

AN ORDINANCE GRANTING TO CARL G. FISHER

C. R. Cummins

Arthur C. Newby

J. H. McDuffee

George R. Kline

THEIR SUCCESSORS, HEIRS, LEGAL REPRESENTATIVES AND ASSIGNS,
(including especially a corporation now in process of formation,
which is being organized by the above named grantees) THE RIGHT
TO CONSTRUCT, OPERATE AND MAINTAIN A STREET RAILWAY ON, OVER AND
ALONG THE STREETS, AVENUES AND HIGHWAYS OF THE CITY OF MIAMI BEACH,
AND REGULATING THE CONSTRUCTION, OPERATION AND MAINTENANCE THEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF SAID CITY OF
MIAMI BEACH, FLORIDA:

Section 1. That Carl G. Fisher, _____,

C. R. Cummins, Arthur C. Newby, J. H. McDuffee

and George R. Kline

their successors, heirs, legal representatives and assigns, (includ-
ing especially a corporation now in process of formation, which
said corporation is being organized by the above named grantees)
hereinafter termed the grantees, are hereby granted the right,
privilege and franchise to construct, equip, operate and maintain
a railway of standard gauge on, over and along such streets,
avenues and highways of the City of Miami Beach, in the State of
Florida, which said streets, avenues and highways are as follows,
to-wit:

Alton Road from the North line of Fifth Street South-
easterly to the South line of First Street; First Street from Alton
Road East and Easterly to East line of Miami Avenue; ^{then Easterly from Miami Ave} Miami Avenue
^{to Collins Ave. thence southerly on Collins Ave. to Biscayne Ave. then westerly on Biscayne}
^{ave to Collins Ave. thence northwesterly on Collins Ave. to 1st Street} from the South line of First Street Northerly and North to the
North line of Nineteenth Street; Nineteenth Street to the East
line of Sheridan Avenue; Sheridan Avenue from Nineteenth Street to
North line of Boulevard North of Canal; thence Southwesterly along
Boulevard to West boundary of Alton Road produced North; thence
Southerly along Alton Road to South side of Fifth Street.

Section 2. That the motive power used in propelling cars over the lines of railway covered by this franchise within the limits of the City of Miami Beach, and any future extension of the privilege and use of streets hereunder within said limits, shall be other than steam or animal power; except, however, that steam power, horses and mules may be used in the construction and building of any portion of said railway.

Section 3. That said railway shall consist of a single track of standard gauge, or double track ^{when desired} if approved by the City Council. There shall be such branches, switches and turnouts as may be agreed upon and located under the direction of the City Council of the City of Miami Beach, from time to time. Plans for all bridges proposed to be built by grantees must be approved by said City Council; that the track of said railway shall run down the ^{side} ~~center~~ of each street ^{at such places as may} over which ^{is designated by the City Council.} this franchise shall operate unless otherwise authorized by the City Council of the City of Miami Beach.

Section 4. If electric power is used in the propelling of cars in such form as to necessitate trolley wires and current transmission service-

(a) that there shall be provided trolley wires and all necessary and convenient fixtures and appurtenances needful in the construction and operation of such a line of railway by the grantees, and said grantees shall have the right to construct, for the purpose of transmitting power for the propulsion of its cars, overhead trolley system, suspended on posts placed along said streets, avenues and highways as the City Council shall direct, the same to be subject, however, to all restrictions, limitations and regulations hereinafter contained, and such further reasonable regulations and restrictions as may be imposed by the City Council of the City of Miami Beach, from time to time; providing, that the method of bonding of the electric lines carrying return current shall be so safeguarded that it will not obstruct any existing city or future city

Water supply, or contaminate the water;

(b) that all wires suspended from trolley posts shall not be less than eighteen feet above the surface of any streets, avenues or highways, and there shall be provided such guard wires as may be necessary and proper to prevent broken leads, carrying cables or wires from falling to the streets;

(c) that the trolley posts shall be made of painted metal, or concrete, and shall be so placed as to cause the least possible interference with the property rights, tangible or intangible of the property owners along such streets occupied by the grantees herein; and whenever a sidewalk or curbing is cut into, torn up or removed, the same shall be replaced by the grantees herein, and such replacing shall be done in a skillful and workmanlike manner, so as to fit neatly and closely in and around the base of said trolley posts, and to the satisfaction of the Street Committeemen or City Engineer.

(d) that the grantees herein agree that the said City of Miami Beach may use the poles of the grantees for the installation and maintenance of its fire alarm system and police alarm system, and if electric motive power is used on said street railway that grantees will also furnish electric power to change the storage batteries of such alarm system free of all charge.

(e) that all trolley posts shall be placed on such line or lines in the street, or streets, over which this franchise operates, as may be indicated or prescribed by the City Council.

(f) it is further provided that on all streets and avenues over which the said grantees are allowed to operate their said railway under the terms of this franchise lying south of what is commonly known as the Carney Tract, there shall be and is hereby reserved a strip _____ feet in width, running down the center of said streets and avenues,

a parkway in the center of which said parkway strip, the said tracks of the said grantees shall be laid, and whereas the City of Miami Beach now owns valuable paving on said streets and avenues, and whereas in event this franchise is granted to the said grantees, the said paving will be abandoned for street purposes and converted into park uses, therefore, it is provided that the said grantee shall grade, pave, and oil all of said streets and avenues over which the said franchise operates lying south of the said Carney Tract in like manner as the same is now paved, said paving to be constructed by the said grantees on such part of said streets and avenues as shall be directed by the City Council of Miami Beach, and shall be laid to the same width and thickness and constructed of the same material as the old paving hereinbefore mentioned, and shall in all respects be as good in every particular as the old paving, to the satisfaction of the City Council of Miami Beach, with the approval of the City Engineer of Miami Beach, and provided further that none of the old paving hereinbefore referred to, shall be disturbed, dug up, or interfered with by said grantees until the new paving shall be completed, unless permitted so to do by the City Council of Miami Beach, and

Provided further that at any time after the expiration of five years from the date of the election ratifying this franchise, the City Council reserves the right to abandon the parkway hereinbefore reserved, and to use the same for street purposes, and provided further if at any time after the said five years the said City Council shall decide to utilize said parkway strip for street purposes, that all of the terms and conditions of this franchise with respect to the putting in of paving on streets by the said grantees shall be binding upon said grantees with respect to said strip herein reserved as a parkway.)

Provided further that during the time said strip is maintained as a parkway, it shall be the duty of the grantees herein to keep graded to ^{an} establish ^{ed} grade with soil the strip

between its rails and for two feet each side thereof, except on those portions of said parkway crossed by other streets or avenues on which said portions of said portions of said parkway strip so crossed by other streets or avenues it shall be the duty of the said grantees to maintain such paving between its said tracks and on two feet on each side thereof as are maintained by it on street crossings where no parkway is established; that is to say, that with respect to those portions of said parkway strip crossed by other streets or avenues, the said grantees shall be governed and controlled by the provisions of Sections Eight, Nine, Ten and Eleven of this ordinance or franchise.

(4) In all cases where the streets are sufficiently wide for the trolley line to be hereafter constructed to be run down one side of the street so as not to interfere with the paved portions of said street, and where the laying of said street car line along one side of said street shall be feasible and practicable, then under such circumstances the grantees herein shall construct their line on one side of the paved portion of said street and should any portion of said street so used in constructing said line along one side of the main paved portion be destroyed or impaired then the grantees shall within sixty-(60) days thereafter cause said damaged portion of said street to be repaired and re-constructed so as to place same in as good condition as the remainder of the said portion of said street.

Section 5. If gasoline motors are used on the cars operated over the lines of the grantees throughout the city, that the said motors or engines shall be muffled at all times and all unnecessary noises or disturbances avoided in the operation of such cars.

Section 6. That all works and improvements of said grantees shall be constructed under the supervision of Committeemen on Streets and of an engineer employed by the grantees and approved by the City Council. The City Engineer shall furnish all necessary maps, profiles, and other information necessary to enable said grantees to conform to the established profiles for all streets and avenues, and for all street and avenue crossings and gutterings.

Section 7. The City reserves the right to cross said lines with any water or gas mains, drains and sewer pipes and with telephone, telegraph or electric wires or cables at all times, with as little interference as possible with the operation of said lines, and

the said City also reserves the right to grant permission to the telephone, telegraph and electric light companies from time to time to cross said tracks and lines with the necessary wires and cables; and the City also reserves the right to otherwise regulate the use of said streets with regard to the different franchises mentioned including this franchise, and any hereafter granted and any future extension of existing franchises or any that may be hereafter granted by the City.

Section 8. In the construction of said railway system, where grades are established, the surface of said grantees' tracks shall conform to said grades, but where no grades are established, the track of such railway system shall conform to such grade as may be furnished by the City, provided that in the event said grantees shall fail to make their tracks conform to the existing grade, or the grade given by the City, that it shall be the duty of the said grantees to bring such tracks to such grade at its own expense and upon orders of the City Council of the said City of Miami Beach, and within thirty (30) days of the date of said order.

Section 9. It is further provided that wherever the line of said grantees' tracks traverse any street upon which the pavement is constructed, it shall be the duty of said grantees, after laying their tracks, to restore said pavement where injured or destroyed, taken up or removed, to its previous condition, as nearly as may be, except, however, that such grantees may pave the space between the tracks and for two feet on the outside of each rail with vitrified brick, creosoted block or such other material as shall be required by the City Council of the City of Miami Beach; all paving materials shall be of standard quality to be approved by the City Council of Miami Beach, provided, however, and with the understanding and condition that whenever and wherever the said City shall pave any street or avenue aforementioned in this paragraph upon which said line of railway is constructed, it shall be the duty of said grantees to construct or pay the cost of construction or paving the space between the tracks and two feet on the outside of each rail as laid, the said paving to correspond to and be of the character and material specified in the provision herein set forth in this section or as otherwise specified by the City Council of said City. And provided further, that the grantor herein reserves the right at any time hereafter to designate that part of the street or streets, avenue or avenues over which the tracks of the said grantees may be laid as parkways.

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Section 10. That the said grantee is to maintain the paving herein required and all other paving required under the provisions of this franchise in good condition and repair during the time the tracks of said grantees remain in and upon the streets and avenues of this City, except where the duty of the maintenance of said pavement may rest upon the City or any contractor constructing such pavement under employment of the City, provided, however, that the said grantees shall construct along their tracks detachable curbs, or block of sufficient width to enable the said grantees to take up or repair their tracks or rails without disturbing any pavement of cement or asphaltic character used on any street.

Section 11. That upon the final determination of the City Council to pave any street or avenue upon which the line of said railway may be, it shall cause the Clerk to give notice of such determination to said grantees, and said grantees shall, at its own expense construct its portion of such pavement under the supervision of the City Engineer and according to the plans and specifications adopted by the City Council; and it shall be the duty of said grantees to carry forward their paving in conjunction with the progress of the paving for the City and in every way to as little as possible hinder and delay the City in its contracts. Whenever the grantees fail or refuse to comply with any of the obligations under this Section or Section 9 preceeding, or any other Section of this franchise relating to the maintenance of paving and repair of damages to streets by reason of the use thereof by the said railway, the City shall have the right in addition to the other rights and remedies expressly or by the law reserved to it, to do or cause to be done the things required hereby to be done by the street railway company, and the City shall have the right to collect from the grantees, and the grantees shall be liable to the City for all the cost and expense thereof, including cost of suit and attorney's fees.

Section 12. At all points where said street railway tracks cross the tracks of any steam railway company, the said grantees shall stop its cars, and shall not proceed across the tracks of such steam railway company until the conductor or other employee of said grantees, from said crossings, shall signal the motorman, or driver of each car that the track is clear. It is provided, however, that failure to comply with this clause shall not be construed or deemed a forfeiture of this franchise.

Section 13. That the said grantees shall stop their cars for the purpose of taking on or discharging passengers on the near side of the street crossings; and all cars shall come to a full stop before crossing an intersecting railway line. Full stops shall also be made ^{at every other street} ~~at all such streets~~ ^{or avenue crossings} ~~or avenue crossings~~ where passengers desire to board or alight from said cars. ^{the grantees shall place signs at such places} ~~where passengers are required or discharged~~

Section 14. All cars shall be run with such frequency as to maintain a reasonable schedule which may be fixed by the City Council, (and in no event shall the schedule be less than one trip an hour between the hours of 6 A. M. and 11 P.M. and the fixing of this minimum schedule shall in no event be construed as effecting the reasonableness of other requirements with respect to the fixing of schedules by the City Council exceeding in frequency this minimum) and at all times and places the cars of the said grantees shall be run at a reasonable rate of speed, and in no event shall any street car be run, or operated, at a greater speed than twenty-five miles per hour. Failure on the part of the grantees to comply with any order, resolution or ordinance of the City Council regulating or attempting to regulate the frequency with which cars shall be run, or fixing or attempting to fix any schedule, or fixing or attempting to fix any time at which the first car shall run in the morning and the last car at night, shall not work a forfeiture in whole or in part of this franchise until such

order, resolution or ordinance shall have been shown to be reasonable in all its requirements by some court or courts of competent jurisdiction, and upon the entry of an order or decree of any court of competent jurisdiction, then the grantees shall have six (6) months after such entry to comply with such decree before working a forfeiture, and the City Council may, in its discretion, grant such additional time to the grantees for compliance with the court's decree as the necessities of the case may require.

Section 15. The entire system of tracks, trolleys, rails, cars and equipment shall be first class and suitable in design for the service of which it is intended. The rails to be used in the construction of said railway shall be of not less than sixty (60) pounds ^{per foot} in weight. All cars shall be equipped with suitable brakes and lights and said cars and machinery for operating the same shall at all times be provided with good and proper appliances for protecting the lives and persons of passengers on said road, and of the traveling public on and across the streets over which said roads may be operated.

Section 16. All policemen and paid members of the fire department, while in the discharge of their duties, and in proper uniform, shall be free on all cars.

Section 17. The charges for transporting passengers to be exacted by the said grantees herein shall not exceed the sum of five (5) cents each for one continuous passage over the grantees' line from points within the city limits to any other point in such city, but such limit on the price shall not prevent the exacting of an additional fare for the return journey, and the grantees shall furnish transfer tickets from one road to another on cross streets or extensions of its lines, to the passengers making one continuous journey from one point to another in the corporate limits of the City

of Miami Beach in the same general direction, free of extra charge. Children under five years of age, when accompanied by adults paying fare, shall be carried free.

It is provided, however, that in the event that the just and reasonable prices or cost of maintenance, equipment and operation of said street railway shall so increase as to cause the grantees herein to lose money on the investment made hereunder at the rates hereinbefore provided, and it shall be made to appear to the City Council and to its satisfaction that such is the case, then in such event, the said grantees shall be allowed to increase their rates to such a sum as will return to the grantees a net earning not exceeding ^{six} ~~eight~~ per cent. on a reasonable value of the stock, necessary equipment and tracks of the said grantees; that is to say, on the reasonable value of all of the necessary and incidental properties, both real and personal, held by the grantees under this franchise and held, used, or maintained in the operation of its said street railroad, not including the value of this franchise.

And provided, further, that the proviso herein relating to the increase of rates shall not become operative until after the expiration of five years from the time of the election confirming this franchise.

Section 18. The ^{Cars} ~~cars~~ of said railway shall at all times be entitled to the track, and drivers of all vehicles on the track or by the side thereof shall turn all vehicles out on the proper signal of the approach of any car, and failure on the part of the said driver, after proper signal

from the motorman, or driver of said street car, to vacate said railway track, shall subject the said driver of such vehicle to arrest and fine not exceeding Fifty Dollars (\$50.00) for each offense; provided, however, that fire engines and other fire apparatus of the City of Miami Beach shall at all times on the sounding of the alarm of fire, have the right-of-way, over and along the said track of the said street railway, and the cars of the said street railway shall be stopped after the sounding of the fire alarm and upon the approach of the fire engine, hose carts or other fire apparatus, and shall remain standing until the same shall have passed.

Section 19. The grantees herein shall promptly pay all taxes and assessments, general and special, that may from time to time be lawfully levied and assessed by the City of Miami Beach.

Section 20. The said grantees shall have the right to handle freight cars over its lines at certain hours of each day, to be designated by the City Council from time to time, under such restrictions and regulations as the City Council proposes for the protection of the best interests of the City and welfare of the public.

Section 21. The grantees and their assigns agree that whenever any interurban line with motive power other than steam or animal, shall desire an entrance into the City of Miami Beach, the grantees will allow said interurban lines the use of the tracks and street railways of grantees for such entrance for a reasonable charge therefor, to be agreed upon between ~~the~~ said interurban line or lines and grantees, and in case of their failure to so agree, the points in dispute shall be submitted to arbitration, each party to select an arbitrator and the two so selected shall select an umpire and after giving both parties an opportunity to be heard, the said arbitrators shall make an award that shall be final and binding on both parties, and shall be a rule of any court of general jurisdiction authorized to take cognizance of the subject and enforce it as such; it being understood that

the City of Miami Beach shall impose on the grantees, and owners of said suburban lines, such other restrictions and conditions as may be necessary and proper in handling such suburban traffic within the said City of Miami Beach. The arbitrators shall be wholly impartial and disinterested, and shall be practically conversant with the special subject, and shall before proceeding with their duties, take an oath to fairly and impartially adjudge the difference between the grantees and the said interurban line or lines, and shall have authority to make any rule with reference thereto which may be equitable, and shall have the right to determine the right route to be pursued by said interurban cars in their ingress and egress from the city with their suburban traffic, the particular tracks which they shall use, and the rental to be paid therefor for the use of the tracks, trolley or power to be furnished by said grantees, and to settle, determine and adjust any and all matters resulting from a dispute over this provision of the grantees' franchise.

Section 22. That the grantee shall commence construction of said railway in time to complete a line from the causeway end ^{the City of} in Miami Beach South on Alton Road to First Street and East on First Street to Miami Avenue, so that a complete line shall be finished from the ^{city of} Miami ^{Beach} City end of causeway to Miami Avenue ^{thirty} ~~six~~ ^{days} (30) months after the ^{completion of the Causeway} ~~granting of a Franchise in~~ ~~the City of Miami Beach and in the City of Miami~~, and the signing of a contract with the Board of County Commissioners of Dade County, Florida, and a complete belt line as above laid out shall be finished within one year from the date aforesaid.

Section 23. Subject to the conditions and understanding herein expressed, it is understood that the life of this franchise shall be from the date of acceptance of this franchise and ending thirty (30) years from said date of acceptance.

The right is reserved by the City of Miami Beach, Florida, to purchase the street railway which may be constructed and operated by the grantees at the termination of this franchise

at a valuation to be fixed by arbitration as provided by law in Section 1015, General Statutes of Florida of 1906.

Section 24. Any failure, neglect or refusal of the grantees herein to fulfill all and every provision and condition of this franchise for a reasonable time shall work a forfeiture of the same; provided strikes, the acts of God and other causes beyond the control of the grantees shall not be deemed or construed as a forfeiture.

Section 25. This ordinance shall take effect and be in full force from and after its passage by the Council, approved by the Mayor, acceptance by grantees, publication and ratification by the voters of the City of Miami Beach, Florida, at an election held for that purpose; and all other ordinances of the City of Miami Beach inconsistent herewith are hereby repealed.

PASSED AND ADOPTED this 18th day of March

A. D. 1919.

W. E. Norton

President of the City Council.

Attest:

J. A. Cauova

City Clerk.

APPROVED BY ME this 18th day of March, 1919.

Thos J. Danvers

Mayor, City of Miami Beach,
Florida.

Ordinance #116

Beach Street Railway

March 18/1921