ORDINANCE NO. 2307

AN ORDINANCE of the City of Kent, Washington, granting to Oregon-Washington Railroad & Navigation Company and its lessee, Union Pacific Railroad Company, their successors and assigns, the right, privilege and authority to construct, maintain and operate a railroad lead track upon and across South 196th Street in the City of Kent, King County, Washington.

WHEREAS the Union Pacific Railroad Company has petitioned City of Kent for franchise to construct, maintain and operate a railroad lead track at common grade upon and across South 196th Street in the City of Kent in Section 2, Township 22 Range 4 E.M., located in King County, Washington, and

WHEREAS a separation of grade of said crossing is neither practicable nor justified, and

WHEREAS Union Pacific Railroad Company has filed with the City of Kent acceptable plans for said crossing, and said plans have been approved;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DO HEREBY ORDAIN AS FOLLOWS:

Section 1. The City of Kent, hereinafter called "the City" does hereby grant to the Oregon-Washington Railroad & Navigation Company and its lessee, Union Pacific Railroad Company, their successors and assigns, hereinafter called "the Grantee", the franchise and privilege of constructing, maintaining and operating a railroad lead track at common grade upon and across South 196th Street in the City of Kent, Washington, described as follows:

A strip of land 60.0 feet in width, situate in South 196th Street in the North Half (N1/2) of Section 2, Township 22 North, Range 4 East of the Willamette Meridian, City of Kent, King County, State of Washington, said strip of land being all of that land lying between lines concentric with and 30.0 feet on each side of the following described centerline, and said centerline prolonged:
Commencing at the southeast corner of Lot 11, Block 6, as shown on the plat of Southcenter Corporate Park, recorded under File No. 8003140871 in the records of said County; thence along the south line of said Lot 11, North 88 degrees 59 minutes 42 seconds West, 14.59 feet to the TRUE POINT OF BEGINNING, said point being on a non-tangent curve concave southeasterly, from which point a radial line bears South 67 degrees 11 minutes 09 seconds East, 459.28 feet; thence southwesterly along said curve through a central angle of 7 degrees 52 minutes 13 seconds, 63.09 feet to the terminus of said centerline.

provided that the construction of said track at common grade on and across said street 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 track across said street as it now exists or as it may be changed from time to time, as prescribed by the City; 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 any crossing and protective devices required or authorized 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 track 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 track shall be laid and maintained at common grade with said Street as said grade now exists, or as said grade may be hereafter changed by the City, and the Grantee shall plank, using either prefabricated hardwood, asphalt with metal guardrails, or rubber panels, the travel portion of said Street between the rails and for one foot on each side thereof and shall maintain said planking in good repair as determined by the City Public Works Director. All prefabricated planking shall meet with City approval.

Section 5. The Grantee shall not store cars within or upon said Street nor shall said Grantee stop cars on said Street for switching operations, and further, said Grantee shall not use said track in such a manner as to unreasonably interfere with travel upon and along said Street, and shall have personnel available to direct traffic during the use of the crossing. Permission for Grantee to conduct switching operations on said lead track across said street during the hours of 6:00 a.m. - 9:00 a.m. and 3:00 p.m. to 6:00 p.m. on weekdays, may be withdrawn upon determination by the City Public Works Director that such switching operations are causing significant adverse effect on traffic flow on city streets, and then only after 30 days' written notice. Failure to curtail switching operations during the stated time period after said notice will result in the invalidation and termination of this Franchise."

Section 6. The franchise hereby granted shall not be taken to restrict the rights of the City to enter upon that portion of said Street where said track is located for the purpose of locating, relocating, constructing, maintaining, repairing, or removing any public works, utilities, or facilities under or over said track. 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 track 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 track, or by the operation of any engine, train, railway, car or cars upon said track; 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 privileges granted herein, the Grantee shall obtain any permits necessary to operate said lead track from applicable public authorities.

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.

ATTEST:

ISABEL HOGAN, MAYOR

MARIE JENSEN, CITY CLERK

APPROVED AS TO FORM:

DONALD E. MIRK, CITY ATTORNEY
Introduced the 17th day of August, 1981.

PASSED the 8th day of Sept, 1981.

APPROVED the 10 day of Sept, 1981.

PUBLISHED the 15 day of Sept, 1981.

I hereby certify that this is a true copy of Ordinance No. 2309, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

[Signature]
MARIE JENKINS, CMC
CITY CLERK