

ORDINANCE NO.

An Ordinance granting to the Oregon and California Railroad Company, a corporation, its successors, lessees and assigns, the right to construct, lay down, maintain and operate railways, poles and wires, and underground conduits in the City of Portland, Oregon.

The City of Portland Does Ordain as Follows:

Section 1. That there be and is hereby granted, subject to the terms, restrictions and provisions in this ordinance contained, to the Oregon and California Railroad Company, a corporation, duly organized and existing under and by virtue of the laws of the State of Oregon, its successors, lessees and assigns, the franchise, right and privilege to lay down, re-lay, construct, reconstruct, repair, maintain, equip, operate, have, hold, use and enjoy lines of railway of standard gauge, either single track or double track, with the right to change from a single to a double track (but not from a double to a single track, without the consent of the Council first expressed by ordinance; but no change shall be made during the pendency of a street improvement proceeding on a street or portion of a street where such change is to be made, without the consent of the Council first expressed by ordinance, and unless said Oregon and California Railroad Company, its successors, lessees and assigns, shall first pay its full portion of the assessment for such improvement as apportioned to it by the Council upon the basis of a double track) with convenient switches, turnouts, cross-overs, curves and connections, and to run and operate cars thereon, in, over, along and upon the following route, to-wit:

Commencing at a point in the east line of Fourth Street at its intersection with Jefferson Street; thence easterly along Jefferson Street to a point east of Front Street; thence turning southerly and easterly into that certain tract of land known as the Jefferson Street depot grounds of the Oregon and California Railroad Company (which tract lies between Jefferson Street, Water Street, Clay Street and the Willamette River); thence running southerly through said tract to the southerly line of Clay Street; thence over, across, along and upon all highways, streets and alleys lying between the blocks, lots, or parts thereof, or other parcels of lands privately owned by said Oregon and California Railroad Company and used as right of way for its line of railroad as now constructed and in operation from said Jefferson Street depot grounds southerly to the southern boundary of the corporate limits of the City of Portland, and over the present right of way and property of the Oregon and California Railroad Company to the southern boundary of the corporate limits of the City of Portland, or any extension thereof, together with the right to cross any streets that may intersect said right of way between Jefferson Street and said southern boundary of said City of Portland, or any extension thereof.

This Ordinance and the franchise herein granted is upon the condition that the said Oregon and California Railroad Company, its successors, lessees and assigns, shall allow any other railroad company, including any municipal belt line commercial railroad that may hereafter be authorized, operated or maintained by the City of Portland, to use in common with it the tracks herein mentioned, to be constructed on said Jefferson street and the connecting tracks on Fourth street between Jefferson and Madison streets, together with, as appurtenant thereto, the poles and supports thereon for trolley wires, and the underground slots and conduits, if the same or any part thereof shall ever be used as permitted under this ordinance upon obtaining the consent of the Council expressed by

ordinance each paying an equitable and proper portion for the construction and repair of the tracks and appurtenances aforesaid used by such railroad company or such municipal belt line commercial railroad, jointly with the said Oregon and California Railroad Company, its successors, lessees or assigns.

The rules and regulations for the common use of said tracks on said Jefferson Street shall be prepared by the Oregon and California Railroad Company, its successors, lessees and assigns, but in case dispute arises as to the same, the matter in controversy shall be determined by the Council by ordinance.

This ordinance and franchise herein contained is granted subject to all the terms, provisions and conditions contained in the Charter of the City of Portland, applicable thereto and to the laws of the state of Oregon, applicable thereto, in the same manner and to the same extent as if each and every of said terms, provisions and conditions were expressly set out and embodied herein; provided, however, that the provisions of said charter shall not be deemed to apply to the tracks, poles, overhead trolley wires and supports therefor, or the underground slots, conduits or underground wires constructed or to be constructed upon the private property and private right of way of the said Oregon and California Railroad Company, except that this ordinance and franchise herein granted is upon the condition that the said Oregon and California Railroad Company, its successors, lessees and assigns shall at any time allow the city of Portland to use in common with it, for the operation of a municipal belt line commercial railroad, the tracks now existing upon or which may at any time hereafter be constructed upon that certain tract of land known as the Jefferson Street Depot grounds of the Oregon and California Railroad Company (which said tract lies between Jefferson Street, Water Street, Clay Street and the Willamette River) and the tracks now existing or which may hereafter be constructed between said Jefferson Street Depot grounds and any point in the east line of Front Street, together with, as appurtenant thereto, the poles and supports thereon for trolley wires and the underground slots and conduits that may now or hereafter be used upon said Jefferson Street Depot grounds of the said Oregon and California Railroad Company, or between said Jefferson Street Depot grounds and any point in the east line of Front Street; the said city of Portland paying an equitable and proper portion for the construction and repair of the tracks and appurtenances aforesaid used by it for said municipal belt line commercial railroad, jointly with said Oregon and California Railroad Company, its successors, lessees or assigns. No freight cars or freight trains shall be operated upon said Jefferson street.

Section 2. Said Oregon and California Railroad Company, its successors, lessees and assigns, may operate and propel cars over and upon the railways mentioned in Section 1 of this Ordinance by means of overhead or underground electrical power, storage batteries, compressed air, or other mechanical power (excepting only steam motors or steam locomotives are prohibited on said Jefferson Street) and for the purpose of operating railways and conveying power and electrical currents for its own use, may put up, erect, maintain and use poles and overhead trolley wires and supports therefor, and lay down, construct, maintain and use underground slots and conduits and underground wires and conduits together with the right to construct, maintain and operate a necessary feed line for power purposes in Nevada Street, together with the right and privilege of constructing and maintaining all

necessary and convenient feed and service lines in connection with the construction, operation and maintenance of said railway tracks and railways herein described.

Said Oregon and California Railroad Company, its successors, lessees and assigns, may, at any time, change its motive power or mode of operating and propelling cars for any more improved, economical or desirable method (excepting steam motors or steam locomotives are prohibited on said Jefferson Street). Provided, however, that iron poles shall be required on Jefferson Street, but not where said trolley wires may be supported by contact with buildings or other structures by permission of the owners thereof.

Section 3. The said tracks shall be laid as nearly as practicable in the center of the streets, flush with the grades of said streets, so as to offer as little obstruction as possible to the passage of vehicles or other public use of said streets.

The rails used upon said streets shall be not less than six (6) inches in depth and shall weigh not less than seventy (70) pounds to the yard, and shall be of a pattern to be approved by the Council of the City of Portland. Before commencing the construction of the railways provided for in this ordinance, the grantee shall, and is hereby required to file in the Auditor's office a map and plat showing the definite location of all of said tracks, and after the definite location thereof it shall be unlawful for it to change the route thus established without the permission of the Executive Board of said City upon plans being first filed showing such changes; provided that work of immediate necessity may be done without filing such plans. No work shall be commenced until such plans are approved by the Executive Board, and the Executive Board of the City of Portland, or other legally constituted authority thereof, shall have the power and authority to regulate the manner of constructing and maintaining the tracks provided for by this ordinance and the carrying out of the provisions of this ordinance in relation thereto.

Section 4. The passenger cars used by the said Oregon and California Railroad Company, its successors, lessees and assigns, upon the lines of railway authorized by this ordinance, shall be of modern construction for the comfort, convenience and safety of passengers. The rate of speed of cars shall not exceed twelve (12) miles per hour upon said Jefferson Street, but such rate of speed shall be subject to change and regulation by the Council of said City. When said railways must be operated continuously thereafter during the life of the franchise granted by this ordinance, unless the Council of said City shall, for good cause, first expressed by ordinance, permit the grantee, its successors, lessees or assigns, to abandon a part or parts thereof; and in the event of such abandonment, said Oregon and California Railroad Company, its successors, lessees and assigns, shall forthwith remove its tracks and other property therefrom, as to such abandoned portion and upon the removal thereof, restore, repair, or reconstruct that portion of said streets which, under this franchise, is to be kept in repair by said Oregon and California Railroad Company, its successors, lessees and assigns, so that they shall be placed in such condition as may be required by the Council. A failure to comply substantially, after a period of thirty (30) days' notice thereof, with any of the provisions or conditions of this ordinance, shall authorize the City of Portland to declare an immediate forfeiture of the rights granted hereby, and said railway, road and tracks constructed on said Jefferson Street shall likewise be forfeited, and in case of such failure or neglect or re-

fusal of said Oregon and California Railroad Company, its successors, lessees or assigns, after thirty (30) days' notice given by the Council or Executive Board, or other legally constituted authority, to repair, improve or maintain those portions of streets required by this ordinance to be repaired, improved and maintained by the Oregon and California Railroad Company, its successors, lessees or assigns, said City of Portland may, at its option, do such work, and the cost of the same as ascertained and declared by the Council, shall be entered in the docket of City Liens and enforced in like manner and like effect as a general tax upon real or personal property of the Oregon and California Railroad Company, its successors, lessees or assigns, after delinquency. If any portion of either or any of said streets hereinbefore mentioned shall be abandoned as aforesaid, that portion of this franchise under which said portion of said street was used by the said Oregon and California Railroad Company, its successors, lessees or assigns, shall thereafter be null and void, and shall be forfeited without any further notice on the part of the city, provided that the Oregon and California Railroad Company, its successors, lessees or assigns, shall not abandon any portion of its railway lines constructed under the authority granted by this ordinance on said streets without the consent of the Council expressed by ordinance, and any such abandonment without such consent shall constitute an immediate forfeiture of this franchise, but the Council at its option may declare any such railway lines or part thereof abandoned if the said company, its successors, lessees or assigns, shall fail, through its or their own fault or neglect, to operate regularly its cars thereon for a period of thirty (30) consecutive days, unless prevented by strikes, litigation or other causes not within the control of said company, its successors, lessees or assigns.

Section 5. For the purpose of laying down, repairing and re-constructing the railway tracks authorized by this ordinance, said Oregon and California Railroad Company, its successors, lessees or assigns, shall not obstruct any street for a greater continuous distance, nor for a longer period of time than is reasonably necessary.

Section 6. Nothing in this ordinance, nor any rights, privilege or franchise granted by this ordinance shall be construed to prevent the municipal authorities of the City of Portland from sewerage, grading, paving, planking, macadamizing, improving, altering or repairing any of the streets over which the railways authorized by this ordinance are constructed or operated; but all such work shall be done so as to cause as little obstruction or hindrance as possible to the cars and the operation of said railways, and said Oregon and California Railroad Company, its successors, lessees and assigns, shall have the privilege of raising and shifting the tracks so as to avoid as much as possible obstruction to the operation of cars during the progress of the street improvement, sewerage, grading, paving, planking, macadamizing, improving, altering or repairing.

Section 7. Said Oregon and California Railroad Company, its successors, lessees or assigns, shall fill in or grade to the established grade, and plank, pave, repave, re-construct and otherwise improve or repair and keep in good condition from time to time, whenever directed by the Council or Executive Board, and in such manner as the municipal authorities may direct, those portions of the street or streets and other public places along and over which the said railways are or shall hereafter be constructed, the whole width of said railways between the rails and between the tracks and for the width of one

(1) foot on the outside of the outermost rails. And said Oregon and California Railroad Company, its successors, lessees and assigns, shall complete said improvements within the time fixed by the Executive Board. And whenever it becomes necessary for the City to construct and maintain sewers and water mains under the tracks of said grantee, authorized to be constructed under this ordinance, the right so to do is hereby granted by said grantee without compensation, or the further execution of a formal conveyance; provided the City shall at all times protect the said tracks from damage.

Section 8. It shall be unlawful for any person or persons, to obstruct the laying down, construction, maintenance or operation of the railways, poles, wires, underground conduits, or conductors mentioned in this ordinance, and any person or persons who shall violate the provisions of this section shall, upon conviction thereof before the municipal court of the City of Portland, be punished by a fine of not less than Five (\$5.00) Dollars or more than Twenty-five (\$25.00) Dollars for each and every offense.

Section 9. Any conductor, motorman or other employee of or upon the railways of said Oregon and California Railroad Company, its successors, lessees and assigns, or any passenger (thereon or other person on or about the same, or the cars belonging thereto or operated thereon, who shall be indecent, profane, offensive, abusive, opprobrious or use obscene language, or otherwise insult, abuse or maltreat any passenger on said cars, or any motorman, or other employee of said Oregon and California Railroad Company, its successors, lessees and assigns, thereon or about the same shall, upon conviction thereof before the municipal court of the City of Portland, be punished by a fine of not less than Five (\$5.00) Dollars and not more than Twenty-five (\$25.00) Dollars for each and every offense.

Section 10. The Executive Board of the City of Portland, at the request of the Council, having submitted to the Council an estimate of the cash value of said franchise, it is ordained that the said Oregon and California Railroad Company, its successors, lessees and assigns, shall pay to the City of Portland for the rights and franchises hereby granted, as compensation for the same, the following sums, to-wit: The sum of (\$500) Five Hundred Dollars per annum, aggregating (\$12500) Twelve Thousand Five Hundred Dollars.

Each of the annual payments of money required by this section shall be made by said Oregon and California Railroad Company, its successors, lessees and assigns, to the Treasurer of the City of Portland on or before the 15th day of January for the preceding year, and said Treasurer shall issue his receipt therefor, which shall be a full acquittance to said Oregon and California Railroad Company, its successors, lessees and assigns, for such payment. Should said Oregon and California Railroad Company, its successors, lessees and assigns, fail or neglect for thirty (30) days after the same becomes due and payable to pay any of the said annual payments or compensation provided for in this section, the City of Portland shall have the right to collect such overdue payment from said Oregon and California Railroad Company, its successors, lessees or assigns, and shall have a lien upon the railways, tracks and franchises for the payment of the same, or the Council may at its option revoke this franchise.

Section 11. Said Oregon and California Railroad Company, its successors, lessees and assigns, shall commence the con-

struction of the railways herein mentioned within ninety (90) days from and after the final approval of this ordinance, and shall complete the construction thereof and commence the operation of cars thereon on or before one (1) year from the date of the final approval of this ordinance. Provided, however, that the Oregon and California Railroad Company, its successors, lessees and assigns, may, in the construction of the said railways authorized hereunder on said Jefferson street, operate its steam locomotives and cars on said Jefferson Street for the delivery of materials necessary for the construction of said railways and appurtenances and the improvement of said Jefferson Street.

Section 12. The rights, privileges and franchises hereby granted shall terminate at the expiration of twenty-five (25) years from the date this ordinance becomes effective, and this franchise shall commence to run on the date this ordinance becomes of force. The Council shall at all times have the power to reasonably regulate in the public interest, the exercise of the franchise, rights or privileges hereby and herein granted, and reserves the right to hereafter, from time to time, change, alter, regulate and fix fares, rates or charges which the said Oregon and California Railroad Company, its successors, lessees or assigns, may charge or collect, on said railway lines to be constructed hereunder, during the life of this grant or franchise.

Section 13. The Oregon and California Railroad Company, its successors, lessees and assigns, hereafter, upon sale, transfer, mortgage or lease being made of the line or lines of railway to be constructed hereunder, or of the franchise, rights and privileges hereby granted, shall, within five (5) days thereafter, file with the Auditor of the City of Portland a copy of the deed, agreement, mortgage, lease or other written instrument, evidencing such sale, transfer or lease, certified and sworn to as correct by the grantee in person, if an individual, or by the President and Secretary, if a corporation, and every sale, transfer, mortgage or lease of such franchise, whether voluntary or involuntary, shall be deemed void and of no effect unless the grantee shall, within five (5) days after the same shall have been made, file such certified copy as required by this section. The Auditor shall file all such documents, and shall make and keep an index of the same in a book to be kept by him for that purpose, which book shall be a part of the public records of said City.

Section 14. The said Oregon and California Railroad Company, its successors, lessees or assigns, shall, within thirty (30) days after the final approval of this ordinance, file in the office of the Auditor of the City of Portland, a written acceptance of this ordinance and franchise therein granted. The failure on the part of the said Oregon and California Railroad Company, its successors, lessees or assigns, to file such written acceptance within the time herein specified, shall be deemed an abandonment and rejection of the rights, franchises and privileges herein conferred, and this ordinance shall forever be null and void, and such acceptance by the Oregon and California Railroad Company, its successors, lessees or assigns, shall be unqualified, and shall be an acceptance of all the terms, conditions and restrictions contained in this ordinance.

Section 15. The Oregon and California Railroad Company, its successors, lessees and assigns, whenever or wherever electric currents are used or employed in or about the use of the franchise by this ordinance granted, or the plant connected therewith,

shall provide and put in use such means and appliances as will control and effectually contain such currents in their proper channels, and on its or their own wires, tracks, and other structures, so as to prevent injury to the property, pipes and other structures belonging to the said City of Portland or to any person, firm or corporation within the said City, and to repair, and shall repair and renew said means and appliances and from time to time change and improve the same as may be necessary to accomplish said purpose, at its or their charge or expense, and at its or their own risk, selecting and adopting such means and appliances as shall prevent injury to the property, pipes and other structures belonging to the City of Portland, or to any person, firm or corporation.

Section 16. The estimated total cost of the works provided to be constructed under this ordinance is \$62,000.00 within the limits of the City of Portland; and the yearly sums of money to be expended thereon is the sum of \$3,100.00.

Section 17. Said Oregon and California Railroad Company, its successors, lessees and assigns, shall keep and maintain its railway tracks on said Jefferson street and other streets and highways mentioned herein, in good condition, order and repair, and shall render efficient service over said tracks throughout the entire term of this grant.

If the said Oregon and California Railroad Company, its successors, lessees or assigns, shall fail during any of said time to keep its said railway tracks on said Jefferson street or other streets and highways mentioned herein, in good order and repair, or shall fail, during any of said term, to render efficient service thereon, the Council of said city may, upon thirty (30) days' notice, declare this ordinance and all the rights and privileges herein granted, forfeited, and in the event of the declaration of such forfeiture, the tracks constructed thereunder on said streets shall likewise be forfeited.

Section 18. The Oregon and California Railroad Company, its successors, lessees and assigns, may charge and collect from each passenger traveling upon its railways for each trip of such passenger in one general direction wholly within the City of Portland on the railways of the said Oregon and California Railroad Company, its successors, lessees and assigns, constructed on the route authorized by Section 1 of this ordinance, and within the limits of the City of Portland as now existing, a fare not exceeding five (5) cents, excepting that for passengers traveling in observation cars the said Oregon and California Railroad Company, its successors, lessees and assigns, may charge and collect from each passenger a fare of not exceeding fifty (50) cents per trip.

Section 19. The Oregon and California Railroad Company, its successors, lessees and assigns, shall comply with the provisions of Section 99 of the Charter of the City of Portland.

Section 20. That there be and is hereby granted to the Oregon and California Railroad Company, its successors, lessees and assigns, the right to connect its said tracks at or near the intersection of Jefferson street and Fourth street, at any convenient point or place between said Jefferson street and Madison street, with any other railway tracks that may be now or hereafter constructed, operated and maintained in said Fourth street, together with the right to operate its said cars over and along said tracks on said Fourth street to the point on said Fourth street where the north end of Fourth street in-

tersects grounds of the Northern Pacific Terminal Company, a corporation.

Section 21. Neither the City nor the Oregon and California Railroad Company, its successors, lessees or assigns, shall be deemed by the passage of this ordinance, or the acceptance of the same by the grantee, to waive any claim to the title to the property commonly known as "public levee"; but this provision shall not be construed as in any wise impairing or affecting the rights and franchises granted by this ordinance.

Passed the Council, January 8, 1913.

A. L. BARBUR,
Auditor of the City of Portland.

Submitted to the Mayor, January 9, 1913.

Approved, January 16, 1913.

A. G. RUSHLIGHT,
Mayor.