

ORDINANCE NO.

An Ordinance providing for the widening of Powell Street from the east line of Milwaukie Street to the west line of East 19th Street, and declaring an emergency.

The City of Portland does ordain as follows:

Section 1: The Council finds, and does hereby declare that the public interest requires the widening of Powell Street from the east line of Milwaukie Street to the west line of East 19th Street, and for that purpose the following property is required;

#1

A parcel of land 5 feet in width lying north of and adjacent to the north line of Powell Street and between the east line of Milwaukie Street and the west line of lot 17, block 9, Tibbetts Homestead, containing 1340 square feet.

#2

The south 5 feet of the west one-half of lot 17, block 9, Tibbetts Homestead, containing 250 square feet.

#3

The south 5 feet of the east one-half of lot 17, block 9, Tibbetts Homestead, containing 250 square feet.

#4

A parcel of land 5 feet in width lying north of and adjacent to the north line of Powell Street and between the east line of Mary Street and a line 63 feet east of and parallel to the east line of Mary Street, containing 315 square feet.

#5

A parcel of land 5 feet in width lying north of and adjacent to the north line of Powell Street and between a line 63 feet east of and parallel to the east line of Mary Street and the west line of lot 1, Subdivision of Pyle's Tract, containing 415 square feet.

#6

The south 5 feet of lot 1, Subdivision of Pyle's Tract, containing 165 square feet;

#7

The south 5 feet of the west 5 feet of lot 2, Subdivision of Pyle's Tract, containing 25 square feet;

#8

The south 5 feet of the east 40 feet of lot 2, Subdivision of Pyle's Tract, containing 200 square feet;

#9

The south 5 feet of lot 3, Subdivision of Pyle's Tract, containing 200 square feet;

#10

The south 5 feet of lot 4, Subdivision of Pyle's Tract, containing 200 square feet;

#11

The south 5 feet of lot 5, Subdivision of Pyle's Tract, containing 267 square feet.

#12.

A Parcel of land 5 feet in width, lying north of and adjacent to the north line of Powell Street and between the east line of Subdivision of Fyle's Tract and a line 58.2 feet west of and parallel to the east line of lot 1 of the Amended Plat of Lankins Subdivision, containing 815 square feet;

#13

A parcel of land 5 feet in width, lying north of and adjacent to the north line of Powell Street and between the east line of lot 1 of the Amended Plat of Lankins Subdivision and a line 58.8 feet west of and parallel to the east line of said lot 1, containing 294 square feet;

#14

The south 5 feet of lot 2 of the Amended Plat of Lankins Subdivision, containing 186 square feet;

#15

The south 5 feet of lot 3 of the Amended Plat of Lankins Subdivision, containing 186 square feet;

#16

The south 5 feet of lot 4 of the Amended Plat of Lankins Subdivision, containing 186 square feet;

#17

The south 5 feet of lot 5 of the Amended Plat of Lankins Subdivision, containing 186 square feet;

#18

The south 5 feet of lot 6 of the Amended Plat of Lankins Subdivision, containing 186 square feet;

#19

The south 5 feet of lot 7 of the Amended Plat of Lankins Subdivision, containing 186 square feet;

#20

The south 5 feet of lot 8 of the Amended Plat of Lankins Subdivision, containing 186 square feet;

#21

A parcel of land 5 feet in width lying north of and adjacent to the north line of Powell Street and between the east line of lot 8 of the Amended Plat of Lankins Subdivision and the south-westerly line of the right of way of the O & C R. R. Co., containing 655 square feet;

#22

A parcel of land 5 feet in width lying north of and adjacent to the north line of Powell Street, the west line of which bears northwesterly from a point on the north line of Powell Street 135.4 feet easterly of the southeast corner of the Amended Plat of Lankins Subdivision, the east line being 33 feet distant from and parallel to the west line as above described, and a parcel of land 5 feet in width lying south of and adjacent to the south line of Powell Street and between the west line of lot 10, Subdivision of Block 2, Smith's Sub. & Add. to East Portland and the east line of lot 17, Subdivision of block 1, Smith's Sub. & Add. to East Portland, the two parcels hereby described being used as right of way by the O & C R R Co. and containing 650 square feet.

#23

A parcel of land 5 feet in width lying north of and adjacent to the north line of Powell Street and between the east line of East 17th Street and a line 100 feet east of and parallel to the east line of East 17th Street, containing 501 square feet.

#24

A parcel of land 5 feet in width lying north of and adjacent to the north line of Powell Street and between two lines respectively 100 feet and 50 feet west of and parallel to the west line of East 18th Street, containing 250 square feet.

#25

A parcel of land 5 feet in width lying north of and adjacent to the north line of Powell Street and between the west line of East 18th Street and a line 50 feet west of and parallel thereto, containing 250 square feet.

#26

All that part of lot 1, block 49, Tibbetts Addition to East Portland, that lies between the north line of Powell Street and a line 5 feet distant from, north of and parallel thereto, containing 501 square feet.

#27

All that part of lot 8, block 49, Tibbetts Addition to East Portland that lies between the north line of Powell Street and a line 5 feet distant from, north of and parallel thereto, containing 501 square feet.

#28

The north 5 feet of lot 1, Subdivision block 2, Smith's Sub. and Add. to East Portland, containing 76 square feet;

#29

The north 5 feet of lot 2, Subdivision Block 2, Smith's Sub. and Add. to East Portland, containing 227 square feet;

#30

The north 5 feet of lot 3, Subdivision block 2, Smith's Sub. and Add. to East Portland, containing 227 square feet;

#31

The north 5 feet of lot 4, Subdivision block 2, Smith's Sub. and Add. to East Portland, containing 227 square feet;

#32

The north 5 feet of lot 5, Subdivision block 2, Smith's Sub. and Add. to East Portland, containing 227 square feet;

#33

The north 5 feet of lot 6, Subdivision block 2, Smith's Sub. and Addition to East Portland, containing 227 square feet;

#34

The north 5 feet of lot 7, Subdivision block 2, Smith's Sub. and Add. to East Portland, containing 227 square feet.

#35

The north 5 feet of lot 8, Subdivision block 2, Smith's Sub. and Add. to East Portland, containing 227 square feet.

#36

The north 5 feet of lot 9, Subdivision block 2, Smith's Sub. and Add. to East Portland, containing 227 square feet;

#37 Subdivision

The north 5 feet of Lot 10, Block 2, Smith's Subdivision and Addition to East Portland, containing 353 square feet.

#38

The north 5 feet of Lot 17, Subdivision Block 1, Smith's Subdivision and Addition to East Portland, containing 290 square feet.

#39

The north 5 feet of Lot 1, Subdivision Block 1, Smith's Subdivision and Addition to East Portland, containing 505 square feet.

The following described parcels or tracts of land:

#40

Commencing at the northwest corner of lot 1, Subdivision of Block 1, Smith's Subdivision & Addition to East Portland; and running thence N $73^{\circ}32'$ W along the south line of Powell Street 50.6 feet; thence S $2^{\circ}06'$ W 5.16 feet to a line drawn 5 feet distant from, south of and parallel to the south line of Powell Street; thence S $73^{\circ}32'$ E, 5 feet distant from and parallel to the south line of Powell Street, to the west line of said lot 1; thence north $1^{\circ}06'$ W to the place of beginning, containing 264 square feet.

#41

Commencing at a point on the south line of Powell Street N $73^{\circ}32'$ W 50.6 feet of the northwest corner of lot 1, Subdivision of block 1, Smith's Subdivision and Addition to East Portland; thence N $73^{\circ}32'$ W along the south line of Powell Street 52.5 feet to a point; thence S $2^{\circ}06'$ W 5.16 feet to a line drawn 5 feet distant from, south of and parallel to the south line of Powell Street; thence S $73^{\circ}32'$ E along said line 52.5 feet; thence N $2^{\circ}06'$ E 5.16 feet to the place of beginning, containing 263 square feet.

#42

Commencing at a point on the south line of Powell Street N $73^{\circ}32'$ W 103.10 feet of the northwest corner of lot 1, Subdivision of Block 1, Smith's Subdivision and Addition to East Portland; and running thence N $73^{\circ}32'$ W 3.7 feet to the east line of East 15th Street; thence south along the east line of East 15th Street to a line drawn 5 feet distant from, south of and parallel to the south line of Powell Street; thence S $73^{\circ}32'$ E along said line to a point that is S $2^{\circ}06'$ W 5.16 feet of the place of beginning; thence N $2^{\circ}06'$ E. 5.16 feet to beginning, containing 17 square feet.

#43

Commencing at the point where the south line of Powell Street is intersected by the west line of E. 15th Street; and running thence N. $73^{\circ}32'$ W. along the south line of Powell Street .55 feet to a point 159.3 feet N $73^{\circ}32'$ W of the northwest corner of lot 1, Subdivision of Block 1, Smith's Subdivision and Addition to East Portland; thence S $1^{\circ}35'$ W. to a line drawn 5 feet distant from, south of and parallel to the south line of Powell Street; thence S. $73^{\circ}32'$ E along said line to the west line of East 15th Street; thence northerly along the west line of East 15th Street to the place of beginning, containing 3 square feet.

#44

Commencing at a point on the south line of Powell Street north $73^{\circ}32'$ west 159.3 feet of the northwest corner of lot 1, Subdivision of block 1, Smith's Subdivision and Addition to East Portland; and running thence north $73^{\circ}32'$ west 29 feet along the south line of Powell Street; thence south to a line drawn 5 feet distant from, south of and parallel to the south line of Powell Street; thence south $73^{\circ}32'$ east along said line to a point south $1^{\circ}36'$ west of the place of beginning; thence north $1^{\circ}36'$ east, to the place of beginning, containing 145 square feet.

#45

Commencing at a point on the south line of Powell Street north $73^{\circ}32'$ west, 188.3 feet of the northwest corner of lot 1, Subdivision of block 1, Smith's Subdivision and Addition to East Portland; and running thence along the south line of Powell Street north $73^{\circ}32'$ west, 45 feet; thence south $8^{\circ}30'$ west to a line drawn 5 feet distant from, south of and parallel to the south line of Powell Street; thence along said line south $73^{\circ}32'$ E. to a point that is south of the place of beginning; thence north to the place of beginning, containing 230 square feet.

#46

Commencing at a point north $73^{\circ}32'$ west 235.3 feet of the northwest corner of lot 1, Subdivision of block 1, Smith's Subdivision and Addition to East Portland; and running thence north $73^{\circ}32'$ west along the south line of Powell Street, 55.6 feet to a point that is 76.97 feet south $73^{\circ}32'$ east of the northwest corner of Block 12 Coles Addition to East Portland; thence south $12^{\circ}04'$ east to a line drawn 5 feet distant from, south of and parallel to the south line of Powell Street; thence along said line south $73^{\circ}32'$ east, to a point that is south $8^{\circ}30'$ west of place of beginning; thence north $8^{\circ}30'$ east to place of beginning, containing 275 square feet.

#47

Commencing at the northeast corner of lot 1, block 12, Coles Addition to East Portland; and running thence south $73^{\circ}32'$ east along the south line of Powell Street 25 feet to a point 298.9 feet north $73^{\circ}32'$ west of the northwest corner of lot 1, Subdivision of block 1, Smith's Subdivision and Addition to East Portland; thence south $12^{\circ}04'$ east to a line drawn 5 feet distant from, south of and parallel to the south line of Powell Street; thence, along said line north $73^{\circ}32'$ west to the east line of lot 1, block 12, Coles Addition to East Portland; thence northerly, along said east line of said lot 1, to the place of beginning, containing 130 square feet.

#48

The north 5 feet of lot 1, block 12, Coles Addition to East Portland, containing 260 square feet.

#49

All that part of lots "b" and 2, block 7, Coles Addition to East Portland, that lies between the south line of Powell Street and a line drawn 5 feet distant from, south of and parallel to the south line of Powell Street, containing 520 square feet.

#50

The north 5 feet of lot "a", block 7, Coles Addition to East Portland, containing 260 square feet.

#51

The north 5 feet of lot 1, block 7, Coles Addition to East Portland, containing 260 square feet.

#52

The north 5 feet of the east $\frac{1}{2}$ of lot "b", block 6, Coles Addition to East Portland, containing 260 square feet.

#53

The north 5 feet of the west 1/2 of lot "b", block 6, Coles Addition to East Portland, containing 260 square feet.

#54

All that part of lots "a" and 5, block 6, Coles Addition to East Portland, that lies between the south line of Lowell Street and a line drawn 5 feet distant from, south of and parallel to the south line of Powell Street, containing 520 square feet.

#55

All that part of the east 61.6 feet of lots "d" and 1, block 1, Coles Addition to East Portland, that lies between the south line of Powell Street and a line drawn 5 feet distant from, south of and parallel to the south line of Powell Street, containing 320 square feet.

#56

The north 5 feet of the west 38.4 feet of lot "d", block 1, Coles Addition to East Portland containing 200 square feet.

#57

The north 5 feet of lot "c", block 1, Coles Addition to East Portland containing 198 square feet.

#58

The north 5 feet of lot "b", block 1, Coles Addition to East Portland containing 460 square feet.

Section 2: The City Attorney is hereby authorized and directed to institute an action or actions for condemnation of said property for said purposes, provided, however, that before such action or actions be instituted, negotiations shall be conducted as required by law with the owners of said property for the acquisition thereof, without suit or action in court, and the City Engineer is hereby authorized and directed immediately to conduct such negotiations and report to the Council, such report to show the prices at which said parcels of property may be obtained without suit or action, such prices to be without prejudice, either to the persons making the same, or to the City in any suit or action which may thereafter be instituted.

Section 3. The City Engineer is hereby directed, within ten days from the date of the beginning of any such suit or action, to view such property and make a report to the Council of the value thereof, and of the rights and interest of the several persons having interest therein as may be reported by the City Attorney on an examination of the title, it being contemplated and intended that the Council shall thereupon provide a fund and draw a warrant thereon

in favor of said person or persons for the sum or sums found by the City Engineer, or such greater sum as may be deemed proper security for the owners, it being intended that such funds shall be provided by appropriation from the General Fund, such appropriation to be made by way of an advancement, the same to be returned by the levy and collection of assessments for benefits, which assessments shall be made in the manner provided by law for street improvements as follows, to-wit: The Council shall by resolution require of the City Engineer a plan for an appropriate widening of said street with a statement of the property to be acquired therefor and an estimate of the probable cost thereof, and said City Engineer shall file such plan, statement and estimate in the office of the Auditor of the City of Portland. If the Council shall find the same satisfactory, it shall approve the same and shall determine the boundaries of the district benefited and to be assessed for said street widening and shall by resolution declare its purpose of making said widening, describing the same and defining the boundaries of the assessment district to be benefited and assessed therefor, all of which may be done in one resolution. Upon the passage of said resolution by the Council, the Auditor of the City of Portland shall give notice of such widening by publishing such notice and resolution for ten consecutive publications in the City Official Newspaper, and the City Engineer shall, within five (5) days from the first publication of said resolution, cause to be conspicuously posted at each end of the line of said contemplated street widening a notice headed "NOTICE OF STREET WIDENING" in letters of not less than one inch in length, and said notice shall contain, in legible characters, a copy of said resolution and the date of its adoption, and the Engineer shall file with the Auditor an affidavit of the posting of said notice, stating therein the date when and the places where the same were posted, and within thirty (30) days from the date of the first publication of said notice herein required to be published the owners of three-fifths or more in area of the property within such assessment district may make and file with the Auditor a written objection to or remonstrance against said proposed widening, and said objection or

remonstrance shall be a bar to any further proceedings in the making of such widening for a period of six (6) months, unless the owners of one-half or more of the property affected as aforesaid shall subsequently petition therefor; provided that if any such objection, remonstrance or petition shall be signed by the agent or attorney of any property owner, there shall be filed with the Auditor within the time provided for such remonstrance or petition the written authority for such agent or attorney to sign any such remonstrance or petition, otherwise the signature shall be disregarded; and if no such objection or remonstrance be made or filed with the Auditor within the time above designated, or if any remonstrance filed is not legally signed by the owners of three-fifths or more of the property affected, the Council shall be deemed to have acquired jurisdiction to order the widening of said Powell Street to be made, and the Council may there after and within three months from the date of the final publication of said resolution by ordinance provide for making said widening, which ordinance shall conform in all particulars with said plan and statement of said Engineer. Whenever the necessary property for said street widening has been acquired, the City Engineer shall certify to the Auditor a statement in detail showing the cost of acquiring the necessary property for said street widening, and the Auditor shall apportion the cost thereof upon the lots, parts of lots or parcels of land benefited thereby and within the assessment district. The consideration for the land, including cost and expense of condemnation (if condemnation be found necessary) and a sum not exceeding five per cent of the consideration for the land as the cost of advertising, engineering and superintendence, shall be deemed to be the cost of such street extension. When the Auditor has ascertained what he may deem a just apportionment of said cost in accordance with the special and peculiar benefits derived by each lot, or part thereof, or parcel of land, the same shall be a proposed assessment and the Auditor shall give notice of the same by publication for ten consecutive insertions in the City Official Newspaper, therein

specifying the street widening for which said proposed assessment is apportioned, the whole cost of such widening, the boundaries of the district to be assessed therefor, that said proposed assessment has been apportioned and is on file in the office of the Auditor and subject to examination, and also that any objections to such apportionment made in writing to the Council and filed with the Auditor within twenty (20) days from the first publication of such notice will be heard and determined by the Council before the passage of any ordinance assessing the cost of said widening. It shall also be the duty of the Auditor forthwith to send by mail, post-paid, a notice of the share so apportioned to each lot thereof, or part thereof or parcel of land, stating the time in which objections to such apportionment may be made in writing to the Council and filed with the Auditor, to the owner (if known) of each lot, or part thereof or parcel of land, or to the agent of such owner, directed to the post-office address of such owner or agent when such post-office address is known to him, and if such post-office address be unknown to him, then such notice shall be directed to such owner or agent at Portland, Oregon. After the time specified in said notice has elapsed, the Council shall consider said proposed assessment with all objections made thereto, and it shall have the power at its discretion and without any further notice, to consider, ascertain and determine the amount of the special and peculiar benefits accruing to each lot, or part thereof or parcel of land so assessed by reason of such street widening, and if the amount apportioned by the Auditor to any lot or part thereof or parcel of land shall not be in just proportion to such benefits, the assessment against such lot or part thereof or parcel of land shall be so reduced or increased by the Council that it shall be in just proportion to such benefits; but in no case shall any such assessment exceed any such benefits. The assessment roll shall then be numbered and the Council shall declare said assessment by ordinance, which shall designate said street widening for which the assessment is levied, the number of the assessment roll and the whole cost of said widening, but such assessment need not be set out at large in said ordinance. Each lot or part thereof or

parcel of land shall be deemed to be benefited by such street widening to the full amount of the assessment levied thereon, and no such assessment shall be held invalid by reason of the failure to enter the name of the owner of any lot or part of a lot or parcel of land so assessed, or by a mistake in the name of the owner, or the entry of a name other than the name of the owner, in said assessment, or in any acts or proceedings connected therewith, and no delays, mistakes, errors or irregularities in any act or proceedings in such street widening shall prejudice or invalidate any such assessment, but the same may be remedied by subsequent or amended acts or proceedings. When said assessment has been declared by ordinance, it shall be the duty of the Auditor to enter a statement of said assessment in the Docket of City Liens, furnish a copy of said assessment to the City Treasurer and give notice of said assessment by publishing for five consecutive insertions in the City Official Newspaper, a notice which shall specify said street widening for which said assessment is made, the whole cost of said widening, the boundaries of the district assessed, the number and title of the ordinance declaring the said assessment, that the same is due and payable, the time when said assessment shall bear interest, viz., from the date of entry in said Lien Docket, and the time when the same shall be delinquent, viz., thirty (30) days from the date of entry in such Lien Docket, and to send by mail to each person whose property is assessed, or to his agent, a notice of said assessment, when the postoffice address of such person or his agent is known to the Auditor, and if such postoffice address be unknown to the Auditor, such notice shall be directed to such person or agent at Portland, Oregon. Such entry in the Docket of City Liens shall have the same force and effect and shall be collected in the same manner as in cases where street assessments are entered in said docket.

Section 4. Inasmuch as this ordinance is necessary for the immediate preservation of the public health, peace and safety of the City of Portland in that the interests of the public demand the widening of said street, therefore an emergency is hereby declared, and this ordinance shall be in force from and after its passage by the Council.

Passed by the Council DEC 23 1914

H. B. ALBEE
Mayor

ATTEST:

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