

Ordinance No. 9119

AN ORDINANCE granting to the Columbia & Puget Sound Railroad Co., its successors and assigns, the right, privilege and authority to lay down, construct, maintain and operate sundry railway tracks along and across sundry streets, etc., etc.,

Amended in Section 2. By Ordinance No. 66225

Engrossed Bill
Council Bill No. 151

INTRODUCED:	BY
REFERRED:	TO
REPORTED:	
BY OR 1 READING:	
THIS READING:	
FINAL PASSAGE:	SIGNED:
PRESENTED TO MAYOR:	APPROVED:
FILED:	PUBLISHED:
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CONFIRMED BY
CITY CLERK

AMENDED ORD 92569

Amended in Section 2 By Ordinance No. 66225
92569

~~A BILL~~ for
ORDINANCE NO. 9119.

An Ordinance of the City of Seattle granting to the Columbia & Puget Sound Railroad Company, its successors and assigns, the right, privilege and authority to lay down, construct, maintain and operate sundry railway tracks along and across sundry streets, avenues and other public places within the City of Seattle, and upon other property within the limits of said city, and granting to said company, its successors and assigns, rights of way for such tracks along and across all such streets, avenues 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 Columbia & Puget Sound Railroad Company, its successors and assigns, in perpetuity, the right, privilege and authority to lay down, construct, maintain and operate sundry tracks of standard gauge railway, as hereinbelow designated and specified, together with all needful crossovers and connections between any of said tracks and any other thereof, or any other track, adjacent thereto, along and across sundry streets, avenues and other public places within the limits of said city; and also a right of way for said tracks along and across all said sundry streets, avenues and other public places of said city, which said right of way shall be fifteen feet in width for each such track herein authorized, lying seven and one half feet on each side of the center line of such track, together with such additional 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.

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

A single track of standard gauge railway, the center line whereof shall be as nearly as may be coincident with the center line of the right of way therefor next hereinbelow specified, and a right of way 15 feet in width for such track, the center line of which right of way shall begin at the intersection of the south boundary line of the City of Seattle with a line drawn parallel with and 22.5 feet east of the west line of Colorado Street in said city, and shall run thence north along said last described line to the north line of the Canal Waterway, as laid out on the map of Seattle tide lands filed on March 15, 1895, in the office of the Board of State Land Commissioners of the State of Washington; and two tracks of standard gauge railway, the center lines of which tracks shall be as nearly as may be parallel with and 7.5 feet distant on either side from the center line of the right of way therefor next hereinbelow specified, and a right of way 30 feet in width for such tracks, the center line of which right of way shall begin at the intersection of the north line of said Canal Waterway with a line parallel with and 15 feet east of the west line of Colorado

street, and shall run thence north along said last described line to a point as nearly as may be at the intersection thereof with the south line of Atlantic street produced westward, thence on a curve to the right with a radius of 955.4 feet, through 17 degrees 14 minutes 15 seconds of curvature, to a point where such curve is tangent to a line in Railroad Avenue parallel with and 133 feet easterly of the westerly line of said avenue, measured at right angles thereto, thence northerly on said last described line to a point as nearly as may be at the intersection thereof with the north line of lot 17 in block 329 of said Seattle tide lands produced westward, thence on a curve to the left with a radius of 955.4 feet, through 17 degrees 14 minutes 15 seconds of curvature, to a point where such curve is tangent to a line in Railroad avenue parallel with and 67 feet west of the east line of said avenue, thence north on said last described line to a point as nearly as may be at the intersection thereof with the north line of lot 8 in block 367 of said Seattle tide lands produced eastward, and thence on a reverse curve, curving first to the left and then to the right, each branch thereof with a radius of 955.4 feet, to a point where the northerly branch of such reverse curve is tangent to a line in Railroad avenue parallel with and 90.5 feet east of the west line of said avenue, which point is as nearly as may be at the intersection of said last described line with an east and west line drawn through the north line of lot 4 in block 367 of said Seattle tide lands - said right of way, however, tapering uniformly, as nearly as may be, from 30 feet in width at the south end of the southerly branch of said reverse curve to 15 feet in width at said last mentioned point, and said two tracks converging into a single track in the course of said reverse curve; and a single track of standard gauge railway,

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the center line whereof shall be as nearly as may be coincident with the center line of the right of way therefor next hereinbelow specified, and a right of way 15 feet in width for such track, the center line of which right of way shall begin at said last mentioned point, to-wit: at the north end of the northerly branch of the reverse curve above designated, and shall run thence north, on a line parallel with and 90.5 feet east of the west line of Railroad Avenue, to the intersection thereof with the center line of Main Street produced westward, thence on a curve to the left with a radius of 262 feet, through 90 degrees of curvature, to a point where such curve is tangent to a line parallel with and 7.5 feet north of the north line of block 199 of said Seattle tide lands, and thence west on said last described line to the inner harbor line of the harbor of the City of Seattle; and a single track of standard gauge railway, the center line whereof shall be as nearly as may be coincident with the center line of the right of way therefor next hereinbelow specified, and a right of way 15 feet in width for such track, the center line of which right of way shall begin as nearly as may be at the intersection of a line parallel with and 195.4 feet south of the south line of Jackson Street, as laid out on said map of said Seattle tide lands, with a line parallel with and 90.5 feet east of the west line of Railroad Avenue, and shall run thence northwesterly, on a curve to the left with a radius of 287.9 feet, tangent at said point of beginning to said last described line in Railroad Avenue, through 90 degrees of curvature, to a point in Jackson Street 7.5 feet south of the north line thereof, thence east, on a tangent parallel with and 7.5 feet south of the north line of said Jackson Street, to the inner harbor line of the harbor of the City of Seattle.

Sec. 3. 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 rights of way herein granted, 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 such right of way as the City Charter and State laws permit. And said city reserves to itself and its grantees the right to carry all water mains, sewer mains, gas pipes, conduits and other public utilities, underneath any and all of the tracks herein authorized, below any and all bridges herein provided for, and underneath 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 a condition as prior to any exercise of such rights.

Second: Whenever any of the tracks herein authorized shall run along or across any street, avenue or other public place in said

city, other than those for the travel on which overhead bridges shall have been constructed as herein provided for, and other than such streets, if any, as shall be vacated by ordinance or ordinances of the City of Seattle enacted concurrently with or subsequent to the enactment of this ordinance, said grantee, its successors or assigns, shall cause the parts of such streets, avenues or other public places 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, avenues or other public places shall be so graded, planked, paved or otherwise improved by the city, if not hitherto done, or, if such improvement shall have been already 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, avenue or other public place, after having been so graded or improved by the city, shall be regraded, replanked, repaved or otherwise reImproved, said grantee, its 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 of said grantee, its 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 grantee, its successors or assigns, shall not be required to bear the expense of maintenance of so much of the flooring or paving of such 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 such

streets respectively, by the terms of the franchises granted or to be granted by said City authorizing the laying down and maintenance of such 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 grantee herein, its successors or assigns, shall erect, and at its or 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 generally may 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 grantee, its successors or assigns, shall be required to bear the burden of its proportional part only, such proportion being measured by the width of the right of way owned by each road at such intersection.

Fourth: Said grantee, by its acceptance of this grant, does agree and covenant, for itself, its successors and assigns, to and with the City of Seattle, 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, its successors or assigns, of its or their 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, said grantee, its successors or assigns, may, and shall upon notice to it or them of the commencement of such action or suit, defend the same at its or their sole cost and expense, and, in case judgment shall be rendered against said city in such action or suit, shall fully satisfy such judgment within ninety (90) days after such action or suit shall have been finally determined, if determined adversely to said city.

Fifth: Said grantee, its successors or assigns, shall allow such 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 ~~xxxxxx~~ 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 spurtrack connecting the tracks of such railway with such wharf or warehouse: Provided, however, that said grantee, its successors or assigns, may at its or their option require that such spurtrack shall be constructed and maintained at the expense of such owner or occupant of such wharf or warehouse, including the reasonable value of any right of way not within a street requisite therefor, and provided further that any such spurtrack shall start from such of the railway tracks in the neighborhood of such wharf or warehouse and which said grantee, its successors or assigns, shall own or shall be entitled to use, as it or 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 tracks, as said grantee, its successors or assigns, may from time to time establish. And said grantee, its successors and assigns, shall have the right to lay down, construct, maintain

and operate any such spurtrack 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 grantee, its 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 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 spurtrack, nor for that purpose any oftener or longer than shall be reasonably necessary.

Sixth: Said grantee, its successors or assigns, shall construct and maintain at the intersections of the tracks herein authorized with Connecticut Street, Holgate Street and Lander Street respectively, overhead bridges 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.) 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 widths of said streets) as the city may from time to time require, but at no time less than twenty-six (26) feet in width, and the length of each of said bridges between the abutments shall be equal to the entire width of the street or avenue spanned thereby, provided, however, that such bridges at Holgate and Lander streets respectively may be erected with one or more intermediate supports between the abutments thereof, of such number and at such places as

the Board of Public Works of said city shall approve, and that such bridge at Connecticut street may be erected with three or more intermediate supports between the abutments thereof, one of which shall be erected with its west face as nearly as may be on a line parallel with and twenty-two feet west of the east line of Railroad Avenue and another of which shall be erected with its east face as nearly as may be on a line parallel with and eighty-two feet west of the east line of Railroad Avenue, and the others of which shall be of such number and erected at such places as the Board of Public Works shall approve; and provided further, that in case any other railroad company shall hereafter be authorized to lay down any railroad tracks in that part of Railroad Avenue, lying west of said grantee's tra . herein authorized, crossing Connecticut street, or in Colorado Street crossing Holgate and Lander streets, or either of them, a proportionate part of the cost of construction of so much of the overhead bridges on Connecticut, Holgate and Lander streets hereinabove required as may then be not yet constructed, and a proportionate part of the expense of maintenance thereafter of said entire bridges, shall be devolved upon such other railroad company by the terms and conditions of the grant authorizing it to lay down such tracks. Said grantee, its successors or assigns, shall build and maintain such bridges, with their abutments, throughout the entire length thereof between the outer lines of the abutments, but the City of Seattle shall provide for the erection, maintenance and renewal of the approaches thereof at either end, without expense to said grantee, its successors or assigns, other than by such assessments for local improvements as may be legally made against property owned by it or them; Provided, However, that said grantee by its acceptance of the benefit of this ordinance shall be deemed to have waived, for itself, its successors and assigns, any claim of damage, by reason of the erection or maintenance of any of said approaches, to any property that it, its 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, and the construction thereof shall be carried on so as to interfere as little as practicable with the use of said streets for public travel.

Seventh: Said grantee, its successors or assigns, shall begin work upon the construction of the tracks herein authorized within three months after this ordinance shall take effect, and shall complete the construction of at least one of the tracks herein authorized, from the south boundary line of the city continuously to an intersection with the center line of Main street produced westward, so that such track for that 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 one of 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 such track 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 grantee, its successors or assigns, the city council of said city shall have the right, after sixty days' notice to said grantee, its successors or assigns, to declare, by ordinance, the forfeiture of all rights, privileges and authorities herein granted.

Eighth: Said grantee shall agree and covenant, in behalf of itself, its successors and assigns, with the City of Seattle, in and by the acceptance of the benefit of this ordinance hereinbelow provided for, that said grantee, its successors or assigns, will take up and remove all its railway tracks at present occupying any part of the area bounded by the north line of Washington street on the north, the east line of Fourth avenue south on the east, the north line of Connecticut street on the south, and the east boundary

line of the right of way for new tracks granted to it by this ordinance on the west, and that it or they will also remove its coal bunkers at present situated in or near King Street produced westward and the trestle approaches leading thereto, and all its buildings lying within the limits of King Street, and that it or they will restore all streets, avenues and other public places, or parts thereof, at present occupied by any such tracks, coal bunkers, trestle approaches and buildings to a condition suitable for their use for general public travel, and will relinquish to said city all its interest in that certain franchise granted by Ordinance No. 3919 of the City of Seattle, entitled "An Ordinance granting

to the Columbia & Puget Sound Railroad Company, its successors and assigns, the right and authority to locate, lay down, construct, maintain and operate railway tracks along, upon and over certain public streets and alleys of the City of Seattle," approved the 4th day of September, 1895, so far as any of the tracks thereof, or any of the right of way thereof, may be concerned, lying in Railroad Avenue of Dearborn Street between the intersection of said Railroad Avenue with the center line of Washington Street and the south line of Dearborn Street, 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 heretofore granted by the City of Seattle in respect of the maintenance, use or operation of said railway tracks, coal bunkers and trestle approaches so to be removed, and all rights of way therefor conferred in the grant of any such franchises, rights, privileges or authorities, all within two years after this ordinance and an ordinance of the City of Seattle vacating that part of Dearborn Street (formerly Alaska Street), lying west of First Avenue South, shall take effect; and if said grantee, its successors and

assigns, shall fail to perform such agreement and covenant, the city council of said city shall have the right, after sixty days' notice to said grantee, its successors or assigns, to cause all such railway tracks, coal bunkers and trestle approaches 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 re-

quired, nor the performance of the same, nor anything occurring in consequence of any provision of this clause, shall in any way affect the force of any such franchise, right, privilege or authority heretofore granted by the City of Seattle as aforesaid, nor affect any right of way conferred in any such grant, except in respect of said railway tracks, coal bunkers, trestle approaches and buildings to be removed as above specified.

Ninth: Any other railway company hereafter constructing a standard gauge railway to the City of Seattle, upon obtaining a franchise from said city giving it access to any point therein from which it can reach with its cars any point on the tracks hereinbelow specified, shall have the right to the common use with the grantee herein, its successors or assigns, for the running thereon of the cars of such other railway company, on all or any part of those tracks specified in the first clause of section 2 of this ordinance lying between the south boundary line of this city and the center line of Main street produced westward, upon payment to the grantee herein, its successors or assigns, of such monthly or annual rental or other compensation as may be just and equitable, and subject to such reasonable rules and regulations as may be consistent with the prior rights of the grantee herein, its successors and assigns, and as shall not interfere with or impede the transaction and dispatch of the business of the grantee herein, its successors and assigns. And in case such railway company cannot agree with the grantee herein, its successors or assigns, upon the rental or compensation to be paid for such use of said tracks as aforesaid, any controversy or difference between them respecting the proper amount of such rental or other compensation, or respecting the conditions, terms, rules and regulations of such use, shall be submitted to arbitra-

tion in conformity with the law of the state of Washington in that regard, and such submission shall have the same force and binding effect upon the parties thereto as shall be provided by such law in other cases of arbitration.

Tenth: Said grantee shall switch and transfer cars shipped from any non-competitive point on the lines of any other railway company outside the limits of the city of Seattle and delivered via the tracks of the Seattle & Montana Railroad Company or the Northern Pacific Railway Company to said grantee, its successors or assigns, at a point within that part of the city of Seattle bounded on the north by Yehler Way and on the south by the present south boundary line of the city, for transfer to the consignee at a point situated on the tracks of said grantee, its successors or assigns, within said limit, or shipped from a point on the tracks of said grantee, its successors or assigns, within said limit and consigned via the lines of the Seattle & Montana Railroad Company or the Northern Pacific Railway Company to a non-competitive point outside the limits of the city of Seattle, at charges not in excess of the following:

Where the length of the switching service between the point of destination or origin of such shipment on the tracks of said grantee, its successors or assigns, and the point of receipt or delivery of such car from or to either of the other companies above named, measured by the shortest practicable track route, shall not exceed one-half mile, \$1.50 per loaded car.

Where the length of such switching service, as aforesaid, shall not exceed one and one-half mile, \$2.00 per loaded car;

Where the length of such switching service, as aforesaid, shall not exceed two and one-half miles, \$2.50 per loaded car;

Provided, however, that the charge for switching service to and from points on the east shore line shall not exceed \$3.00 per loaded car; and provided further, that where any such switching service shall

involve the crossing of the Canal Waterway upon any drawbridge that may hereafter be constructed over the same, the actual cost of drawbridge service necessitated by such switching may be added to the charges above prescribed therefor.

The above specified charges shall include the service of returning the empty car, or placing the empty car to be loaded, as the case may be. In case an empty car is moved both ways, the charge for the double movement shall be the same as for a loaded car.

Sec. 4. In the operation of the tracks authorized by this ordinance, said grantee, its successors and assigns, shall have the right to use steam power or any other motive power that it or they may deem suitable, subject to the reasonable control and regulation of the City of Seattle.

Sec. 5. The rights of way, and all the rights, privileges and authorities, granted by this ordinance, and all benefit hereof, shall be assignable by said grantee, its successors or assigns, 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.

Sec. 6. 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 such grant or at
(15) all, and the City of Seattle reserves the right at any time here-

after so to repeal, amend or modify said grant.

Sec. 7. In order to claim the benefit of this ordinance and to acquire the rights, privileges and authorities hereby granted, said grantee, its successors or assigns, must within sixty 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 its board of trustees, accepting the benefit of this ordinance and the rights, privileges and authorities hereby granted, subject to all the conditions, restrictions, specifications and requirements herein expressed, and agreeing and covenanting with the City of Seattle as is required in and by the eighth clause of section 3 of this ordinance; and if such a certified copy of such a resolution of acceptance shall not be so filed before the expiration of said time, this ordinance shall thereupon become void and of no effect.

Sec. 8. 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 authentic
testimony of its passage the 5th day of
January 1903.*

*Wm. H. Barry
President of the City Council.*

*Approved by me this 6th day of January 1903
Filed by me this 6th day of January, 1903
(Attest and certify to the
Mayor)*

Published January 7, 1903

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John Riplinger

Deputy Clerk