

3219

MEMORANDUM OF AGREEMENT, made this 25<sup>th</sup> day of April, A.D., 1960, between CENTRAL OF GEORGIA RAILWAY COMPANY, a corporation of the State of Georgia, hereinafter referred to as the Grantor, party of the first part, and THE BOARD OF REVENUE AND CONTROL, SHELBY COUNTY, ALABAMA, a political subdivision of the State of Alabama, hereinafter referred to as the Grantee, party of the second part.

WHEREAS, the Grantee desires to construct a new highway extending from U. S. Highway No. 25 to \_\_\_\_\_, Alabama, known as Project No. C.P. 4-27, in Shelby County, Alabama, and has surveyed the same, and desires to construct a portion thereof upon the property of the Grantor hereinafter described; and desires to obtain from the Grantor the easement hereinafter granted, and agrees to abandon and close to travel, one (1) present public road as hereinafter set out.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH:

1. The Grantor hereby grants unto the Grantee, subject to the conditions hereinafter named, the right to use for highway purposes a parcel of the Grantor's land in Shelby County, Alabama, Birmingham District, as shown in red on print of the Grantor's Plan No. 172-88/13905, attached to and made a part of this agreement, and which parcel is more particularly described as follows:

A parcel of land measuring approximately 82 ft. in width by approximately 102 ft. in length, extending from the northeasterly to the southwesterly right of way line of the Grantor; and the longitudinal center line of which crosses the center line of the Grantor's main track at M.P. 8-420 minus 970.5 ft., Birmingham District; as shown in red on said attached print.

2. The Grantee agrees that it will, at its own expense and cost, install and maintain the said highway, including drainage, in a safe condition, under the supervision of a representative of the Grantor and in accordance with his direction, and in such manner as not to interfere with the roadbed, bridges, culverts, drainage ditches or other property which now belongs to or may hereafter belong to the Grantor, and which now, or may hereafter lie or pass on, over or under the Grantor's right of way or tracks, except as hereinafter set out. Provided, however, that those portions of the work which the Grantor's forces must necessarily perform shall be performed by such forces, and the Grantee shall reimburse promptly the Grantor for the cost so incurred, upon receipt of bill therefor; except the Grantor will install and maintain that portion between the rails of its tracks, and outside of said rails to a distance of eighteen (18) inches therefrom.

Any new or additional sewers, curbs, gutters, drain pipes or ditches that may be required will be installed and maintain by the Grantee at its expense, and in a manner satisfactory to the Grantor.

FILED 11 MAY 1960

BOOK 208 PAGE 044



3. The easement herein granted as to said parcel of land described in Section 1 hereof shall terminate, and revert to the Grantor, its successors and assigns (a) if and when said parcel shall cease to be maintained or used as a highway, or (b) if the Grantee shall fail to keep and perform any of its covenants herein contained, within a reasonable time.

4. The Grantee also agrees that within 90 days after the termination of this agreement, for any cause, it will, if requested, at its own cost and expense, remove the said highway from the parcel of land above described in Section 1 hereof, as to which this easement will then have terminated; failing which, the Grantee will permit the Grantor to do so, and will reimburse the Grantor for the cost so incurred.

5. The easement hereby granted is subject to the right of the Grantor and its successors and assigns to lay, maintain and use additional tracks at grade across the parcel of land described in Section 1 hereof.

6. If the use of said parcel of land by the Grantee requires the removal or relocation of any poles, wires, tracks, buildings, or other property located thereon, the Grantee will pay the entire cost of such removal or relocation. The Grantor reserves to itself the right to decide all matters regarding the removal or relocation of such poles, wires, tracks, buildings or other property, and its decision in this respect shall be final.

7. The Grantee agrees that, in performing the work it is obligated to perform hereunder, it will abide by all reasonable rules and regulations of the Grantor, particularly in regard to the movement of engines, trains and other rail equipment over the Grantor's tracks at the crossing thereof by the aforesaid highway, and that it will not allow any work to be done by its forces, or by its contractors, or by their subcontractors on the said crossing, or in the vicinity thereof closer to the center line of the Grantor's present tracks, or the center line of any track which may be subsequently constructed at this location than ten (10) feet, measured at right angles to the center line of such track or tracks, unless a representative of the Grantor is present for the purpose of supervising said work, and providing necessary protection for railway traffic.

8. The Grantee agrees to indemnify and hold the Grantor harmless against all loss, damage, liability or expense arising from injury or damage to person or property while said person or property is engaged or used in constructing the highway and appurtenances thereof on the parcel of land described in Section 1 hereof, saving such liability as may be incurred by the Grantor due to the direct negligence of its train crews in and about the operation of trains over the aforesaid parcel



of land.

9. The Grantor will not be required to pay any part of the cost of constructing, paving, repairing, sodding or maintaining any portion of the highway or slopes constructed or placed on the land hereby granted.

10. In further consideration of the Grantor's covenants, the Grantee agrees that it will abandon, and close to all travel, by proper process of law, that portion of the present public road which is on the property of the Grantor, and which crosses over the Grantor's right of way and tracks at Mile Post S-420 minus 801 ft., Birmingham District, and which is shown in yellow on said attached print; and will exclude all persons and vehicles from that portion of said road on the property of the Grantor.

11. No. notice to any officer or other representative of the Grantor, either implied, verbal or written, shall be held to effect a waiver or change in any part of this agreement, nor estop the Grantor from asserting any right under the covenants, terms or conditions of this agreement; nor shall the said covenants, terms or conditions be waived or changed except by written consent of the President and General Manager, or Executive Vice President of the Grantor, or their authorized representatives.

IN WITNESS WHEREOF, the Grantor has caused these presents to be executed by its proper officers, thereunto duly authorized, and its corporate seal to be hereto affixed, and The Board of Revenue and Control, Shelby County, Alabama, has caused these presents to be executed in accordance with the resolution of its governing body passed on the 9 day of May, A.D., 1960, a copy of which is hereto attached; all being done in duplicate as of the day and year first above written.

Witness as to the signature of  
Central of Georgia Railway Company:

Mark W. Campbell  
Notary Public, Chatham County,  
Georgia.

Witness as to the signature of  
The Board of Revenue and Control,  
Shelby County, Alabama:

Angeline J. Moore  
Lewie Brasher  
Notary Public, Shelby County, Ala.

CENTRAL OF GEORGIA RAILWAY COMPANY

By [Signature]  
Executive Vice President

ATTEST: [Signature]  
Secretary

THE BOARD OF REVENUE AND CONTROL,  
SHELBY COUNTY, ALABAMA

By [Signature]

ATTEST: [Signature]  
Clerk

208 461041



STATE OF GEORGIA )  
COUNTY OF CHATHAM )

I, FRANK W. CAMPOS, a Notary Public in and for said County and State, hereby certify that E. F. BIDEZ and B. D. HELMKEN, whose names as Executive Vice President and Secretary, respectively, of CENTRAL OF GEORGIA RAILWAY COMPANY, a corporation, are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they as such officers and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 25<sup>TH</sup> day of APRIL, A.D., 1960.

Frank W. Campos  
Notary Public, Chatham  
County, Georgia.

STATE OF ALABAMA )  
COUNTY OF SHELBY )

I, Lanice Brasher, a Notary Public in and for said County and State, hereby certify that Conrad M. Fowler and Cecil Duke, whose names as Chairman and Clerk, respectively, of The Board of Revenue and Control, Shelby County, Alabama, are signed to the foregoing instrument, and who are known to me acknowledged before me this date that, being informed of the contents of this instrument, they as such officers, and with full authority, executed the same voluntarily for and as the act of said Board.

Given under my hand and seal of office this 9<sup>th</sup> day of May, A.D., 1960.

Lanice Brasher  
Notary Public, Shelby  
County, Alabama.

STATE OF ALABAMA  
SHELBY COUNTY

ACT NO. 749

I hereby certify that no Deed Tax has been collected on this instrument.

Conrad M. Fowler  
Judge of Probate

**TAX EXEMPT**

208 466047  
FILED 11 MAY 1960



RESOLVED THAT Courad M. Fowler, Chairman of the Board,

is hereby authorized and directed to sign, execute and deliver, in behalf of Shelby County, Alabama, in duplicate, a certain agreement between CENTRAL OF GEORGIA RAILWAY COMPANY, a corporation of the State of Georgia, party of the first part, and THE BOARD OF REVENUE AND CONTROL, SHELBY COUNTY, ALABAMA, party of the second part; said agreement covering the use of a parcel of the Grantor's right of way in Shelby County, Alabama, Birmingham District, M.P. S-420 minus 970 ft., as a right of way for a new highway extending from U. S. Highway No. 25 to \_\_\_\_\_, in Shelby County, Ala., and the closing and abandonment of one public grade crossing at M.P. S-420 minus 801 ft., Birmingham District.

I certify that the foregoing is a correct extract from the Minutes of The Board of Revenue and Control, Shelby County, Alabama, held on 9 May, A.D., 1960.

Courad M. Fowler Chairman U.S.

Acil Duke Clerk

FILED 11 MAY 1960

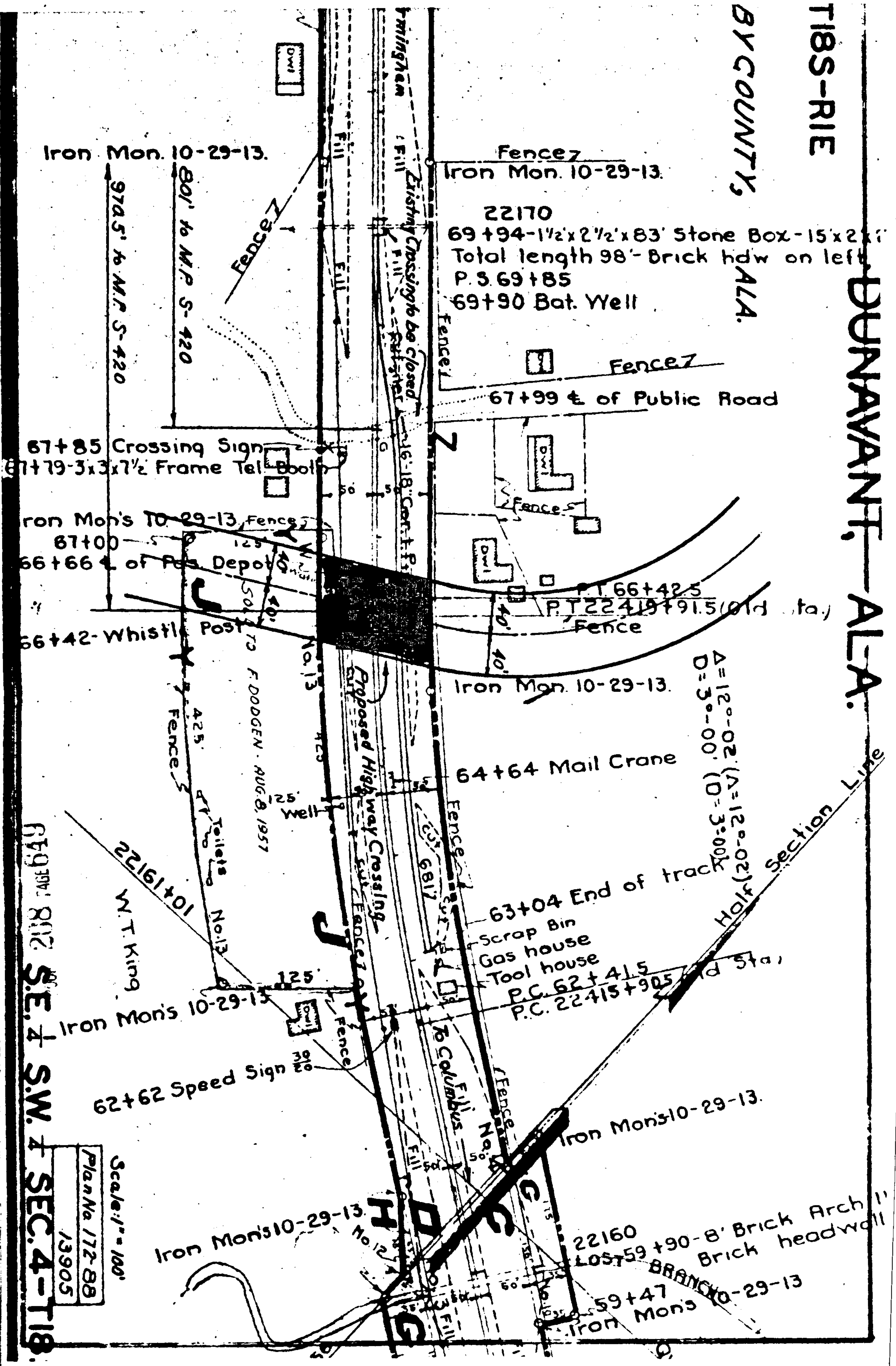
208 44848



T18S-R1E

BY COUNTRY, ALA.

DUNAWANT, ALA.



STATE OF ALABAMA, SHELBY COUNTY

I, Conrad M. Fowler, Judge of Probate, hereby certify that the within deed was filed for record in this office on the 11 day of May 1960 at 8 M. o'clock and recorded in deed Book 208 at page 644 on the 17 day of May 1960. Mortgage tax \_\_\_\_\_ Deed Tax \_\_\_\_\_ has been paid.

Conrad M. Fowler