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ORDINANCE NO. 955.

AN ORDINANCE GRANTING TO THE OREGON ELECTRIC RAILWAY COMPANY, A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE OR RIGHT TO LAY, CONSTRUCT AND MAINTAIN RAILWAY TRACKS, AND TO OPERATE CARS THEREON AND TO TRANSPORT EXPRESS AND FREIGHT THEREON AND TO ERRECT AND MAINTAIN EQUIPMENT FOR POWER PURPOSES ON HILL STREET IN THE CITY OF ALBANY, OREGON, AND TO DECLARE AN EMERGENCY.

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

Section 1. That there be and is hereby granted to the GREGON ELECTRIC RAILWAY COMPANY, a corporation, hereinafter referred to as the Railway Company, its successors and assigns, a franchise or the right to lay, construct and maintain a single track railway spur or siding of standard gauge with such connections, curves, switches, frogs and other equipment as it may deem necessary or convenient to operate and run cars thereover and to transport express and freight thereon on the conditions hereinafter specified, upon the following named streets and places in the City of Albany, Oregon, to-wit: Commencing at a convenient point of connection with the present track of said Oregon Electric Railway on Water Street between Madison and Hill Streets and running thence northerly on and across that part of Hill Street north of Water Street to the east side of said Hill Street and thence northerly to the north end of Hill Street, said track to be placed on Hill Street at such points and locations as will conveniently serve any industries located on Block 131 in Hackleman's Addition to the City of Albany, Oregon.

And that there be and is also hereby granted to the said Railway Company, its successors and assigns, the right to erect, construct and maintain poles, wires and other necessary and convenient equipment on the above described streets and places, for the purpose of conveying power and electrical currents for the operation of its said cars, together with all necessary and convenient feed and service lines in connection therewith; all such poles, wires and equipment to be so placed and maintained as not to unnecessarily interfere with public travel upon said streets and subject to the approval of the City Council, provided, however, that all poles, erected upon said streets by said Railway Company, its successors and assigns, shall be painted.

Section 2. The 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 not to unnecessarily interfere with the public use thereof; provided, however, that if the grade of any of said streets shall not have been previously established, the City Council upon request of the said Railway Company, its successors or assigns prior to the

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commencement of construction 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 to it a written certificate of any street grade and said certificate shall be conclusive between the said City and the grantee as to the correctness of the grade so certified.

Section 3. Said Railway Company, its successors or assigns, shall have the right to do all necessary excavating or grading for the construction and repair or maintenance of said tracks, but all portions of said streets so excavated or graded must be replaced in as near the original condition as practicable and said company, its successors or 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, in as good condition and repair as the remainder of said streets is maintained for the whole width of said railway between the rails of each track and for the width of one foot on the outside of the rails of each track; and in case such streets shall be improved by said City, the cost of improving the portions of such streets last above described shall be borne by the Railway Company, provided, however, that in the event the said streets shall be improved by the City, with hard surface pavement, the said space so to be improved by the Railway Company shall be paved with vitrified brick next the rails and with the same quality of pavement used by the City between the rails of each track.

Section 4. Within reasonable time after the completion of the construction of said railway track or tracks within the limits of said City and until such times as the City shall pave the remainder of the street outside of the railway tracks with hard surface pavement, the Railway Company, its successors and assigns shall fill the space between the rails of each track and for one foot outside of the rails with plank, crushed rock or gravel, and as nearly flush with the top of the rails as practicable so as to make it convenient to cross said track with teams.

Section 5. The motive power employed for operating cars upon said tracks shall be electricity or any other power other than steam, provided, that steam may be used for operating of cars for construction purposes or temporarily in case of accident or emergency.

Section 6. The said Railway Company, its successors or assigns, shall provide and put in use such means and appliances as will control and effectually maintain its electric currents in their proper channel and on its or their own wires, tracks and other structures so as to prevent injury to property, pipes and other structures belonging to the City of Albany or to

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any person, firm or corporation within said City, and to 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 or their own charge and expense and at its or their own risk in selecting and maintaining 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. Said Railway Company, its successors or assigns shall begin construction work hereunder and complete the same within six months from the time this ordinance is in effect.

Section 8. All the rights herein created shall continue and be in force and effect from and after the date of the final approval of this ordinance and until the 26th day of June, 1935, and the City of Albany hereby reserves the right to alter, change or amend this ordinance or any of its provisions at any time.

Section 9. In further consideration of the rights, privileges and franchise hereby created, the said Railway Company, its successors and assigns, shall annually pay the City of Albany each and every year during the term of this franchise the sum of One Dollar.

Section 10. In the event any street or portion of a street granted by this franchise and used by said Railway Company, its successors or assigns, shall during the life of this franchise be abandoned or cease to be used for one year by said Railway Company or its successors or assigns, said Railway Company or its successors or assigns shall forthwith remove its track and other property therefrom and on the removal thereof restore, repair and reconstruct that portion of the street which under this franchise was to be kept in repair by the said Railway Company, its successors and assigns, so that it shall be placed in such condition as may be required by the Council, and a failure to comply within a reasonable time with any of the provisions or conditions of this franchise shall authorize the City to declare an immediate forfeiture of this franchise and, in such case, the road or track constructed hereunder shall be forfeited to the City, or in case of failure, neglect or refusal of the said Railway Company, its successors and assigns, after thirty days notice given by the Council, to repair, improve or maintain the portions of the streets above described in this franchise, then the said 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 City Liens and enforced in like manner and with like effect as a general tax upon real or personal property of the said Railway Company, its successors or assigns after delinquency; and if any street covered by

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this franchise be abandoned by the said Railway Company, its successors or assigns, that portion of this franchise under which said street was used by the said Railway Company or its successors or assigns, shall thereafter be null and void and shall be forfeited without any further action on the part of the City.

Section 11. The said Railway Company, its successors and assigns, shall allow any other railroad company to use in common with it the track or tracks constructed pursuant to this franchise upon such other company obtaining the consent of the Council expressed by ordinance, and in the event of such other company desiring such common user it shall pay an equitable and proper portion of the costs and expense for the construction and repair of the tracks and appurtenances constructed under this franchise and used by such railroad companies jointly.

Section 12. At the expiration of the term of this franchise, the City of Albany at its election and upon the payment therefor of a fair valuation thereof, may purchase and take over to itself, the property of the said Railway Company, its successors or assigns, which may be constructed and maintained under this franchise and which may be situated on or in any of the above described and named streets and places, and should the said City of Albany, upon the expiration of this franchise, exercise such right of purchase, said property of said Railway Company, its successors or assigns, shall be and become the property of the City of Albany upon an ordinance duly enacted authorizing the same and upon the City of Albany paying the said Railway Company, its successors or assigns, the valuation thereof, which valuation shall be of all appurtenances, appliances, equipment, structures and tracks used by the said Railway Company, its successors or assigns under this grant, basing such valuation upon the fair market value of the property to be taken as it is then located ready for actual use, and such valuation shall be arrived at by the City of Albany appointing one appraiser, and the Railway Company, its successors or assigns, appointing one appraiser and these two appraisers appointing a third appraiser, which three appraisers shall have the power and authority to employ expert valuers to aid them in arriving at the value of said property.

Section 13. Said Railway Company, its successors or assigns, shall within thirty days after this ordinance shall be in force, file in the Office of the Recorder a written acceptance of the same, and a failure on the part of said Railway Company, its successors and assigns, to file such written acceptance within the time specified shall be deemed an abandonment and rejection of the rights and privileges hereby granted and this ordinance shall thereupon become null and void.

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Section 14. Whereas it is necessary for the immediate preservation of the public peace, health and safety of the inhabitants of the City of Albany that this ordinance shall become immediately operative, an emergency is hereby declared to exist and this ordinance shall take effect immediately after its passage by the Council and its approval by the Mayor,

Passed by the Council October 8, 1919.

Approved by the Mayor October 8, 1919.

L. M. Curl
Mayor

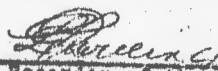
Attest:

L. G. Lewelling
Recorder of the City of Albany.

State of Oregon }
County of Linn } ss.

I, L. G. Lewelling, Recorder of the City of Albany, in Linn County and State of Oregon, do hereby certify that the foregoing and annexed copy of Ordinance No. 955 has been by me carefully compared with the original Ordinance Bill No. 1044 now on file in my office and that it is a true and correct copy of all and the whole of said Ordinance Bill No. 1044 passed by the Council October 8, 1919, and approved by the Mayor October 8, 1919.

WITNESS my hand and official signature and the seal of the City of Albany this 10th day of August, 1920.


Recorder of the City of Albany, Oregon.