

RECEIVED

## ACCEPTANCE

153821

OCT 26 10 40 AM 1982

GEORGE YERKOVICH, AUDITOR  
CITY OF PORTLAND, ORE.

Portland, Oregon, September 17, 1982

BY \_\_\_\_\_

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. 153821, passed by Council September 16, 1982, granting a revocable permit to the Oregon-Washington Railroad and Navigation Co. through their lessee Union Pacific Railroad Company, their successors, lessees, and assigns, to construct, equip, operate and maintain a track in NE 2nd Avenue between NE Flanders and SE Ash Street and install storm water drainage appurtenances and signals,

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,

UNION PACIFIC RAILROAD COMPANY

[CORPORATE  
SEAL]

General Manager

P. O. Box 4265, Portland, OR 97208

Address

APPROVED AS TO FORM

Approved as to form:

*Christopher P. Thomas*

CITY ATTORNEY

City Attorney

\*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. 153821

An Ordinance granting a revocable permit to the Oregon-Washington Railroad and Navigation Co. through their Lessee Union Pacific Railroad Co., their successors, lessees, and assigns, to construct, equip, operate and maintain a track in NE 2nd Avenue between NE Flanders and SE Ash Street and install storm water drainage appurtenances and signals, and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. The Oregon-Washington Railroad & Navigation Co. through their Lessee Union Pacific Railroad Co., their successors, lessees, and assigns, have through M. E. Merritt, General Manager, Northwestern District, requested permission to construct, equip, operate and maintain a track in NE 2nd Avenue between NE Flanders Street and SE Ash Street and to install storm water drainage appurtenances and signals.
2. The track is to serve as a switching track to serve a Burlington Northern track in SE 3rd Avenue.
3. The plan for the track, attached to this Ordinance as "Exhibit A," has been approved by the City Engineer, Traffic Engineer, Portland Development Commission, and Fire Marshall with certain restrictions.

NOW, THEREFORE, the Council directs:

- a. A revocable permit is granted to the Oregon-Washington Railroad and Navigation Co. through their Lessee Union Pacific Railroad Co., their successors, lessees and assigns, grantee, to install, use, and maintain a 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 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 the 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 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 grantees any vested or other right. Upon revocation of this permit by the Council, the grantees shall, within 30 days remove the said track from within the street 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 the time specified. 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.



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Trac from new  
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S E.

AVE.

THIRD

N.E.

COUCH

DAVIS

N.E.

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36

37

EXHIBIT "A"

38

30

33

Sh. CA 60TF

Relocate 810 TF to new location

Sh. PI 60TF

Revised 810 TF to new location

EVERETT

70

N.E.

N.E.

153821

# ORDINANCE No.

- (8) This permit is for use of the street area only, and shall not exempt the grantees 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.
- (9) The grantee shall, at the request of the City of Portland, limit the time and amount of Railroad cars to be stored on the track, should future development change traffic patterns and fire access requirements.

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. Inasmuch as this Ordinance is necessary for the immediate preservation of the public health, peace and safety of the City of Portland; in order that the privilege granted herein may be had without undue delay, an emergency is hereby declared to exist and this Ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council, SEP 16 1982

Commissioner Mike Lindberg  
Tom Turner:mam  
9-3-82

Attest:

Chief Deputy Auditor of the City of Portland

*Charles Spear*

Calendar No. 2706

# ORDINANCE No. 153821

## Title

An Ordinance granting a revocable permit to the Oregon-Washington Railroad and Navigation Co. through their Lessee Union Pacific Railroad Co., their successors, Lessees, and assigns, to construct, equip, operate and maintain a track in NE 2nd Avenue between NE Flanders and SE Ash Street and install storm water drainage appurtenances and signals, and declaring an emergency.

THURSDAY

THE COMMISSIONERS VOTED AS FOLLOWS:		
	Yeas	Nays
JORDAN	/	
LINDBERG	/	
SCHWAB	/	
STRACHAN	/	
IVANCIE	/	

FOUR-FIFTHS CALENDAR	
JORDAN	
LINDBERG	
SCHWAB	
STRACHAN	
IVANCIE	

SEP 10 1982

Filed

GEORGE YERKOVICH

Auditor of the CITY OF PORTLAND

By Gordon L. Spence Deputy

INTRODUCED BY	
Commissioner Mike Lindberg	
NOTED BY THE COMMISSIONER	
Affairs	
Finance and Administration	
Safety	
Utilities	
Works <i>ml/as</i>	
BUREAU APPROVAL	
Bureau: Street & Structural Engineering	
Prepared By:	Date: 9-3-82
Tom Turner:cs	
Budget Impact Review:	
<input type="checkbox"/> Completed	<input checked="" type="checkbox"/> Not required
Bureau Head: <i>205 Schmidt</i>	
CALENDAR	
Consent <input checked="" type="checkbox"/>	Regular
NOTED BY	
City Attorney	
City Auditor	
City Engineer <i>John M. Lang</i>	
John M. Lang, P.E.	