

## SPECIAL MEETING.

COUNCIL CHAMBER, CITY OF INDIANAPOLIS, IND.

MONDAY, August 14, 1905.

The Common Council of the City of Indianapolis, met in the Council Chamber, Monday August 14, 1905, at 7:30 o'clock P. M. in special session, President Billingsley in the chair, pursuant to the following call:

To the President and Members of the Common Council:

Gentlemen: I hereby call a special meeting of your honorable body at the Council Chambers in the City of Indianapolis, Monday evening, August 14, 1905, at 7:30 P. M., for the introduction, consideration and passage of an ordinance ratifying and confirming an ordinance amending and modifying the contract between the City of Indianapolis and the Indianapolis Traction and Terminal Company, which was approved August 15, 1902, and also an ordinance ratifying and approving a contract entered into between the City of Indianapolis and Alfred F. Potts, Frank D. Stalnaker and Lorenz Schmidt, granting said parties a fuel gas franchise; and also an ordinance describing the territory annexed to the City of Indianapolis by General Ordinance No. 62, 1904, and fixing the boundaries of certain voting precincts in the Ninth and Tenth wards of the City of Indianapolis; also to receive communications from the Board of Public Works and the Mayor concerning said matters, and for the disposition of other matters which may come before your honorable body.

JOHN W. HOLTZMAN,  
Mayor.

I. W. M. Fogarty, City Clerk, hereby certify that I have served the above and foregoing upon each and every member of the Common Council prior to the time of meeting pursuant to the rules.

W. M. FOGARTY,  
City Clerk.

The Clerk called the roll:

Present: The Hon. James H. Billingsley, President of the Common Council, and 15 members, viz: Messrs. Cooper, Cottey, Crall, Davis, Gasper, Hofmann, Krause, Moriarity, Murray, Rhodes, Shea, Storm, Sullivan, Wahl, Wright.

Absent, 5, viz.: Messrs. Eppert, Fishback, Linus, Uhl, Wolsiffer.

From the Board of Public Works:

INDIANAPOLIS, IND., August 14, 1905.

To the President and Members of the Common Council:

Gentlemen: We herewith transmit to you an agreement made and entered into August 11, 1905, by and between the City of Indianapolis, through its Board of Public Works and the Indianapolis Traction and Terminal Company, for your consideration and action.

Respectfully,

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

Which was read.

From the Board of Public Works:

INDIANAPOLIS, IND., August 14, 1905.

To the President and Members of the Common Council:

Gentlemen: We herewith transmit to you a contract and agreement made and entered into by the City of Indianapolis by and through its Board of Public Works and Alfred F. Potts, Frank D. Stalnaker and Lorenz Schmidt, August 11, 1905, for a fuel gas contract, for your consideration and action.

Respectfully,

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

Which was read.

Messrs. Fishback and Eppert entered the Council Chamber and took seat.

Mr. Shea moved that the Gas Franchise be considered by the Council as a Committee on the Whole.

The Chair ruled that as the ordinance had not yet been introduced the motion was not in order.

By Board of Public Works:

General Ordinance No. 67—1905: An ordinance ratifying, confirming and approving a certain contract and agreement made and entered into on the 11th day of August, 1905, between the City of Indianapolis, by and through its board of Public Works and Alfred F. Potts, Frank D. Stalnaker and Lorenz Schmidt, viz.:

This contract and agreement made and entered into by and between the City of Indianapolis, Marion County, Indiana, by and through its Board of Public Works, party of the first part, hereinafter designated as the "City," and Alfred F. Potts, Frank D. Stalnaker and Lorenz Schmidt, for themselves and their associates and assigns, of the City of Indianapolis, Marion County, Indiana, and hereinafter designated as parties of the second part, witnesseth:

Whereas, The said Alfred F. Potts, Frank Stalnaker and Lorenz Schmidt, parties of the second part, for themselves, associates and assigns, have presented their written petition to the said Board of Public Works of said City of Indianapolis asking permission to enter upon and lay, construct, maintain and operate a system of pipes in and along the streets and alleys and other places of said city for the distribution and sale of gas to such city and to such of the inhabitants thereof as desire to be supplied therewith;

Now, therefore, The said City of Indianapolis, party of the first part, by and through its Board of Public Works aforesaid, in consideration of the several agreements of the said Alfred F. Potts, Frank Stalnaker and Lorenz Schmidt, parties of the second part, and their associates and assigns hereinafter stipulated and set forth, does hereby grant, authorize, empower and permit the said parties of the second part, their associates and assigns, subject to the ratification and approval of the Common Council of said City, to enter upon the streets, alleys, avenues and other public places and parts of said city and to excavate and construct the necessary ditches, trenches, conduits and tunnels and to place, lay, bury, maintain, operate and repair a system of pipes therein of such size as the parties of the second part and their associates and assigns may require for the distribution and supply of gas to said city, and the inhabitants thereof for fuel and heating and lighting purposes, together with the right to construct, maintain and repair all necessary regulators, valves, curb boxes and safety appliances and other appurtenances, subject to the following conditions, to-wit:

1. Provided, however, That said Alfred F. Potts, Frank D. Stalnaker and Lorenz Schmidt, their associates and assigns, before exercising any of the rights herein conferred, shall organize a corporation under and in accordance with the laws of Indiana to carry out the purpose of this grant, to which corporation this franchise and all interests thereunder shall be assigned, which articles of incorporation shall, among other matters, provide as follows:

(a) The capital stock shall be not less than one million (\$1,000,000.00) dollars to be divided into shares of twenty-five (\$25.00) dollars each.

(b) No increase of capital stock shall be made except it be provided that such new stock shall be submitted to the public at public auction upon thirty days notice of the time and place of sale to be published in three Indianapolis newspapers having the largest city circulation, at which time said stock shall be sold at the best price obtainable therefor and any premium offered and paid for such stock shall go to the surplus capital of said company and shall bear no dividend.

(c) The said company by its Board of Directors shall make and publish in at least two Indianapolis newspapers of general circulation, a semi-annual public statement in detail of the affairs of said company, including the accounts of its assets and liabilities, disbursements and receipts; and the Controller of said City shall have the right to investigate the books of said company at any time for the purpose of examining into the correctness of said report, or for other purpose; and the City Civil Engineer shall have the right at any time to make examination of said company's plant and property;

(d) The entire capital stock of the corporation shall be placed under the control of a Board of five (5) Trustees and their successors, who shall be stockholders in said company, who shall be designated in said articles of incorporation and one of whom shall be nominated by the Mayor of said City; which said Board of Trustees shall have full, complete, exclusive and irrevocable power, during the continuance of this corporation, to hold said stock and vote the same as fully and completely as if they were the owners of said capital stock; to elect Directors, as herein provided, and to fill any vacancy that may occur in said

Board of Directors. Said entire capital stock shall be voted as a unit; and in case said Trustees shall not agree as to how said stock shall be voted, the majority of them shall cast the vote of the Board. If a vacancy shall occur in said Board of Trustees by death, resignation, removal from the City of Indianapolis, or otherwise, such vacancy shall be filled by the remaining members of the Board, except that the Mayor of said City shall appoint the successor to the Trustee originally named by such Mayor; and in the event of the failure of said Board or Mayor to fill such vacancy, the Marion Circuit Court shall, upon application of any stockholder, after said Trustees or Mayor have had ten (10) days notice in writing of said application, and shall have in the meantime failed to fill such vacancy, appoint some competent person to fill the same.

Any member of the Board of Trustees may be removed by the Marion Circuit Court upon the showing that said Trustee is an employe or holder of any of the securities or capital stock of any other company organized for the purpose of manufacturing or delivering gas to consumers residing in, or in the vicinity of the City of Indianapolis, or for any corrupt practice or any misconduct which said Court may deem detrimental to the interests of said company. Removal from the City of Indianapolis shall, *ipso facto*, vacate the office of any Trustee.

(e) Said Trustees shall issue to each subscriber to the capital stock of said company, upon full payment by such subscriber to said company of the amount of his subscription, and upon the stock therefor being issued to said Trustees as above provided, a certificate showing the amount of stock held by said Trustees in trust for said subscriber; and said subscriber or holder of said certificate by assignment, shall be entitled by virtue thereof to receive from said Company all dividends which shall be declared, not, however, exceeding ten per centum per annum payable semi-annually in money or in payment of any indebtedness of the holders of such certificates as consumers of the gas of said company, so long as said certificates remain outstanding and uncanceled as hereinafter provided.

(f) The earnings of said Company shall be used in the following order, to-wit: first, to the payment of matured debts and operating expenses; second, to the payment semi-annually of said dividends of ten per centum per annum and any unpaid accrued dividends; third, to such extensions and betterments as may be ordered by the Board of Public Works of said City; and the excess to the repayment in whole or partial payments of the amounts subscribed: Provided, however, That when any part of the amount subscribed and paid in by any certificate holder has been repaid only the balance unpaid shall thereafter be entitled to receive such dividend of ten per centum per annum.

(g) When said certificate-holder shall have received, by dividends or otherwise, upon said certificate an amount equal to the face value thereof together with interest thereon at the rate of ten per centum per annum payable semi-annually, then said certificates issued to said subscribers shall be deemed fully paid and cancelled and it shall be the duty of the Trustees and Directors of said company to convey said gas plant and property belonging to said company to said City to be owned and operated or leased by it, and all the rights, title and interest of said company or its certificate-holders, stockholders, officers, directors or trustees, shall be deemed to be fully paid and extinguished, and all such certificates whether of stock or otherwise, shall be surrendered and cancelled and said corporation shall be wound up.

(h) The business and prudential concerns of the corporation shall be managed by a Board of Directors consisting of nine (9) members, to be after the first year, annually elected by the Board of Trustees, and said annual election shall be held on the second Monday of January of each year thereafter.

(i) If upon the expiration of the term and period of the franchise granted by said City of Indianapolis to said parties and assigned to said company, the same shall terminate without the payment of said certificates, together with dividends thereon, at the rate of ten per centum per annum, then upon notice to such effect to be given said Board of Directors by the Board of Public Works of said City at least six months before the expiration of said franchise period, the said Board of Directors shall mortgage its gas plant and property for such sum as to enable it to pay its stock or certificate-holders an amount which with what has already been paid will equal the full amount of such subscription with dividends estimated at the rate of ten per centum per annum thereon, and with the proceeds thereof, or with the mortgage notes so issued in proper amounts, pay off and discharge the amounts due such certificate-holders and convey said plant to said City subject to such obligations and other legal obligations against said company: Provided, however, That by the terms of said mortgage such obligation shall bear interest not exceeding six per centum per annum and be payable on or before ten years from date of execution.

2. And it is agreed and understood that all of the above stipulations to be provided in the articles of incorporation of the company to be formed by said Potts, Stalnaker and Schmidt, and their associates shall bind and be enforceable by said City against said company as conditions of this contract.

3. And provided further that this grant is made upon the following additional conditions, to-wit: That said Potts, Stalnaker and Schmidt, their associates and assigns, shall secure, acquire or construct, and put in operation a fuel gas plant for the purpose of supplying gas under this franchise, with not less than one hundred miles of mains in the streets and alleys of said city, within eighteen months from the date of the sale of the Consumers' Gas Trust Company mains now pending, and failing therein shall forfeit all rights hereunder; provided, however, the Board of Public Works may at any time after said sale of the Consumers' Gas Trust Company's mains now pending by written notice require said second parties, their associates and assigns, to file a bond within thirty days in the sum of twenty-five thousand (\$25,000) dollars with surety to the approval of said Board, conditioned for the faithful performance of this contract and the acquiring or construction and putting in operation of such fuel gas plant with at least one hundred miles of mains laid in the streets and alleys of said city and upon failure of said second parties, their associates and assigns to comply with said notice and order for the filing of such bond this franchise contract shall become void and all the rights, privileges and interests granted or arising hereunder to said second parties, their associates and assigns, shall at once become void and of no effect, and provided further that said Board of Public Works may, in its discretion, extend the time above fixed for the construction of such plant to a date not more than six months after the expiration of the date as above provided.

4. Before said parties of the second part or their assigns shall enter upon or take possession of any street, alley, avenue or other public place within said city for said purposes aforesaid, they or their assigns shall execute to said City of Indianapolis a good and sufficient bond to be maintained throughout the term of this franchise, in the sum of twenty-five thousand (\$25,000) dollars with surety to the approval of said board of Public Works, and conditioned for the indemnification of said City against all loss by reason of damages sustained by any person, firm or corporation by reason of the construction or operation of said gas plant by the said parties of the second part, or their assigns, and for the faithful performance by said parties of the second part and their assigns of each and every stipulation and agreement contained in this contract.

5. Said second parties for themselves and their assigns agree to indemnify and hold harmless said City, its officers and employees from the payment of any and all damages, costs, expenses, royalties, patent fees, attorney's fees or any other sum of money whatsoever by reason of any action or demand for any infringement of any patent or copyright, or by reason of any demand or suit against said City on account of any act of omission or commission by said second parties or their assigns; and upon written notice said second parties or their assigns shall defend any suit against said City on account of any such matter, and shall prosecute or defend any appeal therein and promptly pay any final judgment that may be recovered therein against said City.

6. Before entering upon or commencing operations in any streets, alleys or public ground of said City, said parties of the second part, or their assigns, shall furnish to the Board of Public Works of said City a plan showing the street, alley, avenue or other place to be opened and the proposed location of the pipes therein, with a general specification giving particulars as to the kind and size of pipes to be used. Duplicate plans shall be submitted to and approved by the City Civil Engineer before any street is opened for any purpose whatever, and one copy of said plan shall be retained by said City. Said parties of the second part, or their assigns, shall also file in the office of the Board of Public Works, within sixty (60) days after laying the mains in any street, alley or public place a full and complete map showing the position and size of the pipes therein.

7. All work done in or upon any of the streets, alleys or public places of said City, either in the original construction or in making repairs, shall be done upon permits issued by the Board of Public Works, and all trenches shall be dug and pipes laid and the trenches or ditches closed within the shortest possible time within which the same can be done with skillfulness and dispatch. All work shall be done so as to interfere as little as possible with public use and travel upon said streets, alleys and public ground and the said parties of the second part and their assigns shall restore and maintain the streets and other places in their original condition and shall clear the streets, and other places occupied by the parties of the second part and assigns of dirt and rubbish.

8. In the construction or repair of that part of such plant as is located in any of the streets, alleys, avenues or public places of said City, the same shall be subject to the supervision of inspectors to be appointed by the Board of Public Works, and all necessary expenses for the employment of such inspectors which may be necessary for such purposes, shall be paid by the said parties of the second part or their assigns to the City Controller on demand.

9. All service pipes connecting with said mains of the parties of the second part or their assigns, shall be placed and located at such points and locations as shall meet the approval of the owner of the property whose premises are to be connected by such service pipes and service lines to property line of streets and alleys. Provided, however, that where service pipes are already laid in connection with a system of mains secured by second parties or their assigns, no relocation of such service pipes shall be required. Said service pipes to property lines and curb boxes shall be put in at the expense of said parties of the second part and their assigns, who shall also furnish all necessary meters and safety devices free of charge to each consumer of gas.

10. All mains shall be laid with reference to the present grade of the street, alley or public ground through which the mains shall be placed, and in case the grade of such streets, alleys or public places shall be changed the parties of the second part and their assigns shall cause such pipes to be relaid in conformity to such changed grade at their expense and the parties of the second part or assigns shall not be entitled to damages by reason of such change of grade.

11. All materials used in the equipment or construction of said plant shall be of the best quality and the mains of said company shall at all times be of sufficient size to render adequate service. All pipes shall be so laid and located as not to interfere with the City's sewers, water or other pipes, or those of any other person or company, and when the City shall determine to lay any sewer, water or other pipe in any street, alley or public ground occupied by the pipes of the parties of the second part, or their assigns, or change the location of any such pipe, the parties of the second part or their assigns, shall, at their own expense, lower, elevate, change or, remove their pipes so as not to interfere with the use of sewer or water pipes.

12. In the construction, maintenance and repair of any of said pipes of said parties of the second part or assigns, they shall comply with all ordinances and regulations existing, or that may hereafter be passed by the Common Council of said City of Indianapolis, or resolutions or regulations made by the Board of Public Works applicable to the parties of the second part or their assigns, concerning the manner of laying, constructing or repairing mains and connections of said plant, and they shall also be liable for any damages by reason of their failure to comply with any of said regulations, resolutions or ordinances, and shall save the City harmless from any and all damages by reason of said neglect.

13. The parties of the second part, for themselves and their assigns, further agree that the gas so to be furnished, sold and distributed shall have at least six hundred (600) British Thermal Units per cubic foot measured according to standard methods employed for such purposes.

14. The parties of the second part and assigns further agree that the price to be charged the consumer for gas so to be furnished under this contract, shall never at any time exceed the sum of sixty (60) cents per thousand cubic feet, and in the event said parties of the second part or their assigns shall ever increase its rates for gas in excess of sixty (60) cents per one thousand (1,000) cubic feet, aforesaid, for gas furnished under the terms of this contract, then and in that event all the rights, privileges and franchises herein granted shall at once become null and void and its right to longer occupy or use any of the streets, alleys, avenues, public places or other parts of said City may be terminated, and the City shall have the right to acquire said plant as herein provided as upon the termination of the franchise period.

15. In the event the parties of the second part, or assigns, should fail to refill any excavation made in the construction or repair of any portion of said plant, or fail to restore any street, alley or public ground to its former condition, the said City of Indianapolis, through its Board of Public Works, may, after five (5) days written notice to the parties of the second part or assigns, at their office in said City, do such work and make repairs as may be necessary and the cost thereof shall be paid to the Controller of said City by said second parties, or assigns, within ten (10) days from the date upon which itemized bills are presented therefor.

16. Before said parties of the second part or assigns shall commence the work of construction, they or their assigns shall deposit with the City Treasurer of said City to the credit of said Board of Public Works, the sum of five hundred (\$500.00) dollars, and shall so maintain said sum on deposit during the entire life of this contract or franchise, which shall be designated as an "Emergency Fund." Whenever in the opinion of the Board of Public Works, an emergency arises for the immediate repair of any defect found to exist in any part of any street, alley or public ground, which has been caused by the parties of the second part or assigns and they shall fail, on notice, to immediately repair the same, the said Board of Public Works may cause such repairs to be made at once and if the cost thereof be not promptly paid by the

parties of the second part or assigns on presentation of itemized bill therefor, such cost shall be paid from such emergency fund, which fund shall be immediately reimbursed by said parties of the second part or assigns; or said Board of Public Works may deduct an amount equal to any payment made by it out of any sum due said parties of the second part or assigns and may add the same to such emergency fund.

17. The parties of the second part hereby bind themselves, their successors and assigns to so extend the various lines and mains of said plant that all the inhabitants of said City may be supplied with gas for fuel and lighting purposes, when they may reasonably require the same and when a petition therefor has been presented to the Board of Public Works signed by the owners of property in any territory in said City asking for such extension, and in which, said owners or occupants of at least three houses already erected shall bind themselves to make five or more stove or grate connections or fifteen or more burners and to use the same, for each five hundred (500) feet of space that said lines are asked to be extended. Whenever such petition has been filed with the said Board of Public Works, it shall cause written notice to be given to the parties of the second part, their successors or assigns, which may be served on any officer or employee of said parties of the second part or assigns, at the main Indianapolis office of said parties or assigns, requiring said parties of the second part or assigns to appear before said Board of Public Works at a certain hour specified in said notice in not less than five days after the serving of such notice, to show cause why the prayer of said petitioners should not be granted. Such notice shall contain an accurate description of the streets, alleys and public places through and along which such extension is asked and the territory and inhabitants which it is proposed to supply with gas as aforesaid. On the day and at the time named in such notice, the Board of Public Works shall give to the parties of the second part or assigns, if they so desire, a full hearing on the question as to whether such petition has been signed by the required number of owners and occupants of property who have agreed therein to take and use the number of stoves or grate connections or burners, and whether such extension should be required; if said parties of the second part or assigns should not appear before said Board of Public Works at the time fixed in said notice, said Board of Public Works may act upon such petition and upon such evidence or information as it may have from any source. If said Board of Public Works, after such hearing, shall decide that said petition has been signed as hereinbefore provided and contains the agreement as to burners or stove connections herein required, and that such extension may reasonably be required, it may make an order requiring such extension and fixing the time within which said work of extension shall be completed, reasonable time being given, written notice of which shall be given the parties of the second part, or assigns, and if the parties of the second part or assigns should fail or refuse to make such extension, within the time limited, unavoidable delays excepted, the parties of the second part or assigns shall forfeit and pay to said City the sum of fifty (\$50.00) dollars for each and every day that the completion of such extension is delayed beyond the period so fixed, which sum shall be considered as liquidated damages for breach of this contract; provided, however, that said parties of the second part or assigns shall not be required to proceed with the extension of any lines, pipes or mains between the first day of November and the first day of April of the following year, in any year, and provided further that such extension shall not be required by said Board of Public Works of said City unless the earnings of said company will permit the same after the payment of the dividend of ten per centum per annum upon the subscribers' certificates.

18. If it shall appear that the extension petitioned for cannot be made from the resources of said company as heretofore provided in the



foregoing section, then such extension may be required of said company upon the following terms and conditions, to-wit: The property owners of any territory in said City not supplied with gas by said company may petition the Board of Public Works of the City for such extension, and shall therewith file their agreement to take at par for cash an amount of the capital stock of said company sufficient to cover the cost of the material and labor of making such extension, together with agreement of property owners or occupants of at least three houses already erected along such proposed lines binding themselves to take at least five stove connections or fifteen burners, and use the same, for each five hundred feet that said mains are asked to be extended. Said Board of Public Works of said City shall thereupon fix a day for the hearing of said petition, giving said company at least ten days notice in writing and shall hear all parties interested therein and shall determine by an order, from which there shall be no appeal, if said petition is properly signed by the required number of property owners who have agreed to take the stove connections or burners, and use the same as above provided and to determine also if said petitioners have sufficiently subscribed therefor and are responsible under their obligations to take an amount of the capital stock of said company which at its face value would cover the cost of material and labor of making such extension together with service connections to the property lines, such cost to be determined by an estimate of the City Civil Engineer, and in such order said Board of Public Works shall require said company to make such extensions on said conditions and fix the time within which the work shall be completed. And it shall be the duty of the Board of Directors of said company upon such order of the Board of Public Works, to offer for sale as herein provided any of the unsubscribed capital stock, or if necessary, to increase the capital stock, and so offer for sale such increase to an amount sufficient to cover the estimated cost of such extension; and if said stock be not sold at more than the face value thereof then the same shall be taken and paid for by said petitioners at the face value thereof and thereupon such extensions shall be made. And if said company shall fail or refuse to make such extension within the time fixed therefor, unavoidable delays excepted, it shall forfeit and pay to said City fifty (\$50.00) dollars for each and every day of such failure or delay.

19. The parties of the second part or assigns shall use no meter, nor require the use of any meter in the measurement of gas sold under the provision of this contract, except such as will accurately measure all gas passing through it, and it is agreed that any meters whose measurement shall exceed two per cent. (2%) fast or two per cent. slow, will be considered inaccurate.

20. Said Board of Public Works shall at all times have authority to inspect or cause to be inspected and to test or cause to be tested any meters in use by the parties of the second part or assigns or to inspect and test the apparatus, mains or plant of said company, and to test or cause to be tested the quality of the gas and the calorific and illuminating value of the same for the purpose of determining whether the same does comply with the terms and provisions hereof. And unsafe apparatus or imperfect meters shall immediately be replaced upon order of said Board of Public Works. And upon order of said Board of Public Works the gas of said company shall be made to conform to the standard herein fixed and if said company shall fail to make its gas of the standard and quality herein fixed within a period of five days after such order it shall forfeit to said City the sum of one hundred (\$100.00) dollars for each day's failure to comply with such order, and in addition to the above penalty the City shall have the right by any proper action at law or equity, to compel said company to furnish gas of the quality herein prescribed.

21. This contract and agreement shall be in force from and after

the date of its ratification by the Common Council of said City and for a period of twenty-five years thereafter, and thereafter all rights of said company to occupy the streets and alleys of said City shall terminate and cease.

22. If the plant and system of mains of said company shall not have become the property of said City by the cancellation of the certificates of subscribers and conveyance of such property to said City by the Board of Directors and Trustees of said company on or before the expiration of the aforesaid period of said franchise, then said City, by and through its Board of Public Works upon the expiration of said franchise period, shall have the right to pay any balance remaining due said certificate holders and the plant and property of said company shall be conveyed to said City as above provided to be owned and operated, or owned and leased by it; or, at the option of said City, the Board of Directors of the corporate successor of the second parties shall as heretofore provided upon the conclusion of said franchise period mortgage its plant and with the proceeds thereof, or with the mortgage notes issued in proper amounts, pay off and discharge the amount due certificate holders, and thereupon convey said plant to said City subject to such obligations and other legal obligations against said company.

23. If at any time the company operating under this franchise should become insolvent and be ordered sold by any proper judicial authority, the City of Indianapolis reserves the right to acquire all the property and rights of said company by the payment of its bona-fide indebtedness and any balance due the certificate or stockholders of said company, and upon the tender by said City of the amount of such indebtedness and amount due certificate or stockholders the Trustees and Directors of said company shall upon demand execute proper instruments transferring all such property and rights to said City of Indianapolis to be owned and operated or leased by it.

24. This contract shall not be assigned nor in any manner transferred, whether directly or indirectly, except as herein provided by second parties to the corporation to be organized by them, without the consent of the Board of Public Works, entered upon the minutes thereof.

*In Witness Whereof*, The said City of Indianapolis has caused its corporate name and seal to be hereunto affixed by its Board of Public Works and the said Alfred F. Potts, Frank D. Stalnaker and Lorenz Schmidt have hereunto set their hands and seals, all in triplicate, this 11th day of August, A. D., 1905.

CITY OF INDIANAPOLIS,

By M. A. DOWNING,

JACOB WOESSNER,

DAVID WALLACE,

Board of Public Works.

Party of the first part.

Approved:

JOHN W. HOLTZMAN, Mayor.

ALFRED F. POTTS.

FRANK D. STALNAKER.

LORENZ SCHMIDT.

Party of the second part.

*And Whereas*, Said contract and agreement has been submitted through the Board of Public Works, to the Common Council of the City of Indianapolis for its action thereon, therefore,

Section 1. Be it ordained by the Common Council of the City of Indianapolis, That the foregoing contract and agreement made and entered into on the 11th day of August, 1905. by the City of Indianapolis, by and through its Board of Public Works, and Alfred F. Potts, Frank

D. Stalnaker and Lorenz Schmidt, be and the same is, hereby in all things ratified, confirmed and approved.

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

### By Board of Public Works:

General Ordinance No. 68—1905: An ordinance ratifying, confirming and approving a certain contract and agreement made and entered into this 11th day of August, 1905, between the City of Indianapolis, by and through its Board of Public Works, and the Indianapolis Traction and Terminal Company, viz.:

This agreement, made and entered into this 11th day of August, 1905, by and between The City of Indianapolis, Marion County, Indiana, hereinafter called "The City," by and through its Board of Public Works, party of the first part, and the Indianapolis Traction and Terminal Company, hereinafter called "The Traction Company," a corporation duly organized and incorporated under and by virtue of the laws of the State of Indiana, party of the second part, witnesseth:

*Whereas*, heretofore, to-wit: On the 11th day of August, 1902, a contract was entered into by and between The City and said Traction Company, which thereafter on the 14th day of August, 1902, was ratified and approved by the Common Council of said City by an ordinance which was duly approved by the Mayor of said City on the 15th day of August, 1902, in and by which contract it was, among other things, provided by the seventh paragraph thereof that said Traction Company should within three years from the date of said contract construct, equip and thereafter operate or procure to be operated three certain lines of street railway, one, a substantially east and west line, in the northern section of the city in certain streets and avenues of said City specifically named, including Nineteenth street between Hillside avenue and Central avenue and Thirtieth street between Illinois street and the bridge across White river in said Thirtieth street, and one, also a substantially east and west line, in the southern section of said City in certain streets and avenues specifically named, and also one in the southeastern section of said City in Lexington avenue and other streets and avenues specifically named; and

*Whereas*, The roadway of said Nineteenth street is but twenty-four feet in width and has been permanently improved, and said Thirtieth street is the main thoroughfare leading to Riverside Park and is much traveled with ordinary vehicles, and Wilkins street, in which a large part of the uncompleted part of the southern, east and west line is required to be constructed, has not been opened between Chestnut street and Madison avenue, and many residents and owners of property in said street and other streets to be occupied by said line, are remonstrating against the construction of said line, for which reasons it is deemed advisable to modify said contract as hereinafter provided.

*Now, therefore*, In consideration of the premises and of the mutual-ity of the obligations hereof, said City and said Traction Company do hereby undertake and agree to and with each other as follows:

Said Traction Company undertakes and agrees and the right is hereby granted to it to construct and equip within four months from the date hereof and thereafter operate or procure to be operated a line of double track street railroad beginning at a point in Riverside Park in said City where the present line of double track street railway extending south in said Park from a point near Thirtieth street would intersect Twenty-seventh street if prolonged west, thence east in said Park and in Twenty-seventh street to Schurmann avenue, thence south

in Schurmann avenue to Twenty-seventh street east of said avenue, and thence east in Twenty-seventh street to Northwestern avenue; also, within six months from the date hereof, to construct a line of street railway in Twenty-second street from Illinois street to College avenue and, within three years from the date hereof, to construct a line of street railroad east of College avenue to the east corporation line of the City in some east and west street or streets, inclusive of and between Seventeenth and Thirty-fourth streets, but exclusive of Nineteenth and Thirtieth streets, to be hereafter designated by the Board of Public Works.

Said lines shall be connected with existing lines at intersecting points so as to form with such lines a substantially east and west line in the northern part of the City, and the Traction Company in respect of the operation, maintenance and construction thereof, shall be subject to the control of the City through its Board of Public Works as fully and to the same extent as is provided in said contract of August 11, 1902, as to other lines of street railroad constructed, maintained and operated by said Company in said City.

The right granted to said Traction Company by said contract of August 11, 1902, to construct and operate a line of street railroad in Nineteenth street between Central and Hillside avenues and in Thirtieth street between Illinois street and the bridge across White River in said Thirtieth street is relinquished and rescinded.

The provisions of said contract of August 11, 1902, for the construction of an east and west line in the southern section of the City is hereby modified in this, that said Traction Company shall not be required to construct said line within the period of three years fixed in Section 7 of said contract of August 11, 1902, nor thereafter unless and until said City, upon order of its Board of Public Works, shall require the construction of said line under and in accordance with the provisions of Section 14 of said contract of August 11, 1902; but the right of said Traction Company to maintain and operate its existing tracks in Morris street between Kentucky avenue and River avenue is hereby confirmed.

In lieu of the provisions contained in said contract of August 11, 1902, for the construction of a line in Huron street (now known as Lexington avenue) between Virginia avenue and Shelby street, Shelby street between Huron street and Lexington avenue, Lexington avenue between Shelby and Harlan street, Harlan street between Lexington avenue and Woodlawn avenues, Woodlawn avenue between Harlan street and Keystone avenue, and Keystone avenue between Woodlawn avenue and Prospect street, all in the southeastern section of said City, said Traction Company undertakes and agrees to commence within thirty days from the date hereof and to complete within three months from the date hereof and to operate a line of single track street railroad in Lexington avenue from Virginia avenue to Harlan street with a "Y" in Harlan street, and such turnouts in Lexington avenue as are necessary for the operation of said line, and the right to so construct and operate said line is hereby given.

Said Traction Company is also granted the right and undertakes and agrees to construct on or before the 1st day of May, 1906, and thereafter operate an extension of the Bismarck avenue line of street railroad from its present terminus at the Crawfordsville pike in and along the Lafayette pike and the Meyers Free Gravel Road to a point in said road west of the foot bridge over White river in Riverside Park, and, subject to the consent and approval of the Park Board, in said Park for a loop and terminal.

The right is hereby granted to said Traction Company to abandon, with the consent of the Indianapolis Street Railway Company, the lines of single and double track railway in Eighteenth street west of Schur-

mann avenue and in Riverside Park between eighteenth and Twenty-seventh street, and in lieu thereof to construct and maintain and operate a single track street railway in Schurmann avenue from Eighteenth street to Twenty-first street, and a double track street railway in said avenue from Twenty-first street to Twenty-seventh street.

The said Traction Company is granted the right to and shall connect all of the lines of railroad herein provided or authorized to be constructed with the existing lines of street railroad at all intersecting points by suitable curves.

The rights granted to said Traction Company by said contract of August 11, 1902, to construct, maintain and operate lines of street railroad in the streets and parts of streets and avenues specified in Paragraphs 1, 6 and 7 of said contract, except Nineteenth street between Hillside avenue and Central avenue and Thirtieth street between Illinois street and the bridge over White river, shall not be affected or impaired but all such rights are hereby confirmed. It is further agreed and understood that if at any time hereafter said City shall deem it advisable to have lines of street railroad constructed and operated in said Nineteenth and Thirtieth streets or either of them, or in any east and west street between Northwestern avenue and Illinois street and Twenty-fifth and Thirtieth streets, the Traction Company shall have the right to construct, maintain and operate the said lines under and subject to the provisions of said contract of August 11, 1902, but said Company shall not be required to construct any such lines within five years from the date hereof.

Said contract of August 11, 1902, shall, in respect of all of its provisions except as they are modified hereby, be and remain in full force as between the parties hereto.

*In Witness Whereof*, The City, by its said Board of Public Works, and the Traction Company, by its President, have hereto subscribed their names and affixed their respective seals the date above written.

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

INDIANAPOLIS TRACTION AND TERMINAL COMPANY,  
By John J. Appel, Vice-President.

Attest:

W. F. MILHOLLAND, Secretary.

Approved:

JOHN W. HOLTZMAN, Mayor.

*And Whereas*, Said contract and agreement has been submitted through the Board of Public Works to the Common Council of the City of Indianapolis for its action thereon, therefore,

Section 1. Be it ordained by the Common Council of the City of Indianapolis, That the foregoing contract and agreement made and entered into on the 11th day of August, 1905, by the City of Indianapolis, by and through its Board of Public Works, and the Indianapolis Traction and Terminal Company, be, and the same is, hereby in all things ratified, confirmed and approved.

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

By Mr. Cooper:

General Ordinance No. 69—1905: An ordinance specifically describing the territory annexed to the City of Indianapolis by General Ordinance No. 62, 1904, and fixing the boundaries of certain voting precincts in the Ninth and Tenth wards of the City of Indianapolis, Indiana, and fixing a time when the same shall take effect.

*Whereas*, By reason of the annexation to the City of Indianapolis of certain territory contiguous to the Ninth and Tenth wards in said City, it is deemed necessary to change and readjust the boundaries of certain voting precincts in said wards and to define the boundary line of said wards where the same passes through such annexed territory; therefore,

Section 1. Be it ordained by the Common Council of the City of Indianapolis, That the territory annexed to said city by General Ordinance No. 62, 1904, is specifically described as follows: Commencing at a point on the east boundary line of said City of Indianapolis, where the same intersects the south side of English avenue at Keystone avenue in said City, thence along the south side of said English avenue extended, till the boundary line of said City at Temperance avenue is reached, thence following said boundary line east to Worcester avenue; thence north and east and north again along said boundary line to the Brookville road, and thence following said boundary line along the Brookville road to the boundary line at Bancroft street, thence north along said line to the Cincinnati, Hamilton & Dayton Railroad tracks, and thence along said tracks northwest and west to the boundary line heretofore existing east of Rural street, and thence south along said boundary line to the south side of English avenue; it being the purpose and intent to include in such territory annexed all heretofore unannexed territory north of the south line of English avenue and west of Emerson avenue and south of Washington street in said City.

Sec. 2. The territory so annexed to said City lying east of the center of the Indianapolis Union Railway Company's tracks shall be and is a part of the Ninth ward, and all west shall be and is a part of the tenth ward.

Sec. 3. The Tenth ward shall be divided into twenty precincts numbered as hereinafter described and designated by the following boundaries:

First Precinct: All that part of said City bounded as follows shall be and constitute the First precinct, Tenth ward: Beginning at the intersection of Washington street with the center line of the Indianapolis Union Railway Company's right of way; thence south with the center of said right of way to the intersection of such center line with the center line of the right of way of the Cincinnati, Hamilton & Dayton Railroad; thence west along such center line to the west line of the east half of the northeast quarter of Section seven (7) in township fifteen (15) north, Range four (4) east, being the east line of the lands heretofore used for a Deaf & Dumb Institution; thence north along such section line to the center of Washington street; thence in an easterly direction with the center of Washington street, to the place of beginning.

Second Precinct: All that part of said City bounded as follows shall be and constitute the Second precinct, Tenth ward: Beginning at the intersection of the center line of Washington street with the center line of Oriental street; thence south with the center line of Oriental street to the center of the right of way of the Cincinnati, Hamilton & Dayton Railroad; thence east with the center of such right of way to the east line of the west half of the northeast quarter of Section seven (7), Township fifteen (15) north, Range four (4) east, being the east line

of the grounds heretofore occupied by a Deaf & Dumb Institution; thence north with such section line to the center of Washington street; thence westerly in the center of Washington street to the place of beginning.

Third Precinct: All that part of said City bounded as follows shall be and constitute the Third precinct, Tenth ward: Beginning at the intersection of the center lines of Washington and Oriental streets; thence west with the center line of Washington street to its intersection with the center line of Cruse street; thence south in the middle of Cruse street, to the middle of Maryland street; thence east to the middle of Shelby street; thence south with the center line to its intersection with the center line of right of way of the Cleveland, Cincinnati, Chicago & St. Louis Railway; thence east with such center line to the middle of Leota street; thence north in Leota street to the middle of Bates street; thence east to the middle of Oriental street; thence north in the middle of Oriental street, as opened to the place of beginning.

Fourth Precinct: All that part of said City bounded as follows shall be and constitute the Fourth precinct, Tenth ward: Beginning at the intersection of the center lines of Oriental street and of the right of way of the Cincinnati, Hamilton & Dayton Railroad; thence east with such right of way to the middle of State avenue; thence south in the middle of State avenue to its intersection with the center line of right of way of the Cleveland, Cincinnati, Chicago & St. Louis Railway; thence following such right of way in a northwesterly direction to the middle of Leota street; thence north to the middle of Bates street; thence east to the middle of Oriental street; thence north to the place of beginning.

Fifth Precinct: All that part of said City bounded as follows shall be and constitute the Fifth precinct, Tenth ward: Beginning at the intersection of the center line of State avenue with the center line of the right of way of the Cincinnati, Hamilton & Dayton Railroad; thence west with such right of way to the center of the right of way of the Indianapolis Union Railway; thence south with the center line of such right of way to the south line of English avenue; thence west with the south line of English avenue to the center of Keystone avenue; thence south in the middle of Keystone avenue to the center of the right of way of the Cleveland, Cincinnati, Chicago & St. Louis Railway; thence northwesterly with the center line of such right of way to the center of State avenue; thence north to the place of beginning.

Sixth Precinct: All that part of said City bounded as follows shall be and constitute the Sixth precinct, Tenth ward: Beginning at the intersection of the center of the right of way of the Cleveland, Cincinnati, Chicago & St. Louis Railway with Fletcher avenue; thence west in the center of Fletcher avenue to the center of State avenue; thence south to the center of Hoyt avenue; thence west to the center of Spruce street; thence north in the center of Spruce street and beyond until said center line intersects with the center of right of way of said last named railway; thence southeasterly with such right of way to the place of beginning.

Seventh Precinct: All that part of said City bounded as follows shall be and constitute the Seventh precinct, Tenth ward: Beginning at the intersection of the center of the right of way of the Cleveland, Cincinnati, Chicago & St. Louis Railway with the center of Shelby street; thence south in the center of Shelby street to the center of Spann avenue; thence east to the center of Spruce street; thence north to the center of the right of way of said railway; thence westwardly along such right of way to the place of beginning.

Eighth Precinct: All that part of said City bounded as follows shall be and constitute the Eighth precinct, Tenth ward: Beginning at the intersection of the center lines of Shelby street and Spann avenue; thence east to the center line of Spruce street; thence south to the cen-

ter line of Hoyt avenue; thence west to the center line of Shelby street; thence north to the place of beginning.

Ninth Precinct: All that part of said City bounded as follows shall be and constitute the Ninth precinct, Tenth ward: Beginning at the intersection of the center lines of Shelby street and Hoyt avenue; thence east to Spruce street; thence south to Pleasant street; thence west to Shelby street; thence north to the place of beginning.

Tenth Precinct: All that part of said City bounded as follows shall be and constitute the Tenth precinct, Tenth ward: Beginning at the intersection of the center lines of Hoyt avenue and Spruce street; thence east to State avenue; thence south to Prospect street; thence west to Spruce street; thence north to the place of beginning.

Eleventh Precinct: All that part of said City bounded as follows shall be and constitute the Eleventh precinct, Tenth ward: Beginning at the intersection of the center lines of Fletcher and State avenues, thence east to the center line of the right of way of the Cleveland, Cincinnati, Chicago & St. Louis Railway; thence southeastwardly along said right of way to the center line of St. Paul street; thence south to the center of Pleasant street; thence west to the center of Harlan street; thence south to the center of Woodlawn avenue; thence west to the center of State avenue; thence north to the place of beginning.

Twelfth Precinct: All that part of said City bounded as follows shall be and constitute the Twelfth precinct, Tenth ward: Beginning at the intersection of the center lines of Prospect street and State avenue; thence north to the center of Woodlawn avenue; thence east to the center of Harlan street; thence north to the center of Pleasant street; thence east to the center of St. Paul street; thence north to the center of the right of way of the Cleveland, Cincinnati, Chicago & St. Louis Railway; thence southeastwardly along such right of way to its intersection with the center of Keystone avenue; thence south to the center of Prospect street; thence west to the place of beginning.

Thirteenth Precinct: All that part of said City bounded as follows shall be and constitute the Thirteenth precinct, Tenth ward: Beginning at the intersection of the center lines of Shelby and Pleasant streets; thence east to Spruce street; thence south to Prospect street; thence west to Shelby street; thence north to the place of beginning.

Fourteenth Precinct: All that part of said City bounded as follows shall be and constitute the Fourteenth precinct, Tenth ward: Beginning at the intersection of the center lines of Shelby and Prospect streets; thence east to the center of Linden street; thence south to the center of Cottage avenue; thence west to the center of Shelby street; thence north to the place of beginning.

Fifteenth Precinct: All that part of said City bounded as follows shall be and constitute the Fifteenth precinct, Tenth ward: Beginning at the intersection of the center lines of Prospect and Linden streets; thence east to the center line of Spruce street; thence south to the center line of Cottage avenue; thence west to the center line of Linden street; thence north to the place of beginning.

Sixteenth Precinct: All that part of said City bounded as follows shall be and constitute the Sixteenth precinct, Tenth ward: Beginning at the intersection of the center lines of Prospect and Spruce streets; thence south to the center line of Nebraska street; thence east with Nebraska street to the center line of Nelson street; thence north to the center line of Prospect street; thence west to the place of beginning.

Seventeenth Precinct: All that part of said City bounded as follows shall be and constitute the Seventeenth precinct, Tenth ward: Beginning at the intersection of the center lines of Prospect and Nelson streets; thence south to the center line of Nebraska street; thence southeastwardly to the center line of Churchman avenue; thence south with Churchman avenue to the right of way of the Indianapolis Union



Railway; thence northeastwardly with said right of way to Keystone avenue; thence north to Prospect street; thence west to the place of beginning.

**Eighteenth Precinct:** All that part of said City bounded as follows shall be and constitute the Eighteenth precinct, Tenth ward: Beginning at the intersection of the center lines of Churchman avenue and the right of way of the Indianapolis Union Railway; thence westwardly along the said right of way to the center line of Linden street; thence north with the center of Linden street to the center line of Cottage avenue; thence east to the center line of Spruce street; thence north to the center line of Nebraska street; thence eastwardly with Nebraska street to the center line of Churchman avenue; thence southwardly with Churchman avenue to the place of beginning.

**Nineteenth Precinct:** All that part of said City bounded as follows shall be and constitute the Nineteenth precinct, Tenth ward: Beginning at the intersection of the center lines of Shelby street and Cottage avenue; thence south to the center line of the right of way of the Indianapolis Union Railway; thence east to the center line of Linden street; thence north with Linden street to Cottage avenue; thence west to the place of beginning.

**Twentieth Precinct:** All that part of said City bounded as follows shall be and constitute the Twentieth precinct, Tenth ward: Beginning at the intersection of the center line of Shelby street and of the right of way of the Indianapolis Union Railway Company; thence south to the southern boundary of said City; thence east and north with the boundary line of said City to said right of way; thence west along the same to the place of beginning.

**Sec. 4.** All boundaries of voting precincts in the Ninth ward shall be and remain as at present constituted, excepting those of the Fourteenth precinct, which shall hereafter be as follows: Beginning at the intersection of the center line of New York street and the right of way of the Indianapolis Union Railway Company; thence south to the south line of English avenue; thence east to the center line of Temperance street; thence south to Huron avenue; thence east to Emerson avenue; thence north to New York street; thence west to the place of beginning.

**Sec. 5.** This ordinance shall be in full force and effect from and after its passage.

Mr. Cooper moved that the rules be suspended and General Ordinance No. 69, 1905, be advanced to second reading. Carried.

General Ordinance No. 69, 1905, was read a second time.

On motion of Mr. Cooper the Common Council, at 7:55 o'clock, P. M., adjourned.

*J. A. Billington*  
 \_\_\_\_\_  
 President.

ATTEST:

*W. M. Fogarty*  
 \_\_\_\_\_  
 City Clerk.