

An Ordinance authorizing the Mayor and Auditor to enter into an agreement with The Oregon & California Railroad Company and the Southern Pacific Company for a right of way for a water main across the property of said companies, and declaring an emergency.

The City of Portland Does Ordain as Follows:

Section 1. That the Mayor and Auditor be and they are hereby authorized and directed to enter into an agreement with the Oregon & California Railroad Company and the Southern Pacific Company whereby the City of Portland shall secure the right to construct, reconstruct, maintain and operate a cast iron pipe not exceeding twelve inches, inside diameter, to be constructed beneath the property of the said companies from a point in the northerly line of Holgate Street, near Brooklyn Station, in said City of Portland, 263 feet easterly from the easterly line of East 18th Street, thence along or near the toe of the slope easterly a distance of approximately 1100 feet to a point in the northerly line of Holgate Street, 122 feet westerly from the westerly line of East 24th Street. In consideration of said right the City of Portland shall agree in substance as follows:

That the City acknowledges the title of the Oregon and California Railroad Company and the leasehold estate of the Southern Pacific Company in and to the premises above described, and not to assail or resist said title or leasehold interest; said water pipe shall be constructed, reconstructed, maintained and repaired in a workmanlike and rapid manner of first class material and at a depth of not less than three feet below the base of rail in the railroad track of the Southern Pacific Company. Work in connection with said water pipe shall be performed under the supervision and to the satisfaction of the Southern Pacific Company and said structure shall be maintained in a safe condition and repair so as not to interfere with the operation of the trains, engines and cars of the Southern Pacific Company, or with the safety of

passengers, employes or other persons, and at any time said water main is allowed to become or remain in an unsafe condition in the judgment of the Southern Pacific Company, the City shall make such repairs or such changes as shall be required by said Southern Pacific Company. In the event of failure of said City so to do the Southern Pacific Company may make such repairs and the City shall reimburse said company therefor upon rendition of bills covering cost thereof plus ten per cent. for supervision and use of tools. Said agreement shall contain a provision that, upon the completion of said water main as much as possible of the earth removed from the trench shall be replaced and thoroughly packed and tamped, and whatever earth remains, together with all tools, implements and other materials shall be removed from said premises by the City. Said City shall not construct any manholes upon the property of the Southern Pacific Company.

The right to enter upon said premises shall not be construed to give the City the right to do any work at any time upon or in connection with said water main that will render unsafe the use of said premises by the Southern Pacific Company.

In the event the City shall abandon or discontinue the use of said main or shall fail to comply with said agreement all rights granted to it shall forthwith cease and determine, and the City shall thereupon remove said main and restore said premises to their present condition.

The City shall agree that in the event the Southern Pacific Company shall deem trestles or supports of any kind are necessary for the protection of its property the same shall be provided and installed by the City at its cost and under the supervision of the Southern Pacific Company. In the event it shall be deemed necessary to maintain watchmen during the progress of any work under said agreement they shall be maintained by the City at its expense.

The City shall agree that if at any time or times any work is to be done by a contractor for the City upon said water main, the

Southern Pacific Company shall have the right to require such contractor to enter into a written agreement with and satisfactory to it and also to require such contractor to give an indemnity bond to the Southern Pacific Company in such amount as it shall specify before permitting such contractor to do any work on the property of said Southern Pacific Company.

The City shall agree to indemnify and save harmless the Southern Pacific Company from any and all claims, demands, damages, costs and liability resulting directly or indirectly from the construction, maintenance or operation, change of location or removal of said water main, and the City shall agree that the Southern Pacific Company shall never be liable to the City for any damage to said structure howsoever such damage may be caused, and shall further agree to indemnify and save harmless the Southern Pacific Company from and against any liability for damages to the property of the City and its employes, and its contractors and their employes, and from and against any liability for the death of or injury to any and all employes of the City and/or the contractor or contractors of the City and their employes howsoever caused.

Said agreement shall contain a provision that the said railroad companies waive any damage to their lands by reason of the construction and maintenance of said structure.

Section 3. Inasmuch as this ordinance is necessary for the immediate preservation of the public health, peace and safety of the City of Portland in this: That the agreement hereby authorized is necessary to secure a right of way for the water main which will have to be moved by reason of the construction of the Holgate Street Viaduct, therefore an emergency is hereby declared to exist and this ordinance shall be in force and effect from and after its approval by the Council.

Passed by the Council APR 14 1916

H. R. ALBEE

Mayor of the City of Portland

Attest:

J. L. Barber
Auditor of the City of Portland.

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M.M.

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