

Ordinance # 122 -

Miami Beach, and any future extension of the privilege and use of

streets
animal
may be
railway.

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.

That said railway shall consist of a single track of stand-
BE IT ORDAINED BY THE CITY COUNCIL OF THE 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, (including 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 avenues, streets and highways are as follows, to-wit:

Alton Road from the North line of Fifth Street Southeasterly to the South line of First Street; First Street from Alton Road East and Easterly to East line of Miami Avenue; Miami Avenue 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.

Also, commencing at the intersection of Miami Avenue and First Street and extending East to the East line of ^{Collins Avenue} ~~Atlantic Boulevard~~; thence Northerly along ^{Collins Avenue} ~~Atlantic Boulevard~~ to North line of Second Street; thence Westerly along Second Street to West side of Miami Avenue; thence ~~Southerly along Miami Avenue to South boundary line of First 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, and shall be so placed as to cause the least possible

interference. 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 the said City Council; that the track of said railway shall run down the side of each street at such places as may be designated by the City Council over which 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 Committeeman 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 charge the storage batteries of such alarm system, free of all charges;

(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) In all cases where the streets are sufficiently wide for the trolley 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 be used in construction of 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 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 Committeeman 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 of 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 further 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 grades as may be furnished by the City, provided that in the event said grantees shall fail to make their tracks conform to the existing grades, or the grade given by the City that it shall be the duty of said grantees to bring such tracks to such grade at its own expense, and upon order of the City Council of said City of Miami Beach, within thirty (30) days from the date of said order.

Section 9.

It is further provided that whenever the line of said grantees

any street or avenue upon which the line of said railway may be, if tracks traverse any street upon which the pavement is constructed, shall cause the Clerk to give notice of such determination to said grantees, and said grantees shall at their own expense construct and restore said pavement where injured or destroyed, taken up or removed, its portion of such pavement under the supervision of the City Engineer 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 wherever and whenever 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 grantee 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.~~

Section 10.

That the said grantees are 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 the 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 said pavement under

employment of the City, provided, however, that the said grantees shall construct along their tracks detachable curbs, or blocks 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 their 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 preceding, 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 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 expenses thereof, including cost of suit and attorneys' 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 crossing shall signal the motorman or driver of such 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 or avenue crossing where passengers desire to board or lights and said cars and machinery for operating the same shall at all

alight from said cars. The grantees shall place signs at such places where passengers are received or discharged. Section 14. passengers on said road, and of the traveling public. All Cars shall be run to and from Miami, Florida, and around the belt line first set forth herein 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 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. reasonable value of the stock, necessary equipment and tracks. 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 net per yard in weight. All cars shall be equipped with suitable brakes and lights and said cars and machinery for operating the same shall at all increase of rates shall not become operative until after the expiration

of five years from the time of the election confirming this franchise. times be provided with good and proper appliances for protecting the lives and persons of passengers on said road, and of the traveling to public on and across the streets over which said road may be operated.

thereof Section 16. all vehicles out on the proper signal of the approach of any All policemen and paid members of the fire department while in the discharge of their duties and in proper uniform, shall be said free on all cars. shall subject the said driver of such vehicle to arrest and fine Section 17. Fifty Dollars (\$50) for each offense; provided,

however 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 line, 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 mentioned 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 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 railway, and 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 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) 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 line 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 interest 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 to enter into the City of Miami Beach, the grantees shall allow said interurban lines the use of the tracks and street railways of the grantees for such entrance for a reasonable charge therefor, to be agreed upon between 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 one arbitrator and the

The right is reserved by the City of Miami Beach, Florida,
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 sub-
urban lines, such other restrictions and conditions as may be nec-
essary 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 inter-
urban cars in their ingress and egress from the City with their sub-
urban 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 all
matters resulting from a dispute over this provision of the grantees'
franchise.

Section 22.

That the grantees shall commence construction of said railway
in time to complete a line from the causeway end in the City of 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 end of the causeway to Miami Avenue Ninety (90)
days after the completion of the causeway, and the signing ^{or securing} of a con-
tract with the Board of County Commissioners of Dade County, Florida,
and a complete belt line, first above designated, shall be finished
within one year from the date of the ratification of this franchise.

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 the State 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 and 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, accepted 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 ^{15th} ~~18th~~ day of ^{April} ~~March~~, 1919.

W.E. Norton
Signed - W.E. NORTON, President

J.F. Canova
Attest: J.F. CANOVA, City Clerk

Approved this ^{15th} ~~18th~~ day of ^{April} ~~March~~, A. D. 1919.

Thos. J. Pancoast
Signed - THOS. J. PANCOAST, Mayor.

(SEAL)

ORDINANCE NO. 122.

OF THE CITY OF MIAMI BEACH

PASSED AND ADOPTED APRIL 15th, 1919.

*Street Parkways
Improvement*

ORIGINAL

PRICE & PRICE
ATTORNEYS AT LAW
MIAMI, FLORIDA

3050 . 26