	No. 2 Track	35	35

LONE PINE BRANCH

MOJAVE and END OF BRANCH	40
Exceptions:	
422.0 and 426.0	30
Exceptions: Westward	
422.0 and 412.9	30



SOUTHWEST REGION TIMETABLE

1

**EFFECTIVE SUNDAY, OCTOBER 25, 1992
AT 12:01 A.M.**

G. P. MICHAEL
Vice President - Operations

M. L. WELLS
General Manager

BASIN DISTRICT

WESTWARD ↓		STATIONS		↑ EASTWARD	
Station Number	Siding Feet	West Line			Mile Post
...		SANTA FE INTERLOCKING	M		538.7
25000		3.7 WEST COLTON	QT		535.0
24920	6259	5.3 SOUTH FONTANA	T		529.7
24795		2.2 KAISER			527.5
24520	5914	3.7 GUASTI		C	523.8
24515	5621	3.6 ONTARIO		T	520.2
24510	6173	2.4 MONTCLAIR			517.8
24245	14706	3.5 POMONA		C	514.3
24215	6231	7.5 WALNUT			506.8
24205	5691	3.3 MARNE			503.5
...		0.9 MARNE X-OVERS			502.6
24000	14909	1.1 CITY OF INDUSTRY	QT		501.5
...		0.5 TWENTY-SEVEN X-OVER			501.0
23995	7029	3.7 BASSETT			497.3
23677	7238	2.7 EL MONTE			494.6
23624		6.9 ALHAMBRA		2 MT	487.7
...		0.8 AURANT X-OVER		CTC	486.9
...		1.3 VALLEY BLVD X-OVERS			485.6
23500		2.7 LATC	QT	2 MT No. 1 CTC	482.9
23610		0.1 TAYLOR JCT	MT		482.8
21089		0.6 MISSION TOWER	MQT	2	482.2
21087		0.3 EAST BANK JCT	M	M	481.9
21085		1.2 DAYTON AVE TOWER	MQ	T	480.7
....		1.3 CP METRO			479.4
....		0.8 CP TAYLOR		2MT	478.6
21000		0.1 LOS ANGELES YD	QT		478.5
....		1.1 CP FLETCHER		CTC	477.4
20985		0.3 GLENDALE			477.1
...		3.7 ALLEN AVE X-OVERS			473.4
....		1.3 BURBANK (AMTK-METRO)			472.1
....		0.2 CP OLIVE			471.9
20965		0.3 BURBANK JCT	T		471.6 462.4
		(67.4)	(Route B)		

POMONA: Clearance point East end to clearance point East end of crossover 8290 feet. Clearance point West end to West end of crossover 5710 feet.

CITY of INDUSTRY: New siding 5240 feet. Extension 7862 feet.

CP Olive: Located on No. 1 track.

BASIN DISTRICT

MAXIMUM AUTHORIZED SPEED FOR TRAINS

WEST LINE

Between SANTA FE INTERLOCKING and BURBANK JCT. via WEST LINE

LIMITS		LIMITS	
	PSGR FRT		PSGR FRT
539.0 and 538.7 No. 1		Mission Tower and East	
Track	30 30	Bank Jct.	10 10
538.7 and 538.6 No. 1		Pasadena Jct. and East	
Track (ATSF xing)	20 20	Bank Jct.	15 15
538.6 and 537.6 No. 1		482.8 and 481.9	10 10
Track	50 50	481.9 and 480.6	20 20
539.0 and 538.7 No. 2		Exception	
Track	30 30	Eastward 480.4 and	
538.7 and 537.6 No. 2		481.0	15 15
Track	20 20	Crossovers between No. 1	
537.6 and 536.5	50 50	and No. 2 tracks at Day-	
536.5 and 532.4	60 50	ton Ave. Tower	
532.4 and 495.0	60 60	MP 480.7	15 15
495.0 and 494.4	65 60	480.6 and 477.4	40 40
494.4 (Bridge)	40 40	477.4 and 471.5	50 40
494.4 and 491.3	65 60	473.2 Through X-over	25 25
491.3* and 489.9*	30 30	To Saugus Line	
489.9 and 485.8	50 50	Via No. 1 Trk.	50 40
485.8 and 484.0 No. 1		Via No. 2 Trk.	35 35
Track	30 30	To Coast Line	35 35
484.0 and 482.8 No. 1			
Track	20 20		
485.8 and 483.0 No. 2			
Track	20 20		
483.0 and 482.8 No. 2			
Track	10 10		
Taylor Jct. and Pasadena			
Jct.	10 10		
Taylor Jct. or East Bank Jct.			
and Mission Tower	15 15		

WEST COLTON:

Balloon Track and both legs of wye 15

Maximum Authorized Speed Exceptions:

Light engines with less than 12 axles must not exceed 45

MPH between: MP 483.0 and MP 525.0 on West Line.

"Key" trains must not exceed 30 MPH between:

West Line Burbank Jct, MP 462.4 and Walnut,
MP 505.0.

Pomona, MP 512.0 and MP 516.0.

South Fontana, MP 530.0 and

West Colton, MP 535.7.

Loaded unit steel slab train must not exceed 30 MPH

No. 2 Track (Rule 94 Territory —

MP 482.8 and MP 485.5) Restricted Speed

Eastward (via No. 1 Track) MP 473.4 and MP 479.4

(Against Current of Traffic) 20

Westward (via No. 2 Track) MP 479.4 and MP 473.4

(Against Current of Traffic) 20

*Rule 10(E) At these locations, speed may be increased as soon as lead engine has passed increase speed sign.

EXHIBIT 5.2 (b)

COST BREAKDOWN OF AGREED ANNUAL SHARE

**I. Saugus-Ventura Shared Use Agreement
(existing agreement)**

(1) Saugus (MP 449.4) to Commuter Rail Interlocker (C.R.I.) (MP 479.71)	= 30.31 miles
(2) Second Main-Burbank Jct. to C.R.I. 8.21 miles equated to	= <u>6.81 miles</u>
(1)+(2) Saugus (MP 449.4) to C.R.I. (MP 479.4)	= 37.12 miles
(3) Moorpark (MP 426.4) to Burbank Jct. (MP 462.45)	= 36.05 miles
Total (1)+(2)+(3)	= 73.17 miles

% of mileage on Saugus Line	= 50.73%
% of mileage on Ventura Line	= 49.27%

As Stated in Agreement:

Car Mile Component (CMC)	= 976,950
Route-Mile Component (RMC)	= 275,550
Agreed Annual Share (AAS)	= 1,252,500

Adjusted Agreed Annual Share for Corrected Mileage:

	<u>Ventura Line</u>	<u>Saugus Line</u>	<u>Total</u>
CMC	485,028	499,401	984,429
RMC	<u>136,813</u>	<u>140,867</u>	<u>277,680</u>
AAS	621,841	640,268	1,262,109
Cost/Mile			
CMC	13,455	13,454	
RMC	<u>3,795</u>	<u>3,795</u>	
Total			
Cost/Mile	17,250	17,249	

Cost per Mile = 17,249

Additional Mileage on Saugus Line
Saucus to Santa Clarita

Saugus (MP 449.4)		
to		
Santa Clarita (MP 448.55)	=	0.85 mile
Original Mileage	=	<u>37.12 miles</u>
New Mileage	=	37.97 miles

New Saugus Line AAS
Santa Clarita (MP 448.55)
to
C.R.I. (MP 479.71)

CMC	13,454 X 37.97	=	510,848
RMC	3,795 X 37.97	=	<u>144,096</u>
New Total AAS for Saugus Line		=	654,944

II. Maintenance Cost for New Agreements

A. Saugus Line

1. a. Santa Clarita (MP 448.55)		
to		
Palmdale Jct. (MP 414.42)	=	34.13
b. Double Track at Vincent		
MP 419.98 to MP 421.33 = 1.35		
Equated Mileage - 1.35 X .83	=	<u>1.12</u>
Mileage Santa Clarita to		
Palmdale Jct.	=	35.25 miles

Increased because of curvature:

1. Saugus - Ventura Agreement		
Average Curvature	-	0.35 degree
Area Maintenance Factor	-	1.05
2. Santa Clarita - Palmdale Jct.		
Average Curvature	-	2.20 degrees
Area Maintenance Factor	-	1.30
3. Relative Maintenance Factor	-	<u>1.30</u> 1.24
		1.05

II. Maintenance Cost for New Agreements (continued)

c. Maintenance Cost Santa Clarita-Palmdale Jct.			
CMC	13,454 X 35.25 X 1.24	=	588,074
RMC	3,795 X 35.25	=	<u>133,774</u>
Agreed Annual Share (AAS)			
from Santa Clarita-Palmdale Jct. = 721,848			
2. a. C.R.I. (MP 479.72)			
	to		
	Alhambra Jct (MP 482.05)	=	2.33
b. Second Main Track			
	Equated Mileage 2.33 X 0.83	=	<u>1.93</u>
			4.26
c. Maintenance Cost - C.R.I.-Alhambra Jct.			
CMC	13,454 X 4.26	=	57,314
RMC	3,795 X 4.26	=	<u>16,167</u>
Agreed Annual Share			
from C.R.I - Alhambra Jct. = 73,481			

B. Ventura Line

CMC	485,028
RMC	<u>136,813</u>
AAS	621,841

III. Summary

A. Maintenance Cost - Santa Clarita-Alhambra Jct.

	<u>CMC</u>	<u>RMC</u>	<u>AAS</u>
1. Santa Clarita-C.R.I.	510,848	144,096	654,944
C.R.I.-Alhambra Jct.	<u>57,314</u>	<u>16,167</u>	<u>73,481</u>
Total Santa Clarita-Alhambra Jct.	568,162	160,263	728,425

2. Cost Per Mile:

CMC = 13,454/mile
RMC = 3,795/mile

Total Cost Per Mile 17,249/mile

B. Maintenance Cost - Palmdale-Santa Clarita

1. CRC = 588,074
RMC = 133,774

Total Palmdale-Santa Clarita = 721,848

2. Cost Per Mile:

CMC = 13,454 x 1.24 = 16,683/mile
RMC = 3,795 = 3,795/mile

Total Cost Per Mile = 20,478/mile

EXHIBIT 11.9

RECORDING REQUESTED BY AND
AFTER RECORDING RETURN TO:

Dewey Ballantine
333 South Hope Street,
Suite 3000
Los Angeles, California 90071
Attention: Alan Albright, Esq.

This instrument is exempt from
Recording Fees (Govt. Code § 27383)
and from Documentary Transfer Tax
(Rev. & Tax Code § 11922)

MEMORANDUM OF SHARED USE AGREEMENT (SAUGUS LINE)
(LOS ANGELES COUNTY)

THIS MEMORANDUM OF SHARED USE AGREEMENT (SAUGUS LINE) (this "Memorandum"), dated as of December __, 1992, is entered into by SOUTHERN PACIFIC TRANSPORTATION COMPANY, a Delaware corporation (the "Railroad") and LOS ANGELES COUNTY TRANSPORTATION COMMISSION (the "Commission"), with reference to the following facts:

A. During the past two years, the Commission has acquired from the Railroad, and from the Union Pacific Railroad Company, certain real property and real property rights making up a contiguous rail right-of-way from and including the Alhambra Junction (as defined below) north to and including the Palmdale Junction (as defined below) (the "Right of Way"), located in Los Angeles County, California and more particularly described in Exhibit A attached hereto. As used herein, the term "Alhambra Junction" means the junction located at milepost 482.05, at the intersection of the Railroad's Alhambra line and the Commission's East Bank line, including all Crossovers at present and future locations in the vicinity thereof; and the term "Palmdale Junction" means the clear point of the junction switch located at milepost 414.42.

B. The Railroad owns an easement and trackage rights on and over the Saugus Line (as defined below) to provide Rail Freight Service, as set forth in the Shared Use Agreement (Saugus Line), dated of even date herewith, between the Railroad and the Commission (the "Agreement"). As used herein, the term "Saugus Line" means all existing main line Tracks, Crossovers, passing sidings, bridges and signal systems between and including Alhambra Junction and Palmdale Junction (excluding the Glendale

Siding), as well as the LAUPT Bridge and future main line Tracks, Crossovers and passing sidings constructed over the term of the Agreement pursuant to Sections 2.3, 2.4, 2.5 and 2.7 thereof. Capitalized terms used herein without definition shall have the meanings given to such terms in the Agreement.

C. Pursuant to the Agreement, the Railroad and the Commission agreed, subject to the terms and conditions set forth therein, to share the use of all existing Saugus Line railroad tracks and related improvements and all other Saugus Line railroad tracks and related improvements constructed pursuant to the Agreement (except in each case (i) passenger stations, passenger loading platforms and layover facilities to be constructed by the Commission, (ii) the yards and the industrial, switching and storage tracks identified in the Agreement, and (iii) the Glendale Siding) and to share the use of the LAUPT Bridge and connecting Tracks (collectively, the "Shared Use Facilities"). Pursuant to the Agreement, the Railroad and the Commission also agreed as to certain maintenance and repair obligations regarding the Shared Use Facilities and other improvements located in the Right of Way.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Railroad and the Commission hereby agree as follows:

1. The Agreement is hereby incorporated herein by reference with the same force and effect as if fully set forth herein. In the event of any conflict between the terms of this Memorandum and the terms of the Agreement, the terms of the Agreement shall prevail. The term of the Agreement is perpetual unless sooner terminated in accordance with its terms.

2. Pursuant to and as more fully set forth in the Agreement, the Railroad and the Commission shall each have the right to use all the Shared Use Facilities, subject to the terms and conditions contained in the Agreement. The Railroad and the Commission shall share the costs of maintenance and repair of the Shared Use Facilities, and any liability that may be incurred in connection with the Shared Use Facilities, in accordance with the provisions of the Agreement.

3. The Shared Use Facilities shall be owned as follows:

(a) The Commission shall own all Shared Use Facilities existing on the date of execution of the Agreement.

(b) The Railroad shall own all future improvements located on the Right of Way that are constructed at the sole cost and expense of the Railroad.

(c) The Commission shall own the future improvements located on the Right of Way that are constructed or installed at the Commission's sole cost and expense.

(d) The ownership of any future improvements funded jointly by the Commission and the Railroad shall be as mutually agreed to by them.

4. Nothing in the Agreement shall be construed as granting or reserving to the Railroad any interest or right in the Right of Way other than the rights expressly provided in the Agreement, and the Commission reserves the right to use the Right of Way for any purpose other than providing freight service, provided that such use does not interfere with the Railroad's ability to provide service-competitive Rail Freight Service (the Commission reserves, however, the right to use the Right of Way for the operation of Commission Non-Revenue Equipment).

5. The Agreement supersedes, and renders null and void, the Shared Use Agreement (Saugus and Ventura Lines), dated April 18, 1991, among the Railroad, the Commission and Ventura County Transportation Commission (a memorandum of which was recorded in the Official Records of the County of Los Angeles, California on June 14, 1991, at Document Number 91-897516) to the extent it applies to the Saugus Line, except with respect to obligations or other matters arising prior to the date of the Agreement that state that they survive the termination thereof.

6. As more fully set forth in the Agreement, the Railroad has a "right of first offer" to purchase all or any portion of the Right of Way located within 25 feet of any Track which constitutes a Shared Use Facility if the Commission proposes to sell such property to any person other than a financially and operationally capable governmental agency.

IN WITNESS WHEREOF, this Memorandum has been executed and delivered by the Railroad and the Commission as of the date first written above.

THE RAILROAD:

SOUTHERN PACIFIC
TRANSPORTATION COMPANY,
a Delaware corporation

By: _____
Title: _____

THE COMMISSION:

LOS ANGELES COUNTY
TRANSPORTATION
COMMISSION

By: _____
Title: _____

STATE OF CALIFORNIA)
) ss:
COUNTY OF LOS ANGELES)

On December __, 1992, before me, the undersigned, a Notary Public in and for said County and State, duly commissioned and sworn, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person who executed this instrument, acknowledged to me to be the _____ of SOUTHERN PACIFIC TRANSPORTATION COMPANY, a Delaware corporation, the corporation that executed the foregoing instrument, further acknowledged to me to be the person who executed said instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same pursuant to its By-Laws or a resolution of its Board of Directors.

WITNESS my hand and official seal.

Notary Public

STATE OF CALIFORNIA)
) ss:
COUNTY OF LOS ANGELES)

On December __, 1992, before me, the undersigned, a Notary Public in and for said County and State, duly commissioned and sworn, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person who executed this instrument, acknowledged to me to be the _____ of LOS ANGELES COUNTY TRANSPORTATION COMMISSION, a county transportation commission existing under the authority of §130500 et seq. of the California Public Utilities Code, the county transportation commission that executed the foregoing instrument, further acknowledged to me to be the person who executed said instrument on behalf of said county transportation commission, and acknowledged to me that such county transportation commission executed the same.

WITNESS my hand and official seal.

Notary Public