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ORDINANCE No. 1314

AN ORDINANCE granting to the Oregon Electric Railway Company, a corporation, its successors and assigns, the franchise or right to lay, construct and maintain street car tracks or other railway tracks and to alter and thereafter maintain certain existing street car tracks and other railway tracks, and to operate street cars or other cars or trains thereover, and to transport passengers and all other business incidental to operation of passenger trains thereon and also to transport freight of all kinds whatsoever, including logs and other forest products, and to do any and all kinds of business incidental to the operation of freight trains, and to carry on generally commercial railroad business, and to erect, construct and maintain and alter, and thereafter maintain power, telephone and telegraph lines in the City of Albany.

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1. That there be and is hereby granted to the Oregon Electric Railway Company, a corporation, its successors and assigns, the franchise or right to lay, construct and maintain a railroad of standard gauge, either single track or double track, and such spurs, sidings, switches, curves and connections and other equipment as may be necessary or convenient, and to change, alter, modify and/or reconstruct existing tracks, and to operate upon and over said tracks so constructed or reconstructed, changed or modified, and run street cars or other cars, passenger trains or freight trains thereover, and to transport passengers and do all other business incidental to the operation of passenger trains thereon, and also freight of all kinds whatsoever, including logs and other forest products, and to do all business incidental to the operation of freight trains, and to carry on generally commercial railroad business upon the conditions hereinafter specified upon the following named streets and places in the City of Albany, to-wit:

Commencing at a point on the northerly line of the right of way of the Southern Pacific Company as now located approximately 40 feet easterly of the eastern line of Main Street, thence easterly along the right of way of the Oregon Electric Railway Company as now located and established to the easterly boundary of said City, and over and across all intervening streets, as the term "street" is used and defined in Section 77 of Article V of Chapter IV of the Charter of the City of Albany; together with the right and privilege of constructing and maintaining on all of the streets above described such spurs, switches, curves and connections as the said Oregon Electric Railway Company, its successors and assigns, may deem necessary or convenient in the construction and operation of such line of railway.

That it be and it is hereby also granted to said Oregon Electric Railway Company, its successors and assigns, the right to erect, construct and maintain poles, wires and other necessary and convenient equipment for the purpose of conveying power and electrical currents for its own use and for the operation of its cars and trains with the right and privilege of constructing and maintaining all necessary and convenient feed and service lines in connection therewith.

Section 2. That it be and is hereby granted to said Oregon Electric Railway Company, its successors and assigns, the franchise or right to lay, construct and maintain street car tracks or other railway tracks, or to change, alter or reconstruct existing street car tracks or other railway tracks owned by it, and to operate thereover street cars or other cars or passenger trains or freight trains over private property and private rights of way which said Company may now have or hereafter acquire, and to connect the same with the tracks mentioned in Section 1 of this ordinance, and for such purposes said tracks may be constructed across any and all intervening streets and sidewalks at such points as may be necessary or convenient to make said connections, and said tracks and crossings at such intervening streets shall be constructed and maintained in substance in the same manner as in this ordinance provided as to the tracks mentioned in Section 1 of this ordinance.

Section 3. That there be and is hereby granted to said Oregon Electric Railway Company, its successors and assigns, the right to lay, construct and maintain side tracks, switches and other equipment from the track or tracks hereinbefore mentioned into, upon and over such private properties as it may now hold or hereafter acquire for use for car barns, power houses, roundhouses, shops, terminal and other purposes, or into, upon and over any property contiguous to said tracks, provided that where said track or tracks shall cross said walks the same shall be planked or otherwise laid and maintained as ordered by the Council and so as not to unnecessarily interfere with or damage said sidewalks.

Section 4. The Oregon Electric Railway Company, its successors and assigns, shall lay, construct and maintain said tracks so as to conform to the grade of said streets and in such manner as to not unnecessarily interfere with the public use thereof; provided however, that if the grades of any of said streets shall not have been previously established, the City Council, upon the request of the said Oregon Electric Railway Company, its successors and assigns, prior to the commencement of construction or reconstruction of any of said tracks, will establish said grades; and it shall be the duty of the City engineer at the request of said grantee to furnish it a written certificate of any street grade, and said certificate shall be conclusive between the City and grantee as to the correctness of the grade so certified.

Section 5. Said Oregon Electric Railway Company, its successors and assigns, shall have the right to do all necessary excavating or grading for the construction and reconstruction and repair for the maintenance of said tracks, but all por-

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tions of said streets so excavated or graded must be replaced ~~and~~ in as near the original condition as practicable; and said company, its successors and assigns, shall during the term of this franchise keep the portions of said streets upon which tracks are maintained, including the space within the wyes, for the full width of said railways between the rails of each track and to the end of the ties outside of the rails of each track, said distance to be not less than one foot, and between the main track or tracks and all tracks parallel therewith in as good condition and repair as the remainder of said streets are maintained by the City; and shall pave and repave, reconstruct and otherwise improve or repair or maintain in good condition and in the manner directed by the Council the whole or any portion of the street along or over which said railway shall be constructed, lying between the rails of the track thereof and extending not less than one foot outside of such rails, and also the portions of the street lying between the two tracks. In the event that the Oregon Electric Railway Company, its successor and assigns, shall, during the life of the franchise hereby granted, abandon or cease to use for one year the tracks in said streets the Oregon Electric Railway Company, its successors and assigns shall forthwith remove its tracks and other property therefrom, and on removal thereof restore, repair or reconstruct that portion of the street which under this franchise is to be kept in repair by the Oregon Electric Railway Company, its successors and assigns, so that it shall be placed in such condition as may be required by the Council. If the Oregon Electric Railway Company, its successors and assigns, shall within a reasonable time fail to comply with any of the provisions or conditions of this franchise the city may declare an immediate forfeiture of such franchise, and if the Oregon Electric Railway Company, its successors and assigns shall fail, neglect or refuse after thirty days notice given by the Council to repair, improve or maintain as above set out the portions of the street above described then the City may, at its option, do such work, and the cost of the same as ascertained and declared by the Council shall be entered in the docket of the city liens and enforced in like manner and like effect as a general tax upon real or personal property of the Oregon Electric Railway Company, its successors and assigns, after delinquency.

Section 6. That there shall be and it is hereby granted to said Oregon Electric Railway Company, its successors and assigns, the franchise or right to erect poles and construct and maintain telephone or telegraph lines upon the streets and places hereinbefore mentioned; all poles, wires and equipments to be so placed and maintained as to not unnecessarily interfere with public travel upon said streets, and subject to the approval of the City Council; and if electrical currents are used or employed in or about the use of said franchise or the grant connected therewith, then the Oregon Electric Railway Company, its successors and assigns, shall provide and put in use such means and appliances as will control and effectually contain such currents in their proper channels, and on its own wires, tracks and other structures so as to prevent injury to the property, pipes and other structures belonging to the City of Albany or to any person, firm or corporation within said City, and shall repair and renew said means and appliances from time to time, change and improve the same as may be necessary to accomplish said purpose, all at its charge and expense and at its own risk, electing and adopting such means and appliances as shall prevent injury to the property, pipes and other structures belonging to the said City of Albany, or to any other person, firm or corporation.

Section 7. The changes, modifications or reconstruction of tracks as provided for in this franchise, shall be commenced on or before January 1, 1931, and shall be completed on or before December 31, 1931.

Section 8. The motive power employed may be electricity, steam, internal combustion engines or any other form of motive power which the Oregon Electric Railway Company, its successors and assigns, may consider necessary and proper for the operation of the trains and the exercise of the rights herein granted.

Section 9. Rate of speed on all cars and trains shall not exceed 18 miles per hour within the corporate limits of the City of Albany, and cars and trains shall not be stopped at crossings so as to obstruct the streets of said City to any extent greater than shall be reasonably necessary in the operation of trains and cars upon said tracks.

Section 10. This franchise shall be subject to the terms and conditions of Section 98, Article V, Chapter IV of the Charter of the City of Albany.

Section 11. All of the rights herein granted shall continue and be in force and effect for 50 years from and after the date of the final approval of this ordinance.

Section 12. All franchises and rights herein granted are upon the condition that the said Oregon Electric Railway Company, its successors and assigns, shall within thirty days from the time this ordinance is approved by the Mayor or otherwise takes effect, file at the office of the City Recorder, a written acceptance of its provisions.

Section 13. This franchise or right is given with the understanding and agreement on the part of the Oregon Electric Railway Company that at any time the City of Albany deems it expedient to put in any sewer in said City across the line of said railway, the same may be put under the tracks of said railway Company, the

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City doing no damage to the property of said Company.

Section 14. That Ordinance No. 575, entitled: "An Ordinance granting to Oregon Electric Railway Company, a corporation, its successors and assigns, the franchise or right to lay, construct and maintain street car tracks or other railway tracks, and to operate street cars or other cars thereover, and to transport passengers, mail, baggage and express thereon, and, also freight upon certain conditions, and to erect, construct, ~~and~~ maintain and operate power, telephone and telegraph lines in the City of Albany," which passed the Council of the City of Albany on the 10th day of April, 1912, and was approved by the Mayor of said City on the 12th day of April, 1912, be and is hereby repealed to the extent that said Ordinance No. 575 relates to the property and trackage which is the subject of this Ordinance. Provided, however, that to the extent that said Ordinance No. 575 relates to property and trackage other than that which is the subject of this franchise it shall remain in full force and effect for the full term thereof.

Passed by the Council the 24th day of April, 1929  
Approved by the Mayor the 24th day of April, 1929

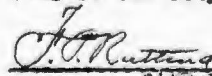
V.L. Calavan,  
Mayor

Attest:--  
F.P. Nutting,  
Recorder.

STATE OF OREGON,  
County of Linn,       ss:.

I, F.P. Nutting, Recorder of the City of Albany, Linn County, Oregon, do hereby certify that the foregoing and annexed copy of Ordinance No. 1314 has been by me carefully compared with the original Ordinance Bill No. 1407, now on file in my office, and that it is a true and correct copy of all of said Ordinance Bill No. 1407, passed by the Council April 24, 1929 and approved by the Mayor April 24, 1929.

WITNESS my hand and official signature and the seal of the City of Albany, this 26th day of April, 1929.

  
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City Recorder.