AN ORDINANCE of the City of Kent, Washington, granting to Oregon-Washington Railroad & Navigation Company, an Oregon corporation, and its lessee, Union Pacific Railroad Company, a Utah corporation, its successors and assigns, the right, privilege and authority to construct, maintain and operate railroad spur tracks upon and across North Fourth Avenue in the City of Kent, King County, Washington.

WHEREAS, the Oregon-Washington Railroad & Navigation Company, an Oregon corporation, and its lessee, Union Pacific Railroad Company, a Utah corporation, have petitioned the City of Kent for a franchise to construct, maintain, and operate railroad spur tracks at common grade upon and across North Fourth Avenue in the City of Kent, in Sections 12 and 13, Township 22 North, Range 4, E.W.M., located in King County, Washington, as shown on the explanatory map filed with the City Clerk, which tracks are to cross North Fourth Avenue at the following locations:

(a) Three tracks to cross North Fourth Avenue at a location in the SE 1/4 of the SW 1/4 of the SW 1/4 of the SE 1/4 of Section 12, Township 22 North, Range 4, E.W.M., King County, Washington within an area approximately 230 to 290 feet north of the south line of said Section 12 measured along the north-south center line of said Section, also being the center line of North Fourth Avenue as now platted;

(b) Three tracks to cross North Fourth Avenue at a location in the NW 1/4 of the NE 1/4 of the NE 1/4 of the NW 1/4 of Section 13, Township 22 North, Range 4, E.W.M., within an area located approximately 350 to 390 feet south of the north line of said Section 13 as measured along the north-south center line of said section, also being the center line of North Fourth Avenue as now platted;

WHEREAS, a separation of grade of said crossings is neither practicable or justified; NOW, THEREFORE
THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. That the City of Kent, Washington, hereinafter called "the City", does hereby grant the Oregon-Washington Railroad & Navigation Company, an Oregon corporation, and its lessee, Union Pacific Railroad Company, a Utah corporation, its successors and assigns, hereinafter collectively called "the Grantee", the franchise and privilege of constructing, maintaining and operating railroad spur tracks at common grade upon and across North Fourth Avenue in the City of Kent, Washington in the following locations in Sections 12 and 13, Township 22 North, Range 4, E.W.M., located in Kent, King County, Washington:

(a) Three tracks to cross North Fourth Avenue at a location in the SE 1/4 of the SW 1/4 of the SW 1/4 of the SE 1/4 of Section 12, Township 22 North, Range 4, E.W.M., King County, Washington within an area approximately 230 to 290 feet north of the south line of said Section 12 measured along the north-south center line of said Section, also being the center line of North Fourth Avenue as now platted;

(b) Three tracks to cross North Fourth Avenue at a location in the NW 1/4 of the NE 1/4 of the NE 1/4 of the NW 1/4 of Section 13, Township 22 North, Range 4, E.W.M., within an area located approximately 350 to 390 feet south of the north line of said Section 13 as measured along the north-south center line of said section, also being the center line of North Fourth Avenue as now platted;

provided that the construction of said tracks of common grade upon and across said avenue shall be completed in a manner satisfactory to the Kent City Engineer and any other applicable authority.

Section 2. The Grantee shall pay the entire cost and expense of constructing and maintaining said tracks across said avenue as it now exists or as it may be changed from time to time; provided, however, that nothing contained herein shall prevent the Grantee from charging any other railroad company, or companies to which Grantee may grant or assign an interest in said track, or the franchise hereby granted, a portion of the cost and expense of constructing and maintaining said track.
Section 3. The Grantee shall pay the entire cost and expense of constructing, installing and maintaining advance warning signs and whatever crossing protective devices Grantee may be required to install, whether by agreement between City and Grantee or as required by applicable public authorities; provided, however, that nothing contained herein shall prevent the Grantee from charging any other railroad company, or companies, to which Grantee may grant or assign an interest in said tracks or the franchise hereby granted, a portion of the cost and expense of constructing and maintaining said advance warning signs and crossing protective devices.

Section 4. Said tracks shall be laid and maintained at common grade with said avenue as said grade now exists, or as said grade may be hereafter changed by the City of Kent, and the Grantee shall plank the travel portion of said avenue between the rails and for one foot on each side thereof and shall maintain said planking in good repair.

Section 5. The Grantee shall not store cars within or upon said avenue nor shall said Grantee stop cars on said avenue for switching operations, and further, said Grantee shall not use said tracks in such a manner as to unreasonably interfere with travel upon and along said avenue, and shall have personnel available to direct traffic during the use of the crossing; and further, the Grantee shall not conduct switching operations on said spur tracks across said avenue during the hours of 6:00 a.m. to 9:00 a.m. and 3:00 p.m. to 6:00 p.m. daily.

Section 6. The franchise hereby granted shall not be taken to restrict the rights of the City to enter upon that portion of said avenue where said tracks are located for the purpose of locating, re-locating, constructing, maintaining, repairing, or removing any public works, utilities, or facilities under or over said tracks. All such work shall be done, if possible, in such a manner as not to obstruct, injure or prevent free use and operation of said railroad tracks by the Grantees, and shall meet the Grantees' engineering specifications.

Section 7. The Grantee shall hold the City harmless from any and all liability and damage occasioned by the construction and operation of said tracks, or by the operation of any engine, train, railway, car or cars upon said tracks; provided
that the Grantee shall not be required to indemnify or protect
the City against liability for damages arising out of the City's
own negligence.

Section 8. The grades on all crossings referred to
in this franchise shall be according to the standards established
by the City of Kent.

Section 9. Prior to exercising the franchise privi-
leges granted herein, the Grantee shall obtain any permits nec-
essary to operate said spur lines from applicable public authori-
ties.

Section 10. The franchise privileges granted herein
shall be effective for ten (10) years from and after the final
passage of this Ordinance.

Section 11. This Ordinance shall not take effect until
it is passed upon during a regular Council meeting subsequent to
its introduction at a previous regular Council meeting; once it
has received the favorable votes of a majority of the members of
the Kent City Council it shall thereafter take effect five (5)
days after its passage, approval and publication as provided by
law.

ISABEL HOGAN, MAYOR

ATTEST:

MARIE JENSEN, CITY CLERK

APPROVED AS TO FORM:

DONALD E. MIRK, CITY ATTORNEY

PASSED the 19 day of February, 1980.

APPROVED the 20 day of February, 1980.

PUBLISHED the 24 day of February, 1980.

I hereby certify that this is a true copy of Ordinance
No. 2209, passed by the City Council of the City of Kent,
Washington, and approved by the Mayor of the City of Kent as here-
on indicated.

MARIE JENSEN, CITY CLERK

(SEAL)