

NORTHERN PACIFIC RAILWAY COMPANY

PROPERTIES AND INDUSTRIAL DEVELOPMENT DEPARTMENT

J. T. MOORE,
WESTERN MANAGER,
INDUSTRIAL DEVELOPMENT

916 SMITH TOWER
SEATTLE 4, WASH.
July 27, 1956

M. H. NIXON,
L. M. JENNER,
INDUSTRIAL AGENTS

City of Arlington
Arlington,
Washington

Gentlemen:

Referring to your recent application, I attach hereto in duplicate proposed Indefinite Term Lease No. 81344 in favor of the City to cover the use of a portion of the Railway Company's right of way for a driveway and parking purposes.

If this is satisfactory, please execute both copies and return to this office along with your check in the amount of \$35.00 in payment of the first years rental. After completion by the Railway Company, one fully executed copy will be returned for the City's records.

RDL:bmr
encl.

Yours very truly,

J. T. Moore

Western Manager,
Industrial Development

INDEFINITE TERM LEASE.

No. 81344

NORTHERN PACIFIC RAILWAY COMPANY, hereinafter called Railway Company, hereby leases to
CITY OF ARLINGTON, a municipal corporation of the State of Washington,

hereinafter called
 Lessee, the following premises, at **ARLINGTON** Station in the County of
 Snohomish and State of Washington to-wit:

That portion of the Railway Company's 100-foot right of way for its Sumas Branch in the
 SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 2, Township 31 North, Range 5 East, W.M., lying between two lines parallel
 with and distant respectively 35 feet and 50 feet easterly, measured at right angles, from
 the center line of the Railway Company's main track as now constructed and between a west-
 erly production of the south line of Division Street and a westerly production of the north-
 erly line of Fifth Street.

(Area, approximately 6,060 sq. ft.)

TO HAVE AND TO HOLD subject to the provisions following and until this lease is terminated as hereinafter provided:

1. This lease shall be effective from the date hereof or the effective date if any is hereinafter provided; and the Lessee shall occupy the premises within three months from said effective date for the purpose of maintaining thereon a driveway and parking area.

2. As annual rental the Lessee will pay in advance the sum of thirty-five and no/100 dollars (\$35.00).

3. (a) The Lessee shall pay all taxes and assessments, general and special, becoming due and payable in any calendar year during which this lease is in effect, against so much of said premises and the improvements thereon as may be on the date hereof locally assessed for taxation; provided, however, that the Lessee shall be liable for only that proportion of the taxes and assessments due and payable in the first and last years in which this lease is in effect which the number of months in which this lease is in effect during those years bears to twelve. The Lessee shall also pay all taxes and assessments, general and special, against so much of said premises and the improvements thereon as may not be on the date hereof locally assessed for taxation, beginning with those due and payable in 1957 and all subsequent taxes and assessments ending with those due and payable in the year following the year of termination of this lease.

(b) It is specifically understood and agreed, however, that if any assessment for public improvements exceeds \$100.00 same may be paid by the Railway Company, and the Lessee will pay as additional rental per annum a sum equal to 6% of the total amount thereof.

(c) In case of non-payment of rental, taxes or assessments, the same shall, until paid, constitute a lien upon any building or other property owned by the Lessee located upon the premises, and the lien may be foreclosed according to law. The Lessee shall not remove said buildings or other property until said rental, taxes or assessments, have been paid.

4. ~~Rates being as favorable, the Lessee will do all transportation business over the railroad of the Railway Company.~~

5. All structures erected on the right of way hereunder shall be placed parallel with the main track. The Lessee will paint and keep painted, with the standard color of paint adopted by the Railway Company for its station buildings, or with aluminum paint, any frame building upon the premises. The Lessee will not place or permit to be placed any advertising matter upon any part of the leased premises or upon any improvements thereon ~~except such as is necessary to advertise the Lessee's own business.~~

6. (a) No building erected on the premises shall have a swinging door or window opening towards any railway track, which, when open, will restrict the clearance to less than 8.5 feet from the center line of such track.

(b) The Lessee shall not place or permit to be placed, or to remain, any material, structure, pole or other obstruction within 8.5 feet laterally of the center line, or within 23 feet vertically from the top of the rails, of any track.

(c) The Lessee agrees to indemnify and save harmless the Railway Company from all loss, damage, penalties, costs or judgments that may be assessed against or recovered from it on account of or in any manner growing out of a violation of the provisions of this paragraph 6.

7. (a) It is understood by the parties that the leased premises are in dangerous proximity to the tracks of the Railway Company and that property on the leased premises will be in danger of injury or destruction by fire incident to the operation, maintenance or improvement of the railway, and the lessee accepts this Lease subject to such dangers. It is therefore agreed, as one of the material considerations of this lease without which the same would not be granted, that the Lessee assumes all risk of loss, damage or destruction by fire to buildings or contents or to any other property brought upon or in proximity to the leased premises by the Lessee, or by any other person with the consent or knowledge of the Lessee, without regard to whether such fire be the result of negligence or misconduct of any person in the employ or service of the Railway Company or of defective appliances, engines, or machinery; except to the premises of the Railway Company and to rolling stock belonging to the Railway Company or to others, and to shipments of third parties in the course of transportation. The Lessee hereby indemnifies and agrees to protect the Railway Company from all such loss, damage or destruction to property, including claims and causes of action asserted against the Railway Company by any insurer of said property.

(b) The Lessee also agrees to indemnify, and hold harmless the Railway Company, for loss, damage, injury or death from any act or omission of the Lessee, its invitees, licensees, employees, or agents, to the person or property of the parties hereto and their employees, and to the person or property of any other person or corporation, while on or near said leased premises; and if any claim or liability other than from fire, shall arise from the joint or concurring negligence of both parties hereto, it shall be borne by them equally.

8. It is agreed that the provisions of paragraphs 6 and 7 are for the equal protection of any other railroad company or companies heretofore or hereafter granted the joint use of the Railway Company's property of which the above described premises are a part.

9. Either party may terminate this lease at any time upon thirty (30) days' written notice to the other party. Notice of termination by the Lessee shall be given to the Western Manager, Industrial Development of the Railway Company by United States mail; the Railway Company may give its notice in the same manner to the Lessee at

Arlington, Washington or may serve same personally on the Lessee, or post on the leased premises.

10. Upon the termination of this lease pursuant to the provisions of paragraph 9 the Lessee, before the expiration date fixed in the notice and except as otherwise provided in paragraph 3(c) hereof shall remove its property and improvements from the premises and fill all excavations thereon and in case of failure to do so, the Railway Company may remove such property and improvements and fill the excavations at the cost of the Lessee, or may appropriate the same to its own use without compensation.

NOTE: IF THE LESSEE IS A CORPORATION SIGN THE CORPORATE NAME, THEN THE NAME OF THE OFFICER EXECUTING, FOLLOWED BY HIS TITLE.

11. The Lessee shall not permit the accumulation of any material or refuse on the leased premises or adjacent to the tracks of the Railway Company and will at all times keep same in a clean and sanitary condition.

12. The Railway Company reserves the right at any time to change the grade of its tracks without compensation to the Lessee, and in the event such change is made, or the grade of any highway is changed, the Lessee shall bear all expense necessary to adapt the leased premises and improvements to the changed conditions.

13. The Railway Company reserves the right to maintain its existing facilities and to construct or permit the construction of additional facilities on the leased premises for the benefit of or for the purpose of serving the Railway Company or other lessees of the Railway Company and also the right to enter upon the leased premises for the purpose of constructing, reconstructing, repairing, operating, relocating and removing said facilities.

14. This lease is granted subject to permits, leases and licenses, if any, heretofore granted by the Railway Company affecting the leased premises.

15. (a) Without the written consent of the Railway Company, the Lessee shall not assign this lease or any interest therein, or sublet, and no heir, executor, administrator, receiver, master, sheriff, trustee in bankruptcy or other assignee by operation of law shall assign or sublet without such written consent.

(b) In the event of assignment of this lease, the Railway Company, having no advice to the contrary, shall at such time credit all unearned rental hereunder to the assignee. Any other disposition of unearned rental will be made by the Railway Company only upon the joint written request of both Lessee and his assignee at the time of submitting said assignment to the Railway Company for its consent.

16. The lessee shall at the lessee's expense construct and maintain a barrier along the westerly boundary of said premises sufficient to prevent vehicles from crossing said boundary.

17. It is agreed by the lessee that the maintenance of said driveway and parking area will in no way interfere with the Railway Company's communication pole line and that there will be no excavating work done within 4 feet of said pole line.

IN WITNESS WHEREOF the parties have executed these presents in duplicate this 1st day of August, 1956.

NORTHERN PACIFIC RAILWAY COMPANY,

By _____
Western Manager, Industrial Development

CITY OF ARLINGTON

Witness to signature of lessee:

By _____
Mayor

Attest: _____
City Clerk

Lessee X

INDEFINITE TERM LEASE.

No. 81344

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CITY OF ARLINGTON, a municipal corporation of the State of Washington,

Lessee, the following premises, at **ARLINGTON** hereinafter called
Snohomish and State of **Washington** Station in the County of
to-wit:

That portion of the Railway Company's 100-foot right of way for its Sumas Branch in the
SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 2, Township 31 North, Range 5 East, W.M., lying between two lines parallel
with and distant respectively 35 feet and 50 feet easterly, measured at right angles, from
the center line of the Railway Company's main track as now constructed and between a west-
erly production of the south line of Division Street and a westerly production of the north-
erly line of Fifth Street.

(Area, approximately 6,060 sq. ft.)

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(b) It is specifically understood and agreed, however, that if any assessment for public improvements exceeds \$100.00 same may be paid by the Railway Company, and the Lessee will pay as additional rental per annum a sum equal to 6% of the total amount thereof.

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(b) The Lessee also agrees to indemnify, and hold harmless the Railway Company, for loss, damage, injury or death from any act or omission of the Lessee, its invitees, licensees, employees, or agents, to the person or property of the parties hereto and their employees, and to the person or property of any other person or corporation, while on or near said leased premises; and if any claim or liability other than from fire, shall arise from the joint or concurring negligence of both parties hereto, it shall be borne by them equally.

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Arlington, Washington or may serve same personally
on the Lessee, or post on the leased premises.

10. Upon the termination of this lease pursuant to the provisions of paragraph 9 the Lessee, before the expiration date fixed in the notice and except as otherwise provided in paragraph 3(c) hereof shall remove its property and improvements from the premises and fill all excavations thereon and in case of failure to do so, the Railway Company may remove such property and improvements and fill the excavations at the cost of the Lessee, or may appropriate the same to its own use without compensation.

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IN WITNESS WHEREOF the parties have executed these presents in duplicate this 1st day of August, 1956.

NORTHERN PACIFIC RAILWAY COMPANY.

By _____
Western Manager, Industrial Development

Witness to signature of lessee:

CITY OF ARLINGTON

By _____
Mayor

Attest: _____
City Clerk

Lessee

NORTHERN PACIFIC RAILWAY COMPANY

October 9, 1956

Northern Pacific Railway Company
916 Smith Tower
Seattle 4, Wash.

ATTENTION: J. T. Moore, Western Manager
Industrial Development

Dear Sir:

The matter of the proposed lease No. 81344 has not been overlooked. It has been a matter of much discussion between the property owners and the councilmen. The opinion of all is that the rental fee of \$35.00 per year is too high. They feel the rental should be \$1.00 per year. Would you be willing to reduce the rental to this token amount?

Yours very truly,

TOWN OF ARLINGTON

Helen Bergan
Clerk

NORTHERN PACIFIC RAILWAY COMPANY

PROPERTIES AND INDUSTRIAL DEVELOPMENT DEPARTMENT

J. T. MOORE,
WESTERN MANAGER,
INDUSTRIAL DEVELOPMENT

916 SMITH TOWER
SEATTLE 4, WASH.

M. H. NIXON,
L. M. JENNER,
INDUSTRIAL AGENTS

October 22 1956.

Miss Helen Berger, Clerk,
Town of Arlington,
Arlington, Washington.

Dear Madam:

Replying to your letter of October 9th concerning proposed Lease No. 81344 in favor of the Town of Arlington to cover the use of a portion of our right of way between Fifth and Division Streets for roadway and parking purposes.

After reviewing the Town's application and in view of the use which is to be made of the property, I do not feel that I can agree to a rental less than the \$35.00 provided for in the lease. This amount will give the Railway Company a return of 6% upon a land valuation of approximately 10¢ per square foot. Inasmuch as the proposed rental amounts to less than \$3.00 per month, I do not think that it is excessive. This appears to me to be cheap parking for merchants doing business adjacent to our right of way.

In considering this proposed lease I think the Town should bear in mind the possibility that the spur track south of Fifth Street might some day be extended northerly upon the area included in the proposed lease and thereby requiring the Town to relocate the roadway. To protect itself against such an eventuality the Town may find it desirable to locate the proposed roadway on private property adjoining the right of way.

If the Town decides to accept the proposed lease as submitted, please arrange for the execution of both copies as indicated and return to this office for completion by the Railway Company, after which one executed copy will be returned for your files.

Yours very truly,

J. T. Moore

Western Manager Industrial Development.

NORTHERN PACIFIC RAILWAY COMPANY

PROPERTIES AND INDUSTRIAL DEVELOPMENT DEPARTMENT

J. T. MOORE,
WESTERN MANAGER,
INDUSTRIAL DEVELOPMENT

916 SMITH TOWER
SEATTLE 4, WASH.

M. H. NIXON,
L. M. JENNER,
INDUSTRIAL AGENTS

December 10th 1956.

Miss Helen Berger, Clerk,
Town of Arlington,
Arlington, Washington.

Dear Madam:

Please refer to my letter of October 22nd concerning proposed Lease No. 81344, in favor of the Town of Arlington, to cover the use of a portion of our right of way between Fifth and Division Streets for roadway and parking purposes.

I trust this matter is not being overlooked and that if the Town still desires to lease a portion of the right of way, you will soon arrange to have both copies of the lease signed and return to this office for completion by the Railway Company, after which one executed copy will be returned for the town's files.

Yours very truly,

J. T. Moore
Western Manager Industrial Development.

RDL-L

December 12, 1956

Northern Pacific Railway Company
916 Smith Tower
Seattle 4, Washington

Attention: J. T. Moore

Dear Sir:

In reference to the proposed Lease No. 81344 we feel that you do not understand that all we want this lease for is for passing through in case of Fire or emergency of some kind. It is not intended to use this property for a parking area. The reason we have put off signing the proposed lease is we had hoped someone would be able to contact you in person to discuss the use of this property, so you would understand what this property was to be used for. We still feel that thirty-five dollars a year is a high amount to pay for the little use this property will receive.

The City will be the one to benefit by this lease, not private enterprise.

Very truly yours,

Helen Bergan, Clerk

HE:iih