

Ordinance No. 72666

An Ordinance accepting deed from Oregon-Washington railroad & Navigation Company covering certain property at Multnomah Falls and authorizing a conveyance of Benson Park property in part to the State of Oregon and in part to the United States of America upon certain conditions, and declaring an emergency.

The City of Portland does ordain as follows:

Section 1. That certain quitclaim deed dated June 8, 1939, executed by Oregon-Washington Railroad & Navigation Company, an Oregon corporation, to the City of Portland covering certain property at Multnomah Falls, Oregon, containing 15.62 acres, more or less (Parcel Number One described therein being the portion thereof north of the grantor's right of way and Parcel Number Two the part south thereof), is hereby accepted, including the terms and conditions thereof, to wit:

First: With respect to the above described Parcel Number One, the grantee, its successors and assigns, shall use and maintain the same forever for a public park and for the purpose of building, repairing, maintaining, widening, or relocating the new Columbia River Highway, or any or either of said park or highway purposes.

Second: With respect to the above described Parcel Number Two, the Grantee, its successors and assigns, shall forever use and maintain said premises as a park for the public; shall keep the same in a neat and orderly condition and free from litter and debris; shall preserve the natural beauty of the property, and shall not cut or remove trees or shrubbery thereon except to the extent reasonably necessary to conform to such parking development and plan as the City, its successors or assigns, may authorize; shall not permit any advertisements, signs, or notices to be placed upon the property except as may be reasonably necessary in the enjoyment of the property for park purposes; shall not permit any building or structure to be placed upon the property except such as may be necessary or convenient in the conduct and administration of said property as a public park, and such buildings or structures shall be so designed and located as not to

substantially interfere with or obstruct the view of Multnomah Falls as at present obtainable from the highway and from the railroad above described; and shall not permit said premises or any part thereof to be used for displays, entertainments, amusements, or exhibits for the purpose of gain.

Third: The grantor consents to the conveyance by said City of Portland to the State of Oregon by and through its Highway Commission, of all or any part of the above described Parcel Number One, conditioned that such conveyance shall be for the uses and purposes and subject to the conditions stated in paragraph numbered "First" of the conditions in this deed, and conditioned further that said State of Oregon by and through its Highway Commission shall assume, observe, perform, and comply with each and all of the terms, provisions, conditions, and covenants contained in that certain agreement dated October 4, 1935, between the grantor and the grantee, wherein the grantor gave the grantee a license, permit, and easement to maintain and use a public highway for pedestrian and vehicular traffic underneath the track and bridge of the grantor across Multnomah Creek; and the grantor hereby consents to the conveyance by the City of Portland to the United States of America (for the use and benefit of the United States Forestry Service) of all or any part of the above described Parcel Number Two, conditioned that such conveyance shall be for the uses and purposes and subject to the conditions stated in paragraph numbered "Second" of the conditions in this deed.

Fourth: Without limiting the foregoing, this deed is further conditioned that neither the property herein conveyed nor any part thereof shall be sold, conveyed, or used for private use, except that such parts thereof as may be necessary or convenient for the use of the grantor, its lessees, successors, or assigns, in the operation and maintenance of said line of railroad, may be conveyed or leased to the grantor, its successors or assigns or lessees.

Fifth: This deed is further conditioned that no road, street, or highway crossing or crossings at grade shall at any time be established, constructed, maintained, or used by the grantee, its successors or assigns, upon or over the tracks or right of way of the grantor within Government Lots 2 and 3 of Section 7,

Township 1 North, Range 6 East of the Willamette Meridian, Multnomah County, Oregon.

Sixth: In the event of failure upon the part of the grantee, or its successors or assigns, to perform or comply with any of the foregoing covenants or conditions, this conveyance shall thereupon be and become void and of no further force or effect, and all and singular the rights and property conveyed herein by the grantor shall immediately cease and determine, and the grantor shall be thenceforth privileged to re-enter said premises and repossess itself of possession and its former estate in said property, and exclude the grantee or its successors or assigns therefrom, without process and without being guilty of trespass; provided, however, that no breach of the conditions applicable only to said Parcel Number One shall affect the operation of this conveyance as to said Parcel Number Two, nor shall any breach of the conditions applicable only to said Parcel Number Two affect the operation of this conveyance as to said Parcel Number One.

Seventh: This conveyance is made subject to the following:

(a) Easement to Multnomah County, Oregon, dated June 30, 1913, for construction, maintenance, and operation of Columbia Highway on, over, and upon property herein described;

(b) Agreement with Multnomah Chapter, Daughters of the American Revolution, dated July 31, 1916, licensing the installation and perpetual maintenance of a drinking fountain on property herein described;

(c) Agreement with said City of Portland dated October 4, 1935, with respect to a roadway connecting said Parcel Number One and said Parcel Number Two.

Said easement and said agreements shall be and remain in full force and effect according to their respective terms, and shall be assumed by and be binding upon the Grantee, its successors and assigns.

Section 2. The Council finds that it is advisable and for the best interests of the people of the City of Portland and conducive to highway and park development that all of the City's interests in the prop-

erty known as Benson Park in Sections 12 and 13, Township 1 North, Range 5 East of the Willamette Meridian, and Sections 7 and 18, Township 1 North, Range 6 East of said Meridian, containing 713.82 acres, and heretofore acquired by the City of Portland by deeds from S. Benson dated June 2, 1915, and July 30, 1918, and recorded in book 686 on page 279 and book 771 on page 311, Record of Deeds of Multnomah County, Oregon, respectively, and by decree of the Circuit Court of the State of Oregon for Multnomah County dated September 16, 1915, in the case of City of Portland, plaintiff, v. Jennie M. Griswold et al., defendants, and by a patent from the United States of America dated December 20, 1916, and recorded in book 727 on page 276, Record of Deeds of Multnomah County, Oregon, and by deed from Oregon-Washington Railroad & Navigation Company to the City of Portland dated March 4, 1922, and recorded in book 883 on page 153, Record of Deeds of Multnomah County, Oregon, should be conveyed in part to the State of Oregon acting by and through its State Highway Commission and in part to the United States of America, as hereinafter provided; and the Council further finds that S. Benson and Oregon-Washington Railroad & Navigation Company have recently given to the City of Portland quitclaim deeds covering the property heretofore conveyed by them, which quitclaim deeds authorize the said conveyances to the State of Oregon and the United States of America to be made under certain conditions, the Benson deed being dated March 30, 1938, and recorded in book 450, page 311, Record of Deeds, Multnomah County, Oregon, and the Oregon-Washington Railroad & Navigation Company deed being referred to in Section 1 of this ordinance. Now, therefore, the Mayor and the Commissioner of Public Affairs are hereby authorized to execute and deliver good and sufficient deeds to said property, conveying to the State of Oregon, acting by and through its State Highway Commission, the part of said property north of the right of way of said Oregon-Washington Railroad & Navigation Company, and to the United States of America for the use and benefit of its Forestry Service the part south of said right of way, each of said deeds to be in accordance with the terms and conditions prescribed in the instruments by virtue of which the City acquired the property described therein.

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 immed-

ciate state and federal activities with reference to the operation and maintenance of the above described property are deemed necessary , 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 JUL 26 1939

Joseph K. Carson Jr.
Mayor of the City of Portland

Attest:

Will E. Gibson
Auditor of the City of Portland

7-19-1939
Commissioner Riley

L.E.L.

L.E.B.

4652

Ordinance No. 726(6

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R. E. Riley

THE FOLLOWING IS THE OFFICIAL VOTE ON THE FOREGOING ORDINANCE		
	YEAS	NAYS
BENNETT	/	
BOWES	/	
CLYDE	/	
RILEY	/	
CARSON	/	

Filed JUL 27 1939

Will E. Gibson

Auditor of the City of Portland

By L. N. Penfield

Deputy