

# Ordinance No. 22816

AN ORDINANCE GRANTING A FRANCHISE  
TO NORTHERN PACIFIC RAILWAY CO.  
BETWEEN FRONT AND BALLARD.

## AMENDED

IN SECTION 2 + 7

ORDINANCE No. 27699

*Engrossed Bill*

# Council Bill No. 7448

INTRODUCED: MAR 15 1909	BY: REVELLE BY REQUEST
REFERRED: MAR 15 1909	TO: CORPORATIONS
REFERRED:	
REPORTED: NOV -8 1909	
SECOND READING: NOV -8 1909	VETO: DEC 10 1909
THIRD READING: NOV 29 1909	VETO PUBLISHED: DEC 15 1909
SIGNED: NOV 29 1909	VETO <del>NOT</del> SUSTAINED DEC 27 1909
PRESENTED TO MAYOR: NOV 30 1909	APPROVED:
FILED: DEC 27 1909	PUBLISHED: DEC 29 1909
ENGROSSED: VOL 27 PAGE 379	BY: <i>JB</i>
COMPAED BY: <i>Johnson</i> AND <i>Box</i>	

Acceptance File No. 39634

79997-accepting relinquishment by N.P.Ry. of a  
portion of franchise.

## AMENDED

IN SECTION 2 + 7 BY Amended in Section 2 by Ordinance No. 61132

ORDINANCE No. 27699

ORDINANCE NO. 22816

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3

AN ORDINANCE OF THE CITY OF SEATTLE granting to the  
NORTHERN PACIFIC RAILWAY COMPANY, a corporation organized  
under the laws of the State of Wisconsin, its successors and  
assigns, in perpetuity, the right, privilege, and authority  
to locate, lay down, construct, maintain, and operate sundry  
railway tracks in, along, upon, and across sundry streets,  
avenues, alleys, and other public places, and upon other prop-  
erty, all within the limits of said City, and granting to  
said Company, its successors and assigns, rights of way for  
such tracks in, along, upon, and across such streets, avenues,  
alleys, and other public places and property of and in said  
City.

15

16 BE IT ORDAINED BY THE CITY OF SEATTLE, as follows:

17

Section 1. The City of Seattle does hereby grant  
to the NORTHERN PACIFIC RAILWAY COMPANY, a corporation organ-  
ized under the laws of the State of Wisconsin, its successors  
and assigns, in perpetuity, the right, privilege, and author-  
ity to locate, lay down, construct, maintain, and operate sun-  
dry tracks of standard gauge railway, as hereinbelow design-  
ated and specified, together with all needful crossovers and  
connections between any of said tracks or any other tracks ad-  
jacent thereto, in, along, upon, and across sundry streets,  
avenues, alleys, and other public places, and other property  
within the limits of and in said city; and also rights of way  
for tracks in, along, upon, and across all such streets, ave-  
nues, alleys, or other public places, or property of and in  
said city, as hereinafter described, together with such addi-  
tional right of way for such tracks, or any thereof, as shall  
be requisite for the construction thereon of proper slopes  
and retaining walls for the roadbed of such tracks; provided,

33

A.

1 however, that after that part of any street or avenue crossed  
2 by such tracks shall have been graded and improved to the es-  
3 tablished grade, no such additional right of way for slopes  
4 or retaining walls within the limits of such street, avenue,  
5 or alley shall be used; all of which rights, privileges, and  
6 authorities and rights of way are hereby granted subject to  
7 all the conditions, restrictions, specifications, and require-  
8 ments in this ordinance expressed.

9       Section 2. The tracks of standard gauge railway, the  
10 laying down, construction, maintenance, and operation whereof  
11 are authorized by this ordinance, and the rights of way hereby  
12 granted for the same, are described as follows, to-wit:

13       First. A right of way sixty (60) feet in width, said  
14 right of way lying forty-five (45) feet on the southerly side  
15 of and fifteen (15) feet on the northerly side of, measured  
16 at right angles to, the center line of Ewing Street, as es-  
17 tablished by Ordinance No. 14267, approved September 26th,  
18 1906, between the easterly line of Phinney Avenue and the cen-  
19 ter line of West Forty-second Street.

20       Second. Tracks of standard gauge railway and a right  
21 of way sixty (60) feet in width for such tracks, the center  
22 line of which right of way is described as follows:

23       Beginning at a point in the center line of the present  
24 main track of the Northern Pacific Railway Company two hundred  
25 sixteen and forty-seven hundredths (216.47) feet easterly  
26 from the intersection of the center line of said main track  
27 with the center line of Phinney Avenue produced southerly,  
28 said distance being measured south seventy-one degrees, thirty  
29 one minutes east (S. 71° 31' E.) along the center line of said  
30 main track; thence along the arc of a curve to the right hav-  
31 ing a radius of fourteen hundred thirty-two and sixty-nine  
32 hundredths (1432.69) feet, through an angle of sixteen degrees  
33 one minute and twenty-six seconds (16° 01' 26") a distance of

1 four hundred and sixty-eight hundredths (400.68) feet, to a  
2 point of compound curvature, thence along the arc of a curve  
3 to the right, with a radius of thirty-four thousand one hun-  
4 dred ninety-seven and forty-seven hundredths (34197.47) feet,  
5 through an angle of two degrees fourteen minutes ( $2^{\circ} 14'$ ) of  
6 curvature, a distance of thirteen hundred twenty-eight and  
7 thirty-four hundredths (1328.34) feet, and to a point of com-  
8 pound curvature, thence continuing to the right along the arc  
9 of a curve having a radius of nine hundred fifty-five and  
10 thirty-seven hundredths (955.37) feet, through twenty degrees  
11 three minutes ( $20^{\circ} 03'$ ) of curvature, a distance of three hun-  
12 dred thirty-four and twenty-five hundredths (334.25) feet, and  
13 to a point of tangency; thence along said tangent north thirty-  
14 three degrees fourteen minutes west (N.  $33^{\circ} 14'$  W.), a dis-  
15 tance of thirty-one hundred forty and sixty-seven hundredths  
16 (3140.67) feet, and to a point of curvature to the left, said  
17 tangent in its course intersecting the monument line of Third  
18 Avenue Northwest at a point one hundred eighty-two and eight-  
19 tenths (182.8) feet northerly from the monument in Third Avenue  
20 Northwest at the northerly line of the Government Canal right  
21 of way, said distance being measured along the line produced  
22 northerly between the aforesaid monument and the monument at  
23 the intersection of Third Avenue Northwest and Kilbourne  
24 Street, also intersecting the monument line in West Forty-  
25 second Street one hundred sixty-six and eight-tenths (166.8)  
26 feet westerly from the monument at the intersection of Sixth  
27 Avenue Northwest and West Forty-second Street, said distance  
28 being measured along the line between the aforesaid monument  
29 and the monument at the intersection of Eighth Avenue North-  
30 west and West Forty-second Street; thence along the arc of a  
31 curve to the left having a radius of seven hundred sixteen and  
32 seventy-eight hundredths (716.78) feet, through an angle of  
33 fifty-six degrees forty-four minutes ( $56^{\circ} 44'$ ) a distance of

1 seven hundred nine and seventeen hundredths (709.17) feet and  
 2 to a point of tangency with the center line of West Forty-  
 3 fifth Street, at a point, as near as may be, where the line  
 4 between Lots Sixteen (16) and Seventeen (17) of Block One Hun-  
 5 dred Seventy-five (175) Gilman Park, produced south, inter-  
 6 sects said center line; thence north eighty-nine degrees fifty-  
 7 eight minutes west (N.  $89^{\circ} 58' W.$ ) along the center line of  
 8 said West Forty-fifth Street, one thousand three hundred  
 9 ninety (1390) feet, more or less, and to a point of curvature,  
 10 said point being one hundred eighty-nine and seven-tenths  
 11 (189.7) feet easterly from the monument at the intersection of  
 12 West Forty-fifth Street and Fifteenth Avenue Northwest, measur-  
 13 ed along the center line of West Forty-fifth Street; thence  
 14 along the arc of a curve to the right having a radius of seven  
 15 hundred sixty-four and forty-nine hundredths (764.49) feet,  
 16 through an angle of twenty-four degrees thirty minutes ( $24^{\circ} 30'$ )  
 17 a distance of three hundred twenty-six and sixty-seven hun-  
 18 dredths (326.67) feet and to a point of tangency with a line  
 19 drawn midway between the main tracks of the Northern Pacific  
 20 Railway and the Great Northern Railway in Shilshole Avenue.

21 Third. Two tracks of standard gauge railway and a  
 22 right of way thirty (30) feet in width for such tracks, the  
 23 center line of which right of way is described as follows:

24 Beginning at a point in Block Four (4) Cross Addition,  
 25 said point being located south thirty-three degrees fourteen  
 26 minutes east (S.  $33^{\circ} 14' E.$ ) six hundred thirty-six and thirty-  
 27 one hundredths (636.31) feet distant from a point in the monu-  
 28 ment line in West Forty-second Street, which said last men-  
 29 tioned point is one hundred eighty-two and thirty-one hun-  
 30 dredths (182.31) feet westerly from the monument at the inter-  
 31 section of Sixth Avenue Northwest and West Forty-second Street  
 32 measured along a line between the aforesaid monument and the  
 33 monument at the intersection of Eighth Avenue Northwest with

1 West Forty-second Street; thence westerly from said point  
 2 in said Block Four (4), along the arc of a curve to the left  
 3 having a radius of seven hundred sixty-four and forty-nine  
 4 hundredths (764.49) feet, through an angle of six degrees  
 5 twenty-two minutes ( $6^{\circ} 22'$ ), a distance of eighty-four and  
 6 ninety-one hundredths (84.91) feet, and to a point of compound  
 7 curvature; thence continuing to the left, along the arc of a  
 8 curve having a radius of five hundred seventy-three and sixty-  
 9 nine hundredths (573.69) feet, through an angle of eighty de-  
 10 grees twenty-seven minutes ( $80^{\circ} 27'$ ), a distance of eight hun-  
 11 dred five and fifty-two hundredths (805.52) feet, and to a  
 12 point of compound curvature; thence continuing to the left,  
 13 along the arc of a curve having a radius of fifteen hundred  
 14 twenty-eight and sixteen hundredths (1528.16) feet, through  
 15 an angle of three degrees eleven minutes ( $3^{\circ} 11'$ ) a distance  
 16 of eighty-four and eighty-nine hundredths (84.89) feet, and to  
 17 a point of tangency, which said point is, as near as may be,  
 18 on the northerly margin of Block One (1) Seattle Tide Lands,  
 19 distant forty-six (46) feet westerly from the northeast corner  
 20 of said Block One (1), thence south fifty-six degrees forty-six  
 21 minutes west (S.  $56^{\circ} 46'$  W.) a distance of four hundred nine-  
 22 ty-two and twenty-seven hundredths (492.27) feet, more or less  
 23 to a point of curvature (said tangent in its course crossing  
 24 Salmon Bay Waterway); thence along the arc of a curve to the  
 25 right, having a radius of seven hundred sixty-four and forty-  
 26 nine hundredths (764.49) feet, through an angle of fifty-four  
 27 degrees thirty-seven minutes ( $54^{\circ} 37'$ ) a distance of seven  
 28 hundred twenty-eight and seventy-four hundredths (728.74)  
 29 feet and to a point of tangency; thence north sixty-eight de-  
 30 grees thirty-seven minutes west (N.  $68^{\circ} 37'$  W.) a distance of  
 31 one hundred eighty and eighty-nine hundredths (180.89) feet,  
 32 more or less, and to a point in the Northern Pacific right of  
 33 way, at a point as near as may be ten (10) feet east of and  
 5.

1 one hundred twenty-five (125) feet north of the southwest  
 2 corner of Lot Three (3), Block Forty-seven (47) Gilman's Ad-  
 3 dition to the City of Seattle.

4 Fourth. Two (2) tracks of standard gauge railway and a  
 5 right of way thirty (30) feet in width for such tracks, the  
 6 center line of which right of way is described as follows:

7 Beginning at a point in Block Two (2) Fern Addition, said  
 8 point being located north thirty-three degrees fourteen min-  
 9 utes west (N.  $33^{\circ} 14'$  W.) five hundred fifty-six and three  
 10 hundred fifteen thousandths (556.315) feet from a point in  
 11 the monument line in West Forty-second Street, said last men-  
 12 tioned point being one hundred eighty-two and thirty-one hun-  
 13 dredths (182.31) feet westerly from the monument at the inter-  
 14 section of Sixth Avenue Northwest and West Forty-second Street,  
 15 measured along the line between the aforesaid monument and  
 16 the monument at the intersection of Eighth Avenue Northwest  
 17 with West Forty-second Street; thence easterly along the arc  
 18 of a curve to the right having a radius of seven hundred sixty  
 19 -four and forty-nine hundredths (764.49) feet through an angle  
 20 of six degrees twenty-two minutes ( $6^{\circ} 22'$ ) a distance of eighty-  
 21 four and ninety-one hundredths (84.91) feet, and to a point  
 22 of compound curvature; thence continuing to the right, along  
 23 the arc of a curve having a radius of five hundred seventy-  
 24 three and sixty-nine hundredths (573.69) feet, through an  
 25 angle of eighty degrees twenty-seven minutes ( $80^{\circ} 27'$ ), a  
 26 distance of eight hundred five and fifty-two hundredths (805.52)  
 27 feet and to a point of compound curvature; thence continuing  
 28 to the right along the arc of a curve having a radius of fif-  
 29 teen hundred twenty-eight and sixteen hundredths (1528.16)  
 30 feet, through an angle of three degrees eleven minutes ( $3^{\circ} 11'$ )  
 31 a distance of eighty-four and eighty-nine hundredths (84.89)  
 32 feet and to a point of tangency, coincident with the point of  
 33 tangency on the northerly line of Block One (1) Seattle Side

1 Lands hereinbefore described.

2 The rights of way hereinabove granted are intended in  
3 all ordinary cases to provide a clearance of seven and one-  
4 half (7-1/2) feet from the center line of each track, but in  
5 case of the erection or construction of abutments for bridges  
6 to be carried over any of said tracks by the City of Seattle,  
7 or its grantees, it is hereby expressly agreed that a clear-  
8 ance of not less than nine (9) feet shall be provided between  
9 the center of the nearest track or right of way for such track  
10 and any such abutment.

11 Section 3. The grant in this ordinance contained is  
12 made expressly subject to the following conditions and re-  
13 quirements, to-wit:

14 First. The City of Seattle shall retain the same con-  
15 trol of the streets, avenues, and alleys in and across which  
16 said railway tracks shall be laid down as over other streets,  
17 avenues, and alleys, and shall have the right at all times,  
18 by general ordinance, to regulate the speed of locomotives and  
19 trains within the limits of the rights of way herein granted,  
20 and the maximum period of time for which such locomotives,  
21 cars, and trains shall be allowed to blockade travel along  
22 and across the streets embraced in this grant, or intersecting  
23 streets, and shall have such further control and police power  
24 over such rights of way as the City charter and state laws  
25 may now or hereafter permit.

26 Second. The City of Seattle hereby reserves to itself  
27 and its grantees the right to carry all water mains, sewer  
28 mains, gas pipes, conduits, and other public utilities under-  
29 neath and wires above any and all tracks herein authorized,  
30 below any and all bridges that may be constructed under the  
31 provisions of this ordinance, and underneath or wires above  
32 all streets which may be vacated concurrently with or after  
33 the enactment of this ordinance, and reserves the right of

1 access to any spaces occupied by such tracks within the limits  
2 of any streets, alleys, or avenues, and the right to open the  
3 ground beneath said tracks for all purposes of construction,  
4 maintenance, repair, operation, and inspection of any such  
5 public utilities; which rights shall be exercised, however,  
6 so as to interfere as little as practicable with the use of  
7 said tracks, and so as to leave the right of way occupied  
8 thereby restored to as good condition as prior to any exercise  
9 of such rights.

10 Subject to the rights herein reserved by the city, the  
11 grantees herein, its successors and assigns, may occupy and use  
12 any of the spaces within the limits of any such streets for  
13 the travel on which it is herein provided bridges may in the  
14 future be required to be constructed, between the abutments of  
15 such bridges (but not in such manner as to hinder access to  
16 and beneath such spaces for the construction, maintenance,  
17 repair, alteration, and inspection of any one of such public  
18 utilities, nor to increase the cost thereof to the city or its  
19 grantees), for the construction, maintenance, and use therein  
20 of buildings, platforms, driveways, tracks, and any and all  
21 other railway facilities or necessities.

22 Third. Whenever any of the tracks herein authorized  
23 shall run along or across any street, avenue, or other public  
24 place in said city, other than such streets, if any, as shall  
25 be vacated by ordinance or ordinances of the City of Seattle  
26 enacted concurrently with or subsequently to the enactment of  
27 this ordinance, said grantee, its successors or assigns, shall,  
28 to such width or extent within its right of way as the City  
29 of Seattle may from time to time by ordinance require to be  
30 improved, cause such parts of the streets, avenues, or other  
31 public place lying within the right of way of such tracks as  
32 herein defined, to be graded, planed, paved, or otherwise  
33 improved, whenever the adjoining parts of such streets, avenues

1 or other public places shall be so graded, planked, paved, or  
2 otherwise improved by the city, if not hitherto done, or, if  
3 such improvements shall have been already made, to be regraded,  
4 replanked, repaved, or otherwise reimproved, so as to be when  
5 such tracks shall have been constructed and shall be ready for  
6 use, in as good and substantial condition as adjoining parts  
7 thereof, and whenever any such street, avenue, or other public  
8 place, after having been so graded or improved by the city,  
9 shall be regraded, replanked, repaved, or otherwise reimproved,  
10 said grantee, its successors or assigns, shall cause the parts  
11 thereof lying within such right of way of each such track to  
12 be correspondingly regraded, replanked, repaved, or otherwise  
13 reimproved, all such original or subsequent grading or im-  
14 provement to be done wholly at the cost of said grantee, its  
15 successors and assigns, and under the supervision and subject  
16 to the acceptance of the Board of Public Works of the city;  
17 provided, however, that said grantee, its successors or assigns  
18 shall not be required to bear the expense of maintenance of so  
19 much of the flooring or paving of such streets as shall have  
20 been or shall be required to be borne by the owner or owners  
21 of any street railway track or tracks now upon or that may  
22 hereafter be laid down upon such streets respectively by the  
23 terms of the franchise granted or to be granted by said city  
24 authorizing the laying down and maintenance of such tracks  
25 upon such streets, so long as such street railway franchises  
26 respectively shall remain in force; provided, that on that  
27 portion of Ewing Street, established by Ordinance No. 14267,  
28 approved September 26th, 1906, the foregoing provisions as to  
29 grading, planking, and paving the same shall apply only to that  
30 part of the right of way lying to the north of the center line  
31 of said street.

32 Fourth. A. every traveled street crossed at grade by  
33 the rights of way hereinabove granted and at a distance of not

1 more than one hundred (100) feet apart on any street used for  
2 grade travel along the right of way granted herein, where di-  
3 rected by the City of Seattle, the grantee herein, its suc-  
4 cessors or assigns, shall erect, and at its or their own cost  
5 and expense maintain lamps of equal power with the lamps main-  
6 tained by the City of Seattle at street crossings in the cen-  
7 tral business part of the city, and shall keep each of said  
8 lamps illuminated during the same hours of the night during  
9 which the street lighting system of the City of Seattle gener-  
10 ally may be in operation, and the streets meeting and forming  
11 a "T" shall come under this provision as well as streets actu-  
12 ally crossed; provided, that at those intersections upon or ac-  
13 cross which other railway tracks may be operated, said grantee  
14 its successors or assigns, shall be required to bear the bur-  
15 den of its proportional part only, such proportion being meas-  
16 ured by the width of the right of way owned by each road at  
17 such intersection.

18 Fifth. Said grantee, by its acceptance of this grant,  
19 does agree and covenant, for itself, its successors and as-  
20 signs, to and with the City of Seattle, to erect and maintain  
21 at all crossings, by its tracks, of streets at grade, all such  
22 safety devices and appurtenances as may be necessary to pro-  
23 tect and facilitate public travel; and with reference to all  
24 parts of said rights of way to protect and save harmless said  
25 city from all claims, actions, or damages of every kind and  
26 description which may accrue to or be suffered by any person or  
27 persons by reason of any defective construction or maintenance  
28 or improper occupation of said rights of way, or by reason of  
29 the negligent operation of said grantee, its successors and  
30 assigns, of its or their railway trains over the rights of  
31 way hereinbefore described. And in case any action or suit  
32 shall be begun against said city for damages arising out of  
33 or by reason of such defective construction or maintenance

1 or improper occupation or negligent operation, said grantee,  
2 its successors or assigns, may, and shall upon notice to it  
3 or them of the commencement of such action or suit, defend the  
4 same at its or their sole cost and expense, and in case judg-  
5 ment shall be rendered against said City in such action or suit,  
6 shall fully satisfy such judgment within ninety-(90) days  
7 after such action or suit shall have been finally determined,  
8 if determined adversely to said city.

9 Sixth. Said grantee, its successors or assigns, shall  
10 allow each owner or occupant of a wharf, warehouse, or indus-  
11 try contiguous to any of the tracks herein authorized, or to  
12 any street, avenue, or other public place along which any of  
13 said tracks shall be constructed and who shall have first pro-  
14 cured from the Board of Public Works of said city a permit  
15 therefor, a spur track connecting the tracks of such railway  
16 with such wharf, warehouse, or industry; provided, however,  
17 that said grantee, its successors and assigns, may, at its or  
18 their option, require that such spur track and all street  
19 grading, planing or paving appertaining to the right of way  
20 of such spur track shall be constructed and maintained at the  
21 expense of such owner or occupant of such wharf, warehouse,  
22 or industry, including the reasonable value of any right of  
23 way, not within a street and requisite therefor, and provided,  
24 further, that any such spur track shall start from such of the  
25 railway tracks in the neighborhood of such wharf, warehouse,  
26 or industry, and which said grantee, its successors and as-  
27 signs, shall own or be entitled to use, as it or they shall  
28 determine upon as the most proper therefor, and shall be sub-  
29 ject to such reasonable rules and regulations as to the opening  
30 and closing of the switch controlling access thereto, and as to  
31 the use of such track, as said grantee, its successors or as-  
32 signs, may from time to time establish. And said grantee,  
33 its successors and assigns, shall have the right to lay down,

1 construct, maintain, and operate any such spur track for the  
2 use of the owner or occupant of any such wharf, warehouse,  
3 or industry, crossing in its course the track or tracks of  
4 any other railway company; provided, however, that in no case  
5 shall said grantee, its successors or assigns, occupy any more  
6 of the right of way of any such other railway company for the  
7 purpose of such crossing than shall be reasonably necessary  
8 therefor, nor shall such space be occupied otherwise than in  
9 the course of the transit of locomotives and cars across the  
10 same in the use of such spur tracks, nor for that purpose any  
11 oftener or longer than shall be reasonably necessary.

12 In case the grantee, its successors or assigns, shall be  
13 the owner or occupant of a wharf or warehouse, or shall desire  
14 to serve any part of its own business, work, or works, with  
15 sidings, spurs, or wyes, the privileges hereinabove granted  
16 to and conferred upon private parties shall be granted, al-  
17 lowed, and extended to said grantee, its successors and assigns.

18 Section 4. In the event that the City of Seattle at any  
19 time in the future shall establish by ordinance that the pub-  
20 lic necessity demands a separation of grades of the railway  
21 lines to be constructed under this ordinance from any street  
22 crossing the same, and determine that the best method of  
23 making the separation of such grades shall be either by build-  
24 ing and maintaining a subway or subways underneath the tracks  
25 of the grantee herein, its successors and assigns, or by the  
26 construction of a bridge or bridges, with suitable approaches,  
27 over the tracks of the grantee herein, its successors and as-  
28 signs, then and whereupon the said grantee, its successors and  
29 assigns, shall, and by the acceptance of this ordinance does  
30 agree that it will, bear an equitable and ratable proportion  
31 of the cost of making and maintaining a separation of grades  
32 between ordinary street traffic and the railways, the cost  
33 whereof shall apply to and be paid proportionately by all

1 companies operating steam or street railways, of any or either  
2 kind or character, crossing such street or streets, but no  
3 such subway or subways shall be required to be built prior  
4 to July first, 1917.

5 The subways or bridges, with approaches, when required,  
6 shall be constructed by and under the authority and direction  
7 of the Board of Public Works of the City of Seattle, and shall  
8 at all times be under the sole control and supervision of the  
9 City of Seattle, and the said grantee, for itself, its succes-  
10 sors and assigns, hereby waives any claim for damages by reason  
11 of the construction and maintenance of any such subway or  
12 bridges or approaches to any property it or they may own abut-  
13 ting upon or adjacent to such subways, bridges, or approaches,  
14 or any thereof.

15 In the construction of any and all bridges required under  
16 the provisions of this ordinance, the clearance between the  
17 underside of the girders thereof and the top of the rails of  
18 the tracks of the grantee, its successors or assigns, shall  
19 be not less than twenty-two (22) feet.

20 Section 5. At all the places where the track or tracks  
21 herein authorized shall cross any street at grade, the said  
22 grantee, its successors or assigns, shall construct the tracks  
23 so that the top thereof shall be of the same height as the  
24 street grade, and conform thereto, and the same shall be main-  
25 tained in such manner at all times (except where a change is  
26 made because of the construction of a subway or bridge), and  
27 the said city hereby reserves the right under ordinance to be  
28 duly enacted to raise or lower the grades of any streets at any  
29 time, and when the said city shall by such ordinance raise or  
30 lower the grade of any such street, the said grantee, its suc-  
31 cessors or assigns, by the acceptance of this grant, hereby  
32 waives any and all damages that it or they may sustain by  
33 reason of such change of grade. Such waiver is made by the  
13.

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2  
3  
4 grantee hereunder, however, only upon condition that any change  
5 of grade hereafter made by the said city in the streets upon  
6 which the franchise is hereby granted shall not be unreasonable  
7 or such as to interfere with the proper and practical operation  
8 of said line of railway of said grantee, its successors, or  
9 assigns, when the same shall have been adjusted to said new  
10 grade.

11 Section 6. The grant of this franchise, so far as the  
12 same may lie across the Salmon Bay Waterway, is subject to  
13 such rights as may be lawfully exercised by the United States  
14 Government.

15 Section 7. This franchise is granted under the follow-  
16 ing special requirements:

17 First, That the grantee hereunder shall within sixty (60)  
18 days after the taking effect of this ordinance pay into court  
19 and discharge all the obligations incurred by the City of  
20 Seattle in the condemnation proceedings prosecuted under Ordinance  
21 No. 14267, approved September 26th, 1906, providing for  
22 the establishment and acquisition of a certain portion of  
23 Ewing Street in the City of Seattle.

✓ 24 Second. That for the purpose of widening Forty-fifth  
25 Street between the west line of Ninth Avenue Northwest and the  
26 northerly line of Shilshole Avenue, the grantee, its successors  
27 or assigns, shall acquire and dedicate, or cause to be acquired  
28 and dedicated, for street purposes, sufficient land on the  
29 south side of said Forty-fifth Street, between the avenues  
30 aforesaid, so as to make said street between said avenues one  
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1 hundred feet in width, and in case the land for widening said  
2 street shall not be, for any reason, so acquired within twelve  
3 months from the acceptance of this franchise, then and in  
4 such event the City of Seattle shall be, and is hereby authori-  
5 zed to forthwith acquire the same for street purposes, under  
6 the law of eminent domain, at the cost and expense of the  
7 grantee herein, its successors or assigns.

8 Third. That within twelve (12) months after the taking  
9 effect of this ordinance, the grantee, its successors or  
10 assigns, shall deposit in the City Treasury, the sum of  
11 Forty thousand dollars (\$40,000 <sup>00</sup>/<sub>100</sub>)  
12 to the credit of any fund which may have been established to  
13 defray the cost of opening, extending and establishing Leary  
14 Street from Fremont Avenue to Market Street, in the City of  
15 Seattle.

16 Section 8. The said grantee, its successors or assigns,  
17 shall, within eighteen (18) months from the taking effect of  
18 this ordinance, construct and have in operation at least one  
19 track upon the right of way herein granted as described in  
20 paragraph second of section 2, and the remaining tracks pro-  
21 vided herein shall be constructed at such time or times as the  
22 public necessity shall require.

23 Section 9. In the operation of the tracks authorized  
24 by this ordinance, said grantee, its successors and assigns,  
25 shall have the right to use steam power, or any other motive  
26 power that it may deem suitable, subject to the reasonable con-  
27 trol and regulation of the City of Seattle.

28 Section 10. The rights of way, and all the rights, pri-  
29 vileges, and authorities granted by this ordinance, and all  
30 benefit hereof, shall be assignable by said grantee, its suc-  
31 cessors or assigns, as it or they may at any time see fit,  
32 either as an entirety or as respects any one or more of the  
33

1 tracks or parts of the same embraced within such grants; pro-  
2 vided, however, that no such assignment, either total or  
3 partial, shall be of any force or effect until a copy thereof,  
4 certified as such by the secretary of the assignee or other  
5 officer or person having the proper custody of such assignment  
6 in its behalf, shall be filed in the office of the City Com-  
7 troller, ex-officio City Clerk of the City of Seattle.

8 Section 11. Nothing in this ordinance contained shall  
9 be construed as granting an exclusive franchise or privilege  
10 for the use of any street, avenue, alley, or highway, or other  
11 public place, or any part thereof; and the grant herein con-  
12 tained shall be subject to the right of the City Council at  
13 any time hereafter to repeal, change, or modify said grant,  
14 if the franchise hereby granted is not operated in accordance  
15 with the provisions of such grant, or at all, and the City of  
16 Seattle reserves the right at any time hereafter so to repeal,  
17 amend, or modify said grant.

18 Section 12. In order to claim the benefits of this or-  
19 dinance and to acquire the rights, privileges, and authori-  
20 ties hereby granted, said grantee, its successors or assigns,  
21 must within ninety(90) days after the taking effect of this  
22 ordinance file in the office of the City Comptroller, ex-offi-  
23 cio City Clerk, a copy, duly certified and attested by its  
24 secretary, under its corporate seal, of a resolution duly  
25 adopted by its Board of Directors, accepting the benefits of  
26 this ordinance, and the rights, privileges, and authorities  
27 hereby granted, subject to all the conditions, restrictions,  
28 specifications, and requirements herein expressed, and if such  
29 certified copy of such resolution of acceptance shall not be  
30 filed before the expiration of said time, this ordinance shall  
31 thereupon become void and of no effect.

32 Section 13. All the rights granted hereby, and all the  
33 conditions, restrictions, specifications and agreements

A.

1 expressed in this ordinance shall inure to and for the bene-  
2 fit of, and be binding upon, the successors and assigns of  
3 both the City of Seattle and the grantees herein.

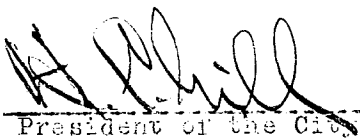
4 Section 14. This ordinance shall take effect and be in  
5 force from and after its passage and approval, if approved by  
6 the Mayor; otherwise it shall take effect at the time it shall  
7 become a law under the provisions of the City Charter.

8 Passed the City Council of the City of Seattle on the  
9 29<sup>th</sup> day of NOVEMBER, 1909, and signed  
10 by me in open session in authentication of its passage, this  
11 29<sup>th</sup> day of NOVEMBER, 1909.

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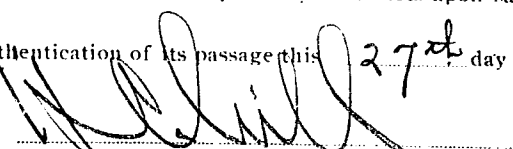
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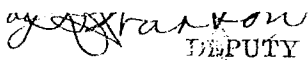
  
President of the City Council.

15

Council Bill No. 7848, after passage by the City  
Council, was duly presented to the Mayor, and having been by him disapproved and returned by him to  
the City Council with his objections thereto in writing, the said objections of the Mayor thereto were  
duly entered at large on the journal of the Council and published in the City Official Newspaper, and  
thereafter the City Council did on DECEMBER 27, 1909, the same being not less than  
five (5) days after such publication, and within thirty (30) days after said bill had been so returned,  
duly reconsider and vote upon said Council Bill, and that upon such reconsideration said Council Bill  
was, on said last mentioned date, again duly passed by said Council by the affirmative vote of more than  
two-thirds of all the members elected to said City Council, and I hereby certify said facts upon said  
Council Bill.

Signed by me in open session as aforesaid in authentication of its passage this 27<sup>th</sup> day of  
DECEMBER, 1909.

  
President of the City Council.

  
DEPUTY CLERK

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