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 a railway track 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 DOES 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 twelve (12) years, the right, privilege and authority to lay down, construct, maintain and operate, a track of standard gauge railway, together with all needful crossovers and connections between any portion of said track and any other thereof, or any other track or tracks adjacent thereto, in, along, upon and over and across the streets in said city hereinafter named, and upon the right of way hereinafter described, and the right to operate locomotives and cars upon said track, or any thereof.

SECTION 2: The track of standard gauge railway, the locating, laying down, construction, maintenance and operation whereof are authorized by this ordinance, and the right of way hereby granted for the same, is described as follows:

A right of way fourteen (14) feet in width, having seven (7) feet of such width on either side of a center line hereinafter described, for the construction, maintenance and operation of one (1) track in Second Street and Shinn Avenue in the City of Kent, King County, Washington, said center line being more particularly described as follows:

COMMENCING at a point in Block Four (4), Yesler's First
Addition to City of Kent, which is twenty-nine (29) feet distant from and at right angles to the westerly line of said Block and also one hundred and five (105) feet distant from and at right angles to the northerly line of said Block Four (4); thence on a curve to the left, whose tangent is parallel to and twenty-nine (29) feet distant from the westerly line of said Block Four (4), and whose radius is two hundred eighty-seven and nine hundred thirty-nine (287.939) one-thousandths feet, to a point in the northerly line of said Block Four (4), distant seven and five-tenths (7.5) feet east of the northwest corner of said Block Four (4), which point is the true point of beginning of this description; thence continuing on a curve to the left, whose radius is two hundred eighty-seven and nine hundred thirty-nine one-thousandths (287.939) feet, across Shinn Avenue and Second Street to a connection with the present track of the grantee herein now constructed, maintained and operated in said Second Street, under provisions of Ordinance Number 210 of said City of Kent.

SECTION 3: The grant in this ordinance contained is made expressly subject to the following conditions and requirements, to wit:

1st, The city of Kent shall retain the same control of the streets in and across which such railway track 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 track 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 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 the City.

2nd. That in the operation of the track 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 track to be constructed under this ordinance shall conform to the established grade of the street where laid, and said grantee and its successors and assigns shall construct and maintain a good and sufficient plank covering for all of that portion of Shinn Street and its intersection with Second Avenue, which is included within the triangular tract bounded on the northwest and north east sides by the tracks of the said grantee as now located and constructed therein, and on the south side by the curb line in said Shinn Street, along the north side of Block four in Yesler's First Addition to Kent; that any and all frogs in said track and tracks shall be of rigid construction, and that no switch nor any portion of any switch shall be placed or maintained in the said Street or Avenue.

4th. In case the said City shall at any time grade, improve or pave the streets, in and along which said track is to be constructed, said grantee shall in like manner grade, improve and pave all of that portion of said Shinn Street and its intersection with Second Avenue, which is included within the triangular tract above described in paragraph 3 of this section, and shall thereafter maintain such improvement so long as said track shall be maintained or used.
5th,- In the construction, alteration or repair of said track 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 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, 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 purpose of carrying freight and passengers from some point outside 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 of its said proposed spur track, 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 spur track, and if the grantee and such other railway company shall not be able to agree as to such rules and regulations, 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 city of Kent, from all claims, action or damages 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 the right 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 (90) days after the same shall have been fully determined, if determined adversely to the said city.

SECTION 5:- 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 the interests of the public.

SECTION 6:- 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 7:-- 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 portion of the track embraced within the scope of such grants.

SECTION 8:-- This ordinance shall take effect and be in force five days after its passage, approval and publication as required by law.

Passed the Council of the said City of Kent, this 18th day of November, A. D. 1912.

Approved: ________________ Mayor.

Attest: ________________ Clerk.