

RESOLUTION NO. 205889

JUN 20 1972

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 Distribution Avenue, northerly of Miramar Road in the City of San Diego, according to the petition dated March 8, 1972, and as more specifically shown on railway company's Division Engineer Drawing No. L-6-31716, and on City of San Diego Drawing No. 15222-1-D, all of which are 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 interfere with nor impair the public use of the street involved, nor interfere with 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:

That The Atchison, Topeka and Santa Fe Railway Company, a corporation, is hereby granted a revocable right to construct, operate and maintain a spur track across Distribution Avenue in the City of San Diego at the location shown on Exhibit "A," upon the following terms and conditions:

1. That 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 Distribution Avenue 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 curb, sewer, macadamize, pave, gutter, culvert, 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 re-lay pipes and materials for water, gas, electrical or communication conduit, sewers or other utilities.

2. All work necessary for the construction of the proposed spur track shall be done at no cost to The City of San Diego in accordance with the plans drawn on standard City of San Diego sheets and to lines and grades approved by the Public Works Director-City Engineer. All such work shall be done by either railway company forces or by qualified licensed contractors who shall obtain a permit and pay an inspection permit fee as provided in Article 2, Chapter VI, of the San Diego Municipal Code which is hereby incorporated by reference.

3. 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 The City of San Diego.

4. 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 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.

5. Railway Company shall hold harmless The City of San Diego in accordance with Article 2, Chapter VI (Section 62.0302) of the San Diego Municipal Code.

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

7. The rights and privileges granted by this resolution are made upon the further condition that said spur track shall be at all times subject to regulation of the Council of said City. That nothing 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.

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8. Failure on the part of The Atchison, Topeka and Santa Fe Railway Company to conform to any or all of the provisions of this resolution shall operate as an immediate forfeiture of the privileges herein granted.

BE IT FURTHER RESOLVED, that the City Manager 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 such other work as may be needed thereon, all in accordance with provisions of Article 2, Chapter VI, of the San Diego Municipal Code.

APPROVED: JOHN W. WITT, City Attorney

By H. Valderhaug
Harold Valderhaug, Deputy

HOV:rp
6/8/72

205889

Passed and adopted by the Council of The City of San Diego on JUN 20 1972
 by the following vote:

Councilmen	Yeas	Nays	Excused	Absent
Gil Johnson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maureen F. O'Connor	<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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Allen Hitch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Bates	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON
 Mayor of The City of San Diego, California.

(Seal)

EDWARD NIELSEN
 City Clerk of The City of San Diego, California.

By Kathryn M. Doe, Deputy.

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Office of the City Clerk, San Diego, California	
Resolution Number 205889	Adopted JUN 20 1972
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