

RECEIVED  
**ACCEPTANCE**  
 JUL 8 11 17 AM 1980

GEORGE YERKOVICH, AUDITOR  
 CITY OF PORTLAND, ORE.

BY [Signature] Portland, Oregon, June 6, 1980

GEORGE YERKOVICH  
 Auditor of the City of Portland.  
 Room 202, City Hall  
 Portland, Oregon 97204

Dear Sir:

This is to advise the City of Portland, Oregon, that I hereby accept the terms and provisions of Ordinance No. 149734, passed by the Council June 5, 1980, granting a revocable permit to Oregon-Washington Railroad & Navigation Co., Union Pacific Railroad, their successors, lessees, and assigns, to construct, equip, operate and maintain a tract across NE Davis Street, NE Everett Street, NE Flanders Street, NE 1st Avenue, NE 2nd Avenue, and NE 3rd Avenue and relocate the main line known as the Graham Line in NE Hoyt Street from NE 9th Avenue to NE 2nd Avenue and at NE 1st Avenue and NE Glisan Street,

and in consideration of the benefits to be received thereunder by me I hereby agree to abide by and perform each and all of the terms and provisions thereof applicable to me.

Very truly yours,

[CORPORATE  
 SEAL]

OREGON-WASHINGTON RAILROAD & NAVIGATION CO.  
 an Oregon Corporation

\*  
 UNION PACIFIC RAILROAD COMPANY  
 a Utah Corporation

P.O. Box 4265, Portland, Oregon 97208  
 Address

APPROVED AS TO FORM  
 Approved by

Christopher P. Thomas  
 CITY ATTORNEY

By [Signature]  
 General Manager

\*When an acceptance is required from a firm or corporation the Acceptance must be signed by an officer of the firm or corporation stating his or her official title, and corporations must affix the corporate seal.

## ORDINANCE NO. 149734

An Ordinance granting a revocable permit to Oregon-Washington Railroad & Navigation Co., Union Pacific Railroad, their successors, lessees, and assigns, to construct, equip, operate and maintain a track across NE Davis Street, NE Everett Street, NE Flanders Street, NE 1st Avenue, NE 2nd Avenue, and NE 3rd Avenue and relocate the main line known as the Graham Line in NE Hoyt Street from NE 9th Avenue to NE 2nd Avenue and at NE 1st Avenue and NE Glisan Street, and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

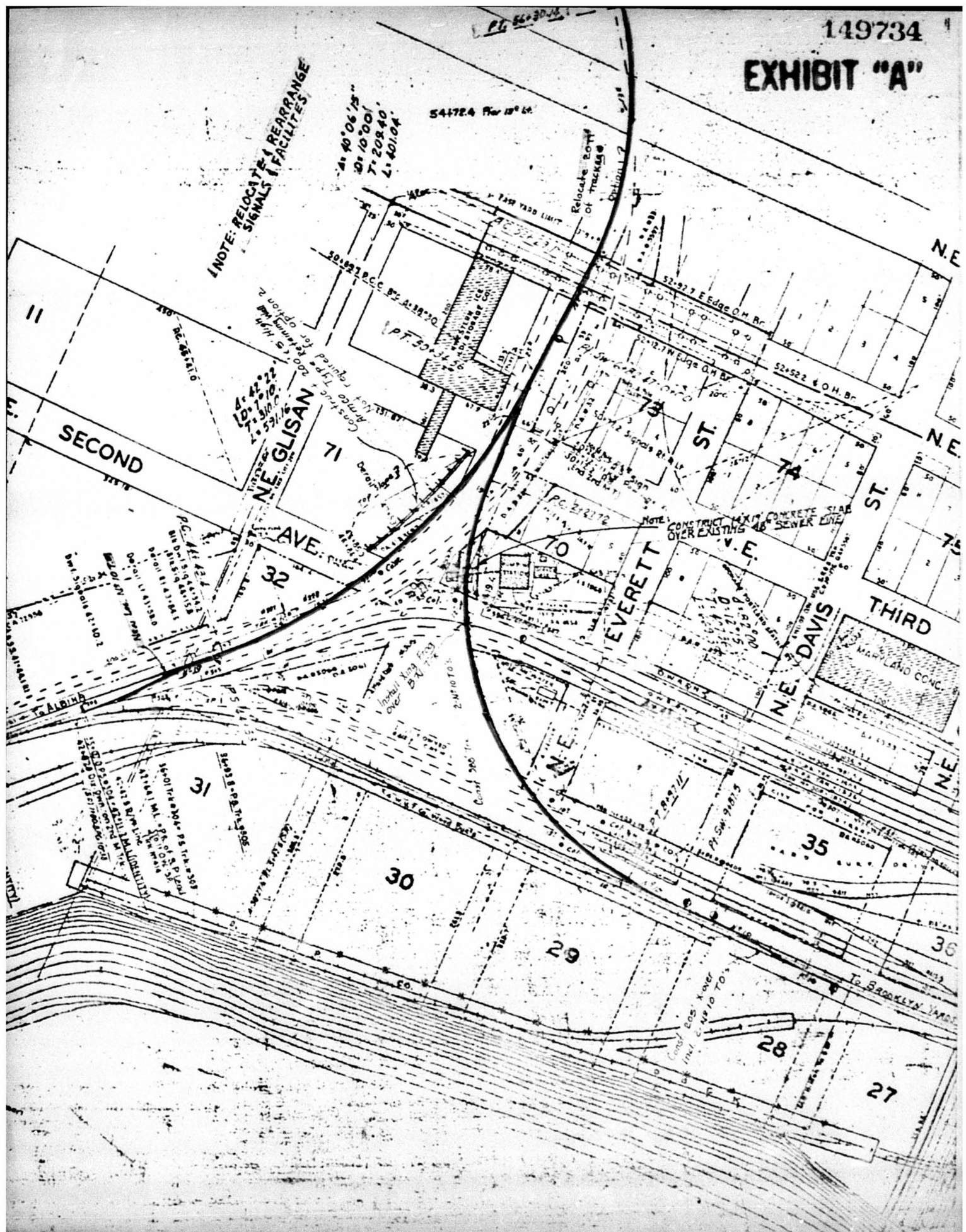
1. Oregon-Washington Railroad & Navigation Co., their successors, lessees, and assigns, and Union Pacific Railroad have, through T.P. Rogers, General Manager, requested permission to construct, equip, operate and maintain a track across NE Davis Street, NE Everett Street, NE Flanders Street, NE 1st Avenue, NE 2nd Avenue, and NE 3rd Avenue and relocate the main line known as the Graham Line in NE Hoyt Street from NE 9th Avenue to NE 2nd Avenue and at NE 1st Avenue and NE Glisan Street.
2. The track will connect with Southern Pacific lines in NE 1st Avenue and it is necessary to realign the Graham Line to accomodate this new connecting track.
3. The plan for the tracks, attached to this ordinance as "Exhibit A", has been approved by the City Engineer.

NOW, THEREFORE, the Council directs:

- a. A revocable permit is granted to Oregon-Washington Railroad & Navigation Co., Union Pacific Railroad, their successors, lessees and assigns, grantee, to relocate the Graham main line and to install, use and maintain a connecting track as described above and located as shown on the plan marked "Exhibit A" attached to this ordinance, which plan hereby is made a part of this ordinance by reference, subject to the following conditions:
  - (1) The grantee will, at its own cost and expense, during the exercise of the privilege hereby granted, pave, repave, repair or otherwise improve and maintain and adjust in like manner or as directed by the City Engineer any parts of any open and existing roadway and sidewalk area as well as catch basins and inlets, underground construction and any other construction within the street lines which, by reason of laying of the above mentioned tracks shall, in the opinion of the City Engineer reasonably require repairs, adjustments or construction. The grantee shall pay to the City any additional costs of construction, reconstruction, altering, repairing or maintaining any municipal utility now existing or which may hereinafter be built caused by the construction and maintenance of such spur track or appurtenances, the equitable amount of such cost to be determined by the City Engineer.



- (2) The grantee shall fill in to the established grade, plank, pave, repave, reconstruct or otherwise improve or repair and keep in good condition from time to time whenever and in the manner directed by the City of Portland those portions of any open and existing street between the rails of the above mentioned tracks and those portions outside the rails extending to the ends of the crossties provided that in no case shall the portion outside the rails be less than two feet in width measured from the outside of the rail.
- (3) The grantee shall allow any other company, including any municipal belt line or commercial railroad that may hereafter be authorized, operated, or maintained by the City of Portland, and including railroad companies operating engines, locomotives or cars by electrical current, steam or gas power to use in common with the grantee the tracks and switches herein authorized to be laid upon obtaining the consent of the Council of the City of Portland expressed by ordinance or by the people by the initiative; each user paying a proper and equitable proportion of the cost of construction and repair of the tracks to be used jointly.
- (4) The permit granted herein shall not in any manner interfere or prevent the City of Portland from granting permits or franchises to other corporations or individuals for the construction of other tracks crossing the tracks which may be constructed under this ordinance and for the maintenance and operation of said other tracks.
- (5) This permit is revocable at any time for cause and no expenditure of money hereunder, or lapse of time or other act or thing shall operate as an estoppel against the City of Portland, or be held to give the grantee any vested or other right. Upon revocation of this permit by the Council, the grantee shall within a reasonable period of time remove the said spur track from within the street area and restore the area as required by and to the satisfaction of the City Engineer.
- (6) The grantee shall make all street repairs directed by the City Engineer within a reasonable period of time. In the event timely repairs are not made, the City shall make the necessary repairs and seek reimbursement from the grantee.
- (7) The grantee, its successors and assigns, hereby agrees and covenants to indemnify and save harmless the City of Portland, its officers and employees, against all damages, costs and expenses whatsoever to which it or they may be subject in consequence of any act or neglect to said grantee, its successors or assigns, their agents or servants, in any manner arising from the rights and privileges hereby permitted.





## ORDINANCE No.

- (8) This permit is for the use of the street area only, and shall not exempt the grantee from taking out any license or obtaining any permit required by existing City Codes or ordinances for any operation or maintenance performed under the permit hereby granted, nor shall this permit waive the provisions of any City Code, ordinance, or the City Charter, except as herein stated. This permit shall not affect any rights the grantee may have pursuant to franchise ordinances now in effect.

Section 2. This ordinance will not become effective until the grantee shall have filed with the City Auditor a document satisfactory to the City Attorney accepting the terms and conditions hereof.

Section 3. The Council declares it is necessary that no unnecessary delay be encountered in order to grant the revocable permit herein set forth, therefore, an emergency exists and this ordinance shall be in force and effect from and after its passage by the Council.

THURSDAY

MAY 3 9 1980

Passed by the Council, **JUN 5 1980**

Commissioner Mike Lindberg  
Tom Turner:mh  
May 13, 1980

Mayor of the City of Portland

Attest:

*Serge Yuhovich*  
Auditor of the City of Portland

Calendar No. 1958

## ORDINANCE NO. 149734

Title

### THE COMMISSIONERS VOTED AS FOLLOWS:

	Yeas	Nays
Ivancie	1	
Jordan	1	
Lindberg	1	
Schwab	1	
McCreedy	1	

### FOUR-FIFTHS CALENDAR

Ivancie	
Jordan	
Lindberg	
Schwab	
McCreedy	

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THURSDAY

Filed MAY 29 1980

GEORGE YERKOVICH  
Auditor of the CITY OF PORTLAND

By *James J. Dalton*  
Deputy

INTRODUCED BY

Commissioner Mike Lindberg

NOTED BY THE COMMISSIONER

Affairs

Finance and  
Administration

Safety

Utilities

Works

*ML*

BUREAU APPROVAL

Bureau:

Street & Structural Engineering

Prepared By:

Date:

Tom Turner 5/13/80

Budget Impact Review:

☐ Completed ☒ Not required

Bureau Head

*David J. Vargas*  
David J. Vargas, Acting Chief

NOTED BY

City Attorney

City Auditor

City Engineer Approved:

John M. Lang, City Engineer

by *John M. Lang*