

ORDINANCE NO. 82034

An Ordinance granting a revocable permit to the Spokane, Portland and Seattle Railway Company, c/o T. F. Dixon, American Bank Building, Portland 5, Oregon, its successors, lessees and assigns, to construct, equip, maintain and operate an industrial spur track of standard gauge on N. W. Nicolai Street near N. W. 25th Place, requiring the removal of certain other track; and declaring an emergency.

The City of Portland does ordain as follows:

Section 1. That a revocable permit be and the same is hereby granted to the Spokane, Portland and Seattle Railway Company, its successors, lessees and assigns (hereinafter referred to as the grantee) to construct, equip, maintain and operate an industrial spur track of standard gauge on N. W. Nicolai Street from a point 77.6 feet east of the southeast corner of the intersection of N. W. 25th Place with N. W. Nicolai Street westerly to a point on the south line of Lot 1, Block 2, White Tract Addition in the City of Portland, Multnomah County, Oregon, the center line of said spur track so far as it will be located within the street area being more particularly described as follows:

Beginning at a point on the center line of N. W. Nicolai Street, said point being in the center of the Spokane, Portland and Seattle Railway Company's track as now constructed and also being 77.6 feet east of the southeast corner of the intersection of N. W. 25th Place with N. W. Nicolai Street; thence westerly through a number six turnout to the right a distance of 64.0 feet; thence on the arc of a curve to the right having a radius of 268.0 feet a distance of 78.5 feet to a point on the south line of Lot 1, Block 2, of the White Tract Addition to the City of Portland;

and as shown on the attached plan marked Exhibit "A" and hereby made a part of this ordinance. This permit is granted on the condition that the existing track on N. W. 25th Place shown on said plan in yellow shall be removed from the street area.

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 and appurtenances, the equitable amount of such costs 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 track, 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 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.

Section 5. This permit so granted to the said Spokane, Portland and Seattle Railway Company, its successors,

lessees and assigns, 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 track 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 spur track 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 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.

Section 8. 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 9. 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 10. 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 JAN 17 1946

Earl Riley
Mayor of the City of Portland

Attest:

D.M.L.

John F. McManis
Auditor pro tem of the City of Portland

M.C.R.

1/11/46

Commissioner Lee

MCR:eh

R. S. L.