ORDINANCE No. 604

AN ORDINANCE granting to the CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, its successors and assigns, the right, privilege and authority to maintain, renew and operate railway tracks, and to install, maintain and operate all useful cross-overs and connections between any of said tracks and any other thereof, in, along, upon, over and across certain public streets and alleys in the City of Kent, King County, Washington.

WHEREAS, by Ordinance No. 210 entitled: "An Ordinance granting to the Chicago, Milwaukee & Puget Sound Railway Company, its successors and assigns, the right, privilege and authority to locate, lay down, construct, maintain and operate railway tracks in, along, upon, over and across certain public streets in the City of Kent, King County, Washington," passed August 24, 1909, the City of Kent, a municipal corporation in King County, Washington, granted to the Chicago, Milwaukee & Puget Sound Railway Company, its successors and assigns, the right, privilege and authority to locate, construct, maintain and operate railway tracks in, along, upon, over and across certain streets and alleys in said City, for the term of fifteen (15) years; and

WHEREAS, by Ordinance No. 327, entitled: "An Ordinance granting to the Chicago, Milwaukee & 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," passed November 16, 1912, said City of Kent granted to said Chicago, Milwaukee & Puget Sound Railway Company, its successors and assigns, the right to lay down, construct, maintain and operate a certain additional railway track in, along, upon, over and across certain streets in said City, for the term of twelve (12) years; and

WHEREAS, said Chicago, Milwaukee & Puget Sound Railway Company constructed said railway tracks as authorized by said ordinances; and
WHEREAS, said railway tracks have been at all times since their construction maintained and operated; and

WHEREAS, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, a Wisconsin corporation, the grantee herein, has heretofore succeeded to all of the rights and interests of said Chicago, Milwaukee & Puget Sound Railway Company, and now owns, maintains and operates the said tracks constructed pursuant to the provisions of said Ordinances No. 210 and No. 327; and desires the right to continue to maintain and operate said tracks; which right the said City is willing to grant for the period and upon the terms and conditions hereinafter set forth;


NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KENT, KING COUNTY, WASHINGTON, DOES ORDAIN AS FOLLOWS;

Section 1. The City of Kent, King County, Washington, hereinafter referred to as the "City", does hereby grant unto the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, a Wisconsin corporation, hereinafter referred to as the "Grantee", its successors and assigns, for the term of fifteen years from the date of passage of this ordinance, the right, privilege and authority to maintain, renew and operate a track or tracks of standard gauge railway (being those certain tracks heretofore installed pursuant to the provisions of said Ordinances numbered 210 and 327), together with the right to lay down, construct, maintain and operate all needful cross-overs and connections between any of said tracks and any other thereof, in, upon, along, over and across any or all of the streets and alleys of said City hereinafter designated, upon the rights of way hereinafter described, and to operate locomotives and cars upon said tracks, or any thereof.

Section 2. The rights of way hereby granted for the maintenance, renewal and operation of said tracks, are described as follows:
(a) A right of way sixty (60) feet in width over and across Fourth Street, Third Street, the alley in Block one (1) and the alley in Block two (2), all in Ramsey's Addition to the town of Kent, having thirty (30) feet of such width on each side of the following described center line, to wit:

Beginning at the intersection of the west line of said Fourth Street with the center line, produced east, of Lot three (3), in Block one (1), of said Addition; running thence east, across said Fourth Street, said Block one (1), and the alley in said Block one (1), three hundred and ten (310) feet to a point; thence southeasterly, along a curve to the right having a radius of three hundred eighty-three and six hundredths (383.06) feet, two hundred twenty-two (222) feet, more or less, to a point in the west line of Lot nine (9), in Block two (2), of said Ramsey's Addition to the Town of Kent, which point is twenty-seven (27) feet north of the southwest corner of said Lot nine (9).

(b) All that portion lying in the streets of a right of way fourteen (14) feet in width, having seven (7) feet of such width on each side of a center line described as follows, to wit:

Beginning at a point in the west line of Second Street, in said City, which is thirty-nine (39) feet north of the north line of Shinn Avenue, in said City; running thence southeasterly, along a curve to the left having a radius of three hundred eighty-three and six hundredths (383.06) feet, across said Second Street and along said Shinn Avenue two hundred sixty-seven (267) feet, more or less, to a point which is seven (7) feet north of the south line of said Shinn Avenue; thence easterly parallel to and seven (7) feet northerly from the south line of Shinn Avenue, fifty (50) feet, more or less, to a point twenty (20) feet west of the west line of First Street, in said City.

(c) All that portion lying in the streets of a right of way fourteen (14) feet in width, having seven (7) feet of such width on each side of the following described center line, to wit:

Beginning at a point in the west line of Second Street, in said City, which is twenty-three (23) feet north of the north line of Shinn Avenue, in said City; running thence southeasterly, across said Second Street and the intersection of said Second Street and said Shinn Avenue and along said Second Street, along a curve to the right having a radius of three hundred eighty-three and six-hundredths (383.06) feet, two hundred and twenty-three (223) feet, more or less, to a point which is one (1) foot west from the east line of said Second Street; thence south, parallel to and one (1) foot westerly from, the east line of said Second Street, one hundred forty-four (144) feet; thence southerly, along a curve to the right having a radius of three hundred eighty-three and six-
hundredths (383.06) feet, forty-six (46') feet to a point; thence southerly, along a curve to the left having a radius of three hundred eighty-three and six-hundredths (383.06) feet forty-six (46') feet to a point; thence south, parallel to and six and five-tenths (5.5') feet westerly from, the east line of said Second Street, seventy-nine (79') feet, more or less, to a point forty (40') feet north of the north line of Meeker Avenue, in said City.

(d) A right of way fourteen (14') feet in width having seven (7) feet of such width on each side of the following described center line, to wit:

Beginning at a point in the west line of Second Street, in said City, which is thirty-six (36') feet north of the north line of Shinn Avenue, in said City; running thence southwesterly, along a curve to the right having a radius of two hundred eighty-seven and ninety-four hundredths (287.94') feet, one hundred twenty-two (122') feet, more or less, to a point in the south line of said Shinn Avenue, which is seven and five-tenths (7.5') feet east of the east line of said Second Street.

Section 3.- That in the operation of the tracks authorized by this Ordinance, the grantee, its successors and assigns, shall have the right to use steam power, or any other motive power that it or they may deem suitable, subject to the lawful and reasonable control of the City. In the event the said grantee, its successors or assigns, shall elect to equip and operate said tracks, or any thereof, with electric power, then it shall have the right to erect and maintain poles, columns, wires and other appliances necessary or convenient for the operation of said tracks by such power; subject, however, to the lawful and reasonable control and regulation by the City Council of said City, or such other body as shall be authorized to act.

Section 4.- The grants in this Ordinance contained are made expressly subject to the following conditions and requirements:

First.- The City shall retain the same control of the streets and alleys in, along or across which such railway tracks shall be located and maintained, as over other streets; and shall have such further control over such rights of way as the laws of the state of Washington now or here-
after permit. And the said City reserves to itself, and to its grantees, the right to carry water mains, sewer mains, gas pipes, and other public utilities underneath, or wires above, any and all of the tracks herein authorized to be laid in, upon, over and across such streets and alleys, 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 right of way occupied thereby restored to as good condition as may be consistent with the reasonable exercise of such rights by said City.

Second.— That the grade of the tracks to be maintained or renewed pursuant to the provisions hereof shall conform to the established grade of the streets and alleys where laid; and the said grantee, its successors and assigns, shall construct and maintain good and sufficient crossings of suitable planks wherever said tracks shall cross or run upon or along any of such streets; that the tracks lying in, upon or across any streets shall be planked between the rails and for two (2) feet on the outside thereof, on either side, for the full width of the street where crossed, and for the full length of the track lying upon and along said street. That any and all frogs in said tracks, or any thereof, shall be of rigid construction; and that no switch stand shall be placed or maintained in any of said streets or alleys.

Third.— In case the City shall at any time hereafter grade, improve or pave any of the streets in or along which the said tracks or any of them, shall be maintained, adjacent to such track or tracks, the
said grantee shall in like manner grade, improve and pave its right of way and the whole thereof lying in such street coterminous with the improvement so made by said City; and shall maintain such right of way so improved in a good condition of repair so long as its tracks shall be maintained and used thereon.

Fourth.—In the renewal, alteration or repair of said tracks or appurtenances, the grantee, its successors and assigns, shall cause as little obstruction to traffic and travel as may be consistent with the practical performance of such work; and shall cause as little disturbance to the soil and property as is practicable in all of such work; and upon the completion of any such work, the streets and alleys shall be at once, by the grantee, restored to as good condition as they were before such work was begun.

Fifth.—That the said City shall at all times have and retain the right to regulate the speed of trains and locomotives upon said track or tracks, and shall have the right to fix the maximum time during which any train or locomotive may block the street crossing at any point; and shall have such further control and police power over said rights of way as by law provided; Provided, that all such rights, power and control shall be lawfully and reasonably exercised.

Sixth.—The City hereby reserves the right to grant for any other railway constructed for the purpose of carrying freight and passengers from some point outside the City 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 for such other railway all of that portion of the said spur tracks the maintenance of which in, along, upon, over and across public streets and alleys is hereby authorized, which are located east of the west line of Fourth Street; 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 portion of said tracks; 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 3.- The said grantee, its successors and assigns, by the acceptance of this 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, or along any of the rights of way herein granted; and in case any suit or action is commenced against said City for damages arising out of or by reason of such defective construction or maintenance or improper occupation or negligent operation, the 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.

Section 4.- The rights, privileges and franchises herein granted are subject to the right of the Council of 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 5.- In order to obtain the benefit of this ordinance the grantee, its successors or assigns, shall, within thirty (30) days after the passage of this ordinance, file with the Clerk of said City its or their acceptance in writing, under the corporate seal of said grantee, its successors or assigns, executed in legal form, according to the terms and conditions set forth in this ordinance; and if such acceptance be not so filed then this ordinance shall be void.
Section 8.- That the rights 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 in an entirety or as respects any one or more of the tracks or parts of tracks embraced within the scope of such grants.

Section 9.- This ordinance shall take effect and be in force 5 days after its passage and publication as required by law.

Passed the Council of said City of Kent this 20 day of January, 1929.

Approved this 21 day of January, 1930, 1929.

Pub. Jan 23, 1930

Mayor.

Attest:

City Clerk.

Approved as to form.

City Clerk.
KNOW ALL MEN BY THESE PRESENTS, that the CHICAGO, MILWAUKEE, ST. PAUL
AND PACIFIC RAILROAD COMPANY, a corporation organized and existing under
the laws of the State of Wisconsin, hereby accepts all and singular the
terms and conditions of Ordinance No. 604 of the City of Kent, King
County, Washington, entitled as follows, to wit:

"An Ordinance granting to the CHICAGO, MILWAUKEE, ST.
PAUL AND PACIFIC RAILROAD COMPANY, its successors and assigns,
the right, privilege and authority to maintain, renew and op-
erate railway tracks, and to install, maintain and operate all
necessary cross-arms and connections between any of said tracks
and any other thereof, in, along, upon, over and across certain
public streets and alleys in the City of Kent, King County,
Washington,"

which said ordinance was passed by the City Council of the City of Kent
on the 20th day of January, A.D. 1930, and thereafter on the 23rd
day of January, A.D. 1930, published as required by
law.

This instrument is executed and filed in pursuance of the
provisions of Section 7 of said ordinance requiring said Railroad Company
to accept said ordinance within thirty (30) days after the passage and
approval thereof.

IN WITNESS WHEREOF, said Railroad Company has caused this instru-
ment to be executed by its proper officers and its corporate seal to be
hereto affixed this 3rd day of February, A.D. 1930.

CHICAGO, MILWAUKEE, ST. PAUL AND
PACIFIC RAILROAD COMPANY,

By _______________,
Vice President.

Attest: ______________,
Secretary.
C. M. T.W.R. R. Co.

Ordinance
No. 604

ORDINANCE
No. 604

Sec. 1-2
Amended
By Ord. 762

Granting Chicago,
Milwaukee, St. Paul
& Pacific Railway
Right for Tracks
& Acceptance by RR
Sec 14 & 15
Amended by
Ord. 762