ORDINANCE No. 218

AN ORDINANCE GRANTING TO THE CHICAGO, MILWAUKEE AND PUGET SOUND RAILWAY COMPANY, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, PRIVILEGE AND AUTHORITY TO LOCATE, LAY DOWN, CONSTRUCT, MAINTAIN AND OPERATE RAILWAY TRACKS, IN, ALONG, UPON, OVER AND ACROSS CERTAIN PUBLIC STREETS IN THE CITY OF KENT, KING COUNTY, WASHINGTON.

THE CITY COUNCIL OF THE CITY OF KENT DO ORDAIN:

Section 1- The City of Kent, King County, Washington, does hereby grant to the Chicago, Milwaukee and Puget Sound Railway Company, its successors and assigns, for the term of fifteen (15) years, the right, privilege and authority to lay down, construct, maintain and operate a track or tracks of standard gauge railway together with all needful crossovers and connections between any of said tracks and any other thereof, in, along, upon, over and across the streets and alleys in said City hereinafter named, and upon the rights of way hereinafter described, and the right to operate locomotives and cars upon said tracks or any thereof. The construction and operation of one or more of said tracks under this ordinance shall not be construed as a waiver or abandonment of the right to thereafter construct and operate any additional tracks herein authorized.

Section 2- The rights of way hereby granted for said tracks are described as follows:

A right of way sixty (60) feet in width, for the construction and maintenance of one or more tracks, over and across Third Street, Fourth Street, the alley in block one (1) and the alley in Block two (2), all in Ramsay's Addition to the Town of Kent, as shown by the plat thereof on file in the office of the Auditor of King County, being thirty (30) feet in width on each side of the center line of said right of way, as surveyed and located, which
center line of said right of way is described as follows, to wit:

Beginning at a point in the west line of Fourth Avenue where the same is intersected by a line drawn through the center of Lot three (3), Block one (1), and produced westerly over and across said Fourth Avenue thence in a straight line a distance of three hundred ten (310) feet more or less to a point which is the beginning of a curve to the right having a radius of three hundred eighty-three and six hundredths (383.06) feet, thence along said curve a distance of two hundred twenty-two feet (222') more or less to a point in the west boundary of lot nine (9) block two (2) distant twenty-seven (27) feet northerly of the southwest corner thereof measured along said west boundary.

A right of way fourteen (14) feet in width having seven (7) feet of such width on either side of a center line for the construction and maintenance of one track in Shinn Avenue and Second Street, said center line being more particularly described as follows, to wit:

Beginning at a point in the west line of First Street seven (7) feet north of the south line of Shinn Avenue, thence west parallel to and distant seven (7) feet northerly from the south line of said Shinn Avenue a distance of seventy-seven (77) feet more or less to a point which is the beginning of a curve to the right having a radius of three hundred eighty-three and six hundredths (383.06) feet, thence along said curve a distance of two hundred sixty-seven (267) feet more or less to a point in the west line of Second Street distant thirty-nine (39) feet more or less, north of the north line of Shinn Avenue, measured along said west line.

All that portion of a fourteen (14) foot strip, belt or piece of land having seven (7) feet of such width on either side of a center line lying and being in the bounds
of Second Street as the same is established on the plat of Yesler's First Addition to the Town of Kent on file in the Auditor's office of King County, the said center line being more particularly described as follows:

Beginning at a point in the east line of Block two (2) Ramsay's Addition to the Town of Kent, distant twenty-three (23) feet more or less, northerly from the southeast corner thereof, measured along said east line, thence southeasterly on a curve to the right having a radius of three hundred eighty-three and six hundredths (383.06) feet, a distance of two hundred twenty-three (223) feet more or less to a point where the said curve is tangent to a line drawn parallel to and distant one (1) foot westerly of the east line of Second Street, thence along said tangent a distance of three hundred forty-six (346) feet more or less, to the north line of Meeker Street produced across Second Street.

Section 3- The grant in this ordinance contained is made expressly subject to the following conditions and requirements:

1st. — The City of Kent shall retain the same control of the streets in and across which such railway tracks shall be laid down, as over other streets, and shall have such further control over such right of way as the laws of the State of Washington, now or hereafter permit; and said city reserves to itself, and its grantees, the right to carry water mains, sewer mains, gas pipes, conduits and other public utilities, underneath, or wires above, any and all of the tracks herein authorized to be laid in, upon, over and across such public streets, which rights shall be exercised however, so as to interfere as little as practicable with the use of the said tracks, and so as to leave the said right of way occupied
thereby restored to as good condition as may be, consistent with the reasonable exercise of such rights by said city.

2nd. — That 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 as it or they may deem suitable, subject to the lawful and reasonable control of the City of Kent.

3rd. — That the grade of the tracks to be constructed shall conform to the established grade of the streets where laid, and said grantee and its assigns and successors shall construct and maintain good and sufficient crossings of suitable planks, wherever the said tracks shall cross or run upon or along any such street or streets; that the tracks lying in, upon or across any streets shall be planked between the rails and for two (2) feet on the outside thereof on either side, for the full width of the street where crossed, and for the full length of the track lying upon and along any such street; that any and all frogs in any track must be of rigid construction.

4th. — In case the City of Kent shall at any time hereafter, grade, improve, or pave any of the streets in and along which the said tracks or any of them shall be constructed, said grantee shall in like manner grade, improve and pave its right of way and the whole thereof lying in such street or streets so improved, and shall maintain such right of way so improved in a good condition of repair so long as such tracks shall be used and maintained.

5th. — In the construction, alteration or repair of said tracks or appurtenances, the said grantee, and its assigns, shall cause as little obstruction to traffic and travel as possible, consistent with the practicable performance of the work, and shall cause as little disturbance to the soil and property as is practicable in all such work; and upon the completion of any
such work, the streets and alleys shall be at once, by the grantee restored to as good condition as they were before such work was begun.

6th. — That the said city shall at all times have and retain the right to regulate the speed of trains and locomotives upon the said track or tracks, and shall have the right to fix the maximum time, during which any train or locomotive may blockade the street crossing at any point and shall have such further control and police power over said right of way as by law provided; provided that all such rights, power and control shall be lawfully and reasonably exercised.

7th. — The city of Kent, hereby reserves the right to grant to any other railway constructed for the purposes of carrying freight and passengers from some point outside of the city of Kent, to said city, a franchise for the use of the rights of way granted in this ordinance; and the grantee, by accepting this franchise, agrees to submit, to the use by such other railway of all that portion of its proposed spur track lying east of the west line of Fourth Street; subject, however, to such reasonable rules and regulations as may be consistent with the rights of the grantee herein, and to the payment of such rental or other compensation to the grantee, its successors and assigns as may be just and equitable, for the use of such portion of said spur track, and if the grantee and such other railway company shall not be able to agree as to such rules and regulation, rental or compensation, the same shall be submitted to arbitration in accordance with the laws of the State of Washington.

Section 4. — The said grantee, its successors, and assigns, by the acceptance of the franchise agrees that it and they will forever protect and save harmless the said city of Kent, from all claims, actions or imputations of any and every kind 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 right of way, or by reason of the negligent operation of any railway trains or locomotives over and across any of the rights of way herein granted, and in case any suit or action is commenced against the 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 and assigns will upon notice to it or them of the commencement of such suit or action, defend the same at its or their cost and expense, and in case judgment be rendered against the said city therein, will satisfy the said judgment within ninety days after the same shall have been fully determined, if determined adversely to the said city.

Section 5. The said grantee shall as soon as practicable but within six months after the passage of this ordinance cause the said Shinn Avenue and said Second Street to be improved for the full width thereof from gutter to gutter on the north and west sides of Block four (4) of Yasler's First Addition to Kent, including the intersection of said second street and Shinn Avenue, which improvement shall be in accordance with plans and specification prepared by the city engineer and now on file in the office of the city clerk marked "Filed December 16th, 1909."

Section 6. The rights, privileges and franchises herein granted are subject to the right of the council of the said city at any time hereafter to change or modify the same, having due regard, however, to the rights of the parties and interests of the public.

Section 7. In order to obtain the benefit of this franchise the grantee, its successors or assigns, shall within thirty (30) days after the passage of this ordinance, file with the
Clerk of the said city their, or its, acceptance in writing, under the corporate seal of the said grantee or its successors or assigns, executed in legal form, agreeing to the terms and conditions set forth in this ordinance; and if such acceptance be not so filed within such time this ordinance shall be void.

Section 8—That the right of way and all rights, privileges and authorities granted by this ordinance, and all benefits thereof 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 tracks embraced within the scope of such grants.

Section 9—This ordinance shall take effect and be in force on and after its passage, approval and publication as required by law.

Passed the Council of the said City of Kent, this day of December A.D. 1909.

Approved:  

Mayor.

Attest:  

Clerk.

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