

Decision No. 23206

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SAN DIEGO ELECTRIC RAILWAY COMPANY, a corporation, for a certificate of public convenience and necessity to ex- ercise rights under its franchise.	}	Application No. 9421
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Reed G. Dilworth for Applicant.

Arthur E. Wright for City of San Diego.

J. M. Lathrop for Citizens of La Jolla.

H. A. Hodge for Citizens of Pacific Beach.

F. Turnbull, La Jolla.

Wright & Mc Kee, by D. Mc Kee for La Jolla
Stage Line, Protestant.

BY THE COMMISSION -

O P I N I O N

San Diego Electric Railway Company, a corporation, has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the exercise of a street railway franchise as granted to said applicant by Ordinance No. 5703 as approved by the City Council of the City of San Diego under date July 31, 1914, to the Point Loma Railroad Company (now owned by applicant); franchise granted to applicant San Diego Electric Railroad Company by the Board of Supervisors of the County of San Diego by Ordinance No. 214, as adopted March 6, 1914; franchise granted by the Board of Trustees of East San Diego under Ordinance No. 109 as adopted March 24, 1916; and a franchise granted by the Common Council of the City of San Diego by Ordinance No. 9210, dated October 10, 1925, as filed as an exhibit herein.

A public hearing on this application was conducted by Examiner Handford at San Diego, at which time evidence was received and the matter duly submitted for decision.

At the hearing on this application no objection was made to the granting of the desired certificate excepting that presented by the protestant, La Jolla Stage Line. This stage line operates between San Diego and La Jolla, paralleling in part the operation of the applicant and serving both the business portion of San Diego and the business and some of the residential portions of La Jolla. The operation of the La Jolla Stage Line is entirely within the City of San Diego and is conducted under the provisions of a franchise granted by the Common Council of the City of San Diego, said ordinance being numbered No. 8690 and adopted under date of May 15, 1922. This ordinance grants to La Jolla Stage Line a franchise over a route from the business district of San Diego to a terminal in La Jolla, the entire territory being within the municipal limits of the City of San Diego. It is the contention of protestant that the granting of a certificate of public convenience and necessity to exercise franchises as herein sought by applicant will so interfere with the operation of the La Jolla Stage Line as to make it impossible to continue profitably the operation of its stage line between San Diego and La Jolla, as authorized by ordinance and franchise granted by the Common Council of the City of San Diego. At the time of the hearing the operation of protestant La Jolla Stage Line was not subject to the jurisdiction of this Commission and the record herein does not justify the protest filed by that company, the City Council of the City of San Diego having granted a franchise to the applicant and also having granted to the protestant, La Jolla Stage Line, an autobus franchise between the business section of San Diego and La Jolla, both communities being within the corporate limits of the City of San Diego.

The record in this proceeding justifies the granting of a certificate of public convenience and necessity to the applicant to exercise the franchise rights as heretofore granted by the Common Council of the City of San Diego, the Board of Trustees of the City of East San Diego, and the Board of Supervisors of the County of San Diego.

Since the public hearing on this application applicant has filed herein, under date of March 4, 1930, a supplemental application alleging that on the 20th day of December, 1929, applicant acquired and has at all times since and is now operating the property and franchise of the La Jolla Stage Line, said acquisition having been approved by this Commission in its Decision No. 21244 on Application No. 15995. Applicant also alleges that Section 1 of Ordinance No. 9210 of the Common Council of the City of San Diego (hereinafter referred to) was on January 17, 1927, amended by Ordinance No. 10369 of said City Council of the City of San Diego, as per certified copy attached to the amended and supplemental application herein. Applicant also alleges that on August 10, 1925, the City Council of the City of San Diego duly and regularly passed its Ordinance No. 10106 granting to applicant a franchise to construct, maintain and operate an electric street railway along certain public streets, thoroughfares, highways, public property and private lands in the City of San Diego, a copy of said ordinance being attached to the amended and supplemental application and marked Exhibit B.

Applicant in its amended and supplemental application alleges that public convenience and necessity at all times required and do now require the construction and operation of electric street railway lines along the following routes:

- A. Mission Beach-La Jolla Line.
- B. Thirtieth Street Line.

That line A was completed about July 1, 1925, and line B about July 1, 1924, and that both of said lines have been in continuous operation as integral parts of applicant's general transportation system since said dates, and that both operations are authorized and provided for in and by applicant's franchises from the City of San Diego as hereinabove referred to.

We are of the opinion that a further public hearing on this application is not necessary, the interests of the protestant at the public hearing having been duly acquired by applicant, and that the certificate herein applied for should be granted.

O R D E R

A public hearing having been held on the above entitled application, a supplemental and amended application having been filed upon which it does not appear that a further public hearing is necessary, the matter having been duly submitted and the Commission being now fully advised,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that, upon the record herein, public convenience and necessity require the exercise by San Diego Electric Railway Company, a corporation, of the franchises heretofore granted by the governing bodies of political subdivisions of the State of California, as follows:

1. Franchise granted by the City Council of the City of San Diego to the Point Loma Railroad Company under Ordinance No. 5703 as approved July 31, 1914, now owned by the San Diego Electric Railway, a copy of said franchise appearing in Appendix A as attached to this order.
2. Franchise granted by the Board of Trustees of the City of East San Diego under Ordinance, as adopted on March 24, 1916, a copy of said franchise appearing in Appendix B as attached to this order.

3. Franchise granted by the Board of Supervisors of the County of San Diego under Ordinance No. 214 as adopted March 6, 1914, a copy of said franchise appearing in Appendix C as attached to this order.

4. Franchise granted by the Common Council of the City of San Diego under Ordinance No. 10369 as adopted January 17, 1928, a copy of said franchise appearing in Appendix D as attached to this order.

5. Franchise granted by the Common Council of the City of San Diego under Ordinance No. 10106 as adopted on August 10, 1925, a copy of said franchise appearing in Appendix E as attached to this order.

The above certification is subject to the following condition and not otherwise:

1. That on or before February 1, 1931, San Diego Electric Railway Company, a corporation, shall file with this Commission a stipulation, duly executed on authority of its board of directors, agreeing that applicant, its successors or assigns, will never claim before the Railroad Commission, or any court, or any other public body, a value for these franchises, or any of them, in excess of the original cost thereof.

For all other purposes the effective date of this order is hereby fixed as twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 23rd day of December, 1930.

[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
COMMISSIONERS.

Appendix A
ORDINANCE 5705

An Ordinance of final grant to the Point Loma Railroad Company, a corporation, and to its successors and assigns, of the franchise and authority to construct, maintain and operate for a period of time commencing on the taking effect of this ordinance granting the same and ending at the expiration of forty-one years thereafter, a street railway upon Point Loma, in the City of San Diego, California.

Whereas, pursuant to the Charter of the City of San Diego, the Point Loma Railroad Company, a corporation, on the 11th day of May, 1914, filed its application for the franchise and authority to construct, maintain and operate a street railway upon Point Loma, in said City, upon terms and conditions set out in said application; and

Whereas, the Common Council of said City, by its Resolution No. 17230, adopted on the 11th day of May, 1914, determined and proposed to grant such franchise and authority as applied for in said application; and directed the Clerk of said City to advertise the fact of said application, together with a statement that it was proposed to grant the said franchise and authority, as applied for, and that bids would be received therefor, and that it would be sold, struck off, and awarded to the highest cash bidder therefor; and,

Whereas, said resolution and said notice have been regularly and duly published and advertised as directed by said Common Council and as required by law; and,

Whereas, full publication of said notice has been completed and not less than twenty and not more than thirty days have elapsed since the completion of said publication; and,

Whereas, on Monday, the 15th day of June, 1914, at the hour of 10 o'clock a.m. (being the day and date and time set by said notice for the opening of all sealed bids for said franchise and authority) the sealed bid of the Point Loma Railroad Company, was, in open session, opened and publicly declared, and there being no other sealed bid therefor, or any oral or other bid made at the time of the opening of said sealed bids, or at all, and the said sealed bid of the Point Loma Railroad Company, being the highest cash bid for said franchise and authority, the same was at said time and place so declared, and the said Point Loma Railroad Company was then declared to be the highest bidder for said franchise and authority by said Common Council, and the said franchise and authority was then and there struck off, sold and awarded to said Point Loma Railroad Company; and,

Whereas, by Resolution No. 17520, passed and adopted by said Common Council on the 15th day of June, 1914, said Common Council accepted the said bid of the Point Loma Railroad Company, and awarded said franchise and authority to said Point Loma Railroad Company, and directed that said Point Loma Railroad Company be granted the said franchise and authority by proper ordinance of final grant of the same pursuant to the provisions of said City Charter; and

Whereas, all acts and things essential to the due, proper and legal authorization of this final grant of said franchise and authority have been done by the City of San Diego and said Point Loma Railroad Company, grantee, and in due and proper form, time and manner;

Therefore, be it ordained by the Common Council of the City of San Diego, as follows:

Section 1. That the City of San Diego hereby grants to the Point Loma Railroad Company, a corporation, and to its successors and assigns, the franchise and authority to construct, maintain and operate for a period of time commencing on the taking effect of this ordinance granting the same and ending at the expiration of forty-one years thereafter, an electric railway, including sidetracks, cross-overs, spur tracks, turnouts, switches and curves, and to erect and maintain either a single or double pole line, or single and double pole line, for the support of overhead trolley support-arms, or span wires, and to suspend electric wires therefrom to be used in the operation of said railway, upon and along the following named streets upon Point Loma in the City of San Diego, California, to-wit:

Commencing at the center of the intersection of India and Winder Streets; thence southwesterly along said Winder Street to and across California Street to the center of the intersection of Emory and Hancock Streets; thence northwesterly along said Hancock Street to and across Witherby Street to the southeasterly line of block 542 of Old San Diego; thence over and across said block 542 of Old San Diego, and over and across a right-of-way over a portion of that portion of Hortensia Street in said City which was closed by Ordinance No. 3777 of the Common Council of the City of San Diego June 12, 1909, and also over a portion of said Hortensia Street and at this point crossing the right-of-way of the Atchison, Topeka and Santa Fe Railway, and also over a private right of way in block 541 of Old San Diego the northeasterly line of Kurtz Street; thence southwesterly crossing Kurtz Street and along Tide Street to the center of the intersection of said Tide Street with Lytton Street; thence northwesterly along said Lytton Street to the center of its intersection with Rosecrans Street; thence southwesterly along said Rosecrans Street to the center of its intersection with Macauley Street; thence northwesterly along said Macauley Street to and across Evergreen Street; thence curving to the right and continuing along Macauley Street in a northwesterly direction to a point where the track intersects the southwesterly boundary line of block 116 of Roseville, according to map thereof No. 390, filed in the office of the County Recorder of said County, October 4, 1887; thence northwesterly crossing said block 116 of Roseville, according to said map, Willow Street, block 117 of Roseville, according to map thereof No. 165, in the office of the County Recorder of said San Diego County, Newell Street, block 120 of Roseville, according to said map, Plum Street, block 119, of Roseville, according to said map, Olyphant Street, and Block 134 of Roseville, according to said map to the southeasterly line of Pueblo Lot 200 of the Pueblo Lands of San Diego; thence northwesterly on private right of way across Block 7 of Point Loma Heights, according to map thereof No. 1106, filed in the office of the County Recorder of said San Diego County, December 30, 1907; thence across Capistrano Street; thence on private right of way across Block 16

of said Point Loma Heights; thence across Poe Street; thence on private right of way across Block 17 of said Point Loma Heights to and across the alley running northeasterly and southwesterly through said Block 17; thence continuing on said private right of way across said Block 17 and crossing Chatsworth Boulevard to a point on the northwesterly boundary line of said Chatsworth Boulevard, said point being 451.5 feet distant southwesterly from the intersection of the northwesterly boundary line of said Chatsworth Boulevard with the northeasterly boundary line of Tennyson Street; thence northwesterly on private right of way to and across Centraloma Drive, as the same is shown on the map the resubdivision of a portion of Point Loma Heights No. 1523, filed in the office of the County Recorder of said San Diego County, January 24th, 1913; thence continuing northwesterly on private right of way to a point on the southwesterly boundary line of said Tennyson Street, said point being 640 feet, more or less, distant northwesterly from the intersection of the southeasterly boundary line of Chatsworth Boulevard with the southwesterly boundary line of said Tennyson Street; thence on to and along said Tennyson Street in a general northwesterly direction to a point on the southwest line of Block 33 of said Point Loma Heights; thence on a private right of way across Block 33 of said Point Loma Heights to and across Worden Street; thence on a private right of way across Block 34 of said Point Loma Heights; thence on private right of way across Block 20 of Western Addition according to map thereof No. 315, filed in said Recorder's office May 15th, 1874; thence across Wells Street, Udal Street, and private right of way across Block 2 of said Western Addition to a point where the track intersects the

southwesterly line of Voltaire Street; thence in a general northwesterly direction on, to and along said Voltaire Street to the center of its intersection with Bacon Street in Ocean Bay Beach according to map thereof No. 1189, filed in said County Recorder's office June 22nd, 1909; thence southwesterly along said Bacon Street to the center of its intersection with Santa Cruz Avenue; thence southeasterly along said Santa Cruz Avenue to the center of its intersection with Guizot Street; thence southwesterly along said Guizot Street to and across Coronado Avenue; thence on private right of way across Block 32 of said Point Loma Heights to and across the alley in said Block; thence continuing on said private right of way across said Block 32 of said Point Loma Heights; to and across Del Mar Avenue; thence on private right of way across Block 81 of said Point Loma Heights to and across the alley in said Block; thence continuing on said private right of way across said Block 81 of said Point Loma Heights to and across Santa Barbara Street to the center line of Orchard Avenue; thence southeasterly along said Orchard Avenue to and across Catalina Boulevard; thence continuing on a curve to the left on said Orchard Avenue to Block 48 of said Point Loma Heights; thence northeasterly on private right of way across said Block 48 of said Point Loma Heights to and across Del Mar Avenue; thence on private right of way across Block 46 of said Point Loma Heights to and across Santa Cruz Avenue; thence on private right of way across Block 43 of said Point Loma Heights to and across Narragansett Avenue; thence on private right of way across Block 41 of said Point Loma Heights to and across an alley in said block running northwesterly and southeasterly in said Block 41; thence continuing on said private right of way across said Block 41 to and across Macanley Street; thence on private right of way across Block 40 of said Point Loma Heights to and across Bernice Drive; thence on private right of way across Block 39 of said Point Loma Heights to and across an alley in said Block; thence continuing on said private right of way across said Block 39 to

and across Atascadero Drive; thence on private right of way across Block 38 of said Point Loma Heights to and across the alley in said Block; thence continuing on said private right of-

way across said Block 38 to and across Alicia Drive; thence on private right of way across Block 37 of said Point Loma Heights to and across the alley in said Block; thence continuing on said private right of way across said Block 37 to a point in the southwesterly line of Tennyson Street (300 feet, more or less) northwesterly from the northwesterly line of Wells Street; thence continuing southeasterly on a curve on, to and along said Tennyson Street to a junction with the line hereinbefore described.

Also commencing at a point being 116.56 northerly at right angles to the southerly line of Block 48, Point Loma Heights, according to said map of said Point Loma Heights, and westerly 147.5 feet at right angles to the easterly line of said Block 48, Point Loma Heights; thence southerly from said point of beginning over and across Block 48, of said Point Loma Heights, and across Orchard Avenue in said Point Loma Heights; thence crossing Block 49 of said Point Loma Heights to and onto Catalina Boulevard; thence continuing southerly on said Catalina Boulevard to its intersection with the northerly boundary line of the Point Loma United States Military Reservation;

Also commencing at the center of the intersection of Rosecrans Street with Macanley Street; thence southwesterly along said Rosecrans Street to the intersection of said Rosecrans Street with the northerly boundary line of the Point Loma United States Military Reservation.

Upon the following conditions:

1. Verified statement of gross receipts. The grantee of said franchise, successors and assigns, shall file with the Clerk of the City of San Diego during the first fifteen days of February of each year after the taking effect of the ordinance granting the said franchise, and during the same period of each successive year thereafter until the expiration of said franchise, a statement, verified by the oath of said grantee, successors or assigns, showing the total gross receipts arising from the use, operation or possession of said franchise for the preceding calendar year (or fraction thereof for the first and last years, as the case may be), and shall thereupon pay to the said City Clerk for the said City of San Diego, the aggregate sum of two per centum of said gross annual receipts as shown by said statement. The payment of said percentage of gross receipts shall begin upon the taking effect of the ordinance granting this franchise.

Any refusal by said grantee, successors or assigns, to file said verified statement and to pay said percentage of said gross annual receipts within the time above provided shall constitute ground for forfeiture of said franchise and all rights granted thereby.

The Mayor and Common Council may after said statement is made inspect and examine the books of the grantee of this franchise and may cause the same to be examined by an expert accountant and may examine under oath any and all of its officers or agents for the purpose of ascertaining the gross annual receipts under this franchise.

2. Motive Power. That the cars upon said railway shall be propelled by electricity used through the overhead system, or, in case of accident or unavoidable delay in procuring equipment, by mule or horse power.

3. Condition of Streets. The grantee of the franchise, or its assigns shall pave or macadamize the entire length of the street, used by said tracks, between the rails and for two feet on each side thereof and between the tracks ~~if there be more than one~~, whenever such street is ordered to be paved or macadamized by said Common Council, and shall keep the same constantly in repair, flush with the streets and with good crossings.

4. Track Specifications. That the track shall be constructed at the standard gauge of four feet eight and one half inches within the rails, and shall have a space between it and side tracks, turnouts and switches of not less than five feet three inches.

5. Single or Double Track. That the grantee or its assigns shall have the right to lay and maintain either single or double tracks as the condition of business may warrant, but the laying of a single track shall be deemed a compliance with the conditions of this franchise, and shall in no wise impair the right of said grantee or its assigns to subsequently lay a second track paralleling the first track.

6. Rail Specifications. That good substantial steel rails shall be used in the construction of said track.

7. City's Right of Access to Streets. That the right to grade, sewer, pave, macadamize, or otherwise improve or alter or (repair) the said streets, or change the grade thereof, shall be reserved to the said City, such work to be done so as to obstruct the said railway as little as possible; the grantee or its assigns shall shift and reshift the rails so as to avoid the obstruction created thereby; the grantee and its assigns shall waive any and all claims for damages against said City caused by reason of such grading, paving or macadamizing, or otherwise improving, altering or repairing said streets.

8. Transfers. That the successful bidder for said franchise shall issue passenger transfers for passage in one continuous direction to all other lines of street railway owned or operated by said successful bidder in the said city, and shall also issue similar transfers from such lines owned or operated as aforesaid, to the lines covered by this franchise.

9. Tracks on Graded Streets. That the laying of said track and all side tracks, cross-overs, spur tracks, turnouts, switches or curves shall conform in all cases with the grade of said streets where the same have been graded, and in all other cases to be as near to the natural grade as practicable, and when at any time any part of this route shall be graded or the grade thereof altered or changed by said Common Council, the bed of the road and the tracks thereon shall be made to conform therewith by said grantee or its assigns. That the overhead system may be of single or double pole construction. That all spur tracks or other turnout tracks may be so constructed and maintained, as to curve off the main track and across the curbs and sidewalks and lead into car barns, repair shops, machine shops, depots and other buildings, but a substantial gutter shall be maintained under such tracks to provide the necessary drainage thereof.

10. Location of Tracks on Streets. That the tracks shall be so constructed and laid, that each of them shall be, when practicable, of equal distance from curb line of said streets; or as nearly so as the condition or width of the streets will permit.

11. Location of switches. That no switch shall be constructed or maintained within fifty feet of any cross street, and the location of such switches and all turnouts shall be changed at the expense of the grantee or its assigns whenever so ordered by said Common Council.

12. City Engineer's Services. That the City Engineer shall, under the direction of the said Common Council give the established grade of the streets along the line of construction of said street railway and set stakes indicating the said grades. He shall see the said railway is constructed in conformity to the terms and requirements of the franchise, and for his services as herein required, he shall receive such fees as are provided therefor, and the same shall be paid by the grantee or its assigns.

13. Time Limit for Construction and Completion. Work to construct the portion of the railway not already constructed shall be commenced in good faith within not more than four months from the granting of the franchise, and if not so commenced said franchise shall be declared forfeited; and the said railway shall be completed within not more than three years after the said work shall have been commenced, and if not so completed said franchise so granted shall be forfeited; provided, that for good cause shown the Common Council may by resolution extend the time for completion thereof not exceeding three months.

14. Cessation of Operation. In case the grantee of the franchise or its successors or assigns, shall cease to operate said railway for a period of ninety days consecutively after said railway shall have been fully constructed and completed, except in cases of unavoidable accident, or other matters not within the control of the grantee or its successors, or assigns, the franchise shall be and is hereby declared to be forfeited and the said grantee, its successors, or assigns, shall thereafter remove the tracks of said railway and put the streets in good condition.

15. Right to Repeal. The grant of the said franchise shall be subject to the right of the majority of the electors of said City, voting at any election at any time thereafter to repeal, change or modify the said grant, and the ordinance making such grant shall contain a reservation of such right to appeal, amend or modify said ordinance.

Section 2. That this ordinance shall take effect and be in force from and after thirty days after its passage and approval.

Section 3. That the City Clerk of the City of San Diego, be and he is hereby authorized and directed immediately after the approval of this ordinance, to cause the same to be published at least once in the City official newspaper of said City, to-wit: "The Evening Tribune."

Passed and adopted by the Common Council of the City of San Diego, California, this 20th day of July, 1914, by the following vote, to-wit:

AYES -- Councilmen Schmidt, Manney, Adams and Fay.

NOES -- None.

ABSENT -- Councilman Benbough.

and signed in open session thereof by the President of said Common Council, this 20th day of July, 1914.

HERBERT R. FAY

President of the Common Council of the
City of San Diego, California.

I hereby certify that the foregoing ordinance was not finally passed, until it had been read at two separate meetings of the said Common Council, viz: On the 15th day of June, 1914, and on the 20th day of July, 1914.

(Seal)

ALLEN H. WRIGHT

City Clerk of the City of San Diego, California, and
Ex-Officio Clerk of the Common Council of the said City of
San Diego.

By W. E. Bartlett, Deputy.

I hereby approve the foregoing ordinance this 22nd
day of July, 1914.

CHARLES F. O'NEILL,

Mayor of the City of San Diego, California.

(Seal) Attest:

Allen H. Wright,

City Clerk of the City of San Diego, California.

By W. E. Bartlett, Deputy.

Appendix B
ORDINANCE NO. 109

An Ordinance Granting to the San Diego Electric Railway Company, a Corporation, and to Its Successors and Assigns, a Franchise and Authority to Construct, Maintain, and Operate for a Period Ending on the First Day of September, One Thousand Nine Hundred and Fifty-two, a Street Railway upon Certain Streets in the City of East San Diego, State of California.

Whereas, pursuant to the laws of the State of California, the San Diego Electric Railway Company, a corporation organized and existing under and by virtue of the laws of the State of California, and having its offices and principal place of business in the City of San Diego, State of California, on the 3rd day of January, A.D. 1916, filed its petition or application with the City Clerk of said city for a franchise and authority to construct, maintain and operate an electric railway for a period of time ending on the first day of September, A.D. 1952, including side tracks, crossovers, spurtracks, turnouts, switches and curves, and to erect and maintain either a single or a double pole line for the support of overhead trolley support arms, or span wires, and suspend electric wires therefrom to be used in the operation of said railway along and upon University Avenue (formerly known as Steiner Street) in said city from the west line of the intersection of said University Avenue with Fairmount Avenue (the present end of the line of street railway), easterly to the center line of the intersection of said University Avenue with Euclid Avenue, and

Whereas, the Board of Trustees of said City by its Resolution No. 489, determined that it was for the best interests of said city that such franchise and authority be granted and that said Board of Trustees proposed to grant the said franchise as applied for in said application, and

Whereas, said Board of Trustees by Resolution No. 489, authorized and directed the City Clerk of said city to advertise the fact of said application, together with the statement that it is proposed to grant said franchise as applied for and stating that bids would be received for such franchise, and that it would be sold, struck off and awarded to the highest cash bidder therefor, and

Whereas, said Resolution No. 489, and the Notice of Application for said Street Railway Franchise and of determination of the Board of Trustees to grant the same at public sale to the highest cash bidder, have been duly and legally published and advertised by said City Clerk, as directed by said Board of Trustees, and as required by law, and

Whereas, the bond required to be given by the successful bidder by said Resolution No. 489 in the sum of \$500.00 has been given and approved by said Board of Trustees, and

Whereas, full publication of said notice has been completed and not less than twenty nor more than thirty days have elapsed since the completion of said publication, and

Whereas, on Monday, the 6th day of March, A.D. 1916, at the hour of 7:30 p.m. (being the day and date and time set by said notice for the opening of all sealed bids for the said franchise and authority) the sealed bid of the San Diego Electric Railway Company was, in open session, opened and publicly declared, and there being no other sealed bid therefor, or any oral, or other bids made at the time of the opening of said sealed bid, or at all, and the said bid of the San Diego Electric Railway Company being the highest cash bid for said franchise and authority, the same was at said time and place so declared, and said San Diego Electric Railway Company was then declared to be the highest bidder for said franchise and authority by said Board of Trustees, and said franchise and authority was then and there sold, struck off, and awarded to said San Diego Electric Railway Company, and

Whereas, by Resolution No. 500, passed and adopted by the said Board of Trustees on the 6th day of March, A.D. 1916, said Board of Trustees accepted the said bid of said San Diego Electric Railway Company, and awarded said franchise and authority to the said San Diego Electric Railway Company and directed that said San Diego Electric Railway Company be granted the said franchise and authority by proper ordinance of the final grant of the same, pursuant to the provision of the laws of the State of California, and

Whereas, all acts and things essential to the due, proper, and legal authorization of this final grant of said franchise and authority have been done by the said City of East San Diego, and said San Diego Electric Railway Company, grantee, and in due and proper form, time and manner,

Therefore, the Board of Trustees of the City of East San Diego, do ordain as follows:

Section 1. That the City of East San Diego hereby grants to the San Diego Electric Railway Company, a corporation, and to its successors and assigns, a franchise and authority to construct, maintain and operate an electric railway for a period of time ending on the 1st day of September, 1952, including sidetracks, cross-overs, spur tracks, turnouts, switches and curves, and to erect and maintain either a single or double pole line for the support of overhead trolley support arms on span wires, and to suspend electric wires therefrom to be used in the operation of said railway, along and upon the following named streets and places in the City of East San Diego, County of San Diego, State of California:

Upon and along University Avenue (also known as Steiner Street), from the west line of the intersection of said University Avenue with Fairmount Avenue (the present end of the line of street railway), easterly to the center of the intersection of said University Avenue with Euclid Avenue.

Upon the following conditions and limitations:

1. The grantee of said franchise, successors and assigns, shall file with the Clerk of the City of East San Diego, during the first fifteen days of February of each year after the taking effect of the ordinance granting the said franchise, and during the same period of each successive year thereafter until the first day of September, 1952, a statement verified by the oath of said grantee, its successors or assigns, showing the total gross receipts, arising from the use, operation or possession of said franchise for the preceding calendar year, (or traction thereof for the first and last years as the case may be), and shall thereupon pay

to the said City Clerk for the said City of East San Diego, the aggregate sum of two per centum of said gross annual receipts, as shown by said statement. The said percentage of gross receipts shall begin to accrue upon the taking effect of the ordinance granting this franchise.

Any refusal by said grantee, successors or assigns, to file said verified statement and to pay said percentage of said gross annual receipts within the time above provided shall constitute ground for forfeiture of said franchise and all rights granted thereby.

The Board of Trustees of said city may, after said statement is made, inspect and examine the books of the grantee of this franchise, and may cause the same to be examined by an expert accountant, and may examine under oath any and all of its officers or agents for the purpose of ascertaining the gross annual receipts under this franchise.

2. **MOTIVE POWER.** That the cars upon said railway shall be propelled by electricity used through the overhead system, or, in case of accident or unavoidable delay in procuring equipment, by mule or horse power.

3. **CONDITION OF STREETS.** The grantee of the franchise or its assigns shall pave or macadamize the entire length of the street, used by said tracks, between the rails and for two feet on each side thereof, and between the tracks if there be more than one, whenever such street is ordered to be paved or macadamized by said Board of Trustees, and shall keep the same constantly in repair, flush with the streets and with good crossings.

4. **TRACK SPECIFICATIONS.** That the track shall be constructed at the standard gauge of four feet eight and one-half inches within the rails, and shall have a space between it and side-tracks, turnouts and switches, of not less than five feet three inches.

5. **SINGLE OR DOUBLE TRACK.** That the grantee or its assigns shall have the right to lay and maintain either single or double tracks as the conditions of business may warrant, but the laying of a single track shall be deemed a compliance with the conditions of this franchise, and shall in no wise impair the right of said grantee or its assigns to subsequently lay a second track paralleling the first track.

6. **RAIL SPECIFICATIONS.** That good, substantial steel rails shall be used in the construction of said track.

7. **CITY'S RIGHT OF ACCESS TO STREETS.** That the right to grade, sewer, pave, macadamize, or otherwise improve or alter or repair the said streets, or change the grade thereof shall be reserved to the said city, such work to be done so as to obstruct the said railway as little as possible; the grantee or its assigns shall shift and reshift the rails so as to avoid the obstruction created thereby; the grantee and its assigns shall waive any and all claims for damages against said city caused by reason of such grading, paving or macadamizing, or otherwise improving, altering or repairing said streets.

8. TRANSFERS. That the successful bidder for said franchise shall issue passenger transfers for passage in one continuous direction to all other lines of street railway owned or operated by said successful bidder in the said city, and shall also issue similar transfers from such lines owned or operated as aforesaid, to the lines covered by this franchise.

9. TRACKS ON GRADED STREETS. That the laying of said track and all side tracks, crossovers, spur tracks, turnouts, switches, or curves, shall conform in all cases with the grade of said streets, where the same have been graded, and in all other cases to be as near to the natural grade as practicable, and when at any time any part of this route shall be graded, or the grade thereof altered or changed by said Board of Trustees, the bed of the road and the tracks thereon shall be made to conform therewith by said grantee or its assigns. That the overhead system may be of single or double pole construction. That all spurtracks or other turnout tracks may be so constructed and maintained as to curve off the main track and across the curbs and sidewalks and lead into car barns, repair shops, machine shops, depots and other buildings, but a substantial gutter shall be maintained under such tracks to provide the necessary drainage thereof.

10. LOCATION OF TRACKS ON STREETS. That the tracks shall be constructed and laid, that each of them shall be, when practicable, or equal distance from curb line to said streets, or as nearly so as the condition of width of the streets will permit.

11. LOCATION OF SWITCHES. That no switch shall be constructed or maintained within fifty feet of any cross streets and the location of such switches and all turnouts shall be changed at the expense of the grantee or its assigns whenever so ordered by said Board of Trustees.

12. CITY ENGINEER'S SERVICES. That the City Engineer shall, under the direction of the said Board of Trustees, give the established grade of the streets along the line of construction of said street railway and set stakes indicating the said grades. He shall see the said railway is constructed in conformity to the terms and requirements of the franchise, and for his services as herein required, he shall receive such fees as are provided therefor, and the same shall be paid by the grantee or its assigns.

13. TIME LIMIT FOR CONSTRUCTION AND COMPLETION. Work to construct the railroad not already constructed shall be commenced in good faith within not more than four months from the granting of the franchise, and if not so commenced within said time said franchise shall be declared forfeited; and the said railroad shall be completed within not more than three years thereafter, and if not so completed within said time said franchise so granted shall be forfeited; provided, however, that for good cause shown the Board of Trustees may by resolution extend the time for completion thereof not exceeding three months.

14. CESSATION OF OPERATION. In case the grantee of the franchise or its successors or assigns shall cease to operate said railway for a period of ninety days consecutively after said railway shall have been fully constructed and completed, except in cases of unavoidable accident, or other matters not within the control of the grantee, or its successors or assigns, the franchise shall be and is hereby declared to be forfeited and the said grantee, its successors or assigns, shall thereafter remove the tracks of said railway and put the streets in good condition.

15. RIGHT TO REPEAL. The grant of the said franchise shall be subject to the right of the majority of the electors of said city, voting at any election at any time thereafter to repeal, change, or modify the said grant, and the ordinance making such grant shall contain a reservation of such right to repeal, amend, or modify said ordinance.

Section 2. This ordinance shall take effect, and be in full force thirty-one days from and after the date of its final passage and approval by the Board of Trustees of said city, and the said Clerk of said city shall, within said thirty-one days, cause this ordinance to be published once in the East San Diego Press, the official newspaper of said city, and he shall attach to this ordinance his affidavit of said publication, and this ordinance shall be signed and approved by the President of the said Board of Trustees, and attested by the Clerk of said city.

Passed and adopted this 20th day of March, A.D. 1916.

W.W. PFAHLER

President of said Board of Trustees.

(Seal) Attest: ORWELL J. EARLY

City Clerk of said City.

I hereby approve the foregoing ordinance this 20th day of March, A.D. 1916.

W.W. PFAHLER,

President of said Board of Trustees.

Submitted to me and duly approved this 20th day of March, A.D. 1916.

P.M. ANDREWS,

City Attorney.

State of California, County of San Diego,
City of East San Diego, ss.

I, Orwell J. Early, Clerk of said city, do hereby certify that the foregoing Ordinance No. 109 was passed and adopted by the Board of Trustees of said city at a regular meeting of said Board on the 20th day of March, A.D. 1916, by the following vote, to-wit:

Ayes -- McIntyre, Sauer, Shafer, Williams, Pfahler.

Noes -- None.

Absent -- None.

Witness my hand and seal of said city this 20th day of March, A.D. 1916.

(Seal)

ORWELL J. EARLY,

City Clerk of said City and Ex-Officio Clerk of said Board of Trustees of the City of East San Diego, State of California.

Appendix C
ORDINANCE NO. 214.

An Ordinance of the County of San Diego, Granting to the San Diego Electric Railway Company, a Corporation, and to its successors and assigns, a franchise and authority to construct, maintain and operate an electric railway for the period of time ending on the first day of September, Nineteen Hundred and Fifty-two, a street railway upon certain streets in Normal Heights and Kensington Park in the County of San Diego.

Whereas, the San Diego Electric Railway Company, on the 3rd day of February, 1914, filed its application for the granting of a franchise and authority to construct, maintain and operate a street railway upon certain streets in the County of San Diego and upon terms and conditions set out in said application on file in the office of the County Board of Supervisors of said County; and,

Whereas, upon consideration of the application and the terms, the Board of Supervisors of said County of San Diego, did in open session on the 3rd day of February, 1914, by its resolution of that date determine that it was for the best interest of the County that such franchise and authority be granted as applied for, and which said resolution was published once on the 4th day of February, 1914, in the San Diego Union and Daily Bee, a newspaper of general circulation, and printed and published in the City of San Diego, in said County of San Diego; and,

Whereas, the said Board of Supervisors, in said resolution, directed the County Clerk of said County to advertise the fact of said application, together with a statement that it was proposed to grant such franchise, and that bids would be received therefor, and that said franchise would be struck off, sold and awarded to the highest cash bidder therefor, and,

Whereas, said notice was published and advertised in all respects as required in the said newspaper consecutively for ten days commencing upon the including said 4th day of February, 1914, and in all respects as required by law; and,

Whereas, said publication of said notice has been completed and not less than twenty nor more than thirty days have elapsed since the completion of said publication; and,

Whereas, on Friday, the 6th day of March, 1914, at the hour of 2 o'clock P.M. (being the day and date and time set by said notice for the opening of sealed bids for said franchise and authority), the sealed bid of the San Diego Electric Railway Company, a corporation, was, in open session, opened and publicly declared, and therebeing no other bidder therefor, or at all, and the said sealed bid of the San Diego Electric Railway Company being the highest cash bid for said franchise and authority was at said time and place so declared to be the highest cash bid for said franchise and authority, and the said San Diego Electric Railway Company was then and there declared to be the highest bidder for said franchise and authority by the said Board of County Supervisors, and the said franchise and authority was then and there sold, struck off and awarded to the said San Diego Electric Railway Company, a corporation, and its successors and assigns; and,

Whereas, the bond in the sum of Five Hundred Dollars

required to be given by the successful bidder by said resolution of February 2nd, 1914, has been given, and approved by the said Board of County Supervisors, and is now on file in the office of the County Clerk of said County in this matter; and,

Whereas, by resolution passed and adopted by the said Board of County Supervisors on the 5th day of March, 1914, the said Board of County Supervisors accepted said bid of said San Diego Electric Railway Company and awarded said franchise and authority to said Railway Company, and directed that said Railway Company be granted the said franchise and authority by proper ordinance of final grant of the same; and,

Whereas, all acts and things essential to the due, proper and legal authorization of this final grant of this franchise and authority have been done by the said County of San Diego and the said San Diego Electric Railway Company, grantee, and in due and proper form, time and manner;

Therefore, be it ordained by the Board of County Supervisors of the County of San Diego, California, as follows:

Section 1. That the County of San Diego, a municipal corporation in the State of California, hereby grants to the San Diego Electric Railway Company, a corporation, and to its successors and assigns, the franchise and authority to construct, maintain and operate an electric railway for the period of time ending on the first day of September, Nineteen Hundred and Fifty-two, including side-tracks, cross-overs, spur-tracks, turnouts, switches and curves, and to erect and maintain either a single or double pole line for the support of overhead trolley support arms or span wires, and to suspend electric wires therefrom to be used in the operation of said railway, upon and along the following named streets and highways in the County of San Diego, State of California, to-wit:

Upon and along Adams Avenue in the County of San Diego, as said Avenue is shown upon the official maps of Normal Heights and Kensington Park, from the westerly line of said Normal Heights (said line being the easterly limits of the City of San Diego) to the center of the intersection of said Adams Avenue with Marlborough Street in said Kensington Park,

Upon the following conditions and limitations:

VERIFIED STATEMENT OF GROSS RECEIPTS

The grantee of said franchise, successors and assigns, shall file with the County Clerk of the County of San Diego during the first fifteen days of February of each year after the taking effect of the ordinance granting the said franchise, and during the same period of each successive year thereafter, a statement, verified by the oath of said grantee, successors or assigns, showing the total gross receipts arising from the use, operation or possession of said franchise for the preceding calendar year (or fraction thereof for the first and last years, as the case may be), and shall thereupon pay to the said County Clerk, for the said County of San Diego, the aggregate sum of ten per centum of said gross annual receipts as shown by said statement. The said percentage of gross receipts shall begin to accrue upon the taking effect of the ordinance granting this franchise.

Any refusal by said grantee, successors or assigns, to file said verified statement and to pay said percentage of said gross annual receipts within the time above provided shall constitute ground for forfeiture of said franchise and all rights granted thereby.

The Board of Supervisors of said County may, after said statement is made, inspect and examine the books of the grantee of this franchise, and may cause the same to be examined by an expert accountant and may examine under oath any and all of its officers or agents for the purpose of ascertaining the gross annual receipts under this franchise.

-MOTIVE POWER.

That the cars upon said Railway shall be propelled by electricity used through the overhead system, or, in case of accident or unavoidable delay, in procuring equipment, by mule or horse power.

CONDITION OF STREETS

The grantee of the franchise or its assigns shall pave or macadamize the entire length of the street, used by said tracks, between the rails and for two feet on each side thereof, and between the tracks if there be more than one, whenever such street is ordered to be paved or macadamized by said Board of Supervisors or other body having jurisdiction over said streets and highways, and shall keep the same constantly in repair, flush with the streets and with good crossings.

TRACK SPECIFICATIONS

That the track shall be constructed at the standard gauge of four feet eight and one-half inches within the rails, and shall have a space between it and side-tracks, turnouts and switches of not less than five feet three inches.

SINGLE OR DOUBLE TRACK

That the grantee or its assigns shall have the rights to lay and maintain either single or double tracks as the conditions of business may warrant, but the laying of a single track shall be deemed a compliance with the conditions of this franchise, and shall in no wise impair the right of said grantee or its assigns to, subsequently lay a second track paralleling the first tracks.

RAIL SPECIFICATIONS

That good, substantial steel rails shall be used in the construction of said track.

COUNTY'S RIGHT OF ACCESS TO STREETS

That the right to grade, sewer, pave, macadamize or otherwise improve or alter or repair the said streets or change the grade thereof, shall be reserved to the said County, such work to be done so as to obstruct the said railway as little as possible; the grantee or its assigns shall shift and re-shift the rails so as to avoid the obstruction created thereby; the grantee, and its

assigns shall waive any and all claims for damages against said County caused by reason of such grading, paving or macadamizing, or otherwise improving, altering or repairing said streets.

TRANSFERS

That the successful bidder for said franchise shall issue passenger transfers for passage in one contiguous direction to all other lines of street railways owned or operated by said successful bidder in the City of San Diego, and shall also issue similar transfers from such lines owned or operated aforesaid, to the lines covered by this franchise.

TRACKS ON GRADED STREETS

That the laying of said track and all side-tracks, cross-overs, spur tracks, turnouts, switches or curves shall conform in all cases with the grade of said streets, where the same have been graded, and in all other cases to be as near to the natural grade as practicable, and when at any time any part of this route shall be graded, or the grade thereof altered or changed by said Supervisors, the bed of the road and the tracks thereon shall be made to conform therewith by said grantee or its assigns. That the overhead system may be of single or double pole construction. That all spur tracks or other turn-out tracks may be so constructed and maintained as to curve off the main track and across the curbs and sidewalks and lead into car barns, repair shops, machine shops, depots and other buildings, but a substantial gutter shall be maintained under such tracks to provide the necessary drainage thereof.

LOCATION OF TRACKS ON STREETS

That the tracks shall be so constructed and laid that each of them shall be, when practicable, of equal distance from curb line of said streets, or as nearly so as the conditions or width of the streets will permit.

LOCATION OF SWITCHES

That no switch shall be constructed or maintained within fifty feet of any cross street, and the location of such switches and all turnouts shall be changed at the expense of the grantee or its assigns whenever so ordered by said Supervisors.

TIME LIMIT FOR CONSTRUCTION

Work of construction shall commence within one month after the taking effect of the ordinance granting this franchise, and the construction shall be completed within one year after the taking effect of the ordinance granting this franchise.

CESSATION OF OPERATION

In case the grantee of the franchise or its successors or assigns shall cease to operate said railway for a period of ninety days consecutively after the taking effect of the ordinance granting this franchise, except in cases of unavoidable accident or other matters not within the control of the grantee, or its successors or assigns, the franchise shall be and is hereby declared to be forfeited and the said grantee, its successors or assigns, shall thereafter remove the tracks of said railway and put the streets in good condition.

Section 2. This ordinance shall take effect and be in force at the expiration of fifteen days from and after its passage and before the expiration of the said fifteen days the same shall be published, with the names of the members voting for and against the same, for at least one week in the "San Diego Union and Daily Bee", a newspaper of general circulation, published in the said County of San Diego.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Passed, approved and adopted this 6th day of March, A.D. 1914.

G.F. WESTFALL,

Chairman of the Board of Supervisors of San Diego County, California.

The above ordinance was adopted by the following vote:

Supervisor J.P. Smith, voting aye.

Supervisor C.E. Swallow, voting aye.

Supervisor Joseph Foster, voting aye.

Supervisor T.J. Fisher, voting aye.

Supervisor G.F. Westfall, voting aye.

Attest my hand and the seal of the Board of Supervisors
this 6th day of March, 1914.

J.R. BUTLER,

County Clerk and ex-Officio Clerk of the Board of Supervisors.

By B. ALLEN, Deputy.

APPENDIX "D"

Ordinance No. 10869

AN ORDINANCE AMENDING SECTION 1 OF ORDINANCE NO. 9210 OF THE ORDINANCES OF THE CITY OF SAN DIEGO, ENTITLED, "AN ORDINANCE OF FINAL GRANT TO THE SAN DIEGO ELECTRIC RAILWAY COMPANY, A CORPORATION, AND TO ITS SUCCESSORS AND ASSIGNS, OF A FRANCHISE AND AUTHORITY TO CONSTRUCT, MAINTAIN AND OPERATE FOR A PERIOD OF FIFTY YEARS A STREET AND INTERURBAN RAILWAY UPON CERTAIN STREETS IN THE CITY OF SAN DIEGO, CALIFORNIA," APPROVED OCTOBER 10, 1923.

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

Section 1. That Section 1 of Ordinance No. 9210 of the ordinances of the City of San Diego, entitled, "An Ordinance of final grant to the San Diego Electric Railway Company, a corporation, and to its successors and assigns, of a franchise and authority to construct, maintain and operate for a period of fifty years a street and interurban railway upon certain streets in The City of San Diego, California," approved October 10, 1923, be, and the same is hereby amended to read as follows:

"Section 1." That The City of San Diego hereby grants to the San Diego Electric Railway Company, a corporation, and to its successors and assigns, the franchise and authority to construct, maintain and operate for a period of fifty years from the date of taking effect of this ordinance of final grant, an electric street and interurban railway, including side-tracks, turn-outs, cross-overs, switches and curves, and all necessary and incidental adjuncts and appurtenances of operation, together with single or double pole lines for the support of overhead trolley-wire supports and support-arms or span-wires, and to suspend wires to conduct electricity therein to be used in the operation of said railroads for the purposes of carrying persons and freight, goods, wares and merchandise, express and mail matter, for compensation, on, along, under or over the public streets, thoroughfares, highways, public property and private lands in The City of San Diego, California, along the following lines and routes generally described as follows; to-wit:

Commencing at the center of south line of intersection of Fifth Street with I Street, thence northerly upon Fifth Street to center of intersection of Fifth Street with Washington Street, thence westerly on Washington Street to center of intersection of Washington Street with Hawk Street, thence northerly on Hawk Street to center of intersection of Hawk Street with Lewis Street, thence westerly on Lewis Street and along Fort Stockton Drive to center of intersection with Trias Street; and also

Commencing at center of intersection of Fifth Street with University Avenue, thence easterly upon University Avenue to the eastern boundary limits of The City of San Diego; also

Commencing at center of intersection of Market Street with State Street, thence northerly on State Street to center of intersection of State Street with Ivy Street; also

Commencing in the intersection of Market Street with Kettner Boulevard, thence running northerly upon Kettner Boulevard to Chalmers Street (sometimes called Chambers Street); thence northwesterly upon and across Block 168, Middletown, across California Street, upon Hancock Street to a point between Mason Street and Smith Street; thence northwesterly across private right of way across Smith Street; thence northwesterly across private right of way across Wallace Street; thence northwesterly across private right of way across Taylor Street; thence northwesterly across private right of way to the intersection of Kurtz Street and Rosecrans Street, across the intersection of Kurtz Street and Rosecrans Street; thence northwesterly across private right of way to Midway Drive; thence across Midway Drive (produced northerly), thence northwesterly across private right of way to the intersection of West Point Loma Boulevard and Bacon Street; thence northerly on West Point Loma Boulevard to the south end of Mission Bay Bridge; thence upon and across said bridge and northerly along Mission Boulevard, in Mission Beach, to its intersection with the northerly line of Pueblo Lot 1803, and running thence northerly along Mission Boulevard to the north line of Pacific Avenue; thence northerly across private property to Reed Avenue; thence northerly on Allison Street to Beryl Avenue; thence on a curve to the left across Block 78 and Block 41 of Ocean Front to Loring Avenue; thence northerly on a private right of way or public street across Partition No. 1 of Pueblo Lot 1783 to Turquoise Avenue; thence northerly across Turquoise Avenue, thence northerly on a private right of way across Partition No. 2 of Pueblo Lot 1783 to the north line of Pueblo Lot 1783; thence northerly along Electric Avenue in Bird Rock Addition and Bird Rock City by the Sea to the south line of Pueblo Lot 1773; thence northerly on a private right of way through Pueblo Lot 1258 to the south line of Resubdivision of Prospect Park; thence northerly across Draper Avenue; thence on a private right of way across Block G of Resubdivision of Prospect Park; thence northerly on a private right of way across Block F of said Prospect Park; thence northerly across Bonair Street; thence northerly on a private right of way across Block D of said Prospect Park; thence northerly on a private right of way across Block G of said Prospect Park; thence northerly across Nautilus Street; thence northerly across private right of way across Block A of said Prospect Park; thence northerly on Fay Street to Prospect Street; also

Commencing at West Point Loma Boulevard and Bacon Street, running thence southwesterly along Bacon Street to Santa Cruz Avenue; thence northeasterly on Santa Cruz Avenue to center of its intersection with De Foe Street; also

Commencing at connection with line hereinbefore described at or near intersection of Hancock Street with Witherby Street and curving westerly to and upon Tide Street and Lytton Street to the main entrance of United States Naval Training Station; also

Commencing at center of intersection of Market Street with Third Street; thence northerly on Third Street to center of intersection of Third Street with B Street; also

Commencing at center of intersection of Market Street with First Street; thence northerly on First Street to center of intersection of Laurel Street; also

Commencing at center of intersection of F Street with Twelfth Street; thence northerly on Twelfth Street to and through Balboa Park to and on Indiana Street, and continuing northerly on Indiana Street and Park Boulevard to center of intersection of Park Boulevard and Adams Avenue; thence easterly along Adams Avenue to the eastern boundary of the City of San Diego; also

Commencing at center of east line of intersection of Broadway with California Street; thence easterly forming a railway depot loop, along Broadway to center of intersection of Broadway with 25th Street; thence northerly along 25th Street to B Street; thence easterly along B Street to 28th Street; thence northerly along 28th Street to Beach Street; thence easterly along Beach Street to 30th Street; thence northerly along 30th Street to Ivy Street; thence curving easterly and northerly through block 62 of Seaman and Choate's Addition to and along Fern Street and 30th Street to Upas Street, thence westerly on Upas Street to 30th Street, thence northerly along 30th Street to center of intersection of 30th Street with Adams Avenue; also commencing at center of west line of intersection of Market Street with Atlantic Street, thence easterly along Market Street to center of intersection of Market Street with 25th Street, thence southerly along 25th Street to center of intersection of said 25th Street with Imperial Avenue; also running from said Market Street southerly upon said Atlantic Street to and along the so-called Santa Fe wharf to the ferry slip of San Diego and Coronado Ferry Company on said wharf; also

Commencing at center of intersection of 5th Street with K Street, thence easterly along K Street to 10th Street, thence southerly along 10th Street to center of intersection of 10th Street with Imperial Avenue, thence easterly along Imperial Avenue to center of intersection of Imperial Avenue with 34th Street; also

Commencing at center of intersection of K Street with 10th Street, thence easterly along K Street to center of intersection of K Street with 15th Street; also

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Commencing at center of intersection of 13th Street with K Street, thence southerly along 13th Street to center of intersection of L Street; also

Commencing at center of intersection of K Street with 15th Street, thence southerly along 15th Street to center of intersection of 15th Street with Imperial Avenue; also

Commencing at center of intersection of Broadway with 16th Street, thence southerly along 16th Street to N Street, curving easterly upon and along Logan Avenue to 26th Street, thence southerly along 26th Street to National Avenue, thence easterly along National Avenue to 32nd Street, thence southerly along 32nd Street to the United States Navy Repair Depot; also

Commencing at center of intersection of F Street with Kettner Boulevard, thence easterly along F Street to center of intersection of F Street with 16th Street; also

Commencing at center of intersection of Kettner Boulevard with B Street, thence easterly along B Street to center of intersection of B Street with 12th Street; also

Commencing at center of intersection of Imperial Avenue with 25th Street, thence southerly along 25th Street to N Street, thence turning southeasterly along Woolman Avenue to a terminus at 39th Street and Woolman Avenue; also

Commencing at the center of the intersection of 26th Street with Sicard Street, thence southwesterly along Sicard Street to southwesterly line of intersection of Sicard Street with Main Street; also

Commencing at the center of the intersection of State and Ivy Streets, thence northwesterly along State Street to intersection of State Street with Reynard Way, thence along westerly side of Reynard Way to intersection of Reynard Way with Horrence Street, thence northerly on Goldfinch Street to Sutter Street, thence westerly on Sutter Street to Walborn Street;

Upon the conditions and limitations set forth in said application and in accordance with the recommendations of the Transportation Committee of The City of San Diego adopted by said Common Council on the 27th day of June, 1923, and which said recommendations are contained in Document No. 152150, on file in the office of said City Clerk, to-wit:

1. PERCENTAGE PAYABLE TO THE CITY. The grantee of said franchise, successors or assigns, shall file with the City Clerk of The City of San Diego during the first fifteen days of February of each year after the taking effect of the ordinance granting the said franchise and during the same period of each successive year thereafter during the existence

of the franchise, a statement verified by the oath of the grantee, successor or assigns, showing the total gross receipts arising from the use, operation and possession of said franchise for the preceding calendar year (or fraction thereof for the first and last years, as the case may be), and shall thereupon pay to the said City Clerk for The City of San Diego the aggregate sum of two per centum of said gross annual receipts as shown by said statement, and this franchise being a renewal of a right already in existence the payment of said percentage of gross receipts shall begin upon the taking effect of the ordinance granting this franchise. Any refusal of said grantee, successors or assigns, to file said verified statement and to pay said percentage of said gross annual receipts within the time above provided shall constitute ground for forfeiture of said franchise and all rights granted thereby. The Mayor and the Common Council may after said statement is made inspect and examine the books of the grantee of this franchise and may cause the same to be examined by an expert accountant and may examine under oath any and all of the officers or agents of the railway company for the purpose of ascertaining the gross annual receipts under this franchise.

2. **MOTIVE POWER.** The railroads shall be operated by means of electricity used through the overhead trolley system or by such means as may hereafter be approved by the Common Council of said City.

3. **CONDITION OF STREETS.** The owner of the franchise or privilege shall at all times keep that portion of the street occupied by his or its tracks in good condition, constantly in repair, flush with the street and with good crossings, and in the event that the street on which said franchise or privilege is granted shall be paved either by the city or under proceedings authorized by the General Laws of the State, the said owner of said franchise or privilege shall be required to pay for only that portion of any construction in excess of that covered by the specifications for the improvement of the rest of the street and which shall be necessary to provide a safe and suitable foundation for the operation of car lines over a paved street. It is the intent and purpose of this section to relieve the owner of a franchise or privilege to operate street cars on the streets of The City of San Diego of the cost of new surface pavement between the tracks of said owner and for two feet on each side thereof on the streets to be hereafter paved, and to require the owner of said franchise or privilege to lay a suitable foundation for the operation of car lines over a paved street.

Nothing herein contained, however, shall relieve the said owner of said franchise or privilege of his or its obligation to keep those portions of the streets occupied by the said owner constantly in repair, flush with the streets and with good crossings, and to keep that portion of the pavement now existing or which may hereafter be placed between the rails, and for two feet on each side thereof, and between the tracks if there be more than one, in good condition.

4. SINGLE OR DOUBLE TRACKS. That the grantee of this franchise or privilege, successors or assigns, shall have the right to lay and maintain either single or double tracks as the condition of business may warrant, but the laying of a single track shall be deemed a compliance with the conditions of this franchise and shall in no wise impair the right of the grantee, successors or assigns, to subsequently construct and operate a second track under this franchise.

5. CITY'S RIGHT TO ACCESS TO STREETS. That the right to grade, sewer, pave, or otherwise improve or alter or repair the streets, or change the grade thereof, shall be reserved to the said City, such work to be done so as to obstruct the railroads as little as possible. The grantee, successors or assigns, shall shift and reshift the rails so as to avoid the obstruction created thereby, and shall waive any and all claims for damage against said city caused by reason of such grading, paving or improving, or altering or repairing said streets.

6. ROADBED LOCATION. That the location of any tracks shall conform in all cases with the official grade of the streets where the same have been graded, and in other cases to be laid as near to the natural grade as practicable, and when at any time any part of routes shall be graded or the grade thereof altered or changed by said Common Council, the said railroads shall be made to conform therewith by said grantee, successors or assigns. That turn-out tracks may be so constructed and maintained as to curve off the main track and across the curbs and sidewalks and lead into car-barns, repair-shops, machine-shops, depots and other buildings, but a substantial gutter shall be maintained under such tracks.

7. LOCATION OF TRACKS. That the tracks shall be constructed and laid so that each of them shall be when practicable of equal distance from curb lines, or as nearly so as the condition or width of the street will permit.

8. ENGINEER. That the City Engineer shall give the established grade of the streets along the line of construction and set stakes indicating the grade; he shall see that the tracks are constructed in conformity with the terms and requirements of the franchise, and for such services he shall receive such fees as are provided therefor, and the same shall be paid by the grantee, successors or assigns.

9. TIME LIMIT FOR CONSTRUCTION. Work to construct the railroads not already constructed shall be commenced in good faith within not more than four months from the granting of the franchise, and if not so commenced within said time, said franchise shall be declared forfeited, and the railroads shall be completed within not more than three years from the granting of the franchise, and if not so completed within said time said franchise or privilege so granted shall be forfeited; provided, that for good cause shown the Common Council may by resolution extend the time for completion of construction not exceeding three months.

10. TRANSPORTATION OF FREIGHT. Transportation of freight may be carried on over streets between the hours of eleven o'clock P.M., and six o'clock A.M. only, or at other times which the Common Council may approve.

11. CESSATION OF OPERATION. In case the grantee of the franchise or privilege, successors or assigns, shall cease to operate said railroads for a period of ninety days consecutively after the same shall have been fully constructed and completed, except in case of unavoidable accident, or other matters not within the control of the grantee, successors or assigns, the said franchise or privilege shall be and is hereby declared to be forfeited, and the grantee, successor or assigns, shall remove the tracks and put the streets in good condition.

12. RIGHT TO REPEAL. The grant of the franchise or privilege shall be subject to the right of the majority of the electors of The City of San Diego, voting at any election at any time thereafter to repeal, change or modify the said grant, and the ordinance granting such franchise or privilege shall contain a reservation of such right to repeal, amend or modify said ordinance."

Section 2. This ordinance shall take effect and be in force on the thirty-first day from and after its passage and approval.

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of Ordinance No. 10869, of the ordinances of the City of San Diego, California, as adopted by the Common Council of said City January 17, 1928, and approved by the Mayor of said City on January 17, 1927.

(Sgd) Allen E. Wright
City Clerk of the City of San Diego, California

By (Sgd) Fred W. Sick, Deputy.

Appendix E
ORDINANCES 10106

An ordinance of final grant to the San Diego Electric Railway Company, a corporation, and to its successors and assigns, of street and interurban railway franchise and authority to construct, maintain and operate rail- ways in certain streets in East San Diego and other places in the City of San Diego, California, during the period of fifty years from and after the 10th day November, 1923.

Whereas, pursuant to the charter of the City of San Diego, the San Diego Electric Railway Company, a corporation, on the 10th day of April, 1925, filed its application for the franchise and authority to construct, maintain and operate an electric street and interurban railway upon certain streets and places in the City of San Diego, upon terms and conditions set out in said application; and,

Whereas, the Common Council of said City by its resolution No. 34141, dated the 25th day of May, 1925, determined and proposed to grant such franchise and authority as applied for in said application, and directed the said Clerk to advertise the fact of said application, together with a statement that it was proposed to grant the same and the said franchise and authority as applied for, and that bids would be received therefor, and that it would be sold, struck off and awarded to the highest cash bidder therefor; and,

Whereas, said notice has been regularly and duly published and advertised as directed by said Common Council and as required by law; and that full publication of said notice has been completed, and not less than twenty days nor more than thirty days have elapsed since the completion of said publication; and,

Whereas, pursuant to said resolution, notice and advertisement on Monday, the 6th day of July, 1925, at the hour of ten o'clock a.m., the sealed bid of the San Diego Electric Railway Company was in open session of the Council, opened and publicly declared, and there being no other sealed bids therefor or any oral or other bid made at the time of the opening of said sealed bid, or at all, and the said sealed bid of said San Diego Electric Railway Company being the highest cash bid for said franchise and authority, the same was at said time and place so declared, and said San Diego Electric Railway Company was then declared to be the highest bidder by said Common Council, and the said franchise and authority was then and there struck off, sold and awarded to said San Diego Electric Railway Company, a corporation, and to its successors and assigns; and,

Whereas, by Resolution of Award No. 34490, passed and adopted by the Common Council on the 6th day of July, 1925, said Common Council accepted the said bid of the San Diego Electric Railway Company and awarded said franchise and authority to said San Diego Electric Railway Company, a corporation, and to its successors and assigns, and directed that said corporation be granted the said franchise and authority by proper ordinance of final grant of the same pursuant to the City Charter of said City; and,

Whereas, the bond required to be given, in favor of said City, by the successful bidder for said franchise and authority, in the sum of One Hundred Dollars, has been given, filed and approved by the said Common Council; and,

Whereas, all acts and things essential to the due, proper and legal authorization of the final grant of said franchise and authority as required to be done have been done by the City of San Diego and by the San Diego Electric Railway Company, grantee, in due and proper form, time and manner, now, therefore,

BE IT ORDAINED by the Common Council of the City of San Diego as follows:

Section 1. That the City of San Diego hereby grants to the San Diego Electric Railway Company, a corporation, and to its successors and assigns the franchise and authority to construct, maintain and operate for a period of fifty years from the 10th day of November, 1923, an electric street and interurban railway, including sidetracks, turnouts, cross-overs, switches and curves, and all necessary and incidental adjuncts and appurtenances of operation, together with single or double pole lines for the support of overhead trolley wire supports and support arms or span wires, and to suspend wires to conduct electricity therein to be used in the operation of said railroads for the purposes of carrying persons and freight, goods, wares and merchandise, express and mail matter, for compensation, on, along, under or over the public streets, thoroughfares, highways, public property and private lands in the City of San Diego, California, along the following lines and routes generally described as follows, to-wit:

Commencing at West Point Loma Boulevard and Bacon Street, running thence southwesterly along Bacon Street to Santa Cruz Avenue, thence southeasterly on Santa Cruz Avenue to center of its intersection with Defoe Street; also,

Commencing at main entrance of United States Naval Training Station on Lytton Street, thence northwesterly on Lytton Street to Rosecrans Street, thence southerly on Rosecrans Street to the northerly boundary line of the United States Military Reservation on Point Loma at La Playa; also

Commencing at westerly line of intersection of Boundary Street and University Avenue, thence easterly along University Avenue to the center of the intersection of said University Avenue with Euclid Avenue; also,

Commencing at center of intersection of Broadway with Fourth Street, thence southerly along Fourth Street to the center of said Fourth Street with F Street; also,

Commencing at the center of intersection of Hancock Street with Bandini Street, thence westerly along Hancock Street, crossing Coats Street; thence on private right of way through Block 223, Middletown; thence across right of way of Atchison, Topeka & Santa Fe Railway Company and across Witherby Street on overhead bridges; thence on private right of way and across Kurtz Street; thence on private right of way across Pueblo Lots 326 and 327 and across Barnett Avenue; thence curving northerly on private right of way along southerly edge of Pueblo Lots 327, 328, 329, 330, 331, 332, 333 and 334, and across Rosecrans Street; thence on private right of way along southerly edge of Pueblo Lots 335 and 336 to an intersection with the railway route granted by the City of San Diego by Ordinance No. 9210, approved October 20, 1923, said

point of intersection being in northerly corner of Pueblo Lot 314.

Upon the conditions and limitations set forth in said application:

1. Percentage Payable to the City:

The grantee of said franchise, successors or assigns, shall file with the City Clerk of the City of San Diego during the first fifteen days of February of each year after the taking effect of the ordinance granting the said franchise and during the same period of each successive year thereafter during the existence of the franchise, a statement verified by the oath of the grantee, successors or assigns, showing the total gross receipts arising from the use, operation and possession of said franchise for the preceding calendar year (or fraction thereof for the first and last years as the case may be), and shall thereupon pay to the said City Clerk for the City of San Diego the aggregate sum of two per centum of said gross annual receipts as shown by said statement, and this franchise being a renewal of a right already in existence the payment of said percentage of gross receipts shall begin upon the taking effect of the ordinance granting this franchise. Any refusal of said grantee, successors or assigns, to file said verified statement and to pay said percentage of said gross annual receipts within the time above provided shall constitute ground for forfeiture of said franchise and all rights granted thereby. The Mayor and the Common Council may after said statement is made inspect and examine the books of the grantee of this franchise and may cause the same to be examined by an expert accountant and may examine under oath any and all of the officers or agents of the railway company for the purpose of ascertaining the gross annual receipts under this franchise.

2. Motive Power.

The railroads shall be operated by means of electricity used through the overhead trolley system or by such means as may hereafter be approved by the Common Council of said city.

3. Condition of Streets:

The owner of the franchise or privilege shall at all times keep that portion of the street occupied by his or its tracks in good condition, constantly in repair, flush with the street and with good crossings, and in the event that the street on which said franchise or privilege is granted shall be paved either by the city or under proceedings authorized by the General Laws of the State, the said owner of said franchise or privilege shall be required to pay for only that portion of any construction in excess of that covered by the specifications for the improvement of the rest of the street and which shall be necessary to provide a safe and suitable foundation for the operation of car lines over a paved street. It is the intent and purpose of this section to relieve the owner of a franchise or privilege to operate street cars on the streets of the City of San Diego of the cost of new surface pavement between the tracks of said owner and for two feet on each side thereof on the streets to be hereafter paved, and to require the owner of said franchise or privilege to lay a suitable foundation for the operation of car lines over a paved street.

Nothing herein contained, however, shall relieve the said owner of said franchise or privilege of his or its obligation to keep those portions of the streets occupied by the said owner constantly in repair flush with the streets and with good crossings, and to keep that portion of the pavement now existing or which may hereafter be placed between the rails, and for two feet on each side thereof, and between the tracks if there be more than one, in good condition.

4. Single or Double Tracks:

That the grantee of this franchise or privilege, successors or assigns, shall have the right to lay and maintain either single or double tracks as the condition of business may warrant, but the laying of a single track shall be deemed a compliance with the conditions of this franchise and shall in no wise impair the right of the grantee, successors or assigns, to subsequently construct and operate a second track under this franchise.

5. City's Right to Access to Streets:

That the right to grade, sewer, pave, or otherwise improve or alter or repair the streets, or change the grade thereof, shall be reserved to the said city, such work to be done so as to obstruct the railroads as little as possible; the grantee, successors or assigns, shall shift and reshift the rails so as to avoid the obstruction created thereby, and shall waive any and all claims for damage against said city caused by reason of such grading, paving or improving, or altering or repairing said streets.

6. Roadbed Location:

That the location of any tracks shall conform in all cases with the official grade of the streets where the same have been graded, and in other cases to be laid as near to the natural grade as practicable, and when at any time any part of routes shall be graded or the grade thereof altered or changed by said Common Council, the said railroads shall be made to conform therewith by said grantee, successors or assigns. The turn-out tracks may be so constructed and maintained as to curve off the main tracks and across the curbs and sidewalks and lead into car barns, repair shops, machine shops, depots and other buildings, but a substantial gutter shall be maintained under such tracks.

7. Location of Tracks:

That the tracks shall be constructed and laid so that each of them shall be when practicable of equal distance from curb lines or as nearly so as the condition or width of the street will permit.

8. Engineer:

That the City Engineer shall give the established grade of the streets along the line of construction and set stakes indicating the grade; he shall see that the tracks are constructed in conformity with the terms and requirements of the franchise, and for such services he shall receive such fees as are provided therefor and the same shall be paid by the grantee, successors or assigns.

9. Time Limit for Construction:

Work to construct the railroads not already constructed shall be commenced in good faith within not more than four months from the granting of the franchise, and if not so commenced within said time, said franchise shall be declared forfeited, and the railroads shall be completed within not more than three years from the granting of the franchise, and if not so completed within said time said franchise or privilege so granted shall be forfeited; provided, that for good cause shown the Common Council may by resolution extend the time for completion of construction not exceeding three months.

10. Transportation of Freight:

Transportation of freight may be carried on over streets between the hours of 11 pm and 6 am only or at other times which the Common Council may approve.

11. Cessation of Operation:

In case the grantee of the franchise or privilege, successors or assigns, shall cease to operate said railroads for a period of 90 days consecutively after the same shall have been fully constructed and completed, except in case of unavoidable accident or other matters not within the control of the grantee, successors or assigns, the said franchise or privilege shall be and is hereby declared to be forfeited, and the grantee, successors or assigns, shall remove the tracks and put the streets in good condition.

12. Right to Repeal:

The grantee of the franchise or privilege shall be subject to the right of the majority of the electors of the City of San Diego, voting at any election at any time thereafter to repeal, change or modify the said grant, and the ordinance granting such franchise or privilege shall contain a reservation of such right to repeal, amend or modify said ordinance.

Section 2. This ordinance shall take effect and be in force on the thirty first day from and after its passage and approval.

Section 3. The City Clerk of said City is hereby directed to cause this ordinance to be published at least once in the city official newspaper of said City, to wit: The Evening Tribune.

Passed and adopted by the Common Council of the City of San Diego, California, this 10th day of August, 1925, by the following vote, to wit:

Ayes - Councilmen Hold, Maire and Stewart.

Noes - None

Absent - Councilmen Bruschi and Weitzel.

And signed in open session thereof by the President of said Common Council, this 10th day of August, 1925.

JOHN L. BACON

President of the Common Council of the City of San Diego, California.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until it had been read at two separate meetings of the said Common Council, viz: on the 6th day of July, 1925, and on the 10th day of August, 1925.

Allen E. Wright

City Clerk of the City of San Diego, California,
and Ex-Officio Clerk of the Common Council of
the said City of San Diego.

By Fred W. Sick, Deputy

I hereby approve the foregoing ordinance this 12th day of August, 1925.

John L. Bacon,
Mayor of the City of San Diego, California

Attest:

Allen E. Wright
City Clerk of the City of San Diego, California

By Fred W. Sick, Deputy.