

of the benefit to accrue to it from the abolition of a grade crossing hereinafter mentioned;

Now, therefore, in consideration of the premises, it is hereby agreed between the Highway Commission and the Railway Company as follows:

1. That the Railway Company hereby grants to the Highway Commission the right to lay out, establish, construct and permanently maintain the said highway upon the location now adopted therefor; Provided, however, that no part of the said highway or the strip fifty (50) feet in width (i.e., twenty-five (25) feet on either side of the center line of said highway as located by survey) shall encroach upon or overlap the right of way of the Railway Company to a greater extent at any point between the said point seven hundred eight (708) feet west of milepost 486 and the said point eight hundred fifty (850) feet east of the said milepost 486, than twenty-five (25) feet at the widest point of said encroachment, which is about one hundred ninety (190) feet west of the center of the road now crossing the railroad at a point about seven hundred (700) feet east of milepost 486, the intention hereof being that the Highway Commission shall use its best endeavors to encroach upon the said right of way of the Railway Company not more than twenty (20) feet, and in no event more than twenty-five (25) feet.

2. That the said right of way of the Railway Company is a strip of land two hundred (200) feet in width lying one hundred (100) feet on either side of the center line of the main track of the Atlanta and Charlotte Air Line Railway as originally located and constructed, the southerly limit of said right of way, in so far as the same is affected by this agreement, being marked by pieces of rail planted therein.

A blue print map dated September 29, 1927, on which the encroachment of said proposed highway on the right of way of the Railway Company is shown in red color is herewith annexed and made a part of this agreement.

3. That in consideration of the foregoing grant, it is agreed by Highway Commission
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and the Railway Company, parties of the first and second parts hereto, that the road now crossing the said railroad and right of way of the Railway Company at a point about seven hundred (700) feet east of milepost 486 shall be closed, and the crossing thereof, at grade, over the said tracks and right of way of the Railway Company shall be forever abandoned and abolished; and in further consideration of the foregoing grant to the Highway Commission by the Railway Company, it is agreed that the privilege hereby granted by the Railway Company to the Highway Commission shall not be exercised or enjoyed, or any attempt made by the Highway Commission to use any part of the right of way of the Railway Company in the construction of said road, until after the proper authorities of Greenville County, South Carolina, shall have taken such steps or proceedings as may operate to effectually close the said grade crossing and abolish the same forever, and proper evidence of such action sufficient to accomplish the said purpose, shall have been furnished and delivered to the Railway Company; the distinct understanding being that the principal consideration moving the Railway Company to make and enter into this agreement and to grant the privilege aforesaid, without which this agreement would not have been made or the said privilege granted, is the benefit to be by it derived from the abolition of said grade crossing and the permanent closing of said road crossing the right of way and tracks as aforesaid.

4. It is further understood and agreed by the parties hereto that all work done by the Highway Commission in or in connection with the construction of said highway, in so far as the same shall encroach upon or shall affect the right of way of the Railway Company, shall be done and executed in such manner that the construction of said road or the maintenance of the same hereafter shall not cause damage to the right of way or roadbed of the Railway Company or any tracks or works now or hereafter placed upon the same by the Railway Company, and in such manner as not to
over.