



Real Estate Assets Department
SDC003

Document Type

LEGAL DOCUMENTS



Sub - Category

AGREEMENTS



145012
10/15/57

ORDINANCE NO. 7400
(NEW SERIES)

AN ORDINANCE ALLOWING THE SAN DIEGO & ARIZONA EASTERN RAILWAY COMPANY TO CONSTRUCT, MAINTAIN AND OPERATE A SPUR TRACK ALONG AND ACROSS COMMERCIAL STREET ADJACENT TO BLOCKS 104 AND 107 CENTRAL PARK ADDITION, BETWEEN 30TH STREET AND 32ND STREET IN THE CITY OF SAN DIEGO, AND REPEALING ORDINANCE NO. 7268 (NEW SERIES), ADOPTED DECEMBER 27, 1956.

WHEREAS, the San Diego & Arizona Eastern Railway Company has heretofore made its application to The City of San Diego for revision of Charter permit granted said company by Ordinance No. 7268 (New Series), for the reason that it now appears the spur track in question should be re-located in order to serve the purpose of the application, and said request to construct, maintain and operate a spur track should read "on Commercial Street between 30th and 32nd Streets, in the City of San Diego"; and

WHEREAS, it appears to the Council that the construction, maintenance and operation of said spur track will promote the interests and welfare of The City of San Diego; and

WHEREAS, the City Manager recommended under date of March 8, 1957, filed as Document No. 550536 in the office of the City Clerk, that a Charter permit instead of a franchise be granted; NOW, THEREFORE,

BE IT ORDAINED By the Council of The City of San Diego, as follows:

Section 1. That permission be, and the same is hereby granted to the San Diego & Arizona Eastern Railway to construct, maintain and operate a spur track along and across Commercial Street adjacent to Blocks 104 and 107, Central Park Addition, between 30th and 32nd Streets in The City of San Diego, as shown on that print of Division Engineer Drawing No. E-1390, dated June 28, 1955, revised February 25, 1957, attached to said

petition and contained in said Document No. 549696, upon the following terms and conditions, to-wit:

First: That said spur track shall be kept and maintained at the official grade of such street over which the same shall pass, as such official grade is now or may hereafter be established or changed, and the City hereby reserves the right to grade, 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 relay pipes for water, gas, electrical conduit, sewers or other purposes. ✓

Second: That said Company shall pave or repave, and keep in repair said street between the rails of said track, and for at least two feet on each side thereof; and that said Company shall allow any other person doing business along the line of said spur track to use the same upon such compensation as the Council shall determine to be reasonable for such privilege, and further that cars shall not be permitted to stand on the track in said street.

Third: That all cars shall be operated upon said spur track in such manner as to cause the least possible obstruction to ordinary public travel along or across the same, and no cars shall be allowed to remain on said spur track for a longer period of time than is necessary to expeditiously load or unload the same.

Fourth: The rights and privileges granted by this ordinance 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 contained shall be so construed as to prevent the Council from altering, amending or repealing this grant, or amending or repealing this ordinance in any and all respects.

Fifth: That said City of San Diego shall have the right to use said spur track at any time, without cost to said City.

Sixth: That the permission granted by this ordinance shall be revocable at the will of the Council of said City.

Section 2. It is expressly provided that nothing herein contained shall be construed to extend the permit or time of any franchise heretofore granted either to petitioner or to any other company.

Section 3. The above permission is granted upon the further express condition that said San Diego & Arizona Eastern Railway Company shall pay to The City of San Diego the sum of One Hundred Dollars (\$100.00) per year, payable in advance, as rental for each year that said spur track is in place. This rental shall be subject to change at the pleasure of said Council.

Section 4. Failure on the part of said San Diego & Arizona Eastern Railway Company to conform to any or all of the provisions of this ordinance shall operate as an immediate forfeiture of the privileges herein granted.

Section 5. That Ordinance No. 7268 (New Series) of the ordinances of The City of San Diego, adopted December 27, 1956, be, and the same is hereby repealed.

Section 6. This ordinance shall take effect and be in force on the thirty-first day from and after its passage.

Presented By _____

Approved As
To Form By J. F. DuPAUL, City Attorney

By HOYT E. RAY
Deputy City Attorney

Passed and adopted by the Council of the City of San Diego,
California, this 25th day of March, 1957, by the
following vote, to-wit:

YEAS----Councilmen: Burgener, Schneider, Kerrigan, Curran,
Evenson, Mayor Dail

NAYS----Councilmen: None

ABSENT--Councilman: Williams

CHARLES C. DAIL
Mayor of The City of San Diego, California
FRED W. SICK
City Clerk of the City of San Diego, California
By HELEN M. WILLIG Deputy

(SEAL)

I HEREBY CERTIFY that the foregoing ordinance was not finally
passed until six calendar days had elapsed between the day of
its introduction and the day of its final passage, to-wit, on
the 18th day of March, 1957, and on the 25th day of March, 1957.
I FURTHER CERTIFY that the reading of said ordinance in full
prior to its final passage was dispensed with by a vote of not
less than four members of the Council, and that there was avail-
able for the consideration of each member of the Council prior
to the day of its final passage a written or printed copy of
said ordinance.

FRED W. SICK
City Clerk of the City of San Diego, California
By HELEN M. WILLIG Deputy

(SEAL)

I HEREBY CERTIFY that the above and foregoing is a full, true
and correct copy of Ordinance No. 7400 New Series of the City
of San Diego, California, passed and adopted by the Council
of said City March 25th, 1957.

FRED W. SICK
City Clerk of the City of San Diego, California

By Mary M. O'Connor Deputy

ORDINANCE NO.
(Now Series)

7268

AN ORDINANCE ALLOWING THE SAN DIEGO AND EASTERN RAILWAY COMPANY TO CONSTRUCT, MAINTAIN AND OPERATE A SPUR TRACK ALONG AND ACROSS COMMERCIAL STREET ADJACENT TO BLOCK 107, BETWEEN 31ST STREET AND 32ND STREET IN THE CITY OF SAN DIEGO.

WHEREAS, the San Diego and Arizona Eastern Railway Company did on the 21st day of November, 1956, file its petition with the City Council of the City of San Diego requesting a franchise to construct, maintain and operate a spur track along and across Commercial Street adjacent to Block 107 between 31st Street and 32nd Street in the City of San Diego, and it appearing to the satisfaction of the Council that the construction, operation and maintenance of said spur track will promote the interests and welfare of the City of San Diego, and;

WHEREAS, the City Manager recommended under date of December 7, 1956, filed as Document No. 546015, in the office of the City Clerk, that a charter permit instead of a franchise be granted;

NOW, THEREFORE, be it ordained by the Council of the City of San Diego, as follows:

That permission be and the same is hereby granted to the San Diego and Arizona Eastern Railway Company to construct, maintain and operate a spur track along and across Commercial Street adjacent to Block 107 between 31st Street and 32nd Street in the City of San Diego, as shown on that print of the Division Engineer Drawing No. E-1390, dated June 28, 1955, attached to said petition and contained in said Document No. 544032 upon the following terms and conditions, to-wit:

Repealed - 1 - see Ord 7400

First: That said spur track shall be kept and maintained at the official grade of such street over which the same shall pass, as such official grade is now or may hereafter be established or changed, and the City hereby reserves the right to grade, 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 relay pipes for water, gas, electrical conduit, sewers or other purposes.

Second: That said Company shall pave or repave, and keep in repair said street between the rails of said track, and for at least two feet on each side thereof; and that said Company shall allow any other person doing business along the line of said spur track to use the same upon such compensation as the Council shall determine to be reasonable for such privilege, and further that cars shall not be permitted to stand on the track in said street.

Third: That all cars shall be operated upon said spur track in such manner as to cause the least possible obstruction to ordinary public travel along or across the same, and no cars shall be allowed to remain on said spur track for a longer period of time than is necessary to expeditiously load or unload the same.

Fourth: The rights and privileges granted by this ordinance 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 contained shall be so construed as to prevent the Council from altering, amending or repealing this grant, or amending or repealing this ordinance in any and all respects.

Fifth: That said City of San Diego shall have the right to use said spur track at any time, without cost to said City.

Sixth: That the permission granted by this ordinance shall be revocable at the will of the Council of said City.

Section 3. It is expressly provided that nothing herein contained shall be construed to extend the permit or time of any franchise heretofore granted either to petitioner or to any other company.

Section 4. The above permission is granted upon the further express condition that said San Diego and Arizona Eastern Railway Company shall pay to The City of San Diego the sum of One Hundred Dollars (\$100.00) per year, payable in advance, as rental for each year that said spur track is in place. This rental shall be subject to change at the pleasure of said Council.

Section 5. Failure on the part of said San Diego and Arizona Eastern Railway Company to conform to any or all of the provisions of this ordinance shall operate as an immediate forfeiture of the privileges herein granted.

Section 6. This ordinance shall take effect and be in force on the thirty-first day from and after its passage.

Presented by _____

APPROVED as
to form by

J. F. DuPaul, City Attorney

By _____

Deputy City Attorney

ORDINANCE No. 7268	RESOLUTION No. _____
ADOPTED DEC 27 1956	
FRED W. SICK, CITY CLERK	
By <i>[Signature]</i>	