

REGULAR MEETING.

COUNCIL CHAMBER, CITY OF INDIANAPOLIS, IND.

· MONDAY, May 16, 1904.

The Common Council of the City of Indianapolis, met in the Council Chamber, Monday evening, May 16, 1904, at 7:45 o'clock, in regular session, President James H. Billingsley in the chair.

Present: The Hon. James H. Billingsley, President of the Common Council, and 16 members, viz: Messrs. Cottey, Crall, Davis, Fishback, Gasper, Hofmann, Moriarity, Murray, Rhodes, Shea, Storm, Sullivan, Uhl, Wahl, Wolsiffer, Wright.

Absent, 4, viz: Messrs Cooper, Eppert, Krause, Linus.

On motion of Mr. Wahl the reading of the Journal was dispensed with.

COMMUNICATIONS FROM THE MAYOR.

INDIANAPOLIS, IND., May 3, 1904.

To the Honorable, the President and Members of the Common Council:
Gentlemen: I herewith return with my signature and approval General Ordinance No. 32, 1904, and Appropriation Ordinance No. 4, 1904.

Respectfully,

JOHN W. HOLTZMAN,
Mayor.

Which was read.

INDIANAPOLIS, IND., May 11, 1904.

To the President and Members of the Common Council:
I return herewith with my signature and approval, General Ordinance No. 24, 1904.

Respectfully,

JOHN W. HOLTZMAN,
Mayor.

Which was read.

REPORTS FROM CITY OFFICERS.

From the City Comptroller:

INDIANAPOLIS, IND., May 16, 1904.

To the Honorable, the President and Members of the Common Council:
Gentlemen: In accordance with the enclosed communication from the Department of Public Works, I recommend to you an immediate appropriation of \$20,000 for the use of said department in making needed repairs and improvements at the City Hospital.

The ordinance I herewith enclose.

Very respectfully,

J. P. DUNN,
City Comptroller.

INDIANAPOLIS, IND., May 16, 1904.

Mr. Jacob P. Dunn, City Comptroller:

Dear Sir: We respectfully request you to recommend that the Council make an appropriation of \$20,000 for the use of this department in making needed repairs and improvements at the City Hospital.

Respectfully,

M. A. DOWNING,
JACOB WOESSNER,
DAVID WALLACE,
Board of Public Works.

Which was read.

INDIANAPOLIS, IND., May 16, 1904.

To the Honorable, the President and Members of the Common Council!:

Gentlemen: In accordance with the enclosed communication from the Department of Public Works, I recommend to you an immediate appropriation of \$19,000 for cleaning Pogue's Run and State Ditch; \$6,000 for repairs of permanently improved streets; \$56,000 for bridges; \$10,000 for street repair fund; \$6,000 for sewer fund and \$3,000 for repairing levees. Ordinances for these are submitted herewith.

Respectfully submitted,

J. P. DUNN,
City Comptroller.

INDIANAPOLIS, IND., May 16, 1904.

Mr. Jacob P. Dunn, City Comptroller:

Dear Sir: We respectfully request that you recommend to the Council making the following specific appropriations of the money obtained by an issue of bonds for the restoration and repair of damages done by the floods in the following amounts:

Cleaning Pogue's Run and State Ditch.....	\$19,000.00
Repair of permanently improved streets.....	6,000.00
Appropriations for bridges.....	56,000.00
Street repair fund.....	10,000.00
Sewer fund	6,000.00
Fund for repairing levees.....	3,000.00

Respectfully,

M. A. DOWNING,
JACOB WOESSNER,
DAVID WALLACE,
Board of Public Works.

Which was read.

INDIANAPOLIS, IND., May 10, 1904.

To the Honorable, the President and Members of the Common Council:

Gentlemen: As it has been discovered that the occupants of the maternity ward at the City Hospital are in imminent danger of being consumed by fire, I recommend the immediate appropriation of \$2,000 for the provision of fire escapes for said hospital. An ordinance for this purpose is submitted herewith. To avoid danger until the fire escapes can be installed, I would recommend that your Honorable Body direct by resolution that the patients in said ward be at once removed to the second floor of the new wing of said hospital, which is provided with ample means of egress, or to the rooms on the ground floor now being reserved for "pay patients," "consultation rooms," "waiting rooms," etc.

Respectfully submitted,

J. P. DUNN,
City Comptroller.

Which was read.

REPORTS FROM OFFICIAL BOARDS.

From the Board of Public Works:

INDIANAPOLIS, IND., May 16, 1904.

Mr. Jacob P. Dunn, City Comptroller:

Dear Sir: The Board of Public Works directs me to transmit to you the enclosed letter of City Engineer Jeup relative to the itemized appropriation for storm repairs asked by the Board this day and also the attached statement showing the disbursement of the \$25,000 appropriated by the Common Council for immediate use March 29, 1904.

For the Board of Public Works,

W. R. WILLIAMS,
Clerk.

INDIANAPOLIS, IND., May 15, 1904.

Board of Public Works, City:

Gentlemen: Referring to my letter asking for certain appropriations to various funds I beg to say that the estimated cost of cleaning Pogue's Run is fifteen thousand dollars (\$15,000.00), this will cover the cost of lowering the bed two feet; for cleaning the State Ditch four thousand dollars (\$4,000); for the following bridges over Pogue's Run, Tenth street, Highland avenue, Dorman street, Ohio street, Henry street, Delaware street, first alley west of Illinois street and the repair of the Michigan street bridge, a total of thirty-four thousand dollars (\$34,000.00); for a bridge across Pleasant Run at East Washington street in Irvington, seven thousand five hundred dollars (\$7,500.00); for new abutments and raising the bridge at Indiana avenue and Fall Creek, six thousand dollars (\$6,000.00); for culverts, (six in Brightwood and one at Shelby street); for abutments at the bridge at Churchman avenue and Pleasant Run, retaining walls at Meridian street and Pleasant Run, Madison avenue and Pleasant Run, and Cottage avenue and Pleasant Run, eight thousand five hundred dollars (\$8,500.00); for completing the repairs to permanently improved streets damaged by the flood, six thousand dollars (\$6,000.00); for the repairs to unimproved streets according to an estimate furnished by the Superintendent of Streets, ten thousand dollars (\$10,000.00); for the cleaning and repairs of sewers, especially the Dorman street sewer, the main interceptors,

placing flood gate at Tenth street and West Washington avenue, six thousand dollars (\$6,000.00); a fund to repair levees, especially the one along West Tenth street, completing the repairs of the levee in North Indianapolis, three thousand dollars (\$3,000.00).

The total amount does not include the repair of the bridge at Capitol avenue and Fall Creek nor the widening and strengthening of levees, nor a construction of bridges which are necessary across the canal at Indiana avenue, West street and Eleventh street.

The total amount of the appropriation asked for is one hundred thousand dollars (\$100,000.00), which covers the balance of the fund realized from the sale of "Flood Bonds."

Very respectfully submitted.

B. J. T. JEUP,
City Civil Engineer.

Statement of expenditures from the special fund for the restoration and repair of streets:

Appropriation	\$25,000.00
Sewers	\$2,104.06
Bridges	6,163.46
Street repairs	8,903.09
Repairs permanent improved streets.....	4,934.48
Levees	1,627.14

Total \$23,732.73

Balance \$1,267.27

The foregoing is an abstract from the books of the Board of Public Works.

Respectfully,

W. R. WILLIAMS,
Clerk Board of Public Works.

Which was read.

INDIANAPOLIS, IND., May 4, 1904.

To the President and Members of the Common Council:

Gentlemen: We transmit herewith for your consideration and action, an ordinance entitled: "An ordinance approving a certain contract granting Willis F. Smith the right to lay and maintain a side-track or switch from the Indianapolis Union Railway Company's tracks across Columbia avenue to his coal yard, according to blue print attached, in the City of Indianapolis, Indiana," and approved by this Board May 2, 1904.

Respectfully,

M. A. DOWNING,
JACOB WOESSNER,
DAVID WALLACE,
Board of Public Works,

Which was read.

INDIANAPOLIS, IND., May 16, 1904.

To the President and Members of the Common Council:

Gentlemen: The attached contract entitled: "An ordinance approving a certain contract granting The Eclipse Coal Company the right to lay and maintain a side-track or switch from the tracks of the C., C., C. & St. L. Railway across Eleventh street to their coal yard, according

to the blue print attached, in the City of Indianapolis, Indiana," approved by the Board May 13, 1904, is transmitted to you for consideration and action.

Respectfully,
M. A. DOWNING,
JACOB WOESSNER,
DAVID WALLACE,
Board of Public Works.

Which was read.

INDIANAPOLIS, IND., May 16, 1904.

To the President and Members of the Common Council:

Gentlemen: The attached contract entitled: "An ordinance approving a certain contract granting W. J. Roach the right to lay and maintain a side-track or switch from the Lake Erie & Western Railroad Company across Lewis street to his coal yard, according to blue print attached, in the City of Indianapolis, Indiana," adopted by this Board on this May 16, 1904, is transmitted to you for consideration and action.

Respectfully,
M. A. DOWNING,
JACOB WOESSNER,
DAVID WALLACE,
Board of Public Works.

Which was read.

INTRODUCTION OF APPROPRIATION ORDINANCES.

By the City Comptroller:

Appropriation Ordinance No. 5—1904: An ordinance appropriating \$20,000.00 to the use of the Board of Public Works, to be expended in the improvement and repair of the City Hospital.

Section 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That the sum of \$20,000.00 is hereby appropriated from the general fund of the city, not heretofore otherwise appropriated, to the use of the Board of Public Works of said city, the same to be expended in the improvement and repair of the said hospital.

Sec. 2. This ordinance shall be in force and effect from and after its passage and approval by the Mayor of the City of Indianapolis.

Which was read a first time and referred to Committee on Finance.

By the City Comptroller:

Appropriation Ordinance No. 6—1904: An ordinance appropriating \$100,000.00 to the use of the Board of Public Works to be expended by said Board in the cleaning of Pogue's Run and State Ditch, the repair of permanently improved streets, erection and repair of bridges, for the repair of streets, sewers and levees.

Section 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That there be, and is hereby appropriated for the use of the Board of Public Works of the City of Indianapolis, out of any

moneys in the City Treasury not otherwise appropriated, the sum of \$100,000.00 to be used and expended in the following manner:

\$19,000.00 for the cleaning and improvement of Pogue's Run and the State Ditch;

\$6,000 for the repair of permanently improved streets;

\$56,000 for the erection and repair of bridges;

\$10,000 for the repair of streets;

\$6,000 for the repair, construction and improvement of sewers;

\$3,000 for the repair and improvement of levees.

Sec. 2. This ordinance shall be in full force and effect from and after its passage and approval by the Mayor of the City of Indianapolis.

Which was read a first time and referred to Committee on Finance.

By the City Comptroller:

Appropriation Ordinance No. 7—1904: An ordinance appropriating two thousand dollars (\$2,000.00) for fire escapes at the City Hospital and declaring an emergency.

Section 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That the sum of two thousand dollars (\$2,000.00) be, and the same is hereby, appropriated to and for the use of the Department of Public Health and Charities, out of any funds not otherwise appropriated, for the purchase and installation of fire escapes at the City Hospital.

Provided, That the said work shall be done under the direction of the Inspector of Buildings; and

Provided, further, That no part of the funds so appropriated shall be used for any other purpose.

Which was read a first time.

Mr. Crall moved that this ordinance be laid on the table without referring to any committee.

Mr. Shea called for the ayes and noes.

The roll was called.

Ayes, 10, viz.: Cottey, Crall, Davis, Gasper, Hofmann, Linus, Murray, Rhodes, Uhl and President James H. Billingsley.

Noes, 8, viz.: Fishback, Moriarity, Shea, Storm, Sullivan, Wahl, Wolsiffer, Wright.

The Chair declared the ordinance tabled.

INTRODUCTION OF GENERAL AND SPECIAL ORDINANCES.

By Mr. Moriarity:

General Ordinance No. 35—1904: An ordinance regulating the location, erection, maintenance and inspection of warehouses, storerooms, tanks, or other structures for the receipt, deposit or storage of petroleum, gasoline, or other fuel oils or illuminating oils, fixing a penalty

for the violation thereof, providing for a publication thereof, and fixing a time when the same shall go into effect.

Section 1. Be it ordained by the Common Council of the City of Indianapolis, That it shall be unlawful for any person, partnership or corporation to locate, build, erect or maintain any warehouse, storeroom, tank or other structure for the receipt, deposit or storage of petroleum, gasoline or other fuel oil or illuminating oil in quantities exceeding four hundred barrels within the City of Indianapolis; that it shall be lawful to store crude petroleum or its products in less quantities, provided the same be contained in barrels not exceeding one hundred in number, and stored in brick or stone warehouses, or in such warehouses as shall be approved by the Building Inspector; that any quantity exceeding one hundred barrels and under four hundred barrels shall be stored in iron or steel storage tanks and such tanks shall be located at least 200 feet from any building.

Sec. 2. Any person, partnership or corporation who shall violate any of the provisions of Section 1 of this ordinance shall be fined in the sum of one hundred dollars for the first offense and the sum of twenty-five dollars for each additional offense, and every day said ordinance is violated shall constitute a separate offense.

Sec. 3. It shall be the duty of the Building Inspector of the City of Indianapolis from time to time to examine and inspect all buildings and tanks used for the storage of crude petroleum and its products and keep a proper record of such inspection or his approval of such structures.

Sec. 4. Any person, partnership, or corporation refusing to permit said officer to inspect such buildings or tanks as provided in Section 3, shall be fined in the sum of twenty-five dollars.

Sec. 5. Any such warehouse, storeroom, tank or other structure for the receipt, deposit or storage of petroleum, gasoline or other fuel oil or illuminating oil, erected or established in violation of this ordinance shall be deemed a nuisance and may be abated as such; and it is hereby made the duty of the Building Inspector of the City of Indianapolis to abate the same as a nuisance by proper steps.

Sec. 6. This ordinance shall be in full force and effect in one year after its passage and publication in a newspaper of general circulation, printed and published in the City of Indianapolis.

Which was read a first time and referred to Committee on Public Morals.

By Mr. Fishback:

General Ordinance No. 36—1904: An ordinance to secure the safety of citizens and others, in the running of trains, to require the removal of railroad tracks from the grade of the street, and to compel the railroad companies to elevate the railroad tracks at Massachusetts avenue and East Tenth street; providing penalties for its violation, and fixing a time when the same shall take effect.

Whereas, The running of trains at the grade level and on the surface of the streets where the railroad tracks cross Massachusetts avenue and East Tenth street in the City of Indianapolis, Marion County, Indiana, is highly dangerous to the safety of citizens and others; and

Whereas, The tracks of the Cleveland, Cincinnati, Chicago & St. Louis Railway, the Lake Erie & Western Railway Company, and the Chicago, Indianapolis & Louisville Railway Company, and any other railroad tracks crossing Massachusetts avenue and East Tenth street at or near the junction of said streets, cannot be maintained at the grade of said streets with locomotives, cars and trains operating thereon without great danger and inconvenience to the public, loss of life and injury

to person and limb, inconvenience, expense and loss caused by the delay of traffic at said crossing; and

Whereas, Such evils, dangers and losses are increasing and public necessity requires the separation of grades of said railroad tracks and said streets; and

Whereas, To abate said nuisance and to eliminate said danger, loss, inconvenience and hazard and to avoid said public evil, it is necessary to provide for such separation of the grades of said streets and the tracks of said railroad at said crossing in a reasonable, convenient and adequate manner; now, therefore,

Section 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That all railroads and railroad tracks and structures upon the present surface and grade of Massachusetts avenue and East Tenth street at the junction of said streets, shall be removed therefrom on or before the first day of October, 1904, and not thereafter re-laid at the grade of said street or avenue.

Sec. 2. Every railroad track on the surface or grade of said Massachusetts avenue or East Tenth street, at the junction of said streets, in said city, and the operation of locomotives, cars and trains thereon, is hereby declared to be a nuisance, the same being a menace to life and property and a serious interference with the comfort, convenience and safety of the public; and after the time herein set forth for the removal of such track or tracks, the Board of Public Works of said city is authorized and hereby directed to cause said nuisance to be abated and said tracks to be removed from the surface of said street and avenue at said crossing and to prevent thereafter operation and use of trains thereon.

Sec. 3. That for each and every day during which any corporation, co-partnership or person shall conduct, operate or maintain any railroad or railroad tracks upon the surface of said Massachusetts avenue and East Tenth street, at the junction of said streets, in said city, or shall operate any locomotive, car or train thereon, contrary to the provisions of this ordinance, such corporation, co-partnership or person shall be subject and liable to a fine of one hundred dollars (\$100.00), to be collected in any court of competent jurisdiction.

Sec. 4. Subject to the limitation, conditions, reservations, exceptions and restrictions herein contained, the consent of the Common Council of said city is hereby given to any and all persons and corporations now owning or operating any railroad or railroad tracks upon the surface of said Massachusetts avenue and East Tenth street, at the junction of said streets, in said city, to construct over and across the same and maintain thereacross a structure or elevated way or bridge for the support of railroad tracks and operation of trains, in the manner indicated, hereafter set out, and provided in Section 5 of the ordinance.

Sec. 5. Said railroad companies, to-wit, Cleveland, Cincinnati, Chicago & St. Louis Railway Company, Lake Erie & Western Railroad Company, and the Chicago, Indianapolis & Louisville Railway Company, and any other railroad companies crossing Massachusetts avenue and East Tenth street, at the junction of said streets, in said city, are hereby required, in lieu of placing and maintaining their tracks on the surface of said streets, to elevate said tracks as follows, to-wit:

(a) The grade of the tracks of the Lake Erie & Western Railway and the Chicago, Indianapolis & Louisville Railway shall begin to separate from their present grade at the crossing of Thirteenth street and said tracks and the grade of said tracks shall ascend from the present grade of the tracks at Thirteenth street, with a grade of approximately ninety one hundredths (.91) of one foot per hundred (100) feet, so that the new grade of the tracks will be approximately ten (10) feet above the present grade of the Lake Erie & Western Railway tracks at the intersection of East Eleventh street and twelve (12) feet above the

present grade of the base of the rail of said track at Massachusetts avenue at the north line of Massachusetts avenue.

(b) The grade of the tracks of the Indianapolis Division of the Cleveland, Cincinnati, Chicago & St. Louis Railway shall begin to separate from the present grade at a point in Massachusetts avenue north of Tenth street, such that with an ascending of five-tenths (5-10) of one foot per hundred feet (100) the new grade of the track at their intersection with the north line of Tenth street shall in no place be less than twelve (12) feet above the present grade of the base of the rail of said present tracks at said point of intersection.

(c) The grade of the tracks of the Peoria Division of the Cleveland, Cincinnati, Chicago & St. Louis Railway shall begin to separate from the present grade at a point in Massachusetts avenue north of Tenth street, such that with an ascending grade of one foot per hundred (100) feet, the grade of the base of the rail at the intersection with the north line of Tenth street, the new grade of the base of the rail shall in no place be less than twelve (12) feet above the present grade of said tracks at the north line of Tenth street.

(d) The grade of the base of the rail of all tracks crossing Massachusetts avenue at East Tenth street shall be at least twelve (12) feet above the present grade of the base of the rail of the present tracks.

(e) All the said tracks of the Cleveland, Cincinnati, Chicago & St. Louis Railroad and of the Lake Erie & Western Railroad, shall have a descending grade from the south line of Tenth street towards south, of approximately one (1) foot in one hundred (100) feet, and said new grade of said tracks shall not be more than five (5) feet above the grade of the present grade of tracks at Pratt street and shall reach the present grade of the tracks at St. Clair street.

(f) Where side slopes may encroach upon the present roadways of Massachusetts avenue and Lewis street, the proper retaining walls of sufficient height shall be constructed to prevent encroachment.

(g) The new tracks over Massachusetts avenue and East Tenth street shall be supported by means of plate girders resting on masonry abutments and steel columns. Columns will be permitted at curb line, but the roadway shall be clear of all columns or other obstructions.

(h) The space between the surface of the roadway of the street as it shall be reconstructed by said city under this ordinance, and the bottom of the girder shall not be less than fourteen (14) feet; and between the surface of the sidewalk and bottom of the girder not less than twelve (12) feet.

(i) Special provisions shall be made to prevent drainage from the tracks from entering the subway, and the top of the subway shall be made and maintained absolutely water tight.

(j) All said work shall be done by the railroad companies at their sole expense.

Sec. 6. For the purpose of securing the separation of said grades, in a reasonable and adequate manner, the Board of Public Works is authorized and directed to lower the surface and present grade of Massachusetts avenue, East Tenth street and Lewis street, and to regrade Pratt street, in the following manner, to-wit:

(a) The proposed new grade of Massachusetts avenue shall begin to separate from the present grade at the intersection of the east line of Cornell avenue with the north line of Massachusetts avenue, and said street shall be excavated to such depth that the new grade of the center of said street shall be four and ninety-three hundredths (4.93) feet below the present grade of the railroad tracks above mentioned and the present grade of East Tenth street and Massachusetts avenue north of Tenth street shall be lowered to conform to the new grade of Massachusetts avenue from Dorman street west; and the grade of Lewis street shall be lowered beginning at the south line of Eleventh street

at a uniform grade to conform to the new grade of Massachusetts avenue.

(b) Pratt street shall be regraded in such a manner that the new grade thereof shall be five and seven hundredths (5.07) feet above the present grade of the Cleveland, Cincinnati, Chicago & St. Louis and the Lake Erie & Western Railway tracks of two (2) feet in one hundred (100) feet, and a descending grade west from said tracks of one and eight tenths (1.8) feet in one hundred (100) feet, to points where the new grade of the street intersects the present grade.

(c) The Board of Public Works, to accomplish said work of separating said grades, shall upon the passage of this ordinance and its taking effect, adopt a proper resolution providing for the work to be done hereunder, and whenever said railroads shall have begun said work of elevating their tracks then said Board shall commence the work of grading, lowering and improving said streets.

Sec. 7. The right herein granted to said railroad companies to construct, maintain and operate a structure and elevated way across Massachusetts avenue and Tenth street at the junction thereof shall not be considered or held as affecting, changing or modifying the present franchise of any of said railroad companies; and such consent herein given shall be subject to all of the ordinances of the City of Indianapolis, governing railroads now in force or that may hereafter be enacted.

Sec. 8. Any persons or corporations constructing or owning said railroad tracks as well as their lessees or successors and assigns shall forever indemnify and save harmless the City of Indianapolis from any and all damages, judgments, decrees and costs for which it may be made liable, or which may be recovered against it by reason of its having consented to the construction, maintenance and use of said elevated way at the junction of Massachusetts avenue and East Tenth street.

Sec. 9. It shall be unlawful for any railroad company or corporation, or any officer, agent, employe or servant thereof, or any other person, firm or co-partnership to cause any locomotive engine or steam railroad car or train to cross said Massachusetts avenue and East Tenth street in said city at the junction thereof upon the grade of such avenue or street, or to operate or use any railroad or railroad tracks upon the surface of said avenue and street at the junction thereof, after the time designated by this ordinance for the removal of such tracks. And it shall be and is made the duty of the Department of Public Safety of said city through its police force, to prevent and prohibit the same. For each and every violation of this Section the offender shall, upon conviction, be fined not more than one hundred dollars (\$100.00) in addition to any other penalties.

Sec. 10. This ordinance shall be in force from and after its passage and publication once each week for two consecutive weeks in the Indianapolis Sentinel, a daily newspaper of general circulation in said city.

Which was read a first time and referred to the Committee on Railroads.

By Board of Public Works:

General Ordinance No. 37—1904: An ordinance approving a certain contract granting Willis F. Smith the right to lay and maintain a side-track or switch from the Indianapolis Union Railway Company's tracks across Columbia avenue to his coal-yard, according to blue print attached, in the City of Indianapolis, Indiana.

Whereas, heretofore, to-wit, on the second day of May, 1904, Willis F. Smith filed his petition before the Board of Public Works of the City of Indianapolis, as follows:

PETITION.

To the Board of Public Works, City of Indianapolis:

Gentlemen: The undersigned respectfully petitions your honorable Board for permission to lay and maintain a side-track or switch from the Indianapolis Union Railway tracks across Columbia avenue to his coal yard, according to the blue print plat filed herewith. Your petitioner prays that the privileges and authority herein requested shall be granted upon such terms and conditions as may hereafter be agreed upon by contracts.

Respectfully submitted,

WILLIS F. SMITH.

Now, therefore, This agreement, made and entered into this 2d day of May, 1904, by and between Willis F. Smith, of the City of Indianapolis, County of Marion, State of Indiana, party of the first part, and the City of Indianapolis, by and through its Board of Public Works, party of the second part.

Witnesseth: That the party of the first part, being desirous of securing a right of way for a side-track or switch from The Indianapolis Union Railway Company's tracks across Columbia avenue to his coal yard in the City of Indianapolis, which is more specifically described as follows:

Entering said Columbia avenue on the east side thereof at a point thirty-six (36) feet north of the southwest corner of Block 4, Bruce-Baker addition; thence west across said street on a curved line curving to left with a radius of 240 feet and intersecting the west line of said street at a point forty-seven (47) feet north of the southeast corner of Block 3 in the Bruce-Baker addition to the City of Indianapolis; hereby covenants and fully binds himself, his successors, legal representatives and assigns, that, in consideration of the grant of the privileges and authority herein given, he will lay, construct and maintain said track upon the terms and conditions hereinafter set forth, to-wit:

(1) They shall be so laid, improved and kept in repair as to be safe for persons on foot, in vehicles or otherwise, and shall, at all times, be subject to the orders of the Board of Public Works of the City of Indianapolis.

(2) Said track and switch shall be laid upon such grade as shall be established by said Board, and shall be put down under its supervision and to its satisfaction and approval. Said track shall be raised or lowered to conform to any grade which may, from time to time, be hereafter established, whenever so ordered, in writing, by said Board, and shall be made to conform in all respects with any ordinance passed by the Common Council or with any resolution or resolutions made by said Board, for the elevation or depression of said tracks.

(3) The crossing where said track intersects Columbia avenue shall, at all times, be kept improved and in repair and free from obstructions or defects of any kind. No car or cars shall be permitted to obstruct such crossing or to be thereon except for such time as may be absolutely necessary in moving them back and forth, and they shall be at no time stopped or detained thereon in such manner as to obstruct public travel.

(4) Said party of the first part agrees, at the pleasure and written order of said Board, to take up and remove said track, and upon said

party's failure so to do, upon such notification in writing, of ten (10) days, to promptly pay the cost of having the same done, and the party of the first part hereby releases all claims for damages whatsoever that may arise by reason of such removal; and in removing said track or causing the same to be done, said Board shall in nowise become a trespasser.

(5) The party of the first part agrees to pave between said track to the entire satisfaction of the second party, and in case said tracks shall be or become out of repair or in need of being reconstructed, or become in any way defective (of which fact the said Board shall be the exclusive judge), it shall be the duty of the said party of the first part to promptly repair or remove same, failing in which, after notification in writing of ten (10) days, said Board shall do or cause the same to be done at the expense of the said party of the first part, and for which expense and cost the said party of the first part shall be liable.

(6) The said party of the first part herein binds himself to hold said party of the second part and said city harmless from any and all claims for damages growing out of the existence, maintenance or use of said track, and to pay any judgment, with costs, that may on that account be rendered against the said party or said city.

(7) Any violations of any of the provisions of this instrument by said party of the first part, or by any one for it or at its instance or with its permission, shall operate as an immediate and absolute forfeiture of the privileges and authority given or granted by this contract: *Provided, however,* That the same may be terminated without cause at the pleasure of said Board, as hereinbefore set forth in Clause 4.

Said party of the second part by virtue of the provisions of an act of the General Assembly of the State of Indiana, entitled, "An act concerning the incorporation and government of cities having more than one hundred thousand population, according to the United States census last preceding, and matters therewith connected, and declaring an emergency," approved March 6, 1891, and in consideration of the things hereinbefore set forth and upon the terms and provisions stipulated, hereby gives, grants and duly vests said party of the first part the right, privilege and authority to lay and maintain an additional side-track or switch across Columbia avenue to his coal yard in the City of Indianapolis, all as shown by the drawing attached hereto, filed herewith and for greater certainty marked "Exhibit A."

In Witness Whereof, We have hereunto set our hands this second day of May, 1904.

WILLIS F. SMITH,
Party of the first part.

Witness:

CITY OF INDIANAPOLIS,
By M. A. DOWNING,
JACOB WOESSNER,
DAVID WALLACE,
Board of Public Works,
Party of the second part.

And, Whereas, Said contract has been submitted by the Board of Public Works to the Common Council of the City of Indianapolis, for its consideration and action; now, therefore,

Section 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That such contract above set forth be, and the same is, hereby in all things confirmed and approved.

Sec. 2. This ordinance shall take effect and be in full force and effect from and after its passage.

Which was read a first time and referred to Committee on Contracts and Franchises.

By Board of Public Works:

General Ordinance No. 38—1904: An ordinance approving a certain contract granting The Eclipse Coal Company the right to lay and maintain a side-track or switch from the tracks of the C., C., C. & St. L. Railway across Eleventh street to their coal yard, according to blue print attached, in the City of Indianapolis, Indiana.

Whereas heretofore, to-wit, on the 29th day of April, 1904, The Eclipse Coal Company filed his petition before the Board of Public Works of the City of Indianapolis, as follows:

PETITION.

To the Board of Public Works, City of Indianapolis:

Gentlemen: The undersigned respectfully petitions your honorable Board for permission to lay and maintain a side-track or switch from the tracks of the C., C., C. & St. L. Railroad Company across Eleventh street to the coal yard owned and operated by them, according to the blue print plat filed herewith. Your petitioner prays that the privileges and authority herein requested shall be granted upon such terms and conditions as may hereafter be agreed upon by contract.

Respectfully submitted,

THE ECLIPSE COAL COMPANY,

By James Jackson.

Now. Therefore, This agreement, made and entered into this 13th day of May, 1904, by and between The Eclipse Coal Company of the City of Indianapolis, County of Marion, State of Indiana, party of the first part, and the City of Indianapolis, by and through its Board of Public Works, party of the second part.

Witnesseth: That the party of the first part, being desirous of securing a right of way for a side-track or switch from the tracks of the C., C., C. & St. L. Railroad Company across Eleventh street to the coal yard owned and operated by them in the City of Indianapolis, which is more specifically described as follows:

Said track leaves the main track of the Chicago division of the C., C., C. & St. L. Railway at a point one hundred and ten (110) feet north of the north line of Eleventh street, running thence southeasterly on east side of said main track on an eighteen (18) degree curve, crossing the north line of Eleventh street at a point nineteen (19) feet west of the east line of Lafayette street, thence across Eleventh street on an eighteen (18) degree curve to a point four (4) feet east of the east line of Lafayette street; thence continuing on an eighteen (18) degree curve through land now owned by the Eclipse Coal Company to the west line of Senate avenue; hereby covenants and fully binds himself, his successors, legal representatives and assigns, that, in consideration of the grant of the privileges and authority herein given, he will lay, construct and maintain said track upon the terms and conditions hereinafter set forth, to-wit:

(1) They shall be so laid, improved and kept in repair as to be safe for persons on foot, in vehicles or otherwise, and shall, at all times, be subject to the orders of the Board of Public Works of the City of Indianapolis.

(2) Said track and switch shall be laid upon such grade as shall be established by said Board, and shall be put down under its supervision and to its satisfaction and approval. Said track shall be raised or lowered to conform to any grade which may, from time to time, be hereafter established, whenever so ordered, in writing, by said Board, and shall be made to conform in all respects with any ordinance passed by the Common Council or with any resolution or resolutions made by said Board, for the elevation or depression of said tracks.

(3) The crossing where said track intersects Eleventh street shall, at all times, be kept improved and in repair and free from obstructions or defects of any kind. No car or cars shall be permitted to obstruct such crossing or to be thereon except for such time as may be absolutely necessary in moving them back and forth, and they shall be at no time stopped or detained thereon in such manner as to obstruct public travel.

(4) Said party of the first part agrees, at the pleasure and written order of said Board, to take up and remove said track, and upon said party's failure so to do, upon such notification in writing, of ten (10) days, to promptly pay the cost of having the same done, and the party of the first part hereby releases all claims for damages whatsoever that may arise by reason of such removal; and in removing said track or causing the same to be done, said Board shall in nowise become a trespasser.

(5) The party of the first part agrees to pave between said track to the entire satisfaction of the second party, and in case said tracks shall be or become out of repair or in need of being reconstructed, or become in any way defective (of which fact the said Board shall be the exclusive judge), it shall be the duty of the said party of the first part to promptly repair or remove same, failing in which, after notification in writing of ten (10) days, said Board shall do or cause the same to be done at the expense of the said party of the first part, and for which expense and cost the said party of the first part shall be liable.

(6) The said party of the first part herein binds himself to hold said party of the second part and said city harmless from any and all claims for damages growing out of the existence, maintenance or use of said track, and to pay any judgment, with costs, that may on that account be rendered against the said party or said city.

(7) Any violations of any of the provisions of this instrument by said party of the first part, or by any one for it or at its instance or with its permission, shall operate as an immediate and absolute forfeiture of the privileges and authority given or granted by this contract: *Provided, however,* That the same may be terminated without cause at the pleasure of said Board, as hereinbefore set forth in Clause 4.

Said party of the second part by virtue of the provisions of an act of the General Assembly of the State of Indiana, entitled, "An act concerning the incorporation and government of cities having more than one hundred thousand population, according to the United States census last preceding, and matters therewith connected, and declaring an emergency," approved March 6, 1891, and in consideration of the things hereinbefore set forth and upon the terms and provisions stipulated, hereby gives, grants and duly vests said party of the first part the right, privilege and authority to lay and maintain an additional side-track or switch across Eleventh street to the coal yard owned and operated by The Eclipse Coal Company, according to the blue print plat filed herewith, in the City of Indianapolis, all as shown by the drawing attached hereto, filed herewith and for greater certainty marked "Exhibit A."

In Witness Whereof, We have hereunto set our hands this 13th day of May, 1904.

THE ECLIPSE COAL COMPANY,
 Party of the first part.
 By James Jackson.

Witness:

W. R. WILLIAMS,
 Clerk Board of Public Works.

CITY OF INDIANAPOLIS,
 By M. A. DOWNING,
 JACOB WOESSNER,
 DAVID WALLACE,
 Board of Public Works,
 Party of the second part.

And, Whereas, Said contract has been submitted by the Board of Public Works to the Common Council of the City of Indianapolis, for its consideration and action; now, therefore,

Section 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That such contract above set forth be, and the same is, hereby in all things confirmed and approved.

Sec. 2. This ordinance shall take effect and be in full force and effect from and after its passage.

Which was read a first time and referred to Committee on Sewers, Streets and Alleys.

By Board of Public Works:

General Ordinance No. 39—1904: An ordinance approving a certain contract granting W. J. Roach the right to lay and maintain a side-track or switch from the Lake Erie & Western Railroad Company across Lewis street to his coal yard, according to blue print attached, in the City of Indianapolis, Indiana.

Whereas, heretofore, to-wit, on the 16th day of May, 1904, W. J. Roach filed his petition before the Board of Public Works of the City of Indianapolis, as follows:

PETITION.

To the Board of Public Works, City of Indianapolis:

Gentlemen: The undersigned respectfully petitions your honorable Board for permission to lay and maintain a side-track or switch from the tracks of the Lake Erie & Western Railroad Company across Lewis street to the coal and lumber yard owned and operated by him, according to the blue print plat filed herewith. Your petitioner prays that the privilege and authority herein requested will be granted subject to such terms and conditions as may hereafter be agreed upon by contract.

Respectfully submitted,

W. J. ROACH.

Now, Therefore, This agreement, made and entered into this 16th day of May, 1904, by and between W. J. Roach of the City of Indianapolis, County of Marion, State of Indiana, party of the first part, and the City of Indianapolis, by and through its Board of Public Works, party of the second part.

Witnesseth: That the party of the first part, being desirous of securing a right of way for a side-track or switch from the tracks of

the Lake Erie & Western Railroad Company across Lewis street to the coal and lumber yard owned and operated by him, in the City of Indianapolis, which is more specifically described as follows:

The following described center line of railroad switch or side-track across Lewis street, beginning at a point in the west line of Lewis street, the said point being 155 feet south of the south line of Sixteenth street, thence with a curve line in a southeasterly direction to a point in the east line of Lewis street, the said point being 300 feet south of the south line of Sixteenth street. Also the following described center line of railroad switch or side-track along the west side of Lewis street, beginning at a point three feet east of the west line of Lewis street and 205 feet north of the north line of Fifteenth street, thence north parallel with and three feet distant from the west line of Lewis street to a point 195 feet south of the south line of Sixteenth street, hereby covenants and fully binds himself, his successors, legal representatives and assigns, that, in consideration of the grant of the privileges and authority herein given, he will lay, construct and maintain said track upon the terms and conditions hereinafter set forth, to-wit:

(1) They shall be so laid, improved and kept in repair as to be safe for persons on foot, in vehicles or otherwise, and shall, at all times, be subject to the orders of the Board of Public Works of the City of Indianapolis.

(2) Said track and switch shall be laid upon such grade as shall be established by said Board, and shall be put down under its supervision and to its satisfaction and approval. Said track shall be raised or lowered to conform to any grade which may, from time to time, be hereafter established, whenever so ordered, in writing, by said Board, and shall be made to conform in all respects with any ordinance passed by the Common Council or with any resolution or resolutions made by said Board, for the elevation or depression of said tracks.

(3) The crossing where said track intersects Lewis street shall, at all times, be kept improved and in repair and free from obstructions or defects of any kind. No car or cars shall be permitted to obstruct such crossing or to be thereon except for such time as may be absolutely necessary in moving them back and forth, and they shall be at no time stopped or detained thereon in such manner as to obstruct public travel.

(4) Said party of the first part agrees, at the pleasure and written order of said Board, to take up and remove said track, and upon said party's failure so to do, upon such notification in writing, of ten (10) days, to promptly pay the cost of having the same done, and the party of the first part hereby releases all claims for damages whatsoever that may arise by reason of such removal; and in removing said track or causing the same to be done, said Board shall in no wise become a trespasser.

(5) The party of the first part agrees to pave between said track to the entire satisfaction of the second party, and in case said tracks shall be or become out of repair or in need of being reconstructed, or become in any way defective (of which fact the said Board shall be the exclusive judge), it shall be the duty of the said party of the first part to promptly repair or remove same, falling in which, after notification in writing of ten (10) days, said Board shall do or cause the same to be done at the expense of the said party of the first part, and for which expense and cost the said party of the first part shall be liable.

(6) The said party of the first part herein binds himself to hold said party of the second part and said city harmless from any and all claims for damages growing out of the existence, maintenance or use of said track, and to pay any judgment, with costs, that may on that account be rendered against the said party or said city.

(7) Any violations of any of the provisions of this instrument by said party of the first part, or by any one for it or at its instance or with its permission, shall operate as an immediate and absolute forfeiture of the privileges and authority given or granted by this contract: *Provided, however.* That the same may be terminated without cause at the pleasure of said Board, as hereinbefore set forth in Clause 4.

Said party of the second part by virtue of the provisions of an act of the General Assembly of the State of Indiana, entitled, "An act concerning the incorporation and government of cities having more than one hundred thousand population, according to the United States census last preceding, and matters therewith connected, and declaring an emergency," approved March 6, 1891, and in consideration of the things hereinbefore set forth and upon the terms and provisions stipulated, hereby gives, grants and duly vests said party of the first part the right, privilege and authority to lay and maintain an additional side-track or switch across Lewis street from the Lake Erie & Western railroad across Lewis street to his coal yard, in the City of Indianapolis, all as shown by the drawing attached hereto, filed herewith and for greater certainty marked "Exhibit A."

In Witness Whereof. We have hereunto set our hands this 16th day of May, 1904.

W. J. ROACH.
Party of the first part.

Witness:

W. R. WILLIAMS.

CITY OF INDIANAPOLIS,
By M. A. DOWNING,
JACOB WOESSNER,
DAVID WALLACE,
Board of Public Works,
Party of the second part.

And. Whereas. Said contract has been submitted by the Board of Public Works to the Common Council of the City of Indianapolis, for its consideration and action; now, therefore,

Section 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That such contract above set forth be, and the same is, hereby in all things confirmed and approved.

Sec. 2. This ordinance shall take effect and be in full force and effect from and after its passage.

Which was read a first time and referred to Committee on Railroads.

On motion of Mr. Wahl, the Common Council, at 8:03 o'clock, adjourned

J. H. Billingslee
.....
President.

ATTEST:

W. M. Fogarty
.....
City Clerk.