Ordinance No. 3768

(Amending or Repealing Ordinances)

CFN=113 – Railroads
Passed – 11/15/2005
S. 228th Street GNSF RR Grade Separation Project Condemnation Ordinance

Recorder’s # 20060110000428

The date ["Beginning July 1, 1998"] has led to confusion. This date will be deleted from cover sheets of ordinance/resolution revision pages. This cover sheet will be deleted on electronic pages only, no other deletions or changes have been made to the document – 6/21/2012.
ORDINANCE NO. 3768

AN ORDINANCE of the City Council of the City of Kent, Washington, providing for the acquisition of real property and/or property rights located 600 feet east and west of the Burlington Northern Santa Fe railroad tracks adjacent to South 228th Street. This action is being taken in order to construct the South 228th Street roadway underpass. This Ordinance provides for the condemnation, appropriation, taking and damaging of such surface and aerial property rights as are necessary for that purpose and provides for the payment thereof out of the S 228th Street BNSF RR Grade Separation Project fund (Fund No. R90067 66100 220). This Ordinance directs the city attorney to prosecute the appropriate legal proceedings, together with the authority to enter into settlements, stipulations or other agreements; and acknowledges that all of the real property affected is located within King County, Washington.

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

ORDINANCE

SECTION 1. After hearing the report of City staff, and after reviewing the planned improvements for the S. 228th Street Burlington Northern Santa Fe Railroad Grade Separation Project (the "Project"), the City Council finds and

S. 228th Street BNSF RR Grade Separation Project
Condemnation Ordinance
declares that the public convenience, use, health, safety and necessity demand that the
City of Kent condemn, appropriate, take and damage portions of certain real properties
located in King County, Washington, in order to acquire the necessary real property
and/or property rights for the construction of the Project, including all necessary
appurtenances. The properties affected by this ordinance are legally described in
Exhibit A, attached and incorporated by this reference (collectively the "Property").
The purposes for which this condemnation is authorized shall include, without
limitation, all acts necessary to complete the construction, extension, improvement,
widening, alteration, maintenance, reconstruction and restoration of the Project, and
any other municipal purpose that may be necessary from time to time on the Property

SECTION 2. The City authorizes the acquisition by condemnation of
all or a portion of the Property for the construction, extension, improvement, widening,
alteration, maintenance and reconstruction of the Project, together with all necessary
appurtenances and related work to make a complete improvement according to City
standards.

SECTION 3. The City shall condemn the Property only upon
completion of all steps and procedures required by applicable federal or state law or
regulations, and only after just compensation has first been made or paid into court for
the owner or owners in the manner prescribed by law.

SECTION 4. The City shall pay for the entire cost of the acquisition
by condemnation provided for in this ordinance through the City's "S. 228th Street
BNSF RR Grade Separation Project" fund (Fund No. R90067 66100.220) or from any
of the City's general funds, if necessary, as may be provided by law.

SECTION 5. The City authorizes and directs the city attorney to
commence those proceedings provided by law that are necessary to condemn the

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Condemnation Ordinance
Property. In commencing these condemnation procedures, the City Council authorizes the city attorney to enter into settlements, stipulations, or agreements in order to minimize damages. These settlements, stipulations, or agreements may include, but are not limited to, the amount of just compensation to be paid, the size and dimensions of the property condemned, and the acquisition of temporary construction easements and other property interests.

SECTION 6. Any acts consistent with the authority and prior to the effective date of this ordinance are ratified and confirmed.

SECTION 7. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

SECTION 8. This ordinance, being the exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect and be in force five (5) days after its publication as provided by law.

ATTEST:

BRENDA JACOBER, CITY CLERK

S. 228th Street BNSF RR Grade Separation Project Condemnation Ordinance
I hereby certify that this is a true copy of Ordinance No. 3768 passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

BRENDA JACOBER, CITY CLERK
EXHIBIT "A"
PARCEL A:

That portion of the southeast quarter of the northeast quarter of Section 13, Township 22 North, Range 4 East, W.M., in King County, Washington, lying northwesterly of right-of-way of Primary State Highway No. 5 condemned by the State of Washington under King County Superior Court Cause No. 657464 and lying southerly of South 228th Street as established by deed dated January 12, 1969 and recorded under Recording Number 6293026, records of King County, Washington; and lying easterly of the west 250 feet of said southeast quarter of the northeast quarter of said section.

PARCEL B:

The west 250 feet of the southeast quarter of the northeast quarter of Section 13, Township 22 North, Range 4 East, W.M., in King County, Washington; EXCEPT South 228th Street; EXCEPT the Northern Pacific Railway right-of-way; EXCEPT that portion conveyed to the State of Washington for Primary State Highway No. 5 by deed recorded under Recording Number 5499517; AND EXCEPT portion southeasterly of the northwesterly line of State Road No. 167.
That portion of the southwest quarter of the northeast quarter of Section 13, Township 22 North, Range 4 East, W.M., in King County, Washington, lying west of the Northern Pacific Railroad right-of-way, described as follows:

Beginning at the northeast corner of the southwest quarter of the northeast quarter of said Section 13;
Thence north 88°36'34" west along the north line of said subdivision 464.81 feet;
Thence south 1°08'43" west 50 feet to the TRUE POINT OF BEGINNING of this description;
Thence south 1°08'43" west 680 28 feet;
Thence on a curve to the right, the center of which bears south 53°16'55" west 38.00 feet an arc distance of 15.08 feet;
Thence south 88°43'37" east 413.29 feet;
Thence north 46°19'29" east 33.19 feet to a point on the westerly margin of said railroad right of way;
Thence northerly along said railroad right of way on a curve to the left, the center which bears south 86°14'13" west 9368.54 feet an arc distance of 374.99 feet to a point of tangency;
Thence north 6°03'23" west along said railroad right of way 299.14 feet to a point which bears south 88°36'34" east from the point of beginning;
Thence north 88°36'34" west 366.47 feet to the TRUE POINT OF BEGINNING;
EXCEPT that portion condemned by the City of Kent in King County Superior Court Cause Number 693010 for improvement of South 228th Street;
AND EXCEPT that portion lying easterly of the westerly margin of a 32.50 foot strip of land being 16.25 feet on each side of the following described centerline:

Beginning at the intersection of the westerly margin of the Northern Pacific Railroad right of way and the southerly margin of South 228th Street;
Thence north 88°36'34" west along said southerly margin 16.39 feet to the TRUE POINT OF BEGINNING of the herein described centerline;
Thence south 6°03'23" east parallel with and 16.25 feet distant from, when measured at right angles to, the westerly margin of said Northern Pacific Railroad a distance of 301 26 feet to a point of curvature of a curve to the right of radius 9352.29 feet;
Thence southerly along said curve an arc length of 186.81 feet to a point of compound curvature of a curve to the right of radius 459.28 feet;
Thence southerly and westerly along said curve to the south line of the above described main tract.

EXHIBIT "A"

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Lot 2 of Kent Short Plat Number 99-9, recorded under King County Recording Number 20000125900005, being a portion of the northwest quarter of the northeast quarter of Section 13, Township 22 North, Range 4 East, W.M., in King County, Washington, and also being of Lots 1 and 2, Kent Valley Industrial Park, according to the plat thereof recorded in Volume 97 of Plats, pages 30 through 35, inclusive, in King County, Washington.
Lot 3 of Kent Short Plat Number 99-9, recorded under King County Recording Number 20000125900005, being a portion of the northwest quarter of the northeast quarter of Section 13, Township 22 North, Range 4 East, W.M., in King County, Washington, and also being of Lots 1 and 2, Kent Valley Industrial Park, according to the plat thereof recorded in Volume 97 of Plats, pages 30 through 35, inclusive, in King County, Washington.
Tract A, Kent Valley Industrial Park, according to the plat thereof recorded in Volume 97 of Plats, pages 30 through 35, inclusive, in King County, Washington.
Parcel A

No. 506554

That portion of the Northern Pacific Railway right-of-way in the northeast quarter of Section 13, Township 22 North, Range 4 East, W.M., in King County, Washington, described as follows:

Commencing at the northwest corner of Tract A in the plat of Kent Valley Industrial Park, according to the plat thereof recorded in Volume 97 of Plats, pages 30 through 35, inclusive, in King County, Washington;

Thence south 88°36'38" east, along the north line of said Tract A, a distance of 32.78 feet to the west margin of the Northern Pacific Railway right of way; Thence continuing south 88°36'38" east a distance of 100.85 feet to the east margin of said right of way;

Thence north 06°03'10" west, a point 100.00 feet northerly of, when measured at right angles to the north line of said Tract A extended to the east and the TRUE POINT OF BEGINNING of the herein described parcel;

Thence south 88°36'38" east, along said west margin, a distance of 100.85 feet to the TRUE POINT OF BEGINNING.

Parcel B

That portion of the Northern Pacific Railway right-of-way in the northeast quarter of Section 13, Township 22 North, Range 4 East, W.M., in King County, Washington, described as follows:

Commencing at the northwest corner of Tract A in the plat of Kent Valley Industrial Park, according to the plat thereof recorded in Volume 97 of Plats, pages 30 through 35, inclusive, in King County, Washington;

Thence south 88°36'38" east, along the north line of said Tract A, a distance of 32.78 feet to the west margin of the Northern Pacific Railway right of way; Thence continuing south 88°36'38" east a distance of 100.85 feet to the east margin of said right of way;

Thence north 06°03'10" west, along said east margin, 100.85 feet to a point 100.00 feet northerly of, when measured at right angles to the north line of said Tract A extended to the east and the TRUE POINT OF BEGINNING of the herein described parcel;

Thence continuing north 06°03'10" west, along said east margin, a distance of 10.00 feet;

Thence north 88°36'38" west parallel with said extended north line of Tract A a distance of 100.85 feet to the west margin of said right of way;

Thence south 06°03'10" east, along said west margin, a distance of 100.00 feet to a point which is north 88°36'38" west from the true point of beginning; Thence south 88°36'38" east to the TRUE POINT OF BEGINNING.
Parcel C

That portion of the Northern Pacific Railway right-of-way in the northeast quarter of Section 13, Township 22 North, Range 4 East, W.M., in King County, Washington, described as follows.

Commencing at the northwest corner of Tract A in the plat of Kent Valley Industrial Park, according to the plat thereof recorded in Volume 97 of Plats, pages 30 through 35, inclusive, in King County, Washington;

Thence south 88°36'38" east, along the north line of said Tract A, a distance of 32.78 feet to the west margin of the Northern Pacific Railway right of way. Thence continuing south 88°36'38" east a distance of 100.85 feet to the east margin of said right of way and the TRUE POINT OF BEGINNING of the herein described parcel. Thence south 06°03'10" east along said east margin a distance of 30.00 feet. Thence north 88°36'38" west parallel with the extended north line of Tract A a distance of 100.85 feet to the west margin of said right of way. Thence north 06°03'10" west, along said east margin, a distance of 30.00 feet to a point which is north 88°36'38" west from the TRUE POINT OF BEGINNING. Thence south 88°36'38" east a distance of 100.85 feet to TRUE POINT OF BEGINNING.
WASHINGTON STATE COUNTY AUDITOR/RECORDER'S COVER SHEET

Document Title: City of Kent Ordinance No. 3768: Relating to Eminent Domain

Reference Number(s): N/A

Grantor(s): City of Kent, a Washington municipal corporation

Grantee(s): The Public, Ordinance No. 3768

Abbreviated Legal Description:

Ptms. of Sec. 13; Twn. 22N, Rng 4E, W.M. King County, State of Washington

Additional legal description on Exhibit "A" of document

Assessor's Property Tax Parcel/Account Number(s): 132204-9168, 132204-9059, 132204-9183, 132204-9356, 132204-9357, 383090-0410, 132204-9040

Project Name: S. 228th Street BNSF RR Grade Separation Project

Said document(s) were filed for record by Pacific Northwest Title as accommodation only. It has not been examined as to proper execution or as to its affect upon title.