

RESOLUTION NO. 207478 MAR 8 1973

WHEREAS, the San Diego and Arizona Eastern Railway Company, a Nevada corporation, has requested The City of San Diego to grant said company a revocable right to continue operating and maintaining spur tracks in Newton and Thirteenth Streets in the City of San Diego, as shown on the approved City of San Diego plat attached hereto as Exhibit B and made a part hereof; and

WHEREAS, the City Manager has investigated the railway company's request and has found and determined that the continued operation and maintenance 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 has therefore recommended that a revocable permit be granted; and

WHEREAS, it has been determined by The City of San Diego that the granting of this permit will not have a significant effect on the environment; and

WHEREAS, permission should be granted to the San Diego and Arizona Eastern Railway Company with conditions to 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 San Diego and Arizona Eastern Railway Company, a corporation, is hereby granted a revocable right to operate

and maintain a spur track in Newton and Thirteenth Streets in the City of San Diego at the location shown in Exhibit B upon the following terms and conditions:

1. Street surfacing within limits of two feet outside of each rail shall be maintained by the railway company. If in the opinion of the City Manager street areas within these limits are not being adequately maintained, the City reserves the right to place roadway surfacing material within these limits including over the tops of railway rails. Such actions by the City will be performed only after serving the railway company due notice thereof.

2. All railway cars shall continue to be operated in such a manner so as to cause the least possible obstruction to ordinary public travel along and across said streets, 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.

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.

4. 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 streets, and the 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.

5. 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.

6. 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.

7. The San Diego and Arizona Railway Company shall hold The City of San Diego harmless from any loss arising out of injury to persons or damage to property resulting directly or indirectly from the performance of work or operation and maintenance of said spur tracks under this permit including the defense of any action arising therefrom.

8. Failure on the part of said railway company to conform to any or all of the provisions of this resolution shall operate

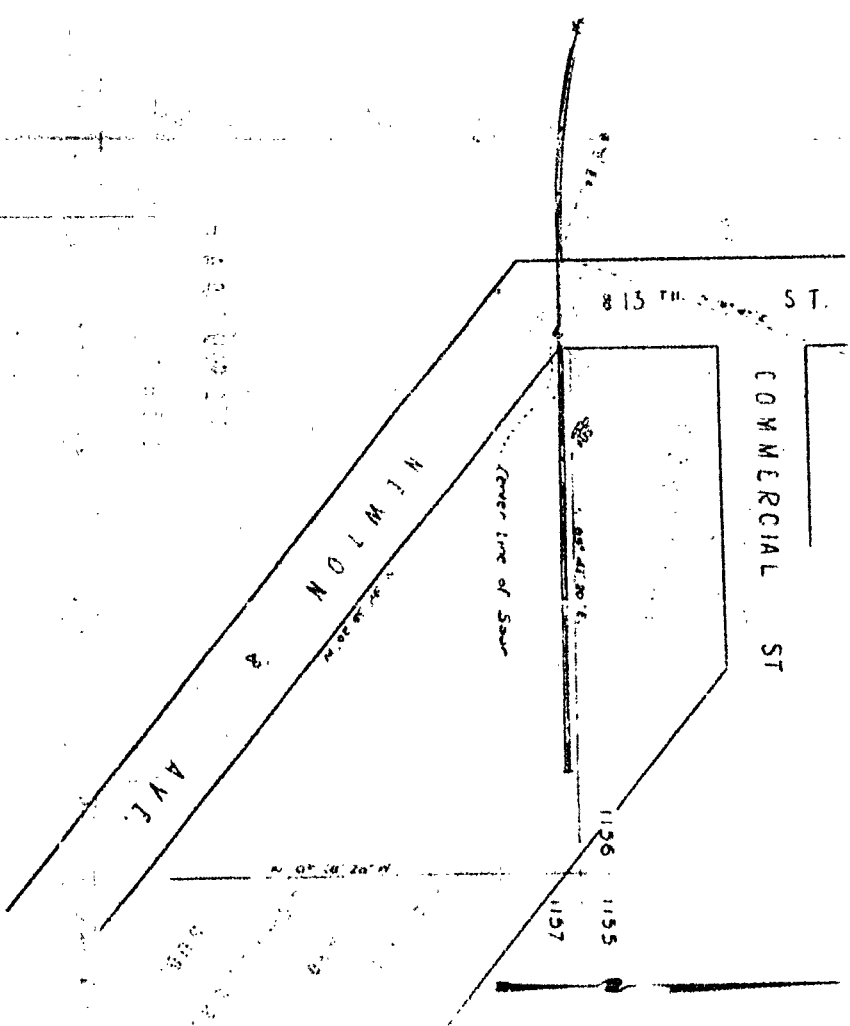
as an immediate forfeiture of the rights and privileges herein granted, provided such failure is not corrected within thirty (30) days after written notice thereof from the City.

APPROVED: JOHN W. WITT, City Attorney

By Donald W. Detisch
Donald W. Detisch, Deputy

DWD:K
2-27-73
REV. 3-7-73

207478



PLAN SHOWING LOCATION OF
 SPUR TRACK
 AT THE INTERSECTION OF
 NEWTON AVE. & 15TH ST.
 SCALE 1" = 100'

ENGINEERING APPLICATION # 5094
 EXHIBIT B

| | | | |
|---|--------------------------|------------------------|--------------------------|
| CITY OF SAN DIEGO, CALIFORNIA PUBLIC WORKS DEPARTMENT SHEET NO. 1 OF 1 SHEETS | | DATE 9/20/72 | SHEET NO. 15491 - D |
| DESIGNER Paul G. Lee | APPROVED DATE 9/20/72 | CHECKED [Signature] | DATE SUBMITTED 1/4/71 |
| ORIGINAL | APPROVED DATE | CHECKED | DATE SUBMITTED |
| [Blank] | [Blank] | [Blank] | [Blank] |
| [Blank] | [Blank] | [Blank] | [Blank] |
| [Blank] | [Blank] | [Blank] | [Blank] |

MAR 8 1973

Passed and adopted by the Council of The City of San Diego on _____
by the following vote:

RECEIVED
CITY CLERK'S OFFICE

1973 MAR -2 AM 10:34

SAN DIEGO, CALIF.

| 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 type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" 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 Mary Anne Neuse, Deputy.

Office of the City Clerk, San Diego, California

Resolution Number 207478 Adopted MAR 8 1973