

AMENDED

33253

IN SECTION 2 BY

ORDINANCE NO. _____

ORDINANCE No. 35253

AN ORDINANCE of the City of Seattle granting to the Port of Seattle the right, privilege and authority to locate, lay down, construct, maintain and operate sundry railway tracks in, along and across sundry streets, avenues, alleys and other public places within the limits of said City.

Be it ordained by the City of Seattle as follows:

Sec. 1. GRANT:-- The City of Seattle does hereby grant to the Port of Seattle, in perpetuity, the right, privilege and authority to lay down, construct, maintain and operate sundry tracks of standard guage railway along and across the streets, avenues, alleys and other public places within the limits of said City as specifically described in Route No. 1 contained in Section 2 of this ordinance, together with all needful cross-overs and connections between any of said tracks and any others thereof, or any other track adjacent thereto; and said City does hereby grant to said Port of Seattle the right, privilege and authority, for a period of fifteen years from date of acceptance of this franchise and by ordinance declare its until such time thereafter as the City shall need to use the portions of streets covered thereby for general street purposes, to lay down, construct, maintain and operate sundry tracks of standard guage railway along and across sundry streets, avenues, alleys and other public places within said City as specifically described and designated in Routes Nos. 2 and 3 contained in Section 2 of this ordinance, together with all needful cross-overs and connections between any of said tracks and any other thereof or any other tracks adjacent thereto; together with such additional rights of way for all of the tracks above described or any thereof as shall be requisite for the construction thereon of proper slopes and retaining walls for the roadbed of such tracks; provided, however, that after that part of any street, or avenue crossed by such tracks shall have been graded, no such additional right of way for slopes or retaining walls within the limits of such street or avenue

shall be used.

Sec. 2. The tracks of standard guage railway, the laying down, construction, maintenance and operation whereof are authorized by this ordinance, and rights of way hereby granted for the same, are described as follows:

Route No. 1. Permanent Single Track Franchise:-- A permanent right of way fifteen (15) feet in width for one track of standard guage, the center line of which is described as follows: Beginning at a point in the south line of Spokane Street produced fifty-five and five tenths (55.5) feet west of the east line of Whatcom Avenue; thence north in a straight line fifty-five and five tenths (55.5) feet west of and parallel to said east line of Whatcom Avenue to an intersection with the north line of the Canal Waterway; thence northerly in said Whatcom Avenue curving to the left with a radius of one thousand one hundred seventy-six and three tenths (1176.3) feet through a total angle of seven (7) degrees, thirty-three (33) minutes and forty-six (46) seconds; thence on a tangent to said curve, a distance of one hundred eighty-two and seventy-eight hundredths (182.78) feet; thence curving to the right with a radius of eleven hundred sixteen and three tenths (1116.3) feet through a total angle of seven (7) degrees, thirty-three (33) minutes and forty-six (46) seconds to a point where it intersects the south line of Block three hundred sixty (360) Seattle Tide Lands, produced west and where it also becomes tangent to a line drawn in said Whatcom Avenue parallel with and ninety-nine and five tenths (99.5) feet west of the east line of said Whatcom Avenue; thence north on said last described line to a point of curve, which point of curve is ten and ninety-eight hundredths (10.98) feet north of the north line of Holgate street produced west ninety-nine and five tenths (99.5) feet; thence on a curve to the right with a radius of seven hundred sixteen and eight tenths (716.8) feet through an angle of thirty-two (32) degrees, sixteen (16) minutes and twenty-three (23) seconds to a point where said curve becomes

tangent to a line drawn parallel with and one hundred nineteen and five tenths (119.5) feet northwesterly of the southeasterly line of Railroad Avenue between lots three (3) and eighteen (18) inclusive of Block three hundred sixty-five (365) Seattle Tide Lands; thence northeasterly on said last described line a distance of two hundred twenty-six (226) feet, more or less; thence on a uniform curve to the left with a radius of twelve hundred ninety-one and five tenths (1291.5) feet through a total angle of fifteen (15) degrees, two (2) minutes and eight (8) seconds, said right of way increasing in width as near as may be uniformly from fifteen (15) feet at the southerly end of described curve to a width of thirty (30) feet at the northerly end of said curve, the termination of said curve being at a point where the curve becomes tangent to a line in Railroad Avenue parallel with and seventy-three (73) feet easterly from the westerly line of Railroad Avenue; thence northeasterly on said last described line in Railroad Avenue to a point fifty and forty-four hundredths (50.44) feet northeasterly from an intersection with the south line of lot fifteen (15) block three hundred twenty-nine (329) Seattle Tide Lands produced westerly; thence on a uniform curve to the left with a radius of five hundred ninety-one and five tenths (591.5) feet through a total angle of seventeen (17) degrees, fourteen (14) minutes and fifteen (15) seconds, to a point in Railroad Avenue where said curve becomes tangent to a line parallel to and sixty-eight (68) feet east of the west line of Railroad Avenue; thence north on a line parallel to and sixty-eight (68) feet from said west line of Railroad Avenue to an intersection as near as may be with the north line of lot eight (8) block three hundred sixty-seven (367) Seattle Tide Lands produced easterly; thence on a reverse curve first to the left and then to the right with radii of eighteen hundred twenty-five and four tenths (1825.4) feet and nineteen hundred seventy and eight tenths (1970.8) feet respectively, each curve through a total angle of three degrees, thirty-six minutes, and eight seconds, said right

of way tapering in width as near as may be uniformly from thirty
 (30) feet at the southerly end of said curve to a width of fifteen
 (15) feet at the northerly end of said curve, the termination of
 said curve being a point where the curve becomes tangent to a line
 in Railroad Avenue parallel with and sixty and five tenths (60.5)
 feet east of the west line of Railroad Avenue, said point being
 as near as may be on the north line of lot four (4) Block three
 hundred sixty-seven (367) Seattle Tide Lands, produced east; thence
 north on a line parallel with and sixty and five tenths (60.5) feet
 east of the west line of Railroad Avenue to a point where it inter-
 sects the south line of lot three (3) Block one hundred and ninety-
 nine (199) Seattle Tide Lands, produced east. ~~thence xxxxxx curve to~~
~~the left with a radius of seven hundred and eighty-eight (788) feet~~
~~to a point where said curve would intersect the north line of~~
~~Washington Street produced east~~ Also the right to lay down,
 construct, maintain and operate such tracks as the grantee may see
 fit to construct or may deem necessary for proper interchange
 connections between tracks on last described right of way and the
 tracks of all standard guage railways within the following des-
 cribed limits:-- the south marginal line of Main street on the
 south, the north marginal line of Yesler Way on the north, and the
 east and west marginal lines of Railroad Avenue respectively on
 the east and west. Also the right, privilege and authority to lay
 down, construct, maintain and operate such tracks as the grantee
 may see fit to construct or deem necessary for proper interchange
 connections between tracks on said last described right of way and
 tracks of all other standard guage railways within the following
 described limits:-- the south marginal line of Spokane street on
 the south, the north marginal line of the Canal Waterway on the
 north and the east and west marginal lines of Whatcom Avenue
 respectively on the east and west. Also the right to lay down,
 construct, maintain and operate such tracks for the purpose of
 turnout and cross-over tracks as the said grantee may see fit with-

in the limits of the marginal lines of the streets wherein said above described right of way is located.

Route No. 2. Temporary Interchange Tracks:-- A temporary right of way varying in width from nothing (0) to forty-four (44) feet for as many yard tracks of standard guage as the grantee may see fit to construct therein and described as follows:--

First:-- A right of way extending north from a point in the north line of the Canal Waterway forty-eight (48) feet west of the east line of Whatcom Avenue and increasing uniformly in width from nothing (0) at above described point to forty-four (44) feet measured along the south line of Block three hundred sixty (360) Seattle Tide Lands, produced west, and bounded on the west by part of the easterly line of last described right of way known as Port of Seattle Route No. 1, and on the east by a line forty-eight (48) feet west of and parallel to the east line of Whatcom Avenue.

Second:-- A right of way forty-four (44) feet in width, being a continuation northerly of last described right of way described in section one (1) and the center line of which is described as follows:--Beginning at a point in the south line of Block three hundred sixty (360) Seattle Tide Lands, produced west seventy (70) feet from the east line of Whatcom Avenue; thence north in a straight line parallel to and seventy (70) feet west of said east line of Whatcom Avenue to a point twenty-eight and fourteen hundredths (28.14) feet south of the south line of Holgate street produced west.

Third:-- A right of way extending northerly from and being a continuation of last described right of way described in section two (2) above, and decreasing from a width of forty-four (44) feet, measured along a line twenty-eight and fourteen hundredths (28.14) feet south of and parallel to the south line of Holgate street, to a width of fifteen (15) feet, at a point forty-four and eighty-five hundredths (44.85) feet northeasterly from the intersection of the north line of Lot two (2) Block three hundred sixty-five (365)

Seattle Tide Lands, produced west, with a line in Railroad Avenue fifty-nine and five tenths (59.5) feet northwesterly from and parallel to the westerly line of lots one (1) to three (3) inclusive, Block three hundred sixty-five (365) Seattle Tide Lands, said right of way being bounded on the west, in part, by part of the east line of right of way described as Route No. 1 Port of Seattle permanent franchise, and in part by part of the east line of right of way described as Route No. 8, general franchise of Oregon and Washington Railroad Company, Seattle ordinance No. 18030, and on the east by a line beginning at a point twenty-eight and fourteen hundredths (28.14) feet south of the south line of Holgate street produced west; thence on a curve to the right with a radius of eleven hundred and forty-six and three tenths (1146.3) feet through a total angle of thirty-two (32) degrees, sixteen (16) minutes and twenty-three (23) seconds, said curve being tangent at the south end to a line drawn parallel with and forty-eight (48) feet west of the east line of Whatcom Avenue and tangent at the northerly end to a line drawn in Railroad Avenue parallel with and fifty-two (52) feet northwesterly of the westerly line of lots one (1) to three (3) inclusive of block three hundred sixty-five (365) Seattle Tide Lands.

Fourth:-- A right of way fifteen (15) feet in width, being a continuation northerly of the last described right of way described in section three (3) above, and the center line of which is described as follows:-- Beginning at a point in a line in Railroad Avenue fifty-nine and five tenths (59.5) feet northwesterly from and parallel to the westerly line of lots one (1) to three (3) inclusive, of Block three hundred sixty-five (365) Seattle Tide Lands, forty-four and eighty-five hundredths (44.85) feet northeasterly along said line from an intersection of said line with the north line of lot two (2) Block three hundred sixty-five (365) Seattle Tide Lands, produced west; thence northeasterly in a straight line parallel to and fifty-nine and five tenths (59.5) feet from the

said westerly line of lots one (1) to three (3) inclusive, of Block three hundred sixty-five (365) Seattle Tide Lands, one hundred and seventeen (117) feet more or less; thence on a curve to the left with a radius of fifteen hundred seventy and five tenths (1570.5) feet through an angle of fifteen (15) degrees, two (2) minutes and eight (8) seconds to the point where said curve becomes tangent to a line drawn in Railroad Avenue parallel with and fifty-nine and five tenths (59.5) feet westerly from the easterly line of Railroad Avenue; thence northeasterly on said last described line in Railroad Avenue to a point of intersection with a line thirty (30) feet south of and parallel to the south line of Block three hundred thirty-one (331) Seattle Tide Lands produced west.

Fifth:-- Also the right, privilege and authority to lay down, construct, maintain and operate such tracks as the grantee may see fit to construct or may deem necessary for proper interchange connections between tracks on the rights of way described in Route No. 2 and the tracks of all other standard guage railways within the following described limits:-- the north marginal line of Holgate street on the south, the south marginal line of Connecticut street on the north and the east and west marginal lines of Railroad Avenue respectively on the east and west; and also such tracks as are necessary for the purpose of turnouts and cross-over tracks within the limits of the marginal lines of the streets so occupied.

Route No. 3. Temporary Intermediate Tracks for Distribution:-- a right of way forty-two (42) feet in width for two (2) or more tracks of standard guage, and described as follows:--

First:-- A right of way beginning at a point on the north line of the Canal Waterway ninety-three (93) feet west of the east line of Whatcom Avenue and extending north, increasing uniformly from nothing (0) to a width of forty-two (42) feet at the south line of Block three hundred sixty (360) Seattle Tide Lands produced west,

and bounded on the west by part of the east line of the first route and on the east by part of the west line of the second route described under the general franchise granted the Chicago, Milwaukee and St. Paul Railway, Seattle ordinance No. 13633.

Second:-- A right of way forty-two (42) feet in width extending north and being a continuation of last described right of way, and the center line of which is described as follows:-- Beginning at a point in the south line of Block three hundred sixty (360) Seattle Tide Lands, produced one hundred and fifty-eight (158) feet west of the east line of Whatcom Avenue; thence north in a straight line parallel to and one hundred fifty-eight (158) feet from the said east line of Whatcom Avenue to a point seven hundred seventy-two and five tenths (772.5) feet south of the south line of Holgate street produced west.

Third:-- Also the right, privilege and authority to lay down, construct, maintain and operate such tracks as the grantee may see fit to construct or deem necessary for proper interchange connections between tracks in the rights of way described in Route No. 3 and all other railway tracks; and also such tracks as are necessary for the purpose of turnout and cross-over tracks within the limits of the marginal lines of the streets so occupied.

Sec. 3. The grants in this ordinance contained are made expressly subject to the following conditions and requirements, to-wit:

First. City Retains Control of Streets, Right to Regulate Speed, Obstruction of Streets and Police Powers:-- The City of Seattle shall retain the same control of the streets, avenues and alleys in and across which said railway tracks shall be laid down, as over other streets, avenues and alleys, and shall have the right at all times, by general ordinance, to regulate the speed of the locomotives and trains within the limits of the rights of way herein granted, and the maximum period of time for which such locomotives, cars and trains shall be allowed to blockade travel along and across the streets embraced in said grants, or intersecting

streets, and shall have such further control and police powers over such rights of way as the City Charter and State laws may now or hereafter permit.

Second. City Retains Right to Cross Tracks With Public Utilities:-- The City of Seattle reserves to itself and its grantees the right to carry all water mains, sewer mains, gas pipes, conduits and other public utilities underneath or wires above any street, avenue or other public place which may be vacated concurrently with or after the enactment of this ordinance, and the right of access to any spaces occupied by such tracks within the limits of any such street, avenue or other public place, and the right to open the ground beneath said tracks for all purposes of construction, maintenance, repair, alteration and inspection of any such public utilities; which rights shall be exercised, however, so as to interfere as little as practicable with the use of said tracks and so as to leave the right of way occupied thereby restored to as good condition as prior to any exercise of such rights,

The City also reserves the right to, at any time, make physical connection of any street railway tracks owned or operated by it with any of the tracks hereinabove described, and to transfer freight cars from such street railway tracks to such other tracks, and to have the grantee transfer freight cars from such other tracks to such street railway tracks, said right of transfer to be exercised so as not to interfere with the reasonable and proper operation of either system.

Third. Whenever and wherever any of said tracks is or shall be located in or across a planked or paved street, the grantee shall at its own cost and expense but under the supervision of the City maintain in good order and repair so much of such planking or paving as shall be within the limits of the right of way hereby granted for such track, and whenever and wherever any portion of the right of way hereby granted shall be hereafter paved or repaired by the City, the grantee shall bear and pay to the City any addi-

tional cost of such improvement which shall be due to any heavier construction incident to the use of the surface for railroad purposes.

Fourth. Covenant to Save City Harmless from Damages:-- The grantee, by its acceptance of this grant, does agree and covenant for itself to and with the City of Seattle to erect and maintain at all crossings by its tracks on streets at grade all such safety devices and appurtenances as may be necessary to protect and facilitate public travel and with reference to all parts of said right of way, to protect and save harmless said City from all claims, actions or damages of every kind and description which may accrue to, or be suffered by, any person or persons by reason of any defective construction or maintenance or improper occupation of said rights of way, or by reason of the negligent operation by said grantee of its or any railway trains over the rights of way hereinbefore described. And in case any action or suit shall be begun against said City for damages arising out of or by reason of such defective construction, or maintenance, or improper occupation, or negligent operation, the grantee may and shall upon notice to it of the commencement of such action or suit, defend the same at its sole cost and expense and fully satisfy any judgment which may be rendered against the City in such action or suit.

Fifth:-- Spurs to Wharves and Warehouses:-- The grantee shall allow each owner or occupant of a wharf, warehouse or industry contiguous to any of the tracks herein authorized, or to any street, avenue or other public place along which any of said tracks shall be constructed, and who shall have first procured from the Board of Public Works of said City a permit therefor, a spur track connecting the tracks of such railway with such wharf, warehouse or industry; provided, however, that the grantee may at its option require that such spur track and the street grading, planking or paving of the right of way for the same shall be constructed and maintained at the expense of such owner or occupant of such wharf, ware-

house or industry, including the reasonable value of any right of way, not within a street, requisite therefor, and provided further, that any such spur track shall start from such of the railway tracks in the neighborhood of such wharf, warehouse or industry, and which the grantee shall own or be entitled to use, as it shall determine upon as the most proper therefor, and shall be subject to such reasonable rules and regulations as to the opening and closing of the switch controlling access thereto, and as to the use of such track, as the grantee may from time to time establish. And the grantee shall have the right to lay down, construct, maintain and operate any such spur track for the use of the owner or occupant of any such wharf, warehouse or industry crossing in its course the track or tracks of any other railway; provided, however, that in no case shall the grantee occupy any more of the right of way of any such other railway for the purposes of such crossing than shall be reasonably necessary therefor, nor shall such space be occupied otherwise than in the course of the transit of locomotives and cars across the same in the use of such spur tracks, nor for that purpose any oftener or longer than shall be reasonably necessary.

Sec. 4. The grantee in and by its acceptance of this ordinance agrees that the track mentioned and described in Route No. one (1) contained in Section two (2) of this ordinance shall be subject to the following provisions, to-wit: The City of Seattle herein reserves the right in the exercise of its police powers, to provide, by ordinance, for the separation of grades by the construction and maintenance of a system of overhead bridges or subways wherever such grade separation shall hereafter be deemed necessary, together with the necessary approaches thereto, and to prescribe by ordinance the height, width and character of such bridges, subways and approaches and the time when the same or any portion thereof shall be so constructed, and the grantee in and by its acceptance of this ordinance, consents and agrees to construct and maintain its ratable and equitable proportion as between all of the railway

companies affected thereby of such necessary overhead bridges or subways and approaches thereto, or such portion thereof as may from time to time be lawfully required, by ordinance of said City, to be constructed or maintained by said railway companies; provided, however, that in case any railway company shall hereafter, by ordinances, be granted the right to lay, maintain and operate tracks or the right to the common use of any tracks, on any street or streets in said City, which said tracks shall be afforded any benefit or protection by said overhead bridges and approaches, a like burden in respect to the construction and maintenance of such bridges and approaches shall be imposed upon the holder of such franchise.

Sec. 5. As to any of the tracks herein specified not constructed by the grantee within five (5) years from the date of the acceptance of this ordinance, the City may revoke this franchise for such unconstructed track.

Sec. 6. Motive Power:-- In the operation of the tracks authorized by this ordinance, the grantee shall have the right to use steam power or any other motive power as it may deem suitable, subject to the reasonable control and regulation of the City of Seattle.

Sec. 7. The rights granted by this ordinance shall vest in an electric corporation which shall be created by law the successor of the grantee. The grantee shall not assign the rights or any of them granted by this ordinance to any corporation or person, and any attempt to make any such assignment shall forthwith and without notice operate to terminate and make void every right so granted, but the grantee may by resolution of its Port Commission grant to any railway company heretofore having constructed or hereafter constructing a standard gauge railway to the City of Seattle having or obtaining a franchise from the City of Seattle giving access to any point on either of the routes above described and permitting it to run its engines and cars to such point of access, the right

to run its engines and cars upon the tracks of the grantee constructed under the provisions hereof upon such rates, terms and conditions as shall be prescribed in such resolution; provided, however, that the grantee may not grant such right to use to one railway company upon more favorable rates, terms or conditions than to another, and provided, further, that neither the provisions of this ordinance nor any exercise thereof by the grantee shall operate in any way or degree to amplify, modify or extend the provisions of or rights granted by any other franchise heretofore granted or hereafter to be granted to any railway company by the City of Seattle, and if this ordinance or any provision thereof or the exercise thereof by the grantee shall operate or be judicially held to operate so as to amplify, modify or extend the provisions of or rights granted by any other franchise heretofore granted or hereafter to be granted to any railway company by the City of Seattle then such provision so operating or this ordinance itself, if so operating, shall become inoperative and the rights granted by this ordinance shall forthwith terminate so far as may be necessary to avoid such result.

Sec. 8. Franchise Not Exclusive: May be Repealed or Modified:- Nothing in this ordinance contained shall be construed as granting an exclusive franchise or privilege for the use of any street, avenue, alley or highway, or other public place, or any part thereof; and the grant herein contained shall be subject to the right of

the City Council at any time hereafter to repeal, change or modify said grant, if the franchise granted hereby is not operated in accordance with the provisions of such grant or at all, and the City of Seattle reserves the right at any time hereafter so to repeal, amend or modify said grant.

Sec. 9. Acceptance:-- In order to claim the benefit of this ordinance and to acquire the rights, privileges and authorities hereby granted, the grantee must within sixty (60) days after the taking effect of this ordinance, file in the office of the City Comptroller a copy, duly certified and attested by its secretary, under its corporate seal, of a resolution duly adopted by the Port Commission, accepting the benefit of this ordinance and the right, privileges, authorities hereby granted, subject to all the conditions, restrictions, specifications and requirements herein expressed; and if such certified copy of such resolution of acceptance shall not be so filed before the expiration of said time, this ordinance shall thereupon become void and of no effect.

(To be used for all Ordinances except Emergency.)

Section 10 This ordinance shall take effect and be in force ~~this day~~ from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed the City Council the 15 day of JUNE 191 4

and signed by me in open session in authentication of its passage this 15 day of JUNE 191 4 *A. H. Hoas*

President _____ of the City Council.

Approved by me this 23 day of JUNE 191 4 *J. H. Hoas*

Filed by me this 23 day of JUNE 191 4 *J. H. Hoas*

Attest: *E. H. Carroll*
City Comptroller and Ex-Officio City Clerk.

[SEAL]

By *E. H. Carroll* Deputy Clerk.

Published JUN 24 1914
City Comptroller and Ex-Officio City Clerk.

By *E. H. Carroll* Deputy Clerk.