AN ORDINANCE of the City of Kent, Washington, granting to the Union Pacific Railroad Company, a Utah corporation, its successors and assigns, the right, privilege and authority to construct, maintain and operate a railroad spur track upon and across 68th Avenue South (S.R. 181-West Valley Highway) in the City of Kent, King County, Washington.

WHEREAS, the Union Pacific Railroad Company, a Utah Corporation, has filed with the City of Kent a Petition with explanatory map attached thereto, requesting a franchise to construct, maintain and operate a railroad spur track at common grade upon and across 68th Avenue South (S.R. 181-West Valley Highway) in the City of Kent, the centerline of said track intersecting the centerline of said avenue at a point distant approximately 440 feet South, measured along said avenue centerline, of the Northwest corner of Section 13, Township 22 North, Range 4, E.W.M., located in King County, Washington, a copy of said Petition and attached explanatory map being on file in the office of the City Clerk; and

WHEREAS, a separation of grade of said crossing is neither practicable or justified; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Ordinance #2055, have been passed without lawful authority is declared void, without effect, and is hereby repealed.

Section 2. That the City of Kent, Washington, hereinafter called "The City," does hereby grant to the Union Pacific Railroad Company, a Utah Corporation, its successors and assigns, hereinafter called "The Grantee" the franchise and privilege of constructing, maintaining and operating a railroad
spur track at common grade upon and across 68th Avenue South (S.R. 181-West Valley Highway) in the City of Kent, Washington, the
centerline of said track intersecting the centerline of said
avenue at a point distant approximately 440 feet south, measuring
along said avenue centerline, of the Northwest corner of Section 13, Township 22 North, Range 4, E.W.M., located in Kent, King
County, Washington, provided that the construction of said track
at common grade upon and across said avenue shall be completed and
maintained in a manner satisfactory to the Kent Public Works
Director and any other applicable authority.

Section 3. The Grantee shall pay the entire cost and
expense of constructing said track across said avenue as it now
exists or as it may be changed in any manner from time to time
including changes which may be necessary due to maintenance,
modification and/or due to alterations in roadway initiated either
by the Railroad, the City of Kent or any other authorized
jurisdiction; 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 4. Said track shall be laid and maintained at
Grantee’s expense at common grade with said avenue as said grade
now exists, or as said grade may be hereafter changed by the City
of Kent. Grantee, at Grantee’s sole expense, shall replace the
existing concrete crossing pad with a rubberized crossing pad full
width across the highway right of way and sidewalks when requested
by the City. Grantee shall install signalized gate arms at the
crossing when requested by the City. Grantee shall install the
gate arms or the rubberized pads within one year from notification
by the City to do so. If the Grantee fails to install these items
within one year’s time, Grantee agrees to pay Grantor liquidated
damages of $50.00 per each calendar day until said improvements
are fully operational.

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 track in such a manner as to unreasonably interfere with travel upon and along said avenue; and, further, the Grantee shall not conduct switching operations on said spur track across said avenue during the hours of 6:00 a.m. to 9:00 a.m. and 2:00 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 or utility companies with franchises in the City to enter upon that portion of said avenue 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, but said work shall be so prosecuted by the City or utility company, its contractors, servants and agents as to not unnecessarily interfere with the movements of railroad engines, cars and traffic over said track, the City reserving the same control over that portion of said avenue as it has over other public streets in said City.

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 cards upon said track.

Section 8. As partial consideration for the continuation and granting of this franchise, and pursuant to the provisions of Ordinance 1491, the Grantee promises the City that the Grantee shall pay the full cost of installation of a railroad crossing signal bridge with all necessary appurtenances. Installation shall be completed within one year of the granting of this franchise. The signal bridge shall be as shown on the attached drawing, and shall meet all applicable safety standards.

Section 9. The grades on all crossings referred to in this franchise shall be according to the standards established by the City of Kent.

Section 10. As a condition of exercising the franchise privileges granted herein, the Grantee shall obtain and maintain any permits necessary to operate said spur line from applicable public authority.
Section 11. Failure of the Railroad to abide by any condition of this franchise, as determined by the City, shall result in revocation of the franchise upon 30 days notice to the Railroad.

Section 12. The franchise privileges granted herein shall be effective for ten (10) years from and after the final passage of this Ordinance.

Section 13. This ordinance shall take effect and be in force thirty (30) days from the time of its final passage as provided by law.

DAN KELLEHER, MAYOR

ATTEST:

MARIE JENSEN, CITY CLERK

APPROVED AS TO FORM:

SANDRA DRISCOLL, CITY ATTORNEY

PASSED the 6 day of March, 1990.
APPROVED the 7 day of "", 1990.
PUBLISHED the 9 day of "", 1990.
I hereby certify that this is a true copy of Ordinance No. 2909, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

(SEAL)

MARIE JENSEN, CITY CLERK