

Full Text of Proposed Contract With Power Company

AGREEMENT.

This agreement, made and entered into this tenth day of August, 1915, by and between the City of Ashland, a municipal corporation, organized under the laws of the State of Oregon, hereinafter called and designated the City, party of the first part, and California-Oregon Power Company, a corporation organized under the laws of the State of California, hereinafter called and designated the Company, party of the second part.

Whereas, the City is the owner of, and engaged in operating an electric generating station, and system of poles and wires for distribution of electric current in and throughout the said City, and is desirous of extending its distributing system and acquiring all of the electrical business within said City; and

Whereas, the Company is the owner of such of the stock of the said Ashland Electric Power & Light Company that it can procure the sale of said electric plant and distributing system, appliances and paraphernalia; and

Whereas, it is the desire on the part of the said City to purchase the electrical plant and distributing system of the Ashland Electric Power & Light Company and of operating same in conjunction with and in addition to the plant of the City, and thereby acquire and have the entire and exclusive distribution and sale of electricity in said City; and

Whereas, the generating plant of the City is not of sufficient capacity to generate all the power necessary for distribution and sale in said City, and it is the desire of said City to acquire by purchase, additional electricity from the Company for the purpose of supplying all needs and demands of the City and its inhabitants for electricity for any and all purposes; and

Whereas, it is the mutual desire of the City and the Company to enter into an agreement carrying out the express wishes and desires of the City and Company with relation to the sale by the said Company of the electric plant and distributing system of the Ashland Electric Power & Light Company, and the sale of electric power necessary to supply the needs and demands of the City;

Now, therefore, these presents witnesseth:

That for and in consideration of the premises and the several mutual promises, covenants and agreements of the parties hereto, it is mutually agreed by and between the City of Ashland, the party of the first part, and California-Oregon Power Company, the party of the second part:

The Company agrees to cause the Ashland Electric Power & Light Company to sell to the City and the City agrees to purchase such part of the poles, wires, property and equipment of the Ashland Electric Power & Light Company within said City, as the said City may determine upon, free and clear of all incumbrances, for constructing, extending or establishing its electric distributing system in said City, in addition to the system the said City has installed and in operation, the same to be selected by the officers of said City within ninety (90) days from the signing and sealing of these presents, and when so selected and determined upon, the price therefor shall be determined by mutual agreement between the officers of the City and of the Company, and if they are unable to so agree upon such value and price, then the same is to be fixed and established by and in accordance with the rules established by the Railroad Commission of Oregon in determining the valuation of the physical properties of public utilities throughout the State of Oregon.

If upon making such selection of poles, wires and other property by the City, the same shall not include all of the poles, wires and other property heretofore used by the Ashland Electric Power & Light Company in said City, the said Ashland Electric Power & Light Company, or the Company, shall within six (6) months from the ratification of this agreement take down and remove such part or portion of such distributing system, poles, wires and apparatus.

The City hereby agrees to call a special election of the qualified voters of the said City and to submit to them for authorization, a proposition to issue negotiable bonds of the City, payable by it at its option in from six (6) to fifteen (15) years after issue and sale, and to draw interest at 5 per cent per annum, payable semi-annually, and to do and perform all necessary acts and things in the premises as shall cause the said issue of bonds to be a valid and binding obligation of the City, and if the said issue of bonds shall be authorized by the voters of said City, when the same are advertised for sale, in accordance with the charter and ordinances of said City, and the same shall be sold for cash in hand, the City will thereupon immediately pay to the Company for and on account of the Ashland Electric Power & Light Company such sum as may be found due in payment for the poles, wires and property of the Ashland Electric Power & Light Company, as may be purchased by the City, but in the event that upon the advertisement and offer of sale of said bonds no cash bid shall be offered therefor at par and accrued interest, then such thereof as shall be necessary to liquidate the said indebtedness of the City to the Company shall be delivered to the Company in payment and satisfaction thereof.

The City agrees to sell to the Company, and the Company agrees to buy from the City, three (3) transformers, Westinghouse Indoor Type, 75 K V A, Type O I S C, Single Phase, 60 Cycle, A. C. 22000-2300 4000 Star Serial Numbers 270669, 270670 and 270671, the price therefor to be determined by the best price obtainable by the Company upon sale thereof to some person, company or corporation to whom the

Company may be able to sell the same, and the said price for said transformers shall either be paid in cash or allowed as an offset by the Company against any amount which may be found due or payable by the City to the Company.

The Company agrees upon the ratification of this contract, by the qualified voters of the City of Ashland, to cause to be surrendered by proper deed or acquittance, to be executed by the Ashland Electric Power & Light Company, the franchise heretofore granted by the City to said Ashland Electric Power & Light Company, by ordinance of said City numbered 62, and upon such surrender or conveyance of said franchise, and the rights thereunder granted, to cease and discontinue within and throughout the City the distribution and sale of electricity to the inhabitants thereof, save and except that the Company shall have the right to maintain and operate during the period of five (5) years, from the ratification hereof, a line of poles and wires on and along Nevada Street, Mountain Avenue and the Ashland Boulevard, from its substation to be hereafter established in said City, a line of service leads for the purpose of conducting electricity thereon to the district outside the City limits, known as Bellview, and at the expiration of the said period of five (5) years, or within such earlier period as may be agreed upon, to remove said lines of poles and wires, and construct another line upon such route as may be designated and provided by the City, provided, that the City shall designate and provide a reasonably direct route which shall cause the Company, in the construction of a new line, no unnecessary expense either in its construction or its maintenance, and when so constructed the Company shall have the right and privilege to maintain and operate said line for and during the remainder of twenty (20) years from the ratification hereof, but during said time the Company shall not sell or distribute from said line any electricity within the limits of said City, it being understood that the said line shall be maintained as a service lead and telephone line only for the sale and distribution of electricity by the Company beyond the limits of the said City of Ashland, and the Company shall also have the right and privilege to erect and maintain a line of poles and wires which shall be a high tension line, and a distributing main and a Company telephone line on and along Nevada Street, Oak Street and Mountain Avenue, north of Nevada Street, in said city, from the limits thereof to the sub-station of the Company on Nevada Street, from which sub-station the electricity hereinafter provided for shall be delivered by the Company to the City.

The City shall have the right and privilege, subject to the rules and requirements of the Railroad Commission of Oregon, to maintain upon the poles of said line or service lead, on Mountain Avenue and Boulevard, such of its wires as may be accommodated thereon, but such wires shall be maintained at the expense of the City of Ashland, and it shall pay for upkeep, repairs, reconstruction and maintenance of said poles to the Company, its proportion thereof.

In consideration of the premises, and as a further consideration of this agreement, the City agrees to purchase from the Company as it may require, and the Company agrees to sell and deliver to the City continuously and for a twenty-four (24) hour service during the full period of twenty (20) years from the ratification of these presents by the qualified electors of the City, such a quantity or amount of electricity at its sub-station to be constructed in said City, as may be necessary to satisfy and fulfill the demands of the city for its use and sale at the following rates and prices, to-wit:

When the meter reading during the period of one month shows the current consumed to amount to 100,000 kilowatt hours or less, the price therefor shall be One (1c) cent per kilowatt hour.

Should the meter reading show 70,000 kilowatt hours or less during any one month, the fixed minimum charge therefor shall be Seven Hundred (\$700.00) Dollars.

100,000 kilowatt hours \$1000.00
—all over this and not over

200,000 kilowatt hours .008 per kilowatt hour additional
200,000 kilowatt hours \$1800.00
—all over this and not over

400,000 kilowatt hours .006 per kilowatt hour additional
400,000 kilowatt hours \$3000.00
all over 400,000 kilowatt hours .0075 per kilowatt hour.

It is agreed that the minimum monthly amount to be paid by the City to the Company shall be \$700.00 during the entire life of this contract.

The foregoing rates shall apply only to such electricity as may be used or sold in said City for lighting, motor service or power use and cooking, and other purposes except heating, and shall be delivered to the said City upon an independent or separate circuit or lead out of the Company's sub-station, and shall apply during the life of this agreement, unless during said period the Company shall sell electricity for like purpose, service and in like quantity to any other City in Jackson, Josephine or Klamath Counties in Oregon, at a less rate, and thereupon the said City of Ashland shall be entitled to such less rate as may be paid by such other City in any of said counties.

There shall be delivered to said City upon a separate and independent circuit or lead electricity which may be distributed and sold by said City for the purpose of heating only, and the term "heating" shall be construed as applying to the heating of water, rooms, dwellings, stores and buildings, and the rate to be paid

monthly by the City to the Company therefor shall be .0023 per kilowatt hour, but always in excess of, and separate from the amount due on account of the use of electricity from the circuit or lead heretofore described for lighting, power and cooking, and it is understood and agreed that the City shall have the right to demand and purchase one-third (1-3) or less of the electricity sold by the Company in the Rogue River Valley for heating purposes, and the Company shall supply the same. And if the present rate of the Company is raised by the Railroad Commission of Oregon elsewhere in the Rogue River Valley, it shall likewise be raised to the City of Ashland, and if said heating service is discontinued or abandoned by the Company in the Rogue River Valley, by order of the Railroad Commission of Oregon, it shall also be discontinued and abandoned to the City of Ashland, and the Company shall not be required after thirty (30) days' notice thereof to the City to sell or deliver electric current therefor to said City.

All electricity shall be measured by suitable meters installed for such purpose, one by the Company and one by the City, on each circuit provided for herein, to the end that correct readings as to the amount of current delivered to said City may be had.

The officer, agent or employee of the City, and the agent or employee of the Company appointed for the purpose of reading said meters, shall meet at the sub-station of the Company at 12:00 o'clock noon on the first day of each and every month, and then and there read the respective meters herein provided for. If there shall be a material difference between the meter register of the City and the meter register of the Company, on either of said leads or circuits, the said meters shall immediately be tested, and upon such test, the reading of that meter found to correctly register, shall be accepted as correct. If both meters shall, upon test, be found to incorrectly register, then the amount thereof shall be mutually agreed upon or determined by three electrical experts, one to be selected by the City, one by the Company, and the two to select a third.

All electricity to be delivered by the Company to the City at the Company's sub-station as aforesaid shall be delivered by what is known as 2300 volts, Starred or "Y" connected, Three Phase, Alternating current. The variation of the aforesaid voltage shall conform strictly to Rule 25, File No. U-F 61, of the Railroad Commission of the State of Oregon, or as the same may be hereafter modified by said Commission.

The Company shall not be responsible for failure to deliver electric current to the City by reason of any unavoidable accident to its lines or power plants; the order or injunction of any court; the inevitable act of God, or any other cause beyond its reasonable control, and the Company shall use all due and reasonable diligence and effort at all times to repair its lines and plants and to deliver electric current as herein provided.

Upon determining the amount of electricity delivered to the City during any and every month as aforesaid, the City hereby agrees to pay to the Company in cash at the recorder's office of the City of Ashland, Oregon, on or before the fifteenth day of each and every month, the amount which may be found due for the previous month, out of the Special Electric Fund of the City.

During the life of this agreement, the Company hereby agrees not to sell electricity to any consumer within the limits of said City, other than to the City, nor otherwise enter into competition with it, and the City on its part agrees for such period not to purchase electricity from any person, company or corporation, other than the Company, the party of the second part, and the City further agrees not to extend its lines for the service of electricity beyond its limits where such service may in any manner interfere, or be in competition with the service of the Company in such outside territory, but this provision shall not be construed as preventing the City from generating electricity at the plant now owned by said City on Ashland Creek.

If at any time during the life hereof of the City shall extend its boundary lines and thereby include additional territory within said City, and prior to such acquisition the Company shall have erected and maintained poles, wires and distributing system therefor for the service of its patrons, the City shall upon acquiring such additional territory immediately purchase from the Company and pay for the distributing lines used in the distribution and sale of electricity therein, including poles and other apparatus used in connection therewith, the price therefor to be determined by three (3) arbitrators, one to be selected by the City, one by the Company, and the two so selected to choose the third; but the Company shall not be deprived of the right to maintain and operate through such acquired territory necessary service leads, high tension and telephone lines for the purpose of conducting electricity necessary to the operation and conduct of its business to territory beyond, and upon such purchase of such lines by the City, the Company shall thereafter and during the remainder of the life of this agreement cease to sell or distribute electricity therein to the inhabitants of the City.

It is further agreed that during the life hereof, the Company will sell to the City electric power necessary for the operation of the City's Mineral Springs Pumps, not to exceed Fifteen (15) horse power, the charge therefor to be One (\$1.00) Dollar per annum.

The Company agrees that it will cause a suitable deed of conveyance to be made by the Ashland Electric Power & Light Company, upon the ratification of this agreement by the voters of said City, to the City, of the lot owned by said Company on Ashland Creek and formerly occupied by it for the purpose of generating electricity, the expressed consideration in said deed to be One (\$1.00) Dollar,

but the true consideration to be a part of this agreement.

Wherever in this agreement the term "Railroad Commission" or "Railroad Commission of Oregon" has been used, it is intended to apply to that body or commission of the State of Oregon having jurisdiction over the public utilities of the State, and particularly electric light and power companies, and if during the life of this agreement the Railroad Commission of Oregon or other body or commission having jurisdiction in the premises, shall be abolished by law, then all matters herein referred to the jurisdiction of such commission shall be settled by arbitration of three arbitrators, one to be selected by the City, one by the Company and the two so selected to select the third, and in all cases where arbitration is mentioned herein and shall be resorted to by the parties hereto, the decision by the arbitrators shall be final and binding upon both of the parties hereto.

Whereas heretofore there have existed misunderstandings and disputes between the City and the Ashland Electric Power & Light Company, and there is now pending in the District Court of the United States for the District of Oregon, a suit wherein the Ashland Electric Power & Light Company is plaintiff and the City is defendant, to determine the validity of the franchise of the Company and ordinance of said City numbered 62, and the respective rights of the City and the Company thereunder, and this agreement is entered into for the purpose of settling and forever putting at rest such disputes, misunderstandings, and the said suit aforesaid, therefore if this agreement is not ratified by the legal voters of the City of Ashland and does not become a valid contract and obligation upon the parties hereto, each party agrees that it will not use this agreement, nor any part thereof as contained therein, against the other in the said suit pending in the United States Court aforesaid, nor claim any right or advantage therein by reason of any of the terms or conditions hereof, but if this agreement shall be ratified and confirmed at such election the said suit shall immediately be dismissed.

It is expressly understood and agreed between the parties hereto, that the City will provide for and call a special election of the qualified electors of the City of Ashland, at which election it will cause to be submitted a charter amendment, which, if adopted by said electors, will ratify, adopt and confirm this agreement in all things, and if at such election this agreement is not ratified, adopted and confirmed by the electors of said City voting thereat, then and in such event, this agreement shall not be a contract or agreement between the parties, nor binding in any manner upon said parties or either of them, but if this agreement is ratified and confirmed at such election, then it shall be binding upon the said City and the said Company and their successors and assigns.

For the purpose of identification of this contract, each page of the duplicate parts hereof shall be subscribed in ink by the initials of the mayor of the City, made by the mayor, to-wit, "O. H. J.," and by the president of the Company subscribed by the president, to-wit, "J. W. C."

In testimony whereof, the City has caused these presents to be executed by its mayor and recorder by resolution of the common council duly authorizing the same, and the Company has caused these presents to be executed by its president and secretary by resolution of its Board of Directors duly authorizing same interchangeably in duplicate, the day and year first herein written.

(City Seal)
CITY OF ASHLAND.
By O. H. Johnson, Mayor.
By C. H. Gillette, Recorder.
(Company Seal)
CALIFORNIA-OREGON POWER COMPANY.
By Jesse W. Churchill, President.
By Alex J. Rosborough, Secretary.
Executed in presence of:
JOS. B. WARE.
A. C. HOUGH.
H. L. WALTHER.
A. C. HOUGH.

State of Oregon, County of Jackson, ss.

On this tenth day of August, 1915, before me appeared O. H. Johnson, Mayor of the City of Ashland, Oregon, and C. H. Gillette, Recorder of the City of Ashland, Oregon, each personally known to me, who being duly sworn did say that he, the said O. H. Johnson, is the Mayor of said City of Ashland, and he the said C. H. Gillette, is the Recorder of said City of Ashland, and that the seal affixed to the foregoing instrument is the corporate seal of the City of Ashland, and that said instrument was signed and sealed in behalf of said corporation by authority of its Common Council, and the said O. H. Johnson as Mayor, and the said C. H. Gillette as Recorder, each acknowledged said instrument to be the free act and deed of said City of Ashland, Oregon.

In testimony whereof, I have hereunto set my hand and affixed my official seal, this the day and year first in this my certificate written.

F. F. LODER,
Notary Public for Oregon.
My commission expires December 5, 1915.

State of Oregon, County of Jackson, ss.

On this tenth day of August, 1915, before me appeared J. W. Churchill, President, and Alex J. Rosborough, Secretary, respectively, of California-Oregon Power Company, to me personally known, who being duly sworn, each did say: that he the said J. W. Churchill is the President and he the said Alex J. Rosborough is the Secretary of California-Oregon Power Company, a corporation, and that the seal affixed to the said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said J. W. Churchill, President, and said Alex J. Rosborough as Secretary, each acknowl-

Ratification of Contract With Power Company

NOTICE OF SPECIAL ELECTION.

The Recorder's Office,
Ashland, Ore., Aug. 11, 1915.

Notice is hereby given that on the 10th day of August, 1915, the Common Council of the city of Ashland, Oregon, at a regular adjourned meeting of said council, duly passed a resolution in pursuance to the provisions of Ordinance No. 357 of said city, approved August 8, 1908, authorizing the Common Council of the city to call special elections at any time for the purpose of amending the charter of said city, wherein and whereby by unanimous vote and with the approval of the Mayor, a special election was called to be held in the said city on the 25th day of August, 1915, for the purpose of submitting to the legal voters of the said city of Ashland, Oregon, for their approval or rejection, an amendment to the charter of said city by adding thereto an additional section to be known as "Section 19a."

And notice is hereby given that in pursuance of the foregoing premises, a special election will be held for the purpose of submitting to the legal voters of the said city of Ashland, for their approval or rejection on the 25th day of August, 1915, the following proposed amendment to the charter of the city of Ashland, to be known and designated as "Section 19a" thereof, to-wit:

"An Act to Amend the Charter of the City of Ashland, Oregon, said charter being that certain act of the Legislative Assembly of the state of Oregon, filed in the office of the Secretary of State, October 14, 1908, entitled 'An Act to Amend an Act entitled 'An Act to Incorporate the City of Ashland in Jackson county, Oregon, and to define the power thereof,' filed in the office of the Secretary of State, February 21, 1889, and the acts approved February 25, 1895, amending the same," as amended by all acts subsequent thereto, either of the Legislative Assembly of the state of Oregon, or by vote of the qualified electors of the city of Ashland, Oregon, to provide for an additional section to said charter, to be numbered 19a, for the issuance of bonds of said city for the purpose of constructing, acquiring, enlarging and completing electric light and power plant or plants, for the creation of a special electric light fund, and the control thereof, and to adopt, ratify, and confirm a contract authorized by the Common Council of the city of Ashland between the city of Ashland and California-Oregon Power Company.

Be it enacted by the People of the City of Ashland:

That the charter of the city of Ashland, the same being that certain act of the Legislative Assembly of the state of Oregon, filed in the office of the Secretary of State, October 14, 1908, and the acts amendatory thereof, by providing for an additional section to said charter and act to be numbered 19a, providing for the issuance of bonds of said city for the purpose of constructing, acquiring, enlarging and completing electric light and power plant or plants; for the creation of a special electric light fund and the control thereof, and to adopt, ratify and confirm a contract between the city of Ashland and the California-Oregon Power Company."

Sec. 19a. The Common Council in addition to the powers and authority granted and reserved by Section 19 of this charter is authorized and empowered, without any other or further vote or authorization by the qualified electors of the city, to enlarge, extend, renew, replace and rebuild any electric distributing plant or plants now owned and operated by the city, and for such purpose to purchase any and all necessary material and apparatus therefor, and may contract for and purchase any plant or plants from any corporation engaged in the distribution and sale of electricity within the city, and said Common Council is further authorized and empowered for any of such purposes, and when deemed necessary, by resolution or ordinance to borrow money on behalf of the city, pledge its credit, and issue negotiable bonds in an amount in the aggregate not to exceed \$25,000.00, and are hereby further authorized and empowered to impose and levy annually in the same manner as other taxes of said city are imposed and levied such taxes upon all taxable property in

edged said instrument to be the free act and deed of said corporation. In testimony whereof, I have hereunto set my hand and affixed my official seal, this the day and year first in this my certificate written.

F. F. LODER,
Notary Public for Oregon.
My commission expires December 5, 1915.

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aid city as shall be necessary to provide for the payment of the interest on all the bonds hereby authorized as such interest shall become due and payable, and to constitute and create a sinking fund for the payment and redemption of said bonds at maturity, and are also authorized and empowered to provide by ordinance or resolution at or before the time of the issuance of said bonds for the levy of such taxes, and for the creation of such sinking fund and the retirement of said bonds, and there is hereby created a special fund of said city to be known as the "Electric Fund," which shall be kept by the officers of the city separate from other funds now or hereafter created, and there shall be kept in said electric fund all income and moneys which shall be paid to the city from the sale of bonds; the sale of unusable and undesirable electric machinery and apparatus and moneys received from the sale and distribution of electricity to the inhabitants of the city, and there shall be paid out of said fund by order or warrant of the Common Council, or in accordance with the provisions of any contract of the city, all moneys necessary and proper for acquiring any and all electric machinery and apparatus; for the maintenance, enlargement, extension and improvement of the electric plant of the city; all amounts necessary to pay for the purchase and acquisition of electricity for the city under any contract and in accordance with the terms thereof; wages and salaries of employees engaged by the city in electrical work and the operation of its electric plant, interest on the bonds hereby and heretofore authorized for purchasing and acquiring an electric plant, and for the redemption of such bonds.

That certain contract or agreement between the city of Ashland, as party of the first part, and California-Oregon Power Company, as party of the second part, executed by the mayor and recorder of the city in behalf of the city of Ashland, and by the president and secretary of the said company on behalf of said company, on the 10th day of August, 1915, as authorized by the Common Council of the city by resolution adopted on the 10th day of August, 1915, and all the terms and conditions thereof as the same appear and are set forth in said resolution of the Common Council, be and the same is hereby in all things ratified, adopted and confirmed, and declared to be the binding contract and obligation of the city of Ashland and the California-Oregon Power Company."

The ballot title and number of such measure will be as follows:

"An Act to amend the charter of the city of Ashland, the same being the act to incorporate said city filed with the Secretary of State, October 14, 1908, and the acts amendatory thereof, by providing for an additional section to said charter and act to be numbered 19a, providing for the issuance of bonds of said city for the purpose of constructing, acquiring, enlarging and completing electric light and power plant or plants; for the creation of a special electric light fund and the control thereof, and to adopt, ratify and confirm a contract between the city of Ashland and the California-Oregon Power Company."

Vote Yes or No.
109 Yes.
101 No.

For the said special city election to be held on the 25th day of August, 1915, as aforesaid, the following voting places have been designated and Judges of election appointed by the Common Council of said city, to-wit:

First Ward: Fourth Street Fire Station.

Second Ward: McCarthy Building, corner Granite and North Main streets.

Third Ward: City Hall.
First Ward Judges: G. W. Benedict, W. A. Bibby and Manley Brower.

Second Ward Judges: W. A. Patrick, Alice Huntley Murphy and Mrs. E. S. Hathaway.

Third Ward Judges: W. H. Gowdy, Blanche Hicks and Mrs. L. Hilly.

The two Judges last named in each ward shall also act as Clerks of election.

The polls will be opened from 9 o'clock in the forenoon until 6 o'clock in the afternoon of said day.

C. H. GILLETTE,
City Recorder.