

EXHIBIT "A"

RESOLUTION DECLARING THE INTENTION OF THE CITY OF CHULA VISTA, STATE OF CALIFORNIA, TO GRANT THE FRANCHISE TO ERECT, CONSTRUCT, OPERATE, MAINTAIN, USE, REPAIR, AND FROM TIME TO TIME REPLACE AND/OR REMOVE ELECTRIC LINES (BELONGING TO THE GRANTEE OF THIS FRANCHISE, ITS SUCCESSORS OR ASSIGNS), CONSISTING OF POLES OR OTHER SUITABLE STRUCTURES AND WIRES, CROSSARMS AND OTHER APPLIANCES INSTALLED THEREON, AND CONDUITS AND PIPES FOR WIRES, ALONG, UNDER AND UPON ANY AND ALL OF THE PUBLIC STREETS, ALLEYS, HIGHWAYS AND OTHER PUBLIC PLACES WITHIN THE CORPORATE LIMITS OF THE CITY OF CHULA VISTA FOR THE PURPOSE OF TRANSMITTING, CONVEYING, DISTRIBUTING AND SUPPLYING ELECTRICITY FOR LIGHT.

WHEREAS, San Diego Consolidated Gas & Electric Company, a corporation created, organized and existing under and by virtue of the laws of the State of California, has filed with the City Council of the City of Chula Vista, State of California, an application for the grant of the franchise mentioned in the title to this resolution, which franchise is more particularly defined and described in the form of Ordinance contained in the notice herein-after ordered to be published;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the said City of Chula Vista that it is the intention of said City Council to grant the said franchise in the form and upon the terms and conditions contained in said form of Ordinance; that sealed bids for said franchise be received by said City Council at its office in the City of Chula Vista, County of San Diego, State of California, up to the hour of seven-thirty (7:30) o'clock P.M. on the 25th day of September, 1934; that all bids received for the said franchise shall be opened and read before a meeting of said City Council to be held on the day and at the hour last hereinbefore mentioned at the said office of said City Council; that the said franchise will thereupon be struck off, sold and awarded to the person, firm or corporation that shall make the highest cash bid as provided by law; that the person, firm or corporation to whom said franchise shall be awarded shall file with said City Council, within the time provided by law, a

417

bond in the penal sum of One Thousand Dollars (\$1,000.00), which bond shall be in substance and form as provided by law; that notice of the filing of said application, and of the time and place therein fixed for receiving bids for the grant of said franchise, shall be given as required by law; that the Clerk of said City be and he is hereby directed to publish once a week for four (4) successive weeks (there being no daily newspaper published in said City) in "The Chula Vista Star", a weekly newspaper published in said City of Chula Vista, a notice in the following form:

"NOTICE OF SALE OF FRANCHISE

NOTICE IS HEREBY GIVEN that on the 1th day of August, 1934, an application in writing was made and filed in the office of the City Council of the City of Chula Vista, County of San Diego, State of California, by San Diego Consolidated Gas & Electric Company, a corporation, for the grant of the franchise to erect, construct, operate, maintain, use, repair, and from time to time replace and/or remove electric lines (belonging to the grantee of this franchise, its successors or assigns), consisting of poles or other suitable structures and wires, crossarms and other appliances installed thereon, and conduits and pipes for wires, along, under and upon any or all of the public streets, alleys, highways, and other public places within the corporate limits of said City of Chula Vista for the purpose of transmitting, conveying, distributing and supplying electricity for light, which franchise is more fully set forth in the form of Ordinance hereinafter mentioned, and which said Ordinance contains a statement of the character of said franchise, of the conditions on which it is proposed to grant the same,

and the term thereof, and that said Ordinance is in the words and figures following, to-wit:

'ORDINANCE NO. 234

ORDINANCE GRANTING TO San Diego Consolidated Gas & Electric AND ASSIGNS THE FRANCHISE TO ERECT, CONSTRUCT, OPERATE, MAINTAIN, USE, REPAIR, AND FROM TIME TO TIME REPLACE AND/OR REMOVE ELECTRIC LINES (BELONGING TO THE GRANTEE OF THIS FRANCHISE, ITS SUCCESSORS OR ASSIGNS), CONSISTING OF POLES OR OTHER SUITABLE STRUCTURES AND WIRES, CROSS ARMS AND OTHER APPLIANCES INSTALLED THEREON, AND CONDUITS AND PIPES FOR WIRES, ALONG, UNDER AND UPON ANY AND ALL OF THE PUBLIC STREETS, ALLEYS, HIGHWAYS AND OTHER PUBLIC PLACES WITHIN THE CORPORATE LIMITS OF THE CITY OF CHULA VISTA FOR THE PURPOSE OF TRANSMITTING, CONVEYING, DISTRIBUTING AND SUPPLYING ELECTRICITY FOR LIGHT.

The City Council of the City of Chula Vista does ordain as follows:

Section 1. The City of Chula Vista hereby grants to San Diego Consolidated Gas & Electric Company, its successors and assigns, the franchise and authority to erect, construct, operate, maintain, use, repair, and from time to time replace and/or remove electric lines (belonging to the grantee of this franchise, its successors or assigns), consisting of poles or other suitable structures and wires, crossarms, and other appliances installed thereon, and conduits and pipes for wires, along under and upon any and all of the public streets, alleys, highways, and other public places within the corporate limits of said City of Chula Vista for the purpose of transmitting, conveying, distributing, and supplying electricity for light, for the term or period commencing upon the effective date hereof and ending May 3, 1971.

Section 2. The grantee of this franchise and its successors and assigns shall have the right to erect, construct, operate, maintain, use, repair, and from time to time replace and/or remove all electric lines (belonging to the grantee of this franchise, its successors or assigns), as may be necessary for the purpose of transmitting, conveying, distributing, and supplying electricity for light under this franchise, and all such electric lines shall be constructed and maintained in accordance with the laws of the State of California and orders of the Railroad Commission of the State of California, and the same and all thereof shall be done under the supervision of the Superintendent of Streets of the said City of Chula Vista.

Section 3. The work of erecting, constructing, repairing and/or removing any such electric lines shall be conducted with the least possible hindrance to the use of the streets and highways, and so soon as erecting, constructing, laying, repairing and/or removing thereof shall be completed, all portions of the streets, alleys, or highways which have been excavated or otherwise injured, shall be placed in as good condition as the same were in before the erection, construction, laying

1st Read 9/25/34

repairing, or removing of the same or any part thereof, and shall be done at the cost of the grantee its successors or assigns and to the satisfaction of the City Council of the City of Chula Vista.

✓ Section 4. The right to grade, sewer, pave, macadamize, or otherwise improve or alter or repair the streets, highways and alleys in the City of Chula Vista, or to change the grade thereof, shall be and is hereby reserved to said City; such work to be done so as to interfere as little as possible with the rights and privileges enjoyed by the grantee of this franchise under the terms and provisions thereof.

✓ Section 5. The grantee, its successors or assigns, at their own expense, shall change the location of any electric lines placed in the City streets so as to comply with any change of grade of said streets, highways, or alleys, ordered by the City Council of said City, and shall maintain and operate the same at all times in accordance with the ordinances and regulations of said City relating to the government and control of the use of streets; and the grantee its successors and assigns, at their own expense, shall place all poles and appliances for the support of poles for carrying electric wires for transmitting electricity for light, on the streets, highways, alleys, and other public places in said City, so as to interfere as little as possible with the ordinary traffic on said streets, highways and alleys, and shall, at their own expense, remove and relocate said poles and appliances so as to avoid any interference with the traffic when so required by the reasonable rules or ordinances of said City.

✓ Section 6. The grantee, its successors and assigns, shall and by the acceptance of this franchise, do waive any and all claim for damages against said City caused by reason of any grading, sewerage, paving, macadamizing, or otherwise improving, altering, or repairing any of said streets, highways and alleys in so far as any such work shall affect property used, constructed or installed by the grantee, its successors and assigns, under the authority of this franchise:

Section 7. The grantee of the aforesaid franchise, its successors and assigns, during the term for which the same is granted, shall pay to the said City of Chula Vista two (2) per cent of its or their annual gross receipts arising from the use, operation or possession thereof; provided, however, that no percentage shall be paid for the first five (5) years succeeding the date of the grant of said franchise, but thereafter said percentage shall be payable annually, and, if such payment shall not be made, such franchise shall be forfeited; and provided, further, that if this franchise be a renewal of a right already in existence, the payment of said percentage of gross receipts shall begin at once.

Section 8. The said franchise is granted under and pursuant to the provisions of the laws of the State of California which relate to the granting of franchises by municipal corporations of the sixth class. The franchise herein granted is not exclusive.

Section 9. The grantee of the aforesaid franchise, its successors and/or assigns, shall file with the Clerk of the City of Chula Vista during the first fifteen (15) days of February of each year commencing with the end of the first calendar year in which any payment shall become payable under the provisions of Section 7 hereof, and during the same period of each successive year thereafter during the term of this franchise, a true statement verified by the oath of the Secretary of said grantee, its successors or assigns, showing the gross annual receipts arising from the use, operation or possession thereof, for the preceding calendar year (or fraction thereof for the first and last years, respectively, as the case may be) and on or before the 1st day of March of each year shall pay to the said City Clerk for the said City of Chula Vista the sum of two (2) per cent of the gross annual receipts as shown by said statement. Said statement so filed shall also contain a statement showing the total operating revenue derived by the grantee from electric service within the City of Chula Vista.

Section 10. Any failure or refusal by said grantee, its successors or assigns, to file said verified statement or to pay said percentage of said gross annual receipts, as hereinbefore provided within the time above provided, shall constitute ground for the forfeiture of said franchise and all rights granted thereby. The City Council of the City of Chula Vista, or anyone authorized or designated by the City Council thereof, may, at any reasonable time, inspect and examine the books of the grantee of said franchise, or its successors or assigns, and may examine or cause to be examined under oath any and all of its officers and agents for the purpose of ascertaining the gross annual receipts arising from the use, operation and possession hereof.

Section 11. In the event that this franchise is forfeited for any reason, the grantee or its successors or assigns shall, at their own expense, thereafter remove all poles, conduits and pipes for wires, appliances and equipment of every kind and character belonging to said grantee from the streets, highways and alleys of the City of Chula Vista, and put the streets, highways and alleys in as good condition as they were prior to said removal.

Section 12. Any refusal of the grantee, its successors or assigns to comply with any of the provisions hereof, shall constitute ground for the forfeiture of said franchise.

Section 13. This Ordinance shall take effect and be in force on the thirty-first day from and after its passage and approval.

Section 14. That the said Clerk of the City of Chula Vista be and he is hereby authorized and directed, immediately after the passage and approval of this Ordinance, to cause the same to be published

in the official newspaper of said City, to-wit, "The Chula Vista Star".

PASSED this 2nd day of October, 1934, by the following vote:

Ayes: Councilmen Brown, Baltz, Rife, Lyons.

Noes: Councilmen Howe.

Absent: Councilman None

Signed by the Mayor of said City of Chula Vista this 2nd day of October, 1934.

G. N. Rife
Mayor of the City of Chula Vista,
California.

ATTEST:

B. Simmons
City Clerk of the City of
Chula Vista, California.

NOTICE IS HEREBY FURTHER GIVEN that it is proposed by said City Council to grant said franchise upon the terms and conditions set forth in said Ordinance; that sealed bids for said franchise will be received by said City Council at its office in the City of Chula Vista, County of San Diego, State of California, up to the hour of seven thirty o'clock P.M. on the 25th day of September, 1934; that the successful bidder and his assigns must, during the life of said franchise, pay to said City of Chula Vista a percentage of the gross annual receipts to be derived from the use, operation or possession of the said franchise upon the terms and conditions set forth in the said form of Ordinance; that the said Council will meet in open session on the day and at the hour last hereinbefore mentioned and will then and there open and read such bids; that thereupon and during such meeting the said franchise will be awarded to the person, firm or corporation that shall make the highest cash bid therefor, provided only that at the time of the opening of said bids any responsible

person, firm or corporation present or represented may bid for such franchise a sum not less than ten (10) per cent above the highest sealed bid therefor, and said bid may be raised not less than ten (10) per cent by any responsible bidder, and said bidding may so continue until finally said franchise shall be struck off, sold and awarded by said Council to the highest bidder therefor, in gold coin of the United States of America, and each sealed bid shall be accompanied with cash or a certified check payable to the Treasurer of said City for the full amount of said bid, and no sealed bid shall be considered unless such cash or certified check, payable to said Treasurer of said City of Chula Vista, shall be enclosed therewith, and the successful bidder shall deposit at least ten (10) per cent of the amount of his bid with the said City Clerk before said franchise shall be struck off to him; and if he shall fail to make such deposit immediately, then and in that case his bid shall not be received and shall be considered as void; and the said franchise shall then and there be again offered for sale to the bidder who shall make the highest cash bid therefor, subject to the same conditions as to deposit as above mentioned; that such procedure shall be had until said franchise shall be struck off, sold and awarded to the bidder who shall make the necessary deposit of ten (10) per cent of the amount of his bid as hereinbefore provided; that such successful bidder shall deposit with the said City Clerk within twenty-four (24) hours after the acceptance of his bid the remaining ninety (90) per cent of the amount thereof, and in case he shall fail to do so, then the said deposit theretofore made shall be forfeited and the award of the said franchise shall be void, and the said franchise shall

then and there by said Council be again offered for sale to the highest bidder therefor, in the same manner and under the same restrictions as hereinbefore provided; and in case said bidder shall fail to deposit with the said City Clerk the remaining ninety (90) per cent of his bid within twenty-four (24) hours after its acceptance, the award to him of said franchise shall be set aside and the deposit theretofore made by him shall be forfeited, and no further proceedings in the sale of said franchise shall be had unless the same shall be again advertised and offered for sale in the manner hereinbefore provided; and

NOTICE IS HEREBY FURTHER GIVEN that the grantee of said franchise must, within five (5) days after the same shall have been awarded, execute and file with said Council a bond running to said City of Chula Vista, with at least two (2) good and sufficient sureties to be approved by said Council, in the penal sum of One Thousand Dollars (\$1,000.00), conditioned that such bidder shall well and truly fulfill and perform each and every term and condition of said franchise, and that in case of any breach of conditions of said bond the whole amount of the penal sum therein named shall be taken and deemed to be liquidated damages and shall be recoverable from the principal and sureties upon said bond; and that in case the said bond shall not be filed as aforesaid, then the award of the said franchise shall be set aside and any money paid therefor, shall be forfeited, and said franchise shall, in the discretion of the said Council, be re-advertised and again offered for sale as provided by law. For further particulars reference is hereby made to said application filed as aforesaid in the office of said Council, and also to the resolution adopted by said Council on the

7th day of August, 1934, under and pursuant to which and to the provisions of such laws of the State of California as relate to the granting of franchises by municipal corporations of the sixth class, this notice is given, and all proceedings relating to the grant of said franchise will be had.

DATED: August 7, 1934.

By order of the City Council
of the City of Chula Vista

B. S. Simmons

Clerk. "

Adopted by the City Council of the City of Chula Vista this 7th day of August, 1934, by the following vote:

Ayes: Councilmen Lyons, Brown, Baltz, Rife.

Noes: Councilmen Howe.

Absent: Councilmen ~~At~~ None

G. N. Rife.

Mayor of the City of
Chula Vista, California.

B. S. Simmons

Clerk.