

Ordinance No. 9116

9116

AN ORDINANCE granting to the Seattle and Montana Railroad Company and the Northern Pacific Railway Co., their successors and assigns, the right, privilege and authority to lay down, operate and construct sundry railway tracks over certain streets in the city of Seattle, etc., etc.,

*Engrossed Bill*

Council Bill No. 738

INTRODUCED:	BY:
REFERRED:	TO:
REPORTED:	
SECOND READING:	
THIRD READING:	
FINAL PASSAGE:	SIGNED:
PRESERVED TO MAYOR:	APPROVED:
FILED:	PUBLISHED:
RECORDED:	BY:
FILED BY:	FILE NO.

*COMPILED BY WALTON & HAZEN*

*51 FOLIO*

*9116*

*9116*

*Tunnel*

*For file in case of the ordinance*

AMENDED

IN SECTIONS 3 & 5 BY

ORDINANCE No. 10545

~~Amended for~~

ORDINANCE NO. 9216.

AMENDED

IN SECTION 8 BY

ORDINANCE No. 12640

An ordinance of the City of Seattle granting to the Seattle and Montana Railroad Company and the Northern Pacific Railway Company, their successors and assigns, the right, privilege and authority to construct and maintain a tunnel and to lay down, construct, maintain and operate sundry railway tracks through the same and at and beyond each end thereof, along, across and beneath sundry streets, avenues, alleys and other public places within the City of Seattle, and upon other property within the limits of said City; and granting to said companies, their successors and assigns, a right of way for said tunnel and said tracks along, across and beneath all said sundry streets, avenues, alleys and other public places of said City.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:-

Section 1. The City of Seattle does hereby grant to the Seattle and Montana Railroad Company and the Northern Pacific Railway Company, their successors and assigns, in perpetuity, the right, privilege and authority to construct and maintain a tunnel designed for the construction, maintenance and operation therein of two main tracks of standard gauge railway, within the limits of said city and along the route hereinbelow approximately specified, and passing beneath all the streets, avenues, alleys and other public places of said City the exterior lines of which would be intersected by the vertical planes bounding said tunnel on either side produced perpendicularly to the surface of the ground; and also the right, privilege and authority to lay down, construct, maintain and operate two main tracks of standard gauge railway throughout the length of said tunnel with extensions of said two main tracks in either direction from the two ends of said tunnel, together with sundry other tracks of standard gauge railway at and beyond each end of said tun-

nel, and together with all needful crossovers and connections between any of said tracks and any other thereof, or any other track, adjacent thereto, along, across and beneath sundry streets, avenues, alleys and other public places of said City, all as is hereinbelow more particularly specified; and also a right of way for said tunnel and said tracks along, across and beneath all said sundry streets, avenues, alleys and other public places of said City, which right of way for said tunnel shall be fifty (50) feet in width, lying twenty five (25) feet on each side of the center line of said tunnel as the same shall be located within the limits hereinbelow prescribed, and which right of way for each of said tracks shall be fifteen feet in width, lying seven and one-half feet on each side of the center line of such track as the same shall be located within the limits hereinbelow prescribed, and such additional width of 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, 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: All which rights, privileges and authorities are hereby granted subject to all the conditions, restrictions, specifications and requirements in this ordinance expressed.

Section 2. The easterly portal or entrance of said tunnel shall be situated at such place within the limits of block 36 of A.A. Denny's Sixth Addition to the City of Seattle, lying between Virginia Street, Western Avenue, Stewart Street and Elliott Avenue, as said grantees, their successors or assigns, may select therefor; and the center line of said tunnel shall run thence in an easterly and southeasterly direction, following such tangents and curves as said grantees, their successors or assigns, may determine upon, to a point to be determined upon by said grantees, their successors or assigns, such that a perpendicular line produced upward from such point would intersect the

surface of Fourth Avenue at a point lying between Spring Street and Marion Street, and not less than twenty-five feet distant from the exterior boundary line of said Fourth Avenue on either side, and from said point the center line of said tunnel, running southeasterly, shall lie in or parallel with a vertical plane passing through the center line of said Fourth Avenue, to a point to be determined upon by said grantees, their successors or assigns, such that a perpendicular line produced upward from such point would intersect the surface of Fourth Avenue at a point lying between James Street and Jefferson Street, and from said last mentioned point the center line of said tunnel shall run in a southeasterly and southerly direction, following such curve or curves as said grantees, their successors or assigns, may determine upon, to the westerly portal or exit of said tunnel, which shall be situated at such place within the limits of the east half of block 18, D.S. Maynard's Plat of the Town of Seattle, lying between Washington Street, Fourth Avenue South, Main Street and the alley running through the center of said block, as said grantees, their successors or assigns, may select therefor. And when said tunnel shall be completed and in operation, its center line as constructed shall be held to be, and shall be, the center line of the right of way herein granted for said tunnel. Said tunnel shall be constructed of such dimensions that, after it shall have been lined with suitable walls and ceiling of concrete or other proper material, it will have a clear width of not less than thirty feet and such height as said grantees, their successors or assigns, shall determine upon as suitable with reference to the passage of trains through said tunnel. The crown of the lining of the roof of said tunnel shall at no point be higher than forty feet above the city datum line.

Section 3. The tracks of standard gauge railway the laying down, construction, maintenance and operation whereof are authorized by this ordinance are as follows:-

First, two main tracks, the center lines whereof shall lie nowhere less than fifteen feet apart and shall begin respectively at such

points in the center lines of the existing main tracks of the Seattle and Montana Railroad Company and the Northern Pacific Railway Company in Railroad Avenue north of Bell Street as said grantees, their successors or assigns, may select, and shall run thence, following such curves and tangents as said grantees, their successors or assigns, may determine upon, along or on either side of Elliott Avenue, but wholly between the center line of Railroad Avenue and a line lying one hundred and twenty feet easterly of and parallel with the easterly line of Elliott Avenue, to the easterly portal or entrance of the tunnel herein authorized, and thence through said tunnel, following the alignment thereof, to the westerly portal or exit thereof, and thence following such curves and tangents as said grantees, their successors or assigns, may determine upon, running between Oriental Avenue on the east and Occidental Avenue on the west, to the north boundary line of the Canal Waterway, as laid out on the map of the Seattle Tide Lands, filed on March 15, 1896, in the office of the Board of State Land Commissioners of the State of Washington, said tracks in their course running along a part of Railroad Avenue, crossing the sundry streets northward of Virginia Street meeting Railroad Avenue on its easterly side, running along a part of Elliott Avenue, as hitherto existing, between Blanchard Street and Virginia Street, crossing Virginia Street, passing beneath the sundry streets, avenues, alleys and other public places of the City of Seattle beneath which the tunnel herein authorized shall pass, and passing beneath Main Street and Jackson Street, crossing King Street between the following points, namely, crossing the north line of King Street between a point fifteen feet east of its intersection with the west line of Oriental Avenue, produced north, and a point one hundred sixty (160) feet west thereof, and crossing the south line of King Street between the west line of Oriental Avenue and a point one hundred sixty (160) feet west thereof, and crossing Connecticut Street, Massachusetts Street, Walker Street, Lander Street and Hanford Street between Oriental Avenue and Occidental Avenue.

Secondly, one or more additional tracks, as said grantees, their successors or assigns, may at any time or times see fit to construct the same, lying between the beginning of the aforesaid two main tracks in railroad Avenue and the easterly portal or entrance of said tunnel, and the spaces occupied or allotted to which shall lie wholly between the center line of Railroad Avenue and a line lying one hundred and twenty feet easterly of and parallel with the easterly line of Elliott Avenue; the center lines of which additional tracks respectively shall be so located, within the limits last above prescribed, and shall follow such curves and tangents, as said grantees, their successors or assigns, may determine upon.

Thirdly, such additional tracks as said grantees, their successors or assigns, may at any time or times see fit to construct, lying between the westerly portal of said tunnel and the south line of King Street, and within the east half of block 18, and blocks 13, 19 and 20, of D. S. Maynard's Plat of the Town of Seattle; the center lines of which tracks respectively shall be so located, within the limits last above prescribed, and shall follow such curves and tangents, as said grantees, their successors or assigns, may determine upon, and which tracks shall pass beneath Main Street and Jackson Street and if running across King Street shall run across the same within the limits of one hundred sixty (160) feet in width, as heretofore described, namely, crossing the north line of King Street between a point fifteen (15) feet east of its intersection with the west line of Oriental Avenue produced north and a point one hundred sixty (160) feet west thereof, and crossing the south line of King Street between the west line of Oriental Avenue and a point one hundred sixty (160) feet west thereof.

Fourthly, such additional tracks as said grantees or either of them, their respective successors or assigns, may at any time or times see fit to construct, occupying the entire space, or any parts thereof,

between King Street on the north, said Canal Waterway on the south, Oriental Avenue on the east and Occidental Avenue on the west; such tracks in their course crossing Connecticut Street, Massachusetts Street, Walker Street, Lander Street and Hanford Street, between Oriental and Occidental Avenues.

Section 4. Said tracks herein authorized shall respectively begin at their present elevations, to wit, at elevations above the city datum line of six and five tenths (6.5) feet, and from the easterly margin of Elliott Avenue they shall be constructed and maintained to and through said tunnel at such elevation or elevations above the city datum line and on such gradients, as said grantees, their successors or assigns, may from time to time determine upon: Provided, however, that wherever said tracks shall pass beneath certain streets, lying northward of King Street, as herein provided for, elsewhere than within the limits of the tunnel herein authorized, the tops of the rails of said tracks shall not be more than seven feet above the city datum line, and that where said tracks shall cross King Street the tops of the rails thereof shall be at an elevation of nine (9) feet above the city datum line and that where any of said tracks south of King Street shall run along or across the area now embraced within any street or alley of the City which shall be vacated concurrently with or after the enactment of this ordinance, or the public travel on which street shall be carried over said tracks on a bridge as herein provided for, such tracks shall be laid within such areas at the elevations above city datum line established as grade elevations for said points by ordinance No. 7732, entitled, "An Ordinance establishing certain grades in the City of Seattle, and repealing all ordinances and parts of ordinances in conflict therewith," approved February 13th, 1902.

Section 5. The grant in this ordinance contained is made expressly subject to the following conditions and requirements, to wit:

First: 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 locomotives and trains within the limits of the right of way herein granted, other than between the portals of said tunnel, and the maximum period of time for which locomotives, cars or trains shall be allowed to blockade travel along or across the streets embraced in this grant, or intersecting streets, and shall have such further control and police powers over said right of way as the City Charter and State laws permit.

Second: Wherever any of the tracks herein authorized shall run along or across any street or alley in said City other than those beneath which they shall run within the tunnel herein authorized, and other than those for the travel on which viaducts shall have been constructed as herein provided for, and other than such streets and alleys, if any, as shall be vacated by ordinance or ordinances of the City of Seattle enacted concurrently with or subsequently to the enactment of this ordinance, said grantees, their successors or assigns, shall cause the parts of such streets or alleys lying within the right of way of each such track, as herein defined and granted, to be graded, planked, paved or otherwise improved whenever the adjoining parts of such streets or alleys shall be so graded, planked, paved or otherwise improved by the City if not hitherto done, or, if such improvement of such streets or alleys shall have already been made, to be regraded, replanked, repaved or otherwise reimproved, so as to be, when such tracks shall have been constructed and shall be ready for use, in as good and substantial a condition as the adjoining parts thereof, and whenever any such street or alley, after having been so graded or improved by the City, shall be regraded, replanked, repaved or otherwise reimproved, said grantees, their successors or assigns, shall cause the parts thereof lying within such right of way of each such track to be correspondingly regraded, replanked, repaved or otherwise reimproved; all such original or subsequent grading or improvement to be done wholly at the cost and expense of said grantees, their successors and assigns, and



under the supervision and control and subject to the acceptance of the board of public works of the city, provided, however, that said grantees, their successors or assigns, shall not be required to bear the expense or maintenance of so much of the flooring or paving of such streets, or of any of the bridges which they are required by this ordinance to construct on certain streets, as shall have been or shall be required to be borne by the owner or owners of any street railway track or tracks now upon or that may hereafter be laid down upon said streets respectively, by the terms of the franchises granted or to be granted by said City authorizing the laying down and maintenance of said tracks upon such streets, so long as such street railway franchises respectively shall remain in force.

Third: At every travelled street intersection crossed at grade by the rights of way hereinabove granted, where directed by the City of Seattle, the grantees hereof, their successors or assigns, shall erect, and at their own cost and expense maintain, lamps of equal power with the lamps maintained by the City of Seattle at street crossings in the central business part of the city, and shall keep each of said lamps illuminated during the same hours of the night during which the street lighting system of the City of Seattle may generally be in operation, and streets meeting and forming a "T" shall come under this provision as well as streets actually crossing; provided that at those intersections upon or across which other railroad franchises may be operated, said grantees, their successors or assigns, shall be required to bear the burden of their proportional part only, such proportion being measured by the width of the right of way owned by each road at such intersection.

Fourth: Said grantees, their successors or assigns, by its or their acceptance of this grant, so each of them for themselves, its or their successors or assigns, agree to protect and save harmless the City of Seattle 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 improp-

er occupation of said right of way, or by reason of the negligent operation by said grantees, their successors or assigns, of their railway trains over the rights of way hereinbefore described. And in case suit or action is commenced against the City for damages arising out of, or by reason of, such defective construction or maintenance or improper occupation or negligent operation, said grantees, their successors or assigns, may, and shall upon notice to it or them of the commencement of such action, defend the same at its or their sole cost and expense, and, in case judgment shall be rendered against the City of Seattle in such suit or action, will fully satisfy such judgment within ninety (90) days after such suit or action shall have been finally determined, if determined adversely to said City.

Fifth: Said grantees, their successors or assigns, shall, at the intersections of the rights of way herein granted with Main and Jackson Streets respectively, construct and maintain overhead bridges to carry travel on such streets above and across said rights of way, which bridges and their abutments shall be built of durable materials and of a permanent character, and to the full width of each of said streets, or to such width as said street may hereafter be widened, and shall bear, and pay to the city upon demand, the cost of reconstructing the following specified parts of streets so as to provide suitable approaches to said bridges, as follows:

That part of Main Street between the east line of Third Avenue South and the west line of Fourth Avenue South, so that it shall run from its present elevation of 21 feet above city datum at its intersection with the east line of Third Avenue South, with a uniform ascent, to an elevation of 35.83 feet above city datum at its intersection with the west line of Fourth Avenue South; that part of Jackson Street between the east line of Second Avenue South and the west line of Fifth Avenue South, so that it shall run from its present elevation of 19.25 feet above city datum at its intersection with the east line of Second Avenue South, with a uniform ascent, to an elevation of 27 feet above

city datum at its intersection with the west line of Third Avenue South, and thence on a level to its intersection with the east line of Third Avenue South, and thence, with a uniform ascent, to an elevation of 29 feet above city datum at a point 60 feet east of the east line of Third Avenue South, thence on a level to a point one hundred and twenty feet east of the east line of Third Avenue South, thence, with a uniform descent, to an elevation of 23 feet above city datum at its intersection with the west line of Fourth Avenue South, and thence, with a uniform ascent, to an elevation of 30.75 feet above city datum at its intersection with the west line of Fifth Avenue South; that part of Third Avenue South between the south line of Main Street and the north line of Jackson Street, so that it shall run from its present elevation of 21 feet above city datum at its intersection with the south line of Main Street, with a uniform ascent, to an elevation of 27 feet above city datum at its intersection with the north line of Jackson Street; and that part of Fourth Avenue South between the south line of Main Street and the north line of Jackson Street, so that it shall run from an elevation of 35.33 feet above city datum at its intersection with the south line of Main Street, with a uniform descent, to an elevation of 23 feet above city datum at its intersection with the northline of Jackson Street: Provided, that nothing in this clause contained shall be deemed to require of said grantees, their successors or assigns, the subsequent maintenance of any of the parts of streets (except the above mentioned bridges thereon) herein required to be reconstructed by them.

Said grantees, their successors or assigns, shall also reconstruct King Street, at the intersection of the rights of way herein granted with the same, so that that part of King Street extending for a distance of 160 feet westward from a line connecting the northeast corner of block 235 of Seattle Tide Lands with a point on the north line of King Street fifteen feet east of its intersection with the west line of Oriental Avenue produced north, shall be at an elevation of nine

feet above city datum: Provided, further, that such reconstruction shall not be required of said grantees, their successors or assigns, by reason of this provision, until the City of Seattle shall have graded or provided in accordance with law for grading that part of King Street lying eastward of said line last described so that said part shall begin, at said line, at an elevation of 18.6 feet above city datum, and for constructing a permanent retaining wall at the break in the grade of said street at said line, the westerly face of which retaining wall shall be as nearly ~~as~~ may be on said line- but said grantees, their successors or assigns, shall bear, and pay to the city on demand, the cost of constructing such retaining wall.

There shall be included in the cost of reconstruction of said parts of streets, to be borne by said grantees and paid by them to the city as aforesaid, the cost of the needful temporary changes in the sewers on Main and Jackson Streets where the tracks herein authorized shall cross the same, and of finally severing the connection between the sewers to the eastward of said points of crossing and the portions of said sewers westward thereof, and also so much of the cost of a sewer running southward along Fourth Avenue South and thence to an outlet in Elliott Bay as shall be entailed by the increase in the size of such sewer needful to provide thereby for such part of the city sewage and drainage as the sewers now existing on Main and Jackson Streets are calculated to discharge; and also the cost of lowering, raising or otherwise changing the water mains on Main and Jackson Streets, at and adjacent to the places where said tracks shall cross the same, in such manner as the board of public works of said city shall direct.

Sixth: Any damages resulting from the reconstruction by said grantees, their successors or assigns, of that part of Main Street between the east line of Third Avenue South and the west line of Fourth Avenue South, that part of Jackson Street between the east line of Second Avenue South and the west line of Fifth Avenue South, that part of Third Avenue South between the south line of Main Street and the north line of Jackson Street, and that part of Fourth Avenue South between the south line of Main Street and the north line of Jackson Street, as said grantees are required to do by the provisions of the

fifth clause of this section, to any property abutting upon said parts of said streets, and the cost of changing the elevations of said streets and avenues from those elevations which have heretofore existed to conform to those prescribed in said fifth clause shall be borne by said grantees, their successors and assigns: Provided, that said grantees by their acceptance of the benefit of this ordinance shall also be deemed to have waived, for themselves, their successors and assigns, and by force of such acceptance shall be bound to save said city harmless from, any claim of damage to any property abutting on the west side of Fourth Avenue South between Yesler Way and King Street.

Seventh: Said reconstruction required of said grantees, their successors or assigns, by the fifth clause hereof shall be done in a workmanlike manner, so as to leave the reconstructed streets in equally as good a condition as they may have been in at the time of the taking effect of this grant.

Eighth: Said grantees shall agree and covenant, in behalf of themselves, their respective successors and assigns, with the City of Seattle in and by their respective acceptances of the benefit of this ordinance hereinbelow provided for, that whenever the City of Seattle shall first have vacated those parts of Massachusetts Street and Walker Street, respectively, lying between Oriental Avenue and Occidental Avenue, by proper ordinances of the city council passed in conformity with law (proper petitions for which vacations, sufficient in law as a basis therefor, said grantees shall also agree and covenant as aforesaid that they will join in, so far as concerns all property owned by them or either of them abutting on said respective streets to be vacated, whenever said city council shall by resolution declare its readiness to vacate said streets upon proper petitions) they, their successors or assigns, will dedicate, for street purposes, as an extension of Holgate Street across the aforesaid terminal grounds, a strip of land running from Oriental Avenue to Occidental Avenue, bounded on the north by the north line of Holgate Street produced westward across said ter-

terminal grounds and on the south by the south line of Holgate Street produced westward across said terminal grounds. And said grantees, their successors or assigns, shall construct and maintain at the intersections of the tracks herein authorized with Connecticut Street, and with Holgate Street when so extended across said terminal grounds, and with Lander Street, overhead bridges extending along said streets respectively from Oriental Avenue to Occidental Avenue, to carry travel on said respective streets above and across said tracks, such bridges respectively to be constructed at such time or times as the City of Seattle by resolution or ordinance of the city council shall require the same to be done, but, as to Holgate Street and Lander Street, not until after Massachusetts Street and Walker Street shall have been vacated and Holgate Street shall have been extended across said terminal grounds as aforesaid. Such bridges and their abutments shall be constructed of proper and suitable materials, and in such manner as may be approved by the City of Seattle, and with a clear height of twenty two (22) feet above the tops of the rails of the tracks crossed thereby, and so as to provide such width of roadways thereon (not exceeding the width of said streets) as the city may from time to time require, at no time less than twenty six (26) feet in width. Said grantees, their successors or assigns, shall build and maintain the entire length of such bridges, with their abutments, from the west line of Oriental Avenue to the east line of Occidental Avenue, but the City of Seattle shall provide for the erection, maintenance and renewal of the approaches of such bridges at either end, without expense to said grantees, their successors or assigns, other than by such assessments for local improvements as may be legally made against property owned by them or any of them: Provided, however, that said grantees by their acceptance of the benefit of this ordinance shall be deemed to have waived, for themselves, their successors and assigns, any claim of damage, by reason of the erection or maintenance of any of said approaches, to any property that they or either of them, their successors

or assigns, may own abutting upon or adjacent to such approaches or any thereof. Said bridges respectively shall be completed and ready for public travel within eighteen months after the City of Seattle shall have required the construction of the same respectively by resolution or ordinance as aforesaid, subject, however, to the limitation hereinabove set forth as to the time when the construction of such bridges on Holgate Street and Lander Street may be required.

Ninth. Temporary bridges over Main Street and Jackson Street may be allowed to be built upon the receipt of a permit for them from the board of public works; provided, said temporary bridges shall not be allowed to remain a longer period of time than two years after the taking effect of this ordinance.

Tenth: The City of Seattle hereby reserves to itself and its grantees the right to carry all water mains, sewer mains, gas pipes, conduits, subways and other public utilities underneath any and all tracks herein authorized, below any and all bridges herein provided for, and underneath all streets which may be vacated concurrently with or after the enactment of this ordinance, and reserves the right of access to any spaces occupied by such tracks within the limits of any such streets or alleys, 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 a condition as prior to any exercise of such rights. Subject to said rights herein reserved by the city, the grantees herein, their successors or assigns, may occupy and use any of the spaces within the limits of any such street for the travel on which it is herein provided that bridges shall be in the first instance or may in future be required to be constructed, between the abutments of such bridges (but not in such manner as to hinder access to and beneath such spaces for the construction, maintenance, repair, alteration or inspection of any of said public utilities, nor to increase the cost thereof to said city or its grantees), for the construction, maintenance and use thereon of buildings, platforms, driveways and other railway facilities for terminal purposes.

Eleventh: Said grantees, their successors or assigns, shall allow each owner or occupant of a wharf or warehouse contiguous to any of the tracks herein authorized, or to any street, avenue or other public place along or across which any of said tracks shall be constructed (within the district lying between the east line of First Avenue South on the west, the west line of Fourth Avenue South on the east, the southerly line of the Seattle Boulevard produced northwestwardly on the north and the north line of the Canal Waterway on the south- provided, however, that no spur track authorized by this clause shall run lengthwise of any cross street now existing or hereafter to be opened connecting said First Avenue South with said Fourth Avenue South, nor in any place where such track will interfere with the construction of necessary approaches to overhead bridges), 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 said railway with such wharf or warehouse: Provided, however, that said grantees, their successors or assigns, may at their option require that such spur track shall be constructed and maintained at the expense of such owner or occupant of such wharf or warehouse including the cost or 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 or warehouse and which said grantees or one of them, their respective successors or assigns, shall own or be entitled to use, as they 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 said grantees, their successors or assigns, may from time to time establish. And said grantees, their successors or assigns, shall have the right to construct, maintain and operate any such spur track for the use of the owner or occupant of any such wharf or warehouse, crossing in its course the track or tracks of any other railway company: Provided, however, that in no case shall said grantees, their successors or assigns, occupy any more of the right



of way of any such other railway company for the purpose of such crossing than shall be reasonably necessary for such crossing, 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 track, nor for that purpose any oftener or longer than shall be reasonably necessary.

Twelfth: Said grantees, their successors or assigns, shall begin work upon the construction of the tunnel and tracks herein authorized within three months after this ordinance shall take effect, and shall complete the construction of said tunnel and of the two main tracks herein authorized to be constructed through the same, from their initial point northward of said tunnel to the southerly line of King Street, so that said tunnel and said tracks for said distance shall be ready for use for railway traffic, within two years after this ordinance shall take effect. And if said work shall not be begun within the time in this clause prescribed, or if said tunnel and said tracks shall not be completed and ready for use to the extent aforesaid within the time in this clause prescribed, then, unless the beginning of said work or the completion of said tunnel and said tracks to the extent aforesaid, as the case may be, shall have been prevented by injunctions, unavoidable delays in condemnation suits, strikes, riots, or some occurrence beyond the control of said grantees, their successors or assigns, the city council of said city shall have the right, after sixty days' notice to said grantees, their successors or assigns, to declare, by ordinance, the forfeiture of all rights, privileges and authorities herein granted.

Thirteenth: Said grantees or one of them, its or their successors or assigns, shall begin work within six (6) months after this ordinance shall take effect, upon the construction of a suitable and commodious passenger station designed to cost, when completed, not less than the sum of two hundred thousand dollars (\$200,000), and to furnish proper facilities for handling the passenger traffic of all railroads now running passenger trains or cars into the City of Seattle,

and shall expend in the construction of such passenger station, and of the platforms and train sheds to be used in connection therewith, at least the sum of one hundred thousand dollars (\$100,000) within twelve (12) months after this ordinance shall take effect, and shall have such passenger station in readiness for occupancy and use within eighteen (18) months after this ordinance shall take effect; the main building of which passenger station shall be placed on such site as said grantees, their successors or assigns, may select therefor, lying within the area bounded on the north by King Street, on the east by Oriental Avenue, on the south by a line one thousand feet south of the south line of King Street, and on the west by Occidental Avenue.

Fourteenth: From and after the time when the tunnel herein authorized, and the two main tracks authorized by the first clause of section three of this ordinance, shall have been completed and the running of regular trains along said tracks and through said tunnel shall have been begun, and the passenger station required by the thirteenth clause of this section shall have been completed and shall be ready for use, said grantees, their respective successors and assigns, shall not, nor shall either or any of them run passenger or freight trains along any of those tracks owned or controlled by them or which they shall be entitled to use, situated upon that part of Railroad Avenue lying between Bell Street and King Street, nor make any use of such tracks other than for switching to and from local wharves or warehouses, except between the hours of nine o'clock in the evening and seven o'clock in the morning (provided, further, that no switching shall be done between King Street and Union Street on Railroad Avenue, between the hours of seven o'clock and nine o'clock a.m. nor between the hours of five o'clock and seven o'clock p.m.), and except at such times, if any, as the two main tracks herein authorized shall be unavailable for use by reason of some unavoidable obstruction thereof: Provided, however, that compliance with this requirement shall not be deemed a violation of the condition imposed upon the Seattle and Mon-

tana Railway Company, its successors and assigns, by the eighth clause of section three of ordinance No. 1305 of the City of Seattle, approved March 10, 1890, or of any similar condition imposed upon the Seattle, Lake Shore and Eastern Railway Company, the Seattle and International Railway Company, the Northern Pacific Railway Company, or the Northern Pacific Railroad Company, in and by any ordinance heretofore passed by the City of Seattle granting to either of said companies, its successors and assigns, the right, privilege and authority to lay down, construct, maintain and operate any railway tracks along that part of Railroad Avenue in this clause specified.

Fifteenth: Said grantee the Seattle and Montana Railroad Company shall agree and covenant, in behalf of itself, its successors and assigns, with the City of Seattle, in and by its acceptance of the benefit of this ordinance hereinbelow provided for, that said grantee, its successors and assigns, will, within ninety days after said tunnel shall be completed and in operation, take up and remove all its existing railway tracks laid down and constructed by virtue of the right and authority granted by the City of Seattle to the Seattle and Montana Railway Company, its successors and assigns, in and by ordinance No. 2834 of said city, approved June 13, 1893, as amended by ordinance No. 4061 of said city, approved January 8th, 1896, or all such parts of said tracks as lie within the limits of Railroad Avenue, Jackson Street, First Avenue South, that part of Occidental Avenue, as formerly existing, lying between the south half of block 5, and the south half of block 12, in D.S. Maynard's Plat of the Town (now City) of Seattle, and Second Avenue South, and that it or they will restore all the parts of said specified streets at present occupied by any such tracks to the same condition as the contiguous portions of each of said streets respectively are now in; and that within ninety days after said tunnel shall be completed and in operation, said grantee, its successors or assigns, will rededicate to the public the alleys heretofore vacated in its or their behalf in blocks 4, 5 and 12 of D.S. Maynard's Plat of the Town (now City) of Seattle, and shall rededicate that part of Occi-

dental Avenue heretofore vacated between blocks 5 and 12, in said Maynard's Plat, and that said grantee, its successors or assigns, will dedicate, for street purposes, a strip of land nine (9) feet in width lying along the south side of block nineteen (19) of said Plat, and also a strip of land nine (9) feet in width lying along the east side of blocks eighteen (18) and nineteen (19) of said plat, and also a strip of land eighteen (18) feet in width lying along the east side of block twenty (20) of said Plat, and that said grantee, its successors or assigns, will also dedicate, for street purposes (subject, however, to the right of way for the tunnel and the tracks herein authorized, beneath the area comprised in such dedication), so much of the strip of land next hereinbelow described as lies within the limits of lots five (5), six (6), seven (7) and eight (8) in block seventeen (17) of said D.S. Maynard's Plat, which strip of land shall be seventy-five (75) feet in width, and the southwesterly boundary line of which strip shall be defined by a straight line drawn from a point in the north line of block eighteen (18) of said D.S. Maynard's Plat, nine (9) feet west of the northeast corner of said block, to a point in the center of block seventeen (17), thence by a straight line to the northeast corner of block sixteen (16) of said D.S. Maynard's Plat, and the northeasterly boundary line of which strip shall lie parallel with and seventy-five (75) feet distant, measured at right angles, from said southwesterly boundary line thereof above defined; and that it or they will also file in the office of the city comptroller a copy, duly certified and attested by its or their secretary under its or their corporate seal, of a resolution duly adopted by its or their board of trustees, relinquishing and surrendering all franchises, rights, privileges and authorities granted by the City of Seattle in and by said ordinance No. 2834 and said amendatory ordinance No. 4061, within ninety days after the tunnel herein authorized, and the two main tracks authorized by the first clause of section three of this ordinance, shall have been completed and the running of regular trains along said tracks and through said tunnel shall have been begun; and if said grantee,

its successors or assigns, shall fail to perform such agreement and covenant, then the city council of said city shall have the right, after sixty days' notice to said grantee, its successors or assigns, to cause all said railroad tracks and said parts thereof hereinabove in this clause specified to be removed at the expense of the grantee herein, its successors or assigns, and said grantee, its successors and assigns, shall be liable to the city for all the expense of such removal: Provided, however, that neither the agreement and covenant in this clause required, nor the performance of the same, nor anything occurring in consequence of any provision of this clause, shall be deemed or construed to be a breach by said grantee named in said ordinance No. 2834 and said amendatory ordinance No. 4061, or by its successors or assigns, of, or a failure or neglect on its or their part to perform, any condition contained in section 2 of said ordinance No. 2834 as originally enacted or as amended by section 2 of said amendatory ordinance No. 4061, or elsewhere contained in said original or said amendatory ordinance.

Sixteenth: Said grantees shall further agree and covenant, in behalf of themselves, their respective successors and assigns, with the City of Seattle, in and by their respective acceptances of the benefit of this ordinance hereinbelow provided for, that said grantees, their successors and assigns, will, within seven years after this ordinance shall take effect, take up and remove all the existing railway tracks heretofore laid down and now situated upon a strip of Railroad Avenue thirty feet in width running from the south line of Vine Street to the north line of Union Street, the center line of which strip is a line lying parallel with and forty two feet easterly from the westerly margin of said Railroad Avenue between said Vine Street and said Union Street, and that they and each of them will also, within said period of seven years, file in the office of the city comptroller of said city duly certified copies of resolutions duly adopted by the board of trustees of each of said grantees, their successors or assigns, respectively, relinquishing and surrendering all franchises, rights, privileges and authorities granted by the City of Seattle for the construction,

maintenance or operation of said tracks or any tracks upon said strip of Railroad Avenue thirty feet in width, between Vine Street and Union Street, last above defined: Provided, that the agreement and covenant in this clause required shall not take effect or be enforceable against said grantees or either of them, their respective successors or assigns, unless the City of Seattle shall first have vacated, by proper ordinances of the city council passed in conformity with law and taking effect within six months after the filing of proper petitions for such vacations, all that part of Elliott Avenue lying between a line parallel with and one hundred and twenty feet northerly of the northerly line of Blanchard Street, and the northerly line of Virginia Street, and also the easterly half of that part of Elliott Avenue lying between the southerly line of Virginia Street and a line parallel with and sixty feet southerly of the same, and all those parts of Blanchard Street and Lenora Street, respectively, lying between the westerly line of Elliott Avenue and a line parallel with and one hundred and twenty feet easterly of the easterly line of Elliott Avenue, and also all that part of Virginia Street lying between the center line of Elliott Avenue and a line parallel with and one hundred and twenty feet easterly of the easterly line of Elliott Avenue-but in case a petition for the vacation of any of the above specified parts of streets respectively, sufficient in law as a basis for such vacation thereof, shall not be presented to the city council of said city within two years after this ordinance shall take effect, then the failure of the city council to pass an ordinance or ordinances, as hereinabove provided for, vacating any one or more of said parts of streets for which no such petition shall have been filed shall not relieve said grantees, their successors or assigns, from the force of the agreement and covenant in this clause required, but the same shall be enforceable notwithstanding; and provided, further, that neither the agreement and covenant in this clause required, nor the performance of the same, nor anything occurring in con-

sequence of any provision of this clause, shall in any way affect the force of any franchise, right, privilege or authority heretofore granted by the City of Seattle for the construction, maintenance or operation by said grantees, their respective successors and assigns, or by any of their respective predecessors in interest, of any railway track or tracks on any part of Railroad Avenue, except in respect of said railway tracks which are to be removed, and the authority for the construction, maintenance and operation of which is to be relinquished, as in this clause specified.

In case said grantees, their respective successors or assigns, shall fail to perform the agreement and covenant in this clause required (provided the same shall have become and shall remain operative under the foregoing provisions of this clause), then the city council of said city shall have the right, after sixty days' notice to said grantees, their successors or assigns, to cause said railway tracks on said strip of Railroad Avenue thirty feet in width, between Vine Street and Union Street, the removal whereof by said grantees, their successors or assigns, is in this clause provided for, to be removed at the expense of said grantees, their successors or assigns, and said grantees, their successors and assigns, shall be liable to the city for all the expense of such removal.

Section 6. In the operation of the tracks authorized by this ordinance, said grantees, their successors and assigns, shall have the right to use steam power or any other motive power that they or either of them may deem suitable, subject to the reasonable control and regulations of the City of Seattle.

Section 7. The rights of way, and all the rights, privileges and authorities granted by this ordinance, and all benefit hereof, shall be assignable by said grantees, their successors or assigns, or by either of them, its successors or assigns, as to its undivided interest therein, as it or they may at any time see fit, either as an entirety, or as respects any one or more of the tracks, or parts of the same, embraced within the scope of such grants: Provided, however, that no

such assignment, either total or partial, shall be of any force or effect until a copy thereof, certified as such by the secretary of the assignee, or other officer or person having the proper custody of such assignment in its behalf, shall have been filed in the office of the city comptroller.

Section 8. 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 thereby is not operated in accordance with the provisions of said grant or at all, and the City of Seattle also reserves the right at any time hereafter so to repeal, amend or modify said grant.

Section 9. In order to claim the benefits of this ordinance and to require the rights, privileges and authorities hereby granted, said grantees, their respective successors or assigns, must, within sixty days after the taking effect of this ordinance, file in the office of the city comptroller a copy of a resolution, duly adopted by the board of trustees of each of said grantees or of its successors or assigns, which copy shall be duly certified and attested by its secretary under its corporate seal, accepting the benefits of this ordinance and the rights, privileges and authorities hereby granted, subject to all the conditions, restrictions, specifications and requirements herein expressed, and which acceptance by said grantee the Seattle and Montana Railroad Company shall also contain the agreement and covenant with the City of Seattle required in and by the fifteenth clause of section five of this ordinance, and if such certified copies of such resolutions of acceptance shall not be filed before the expiration of said time this ordinance shall thereupon become void and of no effect.

Section 10. This ordinance shall take effect and be in force from and after its passage and approval, if approved by the Mayor;



otherwise it shall take effect at the time when it shall become a law  
under the provisions of the City Charter.

Passed the City Council  
the 5th day of January 1903  
and signed by me in  
open session in authentication  
of its passage this 5th day  
of January 1903

Will R. Barry  
President of the City Council

Approved by me this 6th day of  
January, 1903

J. J. Bremer  
Mayor

Filed by me this 6th day of January  
1903

Jno Riplinger

Published January 7, 1903

Jno Riplinger  
by Gregory H. Deputy Clerk