

ORDINANCE No. 98626

An Ordinance granting a revocable permit to Oregon-Washington Railroad & Navigation Company, and its lessee, Union Pacific Railroad Company, their successors, lessees and assigns, to construct, equip, maintain and operate an industry spur track in S.E. 2nd Avenue from a point 102 feet south of the center line of S.E. Morrison Street to the south line of S.E. Washington Street, and declaring an emergency.

The City of Portland does ordain as follows:

Section 1. That a revocable permit is hereby granted to Oregon-Washington Railroad & Navigation Company, and its lessee, Union Pacific Railroad Company, their successors, lessees and assigns (hereinafter collectively referred to as the grantee) to construct, equip, maintain and operate an industry spur track in S.E. 2nd Avenue from a point 102 feet south of the center line of S.E. Morrison Street to the south line of S.E. Washington Street, the center line of said spur track being more particularly described as follows:

Beginning at a point on the center line of Oregon-Washington Railroad & Navigation Company's S.E. 2nd Avenue main lead Track No. 306 as now constructed and operated and which point is one hundred two (102.0) feet south of the intersection of the center line of S.E. Morrison Street with the center line of said Track No. 306;

Thence in a northerly direction through a Number Seven (7) turnout to the left, having a frog angle of eight degrees and ten minutes ($8^{\circ}10'$) a distance of seventy and two-tenths (70.2) feet;

Thence on a curve to the left, having a radius of four-hundred sixty-five and forty-six hundredths (465.46) feet, a distance of thirty-four and seven-tenths (34.7) feet;

Thence on a curve to the right, having a radius of four hundred sixty-five and forty-six hundredths (465.46) feet, a distance of eighty-nine and one-tenth (89.1) feet;

Thence on a straight line tangent to last above described course, a distance of fourteen (14) feet, to a connection with existing track;

Thence continuing on last above described course along the center line of said existing track, a distance of one hundred eighty-five (185) feet, to point of divergence of present track with said course;

Thence continuing on last above described course, a distance of two hundred (200) feet to end of proposed track,

and as shown on the attached plan marked "Exhibit A" and hereby made a part of this ordinance.

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Section 2. The grantee shall file in quadruplicate with the City Engineer complete plans showing the exact location within the street lines of all proposed work and no work hereunder shall be done until the City Engineer shall have approved same, one of the copies of the plan so to be approved to be returned to the said grantee. All work shall be done in a good and substantial manner and to the satisfaction of the City Engineer.

Section 3. This permit is conditioned that the grantee will at its own cost and expense during the exercise of the privileges hereby granted pave, repave, repair or otherwise improve, maintain and adjust in like manner or as directed by the City Engineer any part or parts of the roadway and sidewalk area as well as catchbasins, inlets, underground construction, and any other construction within the street lines which by the reason of the laying of the above-mentioned tracks shall in the opinion of the City Engineer require repairs, adjustments or construction. The grantee shall pay to the City any additional costs of construction, reconstruction, altering, repairing or maintaining any municipal utility now existing or which may hereafter be built caused by the construction and maintenance of said spur track, switches and appurtenances, the equitable amount of such cost to be determined by the City Engineer.

The grantee shall fill in to the established grade, plank, pave, repave, reconstruct, or otherwise improve, or repair, and keep in good condition from time to time whenever and in the manner directed by the City of Portland, those portions of the street between the rails of the above-mentioned tracks, and those portions outside of the rails extending to the ends of cross-ties, provided, that in no case shall the portion outside of the rails be less than one (1') foot in width, measured from the outside of the rail.

Section 4. This permit is granted upon the condition that the grantee shall allow any other company, including any municipal belt line or commercial railroad that may hereafter be authorized, operated or maintained by the City of Portland, and including railroad companies operating engines, locomotives or cars by electrical current, steam or gas power, to use in common with the grantee, the tracks and switches herein authorized to be laid upon obtaining the consent of the Council of the City of Portland expressed by ordinance or by the people by the initiative, each user paying a proper and equitable proportion of the cost of construction and repair of the tracks so used jointly.

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Section 5. The permit granted by this ordinance shall not in any manner interfere with or prevent the City of Portland from granting permits or franchises to other corporations or individuals for the construction of other tracks crossing the tracks which may be constructed under this ordinance, and for the maintenance and operation of said other tracks.

Section 6. The grantee shall pay all the costs of moving the existing poles, wires or conduits belonging to utility companies now located in the area to be occupied by the said connecting tracks and before any work is done under this permit the grantee shall come to an agreement with any such utility companies about the removal of said poles, wires or conduits.

Section 7. The grantee shall, before constructing the industry spur track for which a permit is herein granted, remove that existing track, the center line description being as follows:

Beginning at a point on the center line of Oregon-Washington Railroad & Navigation Company's S.E. 2nd Avenue main lead track No. 306 as now constructed and operated and which point is thirty two and nine-tenths (32.9) feet south of the intersection of the center line of S.E. Washington Street with the center line of said lead track No. 306;

Thence in a southerly direction, through a number nine (9) turnout to the right, a distance of one hundred sixteen and six-tenths (116.6) feet;

Thence on a curve to the left having a radius of seven hundred sixty-nine and sixty-one hundredths (769.61) feet, a distance of eighty-five and four-tenths (85.4) feet.

Section 8. The permit hereby granted is revocable at any time at the pleasure of the Council of the City of Portland, and no expenditure of money thereunder, or lapse of time, or other act or thing shall operate as an estoppel against the City of Portland or be held to give the grantee any vested or other rights. Upon revocation of this permit by the Council, the grantee shall within thirty (30) days remove all tracks and appurtenances constructed under said permit, and shall put those portions of the streets affected by such removal in a condition as good as are the adjoining portions of said street at the time of removal; all work to be done as directed by and to the satisfaction of the City Engineer.

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Section 9. This ordinance shall not exempt the grantee from taking out licenses or permits required by any existing ordinances for any operation or construction carried on under the permit hereby granted.

Section 10. The permit hereby granted shall not become effective until there is filed by the grantee with the City Auditor a document satisfactory to the City Attorney accepting the terms and conditions hereof.

Section 11. The grantee, its successors and assigns, hereby agree and covenant to indemnify and save harmless the City of Portland, its officers and employees, against all damages, costs and expenses whatsoever to which it or they may be subject in consequence of any act or neglect of said grantee, its successors or assigns, their agents or servants, in any manner arising from the rights and privileges hereby permitted.

Section 12. Inasmuch as this ordinance is necessary for the immediate preservation of the public health, peace and safety of the City of Portland in this: In order that the grantee may have a permit covering operations on the said spur track without undue delay; 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.

Passed by the Council, JUN 18 1953

Lud A. Peterson

Mayor of the City of Portland

Will Gibson.

Attest:

Auditor of the City of Portland

THE COMMISSIONERS VOTED AS FOLLOWS:		
	Yeas	Nays
Bean	/	
Boody	/	
Bowes	/	
Earl	/	
Peterson	/	

FOUR-FIFTHS CALENDAR	
Bean	
Boody	
Bowes	
Earl	
Peterson	

Calendar No. 3457

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Title

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THURSDAY

Filed..... JUN 9 - 1953

Will Gibson.
Auditor of the CITY OF PORTLAND

By..... **R. S. IVEY**
Deputy

INTRODUCED BY	
Nathan A. Boody	
DRAWN BY	
HBG chv	
Date	June 2, 1953
NOTED BY THE COMMISSIONER	
Affairs	
Finance	
Safety	
Utilities	NAB
Works	WAB
City Attorney	
NOTED FOR CITY AUDITOR	
RSI	
JHL	
APPROVED	
Date	6-3-53
By	L. G. Apperson
City Engineer	
Date	
By	