

1 402

Ordinance No.

An Ordinance authorizing the execution of an agreement between the Paper Makers Chemical Corporation and the City of Portland for a sewer easement for construction of the 30th Street, Industrial Avenue and 29th Street Sewer System, and declaring an emergency.

The City of Portland does ordain as follows:

Section 1. That the Mayor and the Auditor are hereby authorized for and on behalf of the City of Portland to enter into an agreement with the Paper Makers Chemical Corporation for a sewer easement for the 30th Street, Industrial Avenue and 29th Street Sewer System, which agreement shall be substantially in the following form:

THIS AGREEMENT, Made and entered into this 1931, by and between the Paper Makers Chemical Corporation, a Delaware corporation, hereinafter called the "Corporation", First Party, and The City of Portland, Multnomah County, Oregon, a municipal corporation, hereinafter called the "City", Second Party, WITNESSETH:

WHEREAS, the City desires to construct and thereafter maintain and operate a trunk drainage sewer pipe line (hereinafter called pipe line) 66 inches in diameter extending underground and across the property of the Corporation, in the City of Portland, County of Multnomah and State of Oregon, the center line of said pipe line being described as follows, to-wit:

Beginning at the intersection of the southerly line of Yeon Avenue and the easterly line of 29th Street; thence north 27 degrees 43 minutes 20 seconds east a distance of 120.28 feet to a point on the northerly line of Yeon Avenue; thence easterly along the northerly line of Yeon Avenue a distance of 22.05 feet to the true place of beginning of this description; thence north 27 degrees 43 minutes 20 seconds east a distance of 679.43 feet to the terminal point of this description; In Sections 20 and 29, Township 1 North, Range 1 East, Willamette Meridian.

the said location being shown by heavy blue line on the attached print, which said print is marked Exhibit "A" and made a part hereof.

It is Therefore Agreed by and between the parties hereto as follows, to-wit:

The Corporation does hereby grant unto the City the right to lay down, construct and perpetually maintain across the property of the Corporation the said pipe line in the location hereinbefore described, which grant is made expressly subject to the observance and performance by the City of all and singular the conditions, covenants and agreements hereinafter contained to be by the City kept, observed and performed, it being hereby stipulated that a waiver by the Corporation of any breach of any such conditions, covenants and agreements shall in no way impair the right of the Corporation to avail itself of any subsequent breach thereof.

The consideration of this grant is the mutual covenants and agreements of the parties, and the payment by the City to the Corporation of the sum of \$750.00 to be applied upon any assessment levied against the property of the Corporation for said pipe line, such payment to become due on the day any said assessment is due.

This grant shall not be deemed to estop the Corporation from objecting to or protesting against any assessments sought to be levied against its property, if any, by reason of the construction of said pipe line.

Said pipe line shall be constructed and maintained at such elevation that the top thereof shall not be above elevation 24 feet, City Datum.

This instrument does not grant or convey to the City any right or title to the surface of the soil along the route of said pipe line, except for the purpose of laying down, constructing and perpetually maintaining said pipe line.

Notwithstanding the aforesaid grant, nothing shall be done or suffered to be done by the City at any time that shall in any manner impair the usefulness or safety of any building or buildings, structures, roadbeds, track or tracks which are now or may hereafter be constructed upon said property and the Corporation reserves and shall have the right at any and all times to make such changes in said buildings, structures, roadbeds, track or tracks, or to construct, maintain and operate such additional buildings, structures, roadbeds, track or tracks where said pipe line is to be constructed, or cross the same, as from time to time it may elect.

The City covenants that in the construction and maintenance of said pipe line, there shall be no interference with the connection from the plant of the Corporation to the existing sewer, provided that if the City for any reason fails to maintain the existing sewer or interferes with the use thereof, it shall, without cost or obligation to the Corporation, construct a connection to said pipe line for said Corporation and the City covenants that until said new connections are made with the said pipe line, the present connections to the existing sewer shall not be disturbed.

At the present time there is a seven foot Cyclone fence protecting the property of the Corporation. In the event said fence or any part thereof is disturbed during the course of the construction or maintenance of said pipe line, the City agrees to have said fence repaired or rebuilt either by the company that installed said fence or some other company satisfactory to the Corporation. If, during the construction or maintenance of said pipe line, any part of said fence shall be taken down and remain down after sunset, the City agrees to keep a watchman on duty from sunset until 8 A.M. during each day said fence or any portion thereof is down. The City covenants and warrants that in the construction or maintenance of said pipe line, there shall be no interference with the railroad trackage or sidings of the Corporation. If, by reason of any failure of the City to observe the covenants and warranties herein set forth, the property of the Corporation or property in its custody is damaged or injured, then the City shall indemnify the Corporation for all loss, costs, damage, expense, claims, actions or demands arising therefrom.

Disuse of said pipe line for the purpose for which it was originally constructed continuing at any time for a period of one year, shall constitute an abandonment thereof by the City, and of the grant herein made.

The City agrees that the surface of the ground under which said pipe line will be constructed will be properly smoothed up to the present grade which has now been established by the Corporation.

This agreement shall be binding and the benefits thereof shall inure to the parties hereto, their successors and assigns.

Section 2. Inasmuch as this ordinance is necessary for the immediate preservation of the public health, peace and safety of the City of Portland in this: It is necessary to secure this easement in order that the said improvement may go forward; therefore an emergency is hereby declared to exist and this ordinance shall be in force and effect from and after its passage by the Council. SEP 2 1931

Passed by the Council

GEO. L. BAKER

Mayor of the City of Portland

ATTEST:



Auditor of the City of Portland