

RESOLUTION

*Dr. J. Speltz*  
VOL 01 FRME 159

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WHEREAS, King County has secured Easement for Auburn-Black Diamond Highway, Approach to Neely Bridge. (R/W 1917)

Grantor: NORTHERN PACIFIC RAILWAY COMPANY, a Wisconsin corporation  
C. R. Blinger, Vice President & H. J. Sackett, Asst. Secretary  
820 Central Bldg.  
Seattle, Washington  
Consideration \$ 400.00 ( for Easement)

The Grantor, NORTHERN PACIFIC RAILWAY COMPANY, a Wisconsin corporation, hereinafter called the Railway Company, for and in consideration of Four Hundred and No/100 Dollars ( \$ 400.00) to it paid and the agreements herein contained does hereby grant to KING COUNTY, a political subdivision of the State of Washington, hereinafter called Grantee:

An easement for use for highway purposes, and for no other purposes, upon the following-described premises situated in King County, State of Washington:

That portion of S.E.¼ S.W.¼ of Section 16, Twp. 21 N.R. 5 E.W.M. illustrated in RED color on Railway Company's map numbered A.C.E. 88-1, dated October 18, 1968 and identified as Exhibit "A", attached hereto and made a part hereof.

Subject to and upon the following express terms, conditions and provisions:

I

The Railway Company, for itself and its successors and assigns, reserves all rights to use the property hereinbefore described for any and all purposes whatsoever not inconsistent with the easement hereby granted, including, but not limited to, the right to construct, maintain, repair, renew, reconstruct, replace and operate present tracks and future tracks, communication, signal electric power pole, private and public lines, utilities and other types of facilities on said property when deemed necessary or expedient to the Railway Company. Rights reserved shall be so exercised as not to damage or interfere with the highway as above defined. This easement is subject to all existing interests of third parties in said property of any kind of nature whatsoever and any and all extensions or renewals thereof.

II.

The Grantee shall at its sole cost and expense provide and maintain culverts corresponding with existing culverts of the Railway Company so as to divert the drainage through the highway grade on the above-described property. If at any time in the future, due to the existence of said highway or due to construction, improvement or any alteration of said highway, drainage conditions should require a change in the existing culverts or the placing of any new culverts through the roadbed of the Railway Company, the Grantee shall bear the entire cost and expense of such work and provide and maintain corresponding culverts through the highway grade, together with the ditches necessary to connect the culverts through the highway and railway embankments, all at its sole cost and expense.

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In the event the construction, maintenance or use of said highway may interfere with or create a hazard to the communication, signal, or electric-power lines, or other pole lines, called "facilities" in the rest of this paragraph, of the Railway Company, the Western Union Telegraph Company or any other person using the Railway Company's property, the Grantee or its contractor shall give the Division Superintendent of the Railway Company of Tacoma, Washington sufficient advance written notice of such eventuality to enable the Railway Company or its permittees to take such corrective action as is deemed necessary at its or their option. In such event, the Grantee shall pay the entire cost and expense of such work, upon receipt of bills therefor. The Grantee shall also pay to the Railway Company or its permittees, as the case may be, the cost of repairing or replacing the facilities arising or growing out of or in any manner connected with the construction or maintenance of said highway.

IV

The Grantee agrees to keep the above-described premises free and clear from combustible materials and to cut and remove or cause to be cut and removed at its sole cost and expense all weeds, brush, trees and other vegetation on said premises, said work of cutting and removal to be done at such times and with such frequency as to prevent the growth of such vegetation from interfering with the wires of any pole line and comply with Federal State and local laws and regulations and abate any and all hazard of fire.

V

The Grantee agrees that in removing snow from said highway it shall perform said work in such a manner so as not to deposit the snow on the roadbed and tracks of the Railway Company. It is understood that the Railway Company, in maintaining its line of road may deposit some snow on the highway, and in the event of such occurrence the Grantee agrees to remove the snow at its expense.

VI

The Grantee further agrees that any contract which it shall let for the construction of said facilities on the right of way of the Railway Company under this easement shall provide that the contractor shall:

a. Assume all liability for and indemnify and save harmless the Railway Company ( and any other railroad company or companies using its tracks with its consent), from and against and at its expense defend the Railway Company ( and such other railroad company or companies) from and against, any and all claims, suits, loss, cost, damage, or expense on account of injuries to or death of any and all persons whomsoever, including the contractor, subcontractors, employees of the contractor, employees of the subcontractors and employees of the Railway Company (and such other railroad company or companies) and on account of any and all damage to property to whomsoever belonging, including property owned by, rented to or in the care of, custody and control of the parties hereto, arising or growing out of, or in any manner connected with the work performed under said contract, for which injury, death or property damage the Railway Company ( or such other railroad company or companies) may be, or be alleged to be, liable, regardless of whether or not the contractor, subcontractors or any other person, firm or corporation may be, or be alleged to be, in whole or in part liable for such injury, death or property damage.

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b. Procure and furnish to the Railway Company the insurance policy or in lieu thereof a certified copy of said policy as provided for in paragraph "c" hereof, together with an endorsement thereto, under the terms of which the insurance company assumes the liability of the contractor hereunder.

c. Carry regular Contractor's Public Liability Insurance providing for a limit of not less than Five Hundred Thousand Dollars (\$ 500,000) for all damages arising out of the bodily injuries to or death of one persons, and subject to that limit for each person, a total limit of not less than One Million Dollars (\$1,000,000) damages arising out of bodily injuries to or death of two or more persons in any one accident, and regular Contractor's Property Damage Liability Insurance providing for a limit of not less than Five Hundred Thousand Dollars (\$ 500,000) for all damages to or destruction of property in any one accident and, subject to that limit, a total ( or aggregate) limit of not less than One Million Dollars ( \$1,000,000 ) for all damages to or destruction of property during the policy period. All such policies and endorsements thereto, executed by a corporation qualified to write the same in the State of Washington, shall be approved by the Railway Company as to the insurance company writing same, the amount, form, and substance thereof, and shall be delivered to the Railway Company prior to the entry upon or use of the Railway Company's property by the Contractor.

VII

The Grantee shall reimburse the Railway Company for any and all expenses incurred by the Railway Company in making changes in its facilities, including the cost and expense of moving or reconstructing any buildings, changes in private road crossings or approaches thereto, or water pipe lines made necessary by the construction of the highway and grade crossings on the Railway Company's property.

VIII

The Grantee agrees that, during construction of the highway project upon the right of way of the Railway Company and during a period of five (5) years thereafter, the Grantee will pay and reimburse the Railway Company for all costs and expenses, including the cost of watchman service, incurred by the Railway Company in correcting any displacement or damage to the Railway Company's track/structure, roadbed, and any other property of the Railway Company caused by or resulting from the construction of said project on said right of way. The Grantee also agrees that the Railway Company shall in no event be liable for any damage to said highway caused by subsidence of the Railway Company's roadbed. The Railway Company shall notify the Grantee in advance of undertaking any work for which reimbursement will be requested unless the work is of an emergency nature.

IX

The Grantee shall pay any and all cost of protecting or flagging such trains as may appear necessary to the Railway Company during the construction, reconstruction, repair or maintenance of said highway.

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X

If the Railway Company enters into a contract or agreement with a contractor to perform any of the work, which the Railway Company is required to perform under the terms of this agreement by reason of the construction of the said facilities, the Railway Company, for itself, its assigns and successors in interest, agrees that it will not discriminate in its choice of contractors and will include all the nondiscrimination provisions set forth in Exhibit "B" attached hereto and made a part hereof, in any such contract or agreement.

XI

In the event that said property shall at any time cease to be used by the public as a street or highway, or shall by operation of law or otherwise become vacated or abandoned, the easement herein granted shall immediately cease and terminate without notice or other proceedings on the part of the Railway Company, and the Grantee, its successors or assigns, shall reconvey immediately said property to the Railway Company.

and,

WHEREAS, said right of way is a useful and necessary part of the County Highway system,

BE IT RESOLVED that said Easement be accepted by King County and the Clerk of the Council be and is hereby authorized to file said Easement for record in the King County Auditor's Office.

BE IT FURTHER RESOLVED that the sum of \$ 400.00 is hereby appropriated from funds accruing to the credit of King County Road Funds under Chapter 127, Laws of 1937, as amended by Chapter 32, Laws of 1943 and Chapter 156, Laws of 1949. Said Project being known as R.W.& E. 7-69 (9)

PASSED this 12<sup>th</sup> day of May, 1969.

*[Signature]*  
Clerk of the Council

*[Signature]*  
Council Chairman

CL:mpm + ac  
Attach: 1 Easement

Approved this 14<sup>th</sup> day of May 1969.

*[Signature]*  
County Executive