ORDINANCE NO. 893

AN ORDINANCE, granting to the Northern Pacific Railway Company, a Wisconsin corporation, its successors and assigns, the right, privilege and authority to construct, maintain and operate two railroad spur tracks upon and across North First Avenue in the City of Kent, King County, Washington; together with the right, privilege and authority to make changes in the grades of North First Avenue and Winner Street at and adjacent to the places where said spur tracks will cross said avenue.

WHEREAS, the Northern Pacific Railway Company has filed with the City of Kent a petition, with explanatory map attached thereto, requesting permission to construct, maintain and operate two railroad spur tracks upon and across North First Avenue in the City of Kent, the first to cross said avenue at a point distant approximately 160 feet southerly from an easterly production of the south line of Winner Street as said street is shown on the recorded plat of "North Park Addition to the City of Kent", the second to cross said avenue at a point approximately 740 feet southerly from said produced street line, a copy of said petition and attached explanatory map being on file in the office of the City Clerk; and

WHEREAS, the present grades of North First Avenue and of Winner Street are below the grades at which said spur tracks can be constructed across and adjacent to said avenue and street, said Railway Company has included within its petition a request for permission to raise, at said Railway Company's sole cost and expense, the grade of said avenue and street as follows:

(a) The grade of Winner Street at the west line of said Railway Company's right of way to be raised 1.4 feet;

(b) The grade of North First Avenue at a point approximately 160 feet south of said produced south line of Winner Street to be raised 2.7 feet;

(c) The grade of North First Avenue at a point approximately 740 feet south of said produced south line of Winner Street to be raised 3 inches;

and

WHEREAS, at the hearing held on said petition on the 17th day of January, 1955, said petition was duly granted by the City Council; NOW THEREFORE,

THE CITY COUNCIL OF THE CITY OF KENT DO ORDAIN AS FOLLOWS:

Section 1. That the City of Kent, hereinafter called "City", does hereby grant to the Northern Pacific Railway Company, a Wisconsin corporation, its successors and assigns, hereinafter called "grantee", the right, privilege and authority to construct, maintain and operate two (2) railroad spur tracks upon and across North First Avenue in the City of Kent as follows:

(First) One spur track to cross said avenue in a northeasterly to southwesterly direction, the center line of said track intersecting the center line of said avenue at a point distant approximately 160 feet south, measured along said avenue center line, from the south line of Winner Street produced east;

(Second) One spur track to cross said avenue in a northeasterly
to southwesterly direction, the center line of said track intersecting the center line of said avenue at a point distant approximately 740 feet south, measured along said avenue center line, from said south line of Winner Street produced east; together with the right, privilege, authority and permission to make changes in the grades of North First Avenue and Winner Street as follows:

(a) Raise the grade of Winner Street at the westerly boundary line of the grantee's right of way 1.4 feet above its present grade;

(b) Raise the grade of North First Avenue at a point approximately 160 feet south of the produced south line of Winner Street 2.7 feet above its present grade;

(c) Raise the grade of North First Avenue at a point approximately 740 feet south of the produced south line of Winner Street 3 inches above its present grade;

provided, that all changes of grade, taper and length of taper of streets and sidewalks thereto, changes in location and grade of sidewalks, and any other work required by the City in connection with said grade changes and spur track construction, shall be done under the supervision and to the satisfaction of the City Engineer.

Section 2. The grantee shall pay the entire cost and expense of changing the grades of said avenue and street, at and adjacent to said crossings, which changes are caused by the location and construction of said tracks across said avenue and such changes of grade shall be constructed in such manner as to interfere as little as possible with public travel thereover.

Section 3. The grantee shall provide adequate drainage for surface waters within the area affected by the changes of grade of North First Avenue and Winner Street hereby authorized, and such drainage shall be provided by the grantee at its sole cost and expense; provided, however, that the grantee having provided such surface drainage by the original construction of drains to the satisfaction of the City, the grantee's responsibility therefor shall cease, and the City shall thereafter maintain such drains as it does drains on other streets.

Section 4. The grantee shall pay the entire cost and expense of constructing said spur tracks across said avenue; provided, however, that nothing contained herein shall prevent the grantee from charging any other railroad company or companies, which may hereafter acquire an interest in said tracks or the franchise hereby granted, a portion of the cost and expense of changing the grades of said avenue and street and of constructing and maintaining said tracks.

Section 5. The work of changing the grades of said avenue and street, at and adjacent to said spur tracks, shall be performed by the grantee or its contractors, and those portions of said avenue and street where grades are changed shall be surfaced as follows:

(a) North First Avenue South of the south line of Winner Street to be surfaced with asphaltic concrete.
North First Avenue north of said south line of Winner Street and Winner Street west of the west boundary line of the grantee's right of way to be surfaced with oiled gravel.

Section 6. Said spur tracks shall be laid and maintained at the grades authorized hereby, and the grantee shall finish the travelled portion of said avenue between its rails and for one foot on each side thereof with a material suitable considering the type of surface of said avenue, and shall maintain said area in good repair.

Section 7. The grantee shall not store cars within or upon said avenue, or use said tracks in such a manner as to unreasonably interfere with travel upon and along said avenue, and locomotives and cars shall not be permitted to stand upon said tracks at street crossings so as to blockade said avenue or any portion thereof for a time longer than that permitted by the ordinances of said city.

Section 8. The franchise hereby granted shall not be taken to restrict the rights of the City to enter upon those portions of said avenue where said tracks are located for the purpose of locating, relocating, constructing, reconstructing, maintaining, repairing or removing any public works, utilities or facilities under or over said tracks, but said work shall be so prosecuted by the City, its contractors, servants and agents as not unnecessarily to interfere with the movement of railroad engines, cars and traffic over said tracks, said City reserving the same control over those portions of said avenue as it has over other public streets in said city.

Section 9. The grantee shall hold the City harmless from any and all liability and damage occasioned by the construction and operation of said spur tracks and the raising of the grades of said streets, or by the operation of any engine, train, railway car or cars over said tracks.

Section 10. Before commencing any of the changes of street grades or construction of any portions of the spur tracks within the streets as herein authorized, the grantee shall at its expense construct to the City's specifications an extension of North Fourth Avenue, including a pathway for pedestrian travel, from its present end north of Shinn Street to the south line of Winner Street extended westerly, the center line of said extension to be a north production of the west line of Ramsay's Addition to the Town of Kent, according to plat thereof recorded in volume 16 of plats, page 89, records of said county. Before commencing any of said changes, grantee shall also at its own expense and on land owned by it, construct a temporary roadway, including a pathway for pedestrian travel, to the City's specifications, eastward from the northern terminus of the extension of North Fourth Avenue required herein, to connect the west end of Winner Avenue. Said temporary roadway shall be maintained by the grantee during all times of changes in streets, grades, and construction of spur tracks on North First Avenue and Winner Street, for which franchise is hereby granted. The grantee shall by appropriate instrument grant to the City an easement to use for such extension of North Fourth Avenue that portion of the NW¼ of the NE¼ of Section 24, Township 22 North, Range 4 East of the Willamette Meridian, lying within 33 feet, measured at right angles, from the center line above described in this section and north of the north line of said Ramsay's Addition; except that portion thereof lying west of said center line and south of a line bearing north 89 degrees 46 minutes 55 seconds west from a point distant 351.78 feet east.
south 0 degree 16 minutes 0 second west 522 feet from the northwest corner of said NW¼ of NE¼. The City will acquire all other necessary rights of way for such extension of North Fourth Avenue.

Section 11. This ordinance shall take effect thirty days from and after the date of its passage, provided the grantee makes acceptance hereof in writing within sixty days from and after said date.

PASSED by the City Council this 17th day of January, 1955.

Approved by the Mayor this 18th day of January, 1955.

Attest:

City Clerk

Approved as to form:

City Attorney
AUTHORIZING N.P. REPLY to operate paper back across Joint and North