

RESOLUTION NO. 204121

OCT 28 1971

WHEREAS, THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, a corporation, has requested The City of San Diego to grant such railway company permission to construct, operate and maintain a spur track across FROST-MAR PLACE, southerly of Miramar Road, in the City of San Diego, according to Plan No. 12714-1-B, attached hereto as Exhibit A and made a part hereof; and

WHEREAS, the City Manager has investigated the request of the railway company and has found and determined that the installation as requested by the railway company will not unduly interfere with nor affect the public use of the street involved, nor impair the use of any public improvements installed therein, and the City Manager has recommended that a revocable permit be granted; and

WHEREAS, permission should be granted to THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY with conditions to construct, operate and maintain a spur track as requested;

NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, as follows:

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, a corporation, is hereby granted a revocable right to construct, operate and maintain a spur track in FROST-MAR PLACE in the City of San Diego, at the location shown in Exhibit A upon the following terms and conditions:

1. Said spur track and that portion of the street surface within the track limits shall be kept and maintained at the official

grade of that portion of said FROST-MAR PLACE over which the said spur track shall pass, as such official grade is now or may hereafter be established or changed; and the City hereby reserves the right to change the established grade of the street, to install curbs, paving, gutters, culverts, drains or otherwise improve or repair or reimprove any part of said street over which said spur track may be laid, and to lay down or relay pipes and materials for water, gas, electrical or communication conduit, sewers or other utilities.

2. All work necessary for construction of the proposed spur track shall be done in accordance with plans drawn on standard City of San Diego sheets and to lines and grades approved by the City Engineer or other designated representative. All such work shall be done by qualified, bonded contractors who shall obtain a permit and pay an inspection fee as provided in Article 2, Chapter VI, of the San Diego Municipal Code, except that where such work is done by railway company forces, the work done by railway forces need not be bonded.

3. All railway cars shall be operated in such a manner so as to cause the least possible obstruction to ordinary public travel along and across said street; and the hours during which railway cars may be operated shall, insofar as is possible in the exercise of the railway's common carrier duties and except in cases of emergency, be subject to the reasonable approval of the City Manager or his designated representative.

4. Crossing protection as required by the California Public

Utilities Commission shall be installed by the railway company entirely at its expense and without cost to City.

5. At such time as the City elects to construct a grade separation of this crossing, City may relocate the crossing point as it may require to improve the crossing alignment in relation to the alignment and grade of the street and City may require the railway company, at railway company's expense, to relocate its trackage to the extent necessary to conform to the new crossing location. The cost of such relocation shall be in addition to any responsibility the railway company may have for a share of the grade separation structure.

6. The permission granted by this resolution shall be revocable at the will of the City Council of The City of San Diego, and nothing herein contained shall be construed to extend the permit or time of any franchise heretofore granted either to the petitioner or to successors in interest.

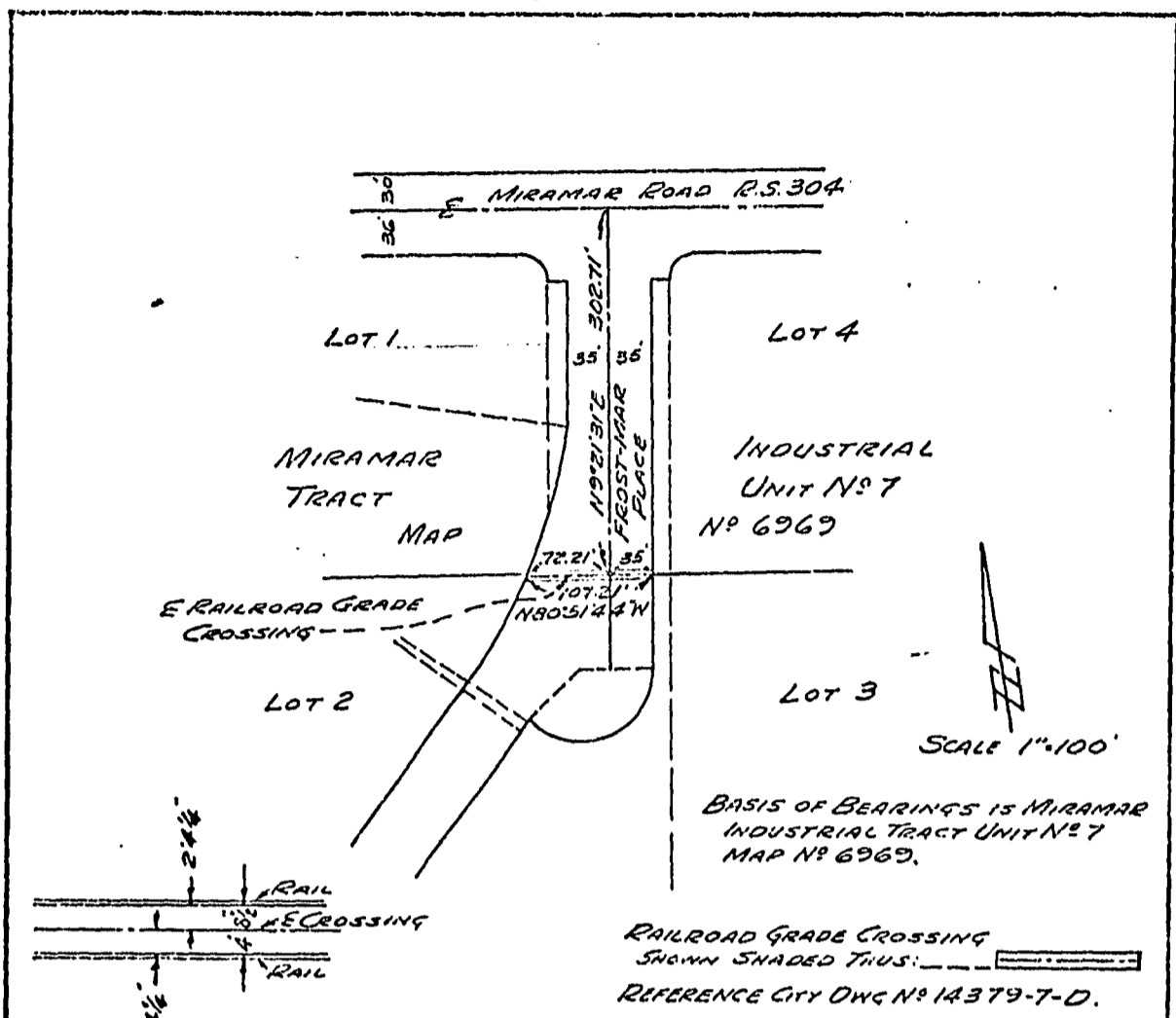
7. Rights and privileges granted by this resolution are subject to regulation of the Council of The City of San Diego, and nothing contained herein shall be so construed as to prevent the Council from altering, amending or repealing this grant, or amending or repealing this resolution in any and all respects.

8. Failure on the part of said railway company to conform to any or all of the provisions of this resolution shall operate as an immediate forfeiture of the rights and privileges herein granted, provided such failure is not corrected within thirty (30) days after written notice thereof from the City.

BE IT FURTHER RESOLVED, that the City Engineer be, and he is hereby authorized to issue a permit to THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY for the construction of a railway spur track and other work as may be needed thereon, all in accordance with the provisions of Article 2, Chapter VI, of the San Diego Municipal Code.

APPROVED: JOHN W. WITT, City Attorney

By C. Alan Sumpfion  
C. Alan Sumpfion, Deputy



PRIVATE CONTRACT  
 ENGINEER OF WORK  
*Charles R. Crull*  
 CHARLES R. CRULL R.C.E. 8234

**EXHIBIT A**

CITY ENGINEER'S APPLICATION #4353

RAILROAD GRADE CROSSING: FROST-MAR PLACE SOUTH OF MIRAMAR ROAD.

DESCRIPTION	BY	APPROVED DATE	PK MED	CITY OF SAN DIEGO CALIFORNIA	W <sup>o</sup> NO.
ORIGINAL				DEPT. OF PUBLIC WORKS-CITY ENGINEER	20020
				SHEET 1 OF 1 SHEETS	
				<i>E. F. Gabrielson</i> 9/28/71	<i>Dr. [Signature]</i>
				CITY ENGINEER DATE	CONTROL CERTIFICATION
				DESIGN ENGINEER	258-1715
				PLANNING DEPT.	LAWYER COORDINATES
				STATUS	12714-1-B

JOB N<sup>o</sup> 5848

Passed and adopted by the Council of The City of San Diego on OCT 28 1971  
 by the following vote:

RECEIVED  
 CITY CLERK'S OFFICE  
 1971 OCT 22 AM 10:58  
 SAN DIEGO, CALIF.

Councilmen	Yeas	Nays	Excused	Absent
Helen Cobb	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sam T. Loftin	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry L. Landt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Floyd L. Morrow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Martinet	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Allen Hitch	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Mike Schaefer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Frank Curran	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

FRANK CURRAN  
 Mayor of The City of San Diego, California.  
 EDWARD NIELSEN  
 City Clerk of The City of San Diego, California.

(Seal)

By *Judith A. Dillon*, Deputy.

Office of the City Clerk, San Diego, California

Resolution Number 204121 Adopted OCT 28 1971  
*eh*