

## Ordinance No. 9296

An ordinance granting to the Northern Pacific Railway Company its successors and assigns, the right and authority to lay down, construct, maintain and operate a terminal yard with certain road and turnout tracks there-to, upon and over certain public streets and avenues and across certain lots in the City of Seattle, King County, Wash- ington.

ORDINANCE No. 11274

Council Bill No. 503

INTRODUCED:	BY:
July 14-1902	MULLEN
REFERRED:	TO:
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PRESENTED TO MAYOR:	APPROVED:
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ORDER NO. 252	BY 11274
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COMPOSED BY:	FILE NO.

AMENDED  
IN SECTION 3 BY  
ORDINANCE No. 11274

ORDINANCE NO. 9296

AN ORDINANCE granting to the Northern Pacific Railway Company, its successors and assigns, the right and authority to lay down, construct, maintain and operate a terminal yard with certain lead and turnout tracks thereto, upon and over certain public streets and avenues and across certain lands in the City of Seattle, King county, Washington.

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

Section 1. That there is hereby granted to the Northern Pacific Railway Company, its successors and assigns, the right and authority to lay down, construct, maintain and operate a terminal yard with certain lead and turnout tracks thereto, upon and over certain public streets and avenues and across certain lands in the City of Seattle, and the right to construct certain tracks leading from said yard across Hanford street to a Round House to be constructed upon a portion of Block 359, Seattle Tide Lands; all of which rights, privileges and authorities are hereby granted subject to all the conditions, restrictions, specifications and requirements in this ordinance expressed.

AMENDED ORD.  
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Section 2: That the following is a description of the rights of way upon and along which said company, its successors and assigns, is hereby authorized to locate, construct, lay down, maintain and operate a track or tracks of railroad, the same to be known as lead and turnout tracks, leading to its terminal yards, said yards to be located upon Blocks 359, 360, 361, 362, 363, 364, 365 and 366 of the Seattle Tide Lands and across certain of the intervening streets;

A strip of land 30 feet in width, being 7 1/2 feet on the easterly side and 22 1/2 feet on the westerly side of the following described line: Beginning at a point in Colorado street on the north line of the Canal Waterway, which point is 22 1/2 feet

X  
easterly from the westerly line of said Colorado street;thence northerly on a line parallel to and 22 1/2 feet easterly from the westerly line of Colorado street, a distance of 50 feet;thence on a curve to the left, with a radius of 573.7 feet,through 26 degrees 03 minutes of arc, a distance of 260.5<sup>feet</sup>; thence on a curve to the right, with a radius of 573.7 feet, through 26 degrees 03 minutes of arc, a distance of 260.5 feet to a point,which point is 69.9 feet northerly from the north line of Hanford street;thence northerly on the tangent to the last described curve, which tangent is parallel to and 94 feet westerly from the westerly line of Colorado street, to a point in Massachusetts street, which point is about 14 feet north of the south line of Massachusetts street; thence on a curve to the right with a radius of 2864.9 feet through 17 degrees 14 minutes 15 seconds of arc, a distance of 861.9 feet, to a point in Railroad avenue,at which point said curve is tangent to a line parallel to and 170.5 feet easterly from the westerly line of Railroad avenue;thence on said tangent a distance of about 150 feet.

Also, a right of way across, over and upon Forest street, Lander street, Stacey street, Holgate street, Walker street and Massachusetts street between Whatcom avenue and Colorado street to locate, construct, maintain and operate terminal yard tracks between the east side of Whatcom avenue and the west side of Colorado street.

Also, two rights of way 15 feet in width across Hanford street for the purpose of reaching a Round House situated on Block 359, Seattle Tide Lands, as follows:

The center line of the first of said rights of way across said Hanford street, intersecting the north marginal line of said Hanford street at a point Seventy (70) feet east of the west marginal line of Block 360, Seattle Tide Lands, and intersecting the south marginal line of said Hanford street at a

point one hundred ten (110) feet east of the west marginal line of Block 359, Seattle Tide Lands.

The center line of the second of said rights of way across said Hanford street, intersecting the north marginal line of said Hanford street at a point one hundred seven feet (107) east of the west marginal line of Block 360, Seattle Tide Lands, and intersecting the south marginal line of said Hanford street at a point one hundred thirty two (132) feet east of the west marginal line of Block 359, Seattle Tide Lands.

Section 3:: That the grant in this ordinance contained, is made expressly subject to the following conditions and requirements, to wit;

1st 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 rights 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 con-

struction, 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.

Hanford street, between Colorado street and Whatcom avenue, shall not be so occupied or used under this grant as to prevent the free passage of pedestrians and vehicles across the same at grade.

2d Whenever any of the tracks hereunder 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, said grantee, its successors or assigns, shall cause such streets, avenues and other public places lying within the rights of way, as herein defined and granted, to be graded, planked, paved or otherwise <sup>improved whenever</sup> ~~improved whenever~~ the adjoining parts of such streets, avenues or public places shall be so graded, planked 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 re-improved, so as to be 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, planked, paved or otherwise improved by~~ the city, shall be regraded, replanked, repaved or otherwise re-improved, said grantee, its successors or assigns, shall cause the parts thereof, lying within their rights of way, to be correspondingly regraded, replanked, repaved or otherwise re-improved; all such original or subsequent grading or improvement to be done wholly at the cost of said grantee, its successors

or assigns, under the supervision and control, and subject to, the acceptance of the Board of Public Works of the City of Seattle. 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;

3d. At every travelled street intersection crossed at grade by the rights of way hereinabove granted, or, at distances of not more than one hundred (100) feet apart on any street used for grade travel across or along such rights of way, 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.

4th. 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.

5th. That at any time after the acceptance of this grant, the City Council may, by ordinance, require said grantee, its successors or assigns, to construct overhead bridges along or through Forest, Lander, Stacey, Walker and Holgate streets, or either of them, 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 Council, by resolution or ordinance, may require the same to be done, upon eighteen (18) months notice; Provided, however, that no notice to construct such bridge over Forest street, Stacey street or Walker street, or either of them, shall be given before the first day of January, A.D. 1912. Such bridges and their abutments shall be constructed of proper and suitable materials and in such manner as may be approved by the proper officers of the City of Seattle, and with a clear height, not less than twenty-two (22) feet above the tops of the rails of the tracks crossed thereby, and

so as to provide such width of roadway thereon, not exceeding the width 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 each of said bridges shall extend from Colorado street to Whatcom avenue. They may be carried upon such number of supports, properly proportioned to sustain the weight thereof, as may be convenient for operating the tracks of said grantee, its successors or assigns, across said streets. 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 erection and maintenance and renewal of the approaches thereto, at either end, without expense to said grantee, its successors or assigns, under this franchise, 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 or assigns, any claim for damage by reason of the erection or maintenance of any of said bridges to any property it, its successors or assigns, may own abutting upon or adjacent to such bridges or any <sup>of the approaches</sup> thereof.

6th. That said grantee, its successors or assigns, shall begin the construction of said lead and turnout tracks at the northerly end of said terminal yard and the construction of its said terminal yard on Blocks 363, 364 and 365, Seattle Tide Lands, and shall have completed them upon said Blocks 363, 364, and 365, said Seattle Tide Lands, to the extent of having at least ten (10) of said terminal yard tracks constructed and in use thereon, prior to July 1st. A.D. 1903, and shall have completed the southerly lead and turnout tracks, from their point of beginning in Colorado street at the northerly line of the Canal Waterway to a connection with said terminal yard tracks

in said block 363; and shall have continued the construction of said terminal yard to the extent of constructin and operating at least ten (10) terminal yard tracks across Blocks 360, 361, and 362, within six months from the time that said Blocks 360, 361, and 362, Seattle Tide Lands, shall have been filled to the surface grade required under the contract of the Lake Washington Waterway Company with the State of Washington for filling tide lands in Seattle Harbor.

7th. Any other railway company hereafter constructing a standard gauge railway into 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 upon the tracks hereinbelow specified shall have the right to the common use with the grantee, its successors or assigns, for the running thereon of the cars of said other railway company on all or any part of those tracks lying within Colorado street or Railroad avenue, upon payment to the grantee herein, its successors or assigns, of such monthly ~~rental~~ 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 or 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 and assigns, upon the rental or compensation to be paid for such use of said tracks as afore-said, 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 arbitration 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 par-

ties thereto as shall be provided by such law in other cases of arbitration.

Section 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.

Section 5: That 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.

Section 6: That if said grantee, its successors or assigns, shall, at any time, fail or neglect for a period of ninety (90) days to comply with the conditions of this ordinance or any of them, or any other ordinance duly passed in pursuance thereof, it shall be lawful for the City Council of the City of Seattle, unless such failure or neglect shall be the result of or caused by accident or some unusual occurrence, storms, freshets, snow blockades, or any other Act of God, to declare by ordinance the forfeiture of the rights herein granted to the Company so defaulting, whereupon such franchise shall determine and cease.

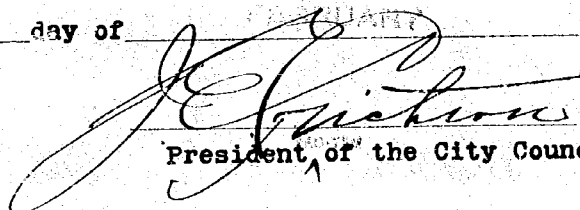
Section 7 : Nothing in this ordinance contained shall be construed as granting an exclusive franchise or privilege for the use of any street, avenue, alley or highway or other public

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 all, and the City of Seattle reserves the right at any time hereafter so to repeal, amend or modify said grant.

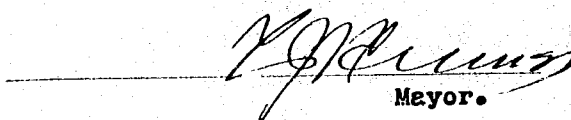
Section 8: In order to claim the benefit of this franchise the grantee, its successors or assigns, shall within thirty days after the taking effect of this ordinance file with the city clerk of the said city its acceptance thereof, in writing, under proper seal executed by the President or Vice President and attested by the Secretary of said road, subject to all of the covenants, terms and conditions herein mentioned; and if said written acceptance be not filed within said time, this ordinance shall be void.

Sec. 9. 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 it shall become a law under the provisions of the City Charter.

Passed the City Council the 23<sup>rd</sup> day of FEBRUARY 1903  
and signed by me in open session in authentication of its passage  
this 23<sup>rd</sup> day of FEBRUARY 1903

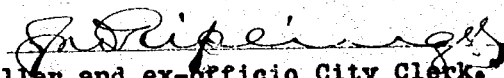
  
President of the City Council.

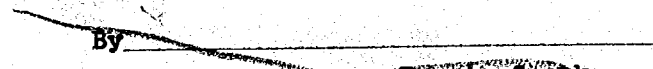
Approved by me this 24<sup>th</sup> day of FEBRUARY 1903

  
Mayor.

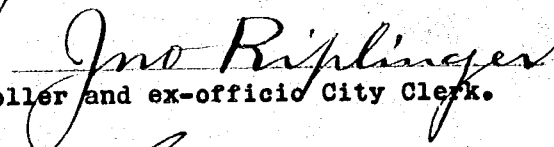
Filed by me this 24<sup>th</sup> day of FEBRUARY 1903

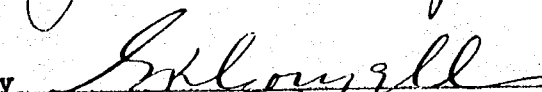
Attest:

  
City Comptroller and ex-officio City Clerk.

By   
Deputy Clerk.

Published 25 1903

  
City Comptroller and ex-officio City Clerk.

By   
Deputy Clerk.