

An Ordinance accepting agreement of the Oregon-Washington Railroad and Navigation Company in the matter of right of way for the construction of the East Eighty-fourth street and Willow street sewer system.

The City of Portland does ordain as follows:

Section 1. That the following agreement of the Oregon-Washington Railroad and Navigation Company in the matter of right of way for the construction of the East Eighty-fourth street and Willow street sewer system be and is hereby accepted by the City of Portland:

"THIS AGREEMENT, Entered into in duplicate this day of _____, 1914, by and between the OREGON-WASHINGTON RAILROAD & NAVIGATION COMPANY, a corporation hereinafter called the "RAILROAD" and the CITY OF PORTLAND, a municipal corporation hereinafter called the "CITY"-
WITNESSETH:

Sec. 1: The RAILROAD, for and in consideration of the covenants and agreements hereinafter mentioned to be kept and performed by the CITY, does hereby license and permit the CITY to construct and maintain a sewer not to exceed sixty (60) inches in diameter under the surface of the lands of the RAILROAD under the following terms and conditions:

The center line of said sewer to be parallel to and five (5) feet distant from the southeasterly boundary line of the RAILROAD'S right of way and extend through block seven (7) Santa Rosa Park, an addition to the CITY, from the center line of East Sixty-ninth street to the center line of East Broadway, a distance of four hundred (400) feet, more or less, as shown by white line on the blue print hereto attached and made a part hereof.

Sec. 2: Said sewer shall be placed eighteen (18) feet below the top of rails adjoining and its construction and maintenance shall in no way interfere with the operation of the railroad. All construction, alteration and repairs shall be done to the satisfaction and under the supervision and direction of the RAILROAD'S Superintendent.

Sec. 3: This license and permit does not grant or convey to the City any right or title to the surface of the soil but it is intended, and the CITY OF PORTLAND agrees, that it shall be construed solely and exclusively as a license and permit, granting to the CITY the right to construct and maintain said sewer as herein provided.

Sec. 4: Said sewer shall be constructed in a good and workmanlike manner, and to the satisfaction of said Superintendent and shall be constructed and maintained in a good and safe condition and repair at all times so as not to interfere with the use of the surface of the land or be a menace to the health or safety of persons that may be near, on or passing over said sewer. Should said sewer at any time become or remain in an unsafe condition, in the judgment of said Superintendent, the CITY shall, within a reasonable time after written notice from the RAILROAD, make such repair or change as shall be required by the RAILROAD, and in default of the CITY to make such repair or change, then the RAILROAD may make such repair or change and the CITY agrees and undertakes to reimburse the RAILROAD therefor upon presentation of bill to the CITY.

Sec. 5: The CITY agrees, upon the completion of said sewer, to put the surface of the land in substantially the same condition as before its construction and in the event of settling of the land, the CITY agrees to fill with earth sufficient to maintain the surface of the land over said sewer as it existed originally. All surplus soil and debris to be removed by the CITY.

Sec. 6: The CITY further undertakes, and agrees that it will and does indemnify and hold the RAILROAD, its successors and assigns, harmless from any and all claims, damage and expense that may arise or be presented against the RAILROAD or be incurred by the RAILROAD on account of or as a result of, any alleged injury or damage to persons or property, or death of persons or destruction of property, resulting from or contributed to by reason of or in connection with the construction, maintenance, use, repair, alteration, operation or existence of said sewer and the CITY hereby undertakes and agrees to reimburse the RAILROAD, its successors and assigns, for the same and also agrees to compensate and reimburse the RAILROAD for any loss or damage to its property resulting from or contributed to by the construction, maintenance, use, repair, alteration, operation or existence of said sewer.

Sec. 7: The RAILROAD agrees to and does hereby waive any damage to its land by reason of the maintenance and construction of said sewer, provided that this shall not be construed as abrogating or eliminating any of the terms and conditions hereinbefore specified; and the CITY agrees and undertakes to pay any assessments or other charges which may be levied or assessed against the lands or right of way of the RAILROAD for the cost of the construction or maintenance of said sewer described as follows:

Beginning at the center line of East Broadway, where the same intersects the southeasterly boundary line of said Railroad's right of way; thence by a line drawn at right angles to said right of way, one hundred (100) feet to the northwesterly line of said right of way; thence following the northwesterly line of said right of way, a distance of four hundred ten (410) feet, more or less, to

a point; thence one hundred (100) feet by a line drawn at right angles to said right of way to the intersection of the center line of East 69th street, and the southeasterly boundary of said right of way; thence four hundred ten (410) feet to the place of beginning, containing forty-one thousand (41000) square feet, more or less, same being enclosed by yellow line on blue print hereto attached.

Sec. 8: For the purpose of draining the lands of the Railroad, the City will, without charge or expense to the RAILROAD, construct, operate and maintain a catch basin and lay proper size pipe to connect the same with said 60 inch sewer. Said catch basin and connection shall be constructed in good and workmanlike manner and the materials used shall be of best quality and adequate for the purpose intended. Said catch basin and connection shall be located upon the lands of the RAILROAD, approximately as shown by red lines on blue print attached.

IN WITNESS WHEREOF, The RAILROAD has caused this instrument to be executed on its behalf by its proper officers hereunto duly authorized. The CITY has caused this instrument to be executed on its behalf by its proper officers hereunto duly authorized by Ordinance Number _____ this _____ day of _____, 1914."

Section 2. That the Auditor of the City of Portland be and is hereby directed to have the agreement set out in Section 1 of this ordinance placed on record.

Passed by the Council,

Mayor of the City of Portland.

ATTEST:

Auditor of the City of Portland.